



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

January 26, 2020

Regulatory Division
File Number: NAE-2020-00216

Lieutenant Colonel Lindsey E. Halter
U.S. Army Garrison Fort Devens
37 Quebec Street
Devens, Massachusetts 01434

Dear LTC. Halter:

This letter responds to a request submitted for a jurisdictional determination (JD) on the presence or absence of waters of the United States, including wetlands, on a parcel at the Fort Devens Hotel Range, South Post located Off Old Shirley Road, Devens Massachusetts.

Crystal Gardner and Taylor Bell of this office conducted a field inspection of the site on July 21, 2020. During this inspection an area labeled Wetland 4 on the enclosed map entitled "Figure 4. Wetland Boundary and Regulated Buffer Map Devens Reserve Forces Training Area Town of Lancaster Worcester County, MA" and dated "9/29/2018" was reviewed for potential Federal jurisdiction. We have determined that Wetland #4 is not a water of the United States and therefore not within the jurisdiction of the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act.

This approved JD determination is valid for a period of five years from the date of the letter, unless new information warrants revision of the determination before the expiration date or the 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.

Should you disagree with this approved JD, the Corps has implemented an administrative appeal process for instances when you object to the terms and conditions of JDs, permit denials, and proffered permits. A combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form and flow chart explaining the appeals process and your options are enclosed. However, to retain your right to appeal, you must submit the enclosed NAP form within 60 days of this letter's date.

For appeals of approved JDs, you must complete Section II of the NAP form ("Request for Appeal") and submit it along with any supporting or clarifying information

to Mr. George Nieves, Chief of Operations & Regulatory Division (CENAD-PD-OR), U.S. Army Corps of Engineers, Fort Hamilton Military Community, 301 General Lee Avenue Brooklyn, NY 11252-6700; or george.nieves@usace.army.mil . Mr. Nieves' phone number is (347) 370-4556. Direct questions regarding the Corps appeals process to Mr. Robert J. DeSista, Chief, Policy and Technical Support Branch, at robert.j.desista@usace.army.mil or (978) 318-8879.

In order for the Corps to accept an RFA, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR 331.5, and that our Division Office in Brooklyn, New York has received it within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by March 29, 2021. It is not necessary to submit an RFA form to the Division Office if you do not object to the jurisdictional decision in this letter.

Enclosed is an "Approved JD Form" and supporting documentation explaining the basis for our jurisdictional determination. A permit may be required if your project is changed or modified. If you have any questions please contact Crystal Gardner, of my staff, at 978-318-8332.

Sincerely,

Robert J. DeSista

for Tammy R. Turley
Chief, Regulatory Division

Enclosures

cc:

Jackie Leclair, U.S. EPA, leclair.jackie@epamail.epa.gov

David Koonce, Lancaster, Massachusetts Conservation Commission, David Koonce
dkoonce@lancasterma.net

Suzanne Richardson, Natural Resource Specialist, USAG Fort Devens, Lancaster,
Massachusetts suzanne.f.richardson2.civ@mail.mil

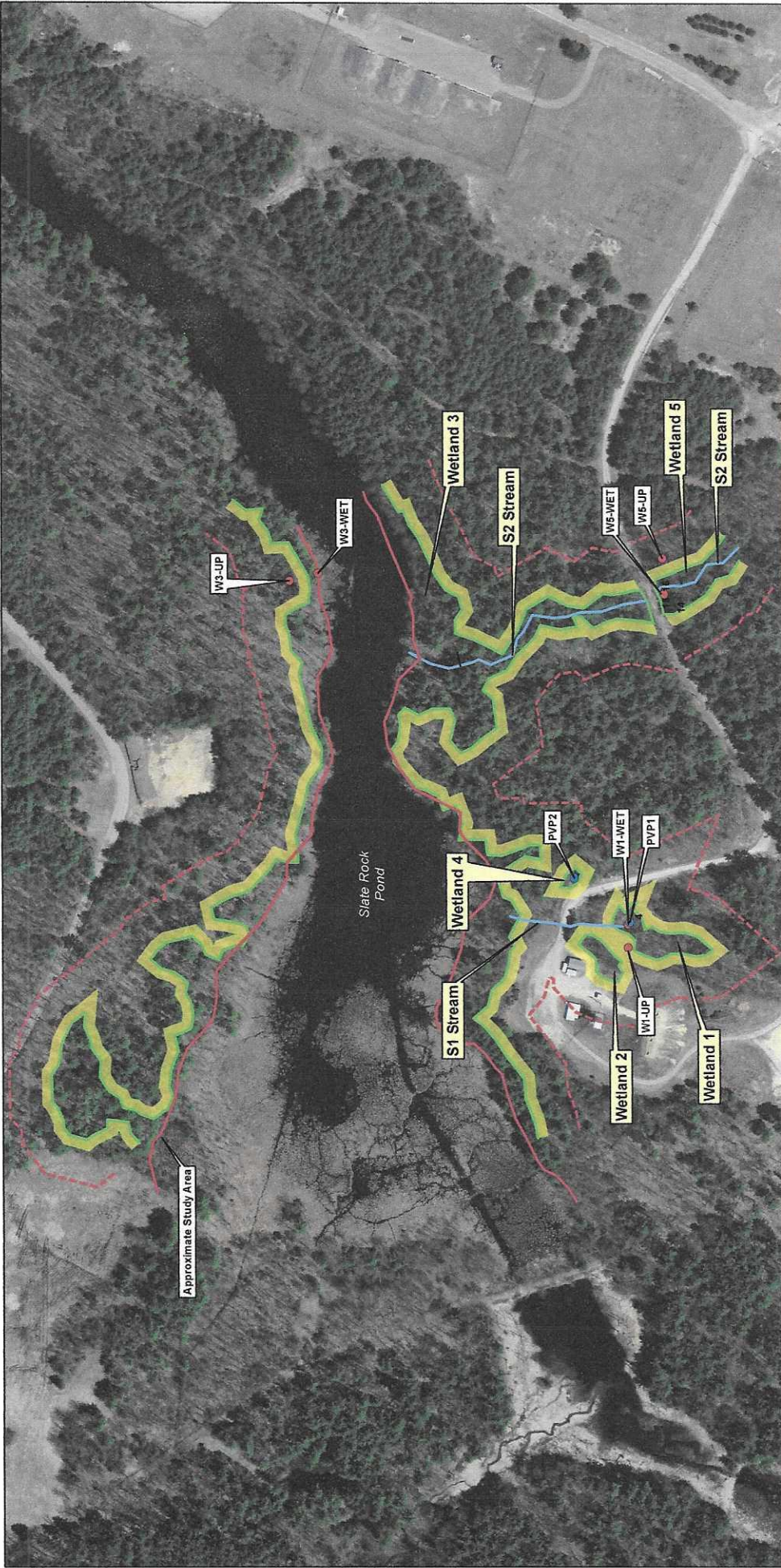


Figure 4.
Wetland Boundary
and Regulated Buffer Map
Devens Reserve Forces Training Area
Town of Lancaster
Worcester County, MA
Date: 9/29/2018

