

INTRODUCTION

This Fact Sheet addresses:

1. Access to and egress from Onondaga Creek's streambed and stream banks
2. Navigation within the stream

Gaining access to Onondaga Creek and its tributaries is important for a variety of reasons. People use the creek for fishing, hunting, wading, canoeing or kayaking, gathering of medicinal and food plants, bird watching, and research. At present, creek access is difficult for a variety of reasons. In the southern part of the watershed, including the creek headwaters, West Branch, and Tully Valley, land is largely privately owned, so permission must typically be obtained from the landowner. Road crossings afford some degree of access in these parts of the watershed. The creek flows through the Onondaga Nation, where permission must be obtained from the Council of Chiefs. Much of the remainder of the creek, from Nedrow to the outlet at Onondaga Lake, while publicly owned, is physically fenced off.

Once access is gained to the creek, riparian law generally allows one to navigate up- and down-stream, for example in a kayak, regardless of land ownership on either side. However, there are legal caveats (discussed below). Also, this does not extend into the Onondaga Nation, which is a sovereign territory.

FINDINGS

Access to and from the creek

Access to the creek is legal:

- via a public access point,
- by permission of the riparian landowner, or
- through land which is "unimproved and apparently unused" and which is neither fenced nor posted against trespass.¹

Figure 1 depicts the entire watershed, showing all properties within 300 feet of Onondaga Creek and the larger tributaries.² This map also serves as a key to detail

maps (Figures 2A-2D; 3A; and 3B) described below. Since properties can change hands at any time, and databases are subject to data entry and other errors, all maps should be regarded as subject to change.

Properties are classified according to assessor codes in a New York State parcel database (NYS ORPS, 2003 and 2006). For the purposes of this Fact Sheet, these properties have been divided into three major categories, with subcategories as noted:

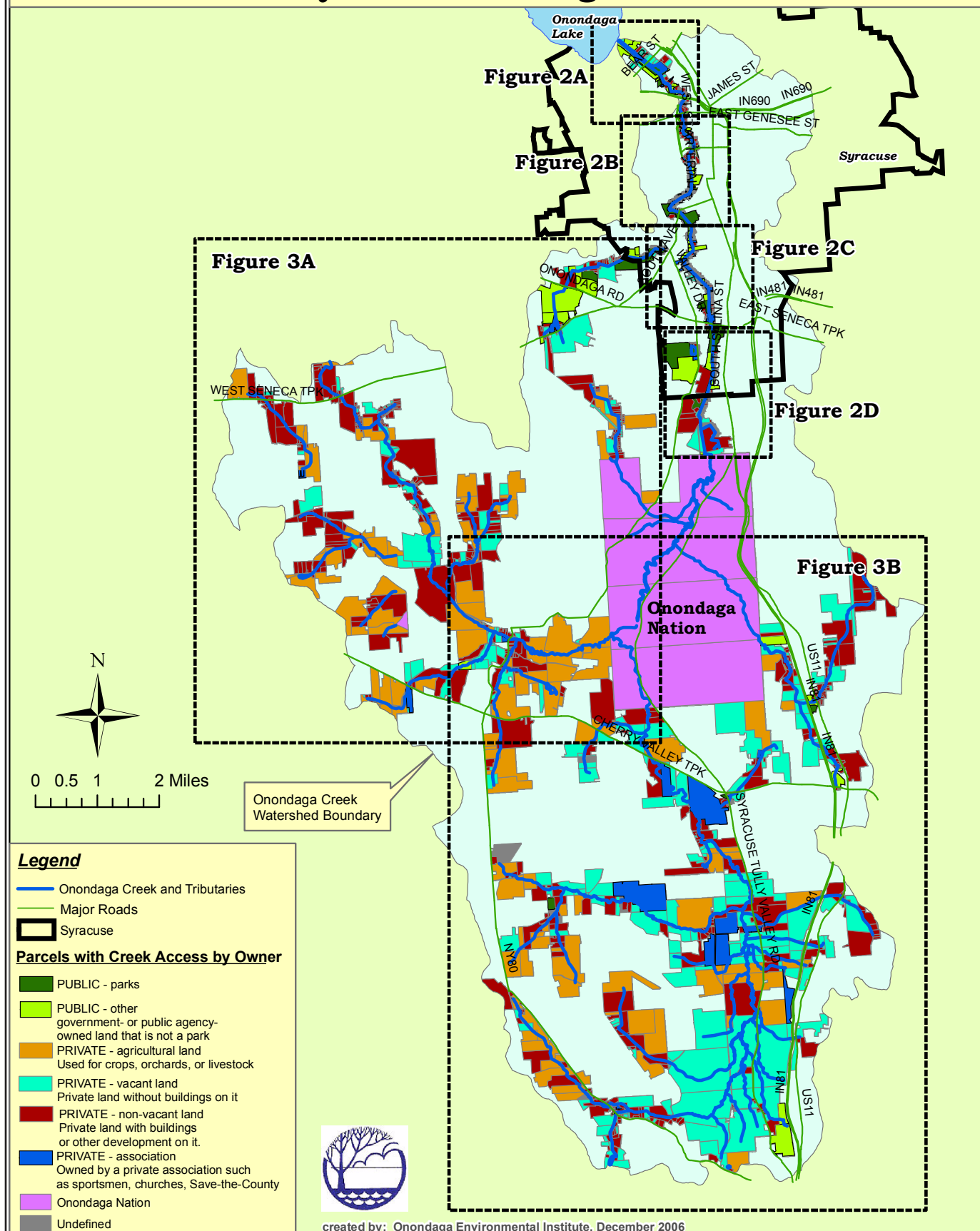
- Onondaga Nation
- Private
 - **vacant land:** private property without buildings or other development
 - **non-vacant land:** private property with buildings or other development
 - **agricultural land:** private property used for crops, orchards, or livestock
 - **private association:** property owned by a private association, such as sportsmen's clubs, churches, and conservation groups (i.e. Save-the-County, Inc.)
- Public
 - **parks**
 - **other:** non-park land owned by any unit of government (e.g. city of Syracuse, Onondaga County), governmental agency (e.g. Syracuse Urban Renewal Agency), public school, or public benefit corporation (e.g. Industrial Development Agencies)

