



MINUTES
Board of County Commissioners Meeting
Thursday, March 4, 2021 4:00 PM
Pender County Hampstead Annex Training Room

MEMBERS PRESENT:

George Brown
Fred McCoy
Jacqueline A. Newton
David Piepmeyer
David Williams

MEMBERS ABSENT:

OTHERS PRESENT:

Chad McEwen, County Manager
Trey Thurman, County Attorney
Melissa Long, Clerk to the Board
Doug Shipley, Assistant County Manager
Allen Vann, Assistant County Manager
Meg Blue, Finance Director
Other Staff and Members of the Press and Public.

Page

1 CALL TO ORDER

Chairman Brown called the 2021 Board Retreat to Order at 4:06 p.m. and thanked those in attendance.

2 THURSDAY, MARCH 4, 2021

2.1 Opening Discussion
Intro & Objectives

Chad welcomed the Board to the 2021 Retreat. He explained that the agenda that is in front of the Board is a flexible agenda which the Board can amend at their will.

2.2 Sheriff's Office Update on proposed Law Enforcement Center Facility

7 - 18

Sheriff Alan Cutler and Major Mike Collier were present from the Sheriff's Office for the discussion on the proposed new Jail and Law Enforcement Center. Sheriff Cutler introduced Todd Davis and Dan

Mase of Moseley Architects. Discussion quickly ensued regarding the need for separation based on the different jail populations, the life expectancy of the new facility, and expansion options. The facility is expected to have a 50+ year life and most of the future costs (75%) will be attributed to maintenance and staffing. Mr. Mase reviewed the conceptual design and the needs assessment for beds. Major Collier stated that there are about 61 inmates in the current jail and with a total population in the low 70s. Sheriff Cutler stated that COVID-19 has helped to keep the jail population down. Mr. Mase presented the proposed floor plan for the detention center. The facility is proposed to be 71,000 square feet and cost an estimated total of \$29,989,627.81. Mr. Mase explained that he is proposing the detention center and law enforcement center separately. He then reviewed the floorplan for the law enforcement center. The estimated cost for the law enforcement center is \$8,700,275.39. The total for both facilities is \$38,671,491.45. The design schedule was then discussed. Mr. Mase explained that the facility will be completed 36-38 months from the county giving the notice to proceed. Financing was then discussed. Finance Director Meg Blue explained that these facilities can be financed from 20-40 years through USDA. The Board requested the debt service range and discussed financing options. How this facility would hold up during hurricanes was also discussed. A copy of the architects presentation is attached to these minutes. The Board thanked Sheriff Cutler, Major Collier, Mr. Davis and Mr. Mase for their presentation.

[Jail-LECPresentation to BOC 2021-03-04](#)

2.3 Health and Human Services
Update on proposed DHHS Combined Facility

19 - 31

Health and Human Services Director Carolyn Moser presented the Board with the Notification for Jurisdictional Determination from the Army Corps of Engineers. Ms. Moser presented the map regarding wetlands and explained that the final report is currently on hold. The proposed property is behind the current county complex and is a total of 17 acres. The Health Department will occupy the first floor and the Department of Social Services will occupy the second floor. As of last year, the project is projected to cost around \$20 Million. Of that, \$4 Million will be reimbursed for the Health Department portion and then 65% of the remainder will be refunded for Social Services which covers nearly half of the total cost. Ms. Moser stated that the definition of wetlands is due on March 15. A feasibility study for the current hospital building was also discussed. The Board thanked Ms. Moser for the update.

[eSAW-2020-01223 Pender Co HHS AJD](#)

2.4 Open Discussion

The Board discussed several items:

- Economic Development:
 - Phillips Trucking
 - CFPUA and PCU Water lines and options along Highway 421 at the County Line
 - Commissioner Williams stated that there was current interest in both Lots 1 and 7 of the Pender Commerce Park.
 - Expanding the Pender Commerce Park
 - BASF Land Update
 - Additional Land Options
- Trask Special Assessment District at Lanes Ferry
 - The Board of Commissioners stated that they were not in favor of Special Assessment Districts.

2.5 Salary Study Update Discussion

Mr. McEwen updated the Board on the Salary Study. He handed out a draft of the salary ranges and positions. Staff is looking at funding at 97.5% for average employees and at 100% for positions with a high turnover rate. Mr. McEwen discussed some of the potential concessions in order to implement the salary study such as eliminating longevity pay for new employees and making the 401(k) contribution an match only.

Chairman Brown brought up bereavement for employees noting the recent passing of Mr. Anderson. The Board approved sending a \$100 gift card to families of employees who pass away in lieu of flowers.

Brief discussion ensued regarding the dental clinic at the Health Department.

Space issues in building were also discussed.

2.6 RECESS

The Board recessed the meeting at 7:15 p.m.

3 FRIDAY, MARCH 5, 2021

3.1 Utilities

- Property Needs for RO Plant and Wells
- New/Potential Well Sites
- Financing update and Discussion on RO Plant, Elevated Tank and Well projects
- Personnel and Space Needs for PCU

Chairman Brown called the meeting to order at 9:30 a.m. Utilities Director Kenny Keel and Assistant Utilities Director Anthony Colon were in attendance.

Discussion began with discussing the sale of property at the Pender Commerce Park with regard to water and sewer needs on the east side of Highway 421. He stated that he will work to resolve this with CFPUA.

Convenience Sites, specifically the Willard and Shiloh, were discussed. The Board requested that these sites be improved and/or be granted a long term lease. Issues with the gravel and location of these sites were also discussed.

Discussion ensued regarding the proposed PCU Reverse Osmosis (RO) Plant. Mr. Keel presented several maps for discussion regarding locations for the the RO Plant and well sites. Mr. Keel explained that if Pender County proceeds with a Design Build for the RO Plant that it should take about a year to complete.

Mr. Keel discussed the financing options for the RO Plant, Elevated Tank and Well projects.

Staffing needs for PCU were then discussed. Mr. Keel discussed the need for a Project Manager and Inspector.

Property needs were then discussed for a storage building(s) for the county once the BASF building has been demolished. Mr. McEwen presented an option to the Board which is located near the county complex. This particular property has about 9 acres of upland (13.6 acres total). If the county were to purchase the property it would be able to house 1-2 warehouse buildings at 60'x100'. Mr. McEwen stated that he would work on getting the property appraised and then discuss options with the property owner.

Rocky Point-Topsail Water and Sewer District has a site in St. Helena that has an interested buyer. Tax value of this property as well as cost were discussed.

