



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT
2488 E. 81ST STREET
TULSA, OK 74137-4290

CESWT-RO

13 November 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Pre-2015 Regulatory Regime
Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322
(2023),¹ SWT-2025-00291

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³ For the purposes of this AJD, we have relied on section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the Clean Water Act (CWA) implementing regulations published by the Department of the Army in 1986 and amended in 1993 (references 2.a. and 2.b. respectively), the 2008 *Rapanos-Carabell* guidance (reference 2.c.), and other applicable guidance, relevant case law and longstanding practice, (collectively the pre-2015 regulatory regime), and the *Sackett* decision (reference 2.d.) in evaluating jurisdiction.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. The features addressed in this AJD were evaluated consistent with the definition of “waters of the United States” found in the pre-2015 regulatory regime and consistent with the Supreme Court’s decision in *Sackett*. This AJD did not rely on the 2023 “Revised Definition of ‘Waters of the United States,’” as amended on 8 September 2023 (Amended 2023 Rule) because, as of the date of this decision, the Amended 2023 Rule is not applicable in Oklahoma due to litigation.

1. SUMMARY OF CONCLUSIONS.

¹ While the Supreme Court’s decision in *Sackett* had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

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- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
 - i. S1, Jurisdictional, Intermittent Stream Channel, 180 linear feet (lf), is a waters of the United States
 - ii. S2, Jurisdictional, Intermittent Stream Channel, 616 lf, Section 404
 - iii. W1, No-jurisdictional, Emergent Wetlands, 0.026-acre, Emergent Wetland is not adjacent to jurisdictional stream channel (drainage ditch)
 - iv. S3, (North), No-Jurisdictional, Drainage Ditch, 60 lf; is drainage ditch (poorly drained roadside)
 - v. S3, (South), No-Jurisdictional, Drainage Ditch, 510 lf, is drainage ditch
 - vi. S4, Jurisdictional, Perennial Stream Channel 551 lf, Section 404
 - vii. W2, No-jurisdictional, Emergent Wetlands, 0.067-acre, Emergent Wetland is not adjacent to jurisdictional stream channel (drainage ditch)
 - viii. S6, Jurisdictional, Perennial Stream Channel 433 lf, Section 404
 - ix. S7, No-jurisdictional, Ephemeral Channel, 180 lf, is not a waters of the United States
 - x. S8, Jurisdictional, Perennial Stream Channel 257 lf, Section 404
 - xi. S9, No-jurisdictional, Ephemeral Channel, 200 lf, is not a waters of the United States
 - xii. S10, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
 - xiii. S11, Jurisdictional, Intermittent Stream Channel, 285 lf, Section 404
 - xiv. S12, Jurisdictional, Intermittent Stream Channel, 407 lf, Section 404
 - xv. S13, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States

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- xvi. S14, No-jurisdictional, Ephemeral Channel, 270 lf, is not a waters of the United States
- xvii. S15, No-jurisdictional, Ephemeral Channel, 240 lf, is not a waters of the United States
- xviii. S16, No-jurisdictional, Ephemeral Channel, 550 lf, is not a waters of the United States
- xix. S17, No-jurisdictional, Ephemeral Channel, 400 lf, is not a waters of the United States
- xx. S18, No-jurisdictional, Ephemeral Channel, 400 lf, is not a waters of the United States
- xxi. S19, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
- xxii. S20, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
- xxiii. S21, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
- xxiv. S22, No-jurisdictional, Ephemeral Channel, 500 lf, is not a waters of the United States
- xxv. S23, No-jurisdictional, Ephemeral Channel, 400 lf, is not a waters of the United States
- xxvi. S24, No-jurisdictional, Ephemeral Channel, 375 lf, is not a waters of the United States
- xxvii. S25, No-jurisdictional, Ephemeral Channel, 400 lf, is not a waters of the United States
- xxviii. S26, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
- xxix. S27, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States

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- xxx. S28, No-jurisdictional, Ephemeral Channel, 300 lf, is not a waters of the United States
- xxxi. S29, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
- xxxii. S30, No-jurisdictional, Ephemeral Channel, 400 lf, is not a waters of the United States
- xxxiii. S31, No-jurisdictional, Ephemeral Channel, 570 lf, is not a waters of the United States
- xxxiv. S32, No-jurisdictional, Ephemeral Channel, 410 lf, is not a waters of the United States
- xxxv. S33, No-jurisdictional, Ephemeral Channel, 290 lf, is not a waters of the United States
- xxxvi. S34, Jurisdictional, Intermittent Stream Channel, 260 lf, Section 404
- xxxvii. S35, No-jurisdictional, Ephemeral Channel, 650 lf, is not a waters of the United States
- xxxviii. S36, No-jurisdictional, Ephemeral Channel, 100 lf, is not a waters of the United States
- xxxix. S37, No-jurisdictional, Ephemeral Stream Channel, 300 lf, Section 404
- xl. S38, No-jurisdictional, Ephemeral Channel, 175 lf, is not a waters of the United States
- xli. S39, No-jurisdictional, Ephemeral Channel, 240 lf, is not a waters of the United States
- xl.ii. S40, No-jurisdictional, Ephemeral Channel, 200 lf, is not a waters of the United States
- xl.iii. S41, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States

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- xliv. S42, No-jurisdictional, Ephemeral Channel, 240 lf, is not a waters of the United States
- xlv. S43, No-jurisdictional, Ephemeral Channel, 410 lf, is not a waters of the United States
- xlvi. S44, No-jurisdictional, Ephemeral Channel, 190 lf, is not a waters of the United States
- xlvii. S45, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
- xlvi. S46, Jurisdictional, Intermittent Stream Channel, 547 lf, Section 404
- xlix. S47, No-jurisdictional, Ephemeral Channel, 240 lf, is not a waters of the United States
 - I. S48, Jurisdictional, Intermittent Stream Channel, 255 lf, Section 404
 - II. S49, Jurisdictional, Perennial Stream Channel, 1,530 lf, Section 404
 - III. S50, Jurisdictional, Perennial Stream Channel, 210 lf, Section 404
 - IIII. S51, Jurisdictional, Intermittent Stream Channel, 415 lf, Section 404
 - liv. S52, No-jurisdictional, Ephemeral Channel, 200 lf, is not a waters of the United States
 - IV. S53, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
 - lvi. S54, No-jurisdictional, Ephemeral Channel, 240 lf, is not a waters of the United States
 - lvii. S55, No-jurisdictional, Ephemeral Channel, 300 lf, is not a waters of the United States
 - lviii. W3, No-jurisdictional, Forested Wetlands, 0.253-acre, is adjacent and is not continuous to S56
 - lix. S56, Jurisdictional, Intermittent Stream Channel, 244 lf, Section 404

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- lx. S57, No-jurisdictional, Ephemeral Channel, 220 lf, is not a waters of the United States
- lxi. S58, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
- lxii. W5, No-jurisdictional, Emergent Wetlands, 0.253-acre, is adjacent and is continuous to S58
- lxiii. S59, No-jurisdictional, Ephemeral Channel, 100 lf, is not a waters of the United States
- lxiv. W4, No-jurisdictional, Emergent Wetlands, 0.253-acre, is adjacent and is continuous to S59
- lxv. S60, Jurisdictional, Intermittent Stream Channel, 461 lf, Section 404
- lxvi. S61, No-jurisdictional, Ephemeral Channel, 240 lf, is not a waters of the United States
- lxvii. W6, No-jurisdictional, Forested Wetlands, 0.401-acre, is adjacent and is continuous to S61 and S64
- lxviii. S62, Jurisdictional, Perennial Stream Channel, 1,255 lf, Section 404
- lxix. S63, Jurisdictional, Intermittent Stream Channel, 455 lf, Section 404
- lxx. S64, No-jurisdictional, Ephemeral Channel, 175 lf, is not a waters of the United States
- lxxi. S65, No-jurisdictional, Ephemeral Channel, 140 lf, is not a waters of the United States
- lxxii. S66, No-jurisdictional, Ephemeral Channel, 90 lf, is not a waters of the United States
- lxxiii. S67, No-jurisdictional, Ephemeral Channel, 100 lf, is not a waters of the United States
- lxxiv. S68, No-jurisdictional, Ephemeral Channel, 170 lf, is not a waters of the United States

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- lxxv. S69, Jurisdictional, Intermittent Stream Channel, 305 lf, Section 404
- lxxvi. S70, No-jurisdictional, Ephemeral Channel, 120 lf, is not a waters of the United States
- lxxvii. S71, Jurisdictional, Intermittent Stream Channel, 565 lf, Section 404
- lxxviii. P3, Jurisdictional. On-channel Pond, 0.038 acre, is continuous to S71
- lxxix. S72, No-jurisdictional, Ephemeral Channel, 375 lf, is not a waters of the United States
- lxxx. S73, No-jurisdictional, Ephemeral Channel, 100 lf, is not a waters of the United States
- lxxxi. S74, No-jurisdictional, Ephemeral Channel, 90 lf, is not a waters of the United States
- lxxxii. S75, Jurisdictional, Intermittent Stream Channel, 488 lf, Section 404
- lxxxiii. S76, No-jurisdictional, Ephemeral Channel, 300 lf, is not a waters of the United States
- lxxxiv. S77, Jurisdictional, Intermittent Stream Channel, 560 lf, Section 404
- lxxxv. S78, No-jurisdictional, Ephemeral Channel, 380 lf, is not a waters of the United States
- lxxxvi. S79, No-jurisdictional, Ephemeral Channel, 100 lf, is not a waters of the United States
- lxxxvii. S80, No-jurisdictional, Ephemeral Channel, 75 lf, is not a waters of the United States
- lxxxviii. S81, No-jurisdictional, Ephemeral Channel, 100 lf, is not a waters of the United States
- lxxxix. S82, No-jurisdictional, Ephemeral Channel, 70 lf, is not a waters of the United States
- xc. S83, No-jurisdictional, Ephemeral Channel, 300 lf, is not a waters of the United States

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- xc. S84, No-jurisdictional, Ephemeral Channel, 500 lf, is not a waters of the United States
- xcii. S85, No-jurisdictional, Ephemeral Channel, 400 lf, is not a waters of the United States
- xciii. S86, No-jurisdictional, Ephemeral Channel, 250 lf, is not a waters of the United States
- xciv. S87, No-jurisdictional, Ephemeral Channel, 60 lf, is not a waters of the United States

2. REFERENCES.

- a. Final Rule for Regulatory Programs of the Corps of Engineers, 51 FR 41206 (November 13, 1986).
- b. Clean Water Act Regulatory Programs, 58 FR 45008 (August 25, 1993).
- c. U.S. EPA & U.S. Army Corps of Engineers, Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in *Rapanos v. United States & Carabell v. United States* (December 2, 2008)
- d. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. The review area containing is approximately 360 acres. The review areas are located in the Sections 17, 20, 27, 28, 29, 33, and 34 of T5N R19E, and parts of Sections 4, 9, 16, 21, 27, 28 and 34 of T4N R19E. Latimer County, Oklahoma. The review areas are located near Latitude 34.8420 and -95.3060.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. Eufaula Lake TNW via Canadian River and Wister Lake via Arkansas River -Interstate Water

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS

Unnamed tributaries flows into South Gaines Creek and unnamed tributary of North Gaines Creek flows into Gaines Creek that discharges into Eufaula Lake, a TNW.

Lake Eufaula Lake discharges into the Canadian River (confluence of the Arkansas River through Robert S. Kerr Reservoir ultimate the Arkansas River.

6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ [\[N/A\]](#)
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the pre-2015 regulatory regime and consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the pre-2015 regulatory regime. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. TNWs (a)(1): [\[N/A\]](#)
 - b. Interstate Waters (a)(2): [\[N/A\]](#)
 - c. Other Waters (a)(3): P3 is an on-channel pond (0.038 ac), man-made stock pond is hydrologically connected to S71 is a relative permanent.
 - d. Impoundments (a)(4): [\[N/A\]](#)
 - e. Tributaries (a)(5):

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

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S1 is approximately 180 lf of unnamed tributary of Bandy Creek (relative permanent water) within the review area.

S2 is approximately 616 lf of unnamed tributary of Bandy Creek (relative permanent water) within the review area.

S4 is approximately 551 lf of unnamed tributary of Bandy Creek (relative permanent water) within the review area.

S6 is approximately 433 linear feet of unnamed tributary of Bandy Creek (relative permanent water) within the review area.

S8 is approximately 257 lf of unnamed tributary of Bandy Creek (relative permanent water) within the review area.

S11 is approximately 200 lf of unnamed tributary of Bandy Creek (relative permanent water) within the review area.

