



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

CESPK-RD-NV

15 July 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) , [SPK-2025-00036]

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.¹ 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.

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),² the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

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).

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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2025-00036]

(1) Sawmill Creek Wash (365 linear feet, 0.17 acres): Non-Jurisdictional under Section 404 of the Clean Water Act

2. REFERENCES.

a. “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”)

b. “Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 (September 8, 2023))

c. *Sackett v. EPA*, 598 U.S. __, 143 S. Ct. 1322 (2023)

d. SPK-2025-00036 Administrative Record

3. REVIEW AREA. The approximately 2.25-acre review area is located at 1919 Sheep Camp Road, Latitude 38.92535°, Longitude -119.68349°, Gardnerville, Douglas County, Nevada. The review area is located in an arid desert environment where Sawmill Creek Wash flows from east to west through the south portion of the property.

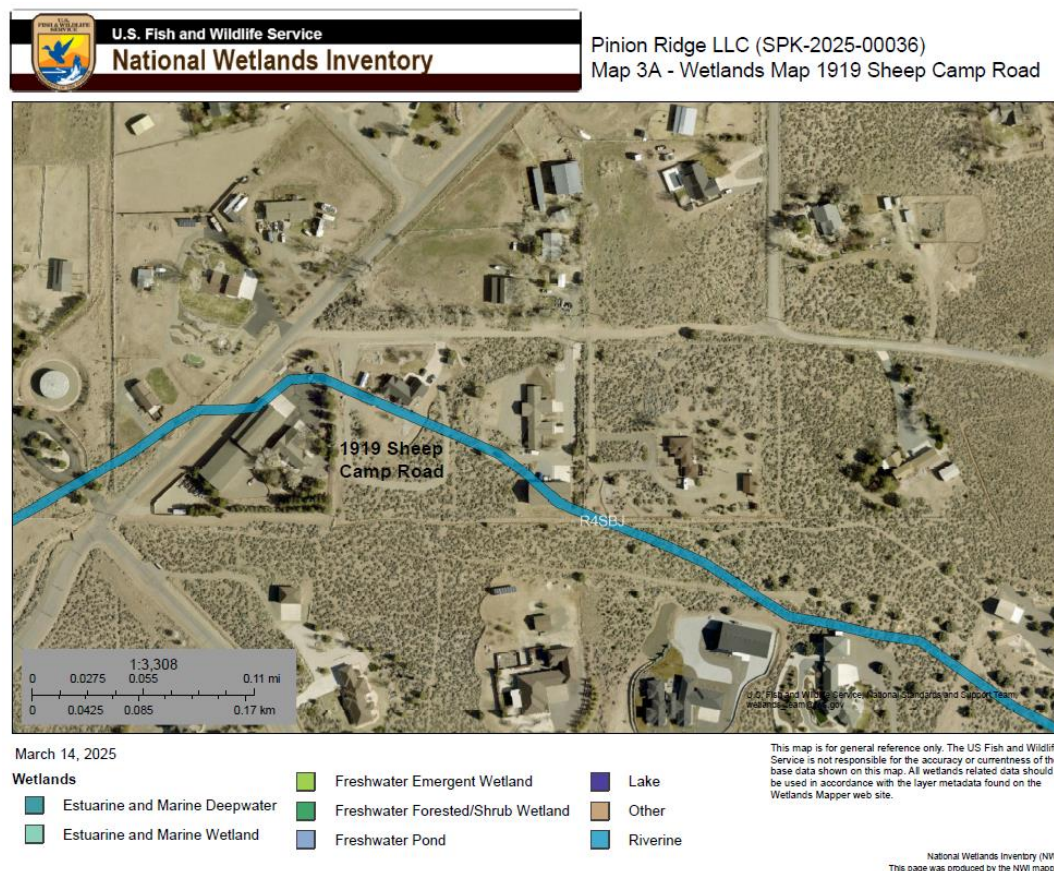


Figure 1 – Location Map With Sawmill Creek Wash

a. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. Sawmill Creek Wash flows west to a freshwater emergent wetland, and then continues south to Allerman Canal. Allerman Canal is used for agricultural and drainage purposes, is usually permanently flooded except during extreme drought years, and flows south into the East Fork of the Carson River. The Sacramento District recognizes the Carson River and its East Fork as a navigable water of the U.S. pursuant to the Rivers and Harbors Act and 33 CFR Part 329 (Section 10 Water), from the Nevada Highway 117 Bridge to the California State Line.

4. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. The headwaters flow from the eastern Pinenut Mountains flow westbound through the Pinion Ridge Subdivision. From the Review Area, Sawmill Creek Wash flows 1.21 miles west and southwest off site through a series of roadside ditches and pipe culverts along Jo Lane. At the intersection of Jo Lane and East Valley Road, Sawmill Creek continues to flow southwest through roadside ditches behind the Mark Circle shopping center. From the ditch behind Mark Circle, Sawmill Creek Wash continues west through a ditch to Sawmill Road where it passes through another pipe culvert into a field to a freshwater emergent wetland. From the freshwater emergent wetland Sawmill Creek Wash flows south parallel to Allerman Canal for approximately 0.35 miles where it passes under Pinenut Road through a concrete box culvert. From Pinenut Road Sawmill Creek Wash continues south for approximately 0.17 miles until it flows into Allerman Canal. Allerman Canal flows south to approximately Latitude 38.88390°, Longitude - 119.69477°, where it flows into the East Fork of the Carson River.