NORMANDEAU ASSOCIATES
Environmental Consultants

Index Map - 1:2,500,000

Site Location
Town of Lancaster
Worcester County, MA

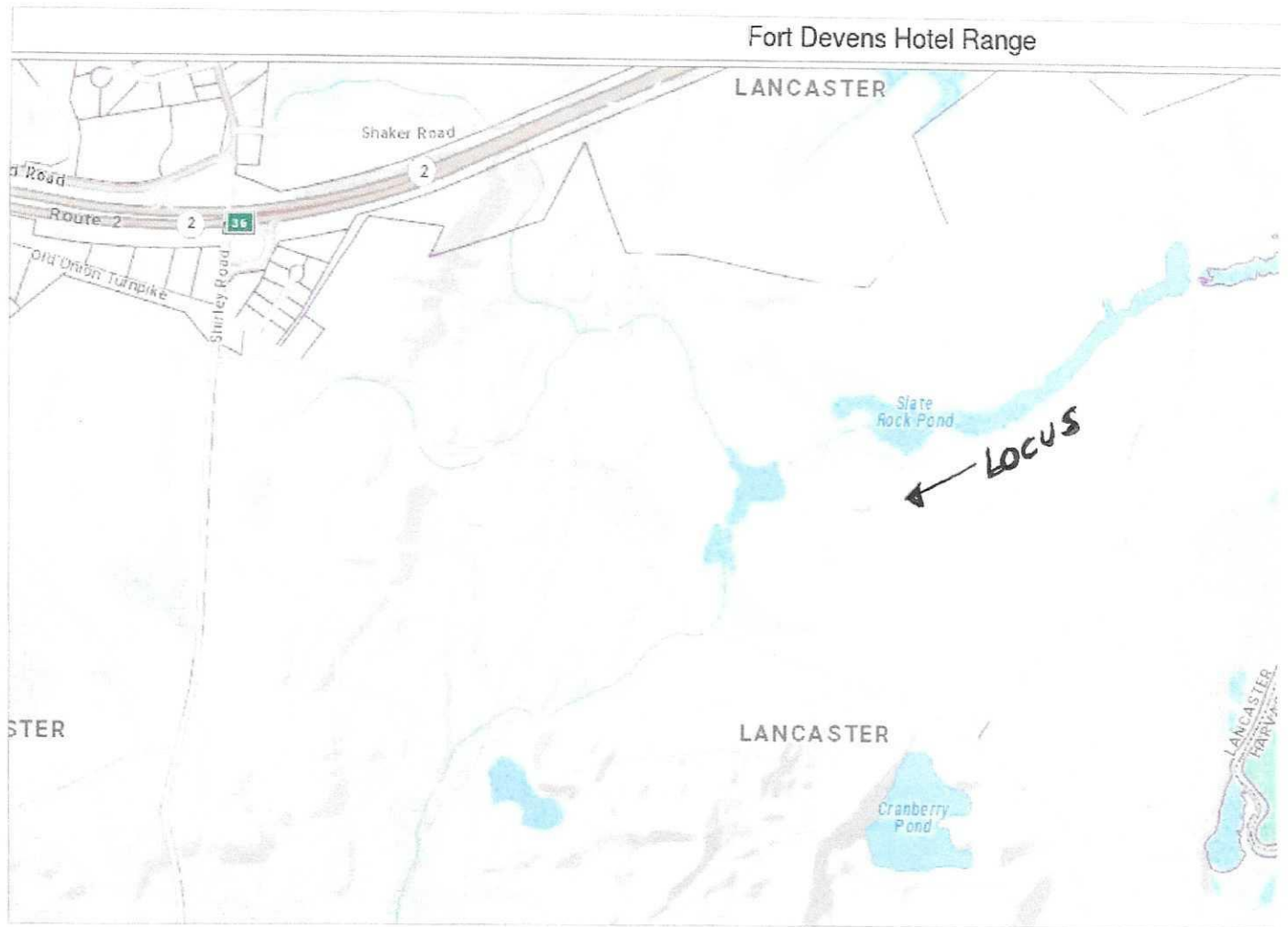
Legend

- Potential Vernal Pool
- Data Point
- Approximate Study Area
- Delineated Watercourse
- Delineated Wetland Boundary
- 100 ft Wetland Buffer
- 25 ft No-Build or No-Alteration Zone

0 112.5 225 450 Feet

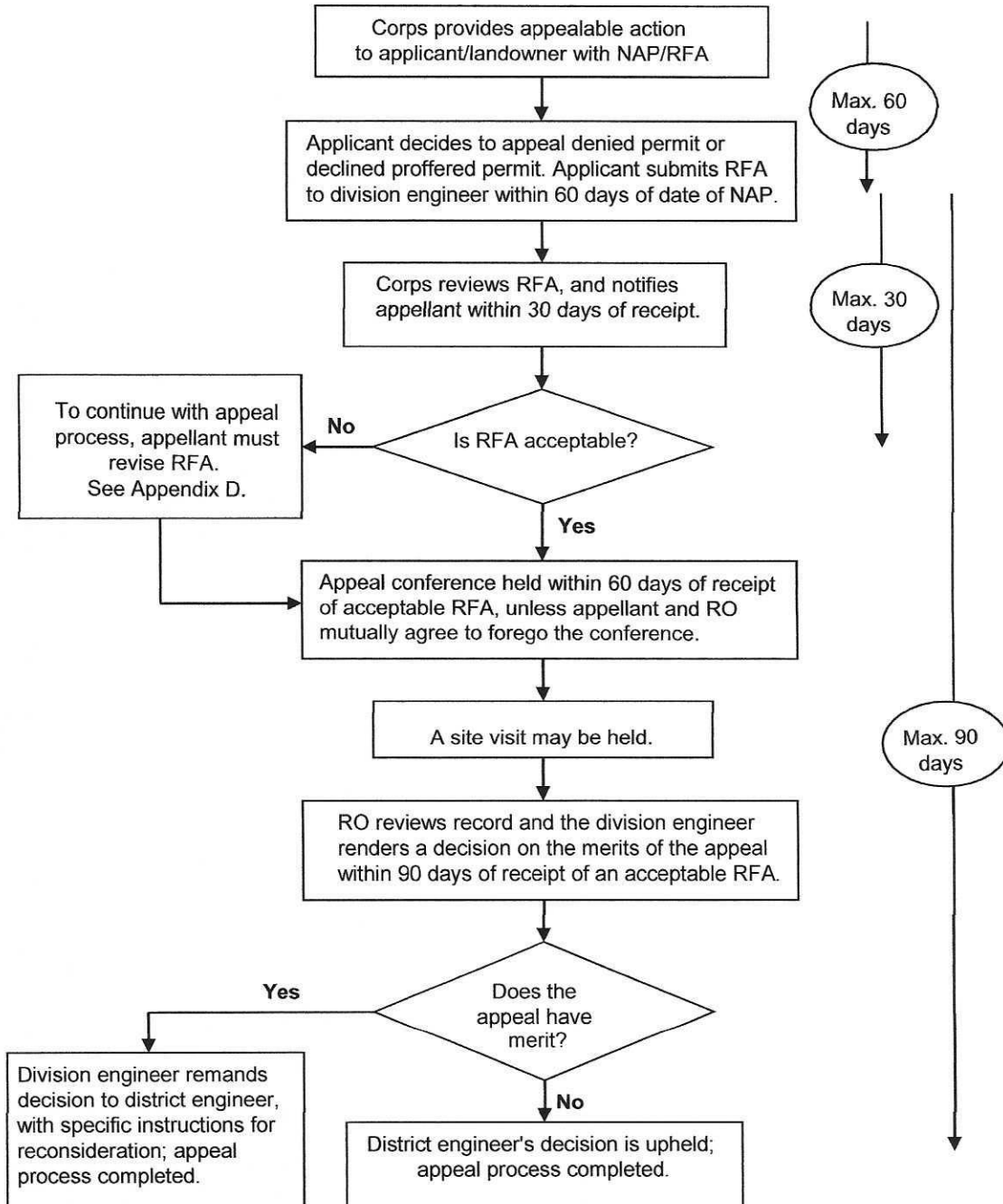
Source Information:

1. Imagery from MassGIS, USGS Orthoimagery, 2013.
2. Boundaries of Wetlands and Streams were delineated June 11 - 12, 2018 by Normandeau Associates, Inc.
3. The 100-foot wetland buffer is required by the Massachusetts Wetlands Protection Act. The 25-foot No-Build or No-Alteration Zone is required by the Town of Lancaster Bylaws Chapter 215 - Wetlands Protection.



