



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

CENAE-RDM

July 8, 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,¹ NAE-2025-00615; MFR 1 of 1²

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.³ 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.⁴

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

¹ 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.

² 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.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ 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.

NAE-RDM

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), NAE-2025-00651

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. Wetland B is not a water of the United States
 - ii. Wetland C is not a water of the United States
 - iii. Wetland D is not a water of the United States

2. REFERENCES.

- a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")
- b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023)
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- d. US Environmental Protection Agency and Secretary of the Army Memorandum on LRB-2021-01386
- e. US Environmental Protection Agency and Secretary of the Army Memorandum on MVS-2023-00288
- f. US Environmental Protection Agency and Secretary of the Army Memorandum on NWS-2023-923
- g. 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, dated March 12, 2025

NAE-RDM

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), NAE-2025-00651

3. REVIEW AREA. The review area is 20- acres and identified in red on the plans entitled “Revere High School Site,” on 3 sheets, and dated “May 28, 2024.” The review area is located at 190 Veterans of Foreign Wars Highway (Latitude: 42.412415; Longitude -70.996981) within a densely developed section of east-central Revere, Massachusetts immediately north of the VFW Highway, west of North Shore Road (Route 1A), and east of the Rockport/Newburyport Commuter Rail line, in the City of Revere, Suffolk County, Massachusetts.
4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The Atlantic Ocean is approximately 1,500 feet from the review area and is the nearest territorial sea.⁶
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. The subject aquatic resources are located within a depressional area and do not flow to a TNW, territorial sea, or interstate water. There are no outlets or culverts from the subject aquatic resource to the nearest territorial sea. In addition, based on the water level monitoring memo, dated June 27, 2025, prepared by CDM Smith, the aquatic resources in question are not tidally influenced.
6. SECTION 10 JURISDICTIONAL WATERS⁷: 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 10.⁸ 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, consistent with the Supreme Court’s

⁶ 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.

⁷ 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.

⁸ 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 part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

NAE-RDM

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), NAE-2025-00651

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): N/A
- f. Adjacent Wetlands (a)(4): N/A
- 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).⁹ N/A
- 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, C, and D do not directly abut waters that are “waters of the United States” in their

⁹ 88 FR 3004 (January 18, 2023)

NAE-RDM

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), NAE-2025-00651

own right, and therefore are not adjacent wetlands as defined by the 2023 Rule, as amended.

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. Letter regarding requesting an approved jurisdiction determination, dated May 6, 2025, prepared by LEC.
 - b. Plans entitled "Review High School Site," on 3 sheets, and dated May 28, 2024.
 - c. Memorandum entitled "Eastern County Ditch – Water Level Monitoring," dated June 27, 2025, prepared by CDM Smith.
 - d. Letter regarding BRP WW04 Request for Determination of Applicability, dated February 12, 2025, prepared by LEC.
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.



Aerial Insert
(approximate linework)

REVERE HIGH SCHOOL SITE IN REVERE MASSACHUSETTS (SUFFOLK COUNTY)

EXISTING CONDITIONS

MAY 28, 2024

PREPARED FOR:
PERKINS EASTMAN
20 ASHBURTON PLACE
BOSTON MA 02108

BSC GROUP
803 Summer Street
Boston, Massachusetts
02117
617 896 4300

SCALE: 1" = 40'
0 20 40 80 feet
PROJ. MGR.: S. EWALD
FIELD: J. GROTEAU, S. REYES,
CALC./DESIGN: S. EWALD
DRAWN/R. LADD
CHECK: S. EWALD
FILE: Projects-AND\1364300EC.dwg
JOB. NO: 1364300 1 OF 7

REVIEW AREA for Non-Adjacent Wetlands and Areas between Adjacent Wetlands and Elevation 4.00 NAVD88

- Red = Review Area (arrows point into the review area)
- Orange = Non-Adjacent Wetlands
- Green = Adjacent Wetlands (WOTUS)
- Blue = Ordinary High Water Mark (OHWM) to Eastern County Ditch (WOTUS)

Color-coded linework and text boxes superimposed by LEC Environmental Consultants, Inc. on July 1, 2025

Requesting confirmation that the delineated boundary of the Adjacent Wetland is the landward extent of WOTUS

