



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

CESPK-RDI-U

18 MAY 2026

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-2000-50419]

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) W1, non-jurisdictional under Section 404 of the CWA.

(2) W2, non-jurisdictional under Section 404 of the CWA.

(3) W3, non-jurisdictional under Section 404 of the CWA.

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 34.5-acre review area is located directly east of I-15 southbound Exit 261, Latitude 40.185914°, Longitude -111.65202°, Springville, Utah County, Utah (AJD MFR Enclosure 1).

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), INTERSTATE WATER, OR THE TERRITORIAL SEAS TO WHICH THE AQUATIC RESOURCE IS CONNECTED. There are no waters of the U.S within the study area. The nearest TNW to the study area is the Utah Lake an (a)(1) water, located approximately 0.2 miles west as depicted in the enclosed tributary distance map (AJD MFR Enclosure 2).

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, INTERSTATE WATER, OR THE TERRITORIAL SEAS. N/A. There is no flowpath from the subject aquatic resources to a TNW, interstate water, or the territorial seas as all the aquatic resources within the review area are isolated.

6. SECTION 10 JURISDICTIONAL WATERS⁵: There are no 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.

7. SECTION 404 JURISDICTIONAL WATERS: There are no aquatic resources or other features within the review area that 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*.

- 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. There are no 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”).⁶

b. There are no aquatic resources and features within the review area identified as “generally not jurisdictional” in the *Rapanos* guidance.

c. There are no 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.

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 51 FR 41217, November 13, 1986.

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d. There are no aquatic resources and features within the review area determined to be prior converted cropland in accordance with the 1993 regulations (reference 2.b.).

e. There are no 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.”

f. All aquatic resources within the review area, consisting of Wetlands W1, W2, and W3 totaling 0.44 acre (AJD MFR Enclosure 3), 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 v. Environmental Protection Agency*. The wetlands are located within an abandoned section of Hobble Creek, which was rerouted south of the study area as part of development of the Hobble Creek Wildlife Management Area.

Historic aerial imagery (AJD MFR Enclosure 4) shows downstream modification and apparent fill placement within the former channel becoming visible between approximately 2010 and 2016 following rerouting of Hobble Creek. Based on field observations (AJD MFR Enclosure 5), aerial imagery, LiDAR (AJD MFR Enclosure 6), and topographic conditions, the abandoned channel through the site no longer functions as a relatively permanent tributary under normal conditions. Although the wetlands directly abut the remnant historic channel, hydrology within the site is now primarily supported by shallow groundwater, local runoff, precipitation, and seasonal ponding rather than flow from a relatively permanent tributary.

USACE staff confirmed during the field site visit conducted on 17 March 2026 that no culverts, inlets, outlets, or other natural flow connections are present between the wetlands and Hobble Creek, Utah Lake, or other downstream jurisdictional waters.

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. [REDACTED] – Parcel Development Aquatic Resources Report prepared by [REDACTED] dated 30 October 2025. This report includes LiDAR maps, Google Earth aerial Review, and National Wetland Inventory Map.

b. National Hydrography Dataset Flowlines – Large Scale from National Layers in the National Regulatory Viewer for the South Pacific Division. Retrieved 13 May 2026.

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c. LiDAR (AJD MFR Enclosure 5) – National Regulatory Viewer for the South Pacific Division. Retrieved 18 May 2026.

d. GoogleEarth. (15 September 2011, 09 July 2016, 18 June 2017, 11 September 2018, 19 July 2019, 13 October 2019, 01 June 2020, 05 September 2020, 25 May 2022, 02 July 2022, 08 July 2024, 05 September 2024, 05 October 2024, 09 February 2025, and 23 September 2025.). Utah County, Utah. Latitude 40.185914°, Longitude -111.65202°. Retrieved 18 May 2026, from <http://www.earth.google.com>.

10. OTHER SUPPORTING INFORMATION. The Condie Property has a documented regulatory history associated with aquatic resources within the historic Hobble Creek channel. Previous USACE coordination and compliance actions addressed unauthorized fill activities within portions of the abandoned channel and adjacent wetlands.

These actions occurred prior to implementation of *Sackett v. Environmental Protection Agency* and under the broader jurisdictional standards applicable at that time, when the wetlands and channel features within the historic Hobble Creek corridor would have likely been considered jurisdictional. However, under the current post-*Sackett* framework, the wetlands within the historic channel do not directly abut, and do not maintain a continuous surface connection to relatively permanent jurisdictional water. Therefore, these wetlands are no longer considered jurisdictional Waters of the United States.

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.

Enclosures:

6 Encls

Enclosure 1: Location Map

Enclosure 2: Flow/NHD Map

Enclosure 3: Aquatic Resources Map

Enclosure 4: Aerial Imagery Review

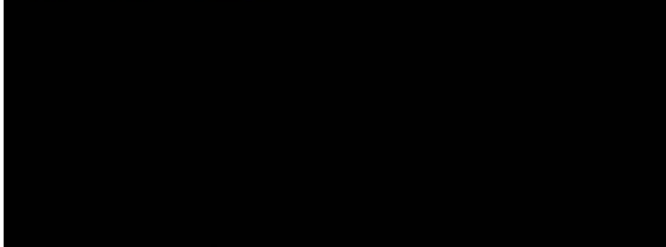
Enclosure 5: Site Photos

Enclosure 6: LiDAR

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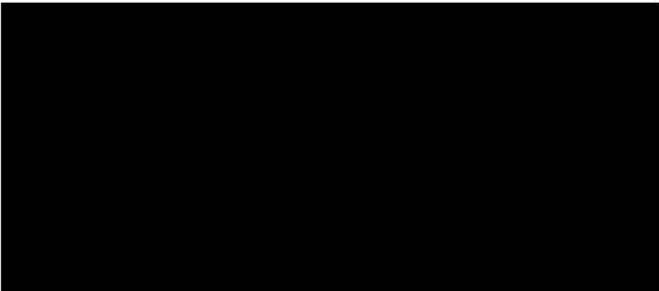
SUBJECT: Pre-2015 Regulatory Regime Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [SPK-2000-50419]

PREPARED BY:



Date: 18 May 2026

Utah Regulatory Office



Date: 18 May 2026

Utah Regulatory Office

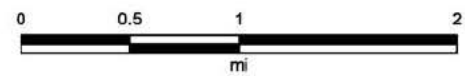


Legend

 sn_ylw-pushpin



Location Map



Map Center: 111.653766°W 40.186359°N

Map Created by: [REDACTED]
 Date: 5/13/2026

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere
 Projection: Mercator Auxiliary Sphere

AJD MFR Enclosure 1

County of Utah, Bureau of Land Management, Utah AGRC, Esri, HERE, Garmin, INCREMENT P, Intermap, NGA, USGS, County of Utah, Bureau of Land Management, Utah AGRC, Esri, HERE, Garmin, INCREMENT P, Intermap, USGS, METI/NASA, EPA, USDA



