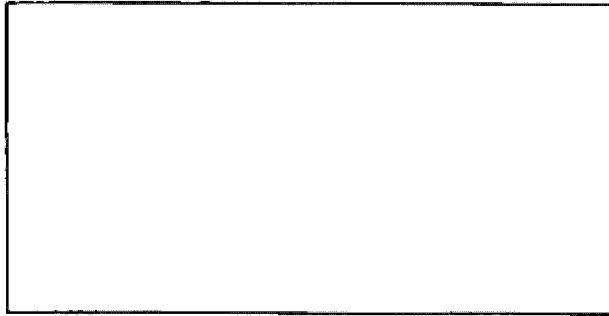


This instrument prepared by:

Marianne O. Lodin  
Associate Regional Counsel  
U.S. Environmental Protection Agency  
61 Forsyth St., S.W.  
Atlanta, GA 30303



### DECLARATION OF RESTRICTIVE COVENANTS

This Declaration of Restrictive Covenants (hereinafter "Declaration") is given this 19<sup>th</sup> day of July, 20 22, by Tin Buckle Ranch, LLC, a Florida Limited Liability Company, ("Grantor"), having an address of 2414 Farren Ranch Road, Cottondale, Jackson County, Florida, 32431 to the State of Florida Department of Environmental Protection (hereinafter "FDEP" or "Grantee").

### RECITALS

- A. **WHEREAS**, Grantor is the fee simple owner of a parcel of land, parcel number 24-4N-12-0000-0120-0000, situated in the county of Jackson County, State of Florida, more particularly legally described in **Exhibit A** attached hereto and made a part hereof (hereinafter the "Property").
- B. **WHEREAS**, the Property subject to this Declaration is the site known as the Sapp Battery Superfund Site ("Site"). The U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9605, proposed the Site for inclusion on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on December 30, 1982, and promulgated as final on September 8, 1983. The EPA Site Identification Number for the Site is FLD 980602882.
- C. **WHEREAS**, the EPA Region 4 Regional Administrator selected a "remedial action" for the Site pursuant to the following decision documents.
1. EPA Superfund Record of Decision ("ROD") for Operable Unit 1 (issued September 26, 1986).
  2. EPA ROD Amendment for Operable Unit 2 ("ROD Amendment") (issued September 29, 2011).
  3. Preliminary Close Out Report documenting Construction Completed (issued September 19, 2012).

- D. **WHEREAS**, the remedial action selected pursuant to the EPA ROD and ROD Amendment, has been performed on the Site. Monitoring of the protectiveness of the remedy and institutional controls will continue as contamination in excess of allowable concentrations for unrestricted use remain on the Property.
- E. **WHEREAS**, the remedy with engineering controls established for the Site pursuant to the EPA ROD for Operable Unit 1 (OU1) will be maintained and monitored by the Sapp Battery PRP Group and their successors and assigns, in accordance with the ROD, pursuant to the 1993 Consent Decree (No. 92-50244/LAC).
- F. **WHEREAS**, the groundwater remedy established for the Site pursuant to the EPA ROD Amendment for Operable Unit 2 (OU2) will be maintained and monitored by the FDEP and their successors and assigns, in accordance with the ROD Amendment, pursuant to the State Superfund Contract (No. HW566).
- G. **WHEREAS**, it is the intent of the restrictions in this Declaration to reduce or eliminate the risk of exposure of the contaminants to the environment and to users or occupants of the Property and to reduce or eliminate the threat of migration of the contaminants.
- H. **WHEREAS**, it is the intention of all parties that EPA shall be a third-party beneficiary of said restrictions and said restrictions shall be enforceable by the EPA, FDEP, and their successor agencies.
- I. **WHEREAS**, the parties hereto have agreed 1) to impose on the Property use restrictions as covenants that will run with the land for the purpose of protecting human health and the environment; and 2) to grant an irrevocable right of access over the Property to the Grantee and its agents or representatives, and to EPA and its agents or representatives, for purposes of implementing, facilitating and monitoring the remedial action; and
- J. **WHEREAS**, Grantor deems its desirable and in the best interest of all present and future owners of the Property that the Property be held subject to certain restrictions and changes, that will run with the land, for the purpose of protecting human health and the environment, all of which are more particularly hereinafter set forth.

