US Army Corps of Engineers®

PUBLIC NOTICE

Applicant:
Lauri Gorton
Greenfield Penobscot Estuary
Remediation Trust, LLC

Published: May 6, 2025
Expires: June 5, 2025

New England District
Permit Application No. NAE-2023-00413

TO WHOM IT MAY CONCERN: The New England District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Lauri Gorton
Program Manager
Greenfield Penobscot Estuary Remediation Trust, LLC
Trustee of the Penobscot Estuary Mercury Remediation Trust
2116 East Estes Street
Milwaukee, Wisconsin 53207

WATERWAY AND LOCATION: The project would affect waters of the United States and navigable waters of the United States associated with the Penobscot River. The project/review area is located on the east side of the Penobscot River just west of Orrington Picnic Park and River Road at Latitude 44.720174 and Longitude -68.828865; in Orrington, Penobscot County, Maine.

EXISTING CONDITIONS: The overall project area includes all areas where fill would occur and construction and monitoring equipment would be staged. It encompasses an approximately 22 acre freshwater tidal area of the Penobscot River, and includes areas of subtidal open water, intertidal flats, and intertidal low marsh.

PROJECT PURPOSE:

Basic: The basic project purpose is toxicity remediation.

Overall: A consent decree settled a lawsuit filed in 2000 by Maine People's Alliance and the Natural Resources Defense Council against Mallinckrodt US LLC for discharging mercury to the Penobscot River. The consent decree requires capping of 130 acres of intertidal sediment, primarily on the east side of Orrington Reach within the Penobscot River. The proposed thin layer cap pilot project would collect and analyze

site-specific data to determine if a thin layer cap remedy is feasible, will effectively reduce exposure to mercury, and will protect important natural resources. The thin layer cap design is estimated to be equivalent to more than 50 years of natural sediment accumulation in Orrington Reach. Consequently, the thin layer cap could contribute significantly to the recovery of intertidal sediment within the pilot project area.

PROPOSED WORK: The applicant requests authorization to place approximately 3,200 cubic yards of clean, predominantly coarse sand fill material over 5.9 acres of intertidal flats and 0.4 acre of freshwater wetlands. Four inches of fill would be placed in the southern 3.3 acres of intertidal flats and 0.4 acre of low marsh. Six inches of fill would be placed in the northern 2.6 acres of intertidal flats.

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: Environmental controls would be deployed to minimize disturbance of contaminated intertidal sediment, minimize turbidity within the water column, and prevent sedimentation and erosion from landside support areas. Turbidity monitoring would occur during active construction periods to demonstrate that the work is not degrading water quality.

COMPENSATORY MITIGATION: The applicant is not proposing compensatory mitigation because there will be no conversion of waters or wetlands to uplands.

CULTURAL RESOURCES:
The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes and other interested parties.

The District Engineer's final eligibility and effect determination will be based upon coordination with the SHPO and/or THPO, as appropriate and required, and with full consideration given to the proposed undertaking's potential direct and indirect effects on historic properties within the Corps-identified permit area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) website, the National Marine Fisheries Service (NMFS) GARFO Section 7 Mapper, and the NMFS Critical Habitat Mapper to determine if any threatened, endangered, proposed, or candidate species, as well as proposed and final designated critical habitat may occur within the boundary of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project

may affect species and critical habitat listed in Table 1. No other ESA-listed species or critical habitat will be affected by the proposed action.

Table 1: ESA-listed species and/or critical habitat potentially present in the action area.

Species Common Name and/or Critical Habitat Name	**Scientific Name**	**Federal Status**
Atlantic Salmon	*Salmo salar*	endangered
Atlantic salmon critical habitat	*Salmo salar*	critical habitat
Atlantic sturgeon	*Acipenser oxyrinchus oxyrinchus*	threatened
Shortnose sturgeon	*Acipenser brevirostrum*	endangered
Shortnose sturgeon critical habitat	*Acipenser brevirostrum*	critical habitat
Monarch butterfly	*Danaus plexippus*	proposed threatened

Pursuant to Section 7 ESA, any required consultation with the Service(s) will be conducted by USACE in accordance with 50 CFR part 402.

This notice serves as request to the U.S. Fish and Wildlife Service and National Marine Fisheries Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information.

The Corps intends to initiate Essential Fish Habitat (EFH) consultation separately from this public notice. A separate EFH consultation package will be sent to the National Marine Fisheries Service (NMFS). The Corps will not make a permit decision until the consultation process is complete. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: Water Quality Certification may be required from the Maine Department of Environmental Protection.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel.