SPK-2000-50419 NHD Map

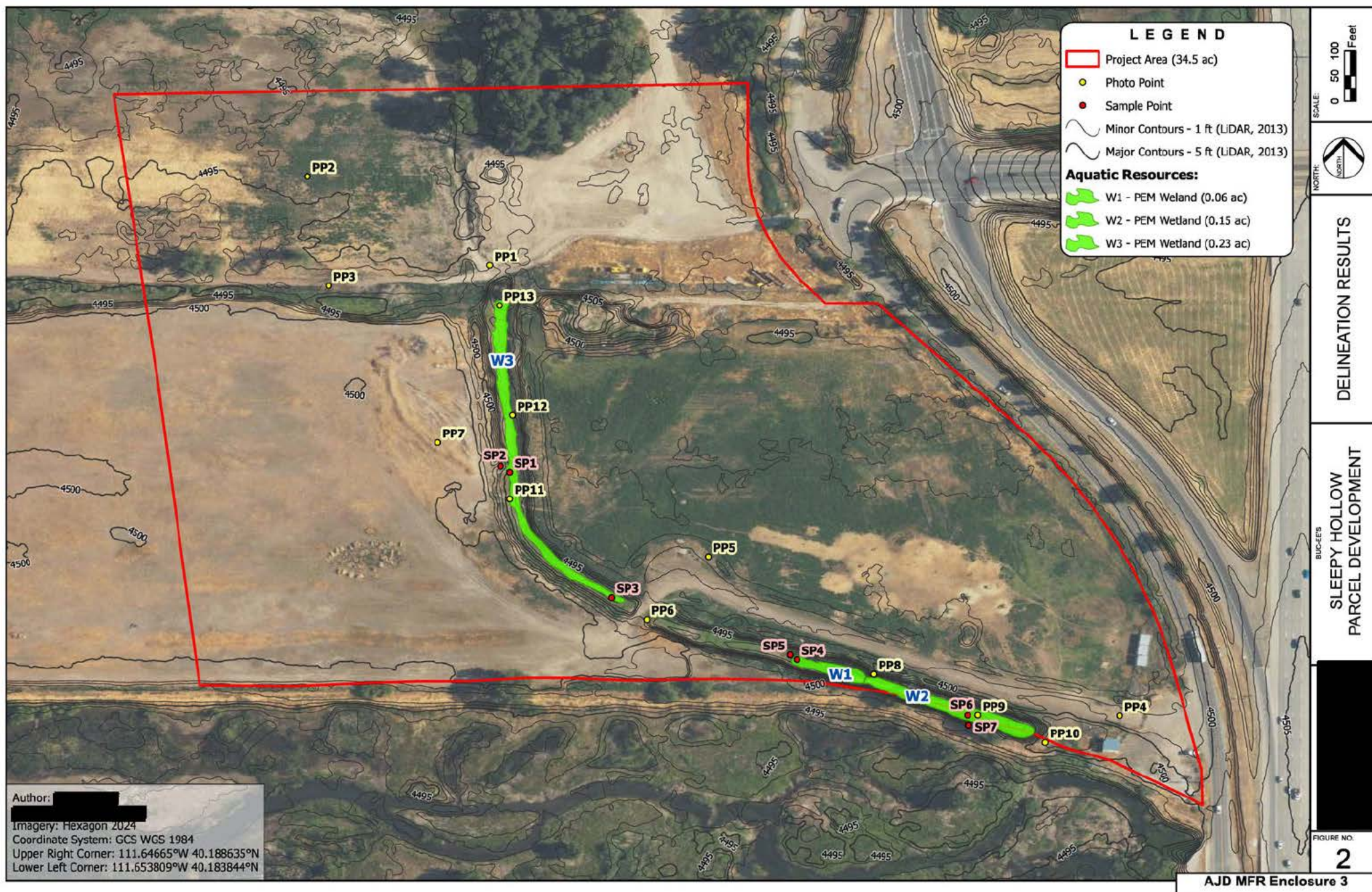


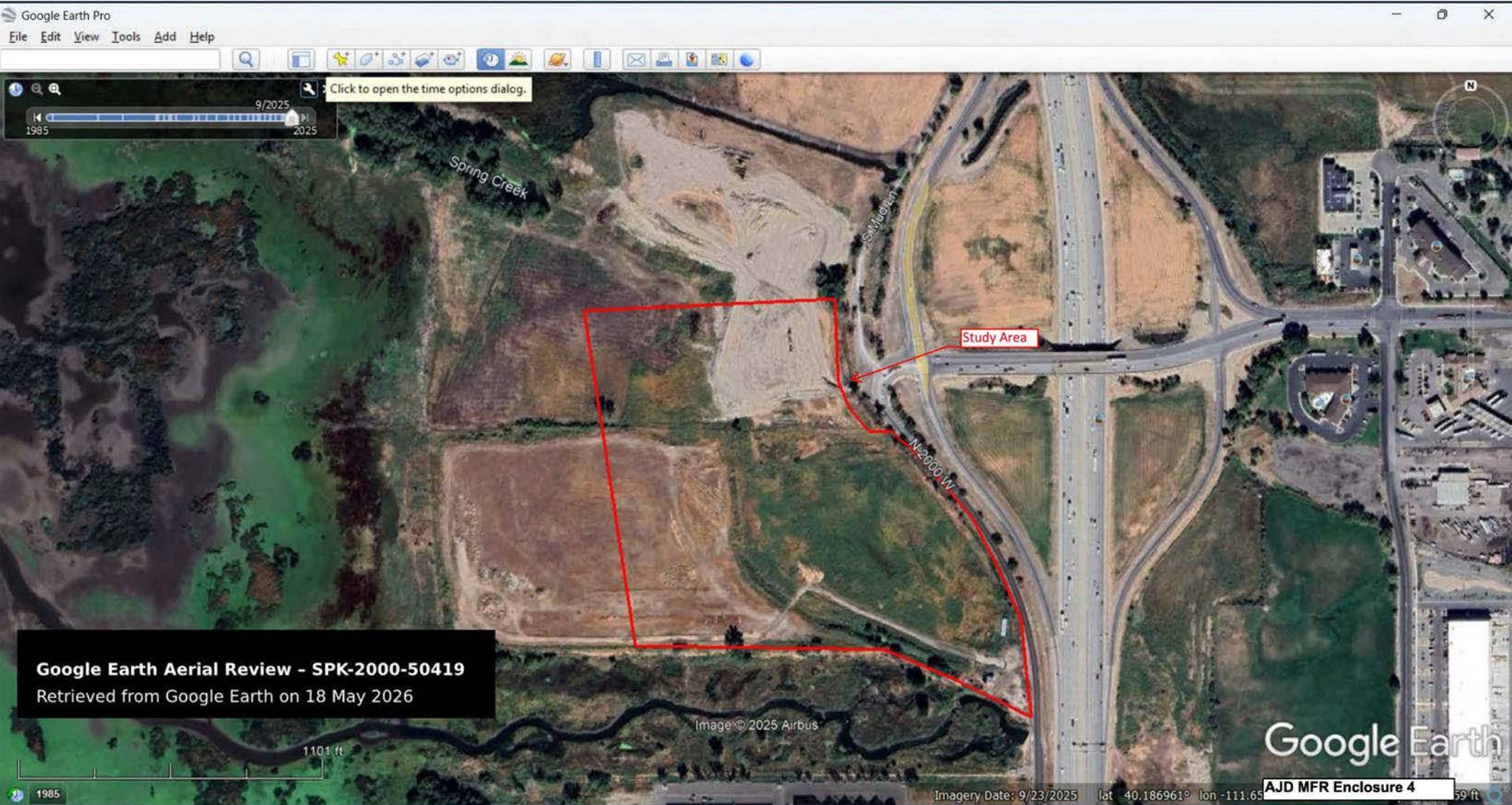
Map Center: 111.650063°W 40.183496°N

Map Created by: [REDACTED]
Date: 5/13/2026

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere
Projection: Mercator Auxiliary Sphere

