



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT**  
**P.O. BOX 2946**  
**PORTLAND, OR 97208-2946**

CENWP-ODG

10 July 2025

**MEMORANDUM FOR RECORD**

**SUBJECT:** U.S. Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; 88 FR 3004 (18 January 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (8 September 2023),<sup>1</sup> NWP-2025-299.<sup>2</sup>

**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.<sup>3</sup> 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.<sup>4</sup>

On 18 January 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 (18 January 2023) ("2023 Rule"). On 8 September 2023 the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", 88 FR 61964 (8 September 2023) which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S. 651, 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),<sup>5</sup> the 2023 Rule as amended,

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<sup>1</sup> While the Revised Definition of "Waters of the United States"; Conforming 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.

<sup>2</sup> When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

<sup>3</sup> 33 CFR § 331.2.

<sup>4</sup> Regulatory Guidance Letter 05-02.

<sup>5</sup> 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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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).
  - i. Stream 1, jurisdictional, Section 404
  - ii. Tributary to Stream 1, jurisdictional, Section 404
  - iii. Wetland A, jurisdictional, Section 404
  - iv. Wetland B, non-jurisdictional
  - v. Wetland C, non-jurisdictional
  - vi. Wetland D, non-jurisdictional
  - vii. Ditch 1, non-jurisdictional
  - viii. Ditch 2, non-jurisdictional
  - ix. Ditch 3, non-jurisdictional
  - x. Ditch 4, non-jurisdictional
  - xi. Ditch 5, non-jurisdictional
  - xii. Ditch 6, non-jurisdictional
  - xiii. Ditch 7, non-jurisdictional
  - xiv. Ditch 8, non-jurisdictional
  - xv. Ditch 9, non-jurisdictional
  - xvi. Agricultural Ditch 1, non-jurisdictional

2. REFERENCES.

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- a. “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (18 January 2023) (“2023 Rule”)
  - b. “Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 (8 September 2023)
  - c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
  - d. “Memorandum To The Field Between The U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of ‘Continuous Surface Connection’ Under The Definition Of “Waters Of The United States” Under The Clean Water Act” (March 12, 2025)
3. REVIEW AREA. The Review Area (RA) is approximately 15.04-acres in size located at the intersection of NW Garden Valley Road and Melrose Road, northwest of Roseburg, Douglas County, Oregon at latitude/longitude: 43.24121°, -123.39598°.
  4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The nearest TNW to which the aquatic resources are connected is the South Umpqua River, river mile (RM) 116.5, located approximately 0.68-mile west of the RA. The South Umpqua River is recognized as a TNW to RM 122.2 pursuant to the Corps’ Portland District October 1993 list of Navigable Riverways within the State of Oregon.<sup>6</sup>
  5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER.

Tributary to Stream 1 flows into Stream 1 within the RA as described below. Stream 1 flows westerly leaving the RA approximately 200-feet southwest of Melrose Road. Stream 1 then continues west for approximately 0.15-mile flowing south of agricultural buildings and through a surface water impoundment at Jones Road. Stream 1 then flows northerly, under Melrose Road within a culvert, and westerly for approximately 0.49-mile where it connects with a north-south oriented agricultural drainage swale. The agricultural drainage swale flows northwesterly for

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<sup>6</sup> This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established.

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approximately 0.82-mile where it discharges into the South Umpqua River near RM 116.5. The combined flowpath of Tributary to Stream 1 and Stream 1 to a TNW is approximately 1.46-miles.

6. SECTION 10 JURISDICTIONAL WATERS<sup>7</sup>: 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.<sup>8</sup> 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 2023 Rule as amended at 33 CFR § 328.3(a)(1) through (a)(5), 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):

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<sup>7</sup> 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.

<sup>8</sup> 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 § 329.14 to make a determination that a water is a navigable water of the United States subject to Section 10 of the RHA.

Stream 1: Stream 1 is a relatively permanent waterway (RPW) measuring 224 linear feet (LF) within the RA and is located in the southeast (SE) portion of the RA. Stream 1 flows east to west within the RA. Stream 1 is recognized on 2023 U.S. Geological Survey (USGS) quadrangle mapping as an intermittent waterway, and was delineated as an intermittent waterway. Stream 1 is a 2<sup>nd</sup> order stream pursuant to the Strahler stream order classification system. Flowing surface water was visible in Stream 1 during the wetland and waterway delineation. Stream 1 possesses an ordinary high water mark (OHWM) ranging from eight to ten feet and a streambed of silt and sand. Stream 1 follows the flowpath described in Section 5 above. The Corps has determined Stream 1 meets the definition of an (a)(3) tributary and is a waters of the U.S.