S12 is approximately 307 lf of unnamed tributary of Bandy Creek (relative permanent water) within the review area.

S34 is approximately 260 lf of unnamed tributary of North Gaines Creek (relative permanent water) within the review area.

S43 is approximately 106 lf of unnamed tributary of North Gaines Creek (relative permanent water) within the review area.

S46 is approximately 547 lf of unnamed tributary of North Gaines Creek (relative permanent water) within the review area.

S48 is approximately 255 lf of unnamed tributary of North Gaines Creek (relative permanent water) within the review area.

S49 is approximately 1,530 lf of North Gaines Creek (relative permanent water) within the review area.

S50 is approximately 210 lf of Gaines Creek (relative permanent water) within the review area.

S51 is approximately 415 lf of South Gaines Creek (relative permanent water) within the review area.

S56 is approximately 244 lf of unnamed tributary of South Gaines Creek (relative permanent water) within the review area.

S60 is approximately 461 lf of unnamed tributary of South Gaines Creek (relative permanent water) within the review area.

S62 is approximately 255 lf of unnamed tributary of South Gaines Creek (relative permanent water) within the review area.

S63 is approximately 455 lf of unnamed tributary of South Gaines Creek (relative permanent water) within the review area.

S69 is approximately 305 lf of unnamed tributary of South Gaines Creek (relative permanent water) within the review area.

S71 is approximately 565 lf of unnamed tributary of South Gaines Creek (relative permanent water) within the review area.

S75 is approximately 488 lf of unnamed tributary of South Gaines Creek (relative permanent water) within the review area.

S77 is approximately 560 lf of unnamed tributary of South Gaines Creek (relative permanent water) within the review area.

f. The territorial seas (a)(6): [\[N/A\]](#)

g. Adjacent wetlands (a)(7): [\[N/A\]](#)

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified as “generally non-jurisdictional” in the preamble to the 1986 regulations (referred to as “preamble waters”).⁷ Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water.

The non-jurisdictional areas are upland depressional areas that may or may not be indicated on the USGS Topo Map, USGS NHD, or USFWS NWI map as aquatic features. Additionally, the requestor’s delineation report indicated hydric soils were not present.

⁷ 51 FR 41217, November 13, 1986.

- b. Describe aquatic resources and features within the review area identified as “generally not jurisdictional” in the *Rapanos* guidance. Include size of the aquatic resource or feature within the review area and describe how it was determined to be non-jurisdictional under the CWA based on the criteria listed in the guidance.

S3, (North), No-Jurisdictional, Drainage Ditch, 60 lf; is drainage ditch (poorly drained roadside)

S3, (South), No-Jurisdictional, Drainage Ditch, 510 lf, is drainage ditch

- c. Describe aquatic resources and features identified within the review area as waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA. Include the size of the waste treatment system within the review area and describe how it was determined to be a waste treatment system. [[N/A](#)]
- d. Describe aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.). Include the size of the aquatic resource or feature within the review area and describe how it was determined to be prior converted cropland. [[N/A](#)]
- e. Describe aquatic resources (i.e. lakes and ponds) within the review area, which do not have a nexus to interstate or foreign commerce, and prior to the January 2001 Supreme Court decision in “*SWANCC*,” would have been jurisdictional based solely on the “Migratory Bird Rule.” Include the size of the aquatic resource or feature, and how it was determined to be an “isolated water” in accordance with *SWANCC*. [[N/A](#)]
- f. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the pre-2015 regulatory regime consistent with the Supreme Court’s decision in *Sackett* (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

S7, No-jurisdictional, Ephemeral Channel, 400 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S9, No-jurisdictional, Ephemeral Channel, 200 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

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S10, No-jurisdictional, Ephemeral Channel, 300 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S13, No-jurisdictional, Ephemeral Channel, 200 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S14, No-jurisdictional, Ephemeral Channel, 270 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S15, No-jurisdictional, Ephemeral Channel, 340 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S16, No-jurisdictional, Ephemeral Channel, 360 lf, is not a waters of the United States

S17, No-jurisdictional, Ephemeral Channel, 300 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S18, No-jurisdictional, Ephemeral Channel, 300 lf, is not a waters of the United States

S19, No-jurisdictional, Ephemeral Channel, 350 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S20, No-jurisdictional, Ephemeral Channel, 390 lf, is not a waters of the United States

S21, No-jurisdictional, Ephemeral Channel, 250 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S22, No-jurisdictional, Ephemeral Channel, 400 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S23, No-jurisdictional, Ephemeral Channel, 270 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S24, No-jurisdictional, Ephemeral Channel, 375 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S25, No-jurisdictional, Ephemeral Channel, 275 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

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S26, No-jurisdictional, Ephemeral Channel, 350 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S27, No-jurisdictional, Ephemeral Channel, 400 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S28, No-jurisdictional, Ephemeral Channel, 300 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S29, No-jurisdictional, Ephemeral Channel, 250 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S30, No-jurisdictional, Ephemeral Channel, 400 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S31, No-jurisdictional, Ephemeral Channel, 570 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S32, No-jurisdictional, Ephemeral Channel, 410 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S33, No-jurisdictional, Ephemeral Channel, 290 lf is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S35, No-jurisdictional, Ephemeral Channel, 650 lf, is not a waters of the United States

S36, No-jurisdictional, Ephemeral Channel, 100 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S37, No-jurisdictional, Ephemeral Channel, 300 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S38, No-jurisdictional, Ephemeral Channel, 175 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S39, No-jurisdictional, Ephemeral Channel, 240 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S40, No-jurisdictional, Ephemeral Channel, 200 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

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S41, No-jurisdictional, Ephemeral Channel, 235 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S42, No-jurisdictional, Ephemeral Channel, 240 If is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S43, No-jurisdictional, Ephemeral Channel, 410 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S44, No-jurisdictional, Ephemeral Channel, 190 If is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S45, No-jurisdictional, Ephemeral Channel, 250 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S47, No-jurisdictional, Ephemeral Channel, 240 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S52, No-jurisdictional, Ephemeral Channel, 200 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S53, No-jurisdictional, Ephemeral Channel, 250 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S54, No-jurisdictional, Ephemeral Channel, 240 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S55, No-jurisdictional, Ephemeral Channel, 300 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S57, No-jurisdictional, Ephemeral Channel, 270 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S58, No-jurisdictional, Ephemeral Channel, 150 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S59, No-jurisdictional, Ephemeral Channel, 100 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S61, No-jurisdictional, Ephemeral Channel, 240 If, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

CESWT-RO

SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SWT-2025-00291](#)

S64, No-jurisdictional, Ephemeral Channel, 175 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S65, No-jurisdictional, Ephemeral Channel, 140 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S66, No-jurisdictional, Ephemeral Channel, 90 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S67, No-jurisdictional, Ephemeral Channel, 100 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S68, No-jurisdictional, Ephemeral Channel, 170 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S70, No-jurisdictional, Ephemeral Channel, 120 lf is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S72, No-jurisdictional, Ephemeral Channel, 370 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S73, No-jurisdictional, Ephemeral Channel, 100 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S74, No-jurisdictional, Ephemeral Channel, 90 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S76, No-jurisdictional, Ephemeral Channel, 230 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S78, No-jurisdictional, Ephemeral Channel, 380 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S79, No-jurisdictional, Ephemeral Channel, 100 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S80, No-jurisdictional, Ephemeral Channel, 75 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S81, No-jurisdictional, Ephemeral Channel, 70 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S82, No-jurisdictional, Ephemeral Channel, 70 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S83, No-jurisdictional, Ephemeral Channel, 300 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S84, No-jurisdictional, Ephemeral Channel, 500 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S85, No-jurisdictional, Ephemeral Channel, 400 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S86, No-jurisdictional, Ephemeral Channel, 250 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

S87, No-jurisdictional, Ephemeral Channel, 60 lf, is not a water of the United States and does not have continuous surface connection to a jurisdictional water.

W1 Emergent Wetland (0.026 acre) the small depression are drainage features, within road-side drainages and current landform. The features appear to collect storm water (surface run off) from adjacent highway and/or county road and current landscape.

W2 Emergent Wetland (0.067 acre) the small depression are drainage features, within road-side drainages and current landform. The features appear to collect storm water (surface run off) from adjacent highway and/or county road and current landscape.

W3 Forested Wetland (0.253 acre) the small depression are drainage features, within road-side drainages and current landform. The features appear to collect storm water (surface run off) from adjacent highway and/or county road and current landscape. W3 does not have continuous surface connection to a jurisdictional water (S56).

W4 Emergent Wetland (0.110 acre) the small depression are drainage features, within road-side drainages and current landform. The features appear to collect storm water (surface run off) from adjacent highway and/or county road and current landscape. W4 does not have continuous surface connection to a jurisdictional water.

W5 Emergent Wetland (0.280 acre) the small depression are drainage features, within road-side drainages and current landform. The features appear to collect

storm water (surface run off) from adjacent highway and/or county road and current landscape. W5 does not have continuous surface connection to a jurisdictional water.

W6 Forested Wetland (0.401 acre) the small depression are drainage features, within road-side drainages and current landform. The features appear to collect storm water (surface run off) from adjacent highway and/or county road and current landscape. W6 does not have continuous surface connection to a jurisdictional water.

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
 - a. The field visit was conducted on October 2, 2025, with Marcus Ware, USACE. The office evaluation was completed on September 5, 2025, and October 7, 2025.
 - b. Waters and Wetlands Evaluation Report for Oklahoma Department of Transportation for Job Piece 24212(04) and 24403(04), SH-2, Latimer County dated July 2025.
 - c. USGS Topographic Map, accessed on October 7, 2025.
 - d. USFWS NWI, accessed on October 7, 2025
10. OTHER SUPPORTING INFORMATION. ODOT provided a Corps AJD request determination on September 5, 2025
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

