

March 16, 2021

**Department of State Lands** 

775 Summer Street NE, Suite 100 Salem, OR 97301-1279 (503) 986-5200 FAX (503) 378-4844 www.oregon.gov/dsl State Land Board

> Kate Brown Governor

Shemia Fagan Secretary of State

Tobias Read State Treasurer

Newport Municipal Airport Attn: Lance Vanderbeck, Airport Director 135 SE 84<sup>th</sup> Street South Beach, OR 97366

Re: WD # 2020-0008 Approved (Correction)

Report for Newport Municipal Airport Obstruction

Includes Multiple Tax Lots (see attached maps)

Removal Lincoln County; T11S R11W S29 and T11S R11W S32

Dear Mr. Vanderbeck:

The concurrence letter dated March 8, 2021, for the wetland delineation report referenced above contained an error. The letter indicated that the seven ditches may be exempt per OAR 141-085-0515(10), but only as a preliminary jurisdictional determination due to lack of access. The letter has been amended to change the preliminary jurisdictional determination of the seven ditches as exempt, to a jurisdictional determination of exemption, as they were accessed in the field.

The Department of State Lands has reviewed the wetland delineation report prepared by Environmental Science Associates for 10 study areas identified on attached figures. Please note that only portions of tax lots are identified in these study areas (see the attached maps). Based upon the information presented in the report, and additional information submitted upon request, we concur with the wetland and waterway boundaries as mapped in revised Figure 5A through 5K of the report. Please replace all copies of the preliminary wetland maps with these final Department approved maps.

Within the 10 study areas, 37 wetlands (Wetland 2-16, 18-21, and 23-30), 10 waterways (Henderson Creek, Moore Creek, and Stream 1 through Stream 8), and 7 ditches (Ditch 1 through Ditch 7) were identified. Twenty-six of the 27 wetlands (Wetland 2-14, 16, 18-21, and 23-30, totaling approximately 7.29 acres) and the 12 waterways are subject to the permit requirements of the state Removal-Fill Law. Normally, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined). However, Henderson and Moore Creeks are essential salmonid streams; therefore, fill or removal of any amount of material below their OHWLs or within hydrologically connected wetlands (Wetland 11d, 11e, 21a, 21b, 30a, 30b. 30c, 30d, and 30e) may require a permit.

In addition, Wetland 15 is exempt per OAR 141-085-0515(7c) and is not subject to current state Removal-Fill requirements. The 7 ditches are exempt per OAR 141-085-0515(10). Furthermore, Study Area 6, as indicated on the attached maps, was not investigated in the field; therefore, the determination of upland for this area should be considered a preliminary jurisdictional determination.

This concurrence is for purposes of the state Removal-Fill Law only. We recommend that you attach a copy of this concurrence letter to any subsequent state permit application to speed application review. Federal or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from March 8, 2021 unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

The Department apologizes for any confusion this mistake may have caused and thank you again for having the site evaluated. Please phone me at 503-986-5262 if you have any questions.

Sincerely,

Th

Matt Unitis Jurisdiction Coordinator

Enclosures

ec: Luke Johnson, Environmental Science Associates City of Newport Planning Department Carrie Bond, Corps of Engineers Oregon Coastal Management Program Joy Vaughan, ODFW Carrie Landrum, DSL



March 8, 2021

**Department of State Lands** 

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Newport Municipal Airport Attn: Lance Vanderbeck, Airport Director 135 SE 84<sup>th</sup> Street South Beach, OR 97366

Re: WD # 2020-0008 **Approved** Report for Newport Municipal Airport Obstruction Removal Lincoln County; T11S R11W S29 and T11S R11W S32 Includes Multiple Tax Lots (see attached maps)

Dear Mr. Vanderbeck:

The Department of State Lands has reviewed the wetland delineation report prepared by Environmental Science Associates for 10 study areas identified on attached figures. Please note that only portions of tax lots are identified in these study areas (see the attached maps). Based upon the information presented in the report, and additional information submitted upon request, we concur with the wetland and waterway boundaries as mapped in revised Figure 5A through 5K of the report. Please replace all copies of the preliminary wetland maps with these final Department approved maps.

Within the 10 study areas, 37 wetlands (Wetland 2-16, 18-21, and 23-30), 10 waterways (Henderson Creek, Moore Creek, and Stream 1 through Stream 8), and 7 ditches (Ditch 1 through Ditch 7) were identified. Twenty-six of the 27 wetlands (Wetland 2-14, 16, 18-21, and 23-30, totaling approximately 7.29 acres) and the 12 waterways are subject to the permit requirements of the state Removal-Fill Law. Normally, a state permit is required for cumulative fill or annual excavation of 50 cubic yards or more in wetlands or below the ordinary high-water line (OHWL) of the waterway (or the 2-year recurrence interval flood elevation if OHWL cannot be determined). However, Henderson and Moore Creeks are essential salmonid streams; therefore, fill or removal of any amount of material below their OHWLs or within hydrologically connected wetlands (Wetland 11d, 11e, 21a, 21b, 30a, 30b. 30c, 30d, and 30e) may require a permit.

In addition, Wetland 15 is exempt per OAR 141-085-0515(7c) and is not subject to current state Removal-Fill requirements. The 7 ditches may be exempt per OAR 141-085-0515(10), but because the ditches are in an area indicated as having no right of entry, their determinations can only be considered preliminary jurisdictional determinations. Furthermore, Study Area 6, as indicated on the attached maps, was not investigated in the field; therefore, the determination of upland for this area should also be considered a preliminary jurisdictional determination.

This concurrence is for purposes of the state Removal-Fill Law only. We recommend that you attach a copy of this concurrence letter to any subsequent state permit application to speed application review. Federal or local permit requirements may apply as well. The U.S. Army Corps of Engineers will determine jurisdiction under the Clean Water Act, which may require submittal of a complete Wetland Delineation Report.

Please be advised that state law establishes a preference for avoidance of wetland impacts. Because measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size or development design, we recommend that you work with Department staff on appropriate site design before completing the city or county land use approval process.

This concurrence is based on information provided to the agency. The jurisdictional determination is valid for five years from the date of this letter unless new information necessitates a revision. Circumstances under which the Department may change a determination are found in OAR 141-090-0045 (available on our web site or upon request). In addition, laws enacted by the legislature and/or rules adopted by the Department may result in a change in jurisdiction; individuals and applicants are subject to the regulations that are in effect at the time of the removal-fill activity or complete permit application. The applicant, landowner, or agent may submit a request for reconsideration of this determination in writing within six months of the date of this letter.

Thank you for having the site evaluated. If you have any questions, please contact the Jurisdiction Coordinator for Lincoln County, Matt Unitis, at (503) 986-5262.

Sincerely,

Both Ryan

Peter Ryan, SPWS Aquatic Resource Specialist

Enclosures

ec: Luke Johnson, Environmental Science Associates City of Newport Planning Department Carrie Bond, Corps of Engineers Oregon Coastal Management Program Joy Vaughan, ODFW Carrie Landrum, DSL

### WETLAND DELINEATION / DETERMINATION REPORT COVER FORM

Fully completed and signed report cover forms and applicable fees are required before report review timelines are initiated by the Department of State Lands. Make checks payable to the Oregon Department of State Lands. To pay fees by credit card, go online at: <u>https://apps.oregon.gov/DSL/EPS/program?key=4</u>.