Tributary to Stream 1: Tributary to Stream 1 is an RPW measuring 343 LF within the RA and is located in the SE portion of the RA. Tributary to Stream 1 flows east to west within the RA. Tributary to Stream 1 is recognized on 2023 USGS quadrangle mapping as an intermittent waterway and was delineated as an intermittent waterway. Tributary to Stream 1 is a 1<sup>st</sup> order stream pursuant to the Strahler stream order classification system. Tributary to Stream 1 flows into Stream 1 within the RA where these streams combine to create a 2<sup>nd</sup> order stream (Stream 1). Flowing surface water was visible in Stream 1 during the wetland and waterway delineation. Tributary to Stream 1 possesses an OHWM ranging from three to five feet on the east side of NW Garden Valley Road and eight to ten feet west of NW Garden Valley Road. The streambed of Tributary to Stream 1 is comprised of silt. Tributary to Stream 1 follows the flowpath described in Section 5 above. The Corps has determined Tributary to Stream 1 meets the definition of an (a)(3) tributary and is a waters of the U.S.

f. Adjacent Wetlands (a)(4):

Wetland A: Wetland A is a palustrine emergent (PEM) wetland measuring 1.36-acres located in the SE portion of the RA. Wetland A abuts Stream 1 within the RA. The Corps has determined Wetland A possesses a requisite continuous surface connection (CSC) to an (a)(3) water and is a waters of the U.S.

g. Additional Waters (a)(5): N/A

8. 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).<sup>9</sup>

Ditch 5: Ditch 5 is a non-RPW ditch measuring 672 LF within the RA and is located in eastern portion of the RA. Ditch 5 is a roadside ditch located north of Darley Road and east of NW Garden Valley Road and slopes south. Ditch 5 is almost entirely unvegetated, does not possess OHWM indicators, and had less than one inch of flowing surface water during the wetland and waterway delineation. Ditch 5 is a roadside ditch which flows only in response to precipitation and lacks indicators of RPW flow. Ditch 5 meets the (b)(3) exclusion because it is excavated wholly within dry land, drains only dry land, and does not carry RPW flow. The Corps has determined Ditch 5 is not a waters of the U.S.

Ditch 6: Ditch 6 is a non-RPW ditch measuring 344 LF within the RA and is located in eastern portion of the RA. Ditch 6 is a roadside ditch located north of Darley Road and slopes west. Ditch 6 is partially vegetated, does not possess OHWM indicators, and had less than one inch of flowing surface water during the wetland and waterway delineation. Ditch 6 is a roadside ditch which flows only in response to precipitation and lacks indicators of RPW flow. Ditch 6 meets the (b)(3) exclusion because it is excavated wholly within dry land, drains only dry land, and does not carry RPW flow. The Corps has determined Ditch 6 is not a waters of the U.S.

Ditch 7: Ditch 7 is a non-RPW ditch measuring 585 LF within the RA and is located in eastern portion of the RA. Ditch 7 is a roadside ditch located south of Darley Road and east of NW Garden Valley Road, and slopes south. Ditch 7 is mostly unvegetated, does not possess OHWM indicators, and had less than one inch of flowing surface water during the wetland and waterway delineation. Ditch 7 is a roadside ditch which flows only in response to precipitation and lacks indicators of RPW flow. Ditch 7 meets the (b)(3) exclusion because it is excavated wholly within dry land, drains only dry land, and does not carry RPW flow. The Corps has determined Ditch 7 is not a waters of the U.S.

Ditch 9: Ditch 9 is a non-RPW ditch measuring 286 LF within the RA and is located in the SE portion of the RA. Ditch 9 is a roadside ditch located east of Melrose Road and west of NW Garden Valley Road. Ditch 9 is unvegetated, does not possess OHWM indicators, and did not possess surface water during the wetland and waterway delineation. Ditch 9 is a roadside ditch which flows only in response to precipitation and lacks indicators of RPW flow. Ditch 9 meets

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<sup>9</sup> 88 FR 3004 (18 January 2023)

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the (b)(3) exclusion because it is excavated wholly within dry land, drains only dry land, and does not carry RPW flow. The Corps has determined Ditch 9 is not a waters of the U.S.

- 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).

Wetland B: Wetland B is a PEM wetland measuring 0.17-acre located in the SE portion of the RA. Wetland B abuts Ditch 8 within the RA; Ditch 8 is connected to Tributary to Stream 1. Ditch 8 is a non-RPW ditch as described below. The Corps has determined Wetland B does not possess a requisite CSC to an (a)(1), (a)(2), or (a)(3) water and is not a waters of the U.S.