3.2 12:15pm - 1:00pm
LUNCH

During lunch, the the Board discussed several property options in the Scotts Hill area that may be suitable for a potential school site and/or park facility.

3.3 Planning and Zoning Discussion

Planning Director Travis Henley was present to discuss zoning options for Pender County. Land Use Maps were reviewed and briefly discussed. The following zoning options were discussed:

- Option 1: Downzoning
- Option 1B: Downzoning via revisions to the Zoning Districts
- Option 2: Major Subdivisions become tied to a Special Use Permit
- Option 3: Incentivizing Preferred Development Types

Discussion also ensued regarding the zoning and access of Lea-Hutaff Island.

Based on today's discussion, the Board will look at changing the minimum lot size in the RP Zoning District at an upcoming meeting.

3.4 Former Long Creek School Property Discussion

Mr. Shipley updated the Board on the Long Creek Property. He showed photos to the Board of the Gym to illustrate it's condition. Mr. Shipley also presented the septic report. The Board discussed next steps for this property such as demolition and park options.

4 ADJOURNMENT

The Board thanked staff for a productive retreat. There being no further discussion, the retreat adjourned at 3:03 p.m.



PENDER COUNTY, NORTH CAROLINA

Sheriff's Law Enforcement and Detention Center Facility Update
March 4, 2021
Board of Commissioners Capital Projects Board Retreat

MOSELEYARCHITECTS

Jail Bed Needs Assessment

Table VI
Pender County Forecasted Population using the Highest Admission rate

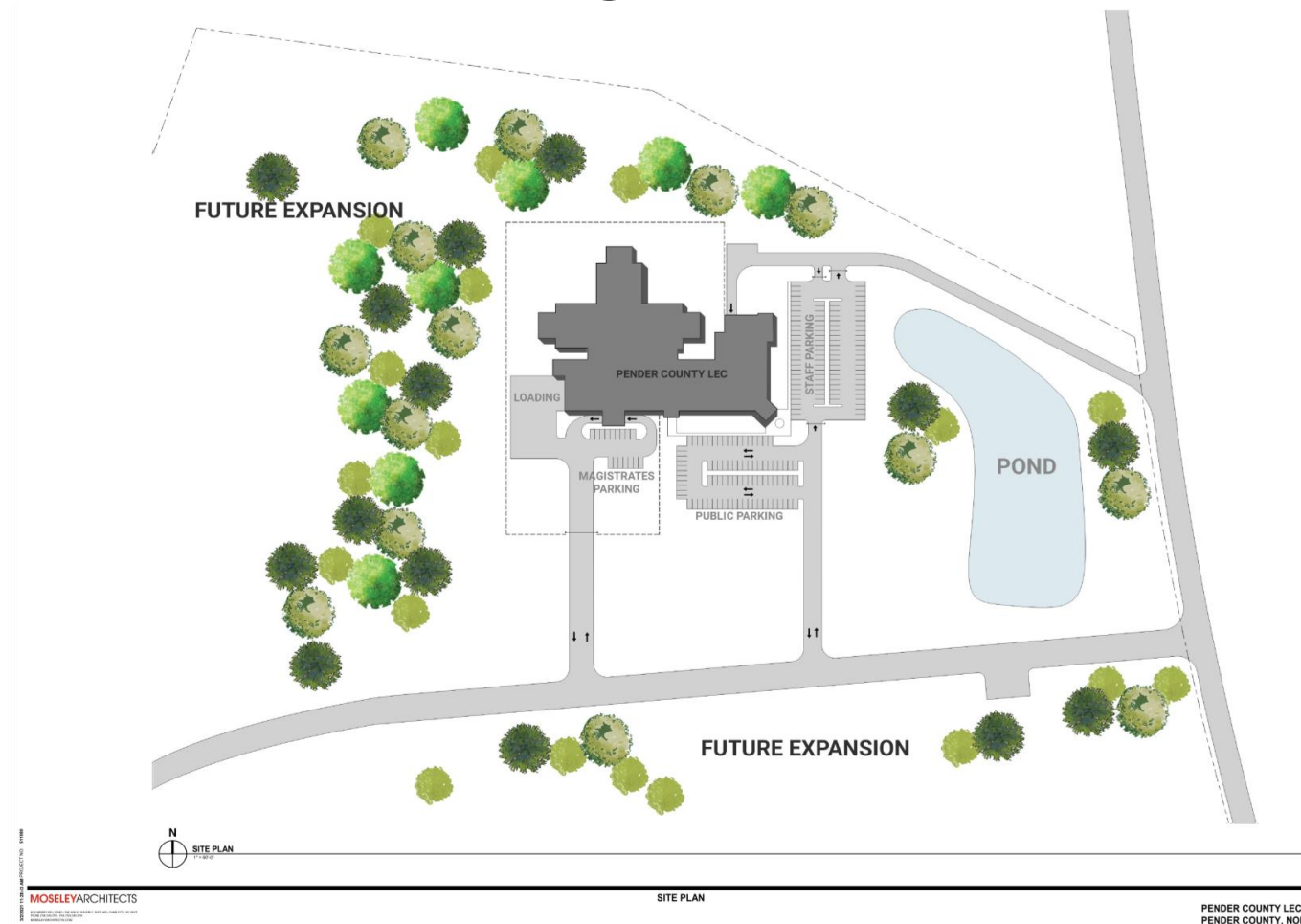
Year	Forecasted ADP	Classified ADP (+20 %)	Peaked ADP	Classified & Peaked
2025	118.09	141.71	1.22	172.67
2030	127.76	153.32	1.22	186.82
2035	137.44	164.93	1.22	200.96
2040	145.18	174.22	1.22	212.28
2045	153.47	184.17	1.22	224.41