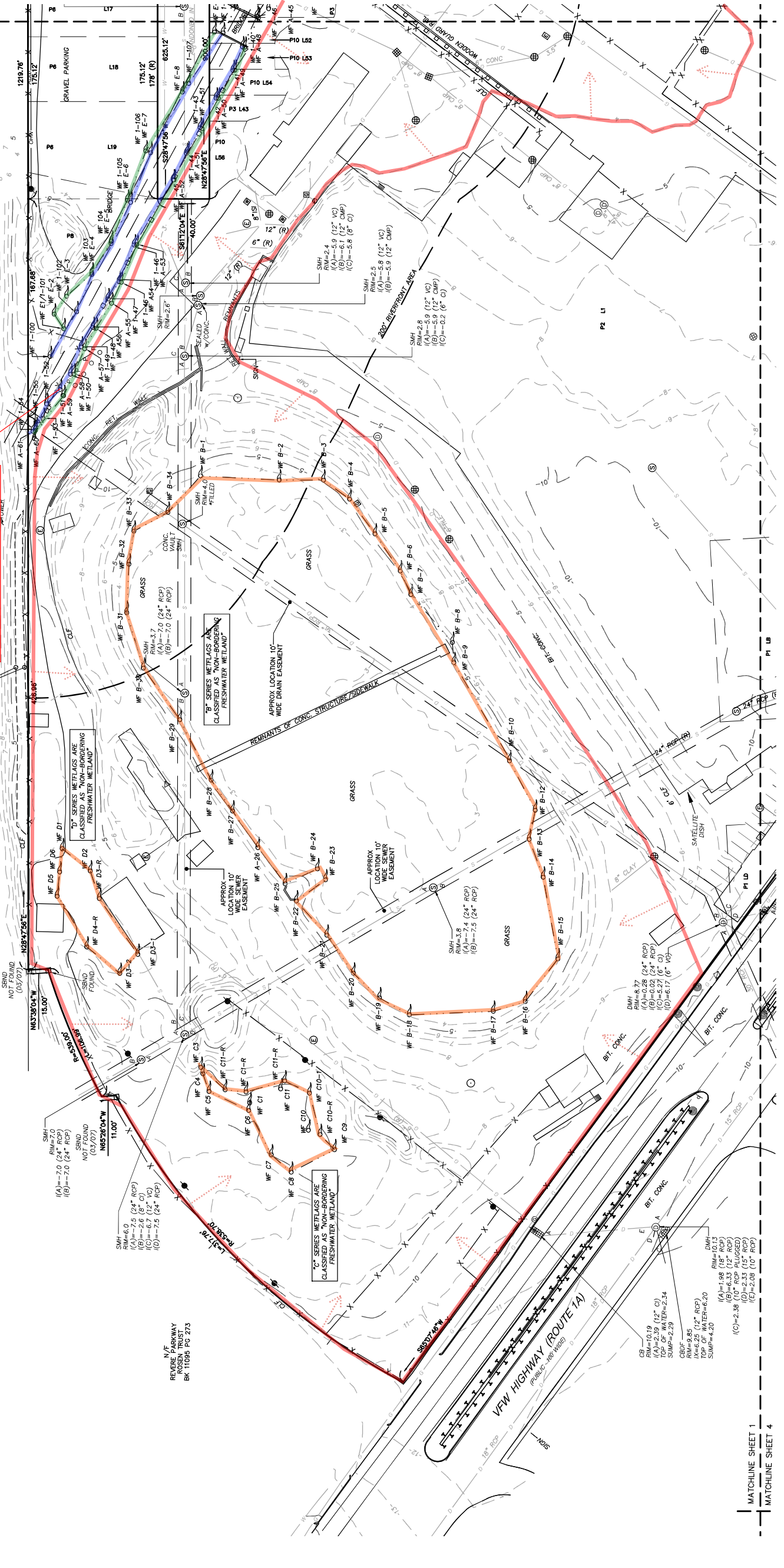
FLAG NUMBERS	RESOURCE AREA	LINEAR FEET	SQUARE FOOTAGE
A1-A81	BORDERING VEGETATED WETLAND (BWM)	1,810 LF.	
B1-B84	NON-BORDERING FRESHWATER WETLAND	1,219 LF.	82,771 SQ.FT.
C1-C11	NON-BORDERING FRESHWATER WETLAND	287 LF.	3,163 SQ.FT.
1-1-1-1-5	BANKNEAR ANNUAL HIGH WATER	1,402 LF.	
1-1-0-1-1-4-2	BANKNEAR ANNUAL HIGH WATER	1,309 LF.	
D1-D6	NON-BORDERING FRESHWATER WETLAND	128 LF.	2,483 SQ.FT.
E1-E66	BORDERING VEGETATED WETLAND (BWM)	2,060 LF.	
F1-F8	NON-BORDERING FRESHWATER WETLAND	188 LF.	453 SQ.FT.