of the report cover form and report, minimum 300 dpi resolution Street NE, Suite 100, Salem, OR 97301-1279. A single PDF	nd report or include a hard copy with a digital version (single PDF file n) and submit to: <b>Oregon Department of State Lands, 775 Summer</b> of the completed cover from and report may be e-mailed to: files larger than 10 MB, e-mail DSL instructions on how to access the		
Contact and Authorization Information			
Applicant Owner Name, Firm and Address: Lance Vanderbeck, Airport Director Newport Municipal Airport 135 SE 84th Street South Beach, OR 97366	Business phone # (541) 867-7422 Mobile phone # (optional) E-mail: L.Vanderbeck@NewportOregon.gov		
Authorized Legal Agent, Name and Address (if different)	): Business phone # Mobile phone # (optional) E-mail:		
property for the purpose of confirming the information in the report			
Typed/Printed Name: Lawce. Vanderdark Date: 12-23-2019 Special instructions regarding s	Signature:		
Project and Site Information	ite access.		
Project Name: Newport Municipal Airport Obstruction Removal	Latitude: 44.579275° Longitude: -124.059759°		
	decimal degree - centroid of site or start & end points of linear project		
Proposed Use: Removal of obstructions (trees) from FAA regulated cone of	Tax Map #See attached table.Tax maps and lots organized by study area		
approach to Airport runways.	Tax Lot(s)		
	Tax Map #		
Project Street Address (or other descriptive location): 135 SE 84th Street	Tax Lot(s)		
	Township 11 S Range 11 S Section 29 QQ		
City: Newport/South Beach County: Lincoln	Use separate sheet for additional tax and location information Waterway: Henderson Creek River Mile: NA		
Wetland Delineation Information			
Wetland Consultant Name, Firm and Address:	Phone # (971) 295-5041		
Luke Johnson, Wetland Biologist Environmental Science Associates 819 SE Morrison Street, Suite 310 Portland, OR 97214	Mobile phone # (if applicable) E-mail: ljohnson@esassoc.com		
The information and conclusions on this form and in the attached Consultant Signature:	Date: 10/24/2019		
Primary Contact for report review and site access is 🛛 (			
	rea size: 521.25 acres Total Wetland Acreage: 7.2800		
Check Applicable Boxes Below			
<ul> <li>R-F permit application submitted</li> <li>Mitigation bank site</li> </ul>	✓ Fee payment submitted \$ 454 <sup>-</sup> \$466 ✓ Resubmittal of rejected report (\$100)		
EFSC/ODOE Proj. Mgr:	Request for Reissuance. See eligibility criteria. (no fee)		
Wetland restoration/enhancement project (not mitigation)	DSL # Expiration date		
Previous delineation/application on parcel If known, previous DSL #	LWI shows wetlands or waters on parcel Wetland ID code		
For O	ffice Use Only		
DSL Reviewer: Fee Paid Date:	// DSL WD # <u>2020-0008</u>		
Date Delineation Received: <u>1 / 2 / 20</u> Scanne	ed:   Electronic:  DSL App.#		

Study Area	Tax Map	OR Tax lot #	<b>Right of Entry</b>
	Tux Hup	2111.00\$11.00\$2900	rught of Entry
	11-11-29-00-01402-00	000001402	Yes
1		2111.00S11.00W2900	
	11-11-29-00-01401-00	000001401	Yes
		2111.00S11.00W2900	
	11-11-29-00-01402-00	000001402	Yes
		2111.00S11.00W2900	
	11-11-29-00-01401-00	000001401	Yes
2		2111.00S11.00W2900	
2	11-11-29-00-00400-00	000000400	Yes
		2111.00S11.00W2900	Yes
	11-11-29-00-00300-00	00000300	
		2111.00S11.00W2900	Yes
	11-11-29-00-01100-00	000001100	
		2111.00S11.00W2000	
	11-11-20-00-02700-00	000002700	Yes
		2111.00S11.00W2100	
	11-11-21-00-01600-00	000001600	Yes
		2111.00S11.00W2800	
	11-11-28-00-00700-00	00000700	Yes
3		2111.00S11.00W2900	
5	11-11-29-00-00100-00	00000100	Yes
	11 11 20 00 00500 00	2111.00S11.00W2900	V
	11-11-29-00-00500-00	000000500	Yes
	11-11-29-00-00600-00	2111.00S11.00W2900 000000600	Yes
	11-11-29-00-00000-00	2111.00S11.00W2900	res
	11-11-29-00-01000-00	2111.00811.00w2900 000001000	Yes
	11-11-29-00-01000-00	000001000	105
		2111 00011 000/2200	
l	11-11-32-00-00200-00	2111.00S11.00W3200 000000200	Yes
	11-11-52-00-00200-00	2111.00S11.00W3200	1 05
	11-11-32-00-01602-00	000001602	Yes
	11 11 52 00 01002-00	2111.00S11.00W3200	103
	11-11-32-00-01601-00	000001601	Yes
А			
4		2111.00S11.00W32CC	
	11-11-32-CC-0ROAD-00	00000ROAD	Yes
		2111.00S11.00W32CC	X.
	11-11-32-CC-00800-00	00000800	Yes

Study			
Area	Tax Map	OR Tax lot #	<b>Right of Entry</b>
	11-11-32-CC-01601-00	2111.00S11.00W32CC 000001601	Yes
	11-11-32-00-01001-00	00001001	1 05
		2111.00S11.00W32CC	
	11-11-32-CC-01400-00	000001400	Yes
		2111.00S11.00W32CC	
	11-11-32-CC-01300-00	000001300	Yes
		2111.00S11.00W32CC	105
	11-11-32-CC-01201-00	000001201	Yes
		2111.00S11.00W32CC	
	11-11-32-CC-01101-00	000001101	Yes
		2112.00S11.00W0500	
	12-11-05-00-00800-00	00000800	Yes
		2112.00S11.00W0500	
	12-11-05-00-0ROAD-00	00000ROAD	Yes
		2112.00S11.00W0500	
4	12-11-05-00-00803-00	00000803	Yes
-		2112.00S11.00W0500	
	12-11-05-00-00801-00	000000801	Yes
	12-11-06-00-00600-00	2112.00S11.00W0600 000000600	Yes
	12-11-00-00-0000-00	2112.00S11.00W0600	105
	12-11-06-00-0ROAD-00	00000ROAD	Yes
		2112.00S11.00W0600	
	12-11-06-00-00300-00	D00100300	Yes
	12-11-06-00-00200-00	2112.00S11.00W0600 D00100200	Yes
	12-11-00-00-00200-00	2112.00S11.00W0600	105
	12-11-06-00-00100-00	D00100100	Yes
		2111.00S11.00W3200	
	11-11-32-00-01604-00	000001604	Yes
		2111.00S11.00W32CC	
	11-11-32-CC-01200-00	000001200	Yes
		2112.00S11.00W0500	
	12-11-05-00-00600-00	00000600	Yes

Study Area	Tax Map	OR Tax lot #	<b>Right of Entry</b>
4			
5	12-11-05-00-00800-00	2112.00S11.00W0500 000000800	Yes
6	12-11-06-00-01600-00	2112.00S11.00W0600 000001600	Yes (But not accessed)
7	12-11-05-00-00803-00	2112.00S11.00W0500 000000803	Yes
8	12-11-05-00-00801-00	2112.00S11.00W0500 000000801	Yes
	12-11-05-00-00802-00	2112.00S11.00W0500 000000802	Yes
	12-11-05-CB-00300-00	2112.00S11.00W05CB 000000300	Yes
	12-11-05-CB-00600-00	2112.00S11.00W05CB 000000600	Yes
9	12-11-05-CB-00700-00	2112.00S11.00W05CB 000000700	Yes
	12-11-05-CB-00800-00	2112.00S11.00W05CB 000000800	Yes
	12-11-05-CB-0ROAD-00	2112.00S11.00W05CB 00000ROAD	Yes
	12-11-05-CB-00200-00	2112.00S11.00W05CB 000000200	Yes
	12-11-00-00-03400-00	2112.00S11.00W0000 000003400	Yes
	12-11-00-00-03401-00	2112.00S11.00W0000 000003401	Yes
	12-11-00-00-03600-00	2112.00S11.00W0000 000003600	Yes
10	12-11-05-00-00803-00	2112.00S11.00W0500 000000803	Yes
	12-11-05-00-00802-00	2112.00S11.00W0500 000000802	Yes
	12-11-05-00-01000-00	2112.00S11.00W0500 000001000	Yes
	12-11-05-00-00900-00	2112.00S11.00W0500 000000900	Yes