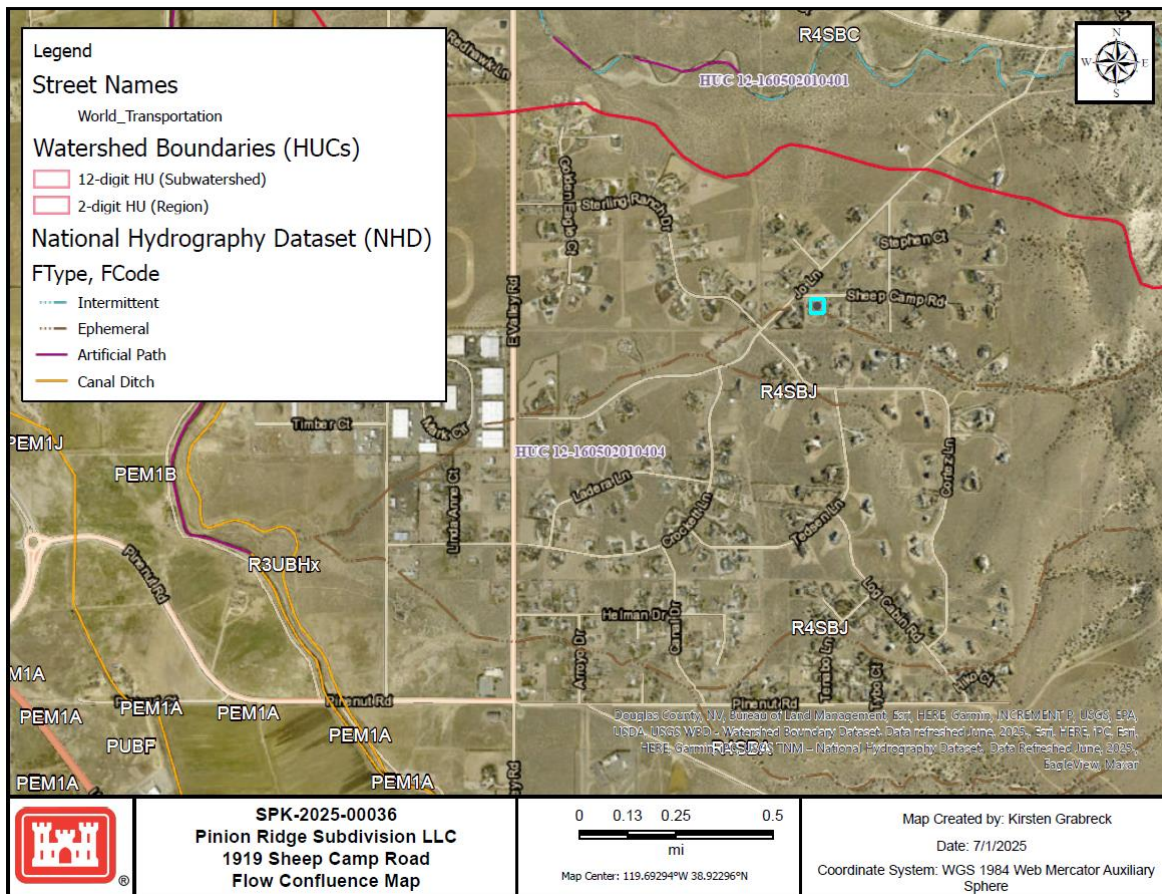


Figure 2 – Flow Confluence of Sawmill Creek Wash

5. SECTION 10 JURISDICTIONAL WATERS: 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. N/A. There are no Section 10 waters in the review area.

6. 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 2023 Rule as amended, 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 2023 Rule as amended. 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. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A.
- b. The Territorial Seas (a)(1)(ii): N/A.
- c. Interstate Waters (a)(1)(iii): N/A.
- d. Impoundments (a)(2): N/A.
- e. Tributaries (a)(3): N/A.
- f. Adjacent Wetlands (a)(4): N/A.
- g. Additional Waters (a)(5): N/A.

7. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).³ N/A.

b. 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 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water). A tributary is defined as a relatively permeant, standing, or continuously flowing body of water. Sawmill Creek Wash is an ephemeral first order dry wash, which is dry for the majority of the year and only has water present during discreet precipitation events for short periods of time. Furthermore, Sawmill Creek wash does not have physical characteristics that indicate an established bed and bank associated with an established tributary such as shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or a clear, natural line impressed on the bank, to indicate where the ordinary high water mark may be in the Review Area.

³ 88 FR 3004 (January 18, 2023)

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8. 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. *Conceptual Drainage Study Tentative Subdivision Map for Pinion Ridge LLC*, prepared by [REDACTED], September 24, 2001.

b. *Technical Drainage Study Pinion Ridge Subdivision* prepared by [REDACTED], August 14, 2002.

c. National Regulatory Viewer accessed online March 14, 2025.

d. U.S. Fish and Wildlife Service National Wetlands Inventory Viewer accessed online March 14, 2025.

9. OTHER SUPPORTING INFORMATION. *Sheep Camp Road Drainage Issue*, Memorandum by [REDACTED], May 18, 2025

10. 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.

[REDACTED]
[REDACTED]
[REDACTED]