- LEGEND**
- SEWER MANHOLE
 - DRAIN MANHOLE W/ CURB INLET
 - TELEPHONE MANHOLE
 - ELECTRIC MANHOLE
 - CATCH BASIN
 - DOOR/ENTRANCE
 - CHAIN LINK FENCE
 - SEWER DRAIN LINE
 - 200' RIVERFRONT AREA
 - CONCRETE
 - DWP
 - DETECTABLE WARNING PANEL
 - MONUMENT FOUND
 - WATER GATE
 - GAS GATE
 - GAS METER
 - UTILITY POLE
 - LIGHT POLE
 - HANDHOLE
 - UTILITY ACCESS PANEL
 - FIRE ALARM BOX
 - SIGN
 - TREE

I CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT:
1. THIS PLAN IS BASED UPON A SURVEY PREPARED BY BSC GROUP, INC.



PROFESSIONAL LAND SURVEYOR
FOR BSC GROUP, INC.
DATE: 05/13/2024



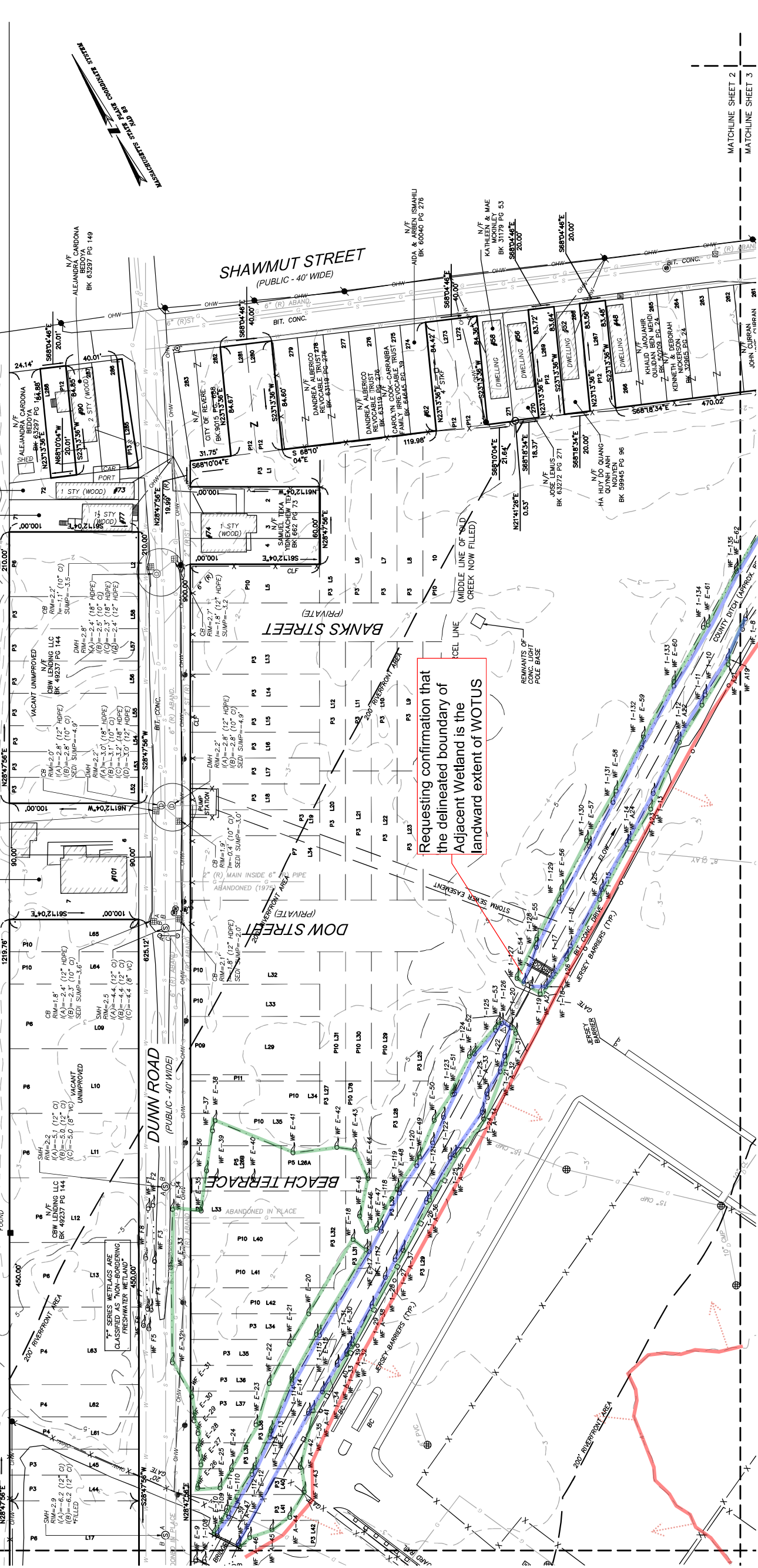
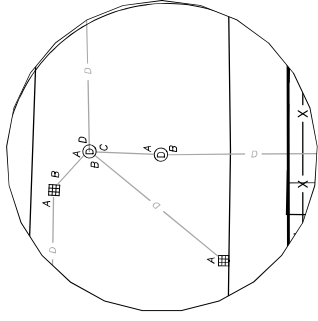
MATCHLINE SHEET 1
MATCHLINE SHEET 4