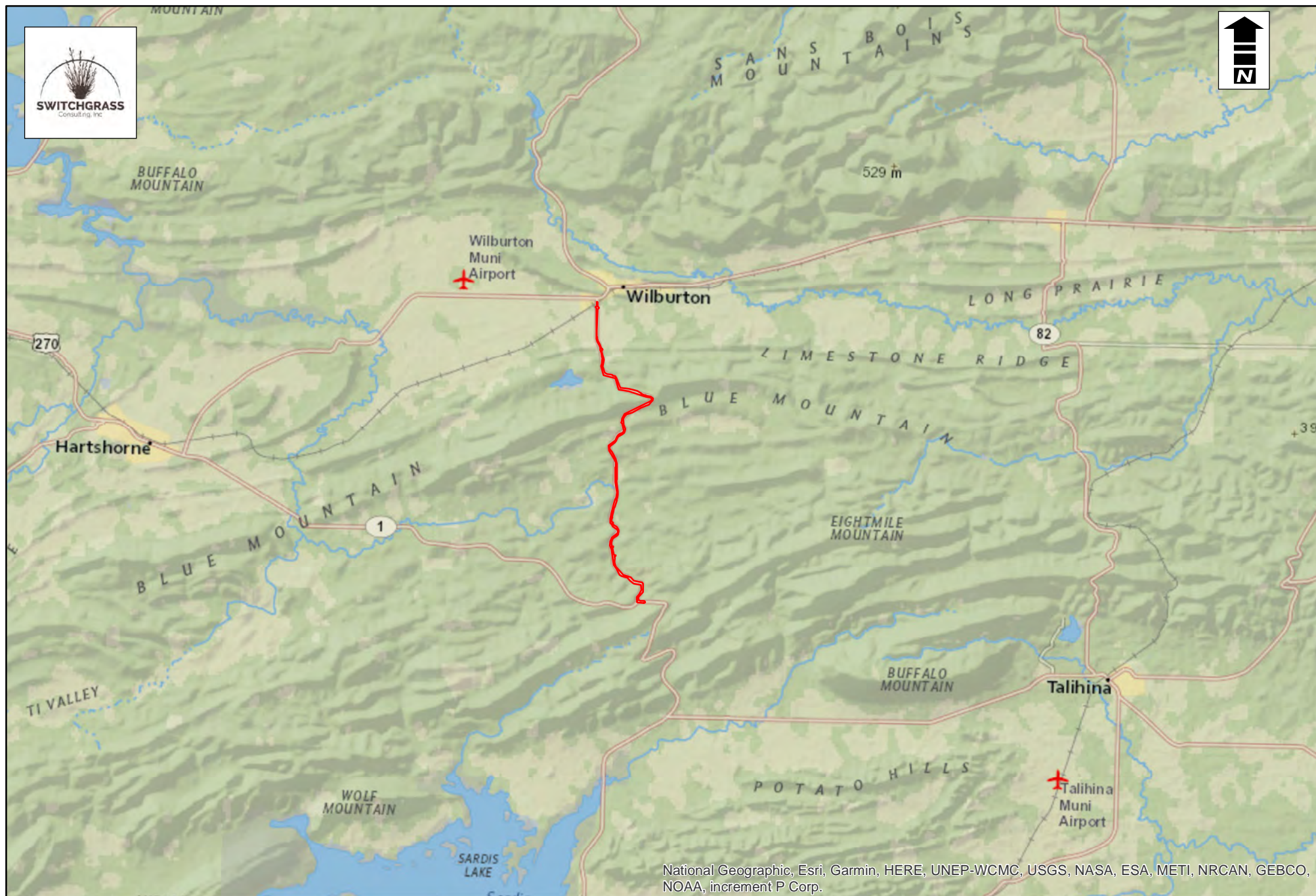


Figure 1 Vicinity Map

0 5 10 Miles

Oklahoma Department of Transportation

State Highway 2 Section 404 Delineation

Latimer County, Oklahoma

Study area

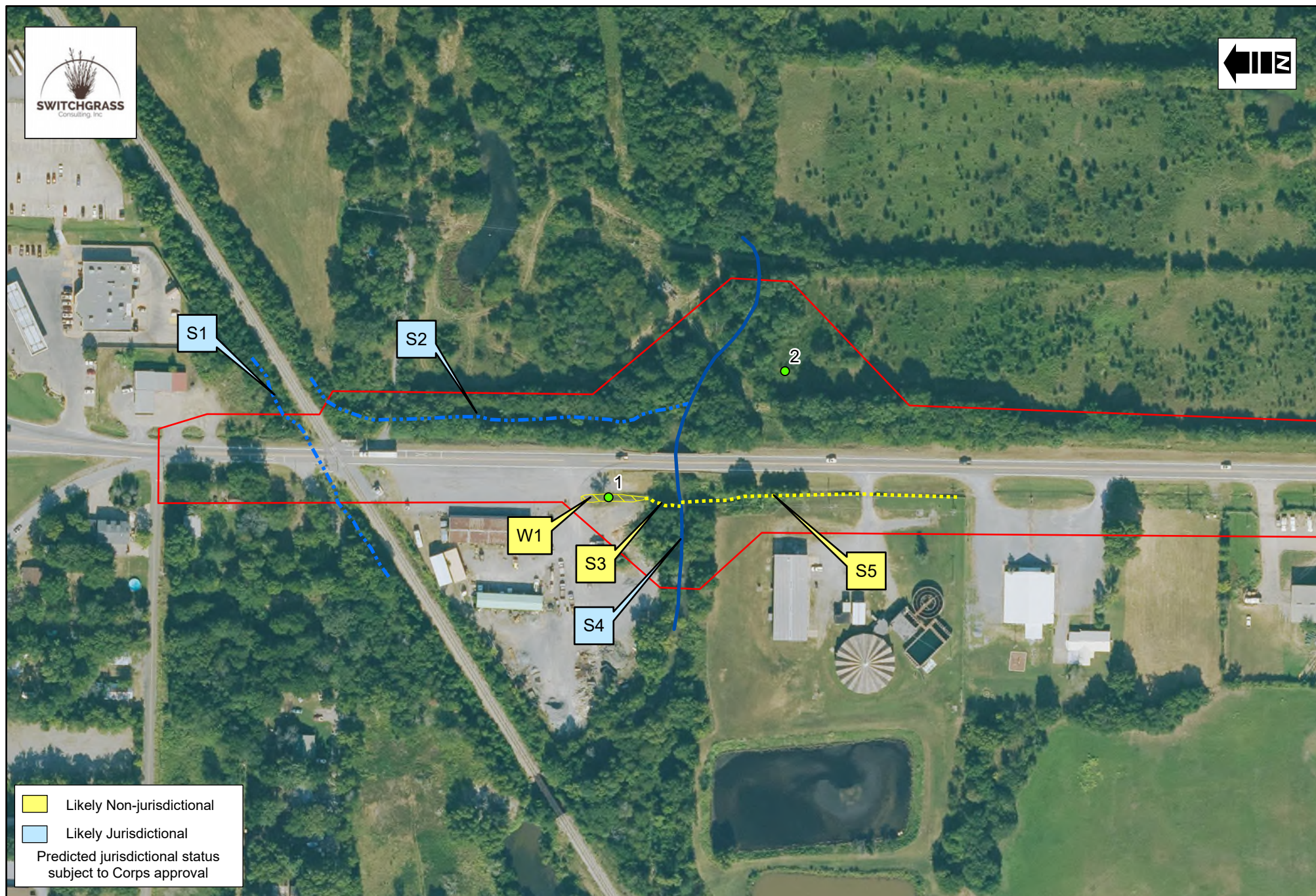


Figure 2.1 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma



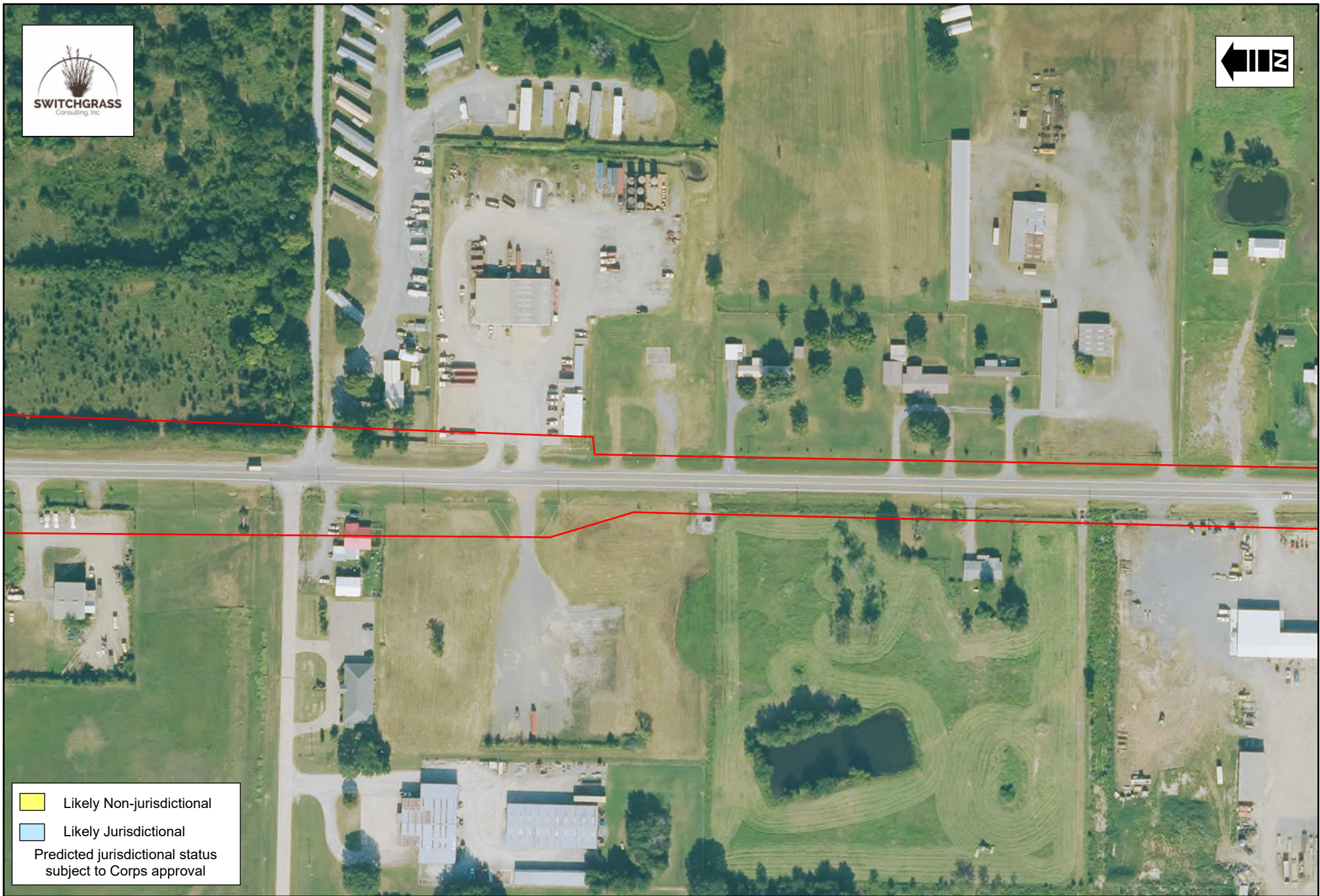


Figure 2.2 Site Map (aerial)