AJD MFR Enclosure 2





Google Earth Aerial Review - SPK-2000-50419

Retrieved from Google Earth on 18 May 2026

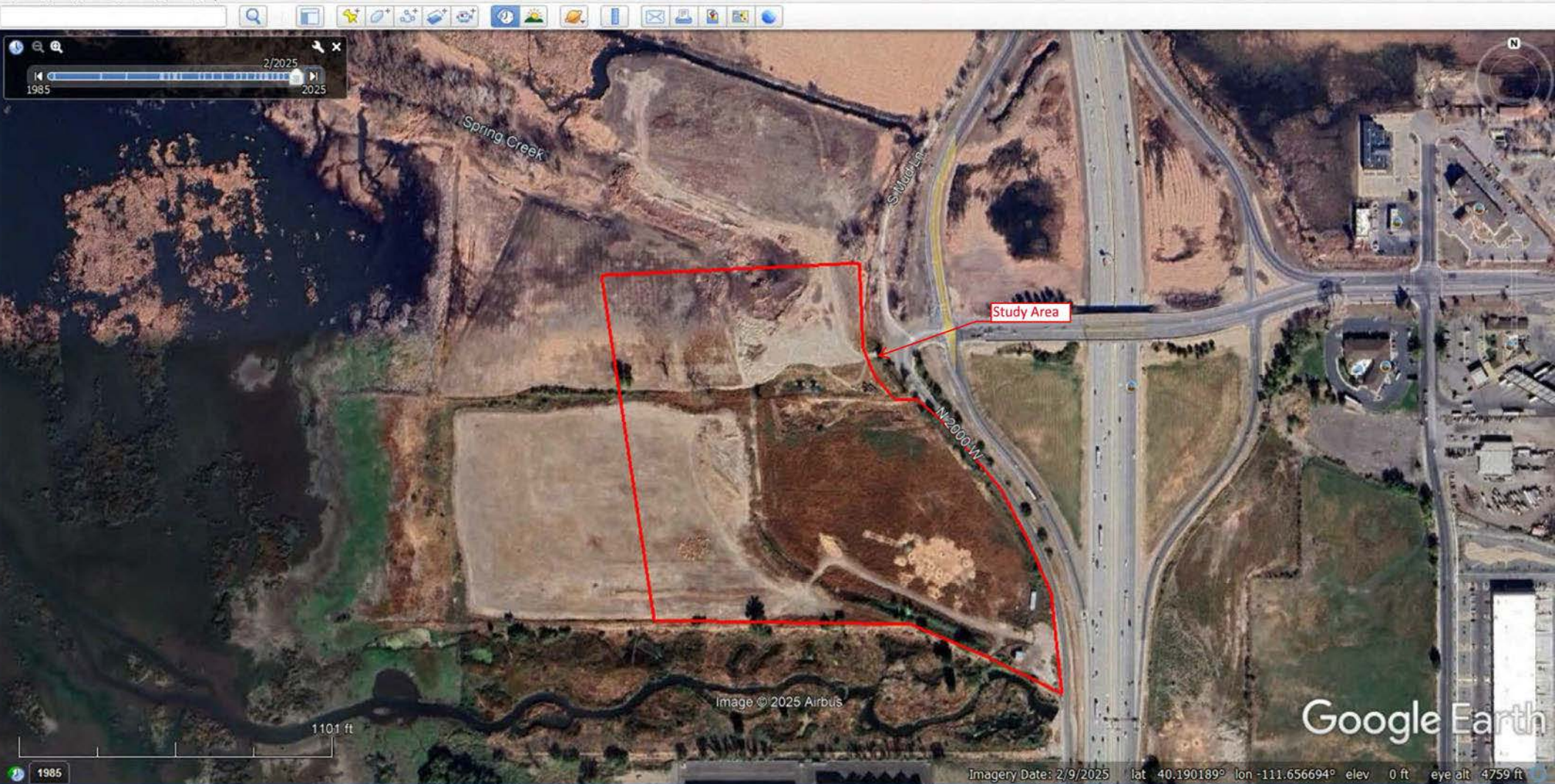
Image © 2025 Airbus

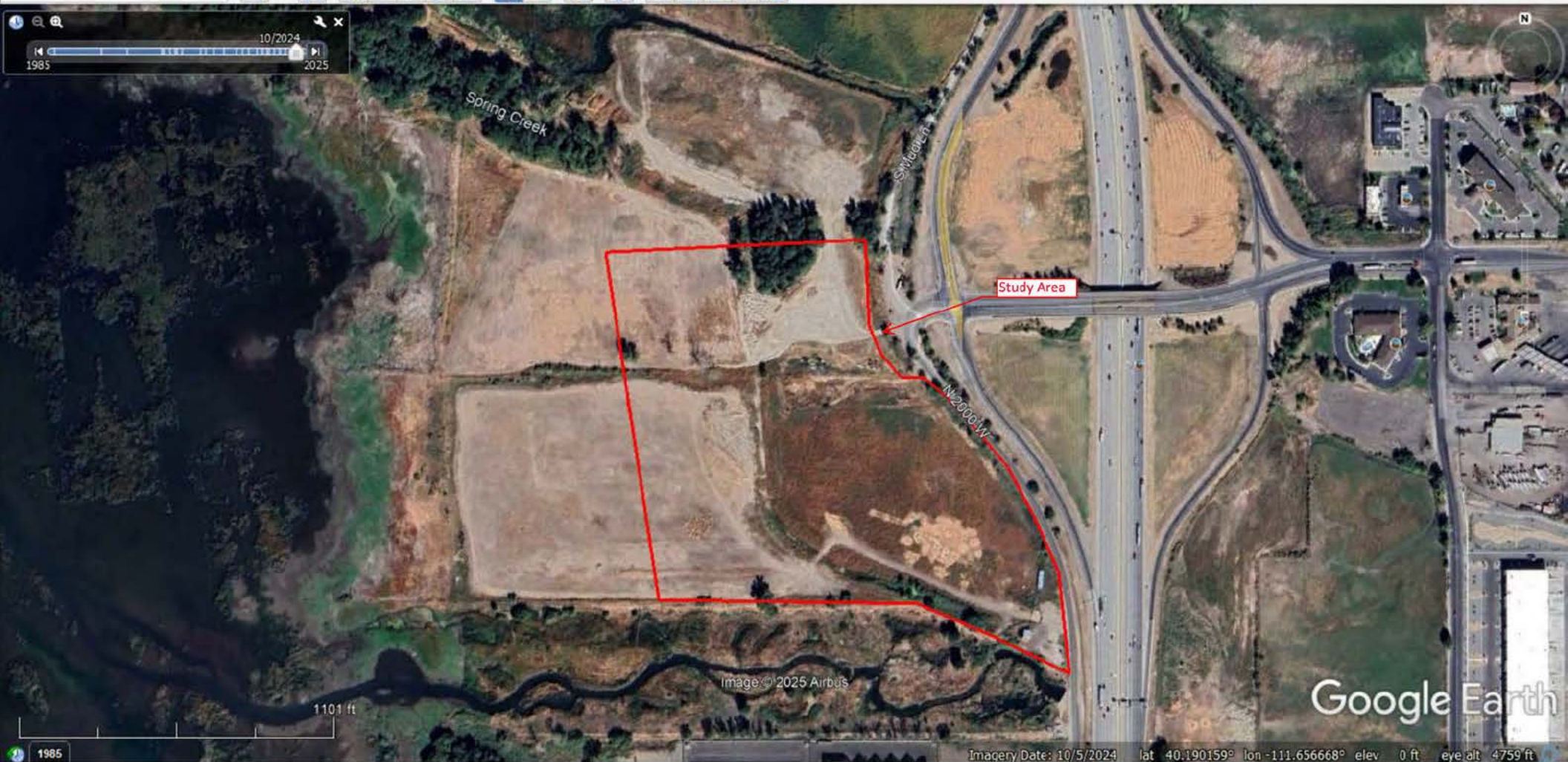