Overall Site Plan



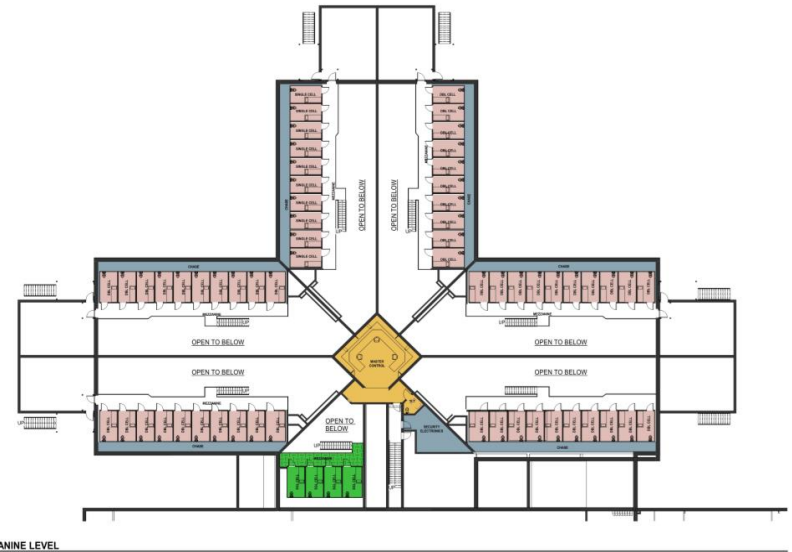
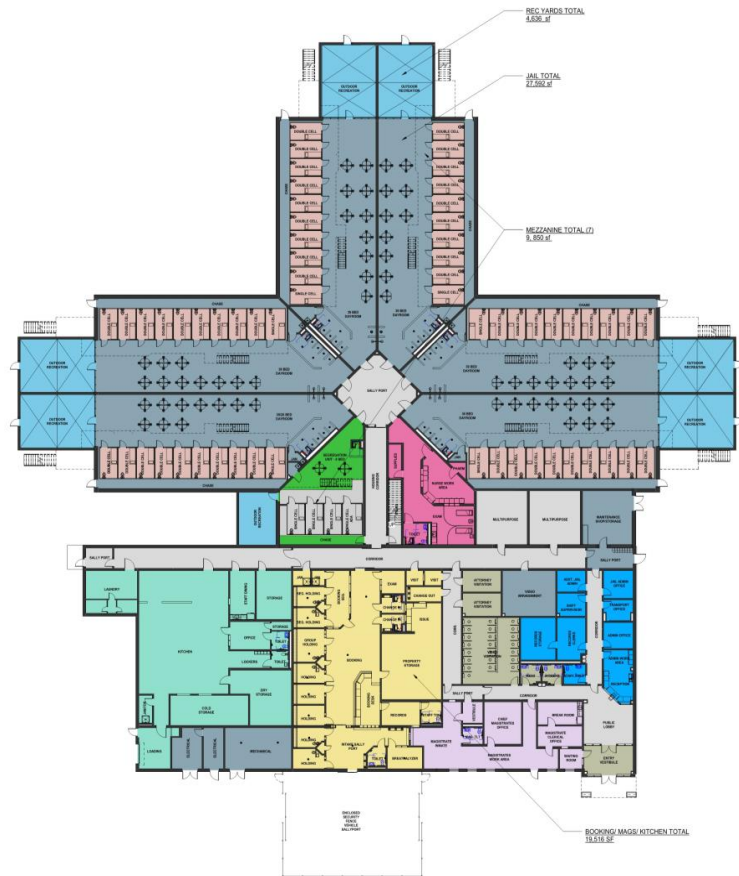
MOSELEYARCHITECTS

Enlarged Site Plan



MOSELEYARCHITECTS

Detention Center Floor Plans



MOSELEYARCHITECTS

Detention Center Budget Estimate

OPINION OF PROBABLE TOTAL PROJECT COST

MOSELEYARCHITECTS
A PROFESSIONAL CORPORATION

Client: Pender County, NC Date: March 4, 2021
Project Name: Pender County New Detention Center Computed By: DRM
Description: 223 Bed Jail - 350 "Core" - Radial Concept Checked By: DRM
Project #561250 New Construction - 71,000 SF Sheet Number: 1 of 1

Item No.	Description	Area	Unit	Unit Cost	Total Cost
Construction Costs					
1	New Jail Construction w/ Magistrate	64,700	SF	\$325.00	\$21,027,500.00
2	New Jail Construction - Fenced Vehicle Sallyport and Canop	2,000	SF	\$100.00	\$200,000.00
3	New Jail Construction - Recreation Yards	4,300	SF	\$275.00	\$1,182,500.00
4	Site Development	N/A	N/A	lump sum est.	\$2,000,000.00
5	Construction / Design Contingency	N/A	%	5.00%	\$1,220,500.00
6	Cost Escalation Contingency (12 months)	N/A	%	5.00%	\$1,281,525.00
	Subtotal				\$26,912,025.00
	Estimated Construction Cost - Building and Sitework	71,000	SF	\$379.04	\$26,912,025.00
Misc. Project Costs					
1	Fixtures, Furnishings & Equipment (FF&E of finished space)	N/A	%	2.50%	\$672,800.63
2	Site and Construction Testing	N/A	%	0.50%	\$134,560.13
3	Misc. Fees / Costs	N/A	%	8.00%	\$2,152,962.00
4	Operations and Transition Services	N/A	N/A	lump sum est.	\$50,000.00
5	NC Required Building MEP Commissioning	N/A	%	0.25%	\$67,280.06
	Subtotal				\$3,077,602.81
	TOTAL ESTIMATED PROJECT BUDGET				\$29,989,627.81
Notes:					
Housing units to consist of:					
5 - 39 bed housing units					
1 - 20 bed maximum security unit (expandable to 39 beds)					
1- 8 bed administrative management unit					

MOSELEYARCHITECTS

Sheriff's Offices (LEC) Floor Plan



PROPOSED FIRST FLOOR PLAN
1/16" = 1'-0"