Wetland C: Wetland C is a PEM wetland measuring 0.02-acre located in the SE portion of the RA. Wetland C abuts Ditch 8 within the RA; Ditch 8 is connected to Tributary to Stream 1. Ditch 8 is a non-RPW ditch as described below. The Corps has determined Wetland C does not possess a requisite CSC to an (a)(1), (a)(2), or (a)(3) water and is not a waters of the U.S.

Wetland D: Wetland D is a PEM wetland measuring 0.02-acre located in the central portion of the RA. Wetland D abuts Agricultural Ditch 1 within the RA; Agricultural Ditch 1 is a non-RPW ditch as described below. The Corps has determined Wetland D does not possess a requisite CSC to an (a)(1), (a)(2), or (a)(3) water and is not a waters of the U.S.

Ditch 1: Ditch 1 is a non-RPW tributary measuring 539 LF within the RA and is located in the SE portion of the RA. Ditch 1 is a roadside ditch predominantly located within the boundary of Wetland A and does not possess OHWM indicators and no flowing surface water was visible during the wetland and waterway delineation. Ditch 1 extends northwest where it connects to Tributary to Stream 1. The Corps has determined Ditch 1 is a non-RPW tributary and is not a waters of the U.S.

Ditch 2: Ditch 2 is a non-RPW tributary measuring 650 LF within the RA and is located in the eastern portion of the RA. Ditch 2 is a roadside ditch located on the south side of Melrose Road. Ditch 2 does not possess OHWM indicators and no flowing surface water was visible during the wetland and waterway delineation. Ditch 2 extends SE where it runs partially through Wetland A and

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connects to Tributary to Stream 1. The Corps has determined Ditch 2 is a non-RPW tributary and is not a waters of the U.S.

Ditch 3: Ditch 3 is a non-RPW tributary measuring 525 LF within the RA and is located in the SE portion of the RA. Ditch 3 is a roadside ditch located on the south side of Melrose Road and slopes west. Ditch 3 does not possess OHWM indicators but some surface water was visible during the wetland and waterway delineation. The Corps has determined Ditch 3 is a non-RPW tributary and is not a waters of the U.S.

Ditch 4: Ditch 4 is a non-RPW ditch measuring 1,067 LF within the RA and is located in eastern portion of the RA. Ditch 4 is a roadside ditch located north of Melrose Road and slopes west. Ditch 4 does not possess OHWM indicators, but some flowing surface water was visible during the wetland and waterway delineation due to Ditch 4 draining Agriculture Ditch 1 and Wetland D. Ditch 4 is a roadside ditch that receives water from precipitation and runoff from adjacent roadways and has no indicators of RPW flow. The Corps has determined Ditch 4 is a non-RPW tributary and is not a waters of the U.S.

Ditch 8: Ditch 8 is a non-RPW tributary measuring 750 LF within the RA and is located in the SE portion of the RA. Ditch 8 is a roadside ditch located east of NW Garden Valley Road and slopes north. OHWM indicators were observed by the delineator in the steepest portion of Ditch 8, southeast of Wetland C, extending to the southeast portion of the RA. However, no indicators of OHWM were observed by the delineator in any other portion of Ditch 8. Ditch 8 is partially located in Wetland B and drains Wetland B. Flow was observed in the ditch during the delineation. Ditch 8 connects to Tributary to Stream 1. Ditch 8 is a roadside ditch with no indicators of RPW flow. The Corps has determined Ditch 8 is a non-RPW tributary and is not a waters of the U.S.

Agricultural Ditch 1: Agricultural Ditch 1 is a non-RPW tributary measuring 52 LF within the RA and is located in the central portion of the RA. Agricultural Ditch 1 is located within Wetland D and slopes southwest where it connects to Ditch 4. Agricultural Ditch 1 is vegetated, does not possess OHWM indicators, but did possess visible surface water during the wetland and waterway delineation. Agricultural Ditch 1 was excavated to drain an adjacent vineyard. The Corps has determined Agricultural Ditch 1 is a non-RPW tributary and is not a waters of the U.S.

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.