**NOW THEREFORE**, Grantor, on behalf of itself, its successors, its heirs, and assigns, in consideration of the recitals above, the terms of the ROD and the terms of the ROD Amendment, and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, does hereby covenant and declare that the Property shall be subject to the restrictions and requirements set forth below, which shall touch and concern the land and run with the title of the Property, and does give, grant and convey to the Grantee, and its assigns, 1) an irrevocable use restriction, requirements, and site access covenant of the nature and character, and for the purposes hereinafter set forth and 2), the perpetual right to enforce said covenants, use restrictions, and requirements with respect to the Property. Grantor further agrees as follows:

- a. The foregoing recitals are true and correct and are incorporated herein by reference.
- b. Grantor hereby imposes on the Property the following restrictions and requirements:
  - 1. **Restrictions and Requirements:** The following covenants, conditions, and restrictions apply to the use of the Property:
    - a) Groundwater shall not be used for any purposes on the Property unless preapproved in writing by the FDEP's Division of Waste Management (DWM) in addition to any authorizations required by the Division of Water Resource Management (DWRM) and the Water Management District (WMD); any such approval shall require that the groundwater cleanup standards identified in the ROD are met.
    - b) There shall be no drilling for water conducted on the Property, nor shall any wells, including monitoring wells, be installed on the Property unless preapproved in writing by FDEP DWM in addition to any authorizations required by DWRM and the WMD. **Exhibit C** shows the existing approved monitoring wells on the Property for monitoring the groundwater remedy established for the Site for OU2. The Property lies in a Florida Delineated Groundwater Area, pursuant to Chapter 62-524, Florida Administrative Code, which restricts groundwater use and groundwater well placement.
    - c) Attached as **Exhibit B**, and incorporated by reference herein, is a survey map identifying the size and location of existing stormwater swales stormwater detention or retention facilities, and ditches on the Property. Such existing stormwater features shall not be altered, modified or expanded without prior approval from FDEP. Additionally, there shall be no construction of new stormwater swales, stormwater detention or retention facilities or ditches on the Property without prior written approval from FDEP's DWM and in addition to any authorizations required by DWRM and the WMD. A revised exhibit must be recorded when any stormwater feature is altered, modified, expanded or constructed.
    - d) For any dewatering activities, a plan must be submitted and approved by FDEP to address and ensure the appropriate handling, treatment and disposal of any extracted groundwater that may be contaminated.
    - e) The "Non Residential Area" of the Property depicted in **Exhibit C** shall only be used for industrial purposes. There shall be no agricultural use of the land including forestry and community gardens, fishing and mining; no hotels or lodging; no recreational uses including amusement parks, parks, camps, museums, zoos, or gardens; no residential uses, and no educational uses such as elementary and secondary schools, or day care services. Notwithstanding the preceding, it shall be permissible for farm animals to graze on the Property outside of the "OU1 Raised

Treated Material,” which location is shown on **Exhibit C**. The property outside of the “Non Residential Area” can be used for residential purposes.