Fort Devens Hotel Range
Fort Devens, Massachusetts
NAE-2020-00216

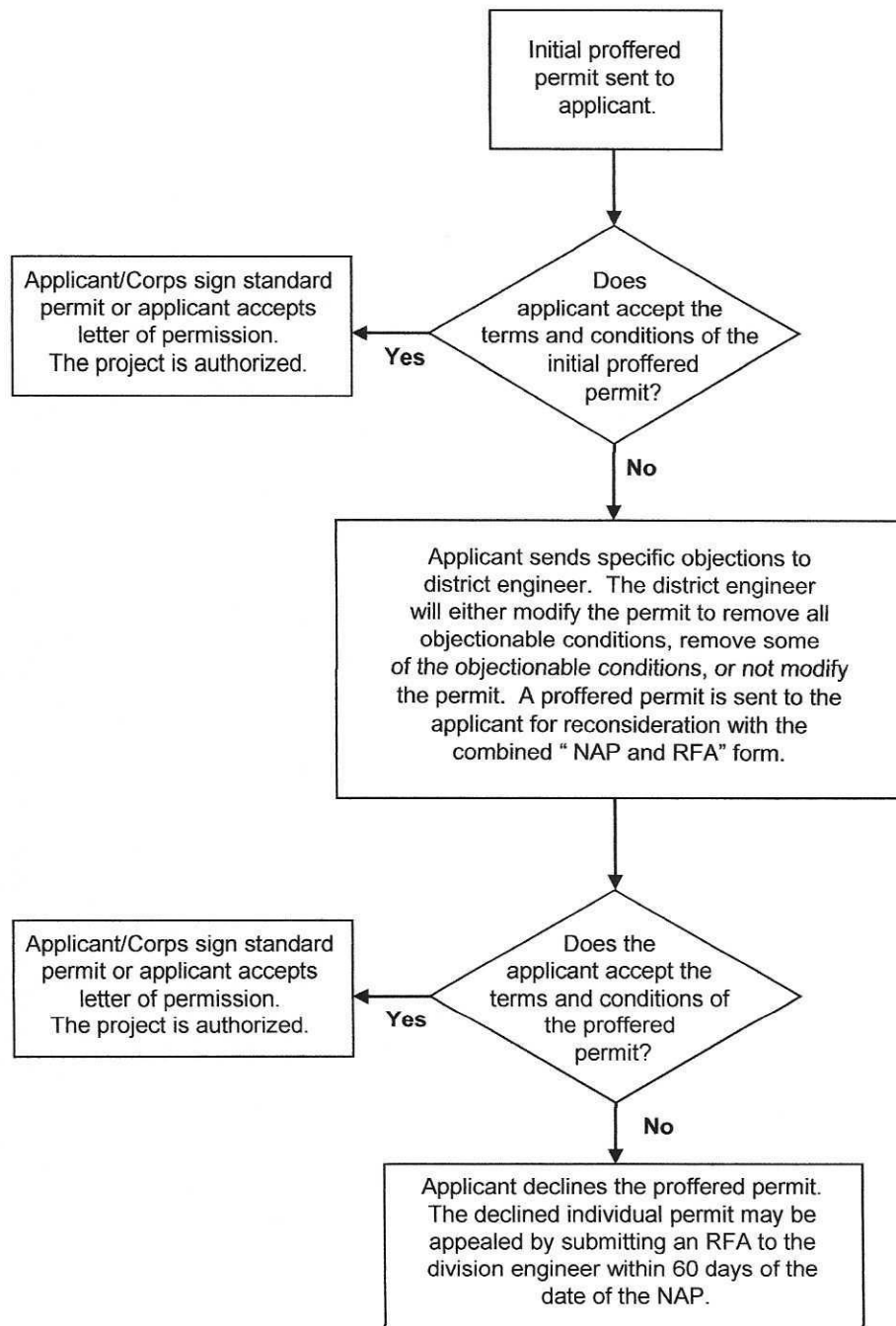
Administrative Appeal Process for Permit Denials and Proffered Permits



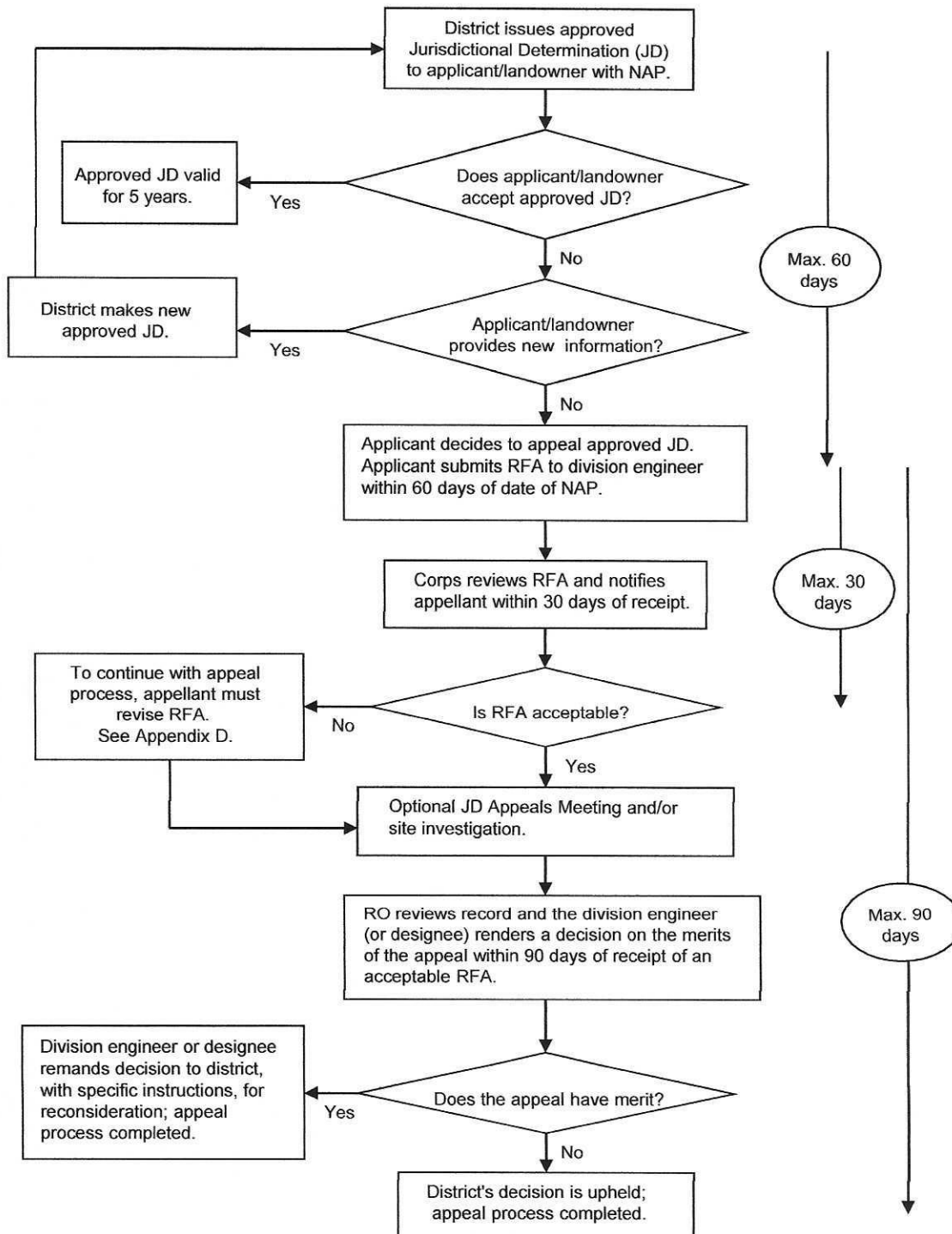
NOTE: If new information is provided to the Corps, the applicant will be asked if the applicant wishes to revise the project or record. If so, the appeal will be withdrawn and the case returned to the District for appropriate action. If not, then the Division Engineer will rule on the merits of the appeal based on the administrative record without consideration of the new information. However, the new information may cause the District Engineer to take action under 33 CFR 325.7, independent of the appeal process.