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma


 Study area



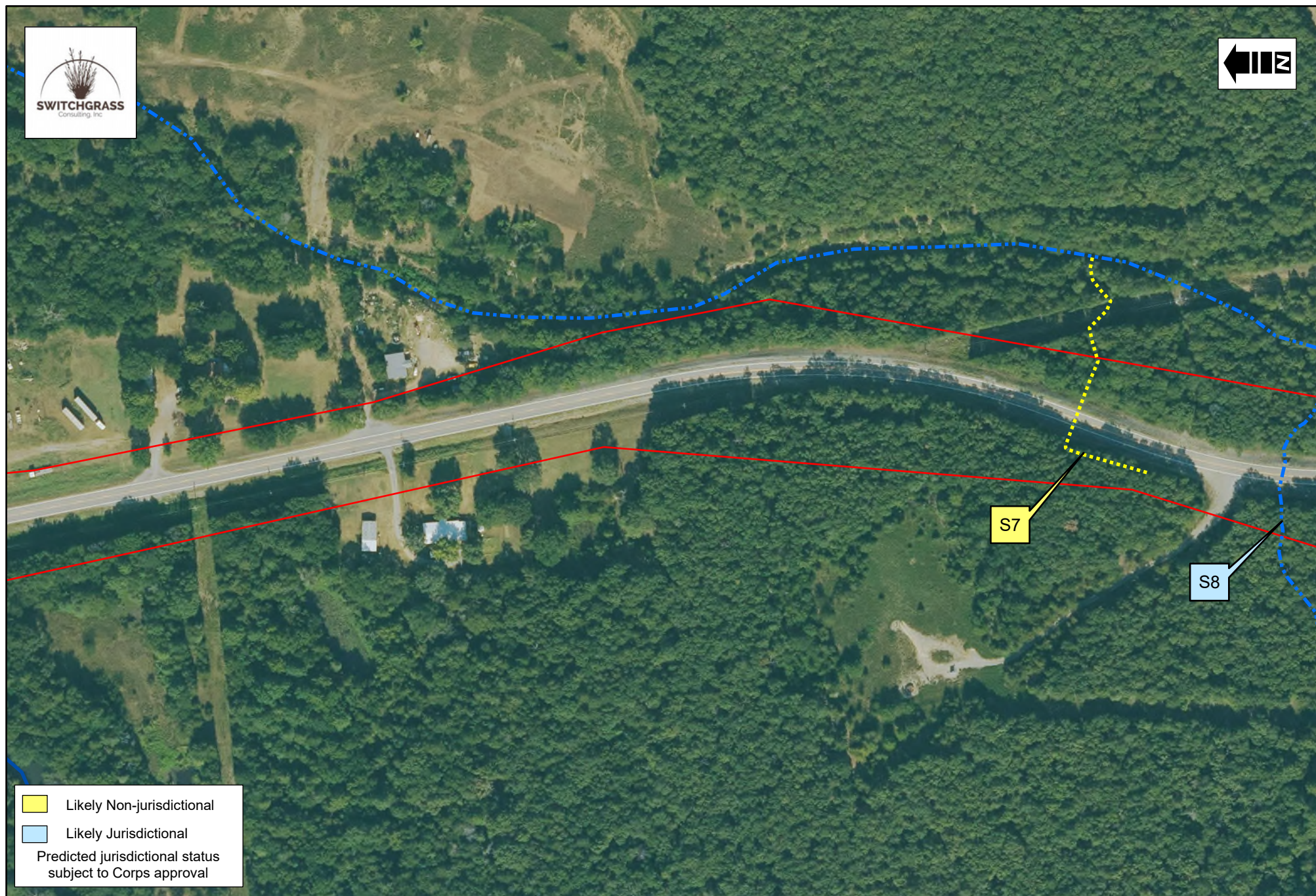


Figure 2.4 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

Study area
 Perennial stream (LJD)
 Ponds



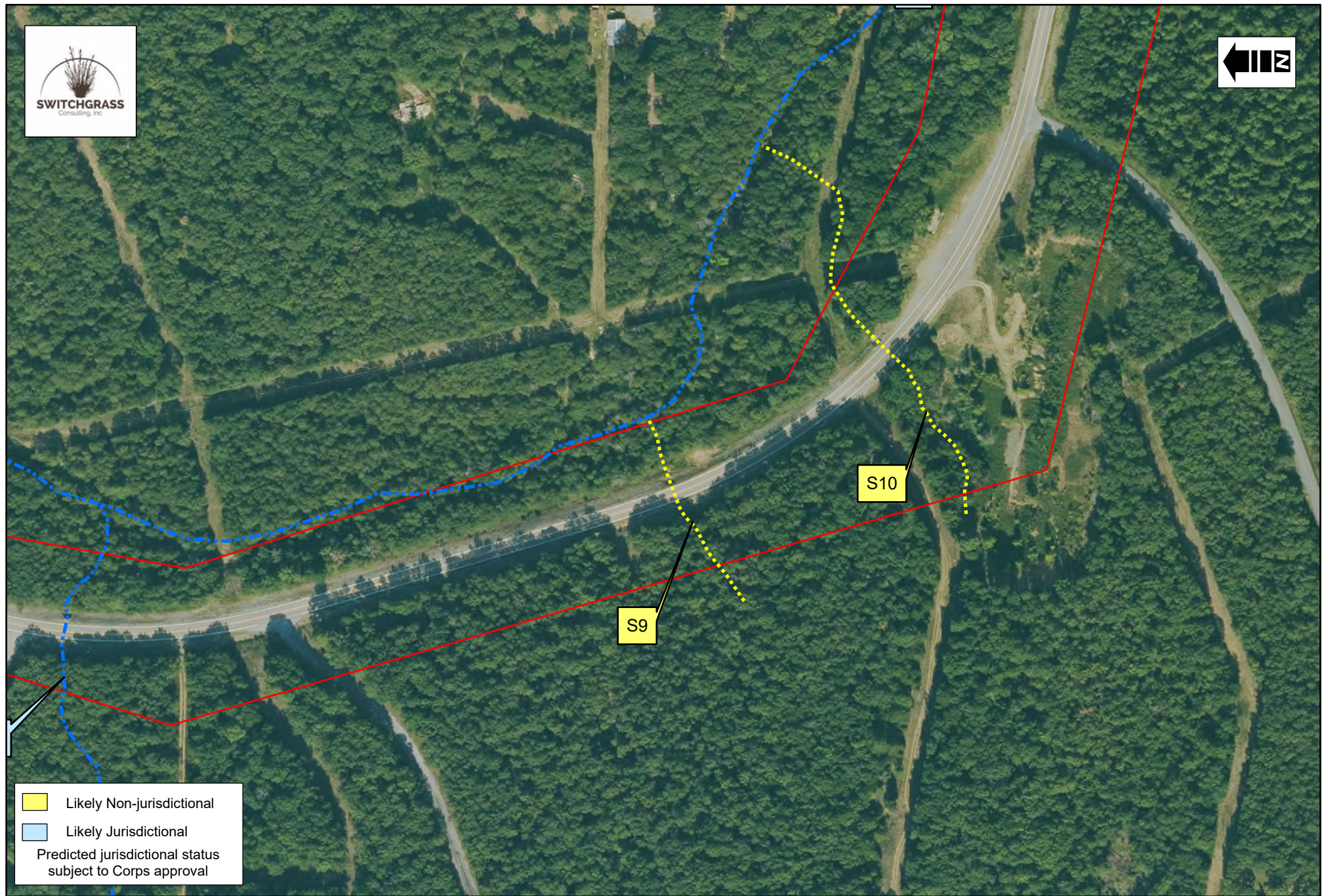
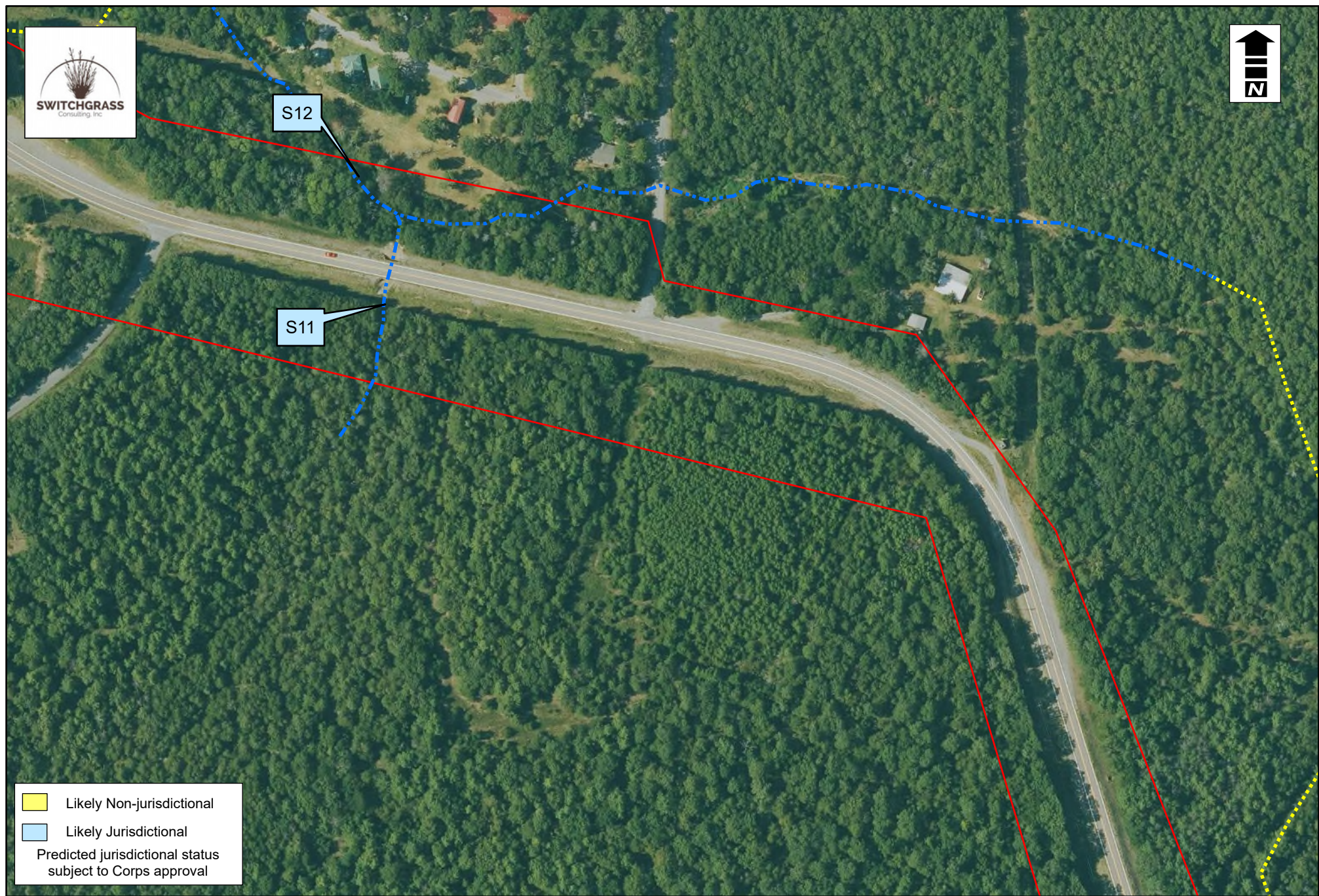


Figure 2.6 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

Study area
 Intermittent stream (LJD)
 Ephemeral drainage (Non-JD)



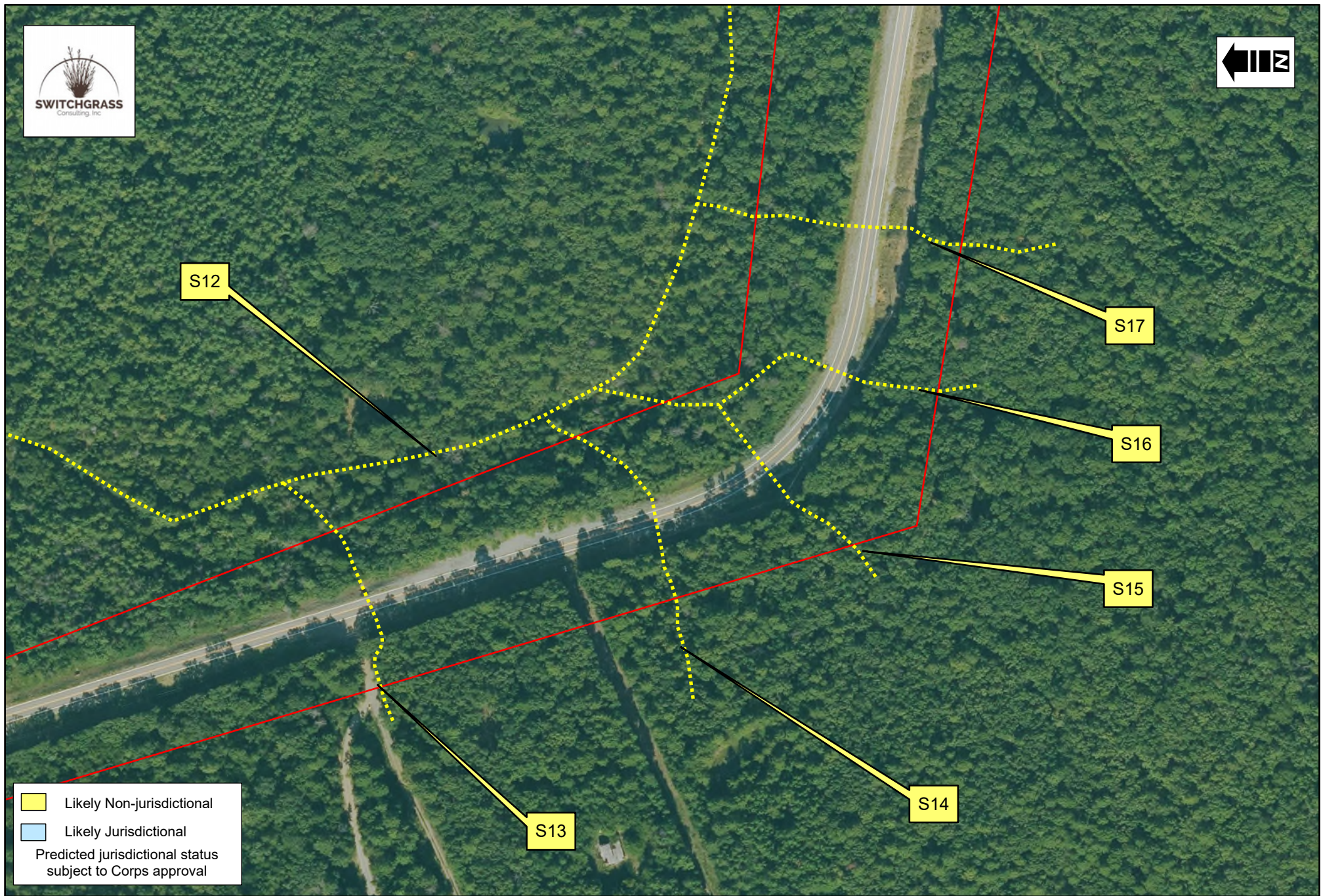


Figure 2.8 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma



Study area
 Ephemeral drainage (Non-JD)



Figure 2.9 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

 Study area
 Ephemeral drainage (Non-JD)