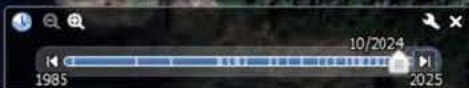
Google Earth

Imagery Date: 9/23/2025 lat 40.186961° lon -111.65

AJD MFR Enclosure 4

59 ft





Google Earth

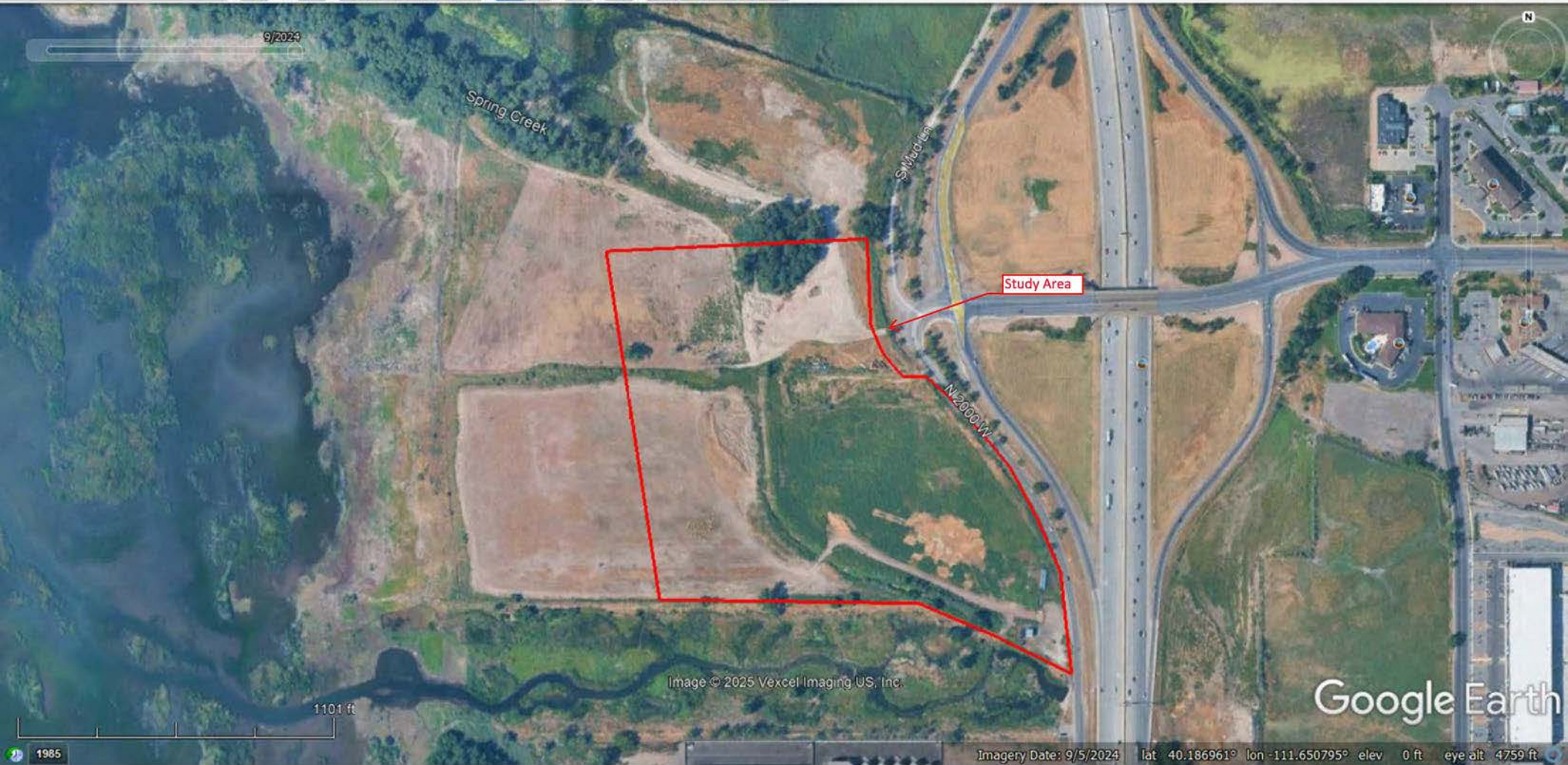


Image © 2025 Vexcel Imaging US, Inc.