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- a. Office evaluation, 10 July 2025
- b. "Wetland and Waters of the U.S. and State Delineation Report, Garden Valley Rd at Melrose Rd Roundabout (Roseburg, OR)" dated May 2025 prepared by Harper Houf Peterson Righellis, Inc., last accessed 9 July 2025.
- c. Google Earth Pro and Google Maps Streetview mapping, accessed 27 June 2025.
- d. Oregon Department of Geology and Mineral Industries Light Detection and Ranging imagery accessed 27 June 2025 from:  
<https://gis.dogami.oregon.gov/maps/lidarviewer/>
- e. Corps' Portland District October 1993 list of Navigable Riverways within the State of Oregon access 27 June 2025 from
- f. Corps' Northwestern Division Regulatory Viewer layers; USGS Quadrangle River miles (Oregon) and 3DEP imagery accessed 27 June 2025.
- g. USGS topographic maps; Roseburg, Oregon (1897), 1:125,000K scale; Roseburg, Oregon (1995), 1:62,500K scale; Roseburg West, Oregon (1987), 1:24,000K scale; Roseburg West, Oregon (2023), 1:24,000K scale; Garden Valley, Oregon (2023), 1:24,000K scale, accessed 30 June 2025 from:  
<https://ngmdb.usgs.gov/topoview/viewer>.
- h. Bing Maps Streetside imagery accessed 9 July 2025.

10. OTHER SUPPORTING INFORMATION. N/A

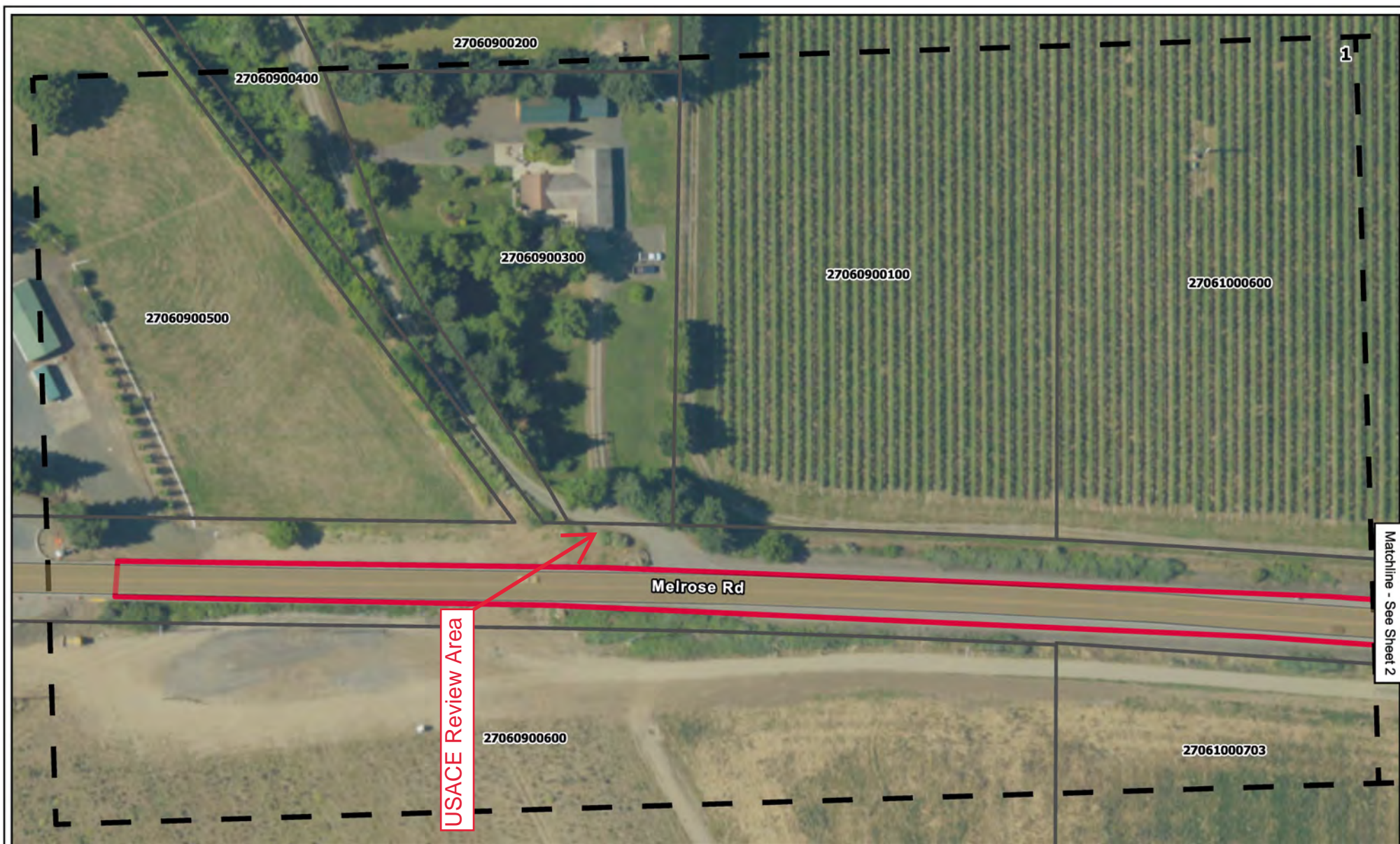
11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