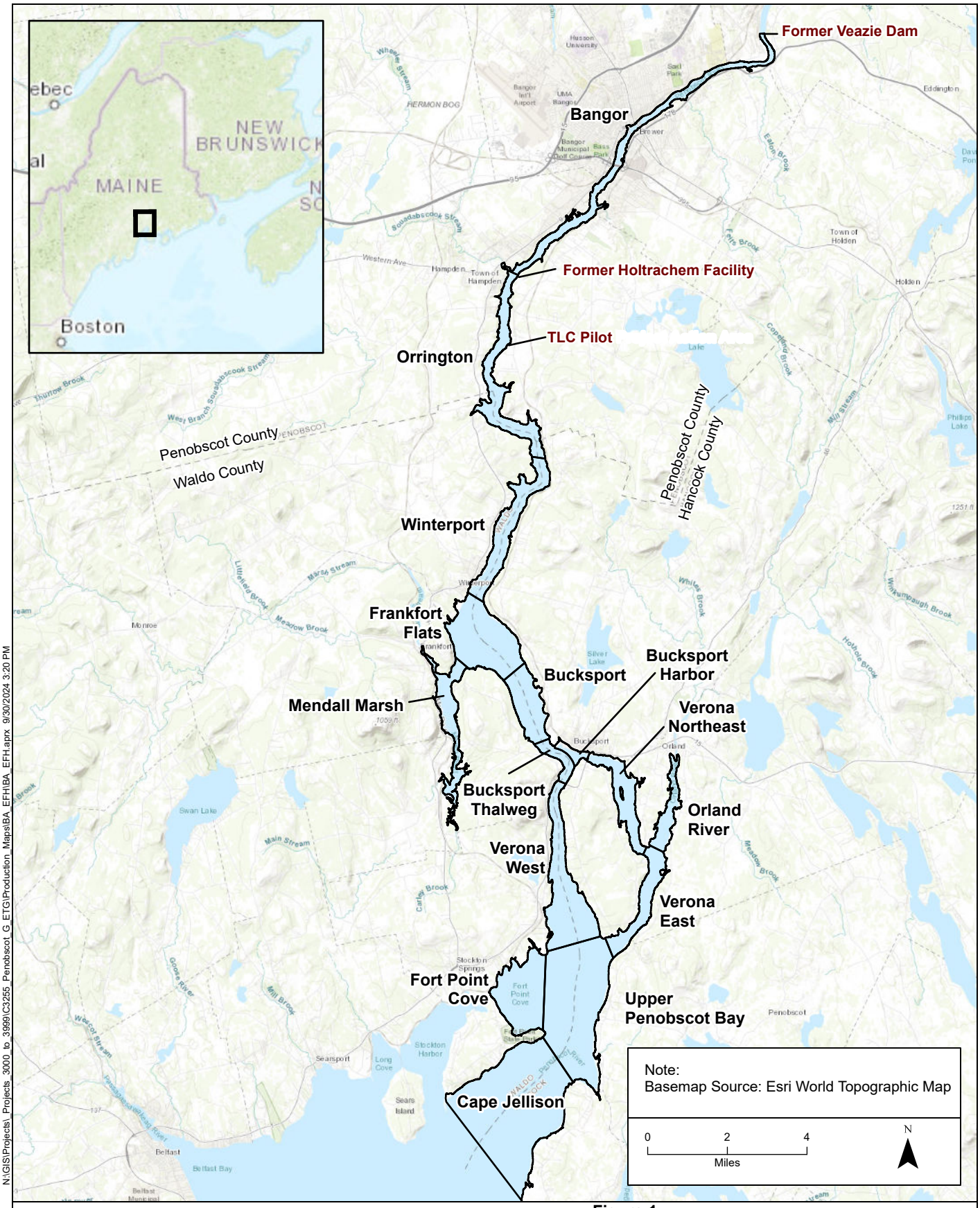
EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The New England District will receive written comments on the proposed work, as outlined above, until June 5, 2025. Comments should be submitted electronically via the

Regulatory Request System (RRS) at https://rrs.usace.army.mil/rrs or to cenae-r-pn-me@usace.army.mil. Alternatively, you may submit comments in writing to the Commander, U.S. Army Corps of Engineers, New England District, Attention: Regulatory Division. Please refer to the permit application number in your comments.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.



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Prepared for: Greenfield Penobscot Estuary Remediation Trust LLC
Trustee of the Penobscot Estuary Mercury Remediation Trust

Prepared by: integral consulting inc.

Figure 1.
Penobscot River Estuary Reaches
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025