REVIEW AREA for Non-Adjacent Wetlands and Areas between Adjacent Wetlands and Elevation 4.00 NAVD88

- Red = Review Area (arrows point into the review area)
- Orange = Non-Adjacent Wetlands
- Green = Adjacent Wetlands (WOTUS)
- Blue = Ordinary High Water Mark (OHWM) to Eastern County Ditch (WOTUS)

Color-coded linework and text boxes superimposed by LEC Environmental Consultants, Inc. on July 1, 2025

DETAIL
1" = 10'



REVERE HIGH SCHOOL SITE

IN
REVERE
MASSACHUSETTS
(SUFFOLK COUNTY)

EXISTING CONDITIONS

MAY 28, 2024

PREPARED FOR:
PERKINS EASTMAN
20 ASHBURTON PLACE
BOSTON MA 02108



© 2023 BSC Group, Inc.

SCALE: 1" = 40'

PROJ. MGR.: S. EWALD
FIELD: J. GROTEAU, S. REYES,
CALC./DESIGN: S. EWALD
DRAWN/R. LADD
CHECK: S. EWALD

FILE: Projects-AND\1364300EC.dwg
DWG: 1364300EC.DWG
JOB: NO: 1364300
2 OF 7

MATCHLINE SHEET 2
MATCHLINE SHEET 3

MATCHLINE SHEET 2
MATCHLINE SHEET 1

REVERE HIGH SCHOOL SITE

IN
REVERE
MASSACHUSETTS
(SUFFOLK COUNTY)