- f) On-site engineering controls on the Property include the “OU1 Treated Material” and “OU1 Raised Treated Material” identified on **Exhibit C** and more fully described herein. **Exhibit C** identifies the size and location of the “OU1 Treated Material” consisting of contaminated soil that was solidified, stabilized and left in place on the Property during the remedial action phase. The “OU1 Treated Material” is and shall continue to be covered with one foot of clean, uncontaminated soil and planted with vegetation to prevent erosion. **Exhibit C** also identifies the size and location of the “OU1 Raised Treated Material” where treated contaminated soil was disposed of above grade on the Property. The “OU1 Raised Treated Material” is and shall continue to be covered with one foot of clean, uncontaminated soil and planted with vegetation to prevent erosion and shall continue to be surrounded by fencing consisting of chain link or other wire fencing that is a minimum of six feet in height and that does and shall continue to include an access gate. The “OU1 Treated Material” consisting of the solidified and stabilized contaminated soil, the one foot of uncontaminated soil cover and vegetation on it, and the “OU1 Raised Treated Material” consisting of treated contaminated soil, the one foot of uncontaminated soil cover and vegetation on it and fencing and access gate shall comprise the Engineering Controls on the Property (Engineering Controls). **Exhibit D** identifies the topography of the “OU1 Treated Material” and “OU1 Raised Treated Material” that was placed during the remedial action. **Exhibit E** identifies the topography of the “OU1 Treated Material” and “OU1 Raised Treated Material” after placement of the one foot of clean, uncontaminated soil and vegetation/final soil cap.
- g) An Operations and Maintenance Plan (O&M Plan) has been approved by FDEP. The O&M Plan specifies the frequency of inspections and monitoring for the Engineering Controls and the criteria for determining when the Engineering Controls need repair or have failed. The Engineering Controls shall be maintained in accordance with the O&M Plan, as it may be amended, upon the prior written consent of FDEP, and in accordance with the ROD, pursuant to the 1993 Consent Decree (No. 92-50244/LAC). The O&M Plan, as amended, in relation to FDEP Facility No. ERIC\_3802, may be obtained by contacting FDEP. Any use of the Property in a manner that may disturb the integrity of the monitoring wells or the Engineering Controls depicted on **Exhibit C** and described above, is prohibited.
- h) The above restrictions and requirements shall only be modified pursuant to Paragraph 3 of this Declaration, and any change in use of the Property must be approved by FDEP and/or EPA. Such approval, if granted, may require additional response actions by Grantor. FDEP may require sampling or investigation to evaluate requests for specific uses.
- i) If future development plans require the disturbance of any features, structures or the Engineering Controls, additional response actions may be required by FDEP and/or

EPA. For any construction activities a plan must be submitted to and approved by FDEP and EPA to address and ensure the appropriate maintenance of the Engineering Controls and ensure the appropriate management of any contaminated soil that may be encountered.

2. **Irrevocable Covenant for Site Access:** Grantor hereby grants to the Grantee, its agents and representatives, and to EPA, and EPA's contractors, agents, representatives, and delegates, an irrevocable, permanent and continuing right of access at all reasonable times to the Property for purposes of:
  - a) Verifying the response actions selected in the ROD, ROD Amendment, and any subsequent ROD modifications;
  - b) Verifying any data or information submitted to EPA and Grantee;
  - c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
  - d) Monitoring the response actions on the Property and conducting investigations relating to contamination on or near the Property, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
  - e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and
  - f) Conducting operation and maintenance of the remedial action and carrying out any response action deemed necessary by EPA or FDEP.
3. **Modification:** This Declaration shall not be modified, amended, or terminated without the written consent of FDEP or its successor agency. FDEP shall not consent to any such modification, amendment or termination without the written consent of EPA.
4. **(a) Reserved rights of Grantor:** Grantor hereby reserves unto itself, its successors, its heirs, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, requirements, rights and covenants granted herein.  
  
**(b) Reserved Rights of EPA:** Nothing in this document shall limit or otherwise affect EPA's rights of entry and access, or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.  
  
**(c) Reserved Rights of Grantee:** Nothing in this document shall limit or otherwise affect Grantee's rights of entry and access or authority to act under state or federal law.

5. **Notice requirement:** Grantor agrees to include in any instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS  
SUBJECT TO A DECLARATION OF RESTRICTIVE AND  
AFFIRMATIVE COVENANTS, DATED \_\_\_\_\_, 20\_\_\_\_,  
RECORDED IN THE PUBLIC LAND RECORDS ON  
\_\_\_\_\_, 20\_\_\_\_, IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, IN  
FAVOR OF, AND ENFORCEABLE BY, THE STATE OF  
FLORIDA DEPARTMENT OF ENVIRONMENTAL  
PROTECTION.

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

6. **Administrative Jurisdiction:** FDEP or any successor state agency having administrative jurisdiction over the interests acquired by the State of Florida by this instrument is the Grantee. EPA is a third-party beneficiary to the interests acquired by Grantee.
7. **Enforcement:** The Grantee shall be entitled to enforce the terms of this instrument by resort to specific performance or legal process. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation or governmental agency that is substantially benefited by this Declaration. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. It is expressly agreed that EPA is not the recipient of a real property interest but is a third-party beneficiary of the Declaration of Restrictive Covenants, and as such, has the right of enforcement. Enforcement of the terms of this instrument shall be at the discretion of the entities listed above, and any forbearance, delay or omission to exercise its rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term, or of any of the rights of the Grantee under this instrument.
8. **Damages:** Grantee shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.
9. **Walver of certain defenses:** Grantor hereby waives any defense of laches, estoppel, or prescription.