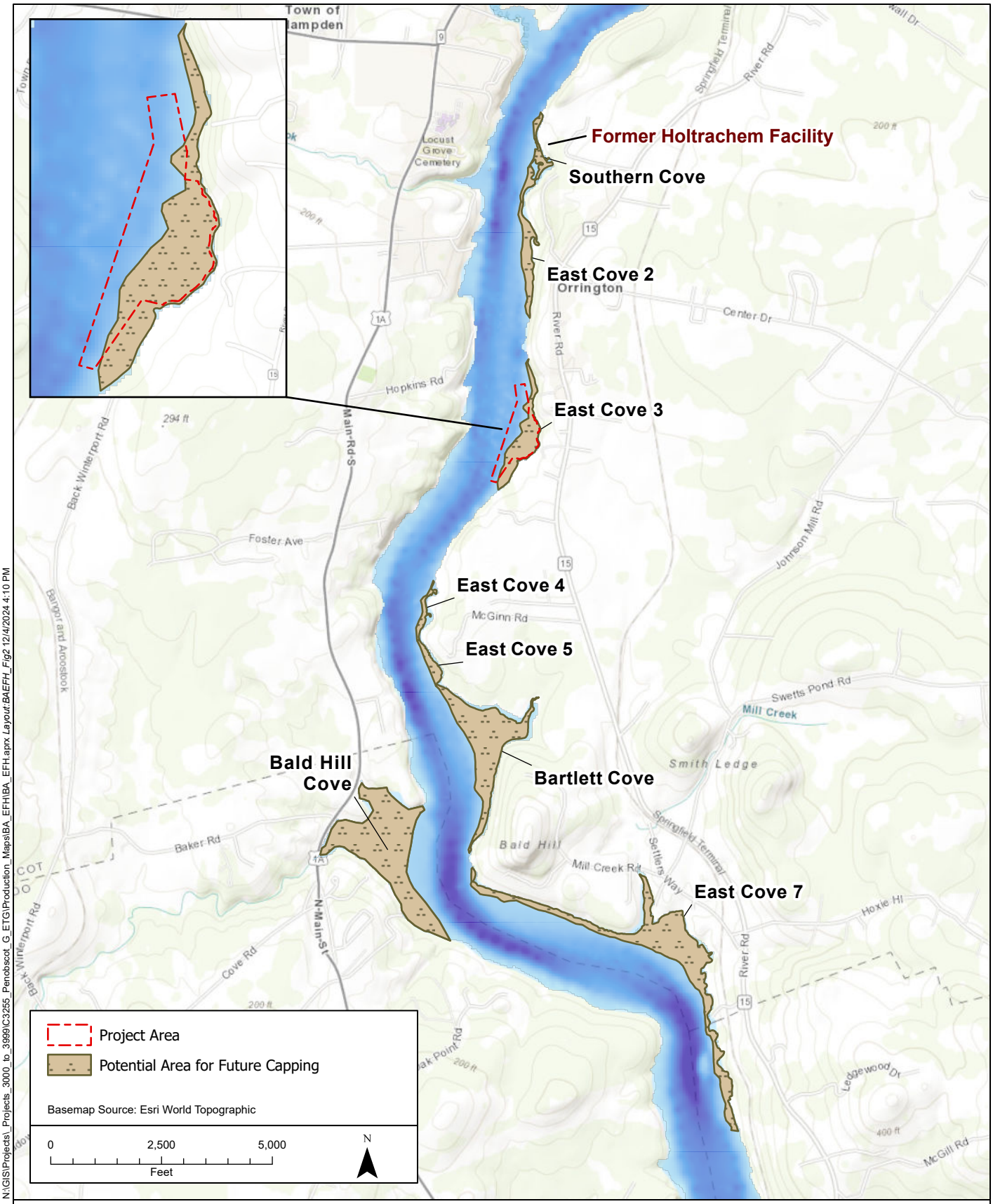

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Figure 2.
Project Area and Vicinity
NRPA Permit Application: Attachment 1. Project Description
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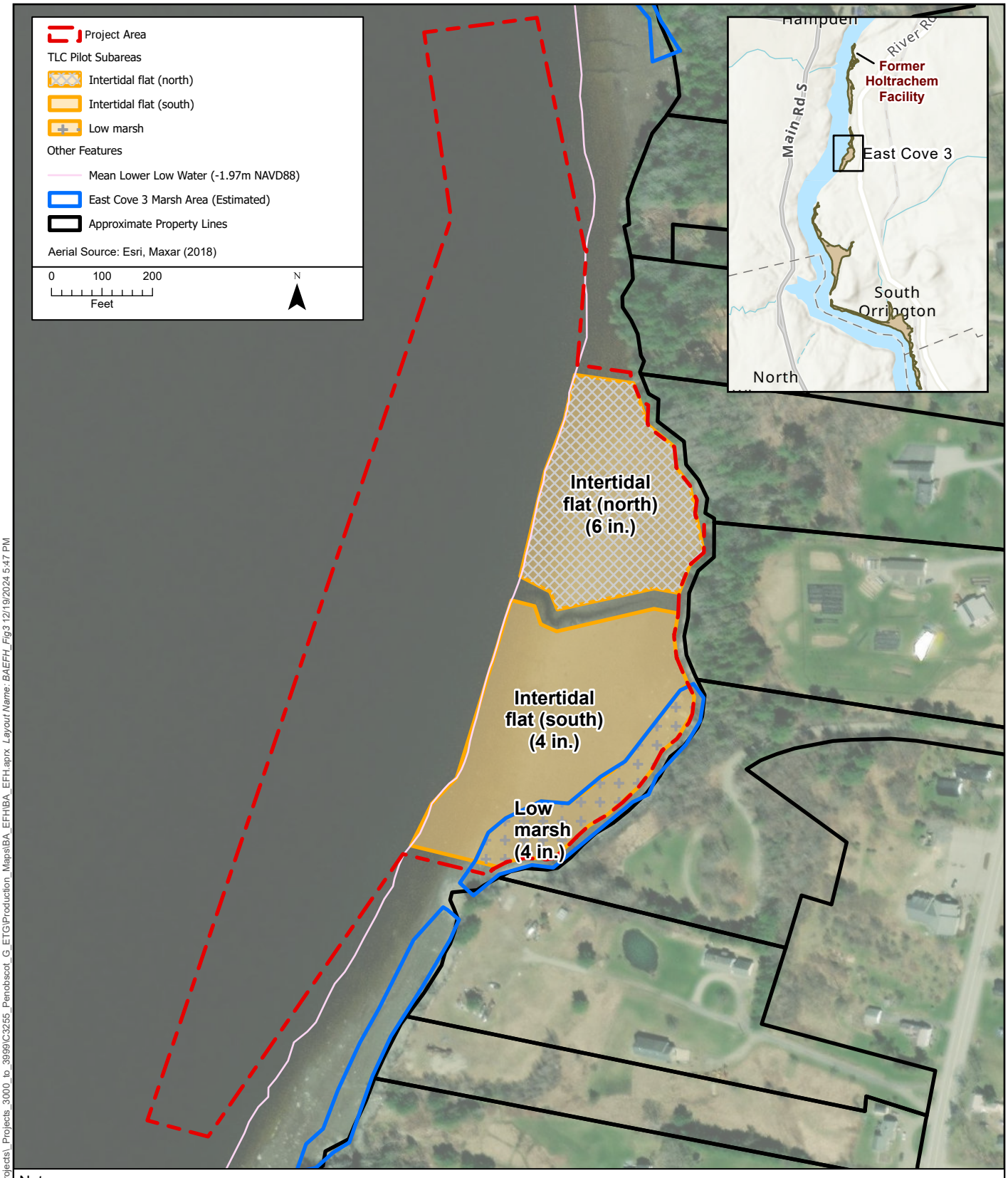

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Notes:
The low marsh subarea will be divided into two approximately 0.4-acre areas with one TLC area and one control area.

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Figure 3.
TLC Pilot Location and Project Area
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025