ENCL

Legend

Street Names

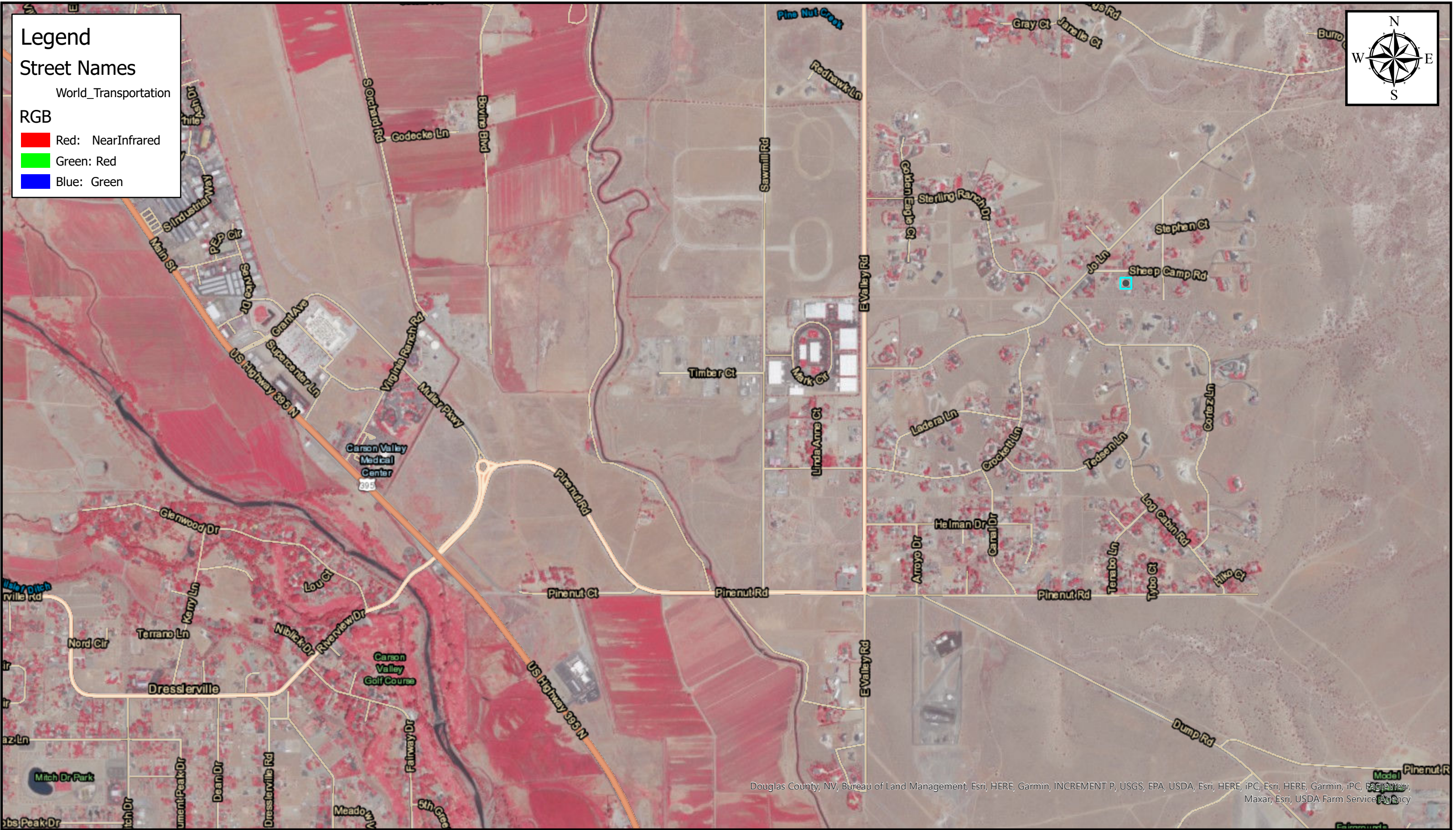
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RGB

Red: NearInfrared

Green: Red

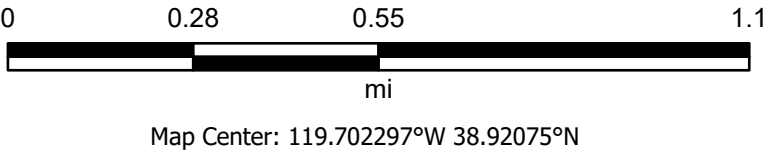
Blue: Green



Douglas County, NV, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Esri, HERE, iPC, Esri, HERE, Garmin, iPC, EagleView, Maxar, Esri, USDA Farm Service Agency



Pinion Ridge LLC (SPK-2025-00036)
Map 1 - Infrared Map 1919 Sheep Camp Road



Map Created by: Kirsten Grabreck
Date: 3/14/2025
Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere
Projection: Mercator Auxiliary Sphere

Legend

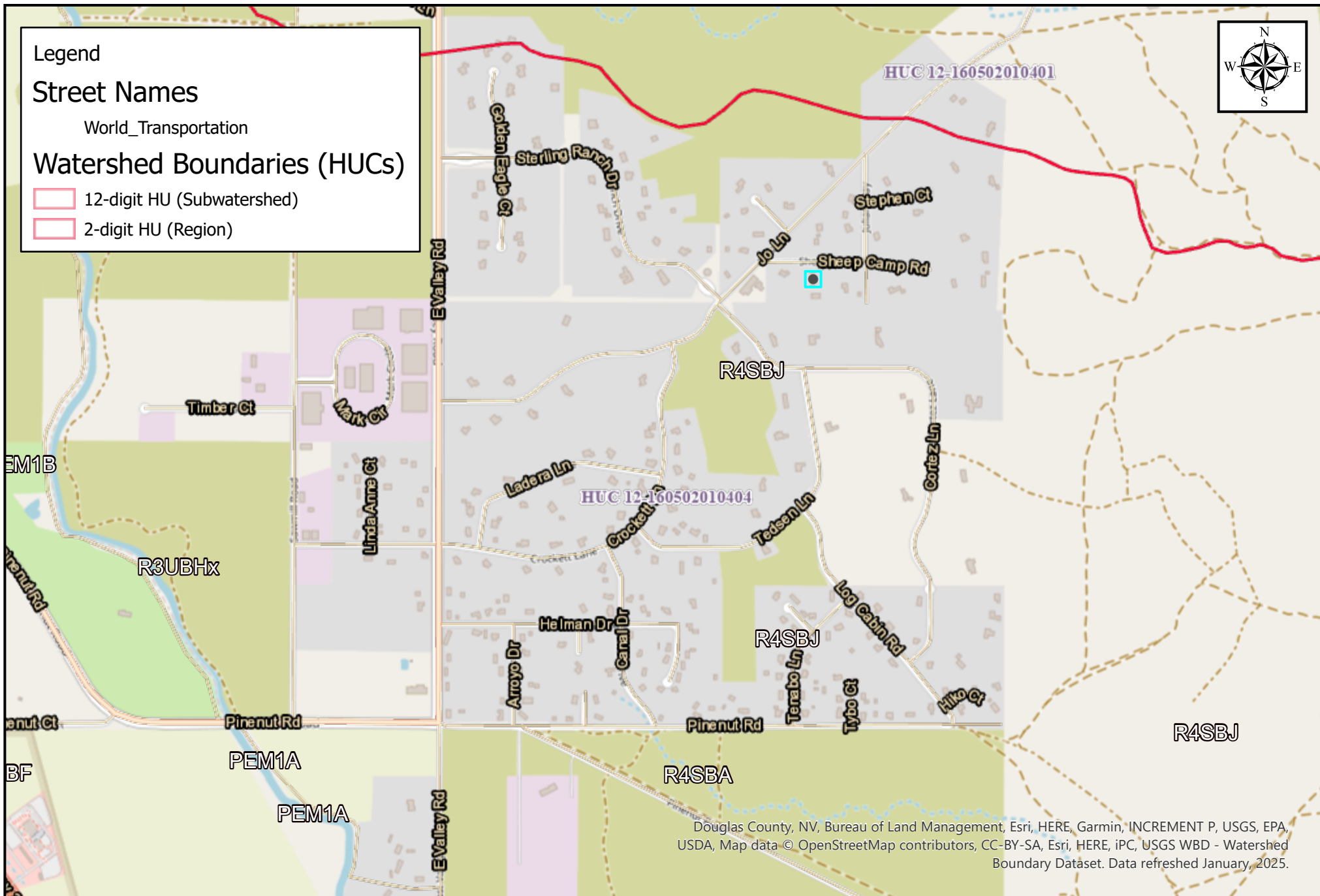
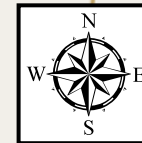
Street Names