**Figure 1: Vicinity Map**

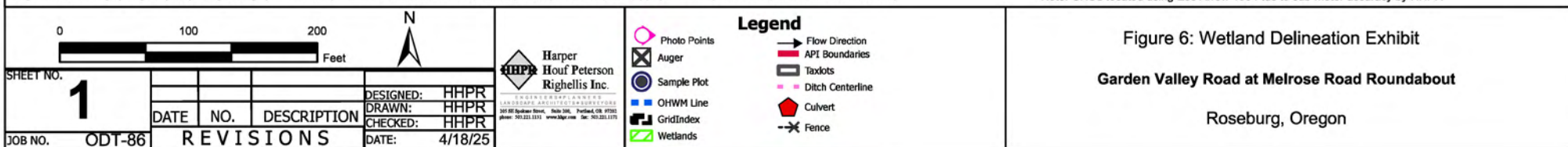
Garden Valley Road at Melrose Road Roundabout  
Roseburg, Oregon





Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework Implementation Team, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community

Note: GNSS located using Eos Arrow 100 Plus to sub-meter accuracy by HHPR







Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework Implementation Team, Sources: Esri, TomTom, Garmin, FAO, NOAA, OpenStreetMap contributors, and the GIS User Community

Note: GNSS located using Eos Arrow 100 Plus to sub-meter accuracy by HHPR

SHEET NO.		2	
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DATE	NO.	DESCRIPTION	DESIGNED: HHPR
			DRAWN: HHPR
			CHECKED: HHPR
DATE:	4/18/25		



USACE Review Area

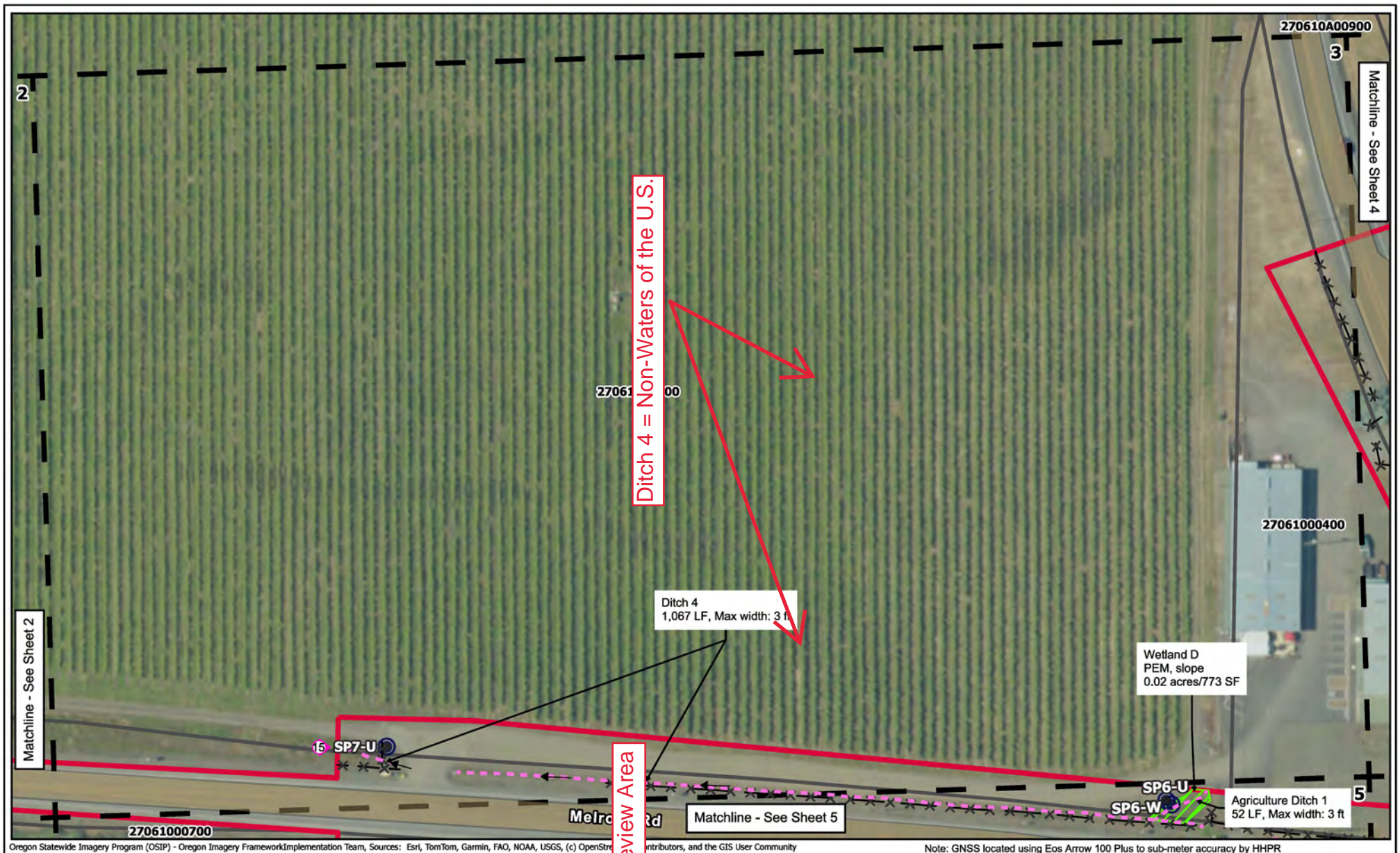
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- Auger
- Sample Plot
- OHWM Line
- Grid Index
- Wetlands