Law Enforcement Center Budget Estimate

OPINION OF PROBABLE TOTAL PROJECT COST

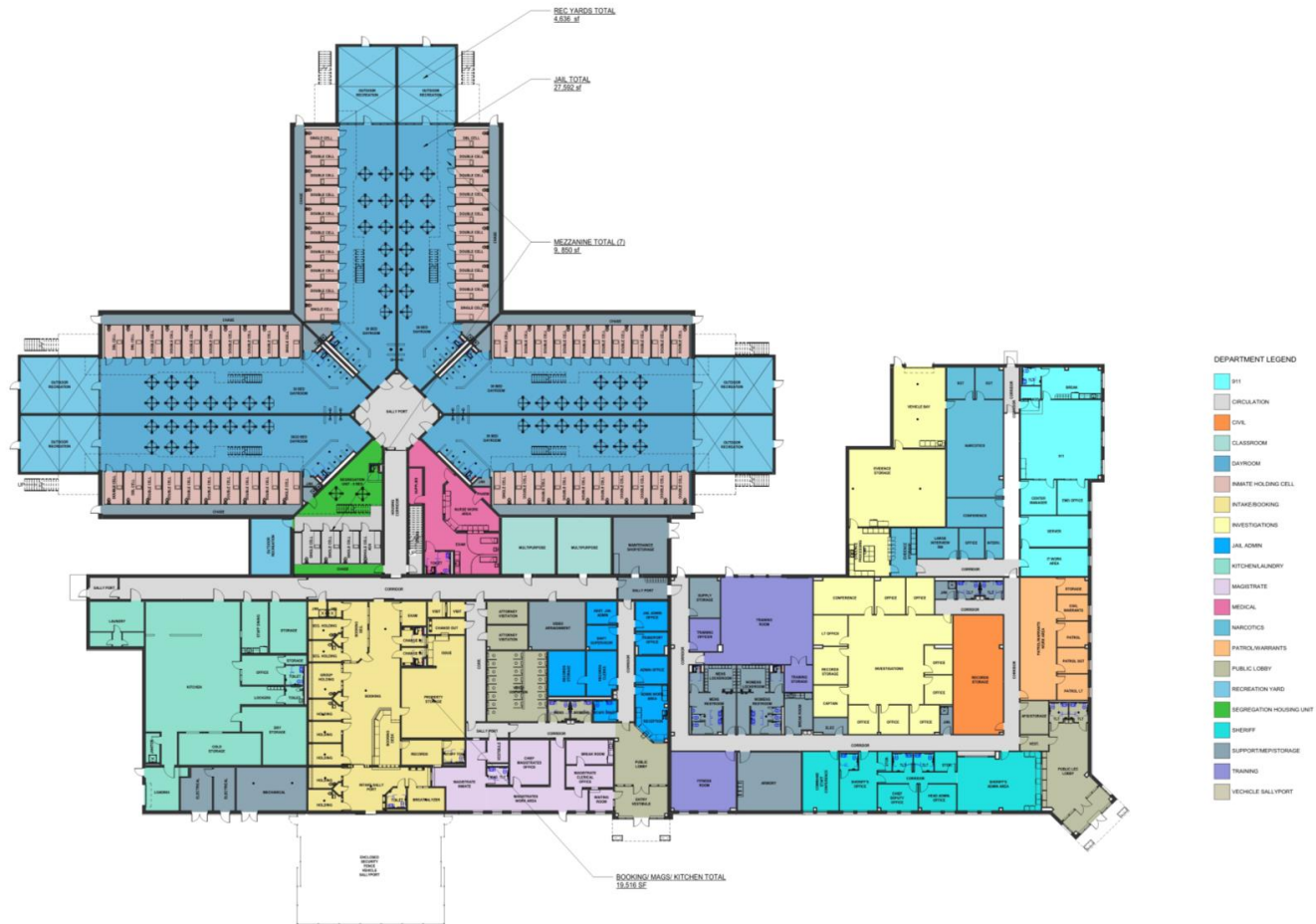
MOSELEYARCHITECTS
A PROFESSIONAL CORPORATION

Client:	Pender County, NC	Date:	March 4, 2021
Project Name:	Pender County Law Enforcement Facility	Computed By:	DRM
Description:	Sheriff's Law Enforcement Facility Only	Checked By:	DRM
Project #511080	New Construction - 27,500 SF	Sheet Number:	1 of 1

Item No.	Description	Area	Unit	Unit Cost	Total Cost
Construction Costs					
1	New 1 Story Sheriff's Law Enforcement and E911 Facility	22,500	SF	\$225.00	\$5,062,500.00
2	New Sheriff's Logistics Equipment Warehouse	5,000	SF	\$125.00	\$625,000.00
3	Site Development	N/A	N/A	lump sum est.	\$1,000,000.00
4	New Radio Tower	N/A	N/A	lump sum est.	\$250,000.00
5	Construction / Design Contingency	N/A	%	5.00%	\$346,875.00
6	Cost Escalation Contingency	N/A	%	5.00%	\$364,218.75
	Subtotal				\$7,648,593.75
	Estimated Construction Cost	27,500	SF	\$278.13	\$7,648,593.75
Project Costs					
1	Fixtures, Furnishings & Equipment (FF&E of finished space)	N/A	%	5.00%	\$382,429.69
2	Site and Construction Testing	N/A	%	0.50%	\$38,242.97
3	Misc. Fees	N/A	%	8.00%	\$611,887.50
4	NC Required Building MEP Commissioning	N/A	N/A	0.25%	\$19,121.48
5	Property Acquisition (assume County-owned land)	15	Acres	lump sum est.	\$0.00
	Subtotal				\$1,051,681.64
	TOTAL ESTIMATED PROJECT BUDGET				\$8,700,275.39

MOSELEYARCHITECTS

Combined Jail / LEC First Floor Plan



MOSELEYARCHITECTS

Combined Jail / LEC Budget Estimate

OPINION OF PROBABLE TOTAL PROJECT COST

MOSELEYARCHITECTS
A PROFESSIONAL CORPORATION

Client:	Pender County, NC	Date:	March 4, 2021
Project Name:	Pender County New Detention Center	Computed By:	DRM
Description:	223 Bed Jail and Sheriff's Offices / E911	Checked By:	DRM
Project #561250	New Construction - 98,500 SF	Sheet Number:	1 of 1

Item No.	Description	Area	Unit	Unit Cost	Total Cost
Construction Costs					
1	New Jail Construction w/ Magistrate	64,700	SF	\$325.00	\$21,027,500.00
2	New Jail Construction - Fenced Vehicle Sallyport and Canop	2,000	SF	\$100.00	\$200,000.00
3	New Jail Construction - Recreation Yards	4,300	SF	\$275.00	\$1,182,500.00
4	New Sheriff's Law Enforcement and E911 Facility	22,500	SF	\$225.00	\$5,062,500.00
5	New Sheriff's Logistics Equipment Warehouse	5,000	SF	\$125.00	\$625,000.00
6	New Radio Tower	N/A	N/A	lump sum est.	\$250,000.00
7	Site Development	N/A	N/A	lump sum est.	\$3,000,000.00
8	Construction / Design Contingency	N/A	%	5.00%	\$1,567,375.00
9	Cost Escalation Contingency (12 months)	N/A	%	5.00%	\$1,645,743.75
	Subtotal				\$34,560,618.75
	Estimated Construction Cost - Building and Sitework	98,500	SF	\$350.87	\$34,560,618.75
Misc. Project Costs					
1	Fixtures, Furnishings & Equipment (FF&E of finished space)	N/A	%	3.00%	\$1,036,818.56
2	Site and Construction Testing	N/A	%	0.50%	\$172,803.09
3	Misc. Fees / Costs	N/A	%	8.00%	\$2,764,849.50
4	Operations and Transition Services	N/A	N/A	lump sum est.	\$50,000.00
5	NC Required Building MEP Commissioning	N/A	%	0.25%	\$86,401.55
	Subtotal				\$4,110,872.70
	TOTAL ESTIMATED PROJECT BUDGET				\$38,671,491.45
Notes:					
Housing units to consist of:					
5 - 39 bed housing units					
1 - 20 bed maximum security unit (expandable to 39 beds)					
1 - 8 bed administrative management unit					