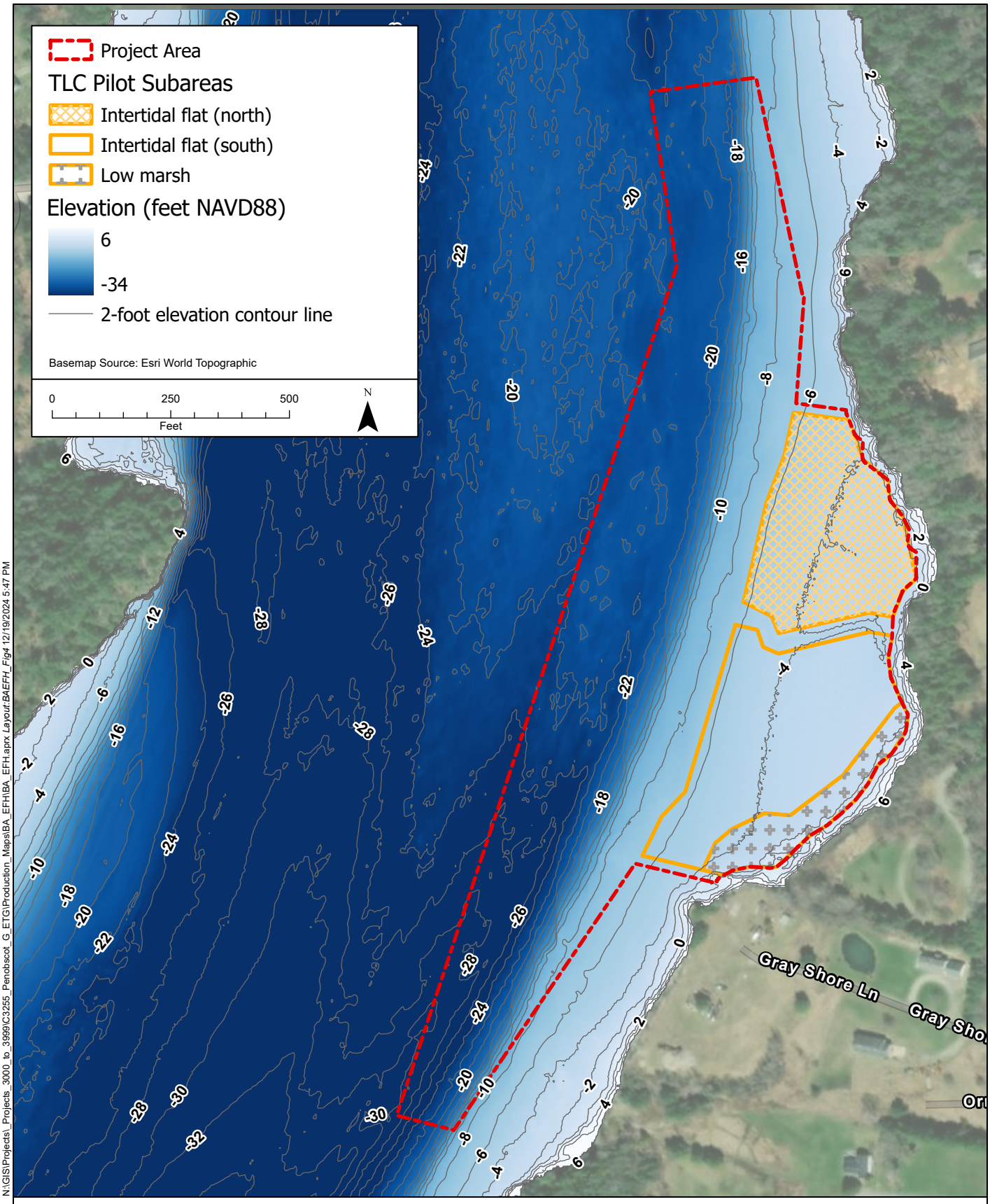

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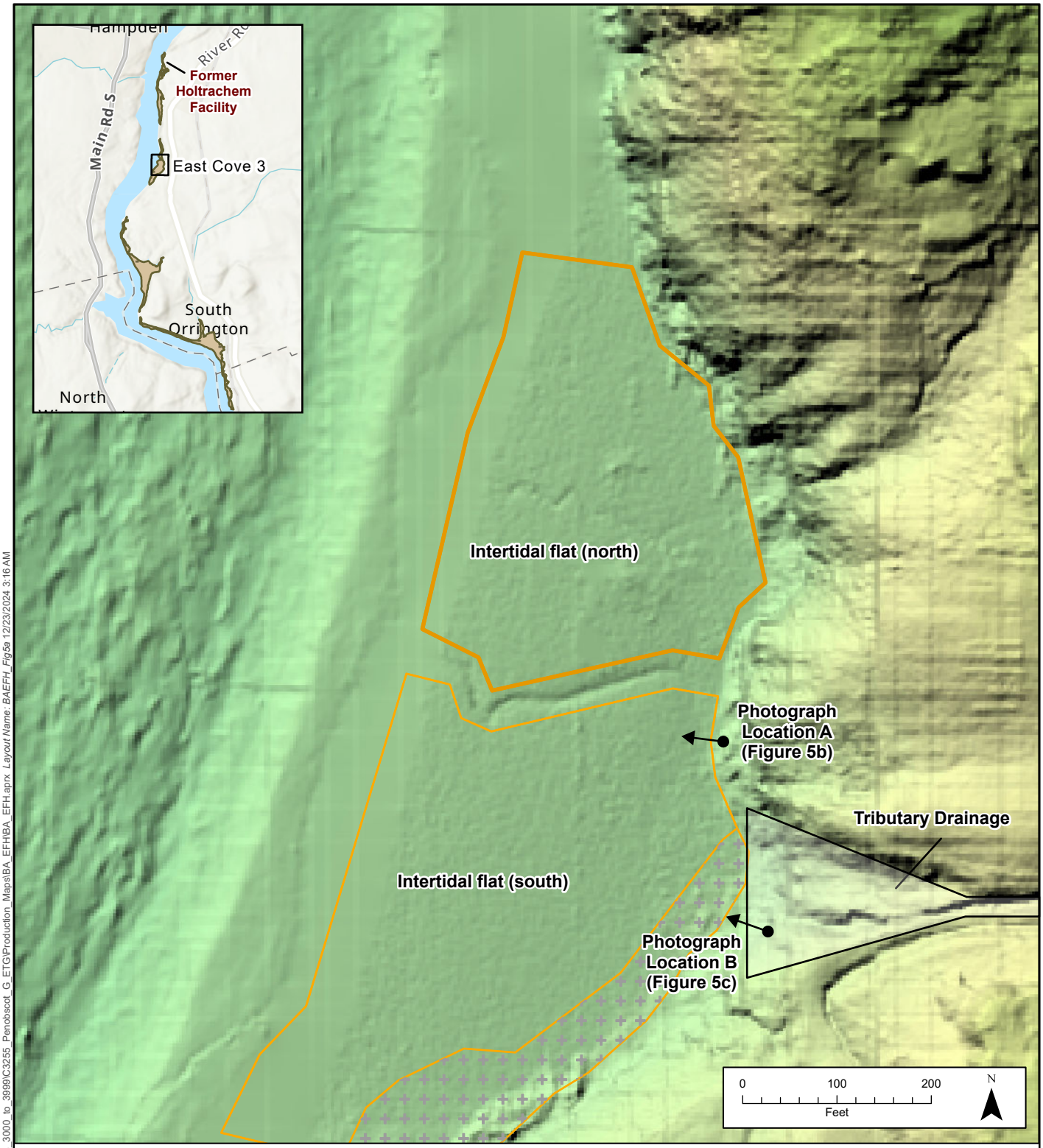
Figure 4.
Project Area Bathymetry
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025



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Notes:
Arrows indicate the direction of photographs taken from shoreline locations (Figures 5b and 5c).
Location A identifies a "branch" of the drainage feature extending from the tributary drainage identified at Location B.
The digital elevation model developed from bathymetry and LiDAR data is presented using ArcGIS Pro's Hillshade function using "traditional" setting. Warmer colors (e.g., yellow) represent higher elevations while cooler colors (e.g., green) represent lower elevations.
Hillshade visualization does not present absolute elevations.