Appendix A

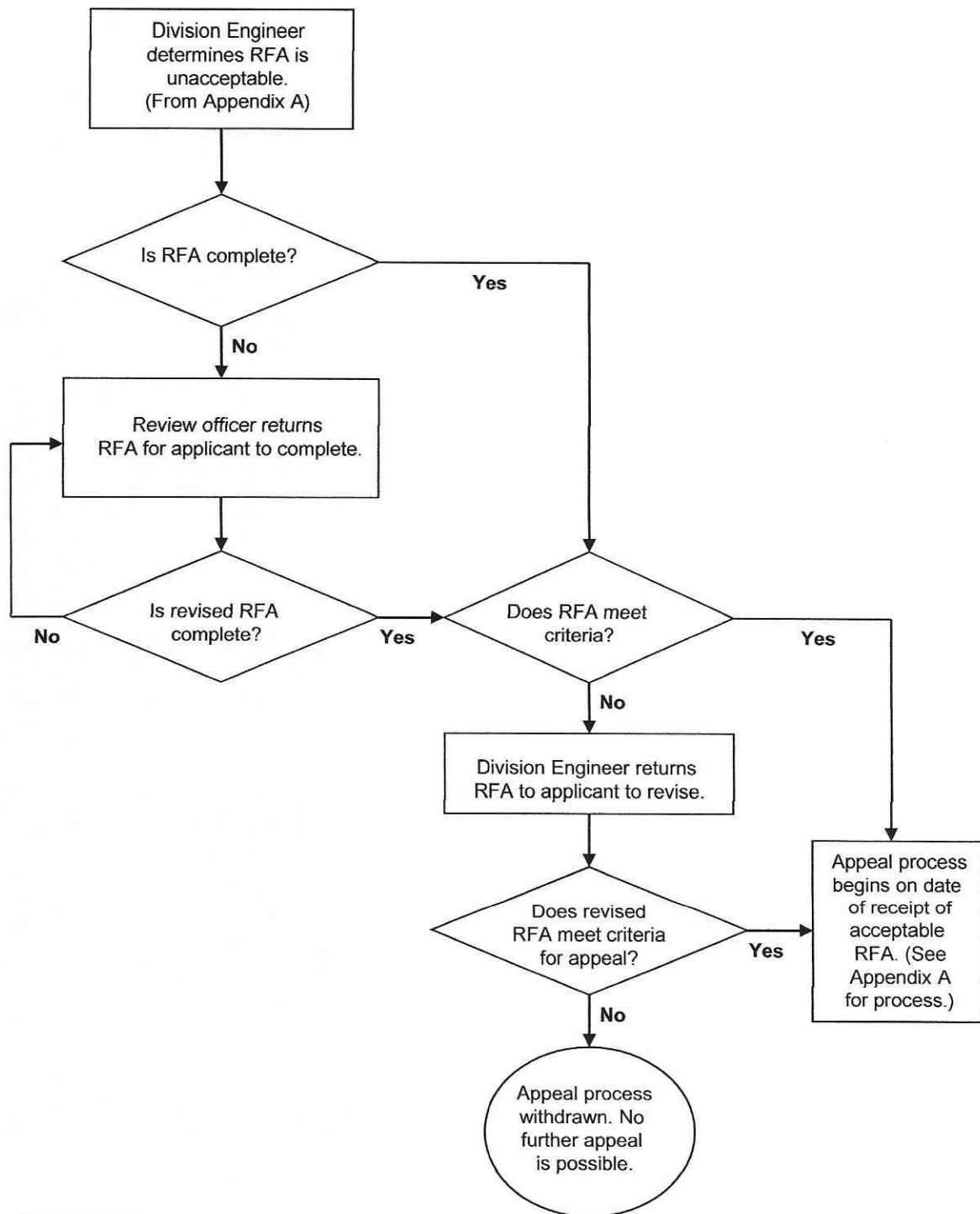
Applicant Options with Initial Proffered Permit



Administrative Appeal Process for Approved Jurisdictional Determinations



Process for Unacceptable Request for Appeal



Appendix D



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 1/26/2021

ORM Number: NAE-2020-00216

Associated JDs: N/A

Review Area Location¹: State/Territory: MA City: Fort Devens County/Parish/Borough: Worcester

Center Coordinates of Review Area: Latitude 42.51219 Longitude -71.51219

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- ☐ The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- ☐ There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- ☐ There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- ☒ There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
N/A.	N/A.	N/A.	N/A.	

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination	
N/A.	N/A.	N/A.	N/A.	

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination	
N/A.	N/A.	N/A.	N/A.	

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
N/A.	N/A.	N/A.	N/A.	

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination 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. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size		Rationale for Exclusion Determination
Wetland #4	0.03	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. This pond (Wetland #4) is separated by natural and/or man-made features. There were no outfalls from the road connecting W1 to W4 as well. This a vernal pool with an OHWM, but no connection to any other waters and is therefore an isolated water and non-jurisdictional.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

☒ Information submitted by, or on behalf of, the applicant/consultant: [Jurisdictional Wetlands and Waters Report U.S. Army Garrison Fort Devens South Post Hotel Range Reconfiguration Lancaster Township, Worcester County, Massachusetts Submitted By Normandeau Associates, Inc. dated July 2018, and Environmental Assessment for Hotel Range Renovation at U.S. Army Garrison Fort Devens, Massachusetts dated May 2020](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

- ☐ Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- ☒ Photographs: [Aerial and Other: Various Listed Below](#)
- ☒ Corps site visit(s) conducted on: [July 21, 2020](#)
- ☐ Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\).](#)
- ☐ Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- ☒ USDA NRCS Soil Survey: [Web Soil Surveys accessed September 29, 2019 & December 8, 2020](#)
- ☒ USFWS NWI maps: [NWI Mappers accessed September 29, 2019 & December 8, 2020](#)
- ☒ USGS topographic maps: [MAGIS Topo Map accessed December 8, 2020](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Orthoimagery 2013, NHD dataset (streams)
USDA Sources	N/A. Web Soil Surveys accessed September 29, 2019 & December 8, 2020
NOAA Sources	N/A.
USACE Sources	Corp Map Jurisdictional tool, Corps Site Visit Report by Taylor Bell dated 7/21/20

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Data Source (select)	Name and/or date and other relevant information
State/Local/Tribal Sources	Mass GIS Ortho Photo,
Other Sources	Environmental Assessment Hotel Range Renovation at U.S. Army Garrison Fort Devens, Massachusetts May 2020, Google Earth Aerials 12/2001 and 9/2019

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: The review area for the purposes of this AJD only consist of Wetland #4 (vernal pool). No other areas depicted on maps, photos or "study area" are included. Information provided by the agent suggested that Wetland #4 is a 0.03 acre isolated depression near the range access road. Vegetation cover was sparse with only occasional herbaceous stems or shrubs and may function as a vernal pool (PVP2) in some years and may not be considered federally jurisdictional because of its isolation from the Nashua River drainage system. A Corps site visit on July 21, 2020 found the site to be a vernal pool or likely vernal pool with an OHWM is present, but no connection to any other waters and is therefore an isolated water and non-jurisdictional. Most of site was flagged very conservative giving an impression that the resources may be abutting/adjacent, however resources appear to be separated from other waters. There were no outfalls from the road connecting W1 to W4 as well. The Corps site visit confirms the assertion by the applicant's consultant that Wetland #4 is an isolated water, and not within Corps Jurisdiction.