MOSELEYARCHITECTS

Design Schedule

Complete Schematic Design – 3 months

Complete Design Development – 3 months

Complete Construction Documents – 4.5 months

Local / State Approvals – 1.5 months

Bidding and Award – 2 months

Construction Duration – 20 to 22 months

Closeout / Training / Transition – 2 months

TOTAL TIME-FRAME FROM NOTICE TO PROCEED TO FULL OCCUPATION: 36 - 38 MONTHS

MOSELEYARCHITECTS

Conceptual Rendering



Thank You

for this opportunity to meet with you and present
the Pender County Law Enforcement Center Study Update

MOSELEYARCHITECTS

**U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT**

Action Id. SAW-2020-01223 County: Pender U.S.G.S. Quad: NC- Burgaw

NOTIFICATION OF JURISDICTIONAL DETERMINATION

Requestor: Pender County Health and Human Services

Address: Carolyn Moser
805 South Walker Avenue
Burgaw, North Carolina 28425

Telephone Number: 910.259.1200

E-mail: cmo@pendercountync.gov

Size (acres) 17.75

Nearest Waterway Burgaw Creek

USGS HUC 03030007

Nearest Town Burgaw

River Basin Cape Fear

Coordinates Latitude: 34.54250

Longitude: -77.91769

Location description: The project area is located south of South Walker Street and east of South Dickerson Street in Burgaw, Pender County, North Carolina.

Indicate Which of the Following Apply:

A. Preliminary Determination

- ☐ There appear to be **waters, including wetlands** on the above described project area/property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). The **waters, including wetlands** have been delineated, and the delineation has been verified by the Corps to be sufficiently accurate and reliable. The approximate boundaries of these waters are shown on the enclosed delineation map dated DATE. Therefore this preliminary jurisdiction determination may be used in the permit evaluation process, including determining compensatory mitigation. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands that would be affected in any way by the permitted activity on the site as if they are jurisdictional waters of the U.S. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331). However, you may request an approved JD, which is an appealable action, by contacting the Corps district for further instruction.
- ☐ There appear to be **waters, including wetlands** on the above described project area/property, that may be subject to Section 404 of the Clean Water Act (CWA)(33 USC § 1344) and/or Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403). However, since the **waters, including wetlands** have not been properly delineated, this preliminary jurisdiction determination may not be used in the permit evaluation process. Without a verified wetland delineation, this preliminary determination is merely an effective presumption of CWA/RHA jurisdiction over all of the **waters, including wetlands** at the project area, which is not sufficiently accurate and reliable to support an enforceable permit decision. We recommend that you have the **waters, including wetlands** on your project area/property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.

B. Approved Determination

- ☐ There are Navigable Waters of the United States within the above described project area/property subject to the permit requirements of Section 10 of the Rivers and Harbors Act (RHA) (33 USC § 403) and Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☒ There are **waters, including wetlands** on the above described project area/property subject to the permit requirements of Section 404 of the Clean Water Act (CWA) (33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☐ We recommend you have the **waters, including wetlands** on your project area/property delineated. As the Corps may not be able to accomplish this wetland delineation in a timely manner, you may wish to obtain a consultant to conduct a delineation that can be verified by the Corps.
- ☒ The **waters, including wetlands** on your project area/property have been delineated and the delineation has been verified by the Corps. The approximate boundaries of these waters are shown on the enclosed delineation map dated 12/15/2020.

SAW-2020-01223

- ☐ The **waters, including wetlands** have been delineated and surveyed and are accurately depicted on the plat signed by the Corps Regulatory Official identified below on **DATE**. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☐ There are no waters of the U.S., to include wetlands, present on the above described project area/property which are subject to the permit requirements of Section 404 of the Clean Water Act (33 USC 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- ☒ The property is located in one of the 20 Coastal Counties subject to regulation under the Coastal Area Management Act (CAMA). You should contact the Division of Coastal Management in **Wilmington, NC, at (910) 796-7215** to determine their requirements.

Placement of dredged or fill material within waters of the US, including wetlands, without a Department of the Army permit may constitute a violation of Section 301 of the Clean Water Act (33 USC § 1311). Placement of dredged or fill material, construction or placement of structures, or work within navigable waters of the United States without a Department of the Army permit may constitute a violation of Sections 9 and/or 10 of the Rivers and Harbors Act (33 USC § 401 and/or 403). If you have any questions regarding this determination and/or the Corps regulatory program, please contact **Emily Greer at 910.251.4567 or emily.c.greer@usace.army.mil**.

C. Basis For Determination: See the approved jurisdictional determination form dated 01/05/2020.

D. Remarks: None.

E. Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are 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.

F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B. above)

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers
South Atlantic Division
Attn: Phillip Shannin, Review Officer
60 Forsyth Street SW, Room 10M15
Atlanta, Georgia 30303-8801

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 NAP. Should you decide to submit an RFA form, it must be received at the above address by **03/05/2020**.

****It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.****

Corps Regulatory Official: **GREER.EMILY.C.138** 5325300
Digitally signed by
GREER.EMILY.C.1385325300
Date: 2021.01.05 16:22:48 -05'00'

Date of JD: **01/05/2020** Expiration Date of JD: **01/03/2025**

SAW-2020-01223

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the Customer Satisfaction Survey located at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0

Copy furnished:

Agent: **Sepi, Inc.**
David Moose
E-mail: **DMoose@sepiinc.com**

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Pender County Health and Human Services, Carolyn Moser		File Number: SAW-2020-01223	Date: 01/05/2020
Attached is:		See Section below	
☐	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
☐	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
☐	PERMIT DENIAL	C	
☒	APPROVED JURISDICTIONAL DETERMINATION	D	
☐	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at or <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx> or the Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the district engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

**District Engineer, Wilmington Regulatory Division
Attn: Emily Greer
Wilmington Regulatory Office
U.S Army Corps of Engineers
69 Darlington Avenue
Wilmington, North Carolina 28403**

If you only have questions regarding the appeal process you may also contact:

**Mr. Phillip Shannin, Administrative Appeal Review Officer
CESAD-PDO
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 10M15
Atlanta, Georgia 30303-8801
Phone: (404) 562-5137**

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date: _____

Telephone number: _____

For appeals on Initial Proffered Permits send this form to:

District Engineer, Wilmington Regulatory Division, Attn: Emily Greer, 69 Darlington Avenue, Wilmington, North Carolina 28403

For Permit denials, Proffered Permits and Approved Jurisdictional Determinations send this form to:

**Division Engineer, Commander, U.S. Army Engineer Division, South Atlantic, Attn: Mr. Phillip Shannin, Administrative Appeal Officer, CESAD-PDO, 60 Forsyth Street, Room 10M15, Atlanta, Georgia 30303-8801
Phone: (404) 562-5137**



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 05-JAN-2021

ORM Number: SAW-2020-01223

Associated JDs: NA

Review Area Location¹:

State/Territory: NC City: Burgaw County/Parish/Borough: Pender County

Center Coordinates of Review Area: Latitude 34.5425 Longitude -77.9176

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- ☒ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Tributary 3	397 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Mapped soils are Grantham loam which is an all hydric soil. Tributary flow path: Tributary 3 to Tributary 4. See Tributary 4 discussion for offsite flow path to TNW. Tributary 3 was observed to have intermittent flow during multiple site visits during wetter than normal and normal conditions in June and November 2020, respectively. The feature was excavated in hydric soils and has an observable OHWM through its onsite reach. These data in conjunction with the below typical year data support the determination that Tributary 3 contributes intermittent surface flow to an a(1) water

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

			during a typical year.
Tributary 4	951 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Mapped soils are Grantham loam, an all hydric soil. Tributary 4 was observed to have intermittent flow during multiple site visits under wetter than normal and normal conditions in June and November 2020, respectively. The tributary also exhibits an OHWM within the onsite reach. Tributary 4 appears to flow north from the site, pass under a culvert to a ditch, then into Little Burgaw Creek. Little Burgaw Creek flows into Burgaw Creek, then into the Northeast Cape Fear River, which is a TNW as determined by the Wilmington District and is approximately 5 miles from the site. These data in conjunction with typical year data referenced below support a determination that Tributary 4 contributes intermittent surface flow to an a(1) water in a typical year.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Tributary 1	410 feet	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The feature meets the three wetland parameters and is linear in dimension. The wetland abuts Tributary 4 at one or more points; therefore, the wetland is adjacent.
Tributary 2	45.03 feet	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The feature meets the three wetland parameters and is linear in dimension. The wetland abuts Tributary 4 at one or more points; therefore, the wetland is adjacent.
Wetland WB	0.53 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	The feature meets the three wetland parameters and is linear in dimension. The wetland abuts Tributary 4 at one or more points; therefore, the wetland is adjacent.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Adjacent Wetland WA	0.63 acres	(b)(1) Non-adjacent wetland	The wetland does not: 1. abut a water identified in 33 CFR 328.3 (a)(1), (2), or (3); nor 2. appear to be inundated by flooding from a water identified in 33 CFR 328.3 (a)(1), (2), or (3) in a typical year. The wetland is not: 3. physically separated from a water identified in 33 CFR 328.3 (a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature; nor 4. physically separated from a water identified in 33 CFR 328.3 (a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure that allows for a direct hydrologic surface connection between the

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

			wetland and the (a)(1), (2), or (3) water in a typical year; therefore, the wetland is not adjacent. ²
Ditch 1	200 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Mapped soil type in the area of the feature is Grantham loam, which is a hydric soil. Although hydric soils are present, the man-made feature did not appear to: 1. meet wetland criteria under 328.3(c)(16) throughout its length; 2. be constructed in an adjacent wetland or a tributary; 3. be a relocated tributary; or 4. extend the OHWM of an (a)(1), (2), or (3) water. Additionally, the presence of observable flow only in direct response to a rain event and the lack of a continuous OHWM indicate less than intermittent flow. In addition to the above, a review of available data referenced below, including field observations, supports a determination of exclusion from NWPR jurisdiction.
Ditch 2	312 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Mapped soil type in the area of the feature is Grantham loam, which is a hydric soil. Although hydric soils are present, the man-made feature did not appear to: 1. meet wetland criteria under 328.3(c)(16) throughout its length; 2. be constructed in an adjacent wetland or a tributary; 3. be a relocated tributary; or 4. extend the OHWM of an (a)(1), (2), or (3) water. Additionally, the presence of observable flow only in direct response to a rain event and the lack of a continuous OHWM indicate less than intermittent flow. In addition to the above, a review of available data referenced below, including field observations, supports a determination of exclusion from NWPR jurisdiction.
Ditch 3	911 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Mapped soil type in the area of the feature is Grantham loam, which is a hydric soil. Although hydric soils are present, the man-made feature did not appear to: 1. meet wetland criteria under 328.3(c)(16) throughout its length; 2. be constructed in an adjacent wetland or a tributary; 3. be a relocated tributary; or 4. extend the OHWM of an (a)(1), (2), or (3) water. Additionally, the presence of observable flow only in direct response to a rain event and the lack of a continuous OHWM indicate less than intermittent flow. In addition to the above, a review of available data referenced below, including field observations, supports a determination of exclusion from NWPR jurisdiction.
Pond	0.19 acres	(b)(8) Artificial lake/pond constructed or excavated in upland	Mapped soil type in the area of the feature is Grantham loam, which is a hydric soil. Although hydric soils are

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

		or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6)	present, the man-made feature: 1. is not an impoundment of jurisdictional waters; and 2. does not contribute flow directly or indirectly to an (a)(1) water in a typical year; therefore, the pond is excluded from NWPR jurisdiction.
--	--	---	--

III. SUPPORTING INFORMATION

- A. **Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: *Pender Count Health and Human Services Jurisdictional Determination Request dated 13 July 2020, revised 17 December 2020.*

This information is sufficient for purposes of this AJD.

Rationale: *N/A or describe rationale for insufficiency (including partial insufficiency).*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

☒ Photographs: *Site photos dated 15 December 2020*

☒ Corps Site visit(s) conducted on: *Date(s). 3 November 2020*

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*

☒ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B*

☒ USDA NRCS Soil Survey: *NRCS Web Soil Survey*

☒ USFWS NWI maps: *USFWS Web Soil Survey*

☒ USGS topographic maps: *Burgaw, NC*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	SAW Regulatory GIS Viewer, Current
State/Local/Tribal Sources	N/A.
Other Sources	LiDAR, Current

B. **Typical year assessment(s):**

Point-in-time data for the below dates and the selected geographic area (site) were determined to be appropriate for this analysis based on the ability to compare current and past site conditions using observational and quantitative data under normal conditions. Furthermore, it was determined that these data provide enough information captured in various climatic conditions over an appropriate scope of time in order to support all determinations made above.