Google Earth

Imagery Date: 9/5/2024 lat 40.186961° lon -111.650795° elev 0 ft eye alt 4759 ft



7/2024

Spring Creek

SW 10th

Study Area

NW 2000 W

1101 ft

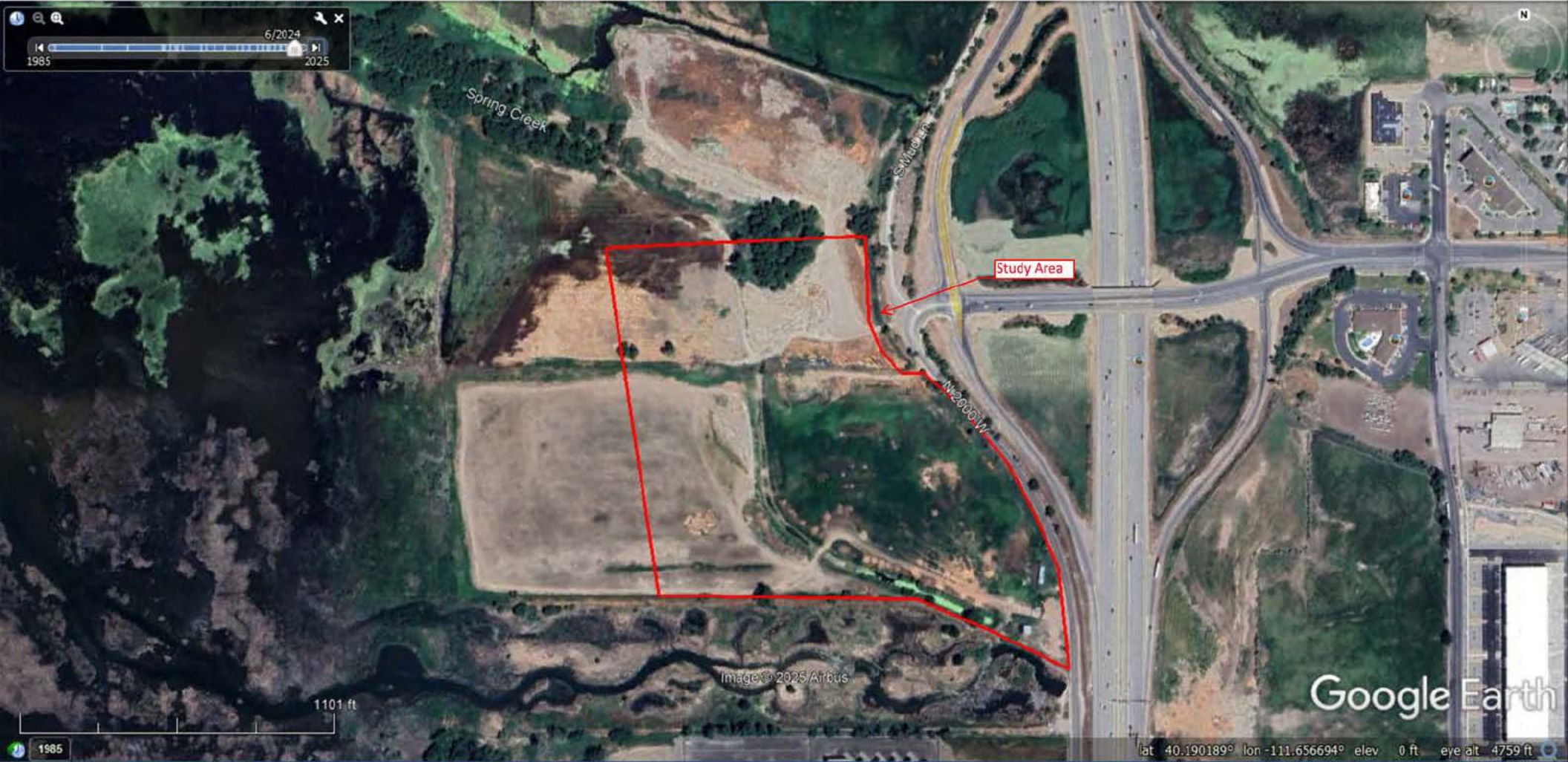
Google Earth

Imagery Date: 7/8/2024 lat 40.186961° lon -111.650795° elev 0 ft eye alt 4759 ft