Of these, only public parks, some nature preserves and public roads are openly accessible to the general public. Save the County's (STC) nature preserves that are open to the public are listed in Table 1. Two STC properties provide waterway access. However, other properties, such as public and private vacant land may offer opportunities for access to the creek if they are not fenced or posted. Access to the creek and its tributaries is often available at public road bridge crossings as well, except where physical barriers (such as fences or great height) exist.

¹ OEI does not endorse this approach, due to possible legal complications. Obtaining permission from the landowner is recommended.

² Property coordinates were obtained from Onondaga County Water Authority in 2006.

**Figure 1. Location Key for Detail Maps
Accessibility in the Onondaga Creek Watershed**



Urban Segments of Onondaga Creek

The Onondaga Creek corridor through Syracuse and Nedrow is shown in detail in Figures 2A-2D:

- Fig. 2A Inner Harbor to Armory Square
- Fig. 2B Armory Square to W. Brighton Ave.
- Fig. 2C W. Colvin St. to Meachem Field
- Fig. 2D Clary Middle School to N boundary of the Onondaga Nation

The creek flows through a corridor largely owned by the city of Syracuse between Dorwin Avenue and Kirkpatrick St. , and by the state of New York north of Kirkpatrick St. (Inner Harbor area). Private land intrudes into the creekbed north of Seneca Turnpike (e.g. Zen Center) and in small, isolated sections in downtown Syracuse.

Despite public ownership, access to the creek is largely precluded due to the presence of chain link fences on both sides of the creek. Exceptions exist in Franklin Square and at the Inner Harbor. Bridge crossings in Syracuse are typically fenced and thus do not provide access. Fences were installed between 1963 and 1973 to prevent children from playing in and drowning in the creek (Lee, 1962; Anon., 1973) The creek had become especially dangerous in the first half of the twentieth century due to flood-and sewage-control measures which created a narrow concrete-lined channel in residential areas. Channelization accelerated the flow of water by eliminating meanders and increasing the slope of the creek.