#### Legend

- Flow Direction
- API Boundaries
- Taxlots
- Ditch Centerline
- Culvert
- Fence

Figure 6: Wetland Delineation Exhibit  
Garden Valley Road at Melrose Road Roundabout  
Roseburg, Oregon





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SHEET NO. <b>3</b>			
DATE	NO.	DESCRIPTION	DESIGNED: HHPR
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			CHECKED: HHPR
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**Harper Houf Peterson**  
Righellis Inc.

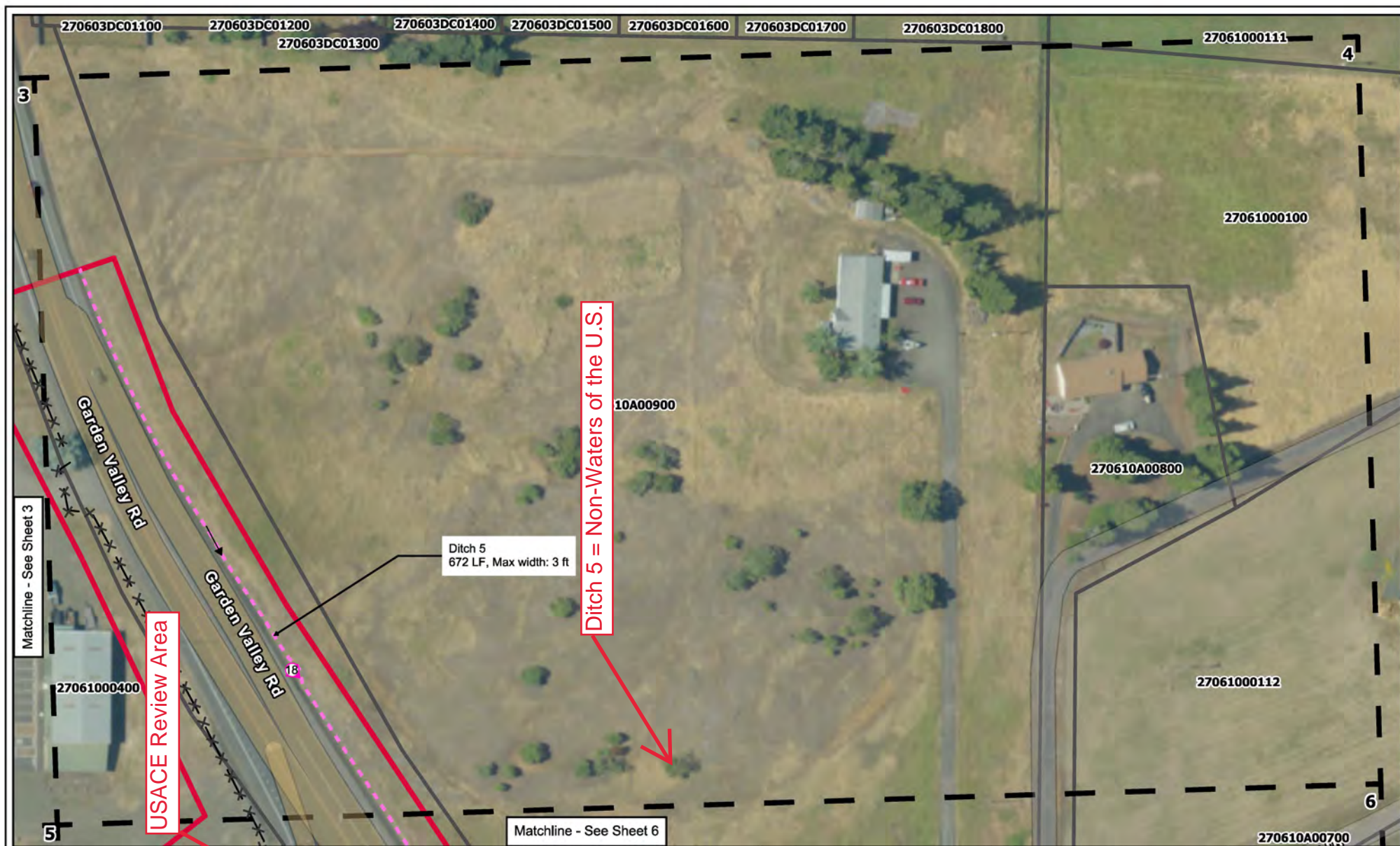
200 W. Oak Street, Suite 200, Portland, OR 97208  
Phone: 503.281.1111 | www.hhpr.com | Fax: 503.281.1176