10. **Covenants:** Grantor hereby covenants to and with the Grantee, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, and to the best of Grantor's knowledge, Exhibit A accurately reflects the current state of title of the Property as of the date of this Declaration.
11. **Notices:** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, referencing the Site name and Site ID number and addressed as follows:

**To Grantor:**

Tin Buckle Ranch, LLC  
Mr. Brandon Buckles,  
Registered Agent  
2414 Farren Ranch Rd.  
Cottondale, FL 32431

**To Grantee:**

Florida Department of Environmental Protection  
Attn: Waste Cleanup Program Administrator  
FDEP M.S. 4505  
2600 Blair Stone Road  
Tallahassee, FL 32399

**To EPA:**

U.S. EPA, Region 4  
Superfund Division  
Superfund Remedial Branch  
61 Forsyth Street, S.W.  
Atlanta, GA 30303

12. **Recording in Land Records:** Grantor shall record this Declaration of Restrictive and Affirmative Covenants in timely fashion in the Official Records of Jackson County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this document in the public records.
13. **General provisions:**
- a) **Controlling law:** The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state where the Property is located.
- b) **Liberal construction:** Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this

instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) Entire Agreement/Merger: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f) Joint Obligation: If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

g) Successors: The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof.

h) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

j) Attachments: Exhibit A – Legal Description of Property  
Exhibit B – Depiction of Stormwater Features  
Exhibit C – Depiction of "Non Residential Area", "OU1 Treated Material" Area, and "OU1 Raised Treated Material" Area  
Exhibit D – Topographic Map of Site after Placement of Treated Soil  
Exhibit E – Topographic Map of Site after Placement of Final Soil Cap



**TO HAVE AND TO HOLD** unto the State of Florida Department of Environmental Protection and its successors and assigns forever.

**IN WITNESS WHEREOF**, Grantor, Tin Buckle Ranch, LLC, has caused this Agreement to be signed in its name.

Executed this 19<sup>th</sup> day of July, 2022  
GRANTOR: [Signature]  
Brandon Buckles, Manager

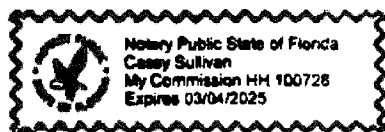
Signed, sealed and delivered in the presence of:

<u>Bobbie McCarty</u>	<u>Bobbie McCarty</u>	<u>7/19/22</u>
Witness:	Print Name	Date
<u>CUTTER BUCKLES</u>	<u>CUTTER BUCKLES</u>	<u>7/14/22</u>
Witness:	Print Name	Date

**STATE OF FLORIDA**  
**COUNTY OF SARASOTA**

On this 19<sup>th</sup> day of July, 2022, before me, the undersigned, a Notary Public in and for the State of Florida, duly commissioned and sworn, personally appeared before me by means of ☒ physical presence or ☐ online notarization, known to be the individual who executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said individual, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.



Casey Sullivan  
Notary Public in and for the  
State of Florida  
My Commission Expires: 03/04/2025

**Approved as to form by the Florida Department of Environmental Protection, Office of General Counsel.**

By: Ronda Moore Digitally signed by Ronda Moore  
Date: 2022.08.11 10:15:33 -0400  
[Assistant General Counsel]

**STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION**

By: Tim J. Bahr  
Tim J. Bahr, Director  
Division of Waste Management

Signed, sealed and delivered in the presence of:

<u>Jennifer Furrall</u> Witness:	<u>Jennifer Furrall</u> Print Name	<u>8/19/2022</u> Date
<u>Judith Pennington</u> Witness:	<u>Judith Pennington</u> Print Name	<u>8/10/2022</u> Date

**STATE OF FLORIDA  
COUNTY OF LEON**

On this 19 day of August, 2022, before me, the undersigned, a Notary Public in and for the State of Florida, duly commissioned and sworn, personally appeared before me by means of ☐ physical presence or ☐ online notarization, known to be the Director of Waste Management of the Florida Department of Environmental Protection, the State Agency that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Agency, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.