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Figure 5a.
Documentation of Drainage Feature in East Cove 3 Intertidal Flat
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025

Figure 5a, Photograph Location A
June 6, 2024

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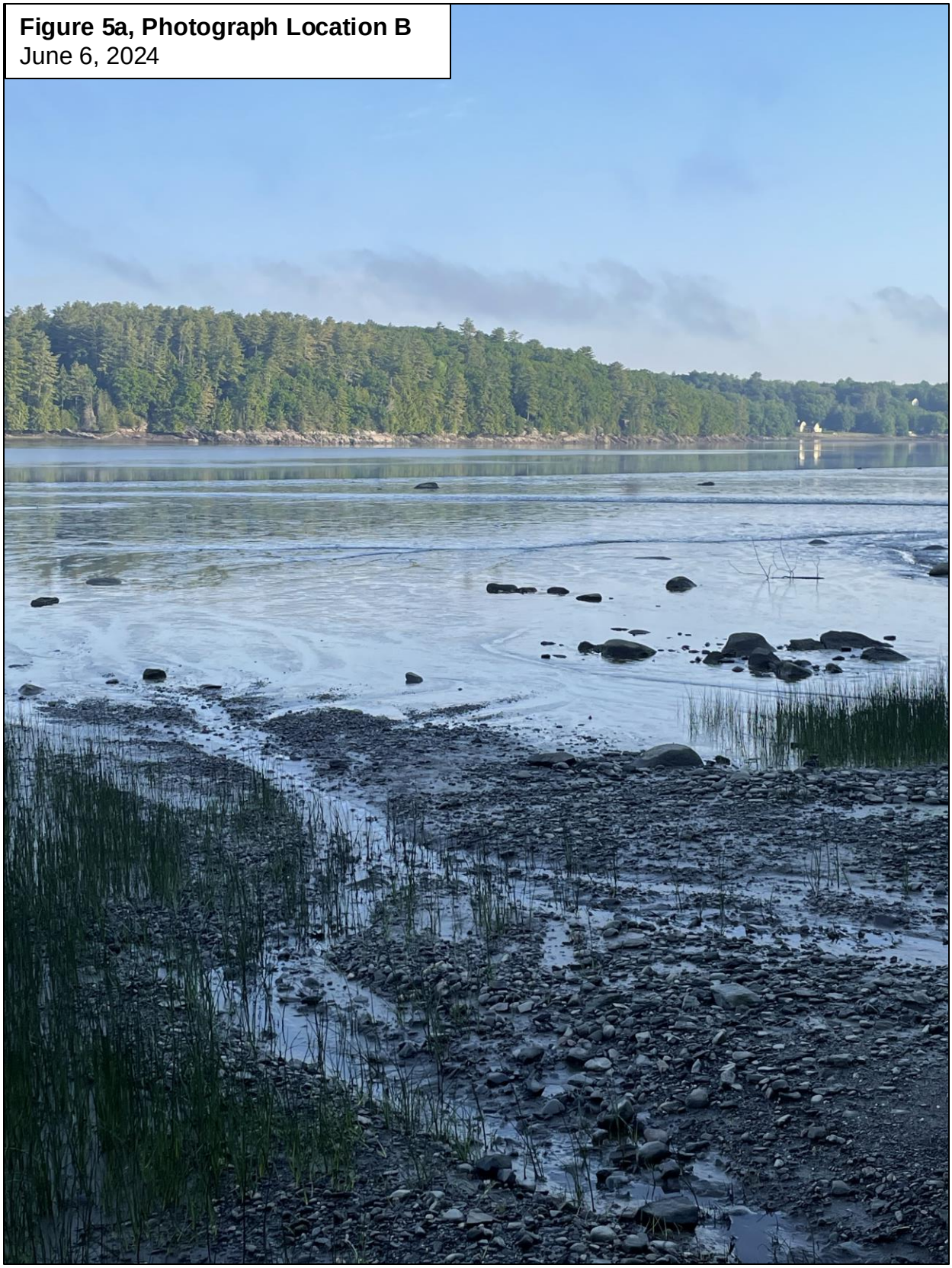
Figure 5b.
Drainage Feature in East Cove 3 Intertidal Flat
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025