Site visit on 7/21/20 at Fort Devens

Crystal Gardner – Corps

Taylor Bell – Corps

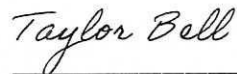
Suzy Richardson – Natural Resource Specialist

Weather – 88° Most recent rain more than 1 week ago.

Overall site was consistent with what was presented on the JD. For the purposes of the site visit Wetland 4 was the center of the delineation, however all boundaries were walked and found to be consistent with below map. Most of site is flagged very conservatively, giving impression resources may be abutting/adjacent, however the resources that appear separated by natural and/or man-made features (road) have been found to be.

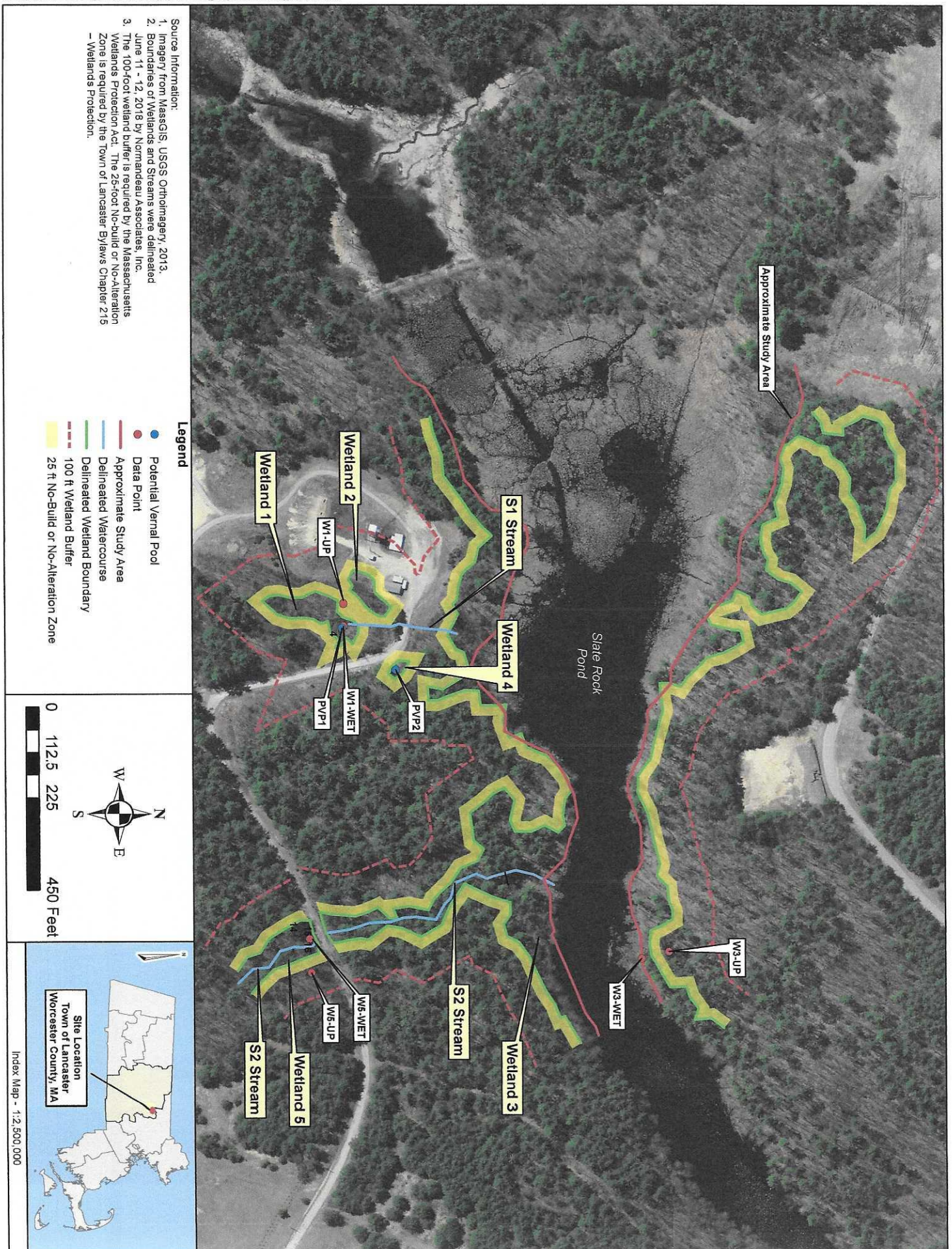
A yellow comment bar represents where the photos of the site took place. All photos in this pdf were taken at this point. The soils for this area were 10 YR 4/4 0-12", no signs of any hydric indicators. Area appears to be old road bed, or rail bed, not too sure. No outfalls from road connecting W1 to W4 as well.

In conclusion, the site is consistent with the delineation and waters that appear jurisdictional on the plans should be, and those that do not appear jurisdictional may not be.



Taylor Bell

Mitigation Program Manager



:

Looking east above waterward of Wetland 4. You can see depression of VP right side of picture





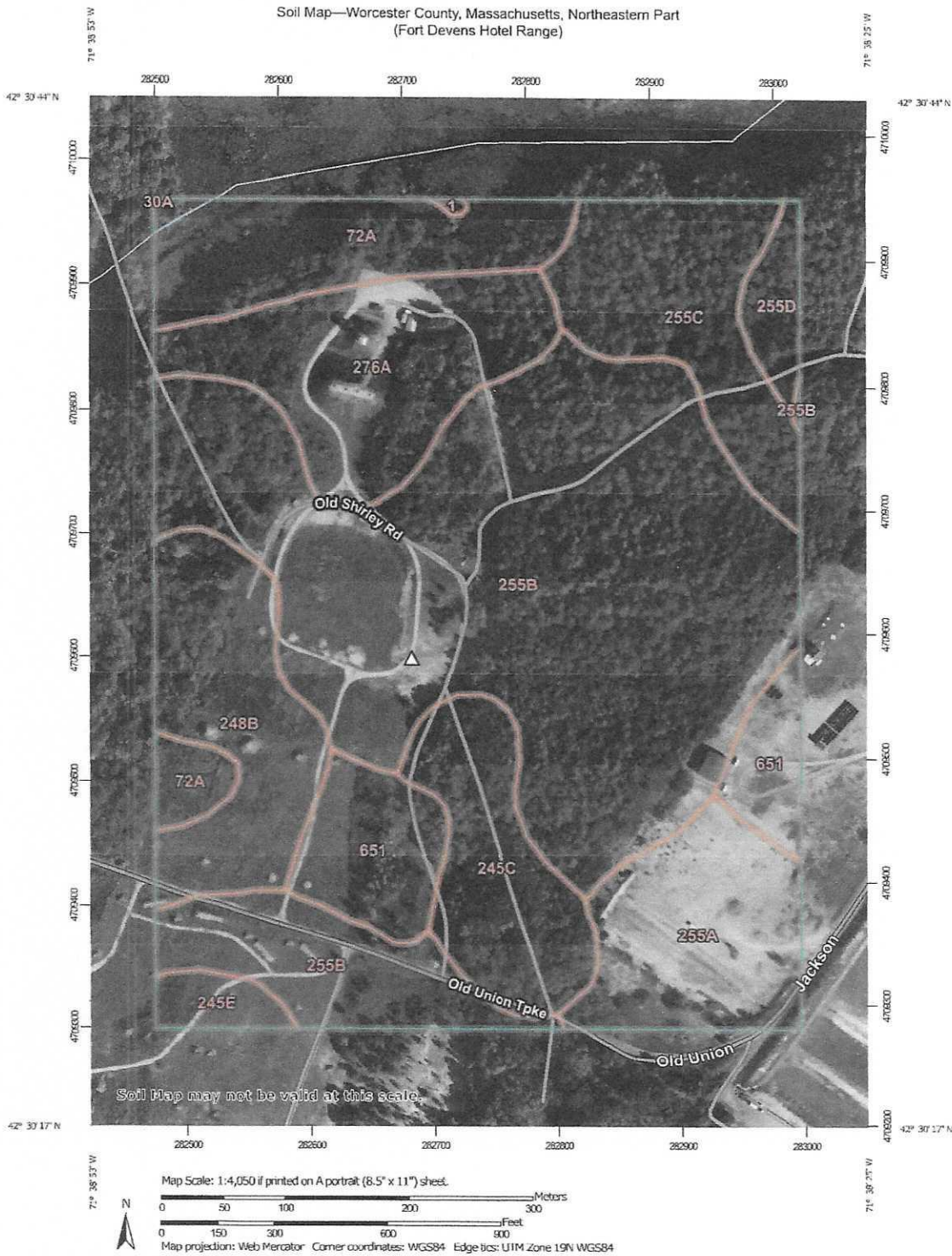
Looking west above wetland 4, in gap between wetland 4 and 5. Appears to be old bed of sorts.