EXISTING CONDITIONS

MAY 28, 2024

PREPARED FOR:
PERKINS EASTMAN
20 ASHBURTON PLAZA
BOSTON MA 02108



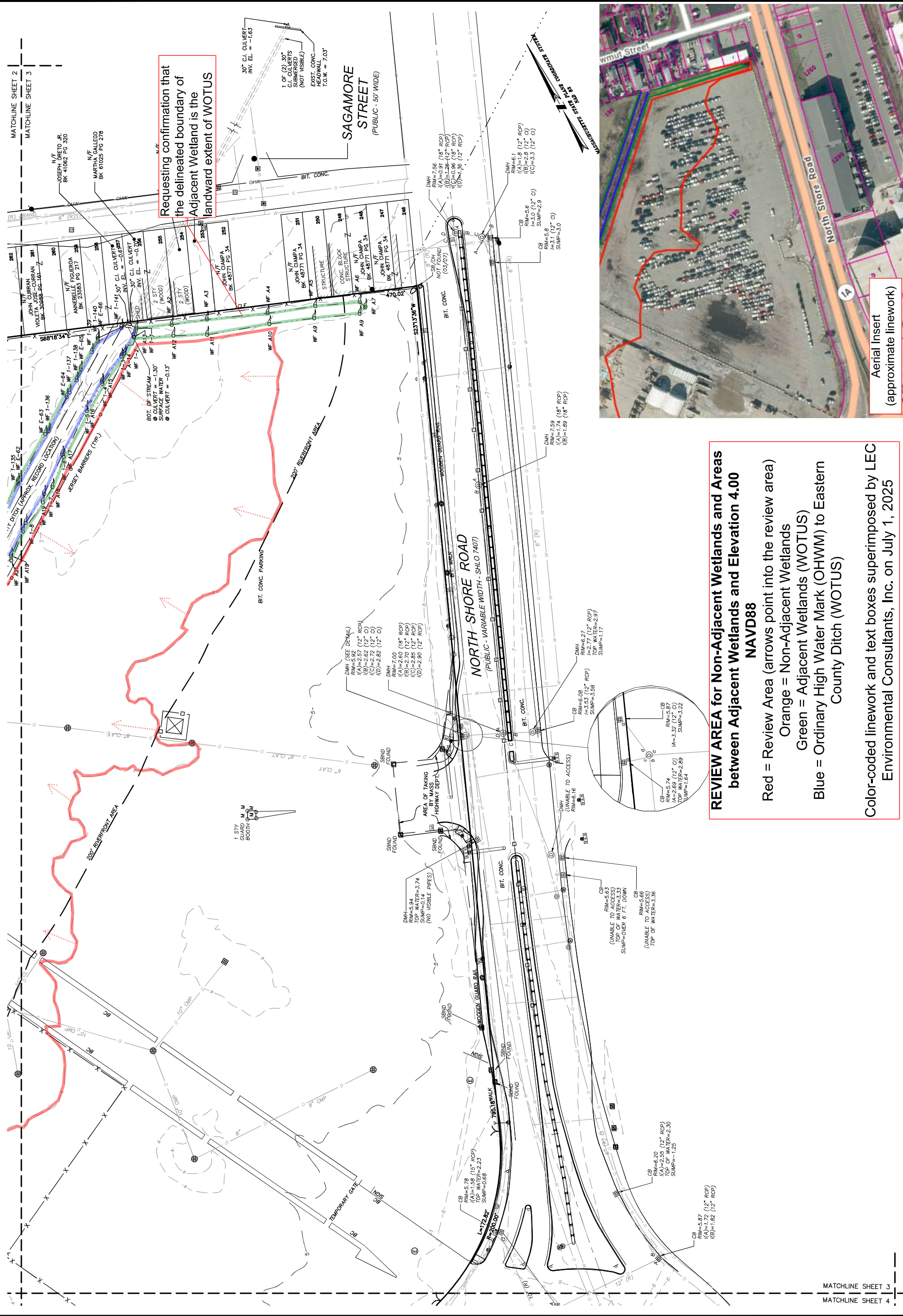
803 Summer Street
Boston, Massachusetts
02127
617 896 4300

SCALE: 1" = 40'

PROJ. MGR.: S. EWALD
FIELD: J. CROTEAU, S. REYES,
CALC./DESIGN: S. EWALD
DRAWN/R. LADD
CHECK: S. EWALD

FILE: Projects-AND\1364300EC.dwg
JOB. NO: 1364300

3 OF 7



Requesting confirmation that the delineated boundary of the Adjacent Wetland is the landward extent of WOTUS

REVIEW AREA for Non-Adjacent Wetlands and Areas between Adjacent Wetlands and Elevation 4.00 NAVD88

Red = Review Area (arrows point into the review area)
Orange = Non-Adjacent Wetlands
Green = Adjacent Wetlands (WOTUS)
Blue = Ordinary High Water Mark (OHWM) to Eastern County Ditch (WOTUS)

Color-coded linework and text boxes superimposed by LEC Environmental Consultants, Inc. on July 1, 2025

Aerial Insert (approximate linework)

MATCHLINE SHEET 3
MATCHLINE SHEET 4