Figure 5a, Photograph Location B
June 6, 2024



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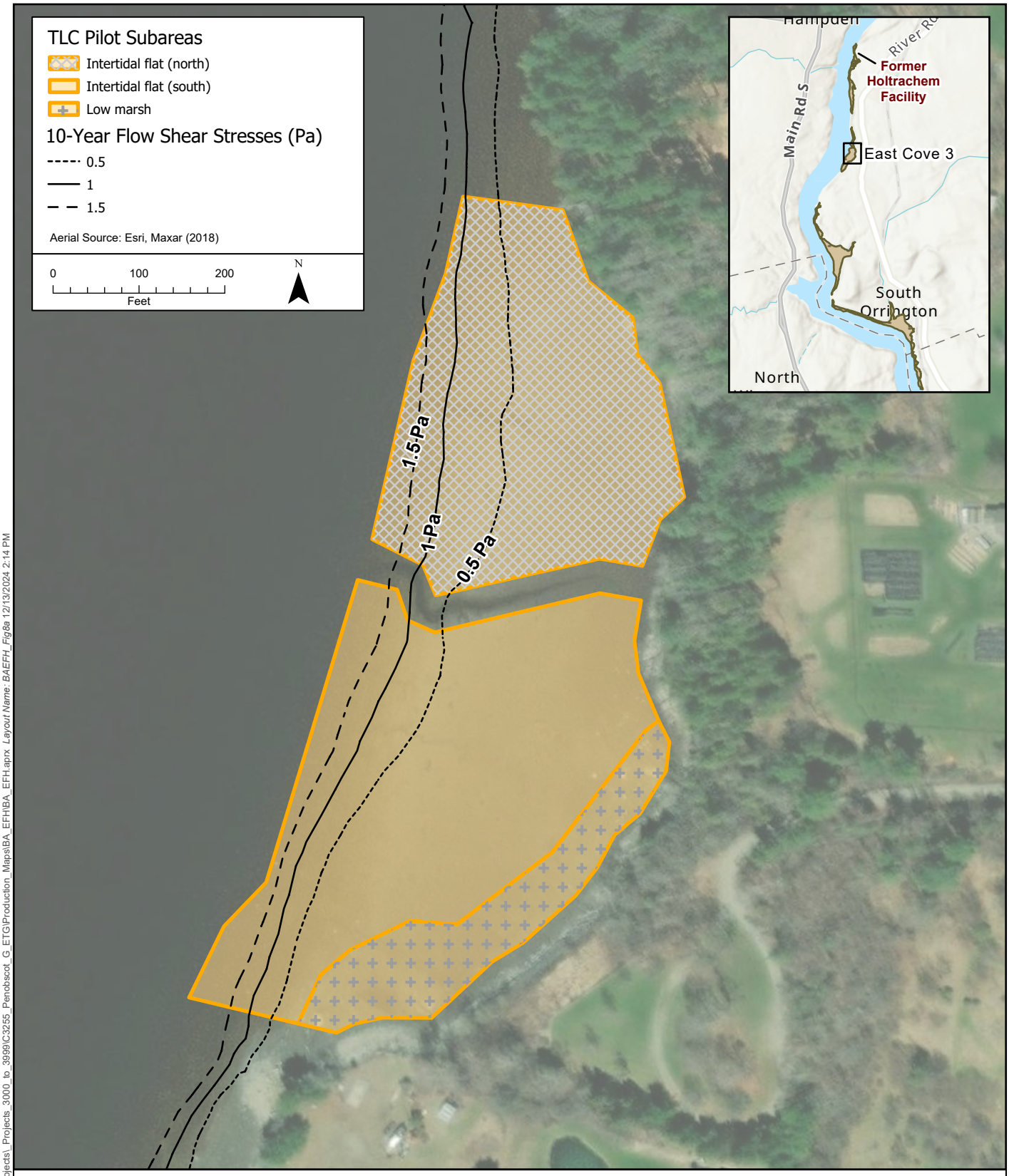
Prepared by: integral

Figure 5c.
Documentation of Drainage Feature in East Cove 3 Intertidal Flat–Upland Creek Outlet/Washout Area
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025



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Notes:
The low marsh subarea will be divided into two approximately 0.4-acre areas with one TLC area and one control area.

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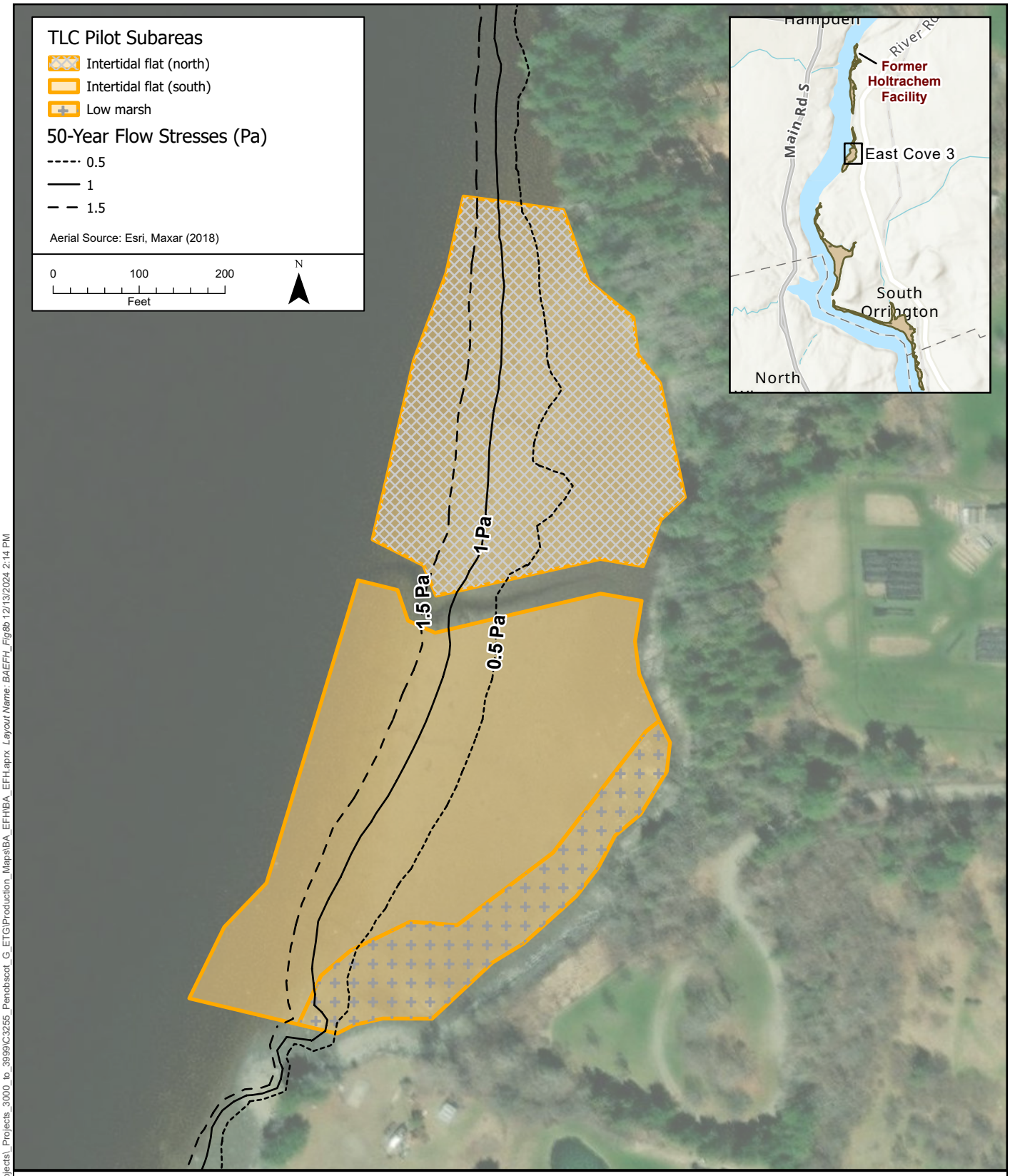
Prepared by: integral consulting inc.