JUDITH PENNINGTON  
Commission # GG 292065  
Expires March 31, 2023  
Bonded Thru Budget Notary Services

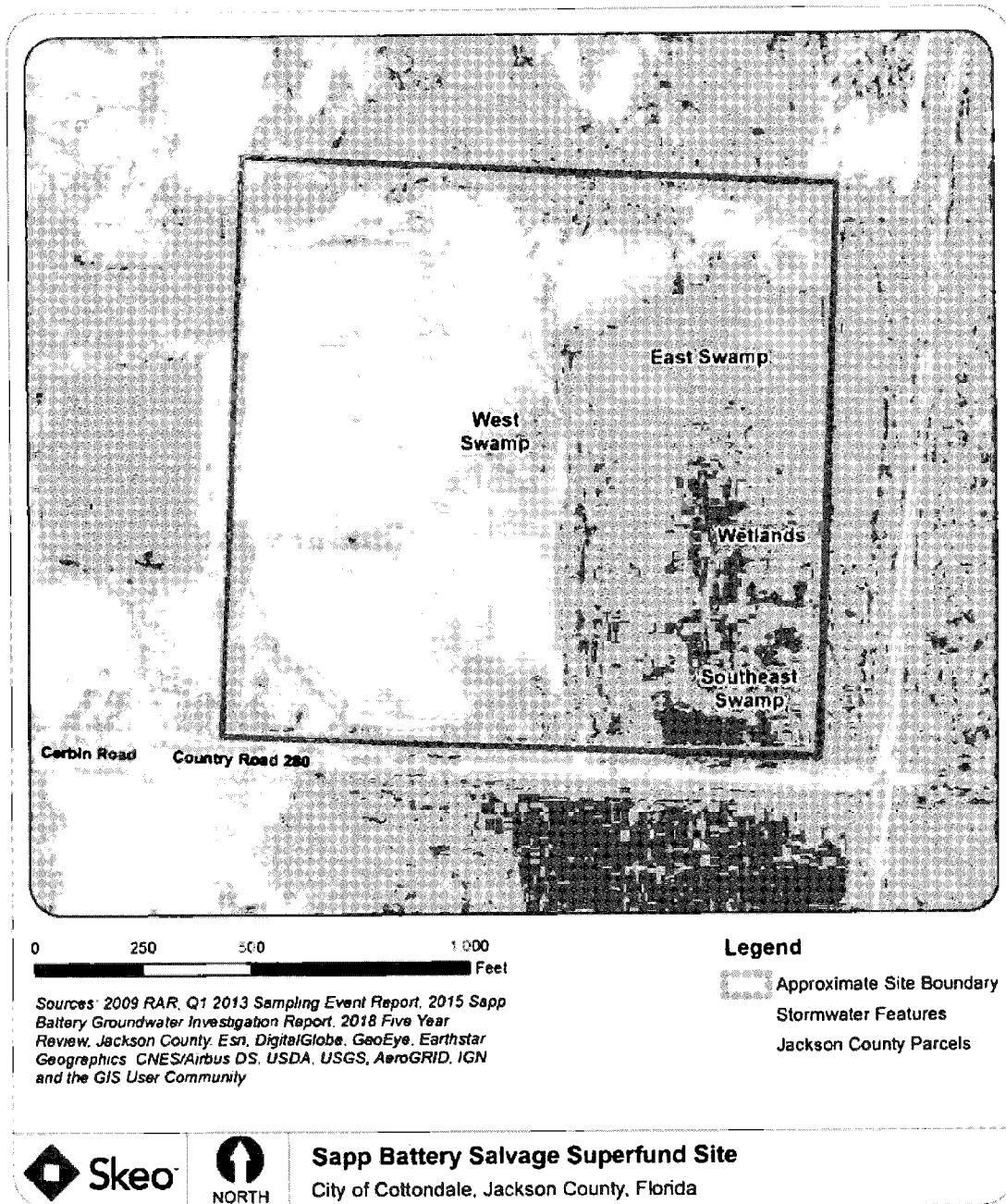
Judith Pennington  
Notary Public in and for the  
State of Florida