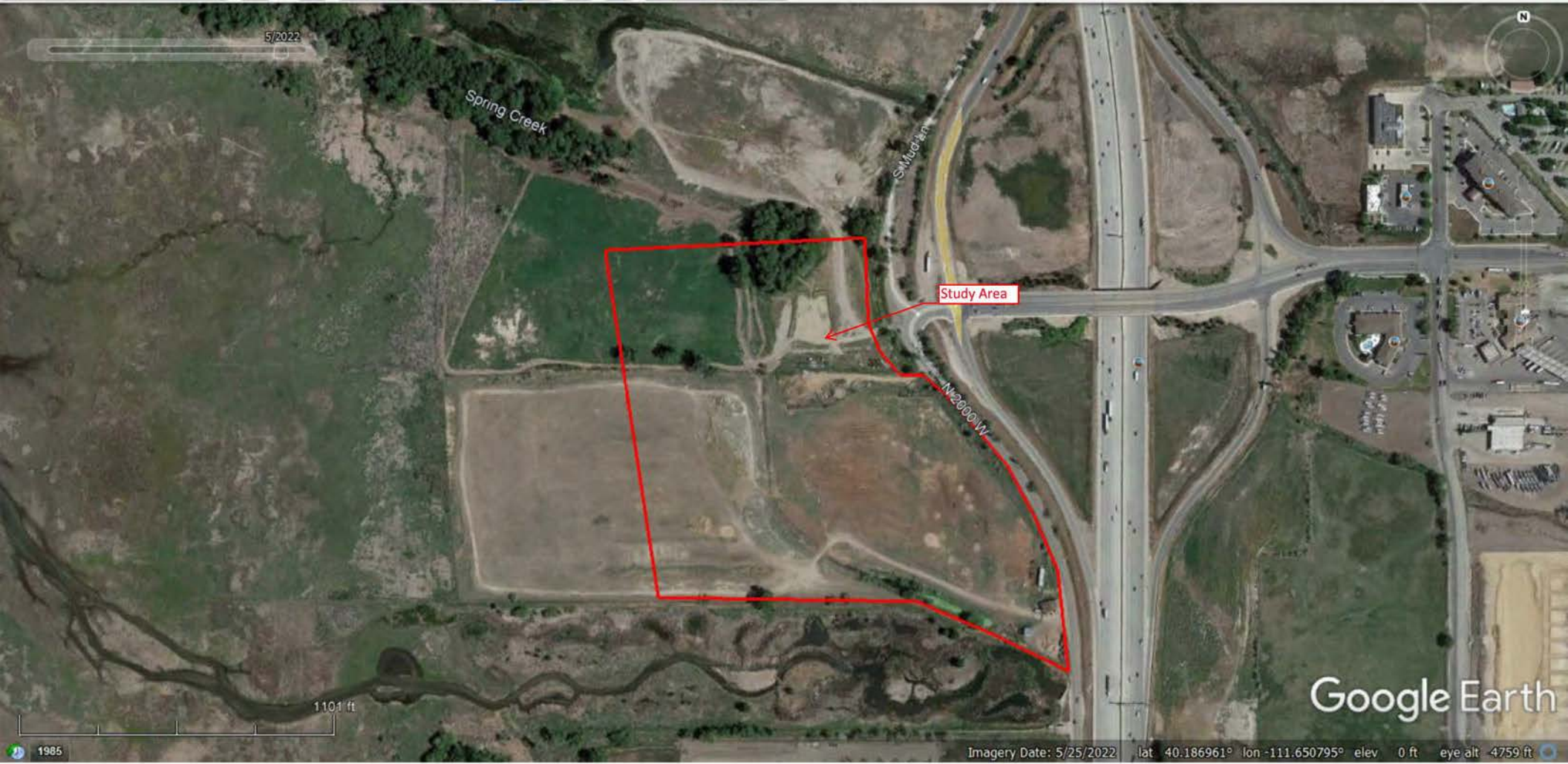
1985



6/2024
1985 2025

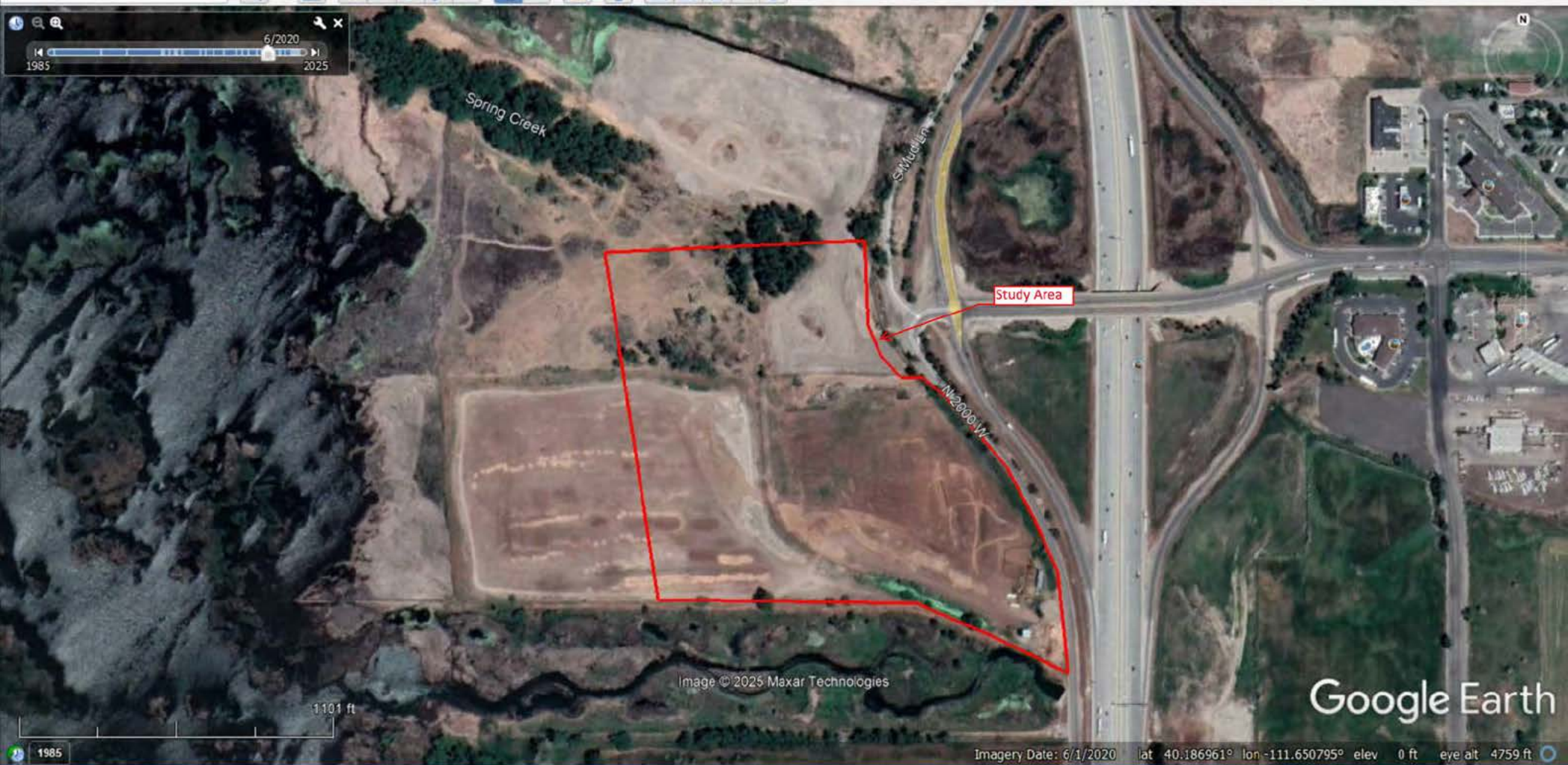
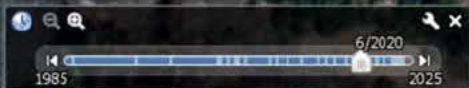
A horizontal timeline slider showing the date 6/2024 and a range from 1985 to 2025.