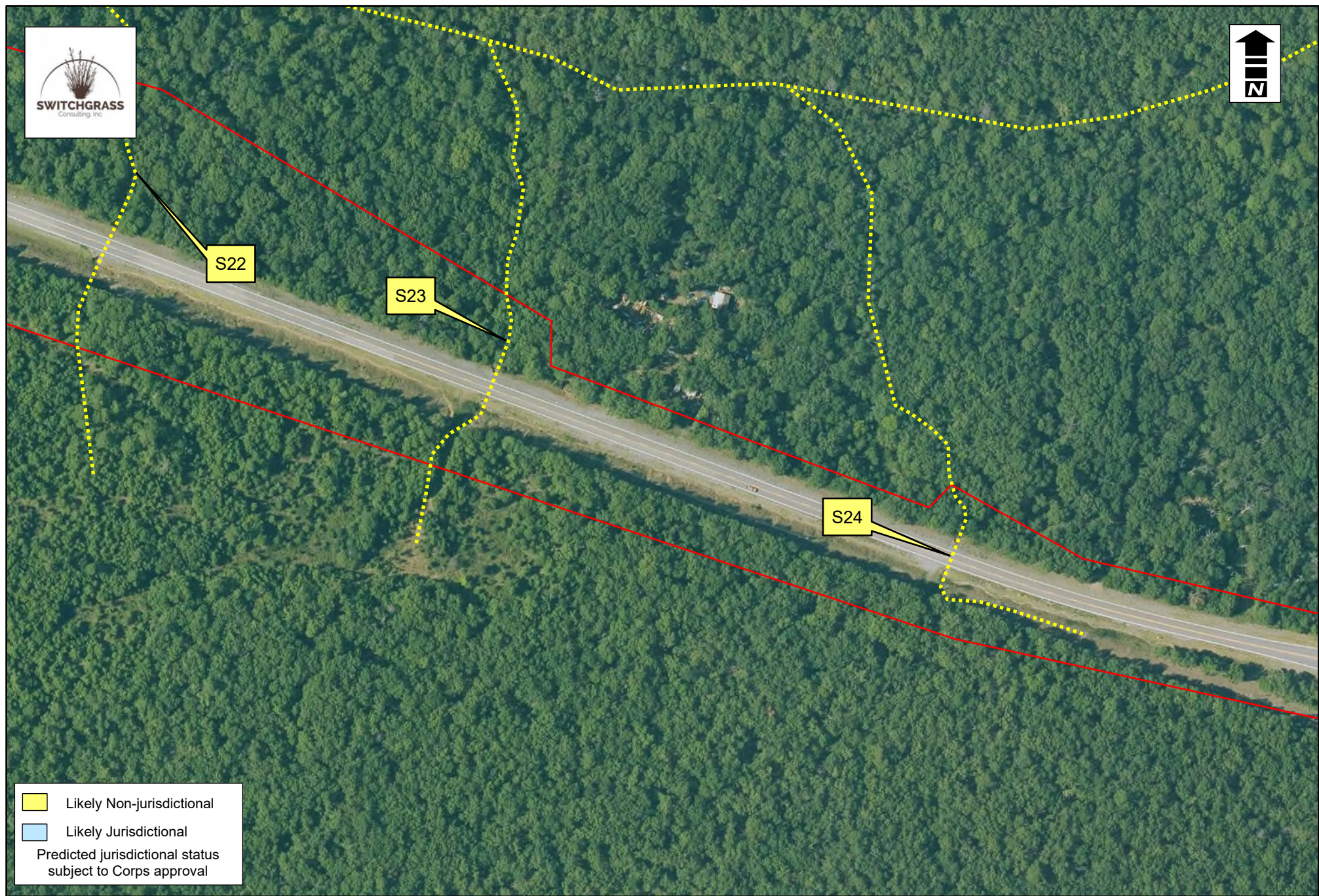


Figure 2. 10 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
 Latimer County, Oklahoma



- Likely Non-jurisdictional
- Likely Jurisdictional
- Predicted jurisdictional status
subject to Corps approval

Figure 2. 11 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

- Study area
- Ephemeral drainage (Non-JD)



Figure 2. 12 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

Study area
Ephemeral drainage (Non-JD)



Figure 2. 13 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

Study area
Intermittent stream (LJD)
Ephemeral drainage (Non-JD)

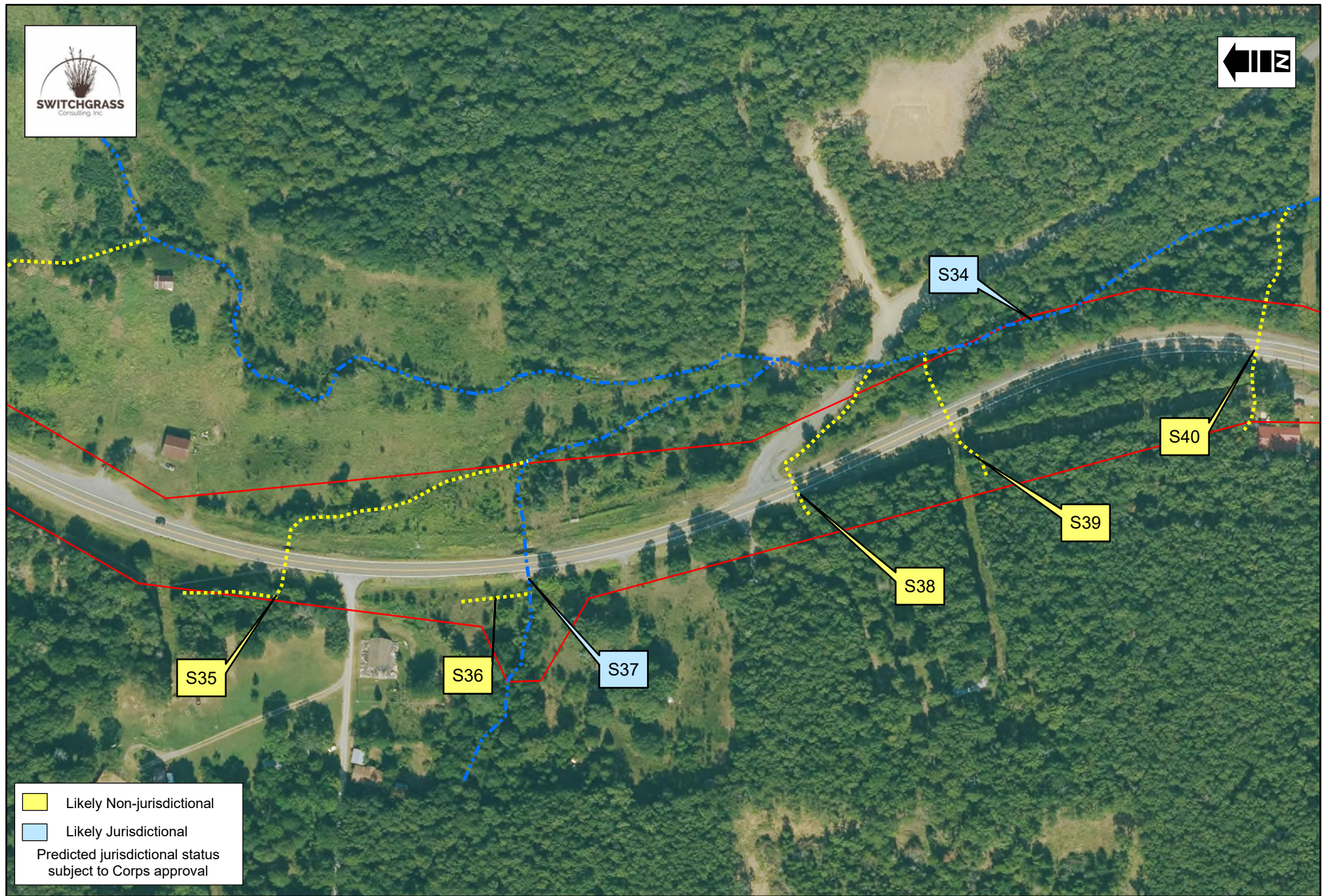


Figure 2. 14 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

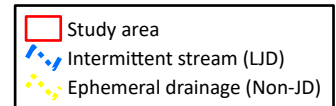






Figure 2.15 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

 Study area

 Intermittent stream (LJD)




 Ephemeral drainage (Non-JD)



Figure 2. 16 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

 Study area
 Ephemeral drainage (Non-JD)

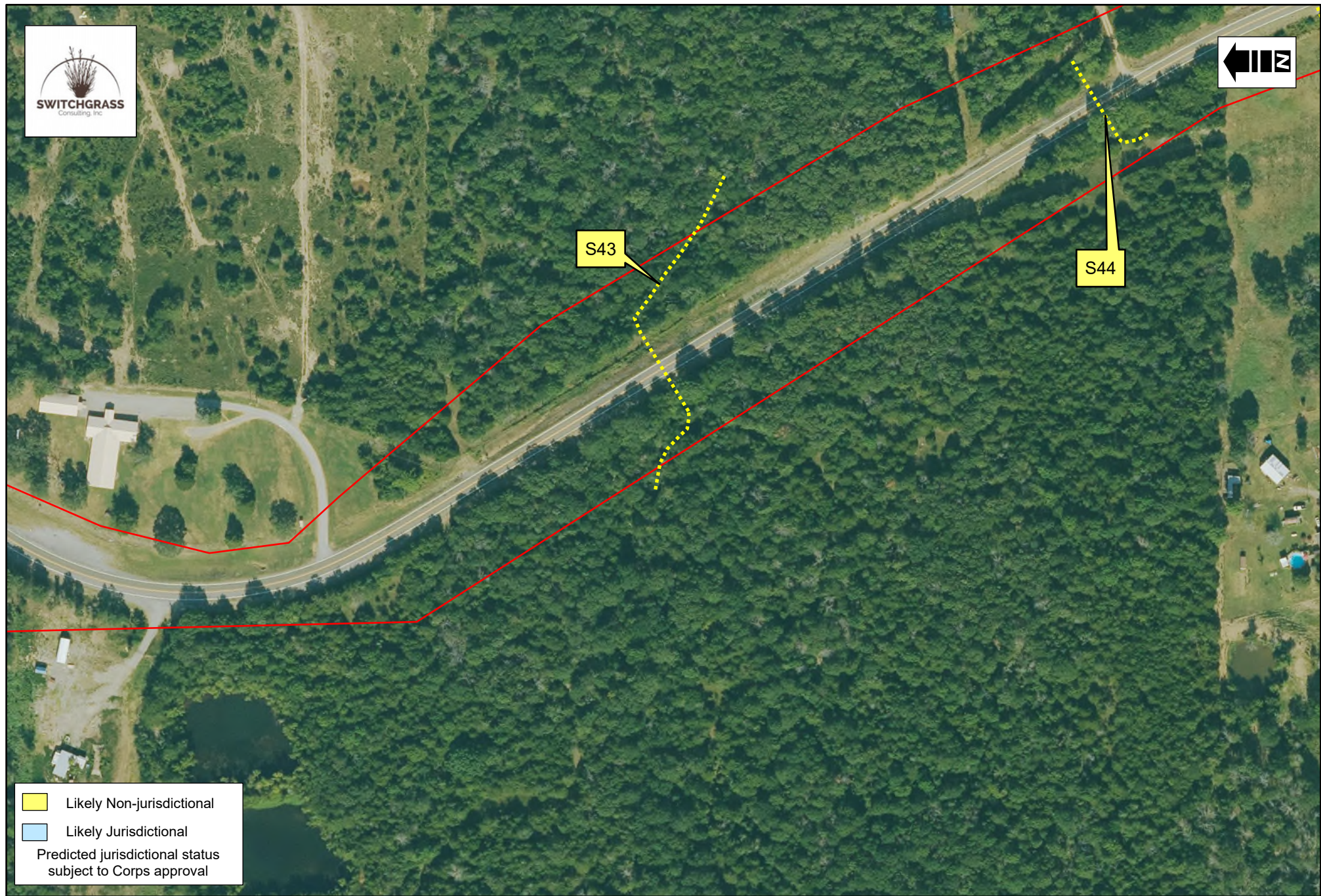


Figure 2. 17 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma



 Study area
 Ephemeral drainage (Non-JD)



Figure 2. 18 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

Study area
Intermittent stream (LJD)
Ephemeral drainage (Non-JD)