Figure 6a.
Hydrodynamic Model Shear Stress Contours - 10-Year Flow Event
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025



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Notes:
The low marsh subarea will be divided into two approximately 0.4-acre areas with one TLC area and one control area.

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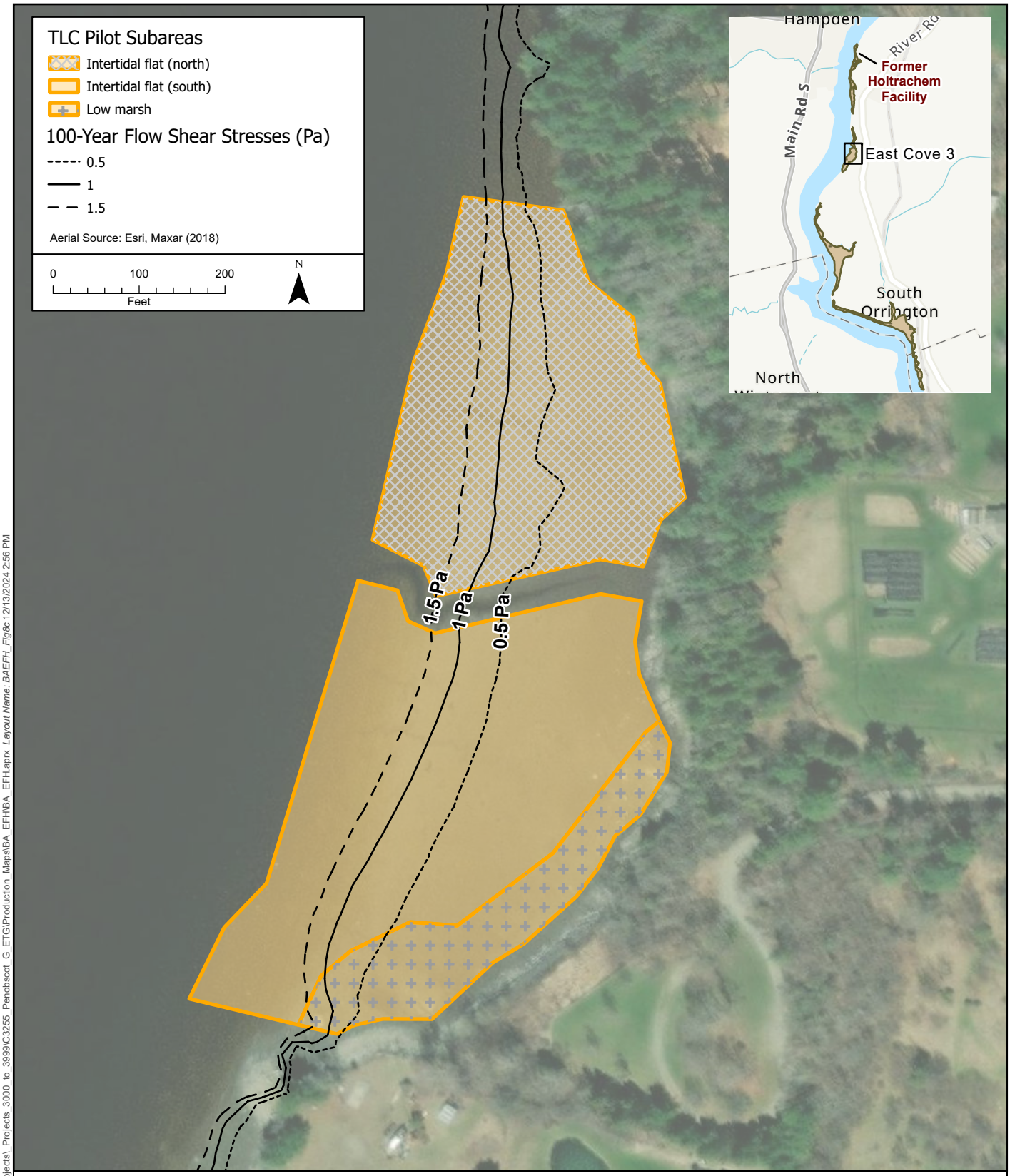
Prepared by: integral consulting inc.

Figure 6b.
Hydrodynamic Model Shear Stress Contours - 50-Year Flow Event
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025



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Notes:
The low marsh subarea will be divided into two approximately 0.4-acre areas with one TLC area and one control area.

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Figure 6c.
Hydrodynamic Model Shear Stress Contours - 100-Year Flow Event
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025