Rural Segments of Onondaga Creek Watershed

Rural segments of the watershed are detailed in Figures 3A and 3B. Road crossings in the rural parts of the watershed are indicated as triangles. Much of the rural landscape is privately held. Opportunities for access to the creek include purchasing easements, or simply asking permission.

Permission to access the creek, or navigate on the creek within the Onondaga Nation should be obtained from the Onondaga Council of Chiefs (258C Route 11A, Onondaga Nation, Nedrow, NY 13120)³.

Navigation

Once access to the creek is obtained, it is considered a “public highway” as long as it is “navigable.” Navigability is variously defined by Federal regulations, New York State Navigation Law, and several court decisions. Thus there is no simple definition of navigability.

A general definition is provided by U.S. Army Corps regulations (33 CFR 329):

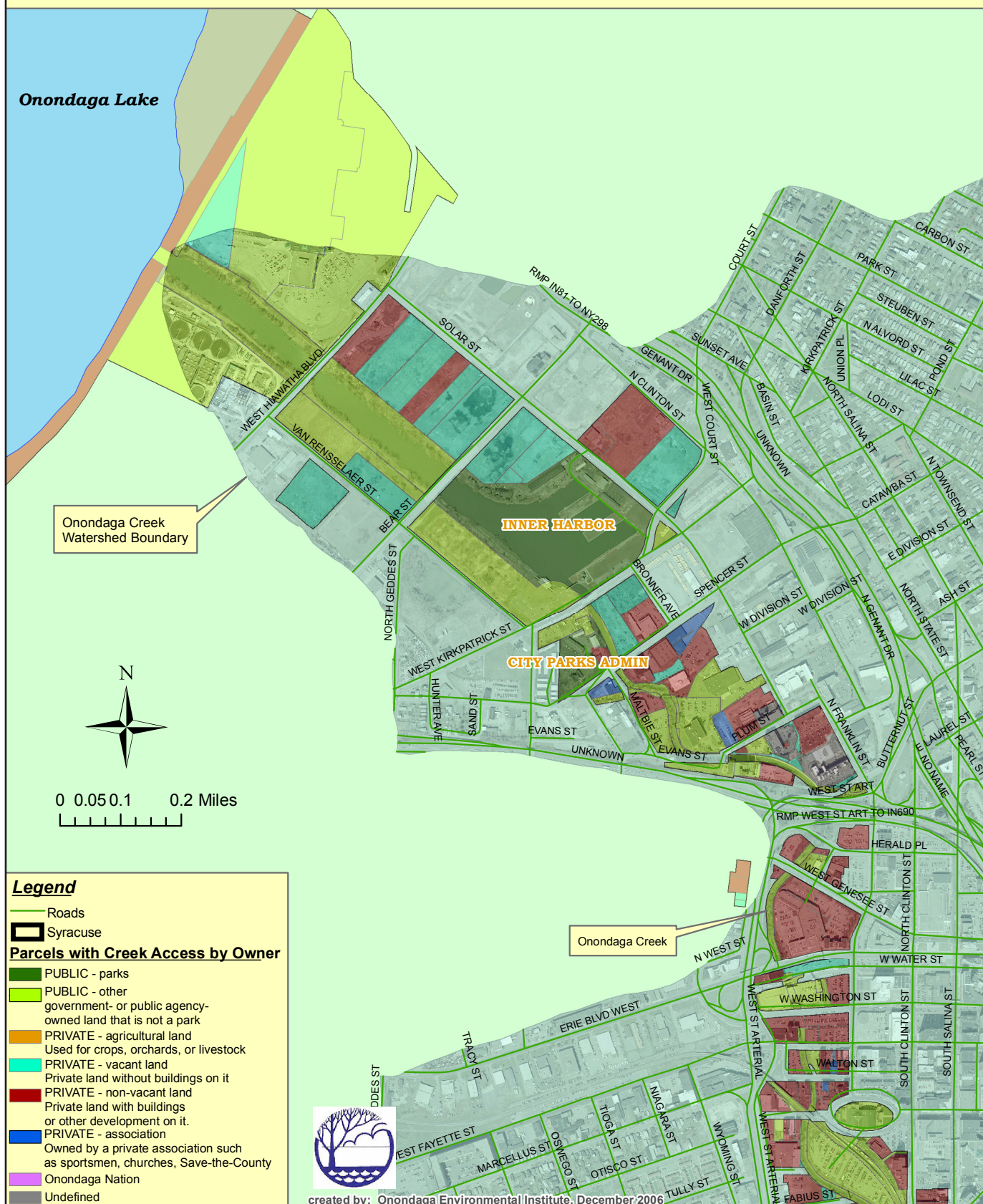
“Navigable waters of the United States are those waters that are presently used, or have been used in the past, or may be susceptible for use to transport interstate