Looking west above wetland 4, in gap between wetland 4 and 5. Appears to be old bed of sorts.



Soil Map—Worcester County, Massachusetts, Northeastern Part
(Fort Devens Hotel Range)



Natural Resources
Conservation Service

Web Soil Survey
National Cooperative Soil Survey

12/8/2020
Page 1 of 3

MAP LEGEND

Area of Interest (AOI)		Spoil Area
Area of Interest (AOI)		Stony Spot
Soils		Very Stony Spot
Soil Map Unit Polygons		Wet Spot
Soil Map Unit Lines		Other
Soil Map Unit Points		Special Line Features
Special Point Features		Water Features
Blowout		Streams and Canals
Borrow Pit		Transportation
Clay Spot		Rails
Closed Depression		Interstate Highways
Gravel Pit		US Routes
Gravelly Spot		Major Roads
Landfill		Local Roads
Lava Flow		Background
Marsh or swamp		Aerial Photography
Mine or Quarry		
Miscellaneous Water		
Perennial Water		
Rock Outcrop		
Saline Spot		
Sandy Spot		
Severely Eroded Spot		
Sinkhole		
Slide or Slip		
Sodic Spot		

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Worcester County, Massachusetts,
Northeastern Part
Survey Area Data: Version 15, Jun 10, 2020

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 12, 2019—Sep 29, 2019

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1	Water	0.1	0.1%
30A	Raynham silt loam, 0 to 3 percent slopes	0.0	0.0%
72A	Whitman fine sandy loam, 0 to 3 percent slopes	7.1	8.1%
245C	Hinckley loamy sand, 8 to 15 percent slopes	5.8	6.6%
245E	Hinckley loamy sand, 25 to 35 percent slopes	1.1	1.2%
248B	Amosdown and Belgrade soils, 3 to 8 percent slopes	7.1	8.2%
255A	Windsor loamy sand, 0 to 3 percent slopes	6.6	7.6%
255B	Windsor loamy sand, 3 to 8 percent slopes	37.6	43.3%
255C	Windsor loamy sand, 8 to 15 percent slopes	6.7	7.7%
255D	Windsor loamy sand, 15 to 25 percent slopes	1.3	1.5%
276A	Ninigret fine sandy loam, 0 to 3 percent slopes	8.4	9.6%
551	Udorthents, smoothed	5.1	5.9%
Totals for Area of Interest		86.8	100.0%

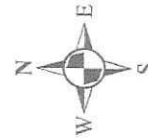
Soil Type Table

Soil Type	NRCS Map Designation	Drainage Class	Taxonomy	Mapped Hydric?	Parent Geology	Field Delineated Wetlands found in this mapped Soil Type?
Amotown and Belgrade soils, 3-8 % slopes	248B	Moderately Well-drained-both components	Amotown- Typic dystrochrepts Belgrade- Aquic dystic eutrochrept	NO	frable coarse-loamy glaciofluvial deposits derived from metamorphic rock over hard coarse-silty glacioclastine deposits- Belgrade- hard coarse-silty glacioclastine deposits	Wetland 3
Ninigret fine sandy loam, 0 to 3 percent slopes	276A	Moderately Well-drained	Aquic dystrudepts	NO	coarse-loamy eolian deposits over sandy and gravelly glaciofluvial deposits derived from gneiss, granite, schist, and/or phyllite	Wetland 1, Wetland 2, Wetland 4, Stream 1
Raynham Silt Loam, 0-3% Slopes	30A	Poorly Drained	Aeric haplaquepts	YES	soft coarse-silty lacustrine deposits	Wetland 3
Windsor Loamy Sand, 3-8%	255 B	Excessively Drained	Typic udipsamments	NO	loose sandy glaciofluvial deposits derived from granite and/or loose sandy glaciofluvial deposits derived from schist and/or loose sandy glaciofluvial deposits derived from gneiss	Wetland 3
Windsor Loamy Sand, 8-15%	255 C	Excessively Drained	Typic udipsamments	NO	loose sandy glaciofluvial deposits derived from granite and/or loose sandy glaciofluvial deposits derived from schist and/or loose sandy glaciofluvial deposits derived from gneiss	Wetland 3
Whitman Loam, 0-3% slopes	72A	Very Poorly Drained	Typic humaquepts	YES	frable coarse-loamy eolian deposits over dense coarse-loamy bedment till derived from granite and gneiss	Wetland 3

Legend

- Potential Vernal Pool
- Data Point
- Photo Location and Orientation
- Approximate Study Area
- Delineated Watercourse
- Delineated Wetland Boundary
- Anotown and Belgrade soils
- Ninigret fine sandy loam
- Raynham silt loam
- Water
- Whitman loam
- Windsor loamy sand

Source Information:
 1. Imagery from MassGIS, USGS Orthomage, 2013.
 2. Boundaries of Wetlands and Streams were delineated June 11 - 12, 2018 by Iormandeau Associates, Inc.
 3. Soils from U.S. Department of Agriculture, Natural Resources Conservation Service, Soil Survey (SSURGO) database for Worcester County, MA, Northwestern part, 2005-2017.