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

ARD for June 29, 2020, (Consultant's site visit) reflect wetter than normal conditions specifically occurring in May and June. The 30th/70th percentile for April 30-June 29 ranges from 2.4-6.2" with an observed 9.7" of rainfall occurring in May. Conversely, ARD for November 3, 2020, (Corps site visit) reflect normal conditions at the site. The 30th/70th percentile for September 4-November 3 ranges from 2.5-9.6" with an observed 8.7" of rainfall occurring in October.

C. Additional comments to support AJD: NA.

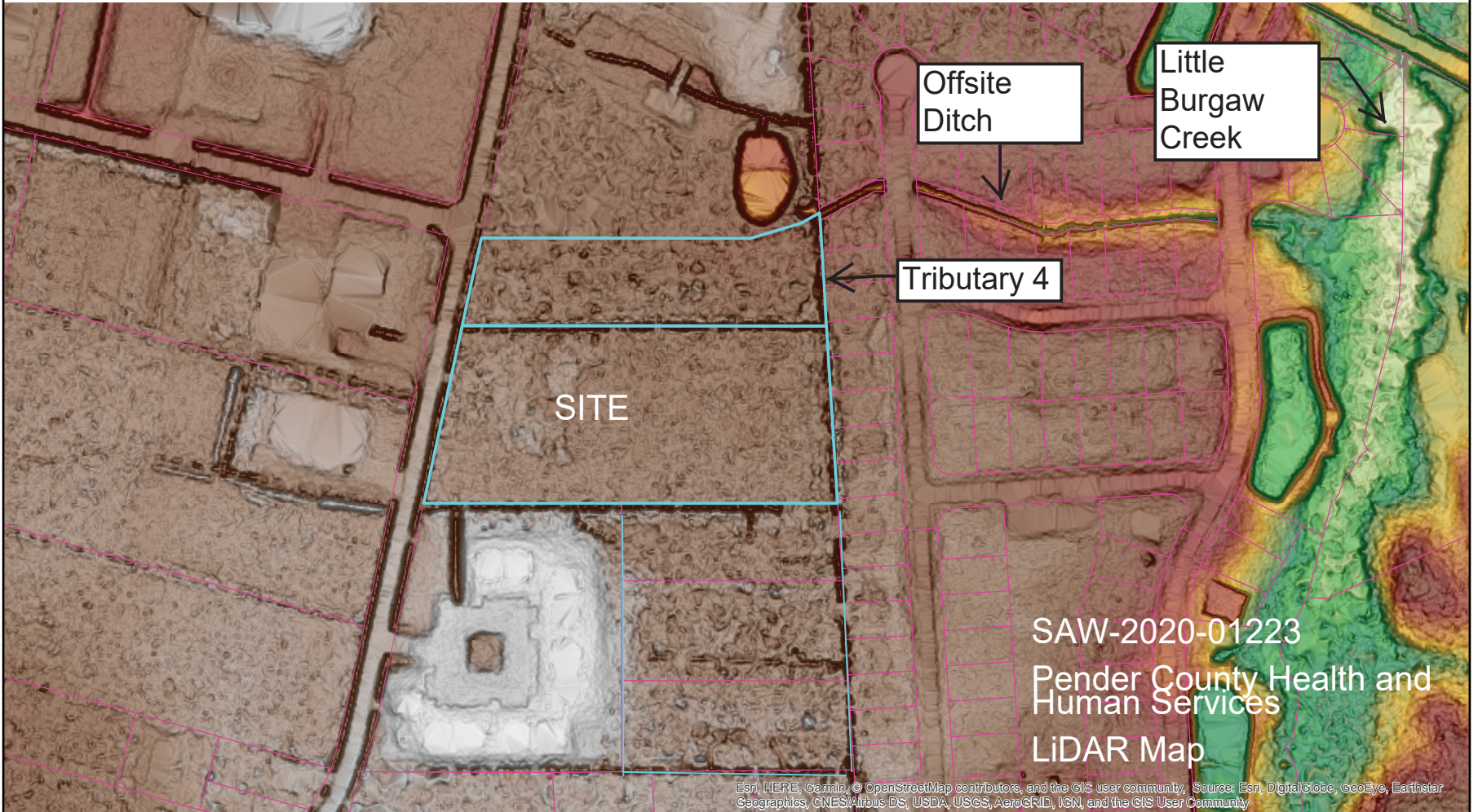
¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