## Table 4

## WETLANDS

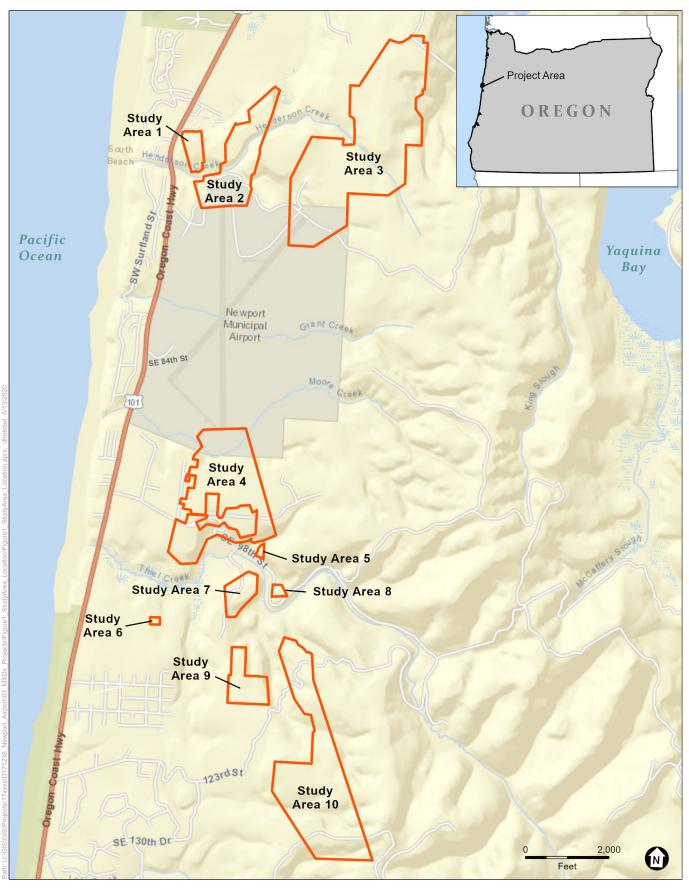
Study Area	Name	Acres	OHW Width (ft)	ESH	Jurisdictional
2	Wetland 2	0.02	N/A	No	Yes
10	Wetland 3	0.07	N/A	No	Yes
3	Wetland 4	0.03	N/A	No	Yes
3	Wetland 5	0.06	N/A	No	Yes
3	Wetland 6	0.04	N/A	No	Yes
3	Wetland 7	0.08	N/A	No	Yes
3	Wetland 8	0.14	N/A	No	Yes
2	Wetland 9	0.04	N/A	No	Yes
2	Wetland 10	0.2	N/A	No	Yes
1	Wetland 11a	0.39	N/A	No	Yes
1	Wetland 11b	0.02	N/A	No	Yes
2	Wetland 11c	0.03	N/A	No	Yes
2	Wetland 11d	0.07	N/A	Yes	Yes
2	Wetland 11e	1.99	N/A	Yes	Yes
2	Wetland 12	0.16	N/A	No	Yes
2	Wetland 13	0.02	N/A	No	Yes
3	Wetland 14	0.24	N/A	No	Yes
3	Wetland 15	0.5	N/A	No	No
3	Wetland 16	0.04	N/A	No	Yes
3	Wetland 18	0.06	N/A	No	Yes
3	Wetland 19	0.22	N/A	No	Yes
3	Wetland 20	0.02	N/A	No	Yes
3	Wetland 21a	0.28	N/A	Yes	Yes
3	Wetland 21b	0.2	N/A	Yes	Yes
3	Wetland 23	0.04	N/A	No	Yes
3	Wetland 24	0.14	N/A	No	Yes
3	Wetland 25a	0.16	N/A	No	Yes
3	Wetland 25b	0.17	N/A	No	Yes
3	Wetland 26	0.02	N/A	No	Yes
4	Wetland 27	0.42	N/A	No	Yes
4	Wetland 28	0.15	N/A	No	Yes
4	Wetland 29	0.89	N/A	No	Yes
4	Wetland 30a	0.13	N/A	Yes	Yes
4	Wetland 30b	0.09	N/A	Yes	Yes
4	Wetland 30c	0.07	N/A	Yes	Yes
4	Wetland 30d	0.04	N/A	Yes	Yes
4	Wetland 30e	0.05	N/A	Yes	Yes
	TOTAL (acres)	7.29			

### WATERS

Study Area	Name	Acres	OHW Width (ft)	ESH	Jurisdictional
3, 2	Henderson Creek	N/A	10 ft	Yes	Yes
4	Moore Creek	N/A	18 ft	Yes	Yes
2	Stream 1 (Study Area 2)	N/A	6 ft	No	Yes
3	Stream 1 (Study Area 3)	N/A	78 ft (12 avg)	No	Yes
3	Stream 2	N/A	3 ft	No	Yes
3	Stream 3	N/A	2 ft	No	Yes
3	Stream 4	N/A	3 ft	No	Yes
4	Stream 5	N/A	4 ft	No	Yes
4	Stream 6	N/A	2 ft	No	Yes
4	Stream 7	N/A	1 ft	No	Yes
3	Stream 8	N/A	4 ft	No	Yes

### DITCHES

Study Area	Name	Acres	OHW Width (ft)	ESH	Jurisdictional
2	Ditch 1	N/A	N/A	N/A	No
1	Ditch 2	N/A	N/A	N/A	No
2	Ditch 3	N/A	N/A	N/A	No
3	Ditch 4	N/A	N/A	N/A	No
3	Ditch 5	N/A	N/A	N/A	No
3	Ditch 6	N/A	N/A	N/A	No
10	Ditch 7	N/A	N/A	N/A	No