Google Earth

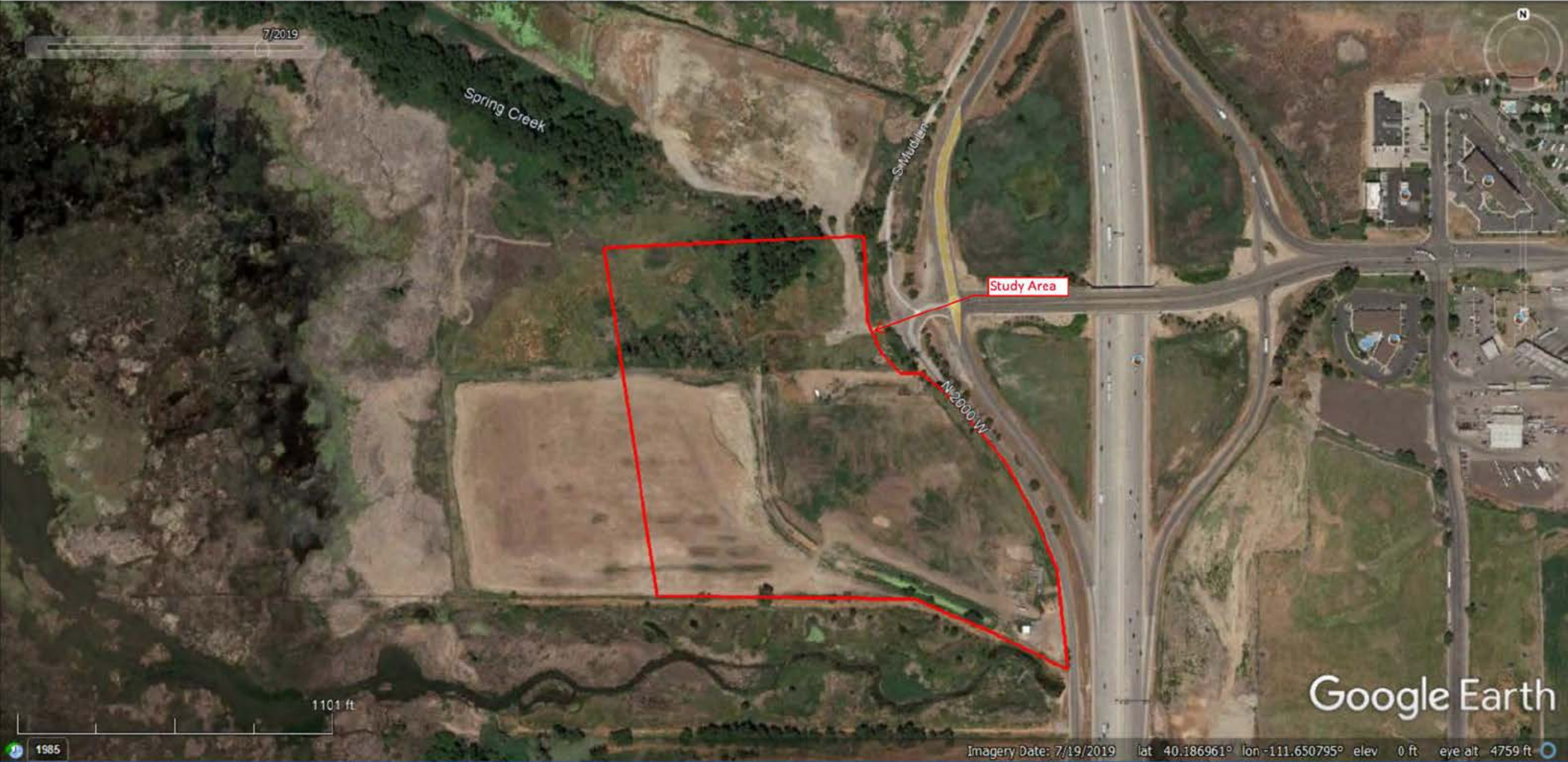




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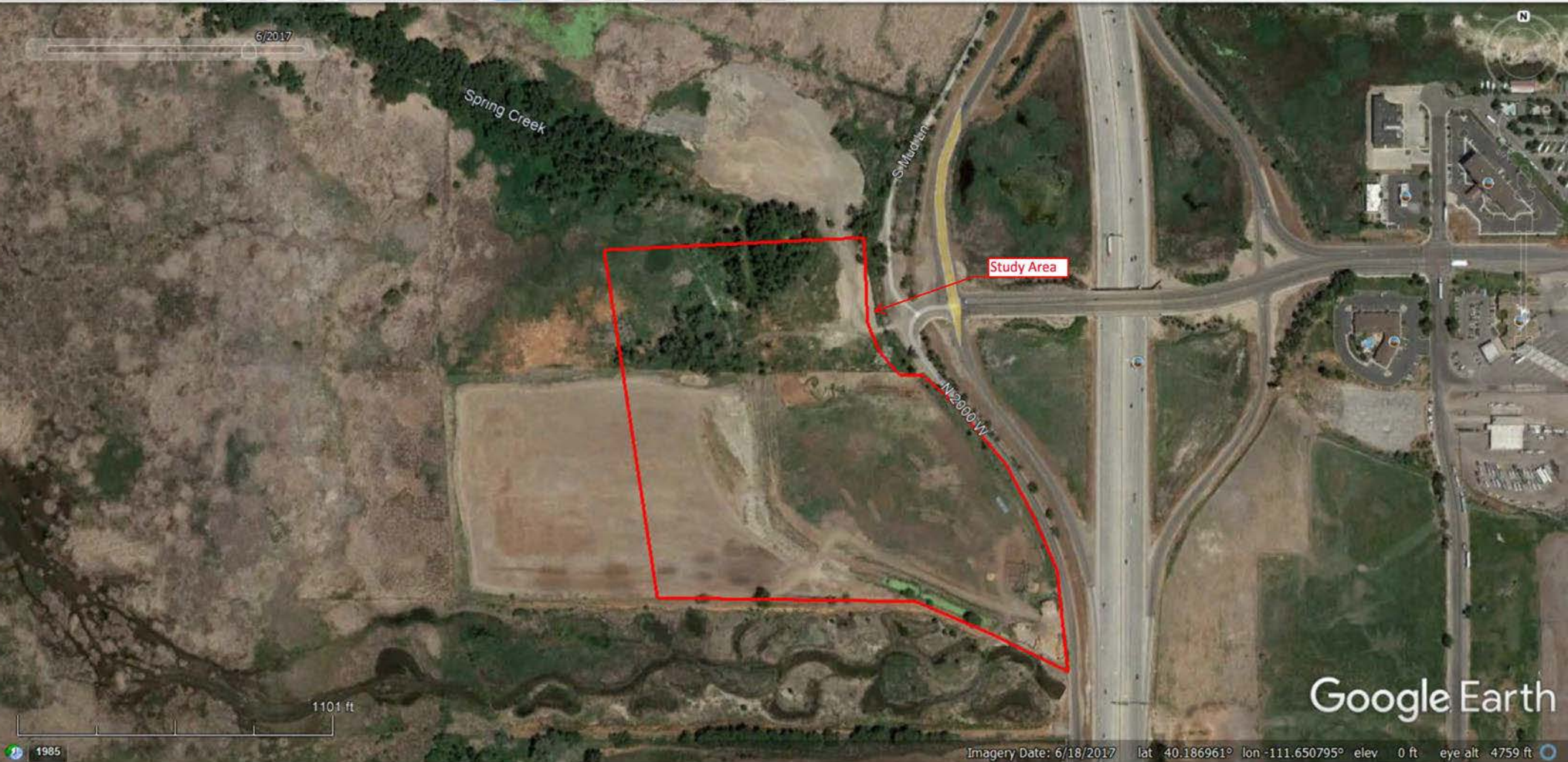
Google Earth



Google Earth



Google Earth





Timeline slider showing historical imagery from 1985 to 2025, with a current date of 7/20/16.