World_Transportation

Watershed Boundaries (HUCs)

12-digit HU (Subwatershed)

2-digit HU (Region)



Douglas County, NV, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Map data © OpenStreetMap contributors, CC-BY-SA, Esri, HERE, iPC, USGS WBD - Watershed Boundary Dataset. Data refreshed January, 2025.



Pinion Ridge LLC (SPK-2025-00036)
Map 2 - Location Map for 1931 Sheep Camp Road

0 0.13 0.25 0.5
 mi

Map Center: 119.688325°W 38.921181°N

Map Created by: Kirsten Grabreck

Date: 3/14/2025

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere

Legend

Street Names

World_Transportation

Watershed Boundaries (HUCs)

12-digit HU (Subwatershed)

2-digit HU (Region)

National Hydrography Dataset (NHD)

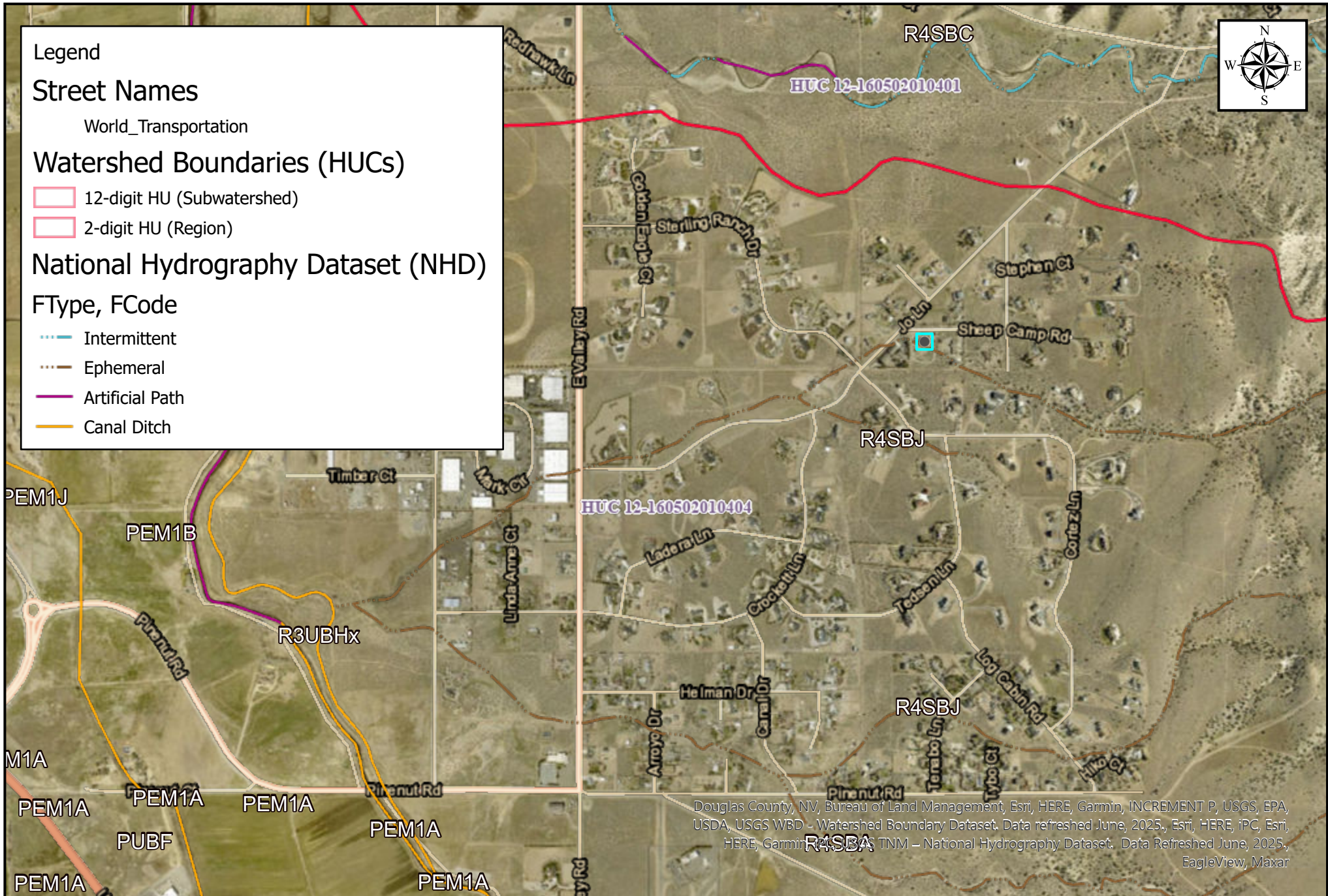
FType, FCode

Intermittent

Ephemeral

Artificial Path

Canal Ditch



Douglas County, NV, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, USGS WBD - Watershed Boundary Dataset. Data refreshed June, 2025., Esri, HERE, iPC, Esri, HERE, Garmin, USGS, TNM - National Hydrography Dataset. Data Refreshed June, 2025., EagleView, Maxar



SPK-2025-00036
Pinion Ridge Subdivision LLC
1919 Sheep Camp Road
Map 3 - Flow Confluenc4

0 0.13 0.25 0.5
mi

Map Center: 119.69294°W 38.92296°N

Map Created by: Kirsten Grabreck

Date: 7/1/2025

Coordinate System: WGS 1984 Web Mercator Auxiliary
Sphere



U.S. Fish and Wildlife Service

National Wetlands Inventory

Pinion Ridge LLC (SPK-2025-00036)