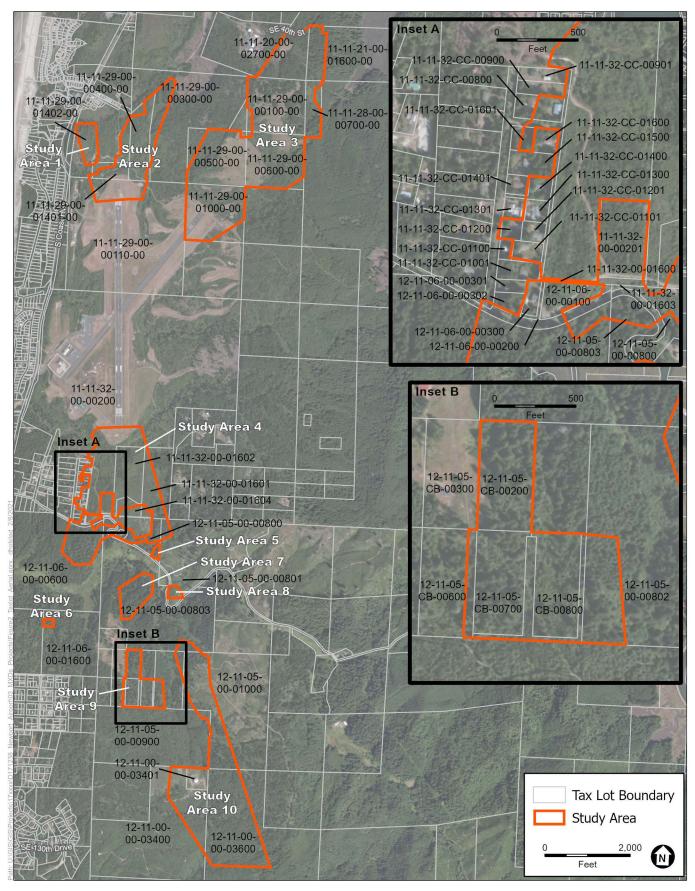


SOURCE: ESA, 2019; ESRI, 2017

D171238.00 Newport Airport EA

Figure 1 Study Area Location Map Lincoln County, OR



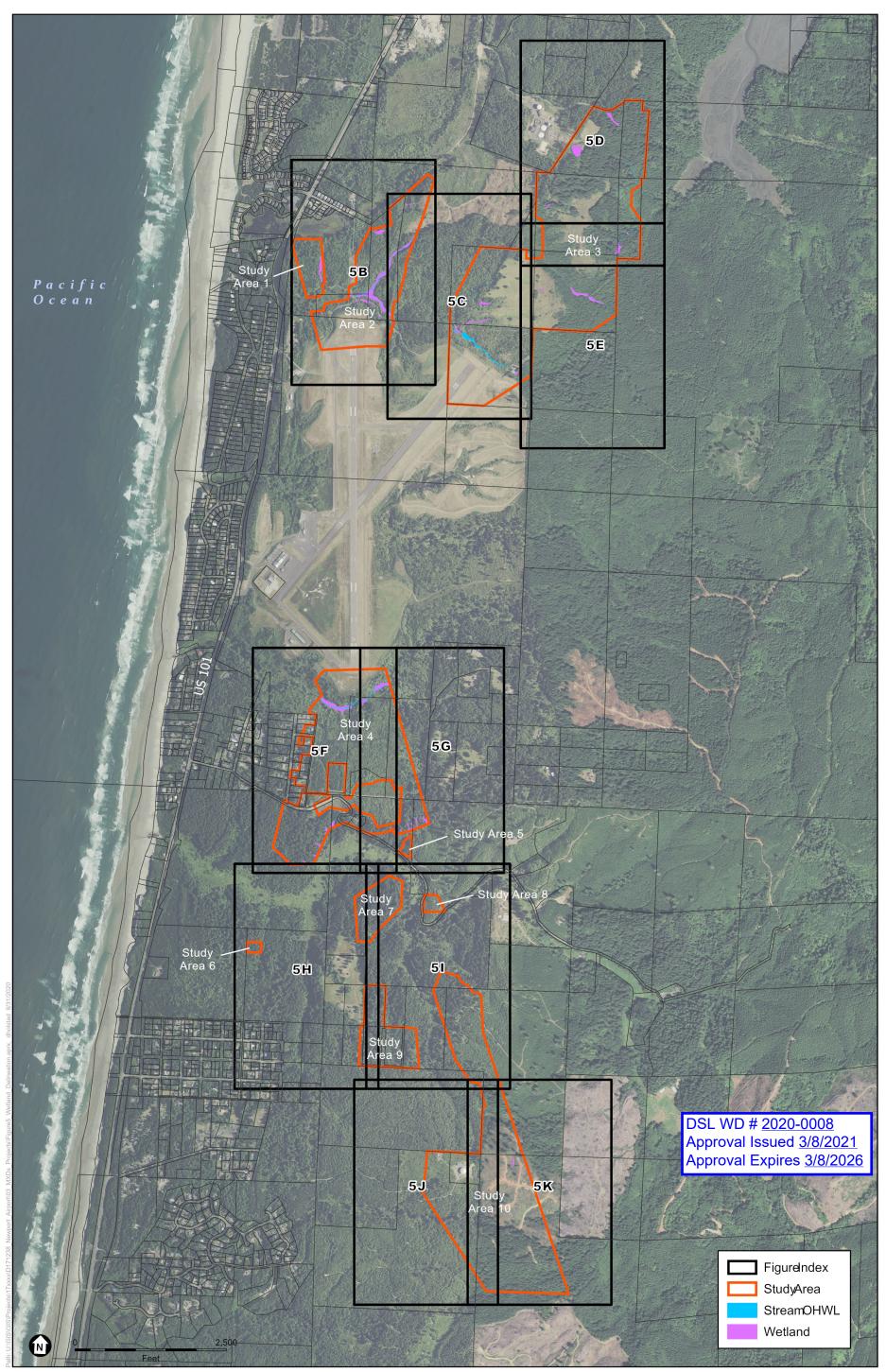


SOURCE: ESA, 2019; ESRI, 2017; Open Street Maps, 2016; Lincoln County, 2017

ESA

D171238.00 Newport Airport EA

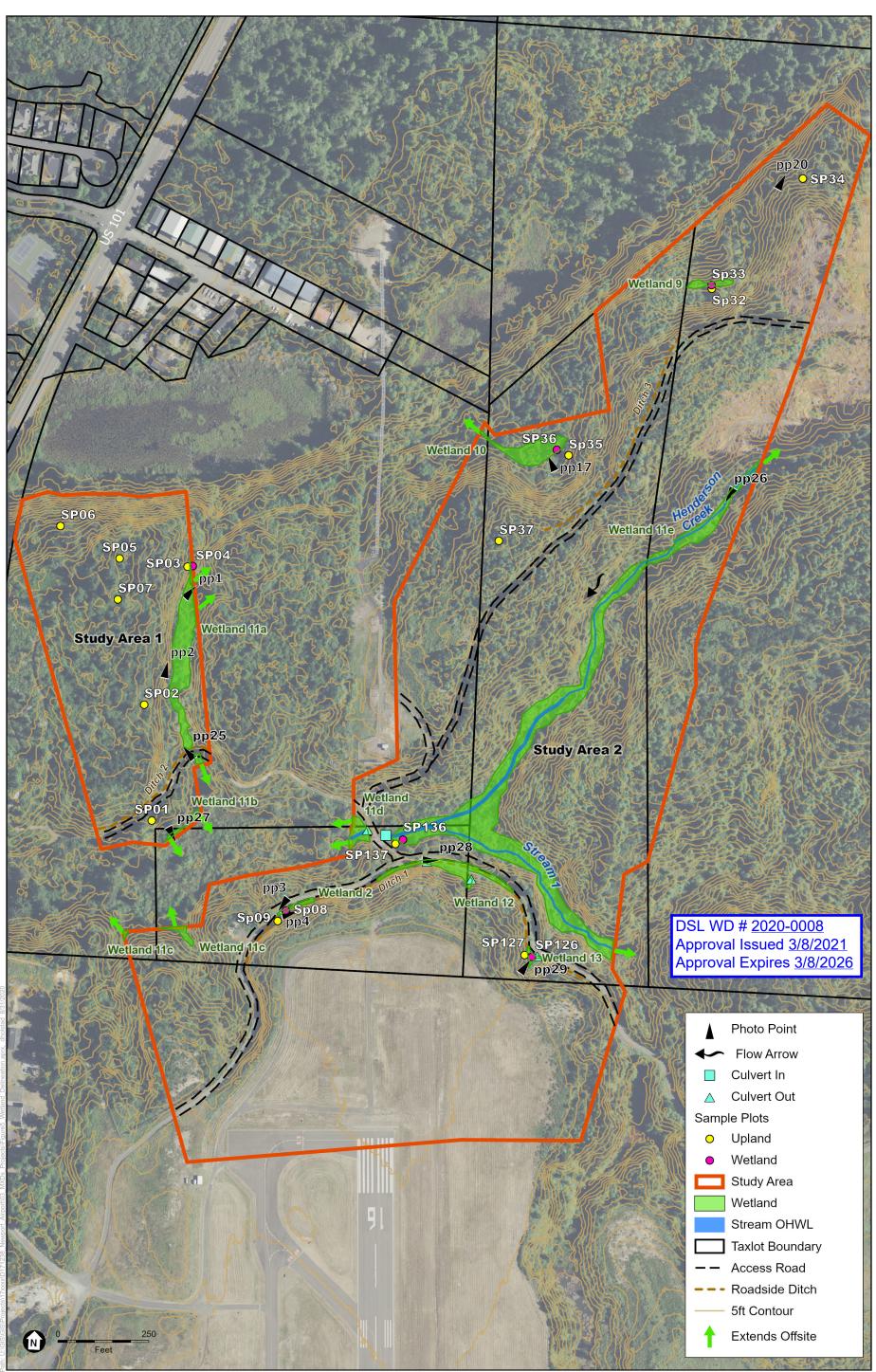
Figure 2 Tax Lot and Aerial Map Lincoln County, OR



; ESA, 2019; StreamNet, 2019; City of Newport, 2019.

D171238.00 Newport Airport EA

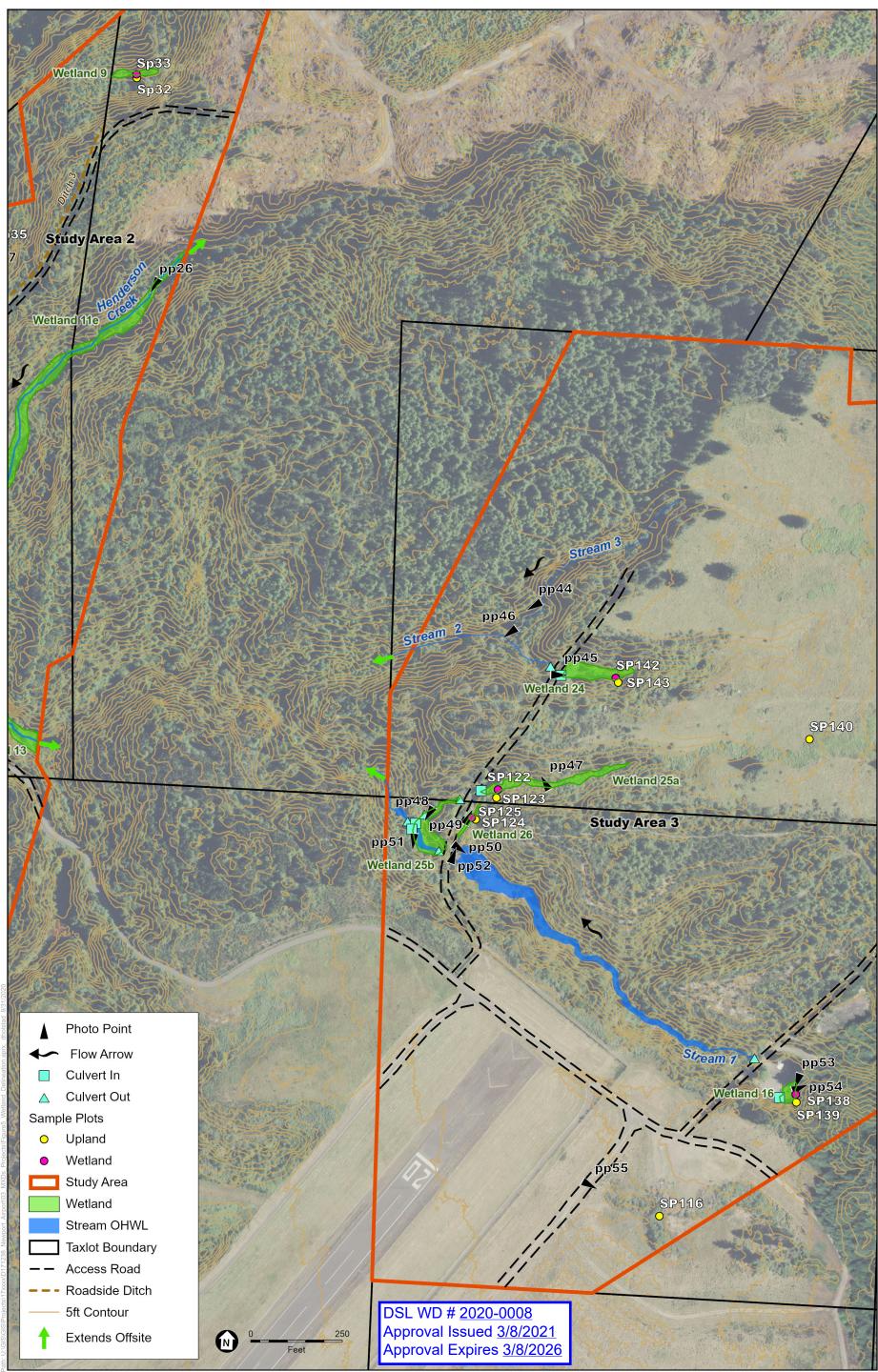
**Figure 5A** Wetland Delineation Map Lincoln County, OR



OSIP\_2018\OSIP\_2018\_WM: ; ESA, 2019; DOGAMI, 2012.