³ Onondaga Nation Communications Center phone: 469-4717. Onondaga Nation office: 498-9950.

Table 1. Save the County properties located in the Onondaga Creek watershed.
(see www.savethecounty.org/properties.html for more information)

Name	Acreage	Access to waterway	Road Access	Location & Description
Cherry Valley Preserve	47	Onondaga Creek	Good, from US Route 20.	Town of Lafayette, fronts on US 20 west of I-81. It has a small pond and walking trails.
Herbert Luke Sanger Wildlife Preserve	23	None	Very difficult.	Town of Onondaga, off Amber Road.
Lockwood Properties	83	None	2 of the 5 parcels, are accessible from Amber Road and Stevens Road	Town of Onondaga. Mixed woods with cross country ski trails.
Mason Hill	90	None	accessible from Eager Rd.	Town of LaFayette, on west side of Mason Hill. Contains open fields, 2nd-or 3rd-growth forest and old maple trees along the hedge rows and fence lines; two created ponds; some maintained trails and old roads; great songbird and raptor habitat.
South Onondaga Marsh	6	W. Branch, Onondaga Creek	Accessible from Hogsback Road	Town of Onondaga; Contains a wetland; no trails. W.Branch of Onondaga Cr. flows through this property.

**Figure 2A. Detail Map
Accessibility in the Onondaga Creek Watershed**



**Figure 2B. Detail Map
Accessibility in the Onondaga Creek Watershed**

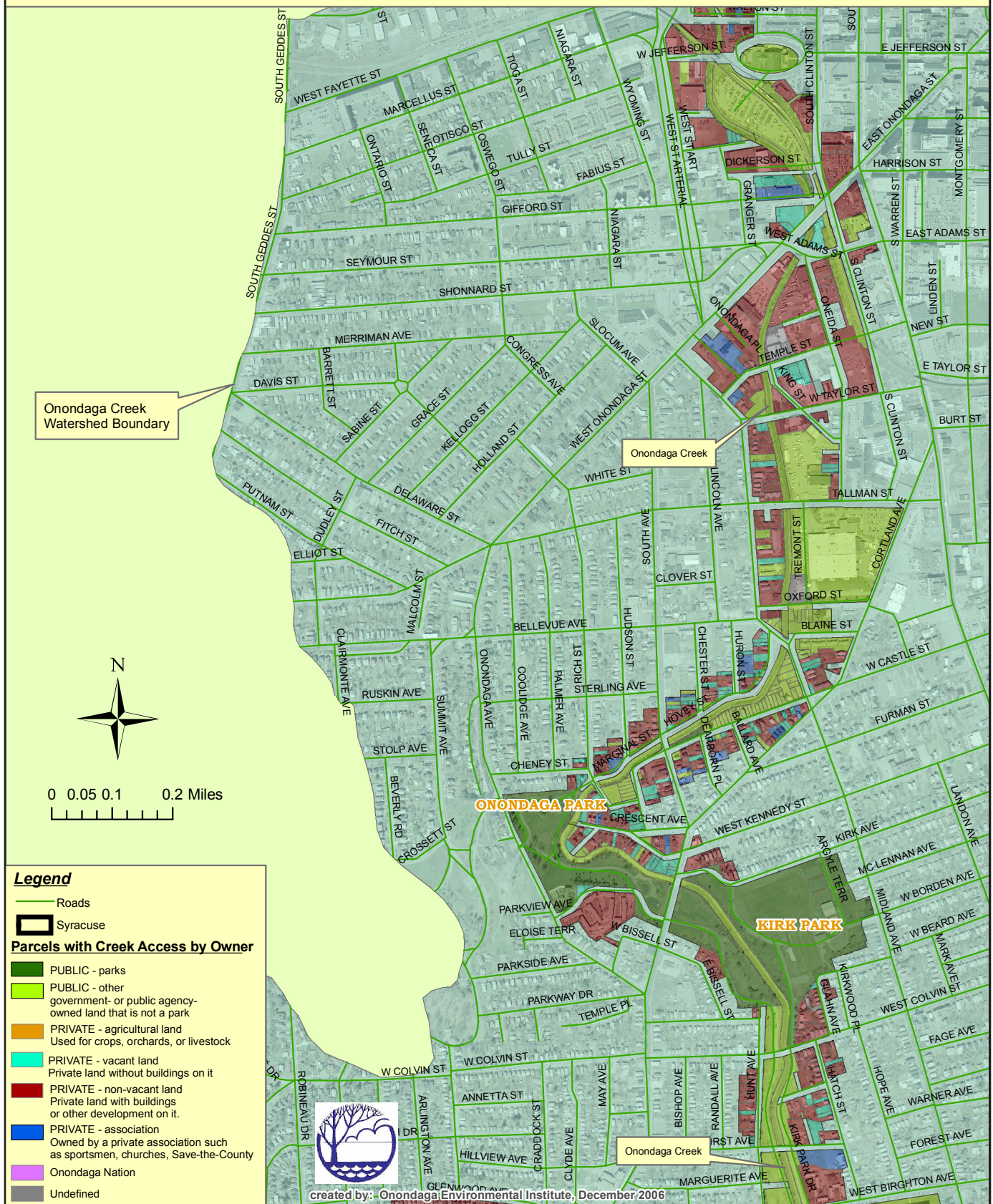


Figure 2C. Detail Map Accessibility in the Onondaga Creek Watershed

Legend

- Roads
- ▭ Syracuse
- Parcels with Creek Access by Owner**
- PUBLIC - parks
- PUBLIC - other government- or public agency-owned land that is not a park
- PRIVATE - agricultural land Used for crops, orchards, or livestock
- PRIVATE - vacant land Private land without buildings on it
- PRIVATE - non-vacant land Private land with buildings or other development on it
- PRIVATE - association Owned by a private association such as sportsmen, churches, Save-the-County
- Onondaga Nation
- Undefined