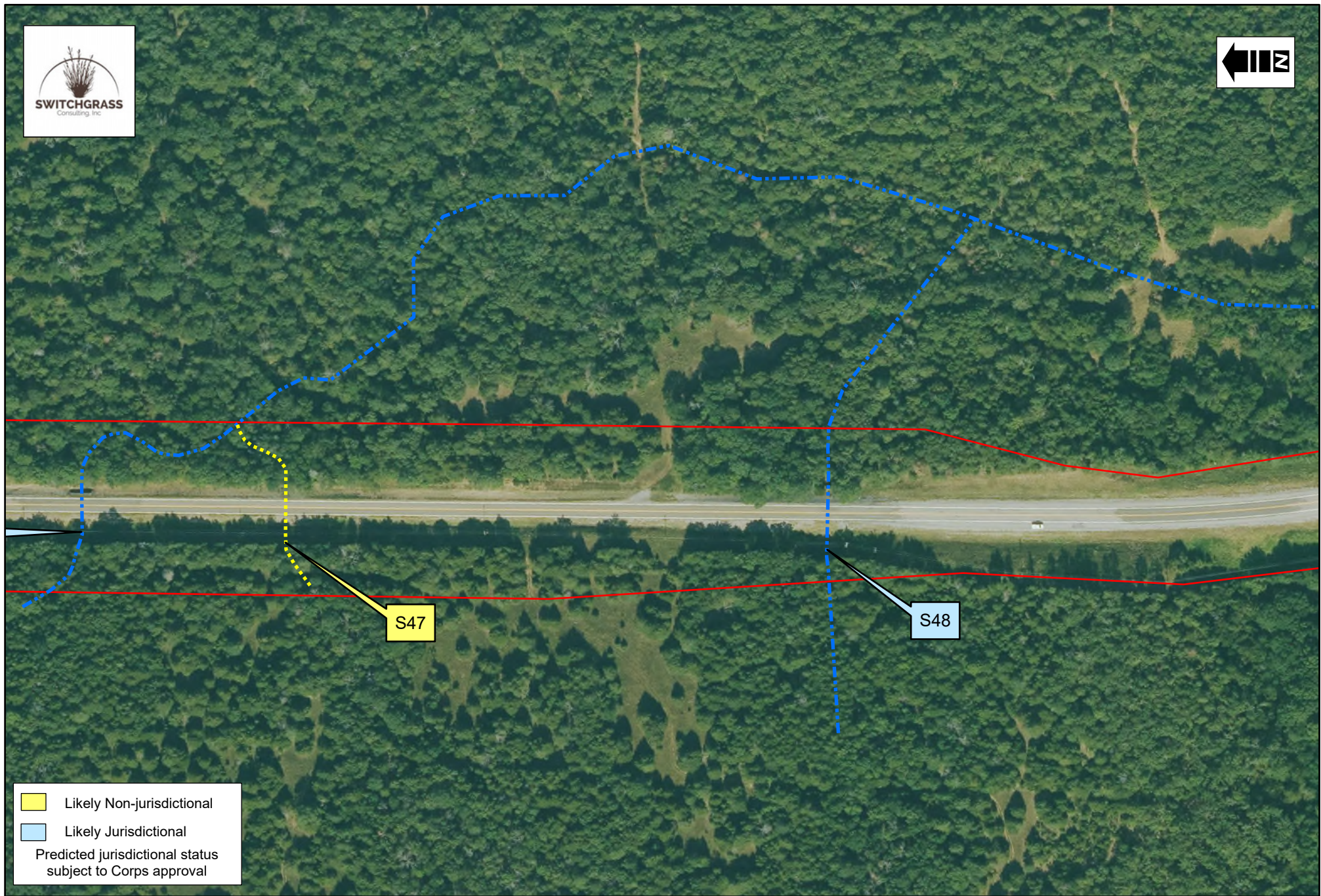


Figure 2. 19 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

Study area

Intermittent stream (LJD)

Ephemeral drainage (Non-JD)

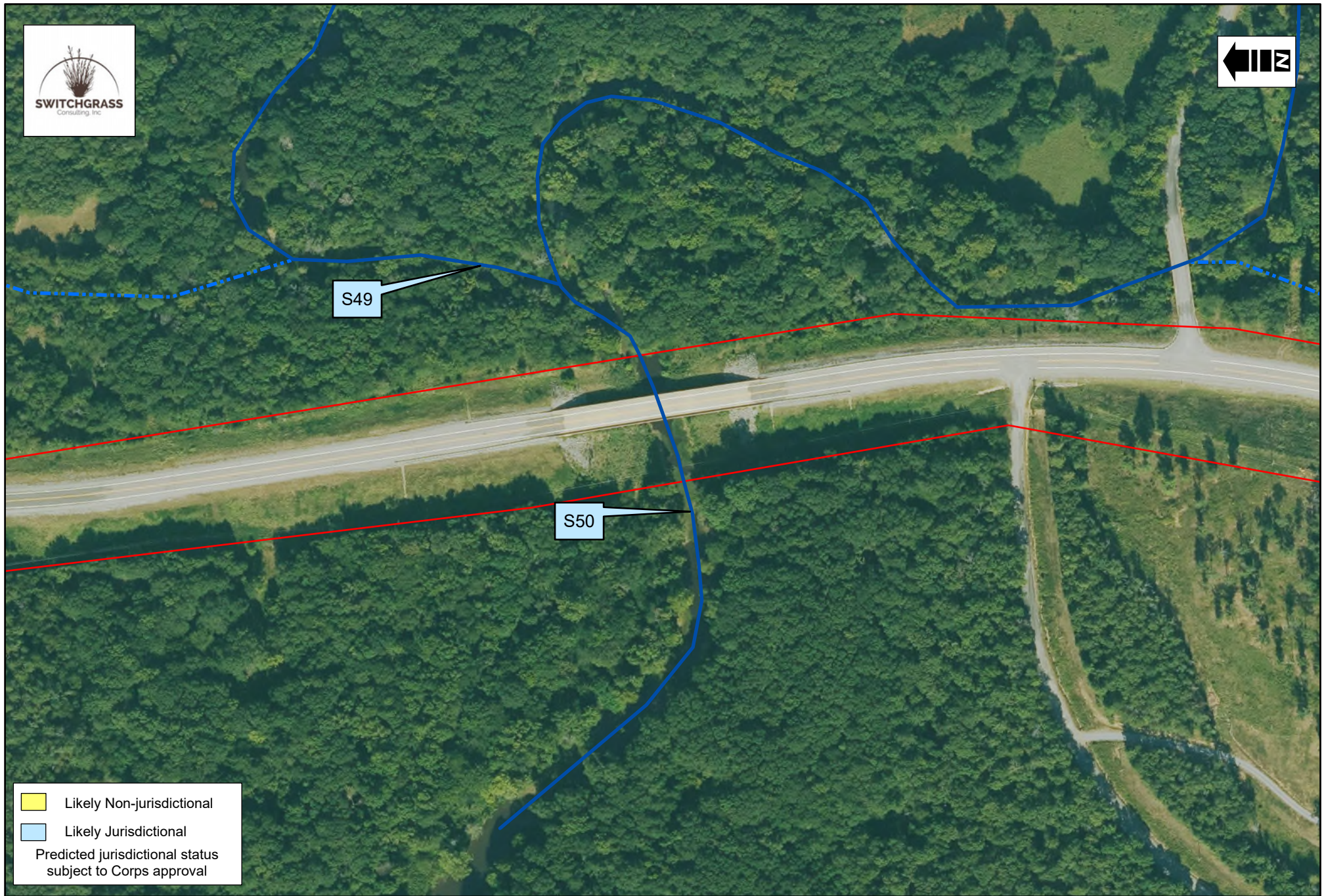


Figure 2. 20 Site Map (aerial)

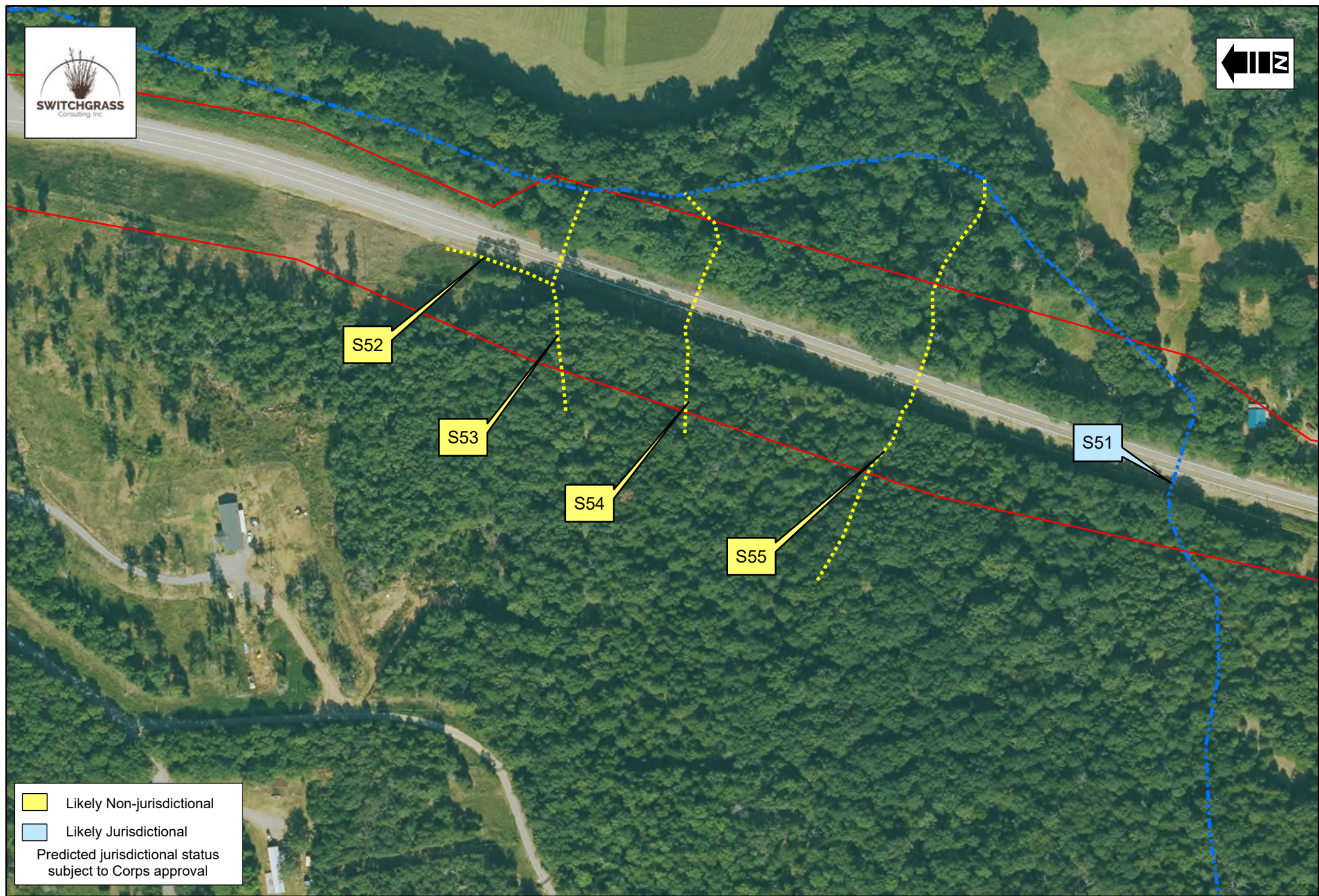
0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

Study area

Intermittent stream (LJD)

Perennial stream (LJD)



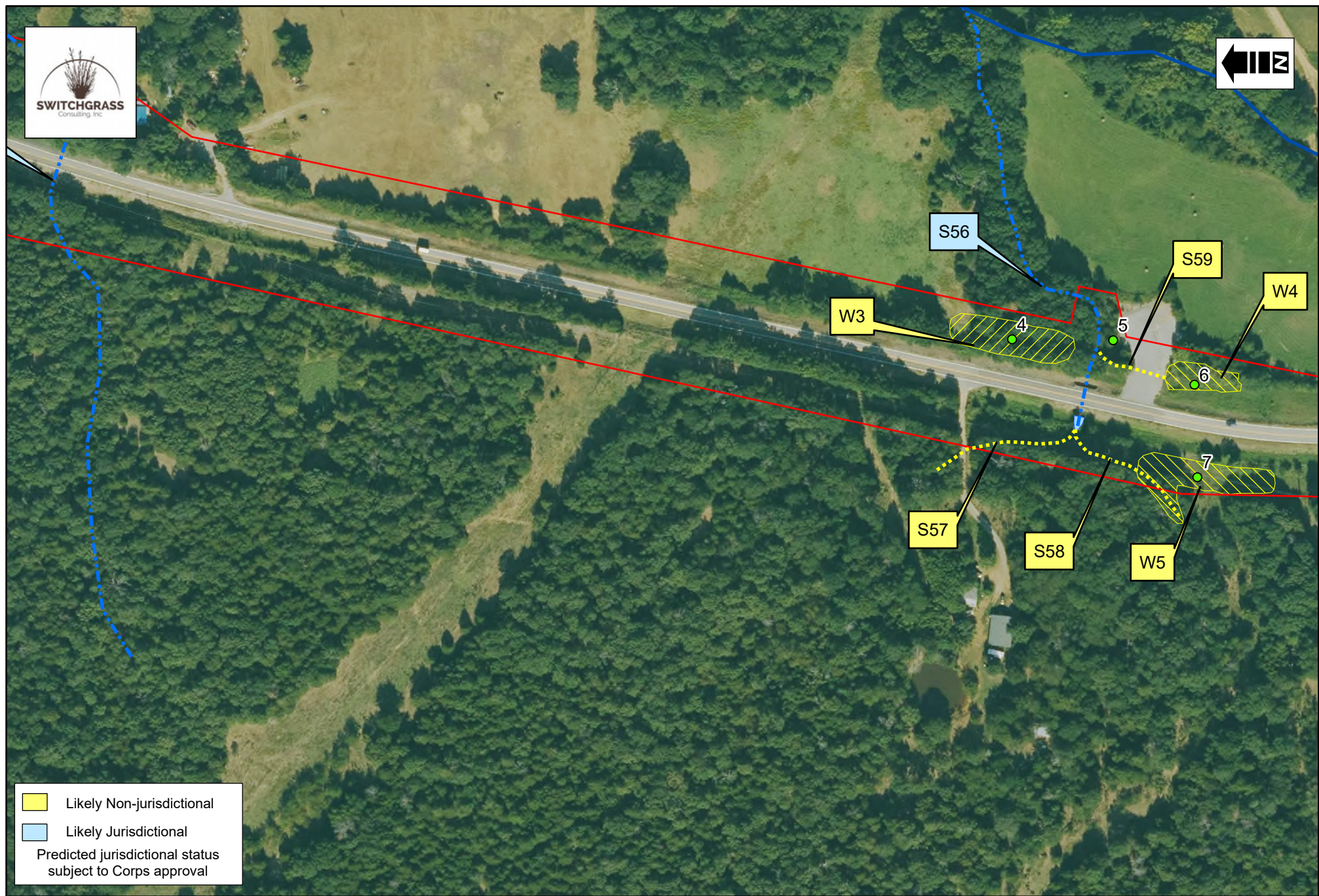
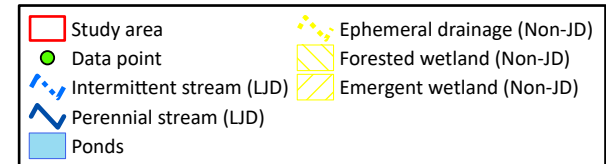