D171238.00 Newport Airport EA

**Figure 5B** Wetland Delineation Overview Map Lincoln County, OR

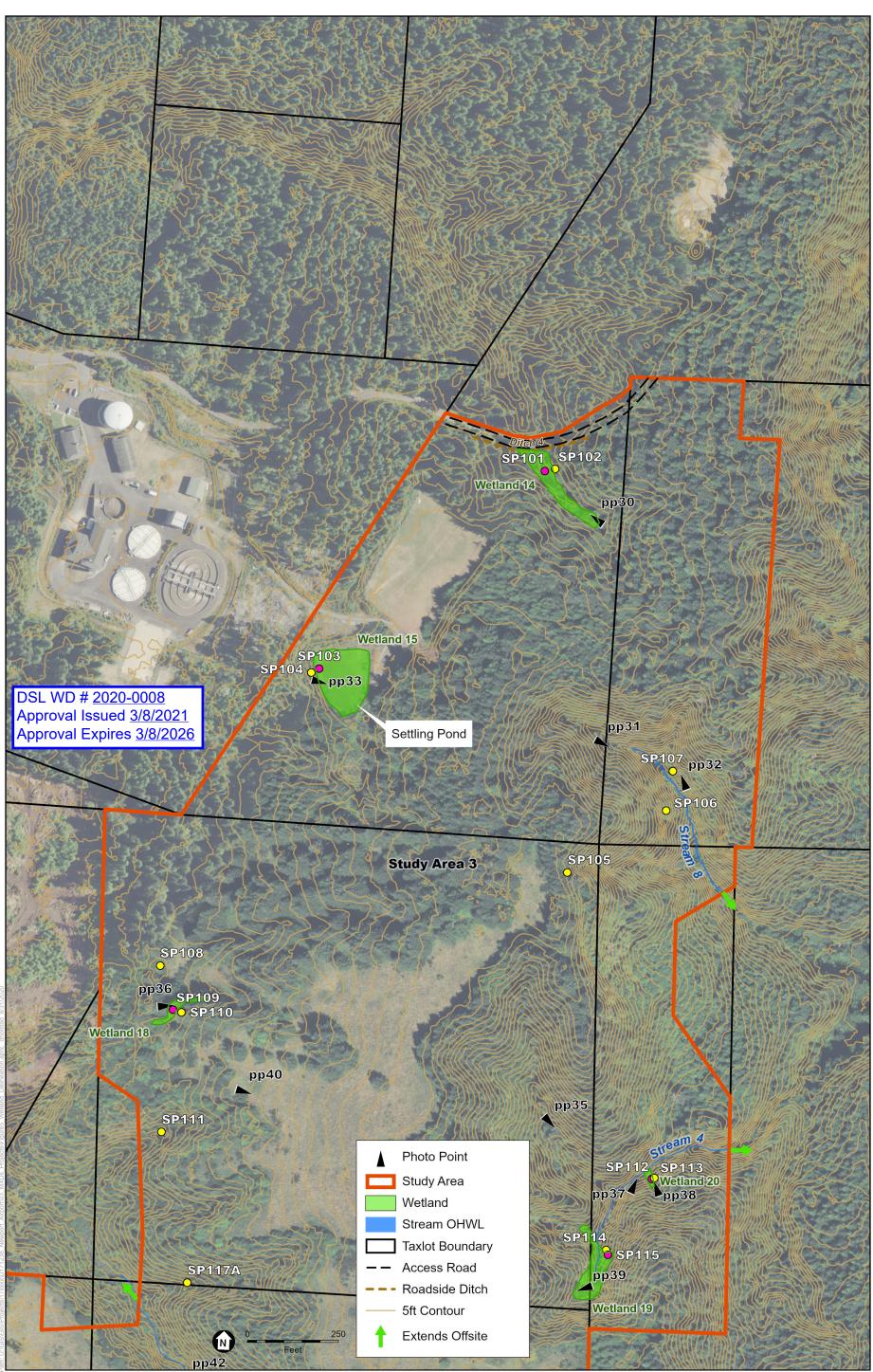


ESA

D171238.00 Newport Airport EA

Accuracy Statement: Sample Points and water resource boundaries were mapped using a Bad Elf GNSS bluetooth receiver and a tablet data collector capable of 1m positional accuracy.

**Figure 5C** Wetland Delineation Overview Map Lincoln County, OR



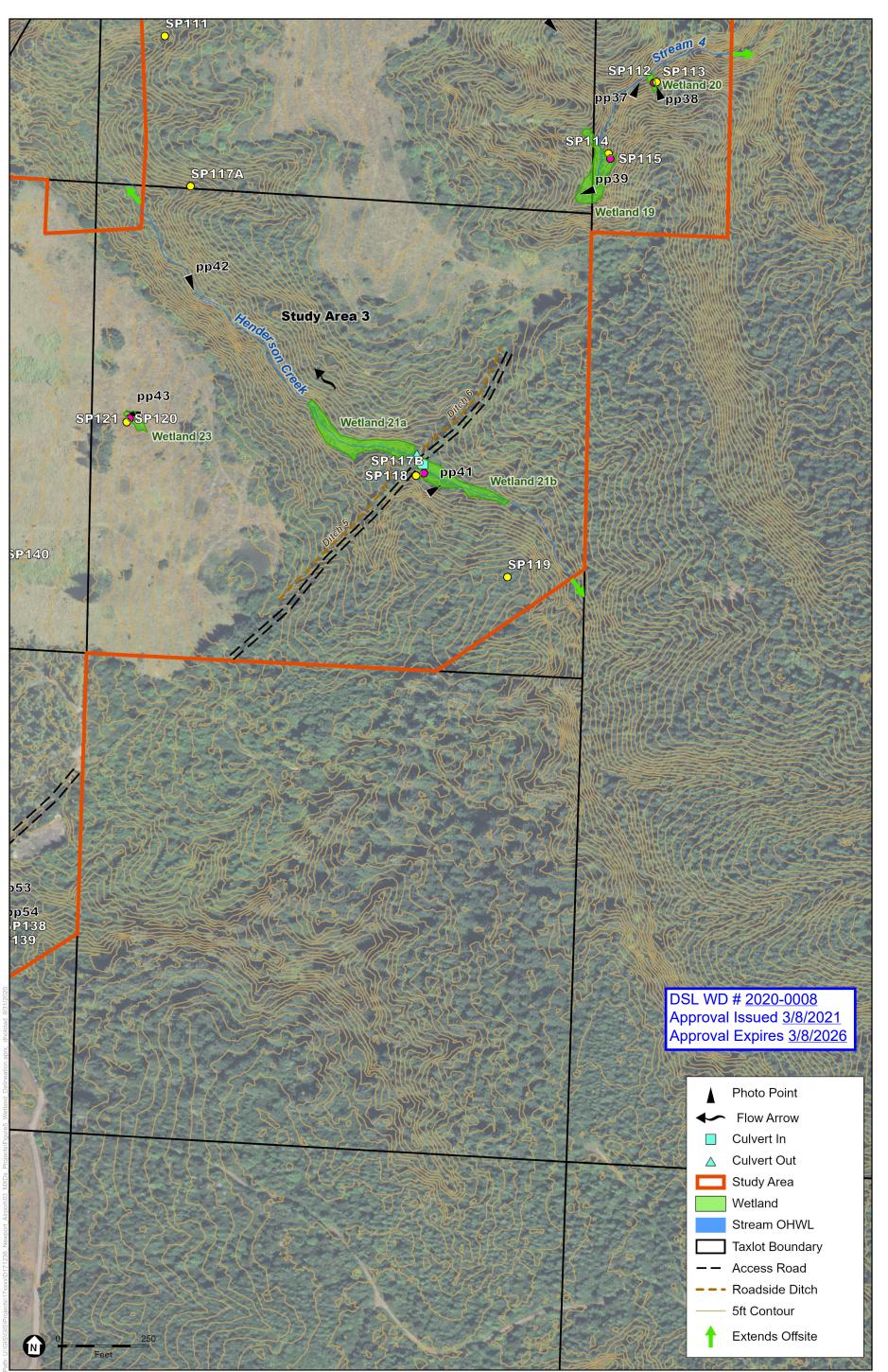
OSIP\_2018\OSIP\_2018\_WM: ; ESA, 2019; DOGAMI, 2012.