Map 4 - Wetlands Map 1391 Sheep Camp Road



March 14, 2025

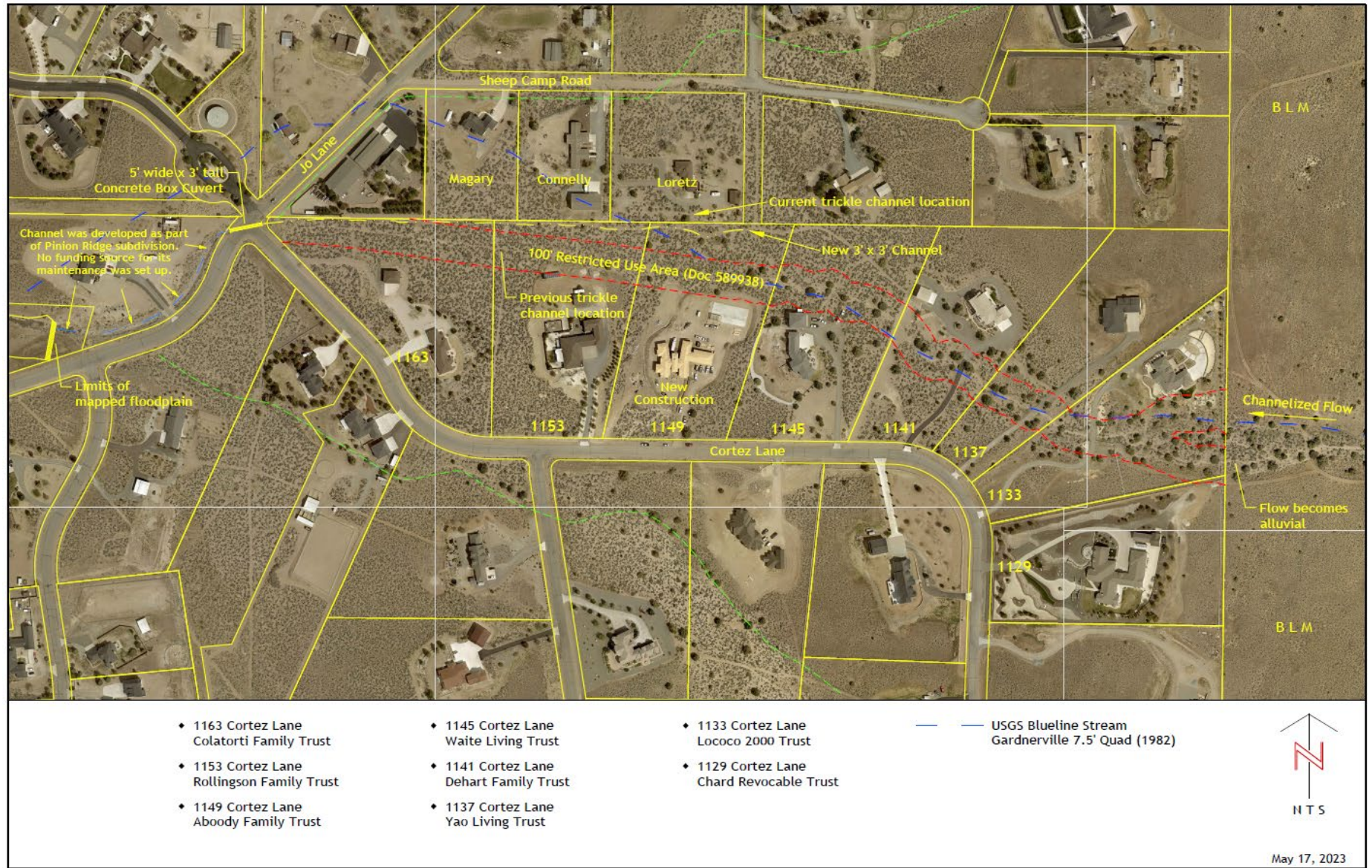
Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland

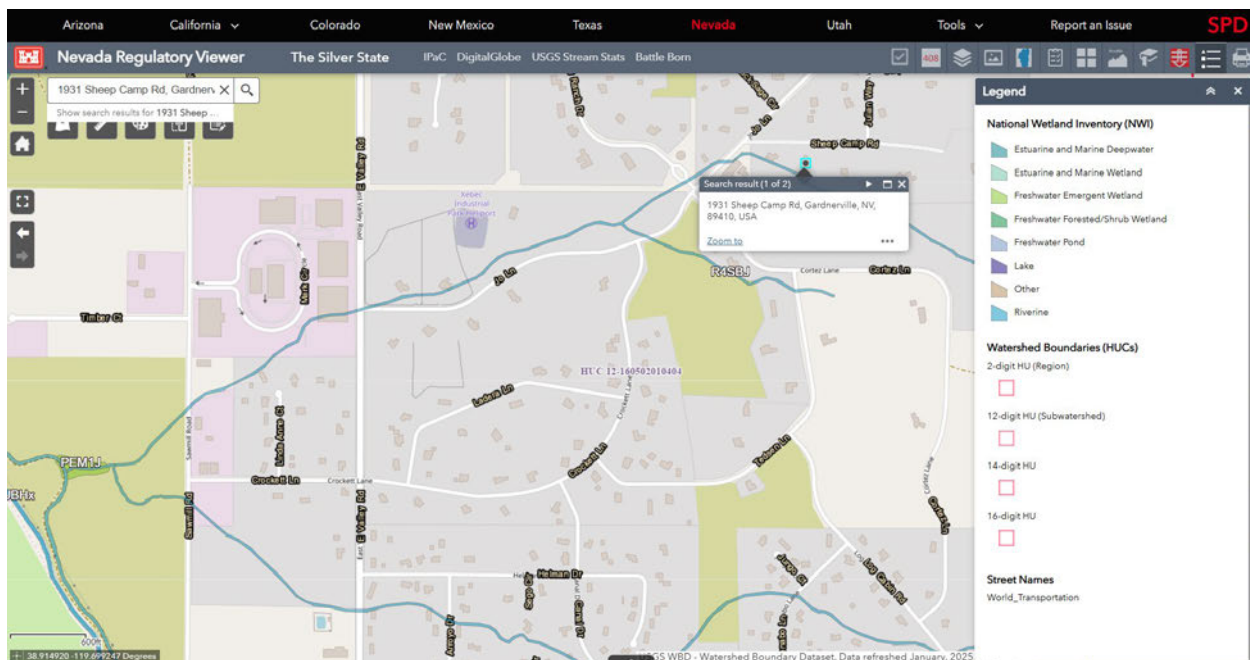
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond

- Lake
- Other
- Riverine

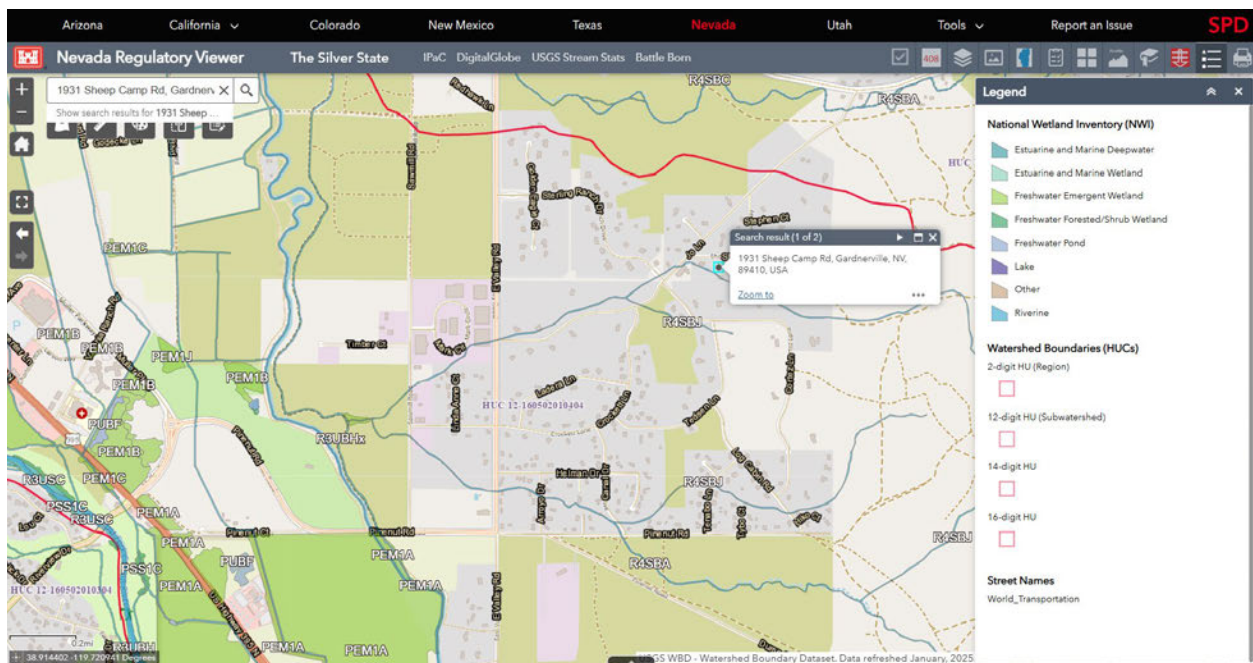
This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.



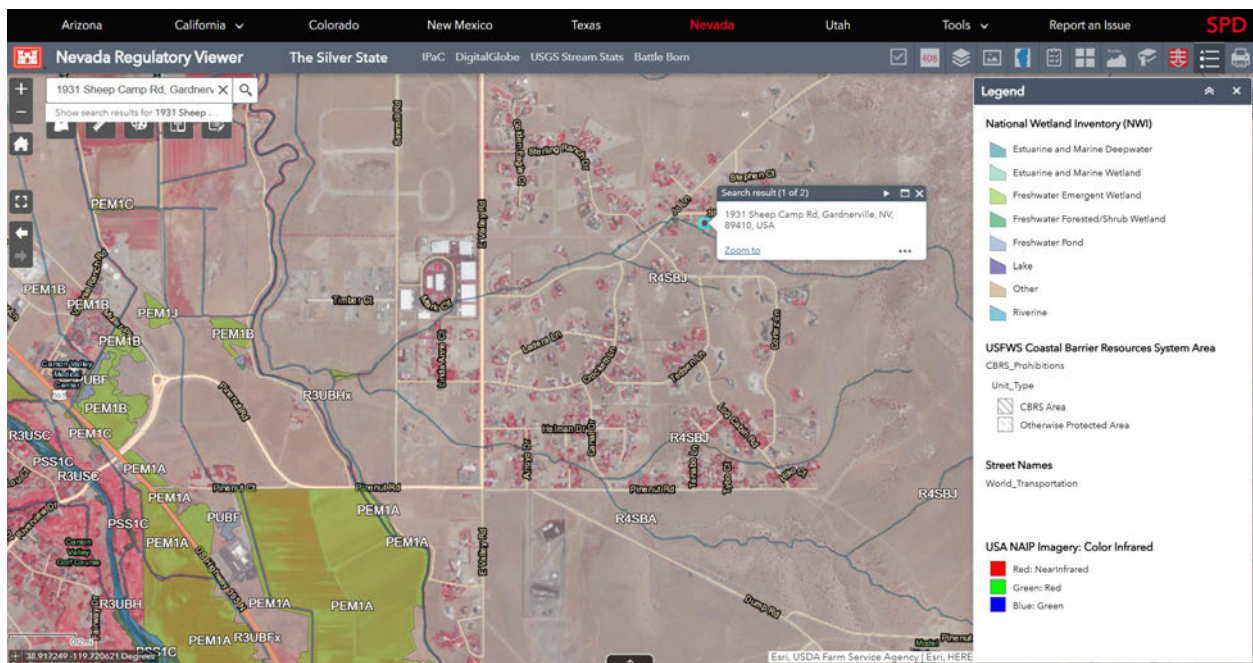
Map 5 - Flow path direction of R4SBJ (Sawmill Creek Wash)