Figure 2.22 Site Map (aerial)

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma



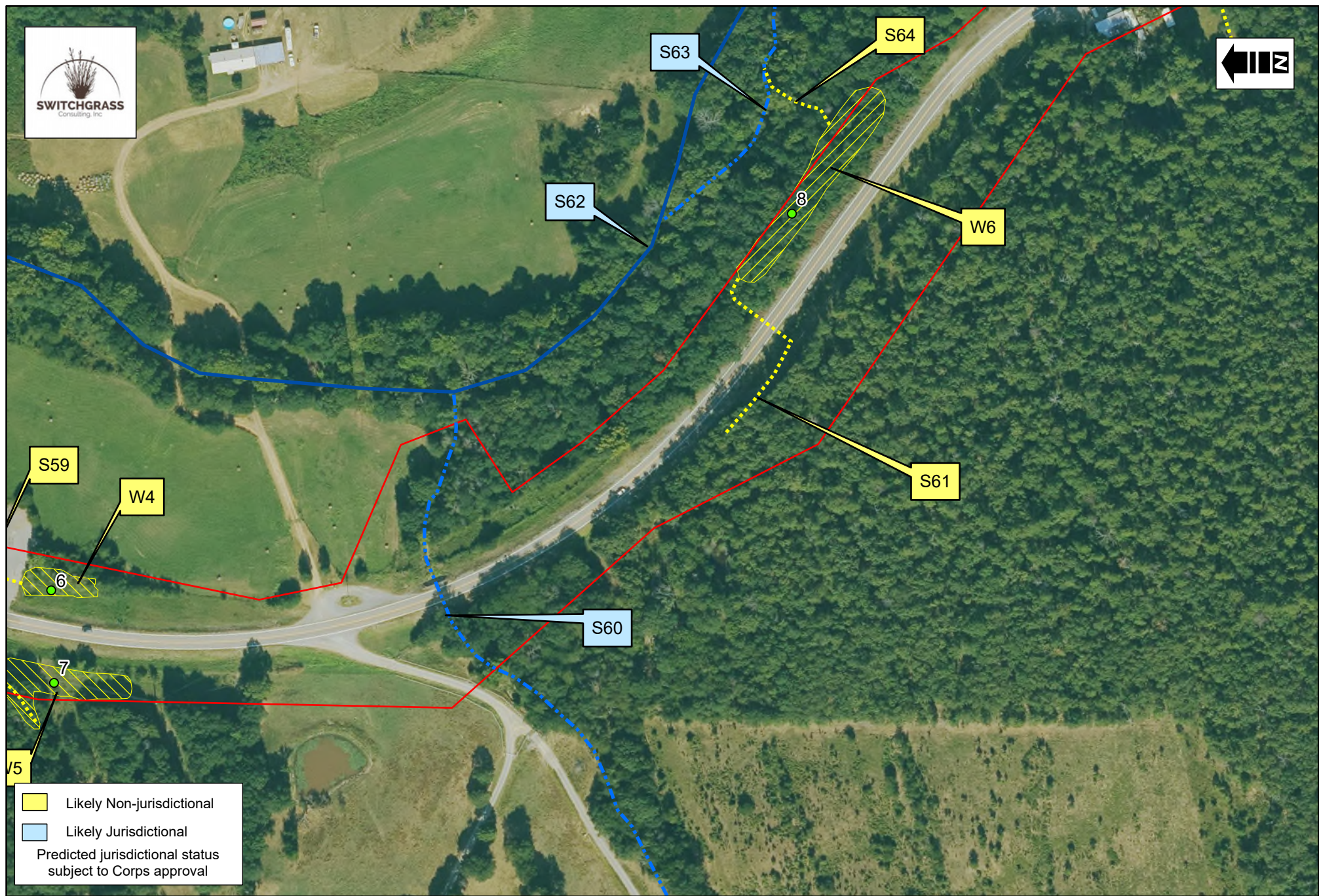
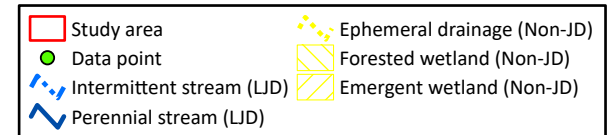


Figure 2. 23 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
 Latimer County, Oklahoma



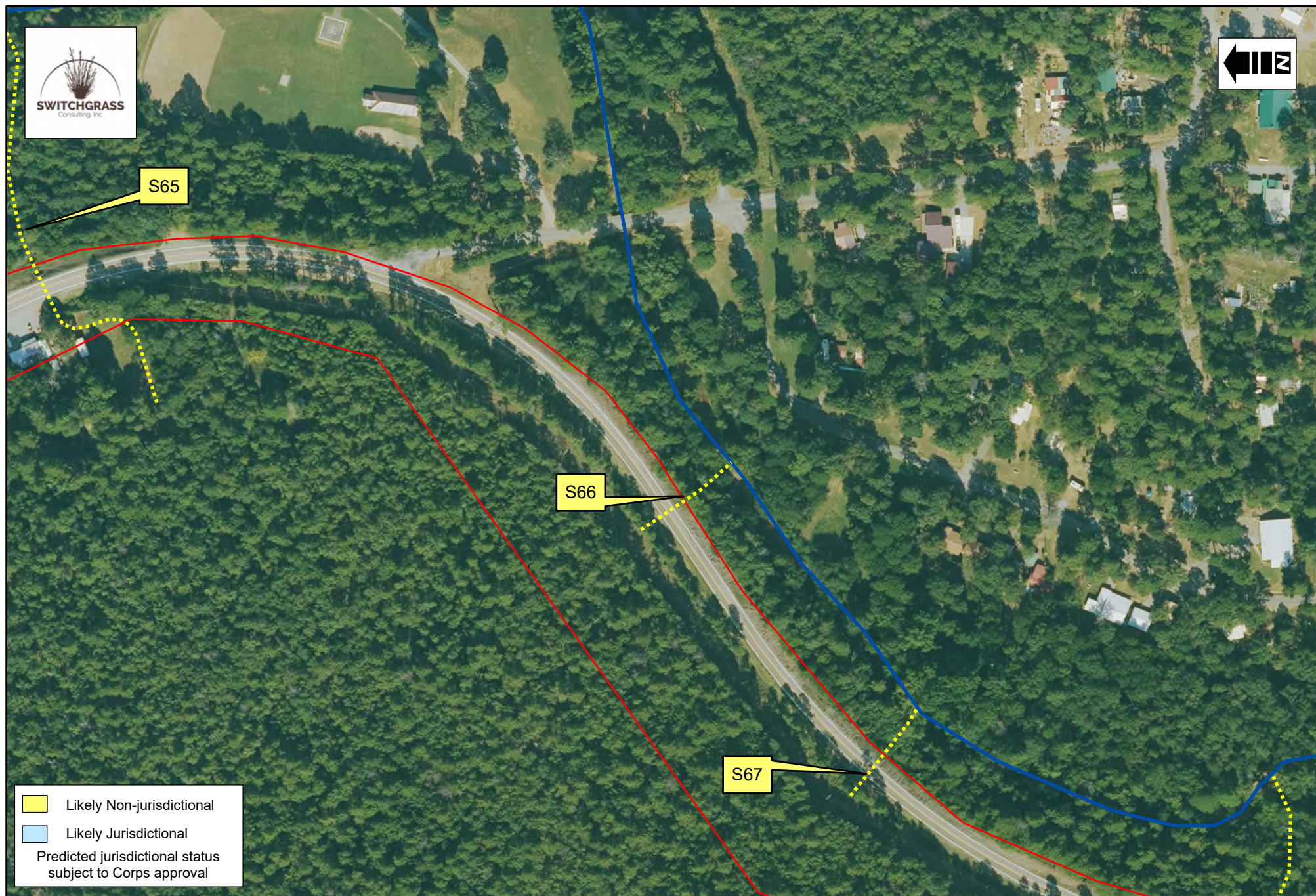


Figure 2. 24 Site Map (aerial)

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
 Latimer County, Oklahoma

Study area
 Perennial stream (LJD)
 Ephemeral drainage (Non-JD)

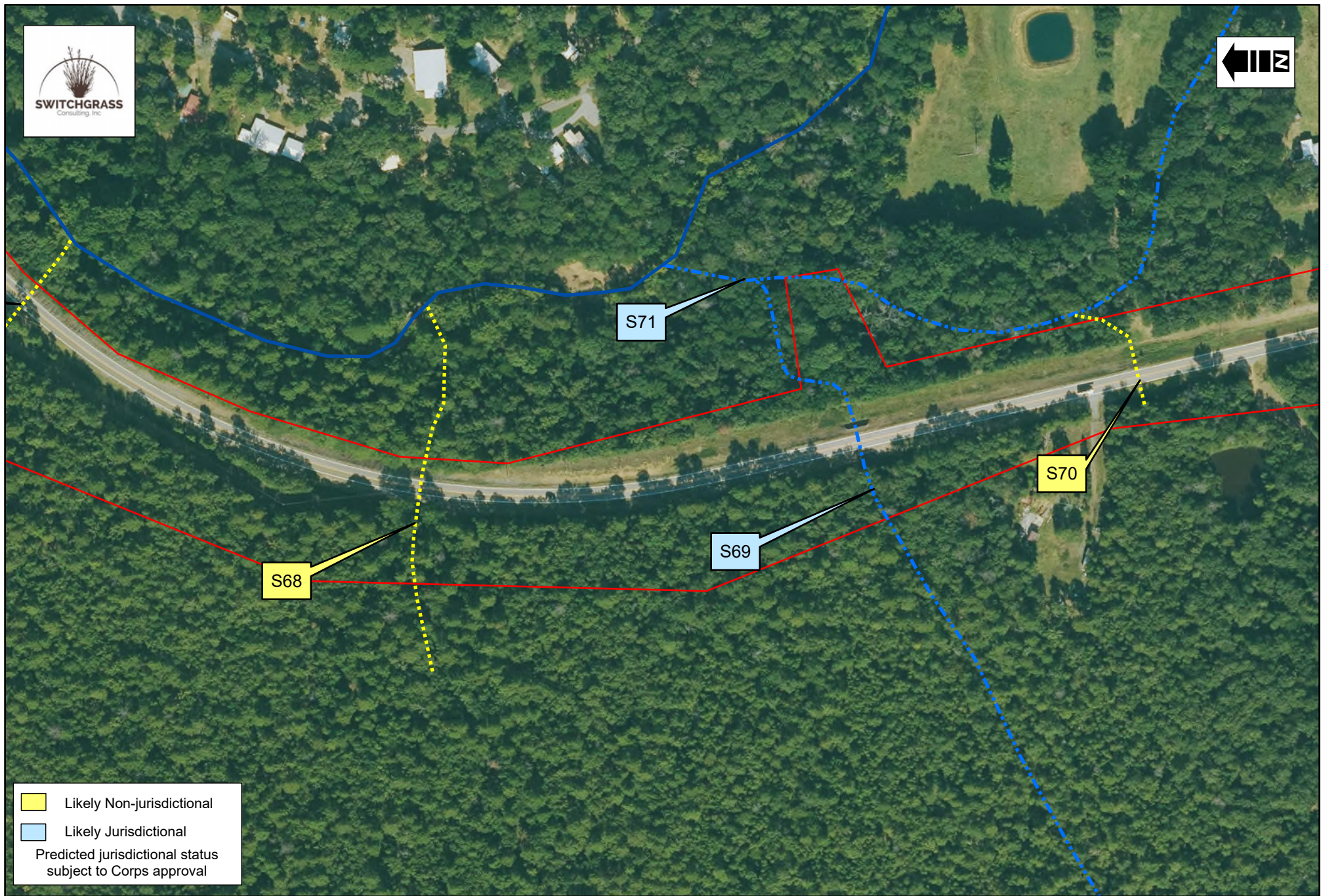
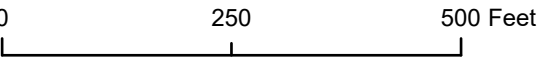
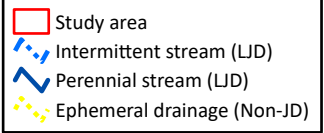