ESA

D171238.00 Newport Airport EA

#### Accuracy Statement: Sample Points and water resource boundaries were mapped using a Bad Elf GNSS bluetooth receiver and a tablet data collector capable of 1m positional accuracy.

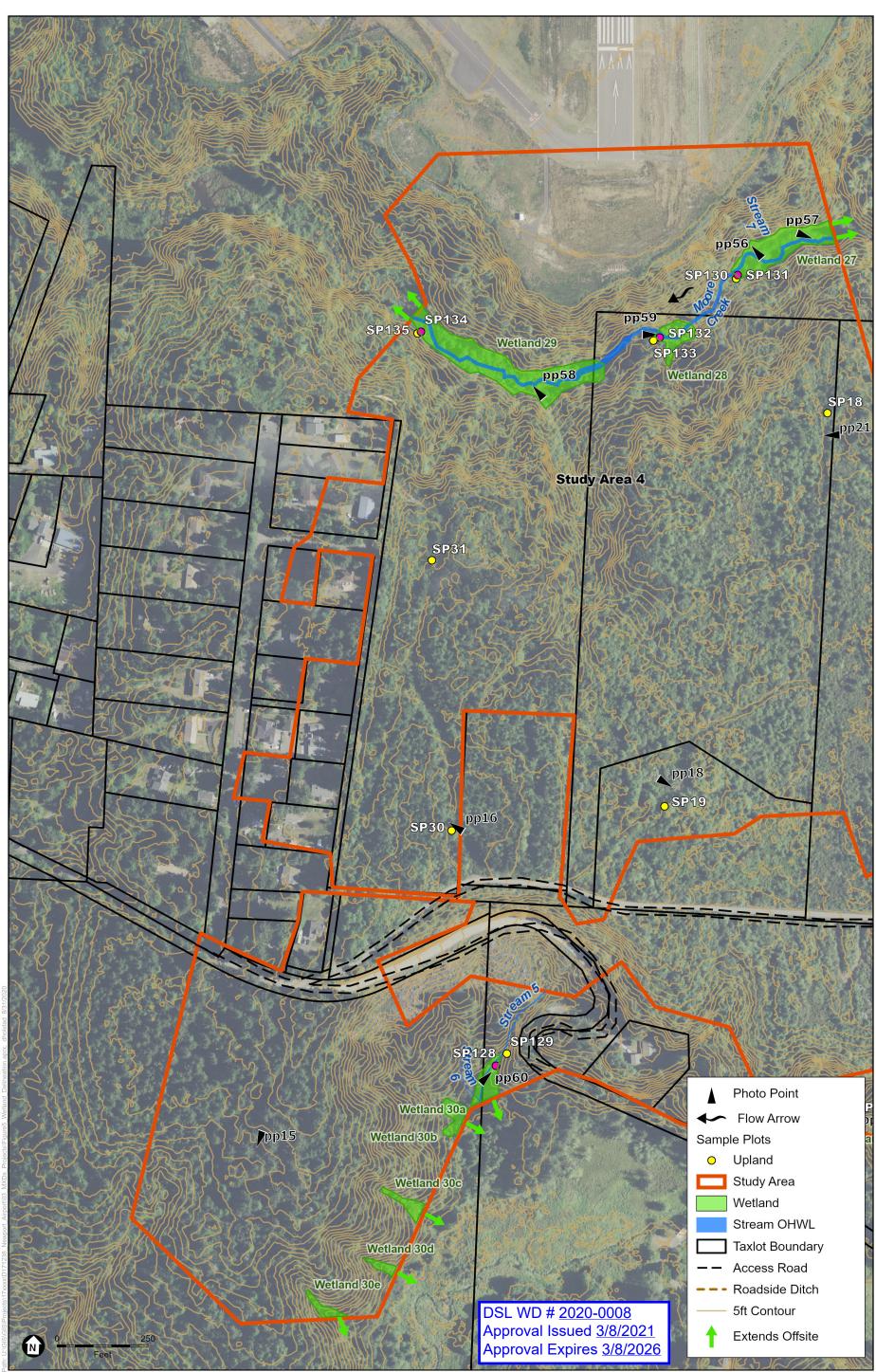
**Figure 5D** Wetland Delineation Overview Map Lincoln County, OR



OSIP\_2018\OSIP\_2018\_WM: ; ESA, 2019; DOGAMI, 2012.

D171238.00 Newport Airport EA

**Figure 5E** Wetland Delineation Overview Map Lincoln County, OR

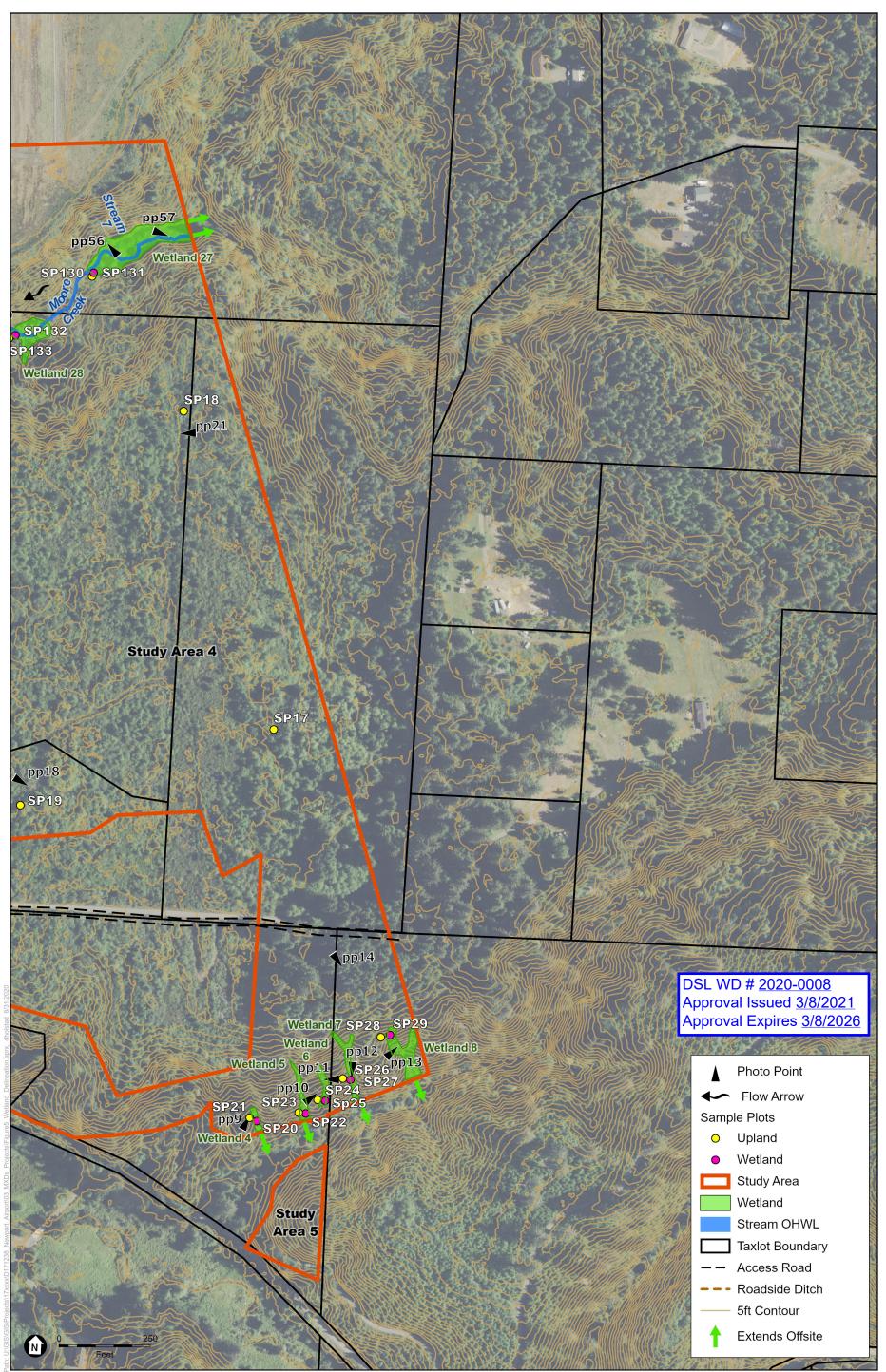


OSIP\_2018\OSIP\_2018\_WM: ; ESA, 2019; DOGAMI, 2012.