Google Earth



Image USDA/FPAC/GEO

Google Earth

Imagery Date: 9/15/2011 lat 40.186961° lon -111.650795° elev 0 ft eye alt 4759 ft



7/2005

Spring Creek

St. Michaels

Study Area

NW 200th W

Image © 2025 Maxar Technologies

Google Earth

1101 ft

1985

lat 40.190532° lon -111.650103° elev 0 ft eye alt 4759 ft





Overview Map



Legend

- Photo Location
- Field of View

Filled section of the
historic Hobble
Creek Channel

Historic Hobble
Creek Channel

Coordinate System: GCS: WGS 1984
Photo Coordinates: -111.051183 -40.197162
Upper Left Corner: -111.052264 -40.195923
Lower Right Corner: -111.049032 -40.195500
Service Layer Credits: Esri, HERE, Garmin, (c) OpenStreetMap

0 40 80 160
Feet



Mapped Photo Log
for Buc-ee's
SPK-2000-50419

Page 13 of 52

Description:

Photographed by Nicole Fresard
on 3/17/2026 at 9:18:29 AM MDT
Camera: NIKON CORPORATION COOLPIX W300
Location Source: Camera's internal GPS
Heading Source: Camera's internal compass
Map generated on 3/25/2026 using the
Photo Log Toolbar, written by Jason C. Deters

AJD MFR Enclosure 5



Overview Map



Legend

- Photo Location
- Field of View

Filled section of the
historic Hobble
Creek Channel

Historic Hobble
Creek Channel

Coordinate System: GCS WGS 1984
Photo Coordinates: -111.051165 -40.197418
Upper Left Corner: -111.052239 -40.197271
Lower Right Corner: -111.049647 -40.196668
Service Layer Credits: Esri, HERE, Garmin, (c) OpenStreetMap

0 40 80 160
Feet

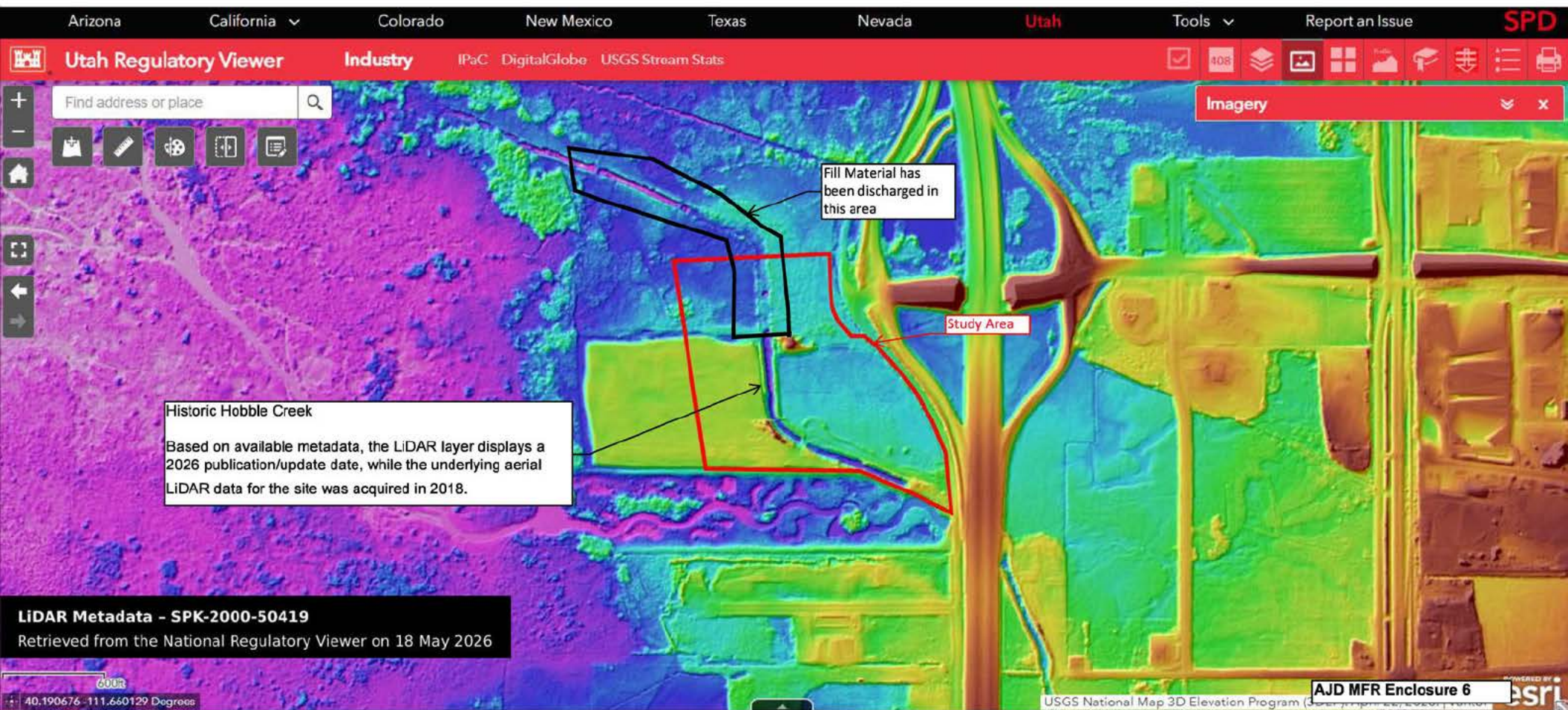


Mapped Photo Log
for Buc-ee's
SPK-2000-50419

Page 10 of 52

Description:

Photographed by Nicole Fresard
on 3/17/2026 at 9:18:01 AM MDT
Camera: NIKON CORPORATION COOLPIX W300
Location Source: Camera's internal GPS
Heading Source: Camera's internal compass
Map generated on 3/25/2026 using the
Photo Log Toolbar, written by Jason C. Deters





Options Filter by map extent Zoom to Clear selection Refresh

GroupName	ProductName	CenterX	CenterY	ZOrder	Dataset_ID	Best	DEM_Type	Source	VerticalDatum	AcquisitionDate	URL	Metadata	pubdate	title
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	USGS_3DEP	-12,428,352.49	4,888,284.82		usgs	109,936	1	USGS	North American Vertical Datum of 1988 (NAVD 88)	5/31/2014, 10:00 AM	https://prd-tnm.s3.amazonaws.com/	D:\USGS_3DEP\d	20,200,330	USGS one meter x44y445 UT Wasatch-L5 2014