**Legend**

- Photo
- Auger
- Sample
- OHWM
- GridInd
- Wetlands
- Flow Direction
- APT Boundaries
- Taxlots
- Ditch Centerline
- Culvert
- Fence

**Figure 6: Wetland Delineation Exhibit**  
**Garden Valley Road at Melrose Road Roundabout**  
 Roseburg, Oregon





Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework Implementation Team, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community

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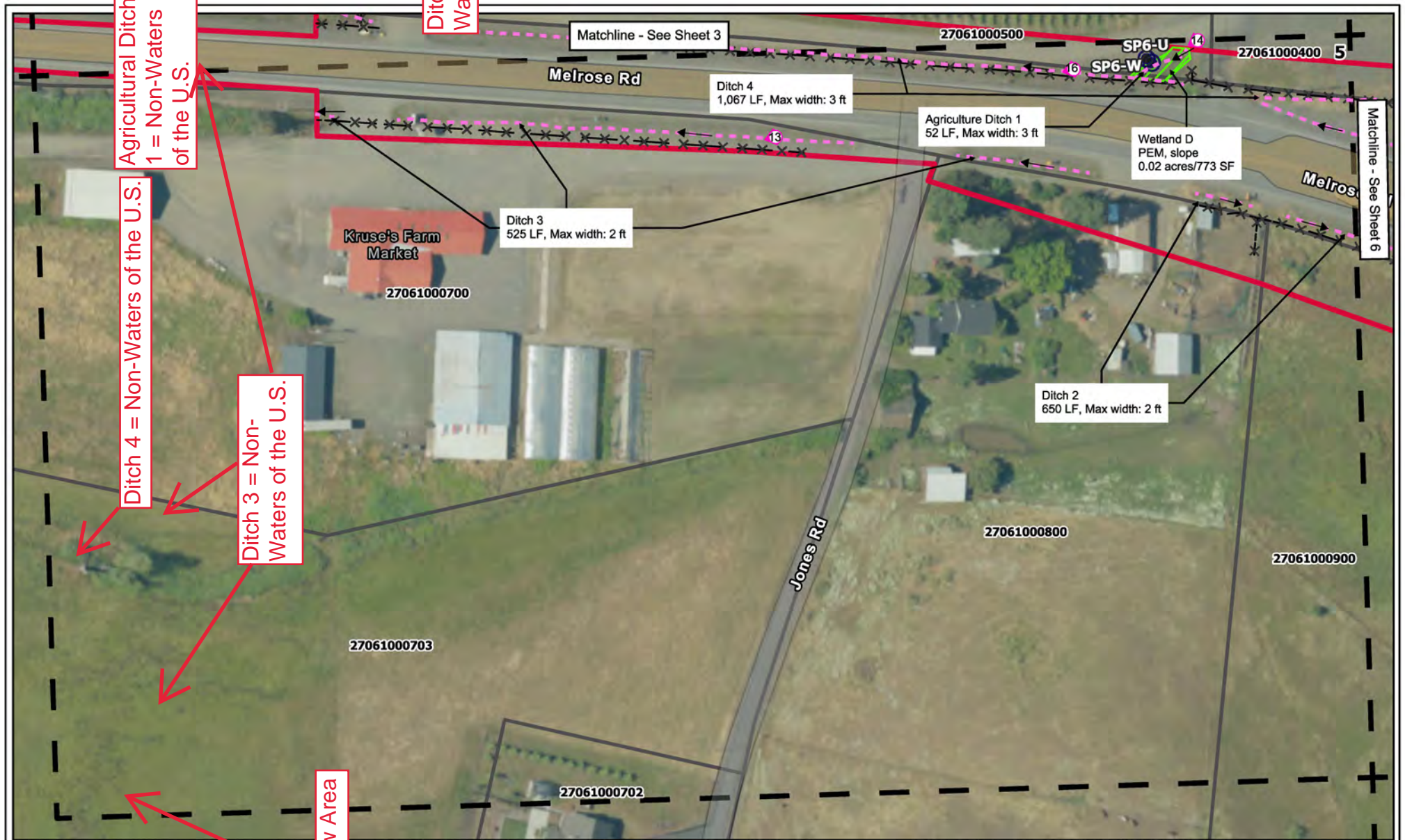
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- Legend**
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Roseburg, Oregon





Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework Implementation

Team, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community

Note: GNSS located using Eos Arrow 100 Plus to sub-meter accuracy by HHPR

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USACE Review Area

DESIGNED:	HHPR
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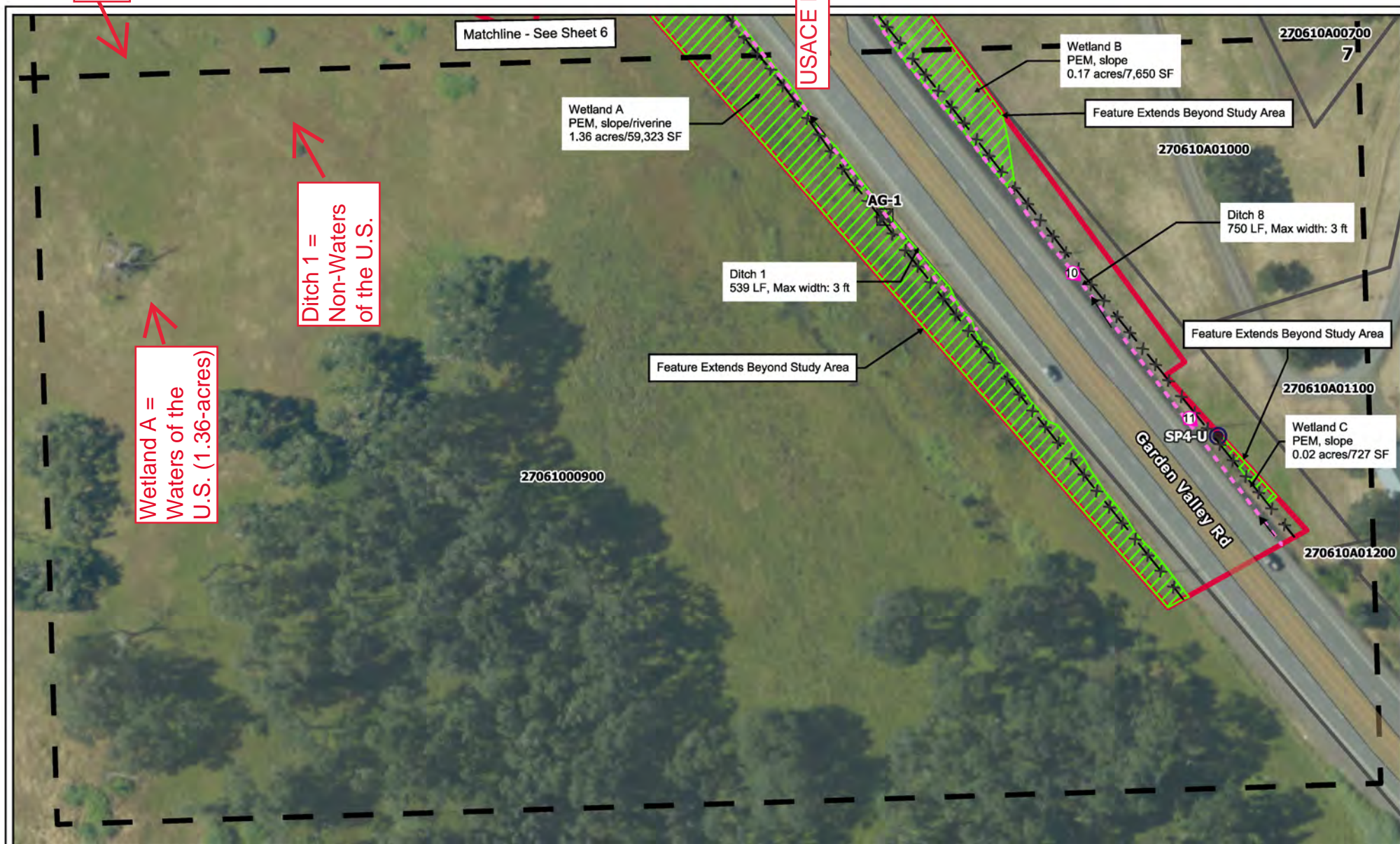
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Oregon Statewide Imagery Program (OSIP) - Oregon Imagery Framework Implementation Team, Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, (c) OpenStreetMap contributors, and the GIS User Community

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