My Commission Expires: MARCH 31, 2023

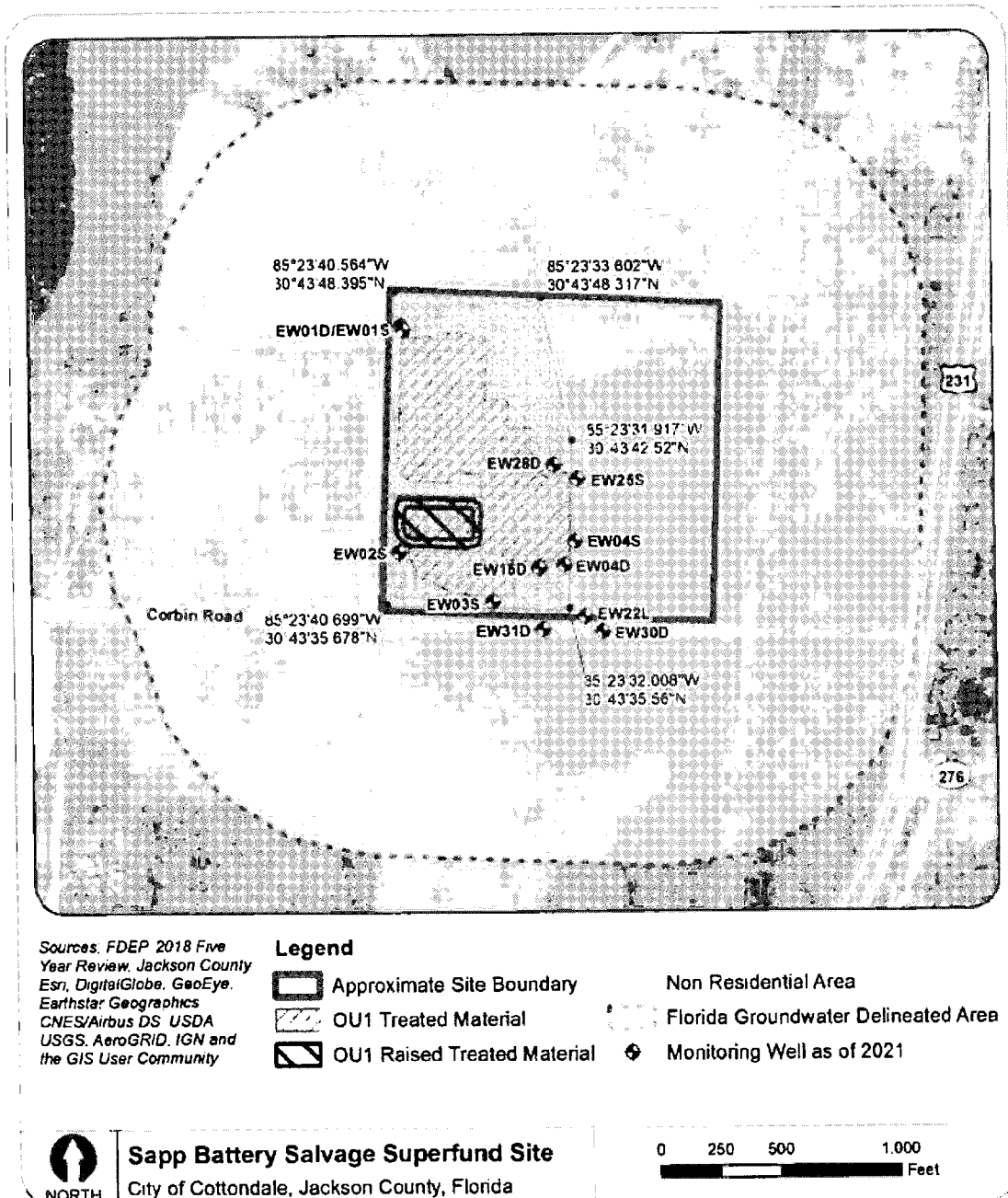
**Exhibit "A"**  
**Legal Description of the Property**

The SE  $\frac{1}{2}$  of the SW  $\frac{1}{2}$ , Section 24, Township 4 North, Range 12 West.