D171238.00 Newport Airport EA

Accuracy Statement: Sample Points and water resource boundaries were mapped using a Bad Elf GNSS bluetooth receiver and a tablet data collector capable of 1m positional accuracy.

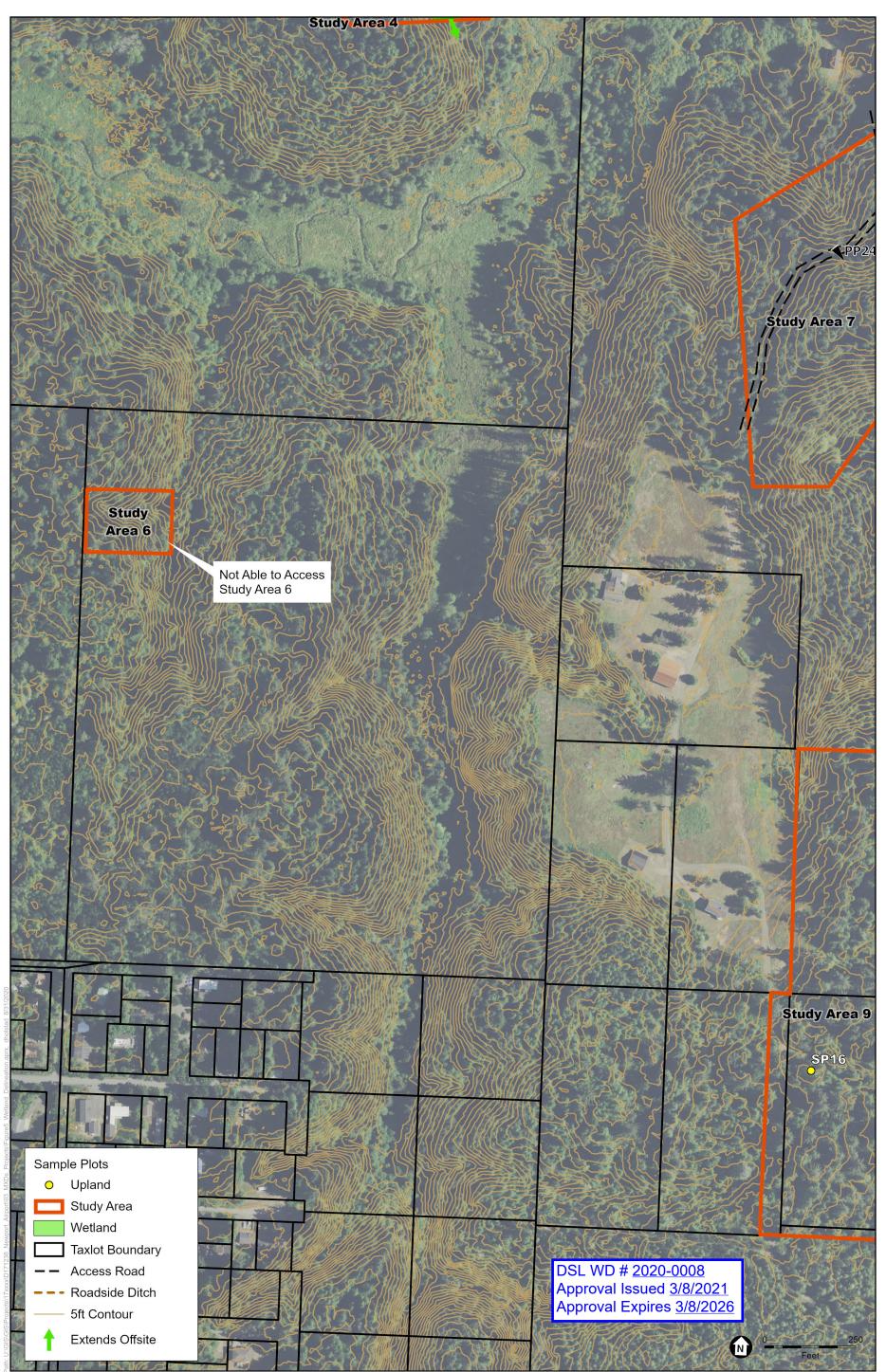
**Figure 5F** Wetland Delineation Overview Map Lincoln County, OR



OSIP\_2018\OSIP\_2018\_WM: ; ESA, 2019; DOGAMI, 2012.

D171238.00 Newport Airport EA

**Figure 5G** Wetland Delineation Overview Map Lincoln County, OR

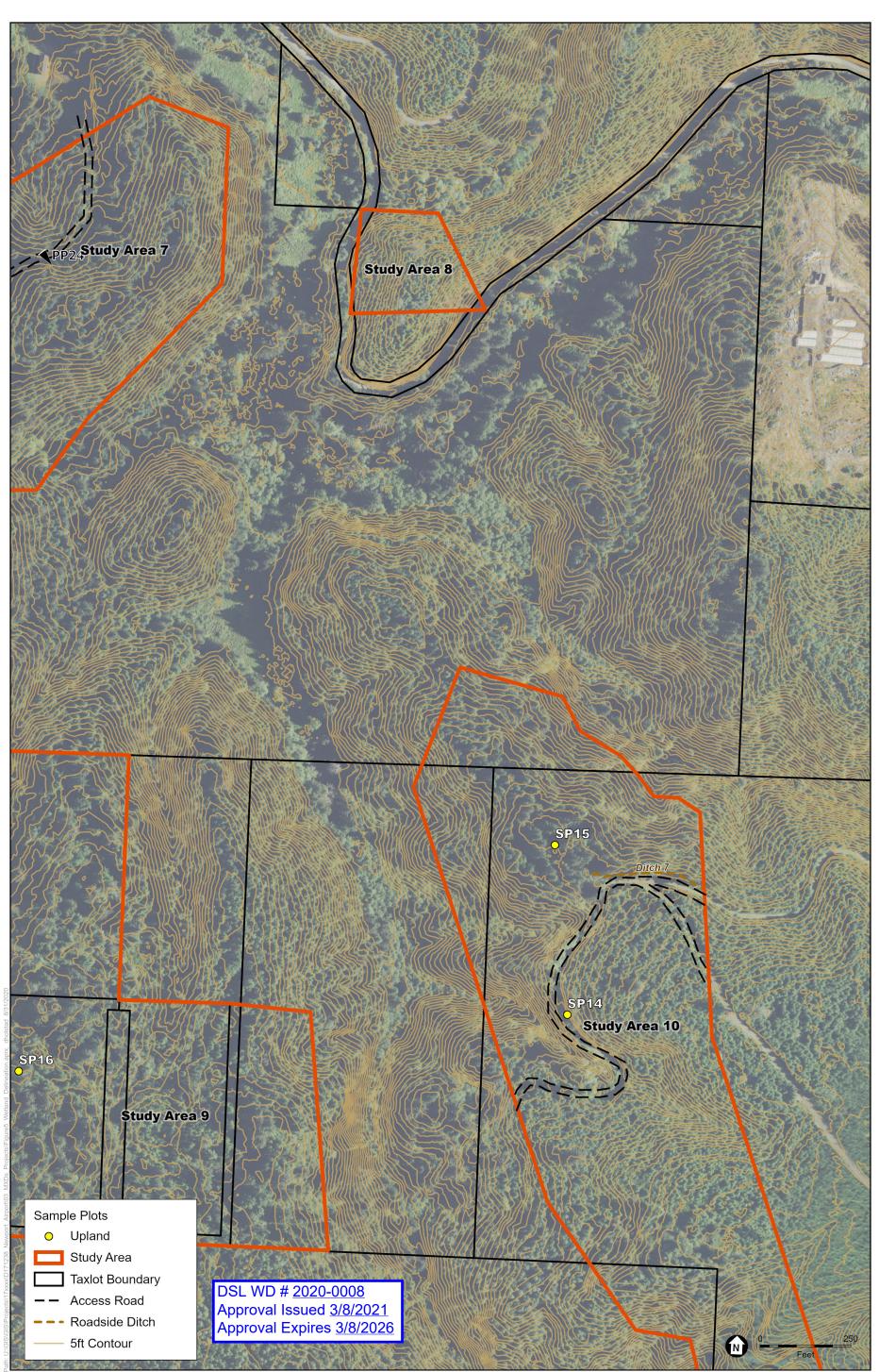


ESA

D171238.00 Newport Airport EA

Accuracy Statement: Sample Points and water resource boundaries were mapped using a Bad Elf GNSS bluetooth receiver and a tablet data collector capable of 1m positional accuracy.

