



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, SACRAMENTO DISTRICT
1325 J STREET
SACRAMENTO CA 95814-2922

CESPK-RDI-U

11 June 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 [SPK-2021-00805]

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 Utah due to litigation.

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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1. SUMMARY OF CONCLUSIONS.

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).

(1) OW-1 (0.098 acre), non-jurisdictional, Clean Water Act Section 404

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. ___, 143 S. Ct. 1322 (2023)

3. REVIEW AREA. The approximately 14-acre review area is just west of the West Davis Corridor, south of West 2700 South, and north of West 3700 South, Latitude 41.06943°, Longitude -112.06927°, Syracuse, Davis County, Utah. Historically the project area was used for livestock grazing and was flood irrigated. Directly to the west of the site is the existing public works facility with a retaining wall along the boundary and to the south is a residential subdivision.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The subject wetland has no potential hydrologic connection to the nearest TNW, the Great Salt Lake, located approximately 1.63 miles southwest.

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. The subject wetland has no potential hydrologic connection with the Great Salt Lake, the nearest TNW.

6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with

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.

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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): N/A.
- d. Impoundments (a)(4): N/A.
- e. Tributaries (a)(5): N/A.
- 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

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.

⁷ 51 FR 41217, November 13, 1986.

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area and describe how it was determined to be non-jurisdictional under the CWA as a preamble water. N/A.

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. N/A.

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).

- OW-1 (0.098 acre) is a palustrine emergent wetland that does not have a continuous surface connection (CSC) with the nearest a(5) RPW, an unnamed vegetated channel located approximately 0.72 miles to the west. This channel flows into the Great Salt Lake, the nearest TNW, approximately 1.63 miles west of the subject wetland. Historically, it appears that there was a ditch adjacent to the existing western fence line that flowed south and dissipated in the agricultural fields approximately 0.43 miles west. The section of historic ditch within the review area does not have an OHWM. Offsite, directly to the south and west, is a section of this ditch that was filled around 2016 for the subdivision and public works expansion. No conveyance feature was identified that would connect the subject wetland and the nearest a(5) RPW, unnamed channel. Therefore, OW-1 (0.098 acre) is not an a(7) adjacent wetland and is non-jurisdictional, due to the lack of confined surface connection to an RPW.

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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. Site visit March 11, 2025.
- b. Google Earth 7.3.3.7692. (2017 June, 2020 May, 2021 May, 2022 May and 2023 July). Syracuse, Utah. 40.06825° Latitude, -112.07021° Longitude, eye alt 5,387 ft. Retrieved 10 June 2025.
- c. LiDAR - National Layer in the National Regulatory Viewer for the South Pacific Division. Retrieved 10 June 2025.
- d. Aquatic Resource Delineation Syracuse Public Works Expansion, prepare by [REDACTED], dated September 2024 and revised March 2025.

10. OTHER SUPPORTING INFORMATION. N/A.

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.