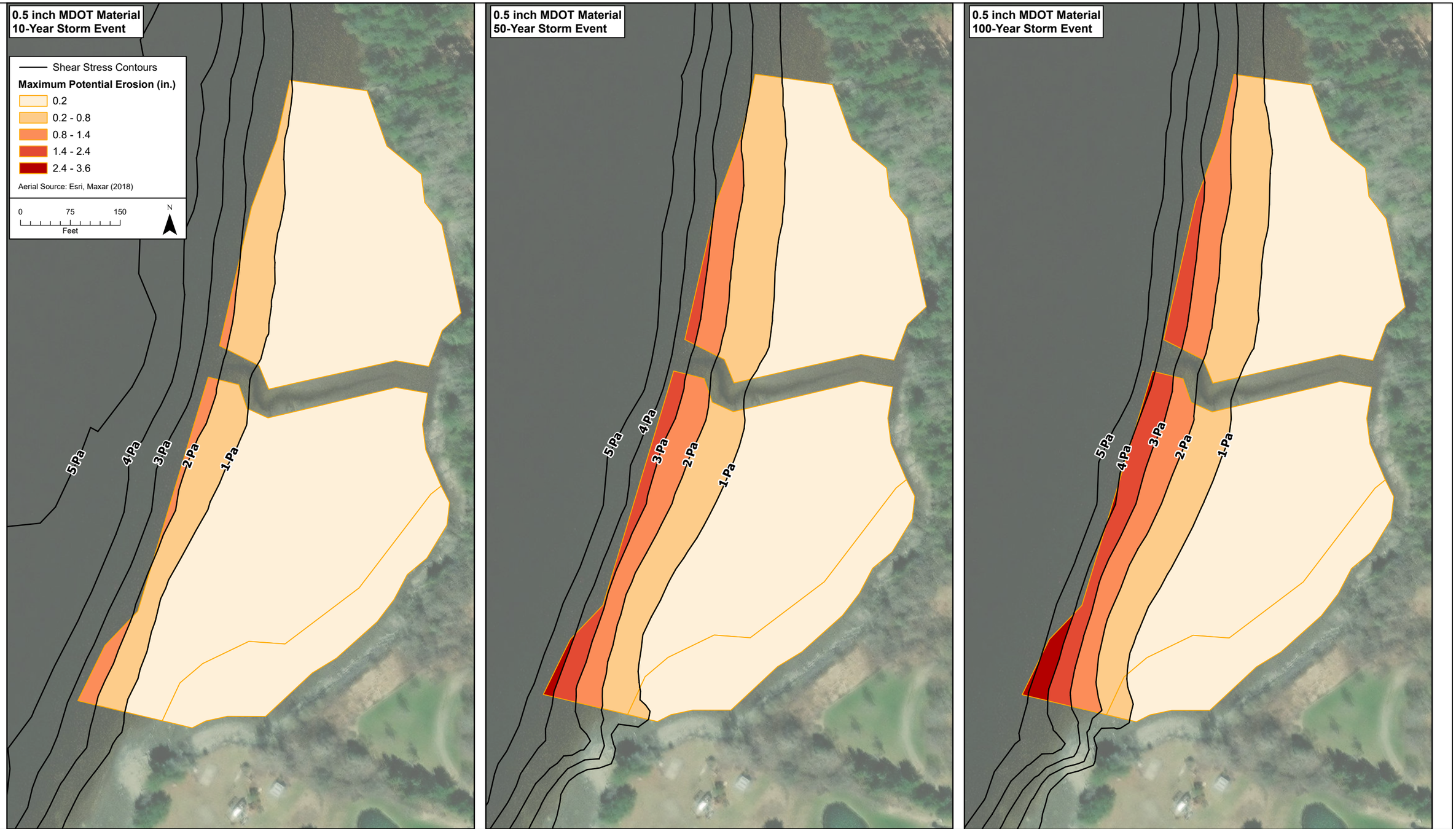

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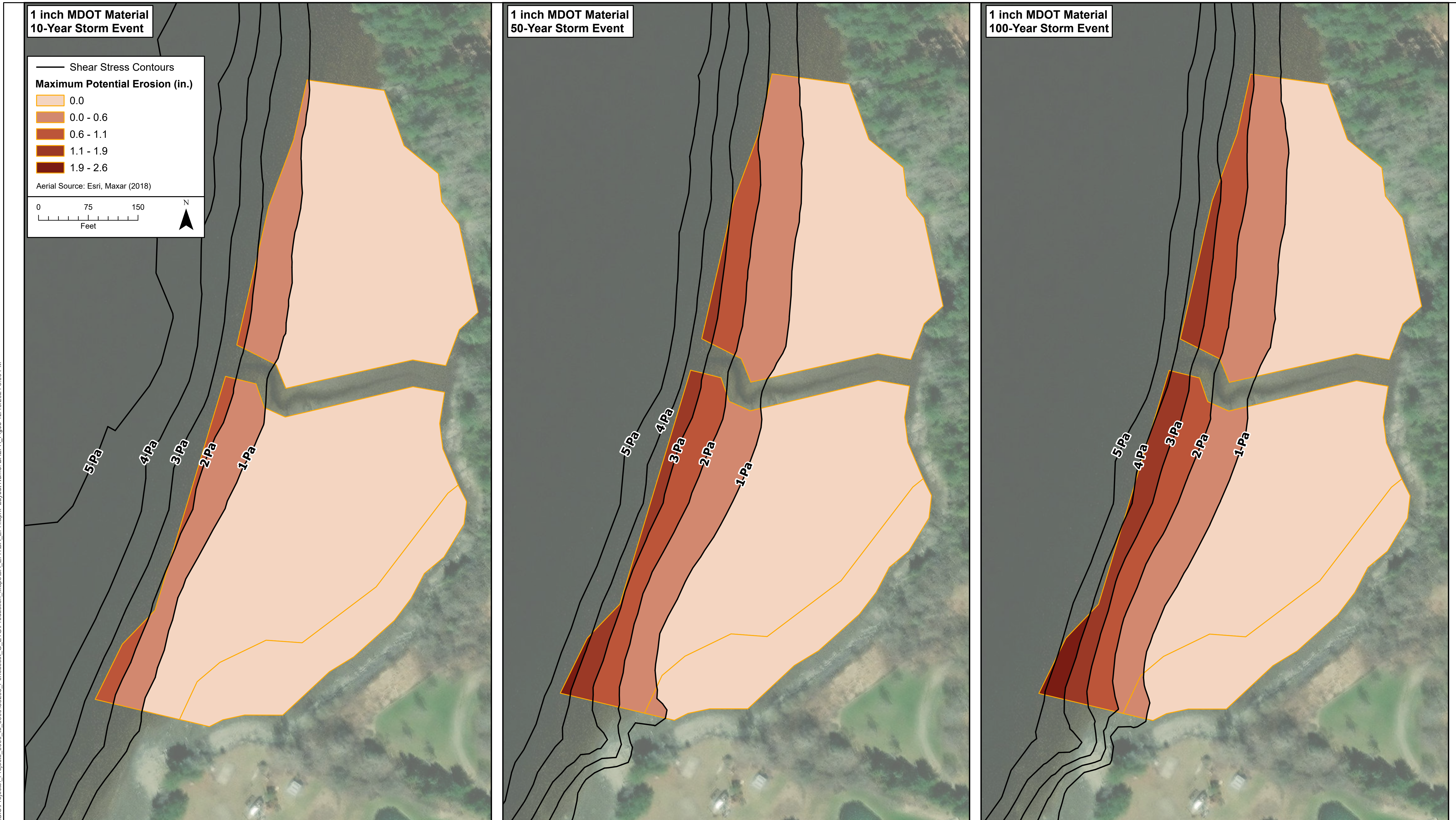
Figure 7a.
TLC Pilot Area Modeled Potential Erosion : 0.5 in. Maine DOT
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025



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Prepared by: integral consulting inc.

Figure 7b.
TLC Pilot Area Modeled Potential Erosion : 1 in. Maine DOT
NRPA Permit Application: Attachment 1. Project Description
Orrington Reach Capping Remedy
February 2025