created by: Onondaga Environmental Institute, December 2006

**Figure 2D. Detail Map
Accessibility in the Onondaga Creek Watershed**

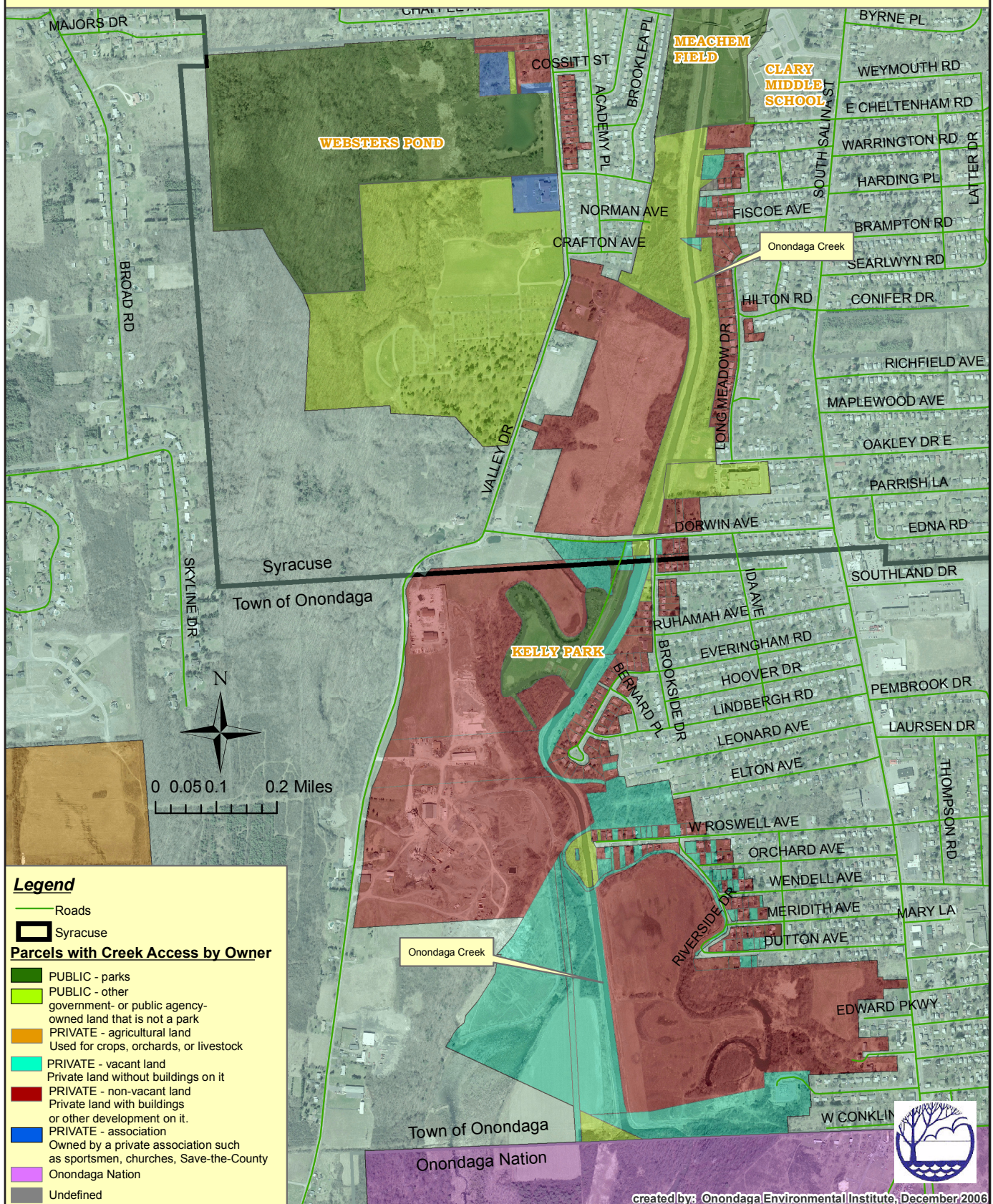


Figure 3A. Detail Map Accessibility in the Onondaga Creek Watershed

Legend

- Roads
- Syracuse
- Bridges (road creek intersect)