5 Encls

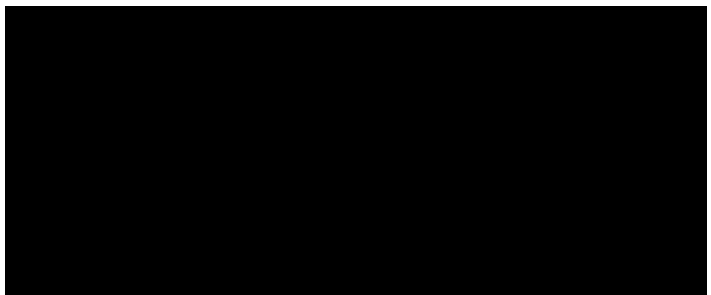
Enclosure 1: Vicinity Map

Enclosure 2: AR Map

Enclosure 3: LiDAR

Enclosure 4: TNW and RPW Map

Enclosure 5: Aerials



Upper Left: 112°5'52"W 41°5'25"N

Upper Middle: 112°48'W 41°5'26"N

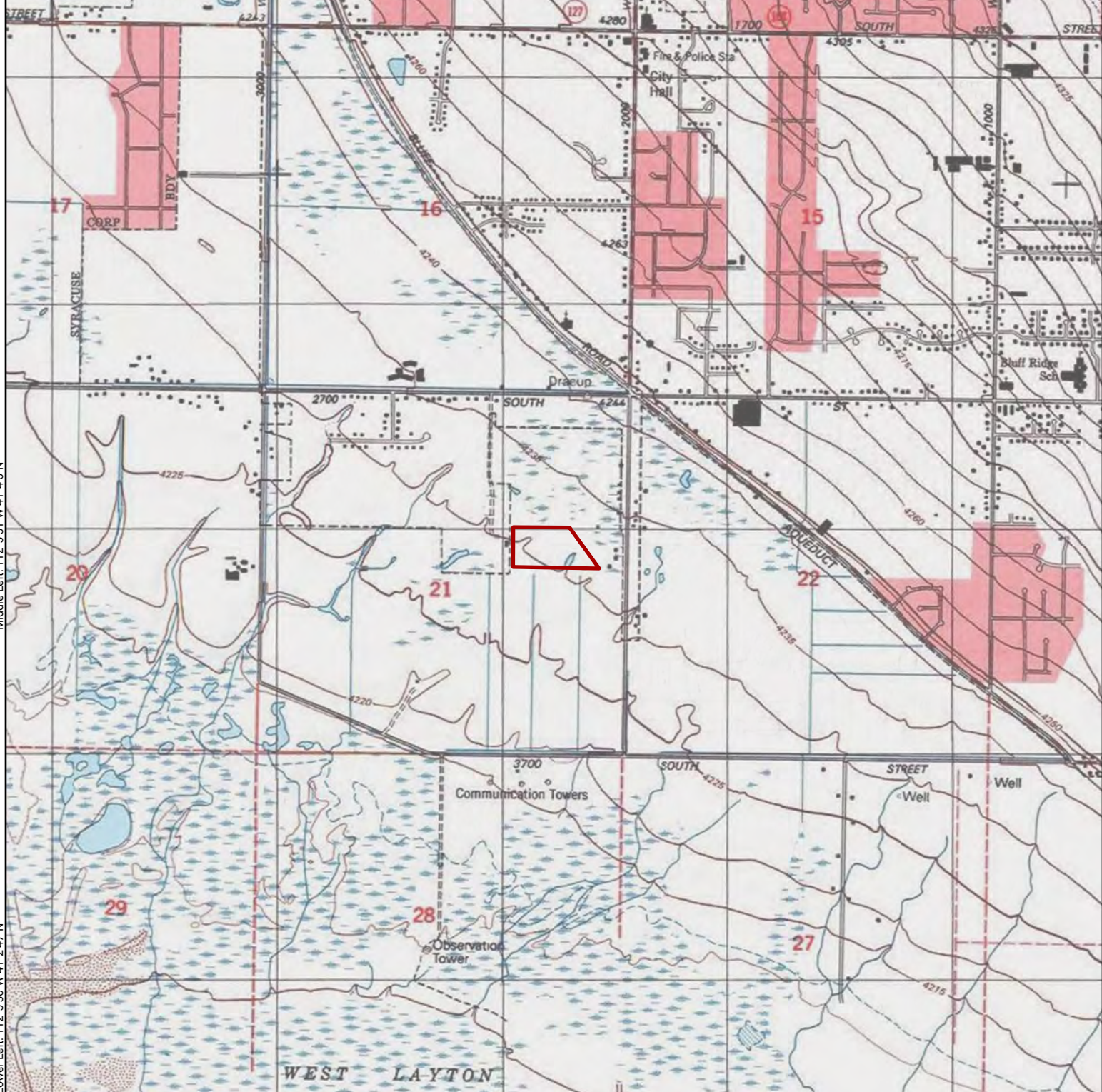
Upper Right: 112°2'23"W 41°5'27"N

Middle Left: 112°55'1"W 41°4'6"N

Middle Right: 112°22'W 41°4'8"N

Lower Left: 112°55'0"W 41°2'47"N

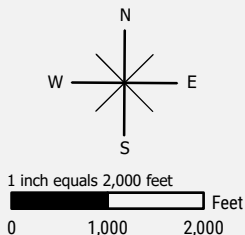
Lower Right: 112°22'1"W 41°2'49"N




Syracuse Public Works Expansion

Project Location Map

Spatial Reference
Name: NAD 1983 UTM Zone 12N
PCS: NAD 1983 UTM Zone 12N
Datum: North American 1983
Projection: Transverse Mercator
Central Meridian: -111.0000



Legend

 Study Area - 14 acres

Date Delineated:

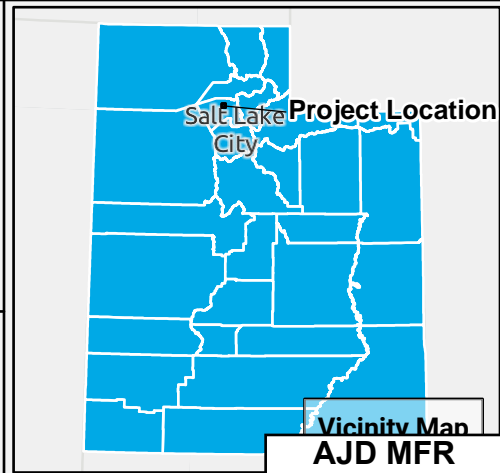
9/3/2024

Date Drawn:

9/12/2024

Delineated By:

N. Clarke & M. Barnes



Upper Left: 112°41'17"W 41°41'14"N

Upper Middle: 112°46'W 41°41'14"N

Upper Right: 112°3'56"W 41°41'14"N

Middle Left: 112°41'17"W 41°41'6"N

Middle Right: 112°3'56"W 41°41'6"N

Lower Left: 112°41'16"W 41°3'58"N

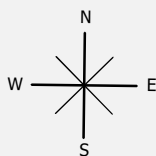
Lower Right: 112°3'56"W 41°3'58"N



Syracuse Public Works Expansion Aquatic Resources Impact Mapbook

Spatial Reference
Name: NAD 1983 UTM Zone 12N
PCS: NAD 1983 UTM Zone 12N
GCS: GCS North American 1983
Datum: North American 1983
Projection: Transverse Mercator
Central Meridian: -111.0000