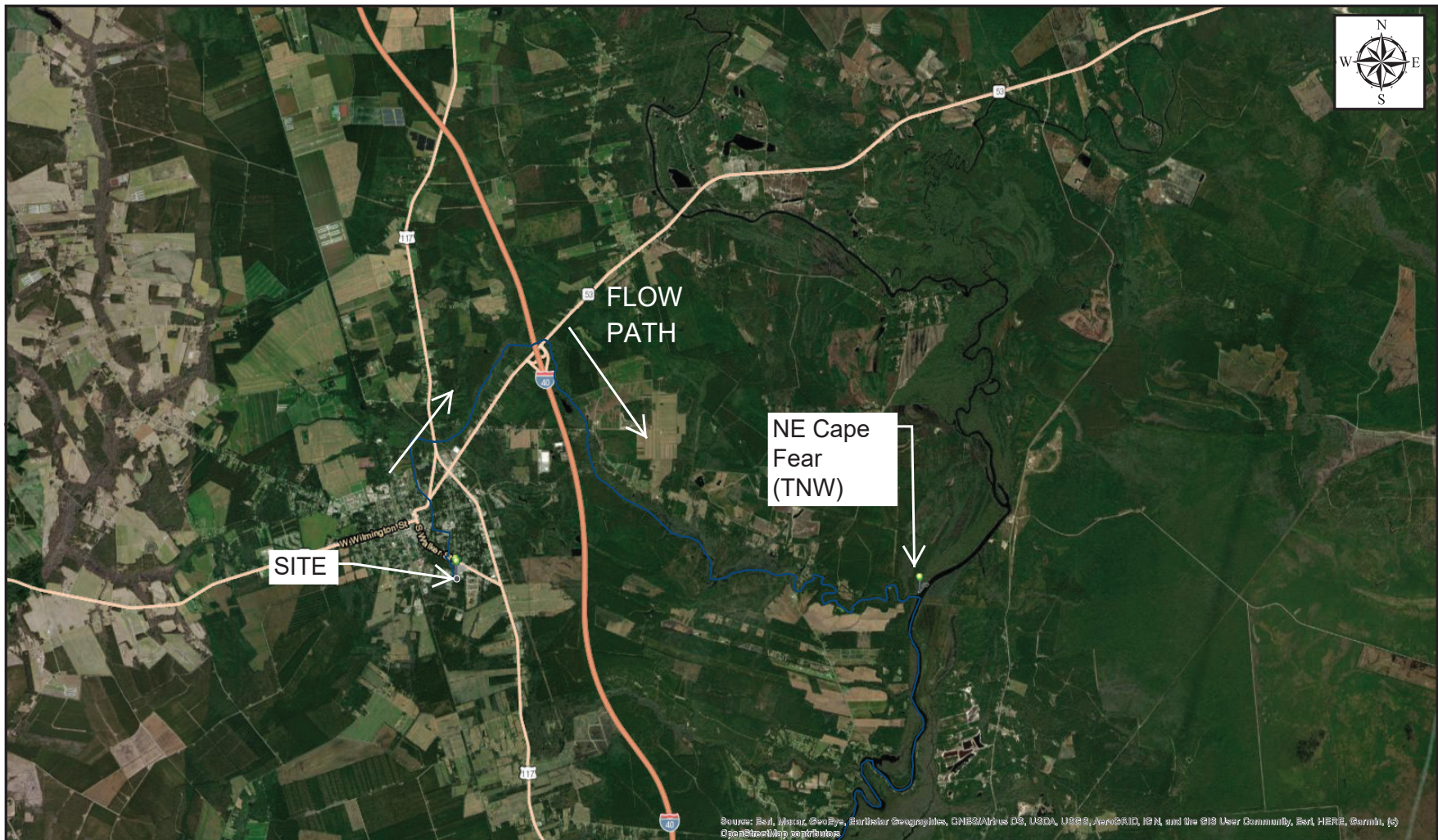
² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

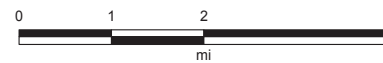
⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



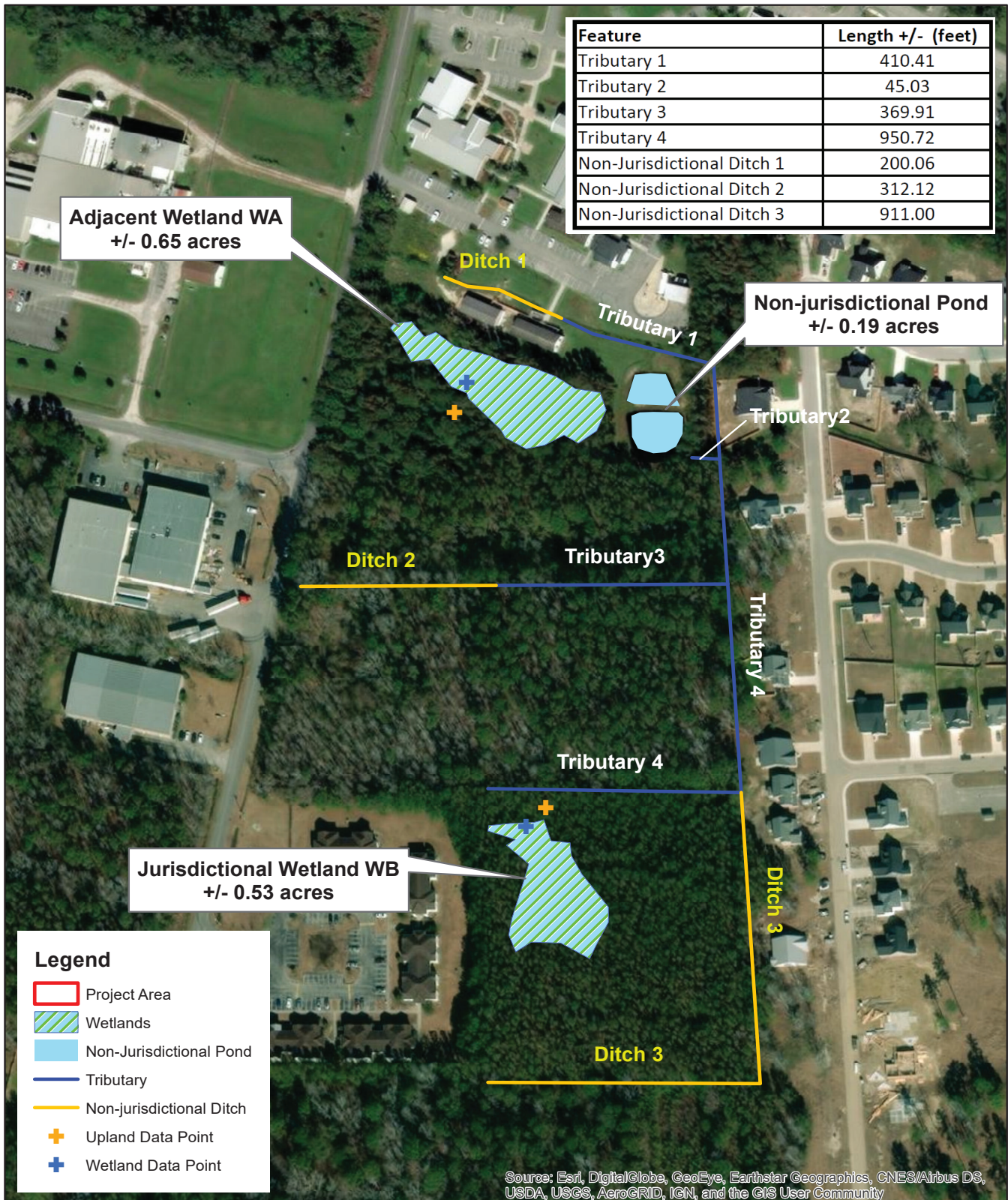


SAW-2020-01223
Flow path to TNW



Map Center: -77.8672 34.5664

Map created by PM Name on 1/5/2021 at 12:35:56 PM
Coordinate System: WGS 1984 Web Mercator Auxiliary
Sphere
Projection: Mercator Auxiliary Sphere



1 inch = 200 feet

0 100 200 Feet

Wetland Features
Pender County, Burgaw
Health and Human Services
December 2020

SEPI