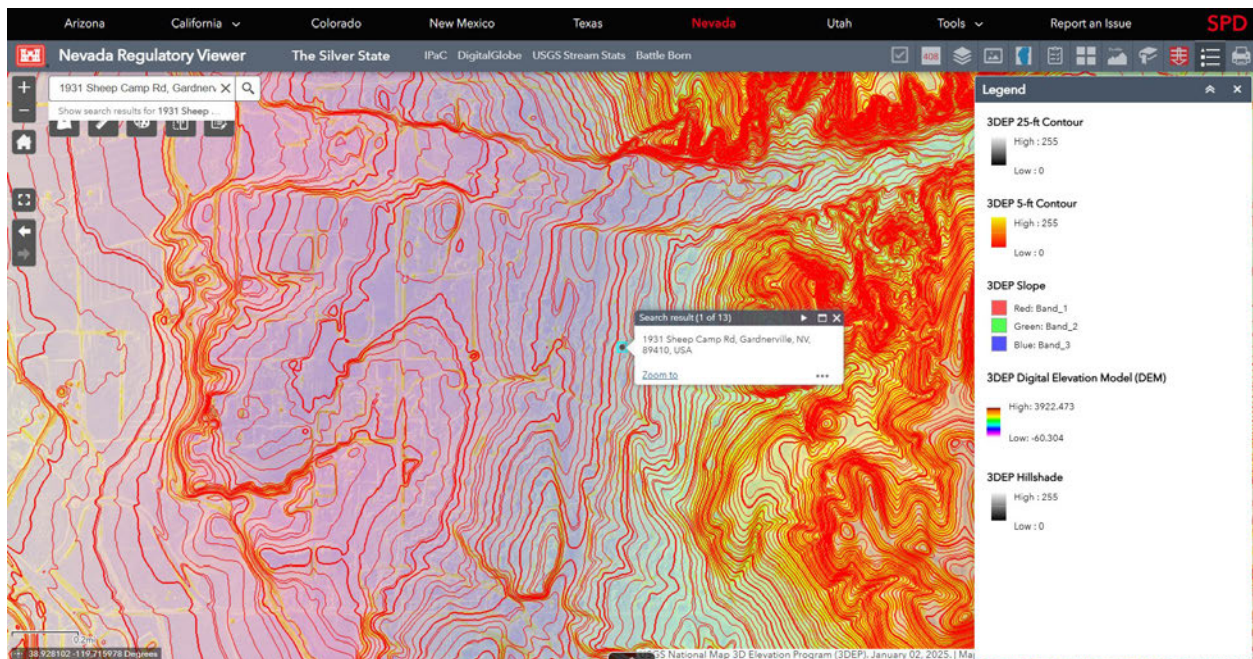
Map 6 – Aquatic Resources and Flow Confluence Zoomed In View: Headwaters flow from eastern Pinenut Mountains westwards through the Pinion Ridge Subdivision. Aquatic resource R4SBJ (Sawmill Creek Wash; 6.16 acres/10,754 linear feet) is classed as a riverine intermittent stream bed without detectable seasonal periods where surface water may be absent for weeks, months, or years without inundation. Sawmill Creek Wash flows to R4HBHx (Allerman Canal; 24.58 acres/3,1863 linear feet), which is classed as a riverine upper perennial aquatic resource with an unconsolidated bottom that is usually permanently flooded except during extreme drought years. PEM1J (Freshwater Emergent Wetland; 0.40 acres) is an adjacent wetland to Allerman Canal located at the junction where Sawmill Creek Wash flows into Allerman Canal. PEM1J is a palustrine emergent wetland where the bottom substrate is typically exposed, but surface water may be present for variable periods without detectible seasonal periodicity (See Map 7 for expanded view of flow confluence).



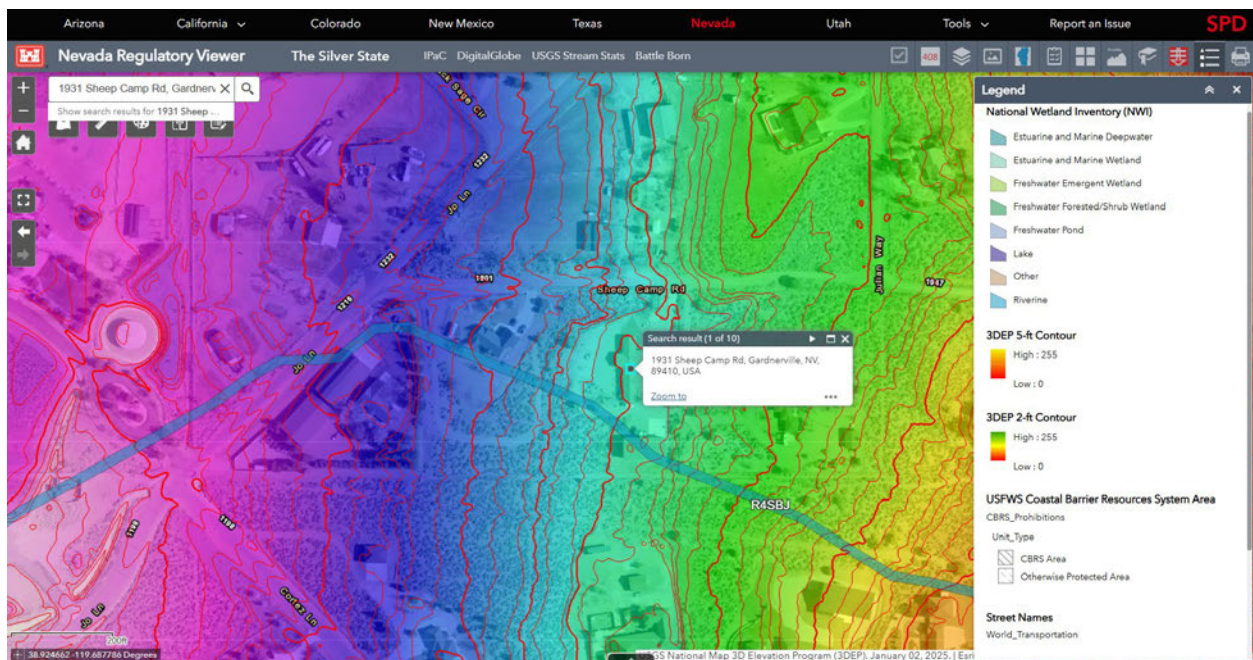
Map 7 – Aquatic Resources and Flow Confluence Expanded View: Allerman Canal flows south and adjacent to the Lahontan National Fish Hatchery into aquatic resource R3USA, (East Fork Carson River; 1300 acres; 567,075.86 linear feet) at approximately Latitude 38.88390°, Longitude - 119.69477°. The East Fork Carson River is classed as an upper perennial riverine aquatic resource with an unconsolidated bottom where water covers the bottom substrate throughout the year. The East Fork Carson River is a known relatively permanent water that is a jurisdictional water of the U.S.