Parcels with Creek Access by Owner

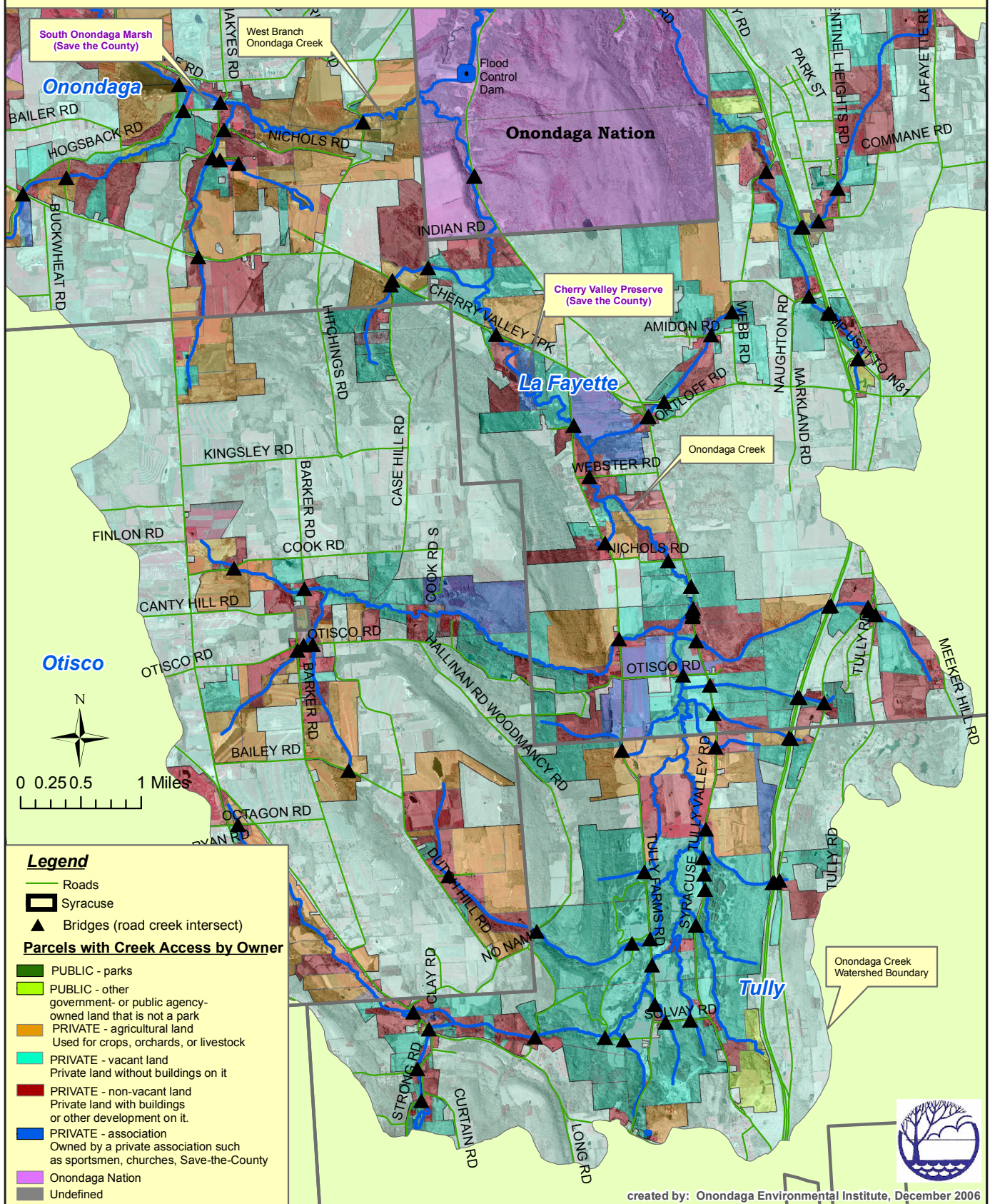
- PUBLIC - parks
- PUBLIC - other government- or public agency-owned land that is not a park
- PRIVATE - agricultural land Used for crops, orchards, or livestock
- PRIVATE - vacant land Private land without buildings on it
- PRIVATE - non-vacant land Private land with buildings or other development on it
- PRIVATE - association Owned by a private association such as sportsmen, churches, Save-the-County
- Onondaga Nation
- Undefined

Map Labels: Syracuse, Marcellus, Onondaga Creek, West Branch Onondaga Creek, South Onondaga Marsh (Save the County), Onondaga Nation, La Fayette, Onondaga, West Seneca TPK, Pleasant Valley Rd, Rohe Rd, Norton Rd, Young Rd, Tucker Rd, Yenny Rd, Makey Rd, Griffin Rd, Commissioners Rd, Lions Den Rd, Gibson Rd, Indian Rd, Kingsley Rd, Case Hill Rd, Hitchings Rd, Buckheat Rd, Rouse Rd, Fox Rd, Bailer Rd, Hogsback Rd, Nichols Rd, Red Mill Rd, Tanner Rd, Cole Rd, Abbey Rd, Bussey Rd, Cedarvale Rd, Kasson Rd, West Seneca TPK, Pleasant Valley Rd, Seal Rd, Stevens Rd, Amherst Rd, Collins Rd, Curtis Rd, Cherry Valley TPK, Hittings Rd, Onondaga Rd, McDonald Rd, Glenwood Ave, Robin Eau Dr, South Lake, Broad Rd, Barnes Ave, Skyline Dr, Cleveland Rd, Young Rd, Tucker Rd, Yenny Rd, Makey Rd, Griffin Rd, Commissioners Rd, Lions Den Rd, Gibson Rd, Indian Rd, Kingsley Rd, Case Hill Rd, Hitchings Rd, Buckheat Rd, Rouse Rd, Fox Rd, Bailer Rd, Hogsback Rd, Nichols Rd, Red Mill Rd, Tanner Rd, Cole Rd, Abbey Rd, Bussey Rd, Cedarvale Rd, Kasson Rd, West Seneca TPK, Pleasant Valley Rd, Seal Rd, Stevens Rd, Amherst Rd, Collins Rd, Curtis Rd, Cherry Valley TPK, Hittings Rd.