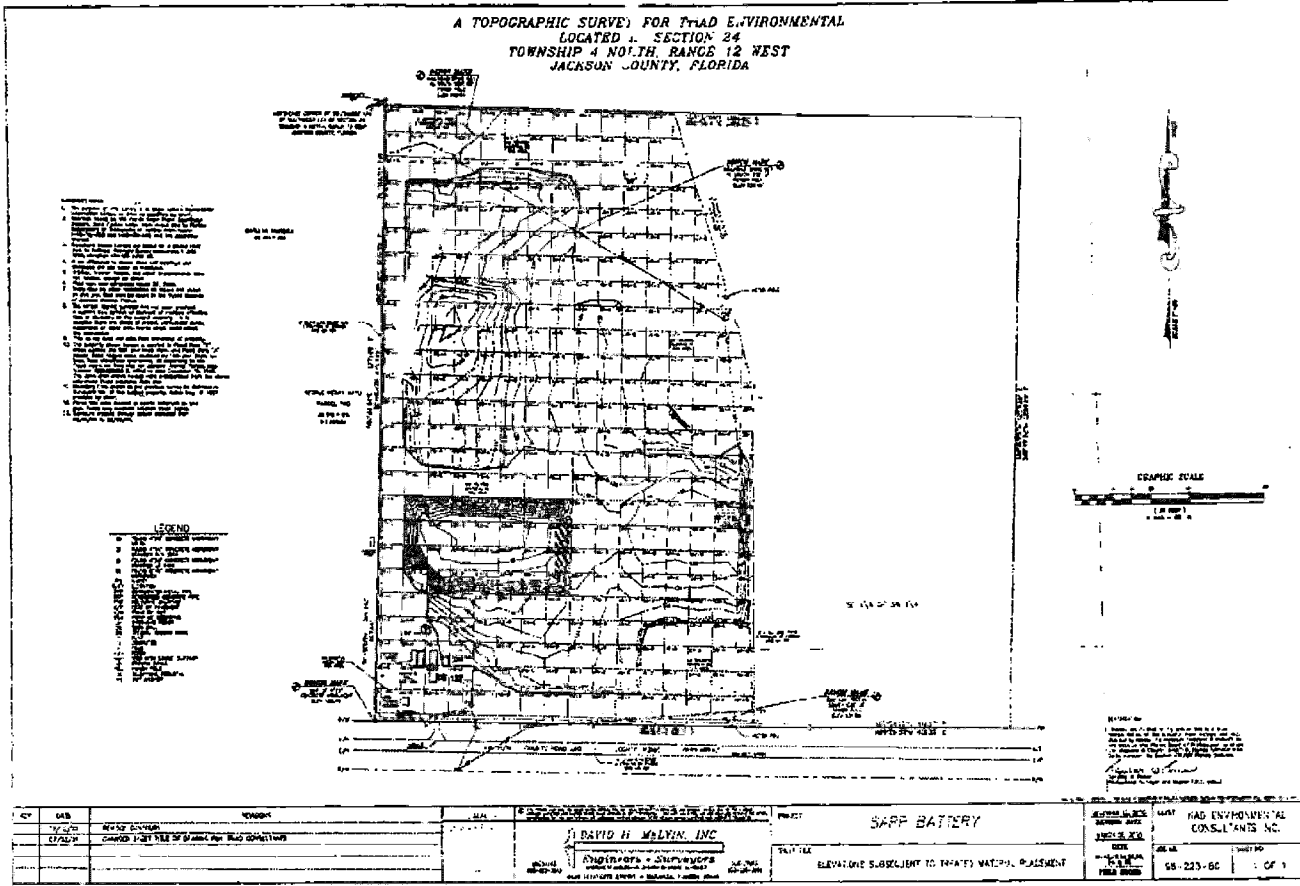
**Exhibit "B"**  
**Depiction of Stormwater Features**



**Exhibit "C"**  
**Depiction of "Non Residential Area," "OU1 Treated Material" Area and**  
**"OU1 Raised Treated Material" Area**



**Exhibit 'D'**  
**Topographic Map of Site after Placement of Treated Soil**



**Exhibit "E"**  
**Topographic Map of Site after Placement of Final Soil Cap**