Site Location
 Town of Lancaster
 Worcester County, MA

Index Map - 1:2,500,000



December 8, 2020

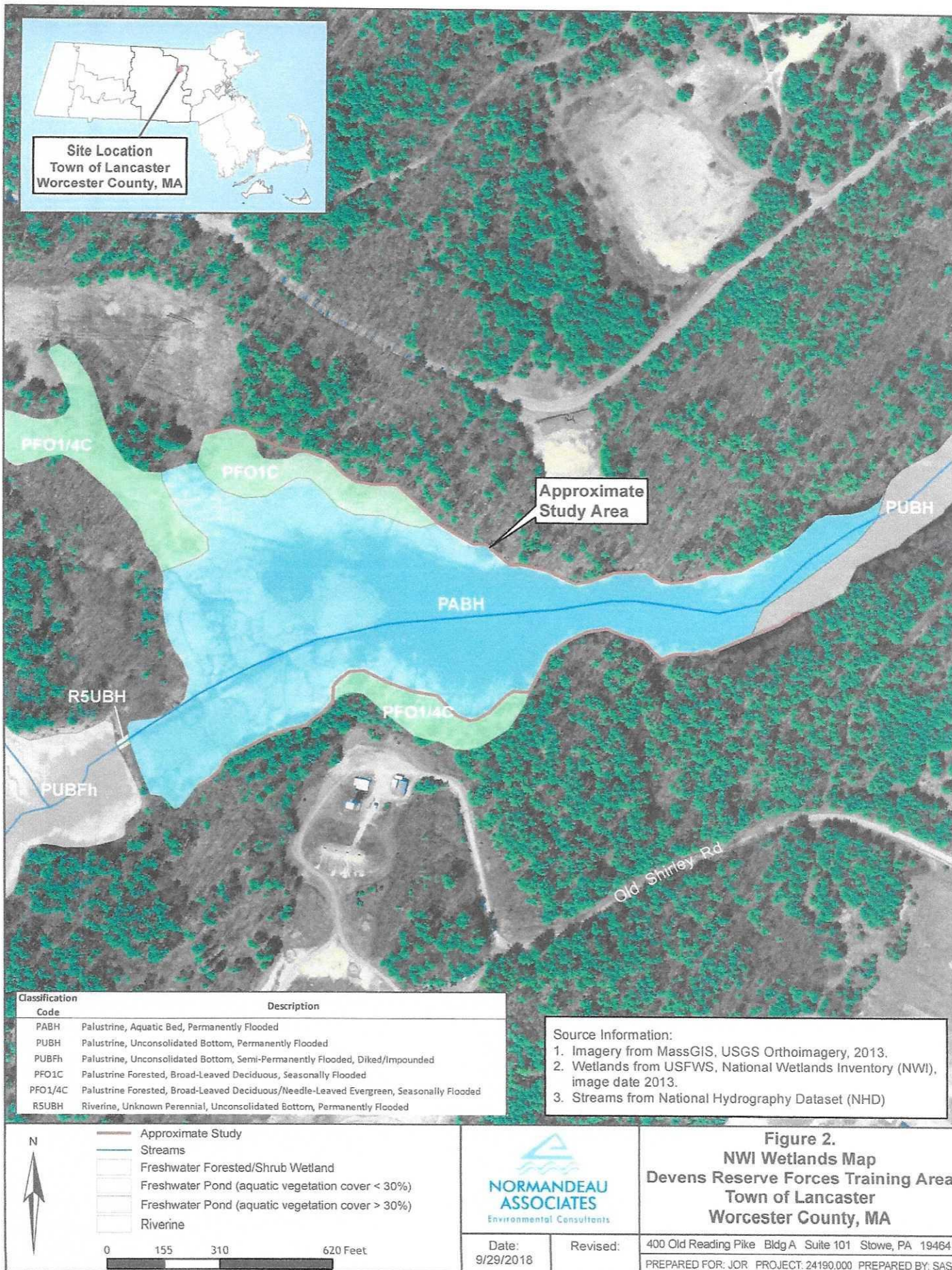
Wetlands

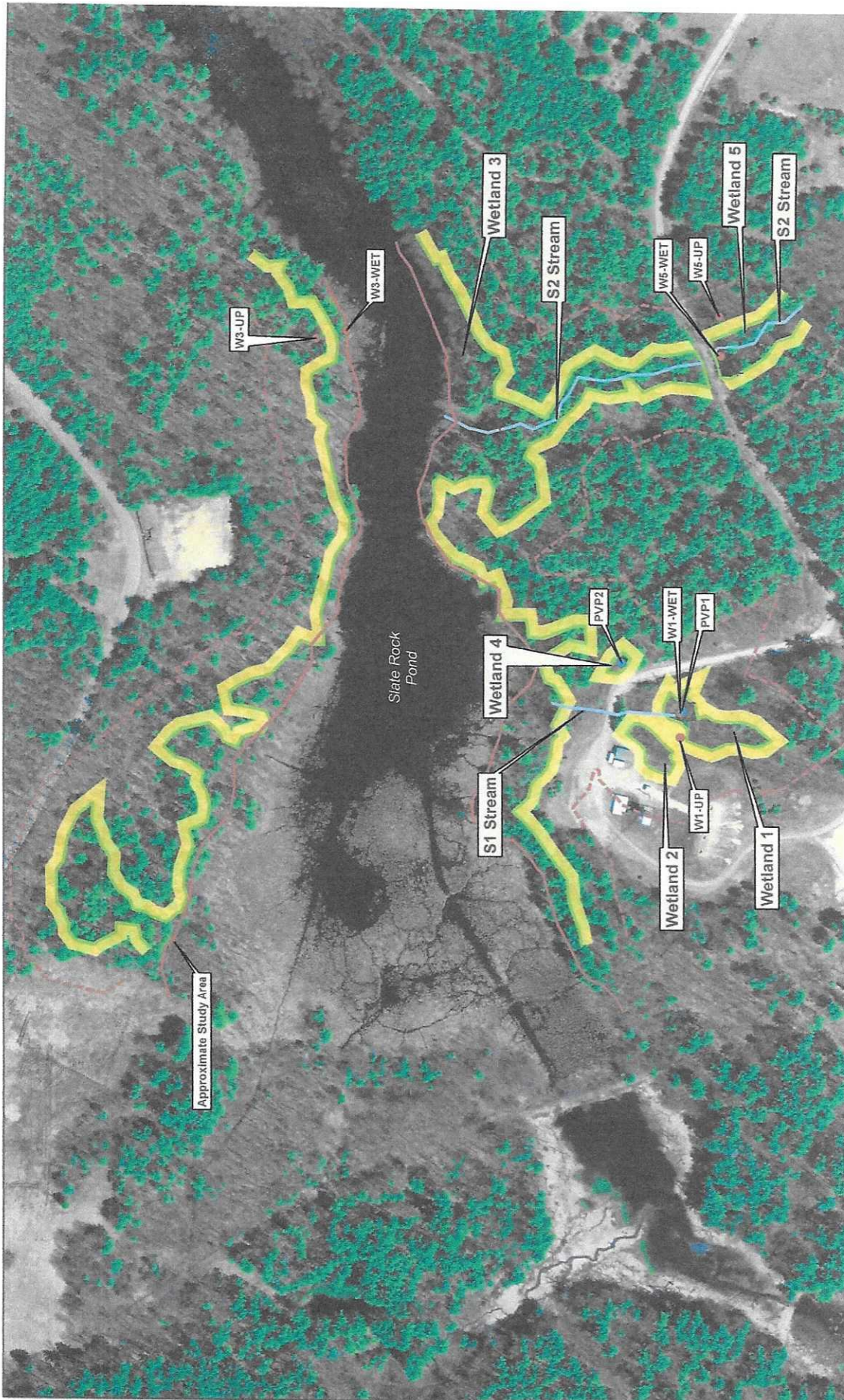
- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland

- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond

- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.





Legend

- Potential Vernal Pool
- Data Point
- Approximate Study Area
- Delineated Watercourse
- Delineated Wetland Boundary
- 100 ft Wetland Buffer
- 25 ft No-Build or No-Alteration Zone