1 inch equals 200 feet
0 100 200 Feet



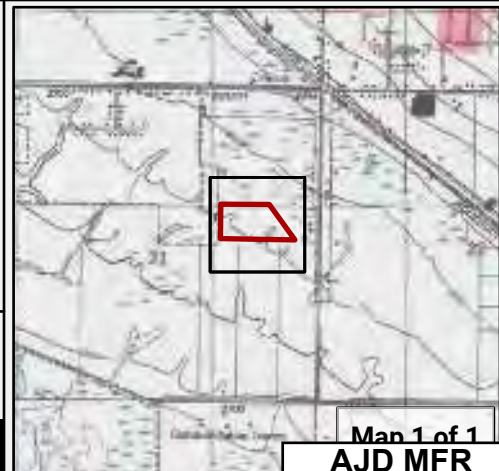
Legend

- Photo Point
- Sample Point
- PEM Wetland
- Study Area - 14 acres

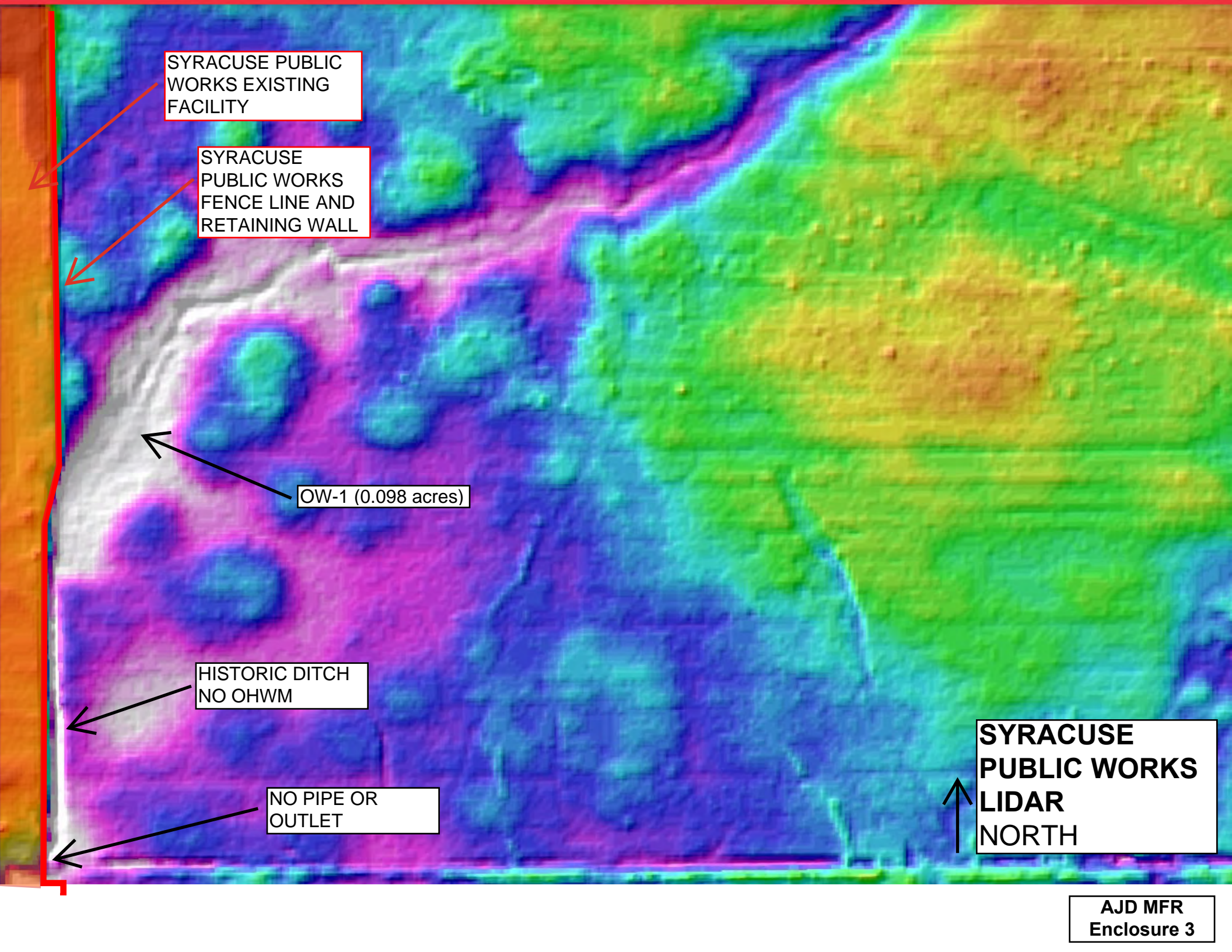
Date Delineated:
9/3/2024

Date Drawn:
3/19/2025

Delineated By:



Map 1 of 1
AJD MFR
Enclosure 2



SYRACUSE PUBLIC
WORKS EXISTING
FACILITY

This LIDAR map shows a topographic view of a site. A red line on the left indicates a boundary. A road or path runs diagonally from the top left towards the center. The terrain is color-coded by elevation, with blue and purple representing lower areas and green and yellow representing higher areas. Several annotations with arrows point to specific features: 'SYRACUSE PUBLIC WORKS EXISTING FACILITY' points to the top left; 'SYRACUSE PUBLIC WORKS FENCE LINE AND RETAINING WALL' points to a line near the top left; 'OW-1 (0.098 acres)' points to a specific area in the center; 'HISTORIC DITCH NO OHWM' points to a linear feature in the lower left; 'NO PIPE OR OUTLET' points to an area in the bottom left; and 'SYRACUSE PUBLIC WORKS LIDAR NORTH' points upwards with an arrow.

SYRACUSE
PUBLIC WORKS
FENCE LINE AND
RETAINING WALL

OW-1 (0.098 acres)

HISTORIC DITCH
NO OHWM


NO PIPE OR
OUTLET

SYRACUSE
PUBLIC WORKS
LIDAR
NORTH

Syracuse Public Works

NEAREST TNW AND RPW
AERIAL JULY 2023

Legend

 Syracuse City, Utah Public Works

REVIEW AREA

UNNAMED
CHANNEL
NEAREST RPW


GREAT SALT LAKE
NEAREST TNW



Syracuse Public Works

Aerial 7/14/2023

Legend

 Syracuse City, Utah Public Works

W 3060 S

Utah Public Works

OW-2 (0.098 ACRES)

HISTORIC DITCH
NO OHWM

NO OUTLET
STRUCTURE

Google Earth

AJD MFR
Enclosure 5

300 ft



W 3060 S

Utah Public Works

OW-2 (0.098 ACRES)

HISTORIC DITCH
NO OHWM

NO OUTLET
STRCTURE

Syracuse Pump Track



300 ft

W 3060 S

Utah Public Works

← OW-2 (0.098 ACRES)

← HISTORIC DITCH
NO OHWM

← NO OUTLET
STRCTURE






Syracuse Public Works

Aerial 6/17/2017

Legend

 Syracuse City, Utah Public Works

W 3060 S

Utah Public Works

OW-2 (0.098 ACRES)

HISTORIC DITCH
NO OHWM

NO OUTLET
STRCTURE

Google Earth


N


300 ft