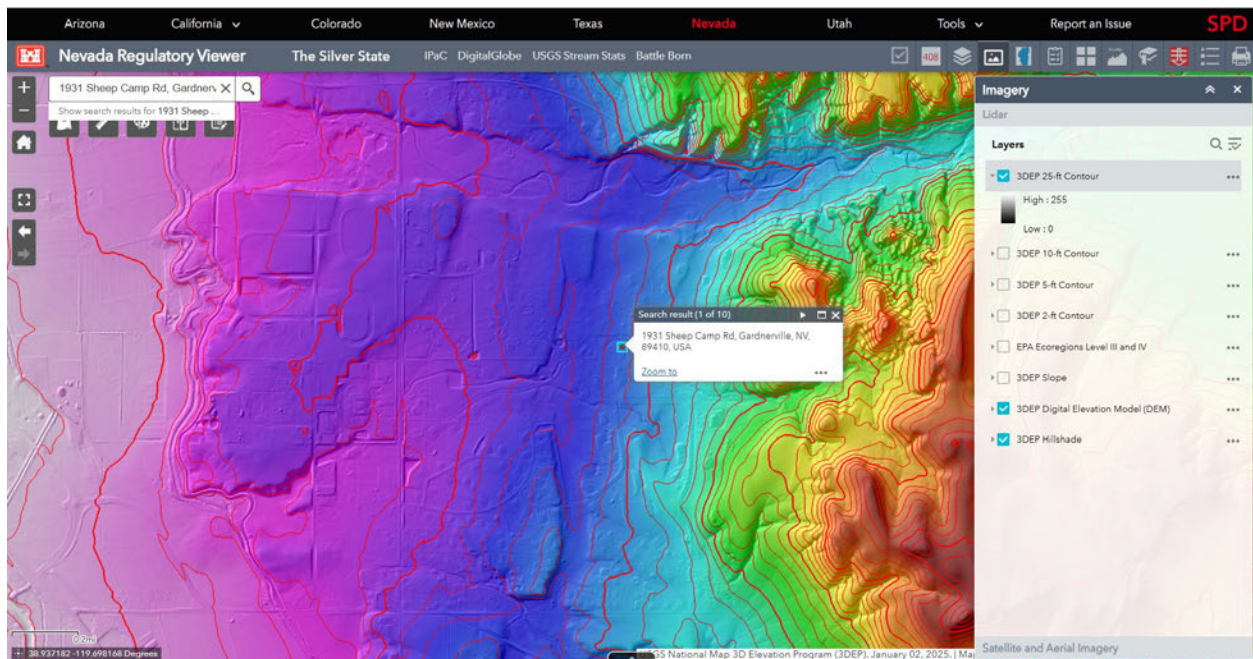
Map 8 – Infrared with Aquatic Resources Overlay: Redder concentrations indicate higher concentrations of vegetation.



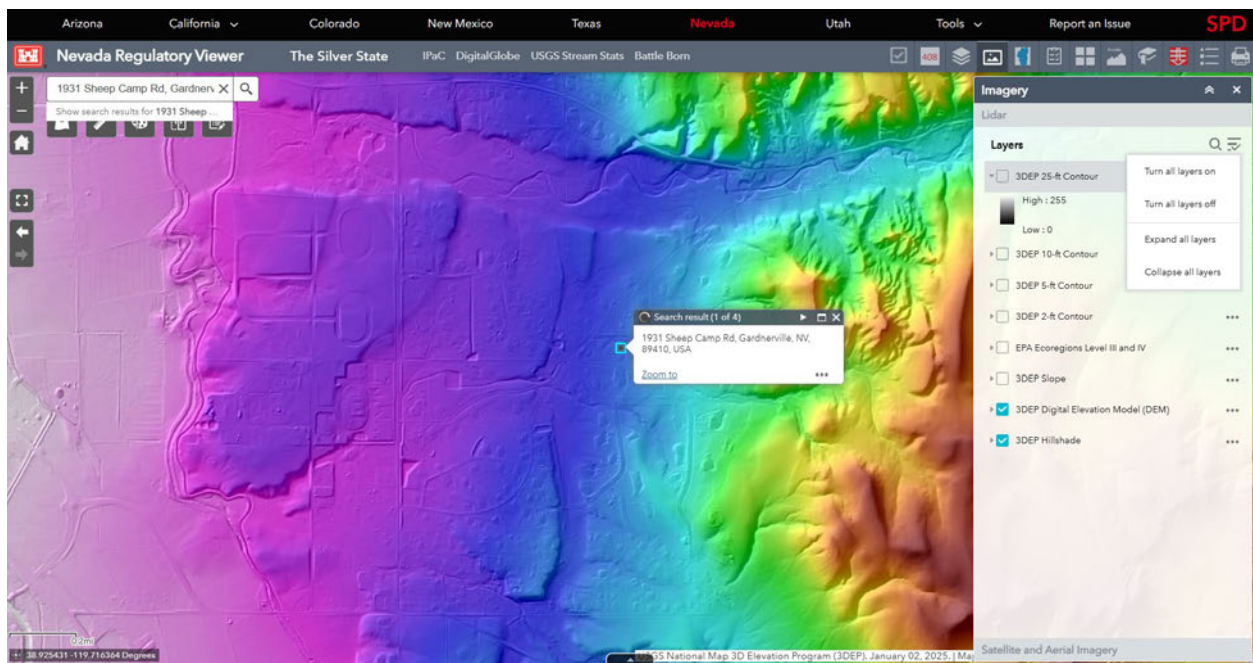
Map 9 - Lidar and Contour Elevation Map: 25,10, and 5 foot contour intervals with hill shade.



Map 10 – Aquatic Resources and Lidar: 25 and 10 foot contour lines with lidar and aquatic resources overlay. Aquatic Resource R4SBJ is Sawmill Creek Wash.



Map 11 - Lidar and Contour Elevation Map: 25 and 10 foot contour intervals with hill shade.



Map 12 - Lidar Elevation Map: Hill shade without contour lines.