**Figure 5H** Wetland Delineation Overview Map Lincoln County, OR

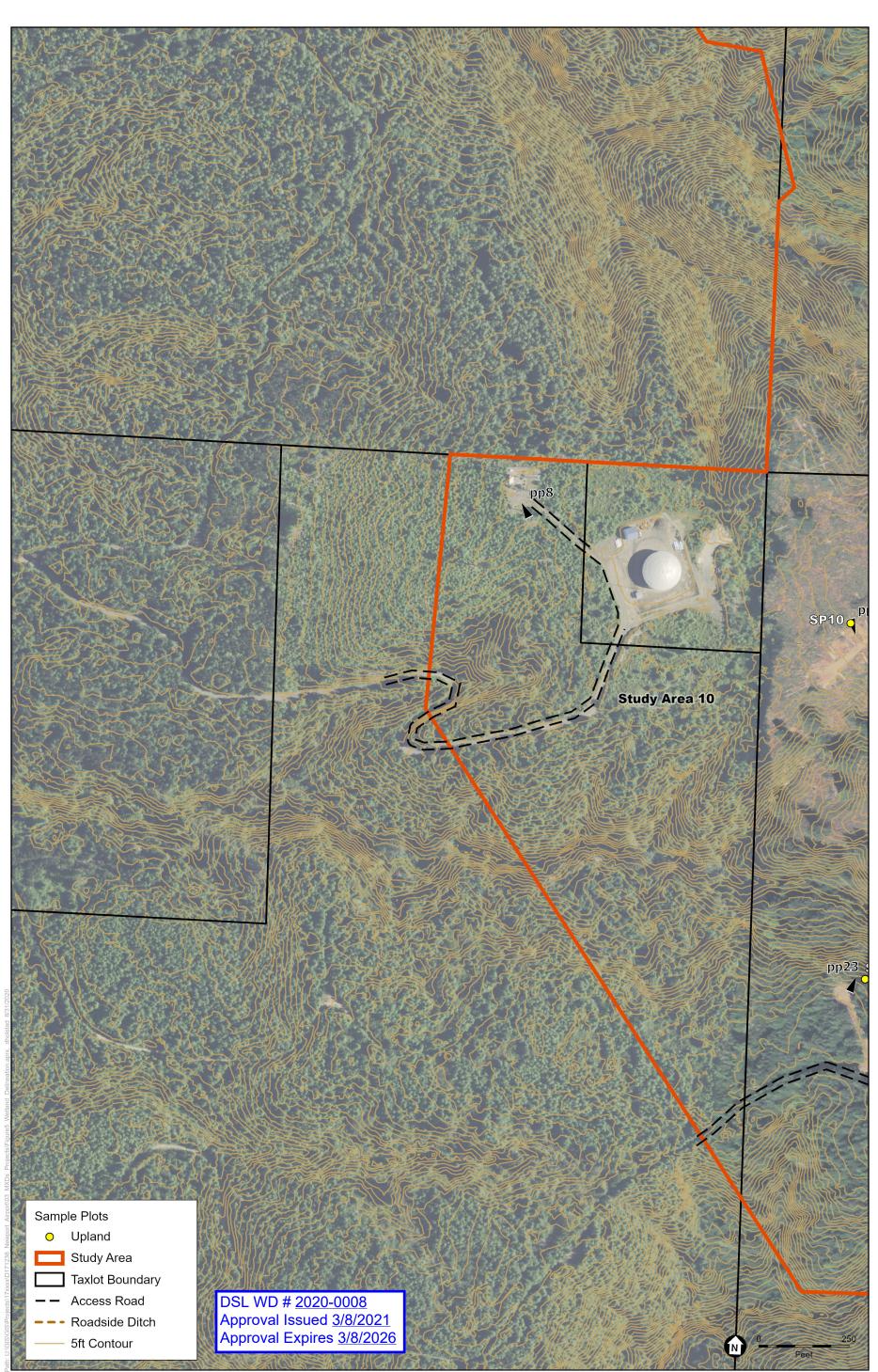


ESA

D171238.00 Newport Airport EA

Accuracy Statement: Sample Points and water resource boundaries were mapped using a Bad Elf GNSS bluetooth receiver and a tablet data collector capable of 1m positional accuracy.

**Figure 5I** Wetland Delineation Overview Map Lincoln County, OR

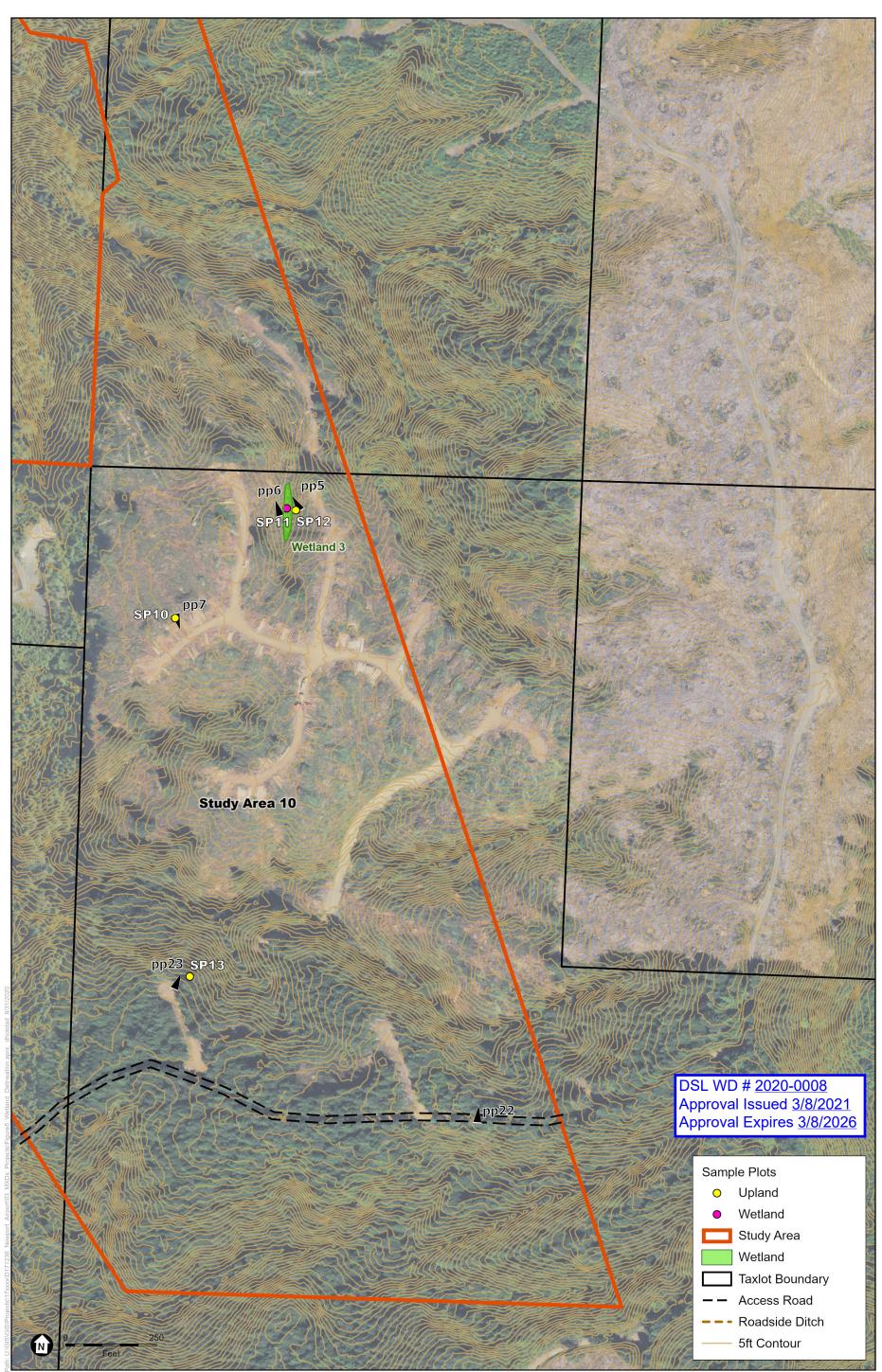


D171238.00 Newport Airport EA

Accuracy Statement: Sample Points and water resource boundaries were mapped using a Bad Elf GNSS bluetooth receiver and a tablet data collector capable of 1m positional accuracy.

**Figure 5J** Wetland Delineation Overview Map Lincoln County, OR

ESA 



OSIP\_2018\OSIP\_2018\_WM: ; ESA, 2019; DOGAMI, 2012.

D171238.00 Newport Airport EA

**Figure 5K** Wetland Delineation Overview Map Lincoln County, OR