Scale: 0 0.25 0.5 1 Miles

Created by: Onondaga Environmental Institute, December 2006

Figure 3B. Detail Map
Accessibility in the Onondaga Creek Watershed



or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity.”

Practically speaking, nearly any waterway in the United States which is capable of carrying a recreational watercraft, such as a canoe, would be considered navigable. However, navigation rights constitute a complex legal issue due to conflicting interpretations of state and Federal laws and regulations. Historic use of a waterway, especially for getting goods to market, plays a role in these decisions.⁴

The geographic limits of a stream are established by the “ordinary high water mark,” defined as:

“the line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.” (33 CFR 329.11(a))

IMPLICATIONS

The general lack of access makes it difficult for the public to enjoy Onondaga Creek. In the rural areas, access can potentially be gained by permission of the landowner, or in the case of the Nation territory, the Onondaga Council of Chiefs. Access can be gained via a number of bridge crossings in the towns of Lafayette, Onondaga, Tully and Otisco, and via two STC properties.

In the city of Syracuse, access is currently possible only at selected bridges, the Zen Center (with permission), Franklin Square, and the Inner Harbor. Access to the creek could be markedly expanded with the removal or modification of fences, especially where adjacent lands are public (see Figures 2A-2D). Currently the city of

Syracuse is developing an expanded creekwalk which would increase access from Armory Square northward to the creek’s outlet to Onondaga Lake (NYSDOT, 2004). Further plans are underway to extend the creekwalk south to Kirk Park.

Increasing access to the creek is intimately tied with concerns about the health and safety of the public, liability of the city or private landowners, flood control, storm water and combined sewer management, and ecological restoration. For example, creation of a more natural channel with meanders and shoals would diminish velocities in the creek, making it safer. Access might be constrained where habitat is protected. Routing storm water directly to the creek results in increased flows, higher velocities, and consequently, greater safety and liability concerns. Ultimately, there are many factors to consider for any restoration plan which increases access to the creek.

REFERENCES

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- Lee, Maurice D. “Plan to Safeguard Onondaga Creek Revealed; 10-Year Project Based on Urban Renewal Funds.” *The Post-Standard*, Syracuse, N.Y. Sunday, May 27, 1962. p.24
- New York State Department of Transportation (NYSDOT). Preliminary plans dated March 2004. Drawings PL-01 through PL-17.
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OEI wishes to thank Thane Joyal for her input on this Fact Sheet.

⁴ For example, “[A] river is, in fact, navigable, on which boats, lighters or rafts may be floated to market... [Additionally,] the public may have a right of way in every stream which is capable, in its natural state and its ordinary volume of water, or transporting, in a condition fit for market, the products of the forests or mines, or of the tillage of the soil upon its banks...” *Adirondack League Club, Inc. v. Sierra Club*, 92 N.Y.2d 591 (N.Y. 1998)., quoting *Morgan v. King*, 35 N.Y. 454

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The Onondaga Lake Partnership (OLP) sponsors the Onondaga Creek Revitalization Plan project with funds from the U.S. Environmental Protection Agency. Visit www.onlakepartners.org for more information about the OLP.

This fact sheet and additional information about the Onondaga Creek Revitalization Plan project can be found on the World Wide Web at www.esf.edu/onondagacreek/.

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