Figure 2. 25 Site Map (aerial)



Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma



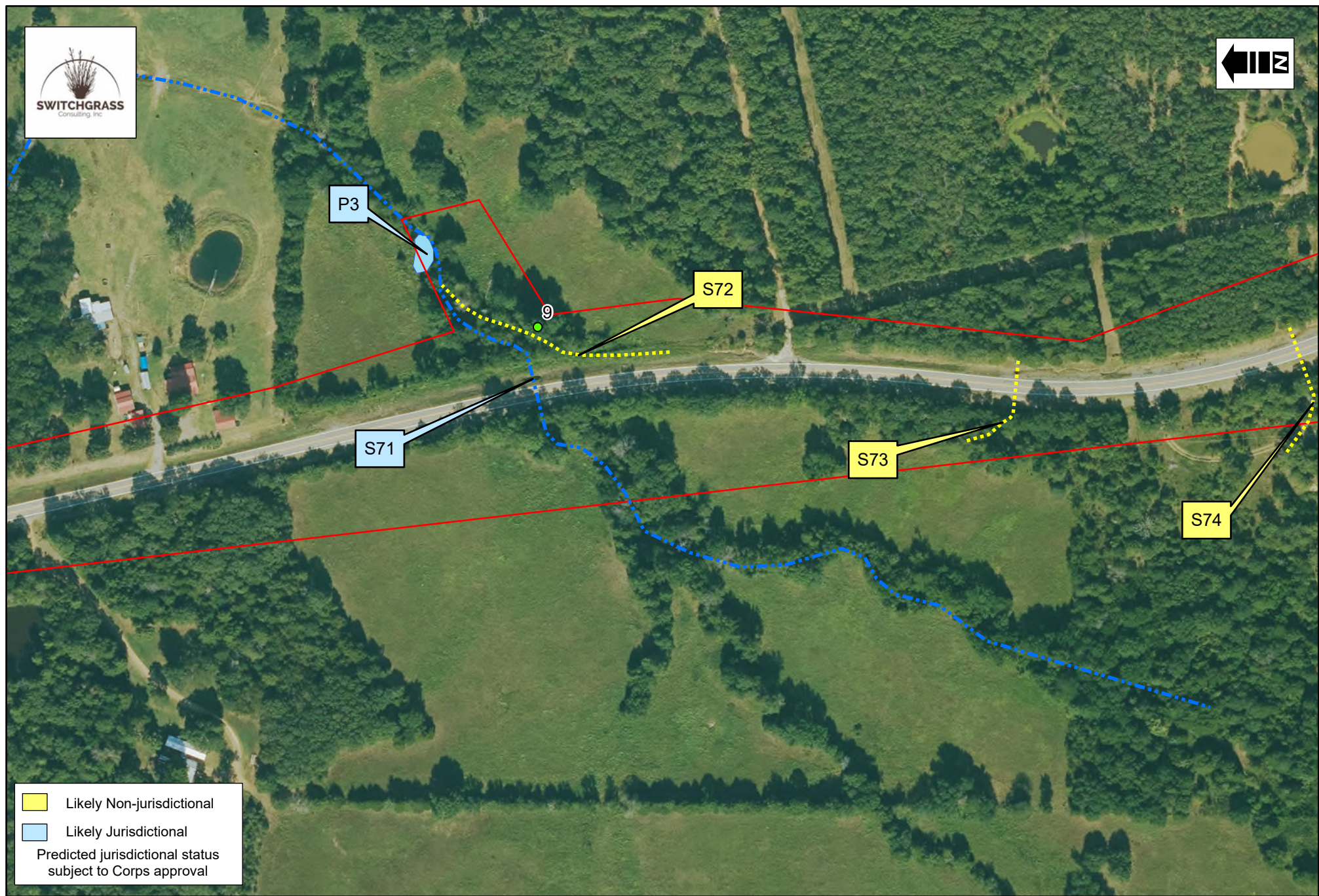




Figure 2. 27 Site Map (aerial)

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
 Latimer County, Oklahoma





Figure 2. 29 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
 Latimer County, Oklahoma

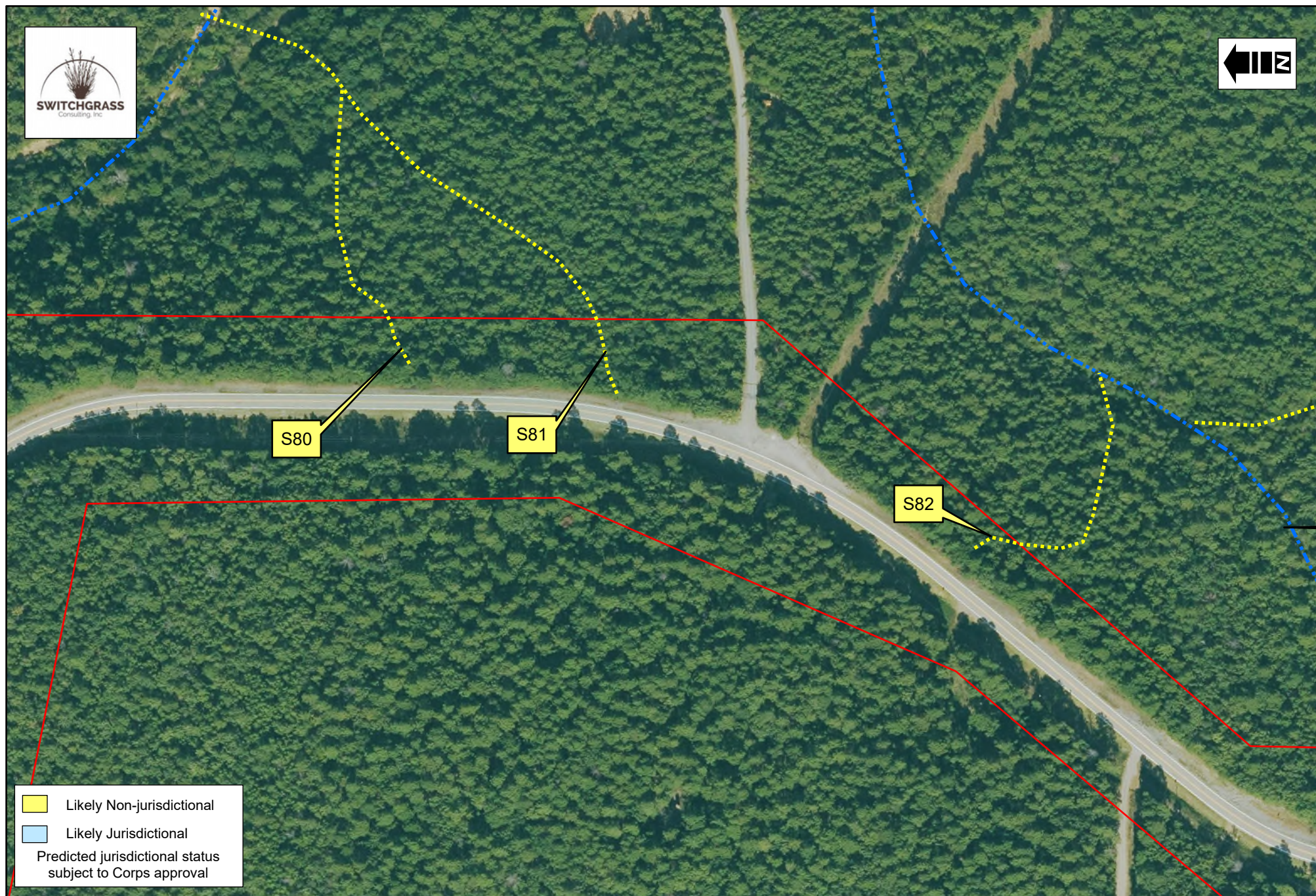


Figure 2. 30 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
 Latimer County, Oklahoma

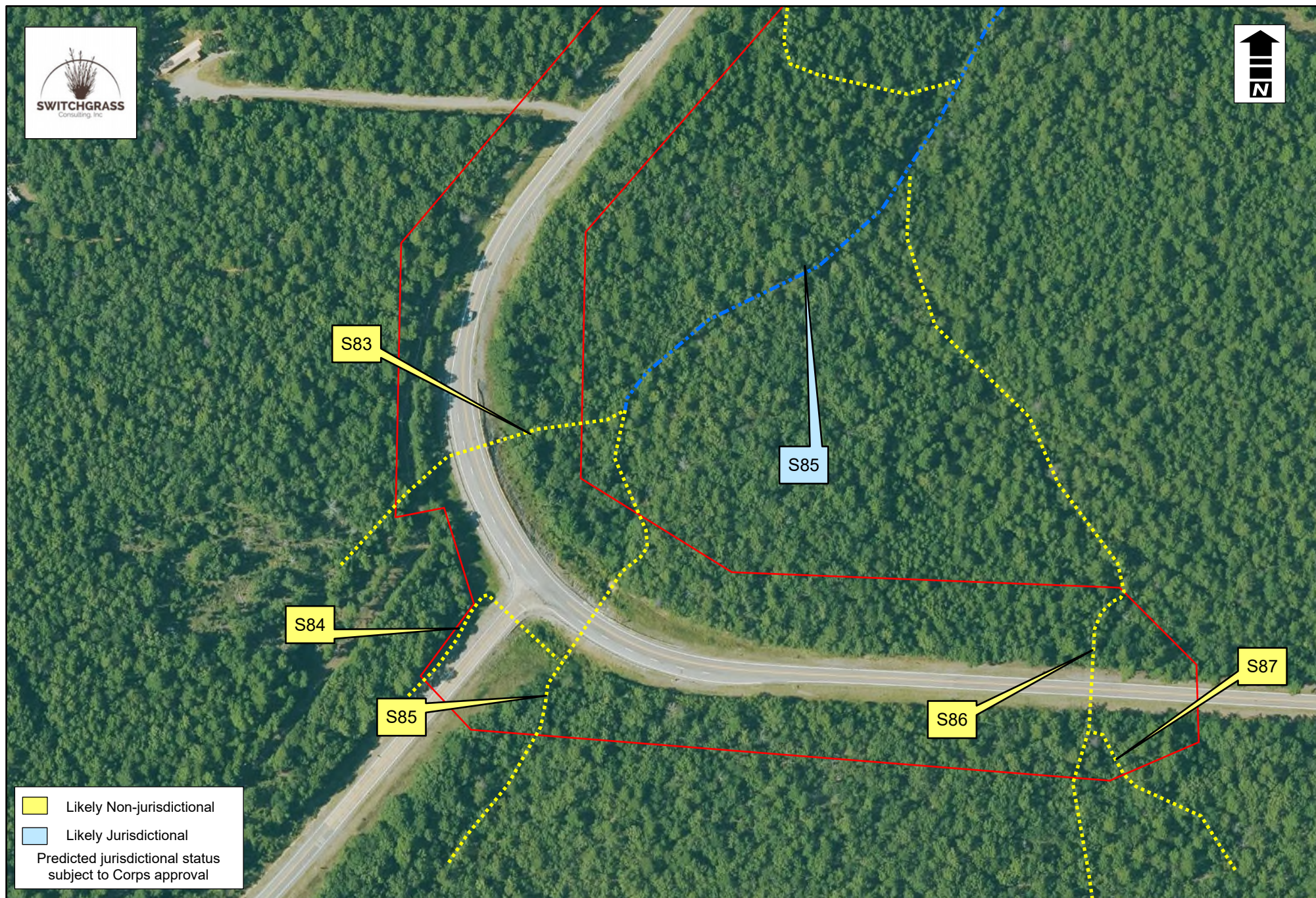


Figure 2. 31 Site Map (aerial)

0 250 500 Feet

Oklahoma Department of Transportation
State Highway 2 Section 404 Delineation
Latimer County, Oklahoma