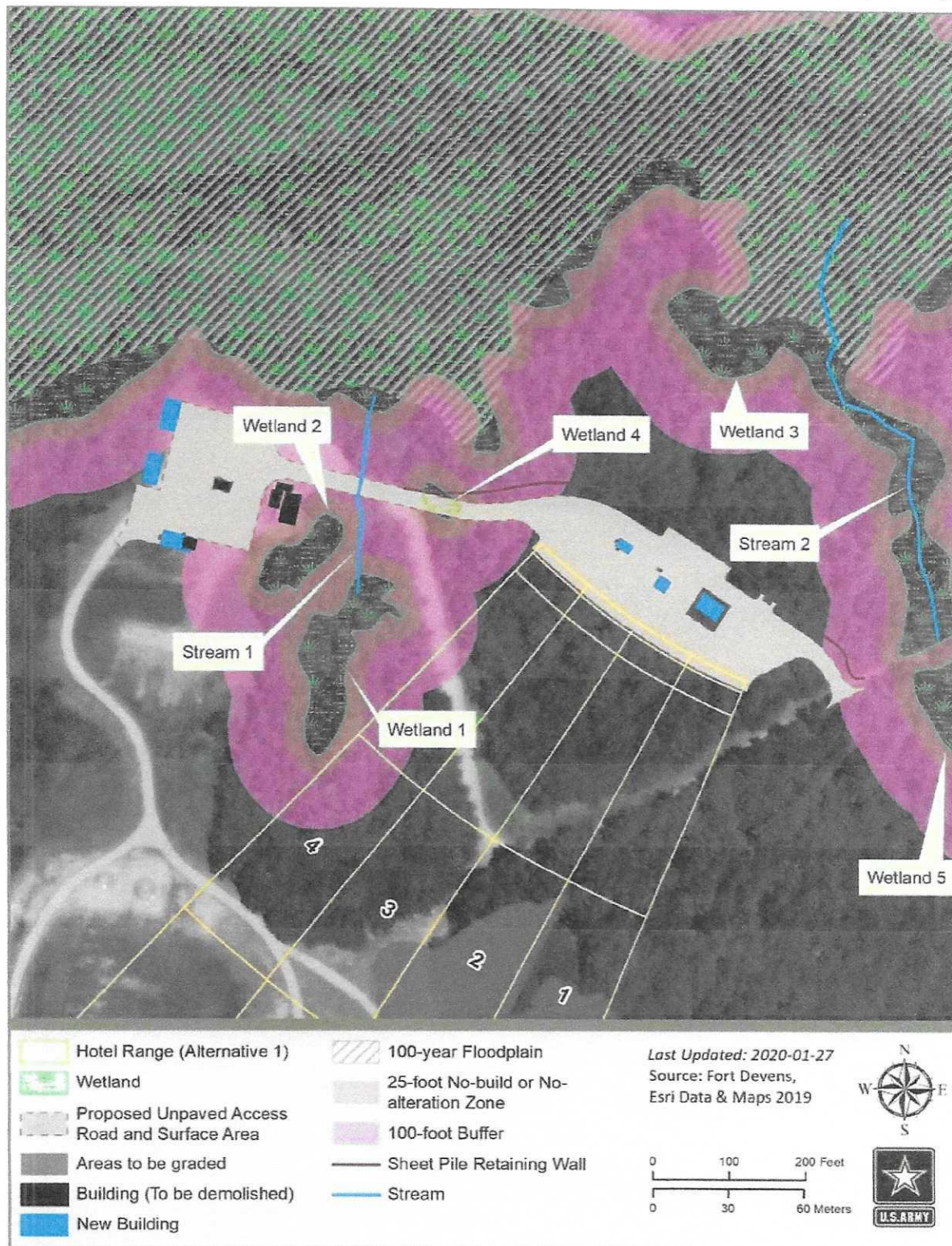
Source Information:
 1. Imagery from MassGIS, USGS Orthoimagery, 2013.
 2. Boundaries of Wetlands and Streams were delineated June 11 - 12, 2018 by Normandeau Associates, Inc.
 3. The 100-foot wetland buffer is required by the Massachusetts Wetlands Protection Act. The 25-foot No-build or No-Alteration Zone is required by the Town of Lancaster Bylaws Chapter 215 - Wetlands Protection.

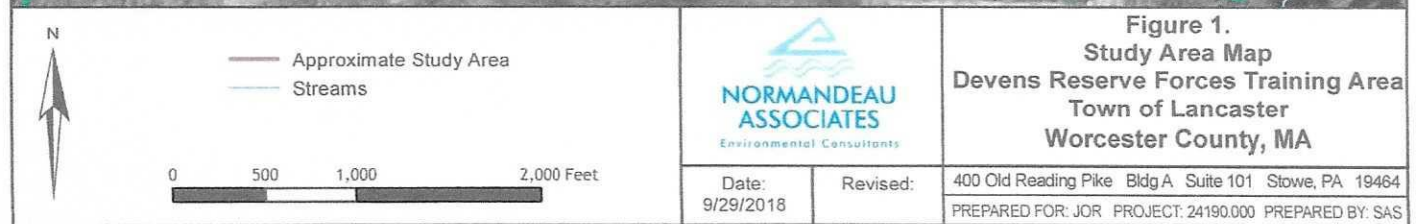
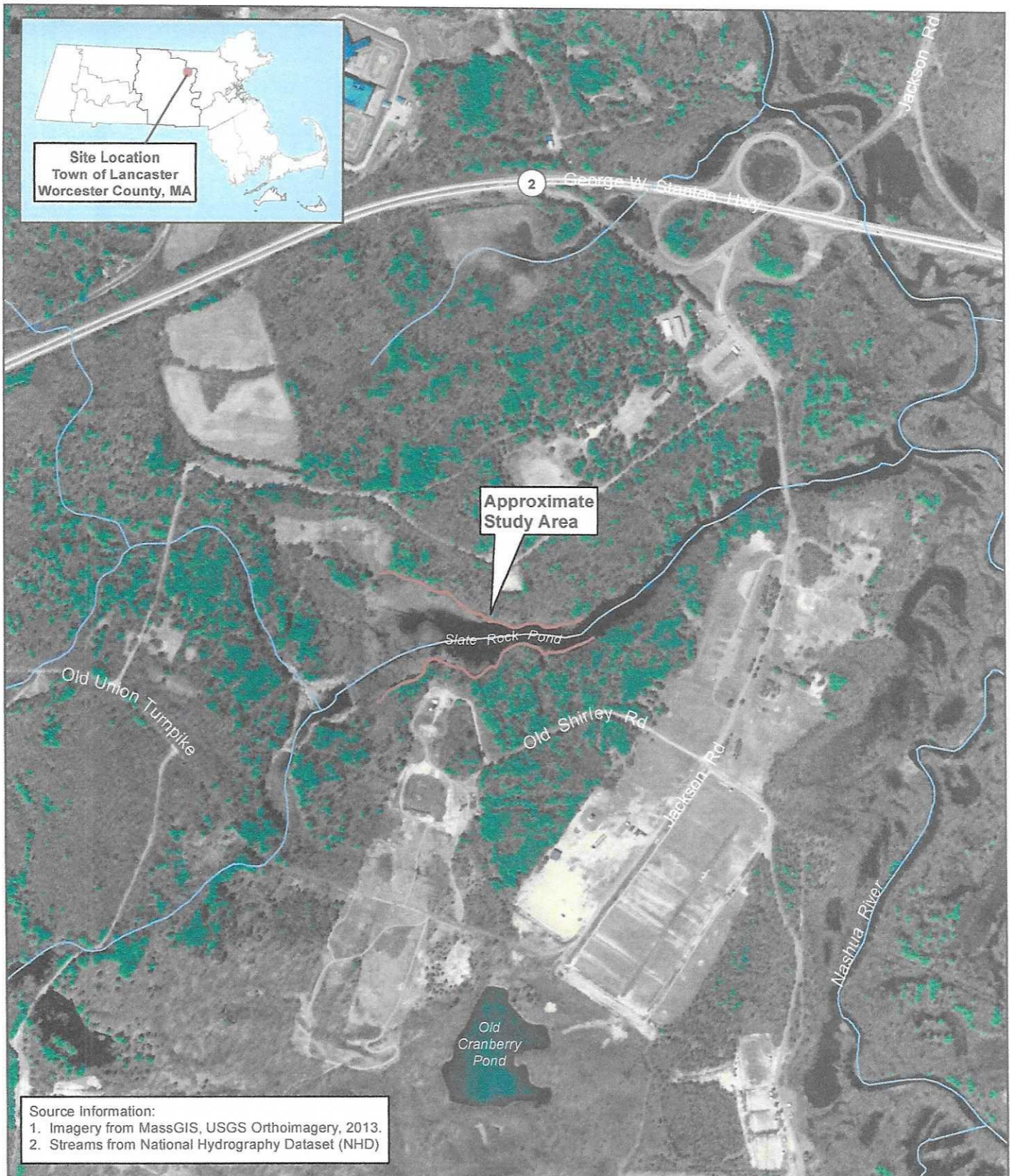


Site Location
 Town of Lancaster
 Worcester County, MA

Index Map - 1:2,500,000

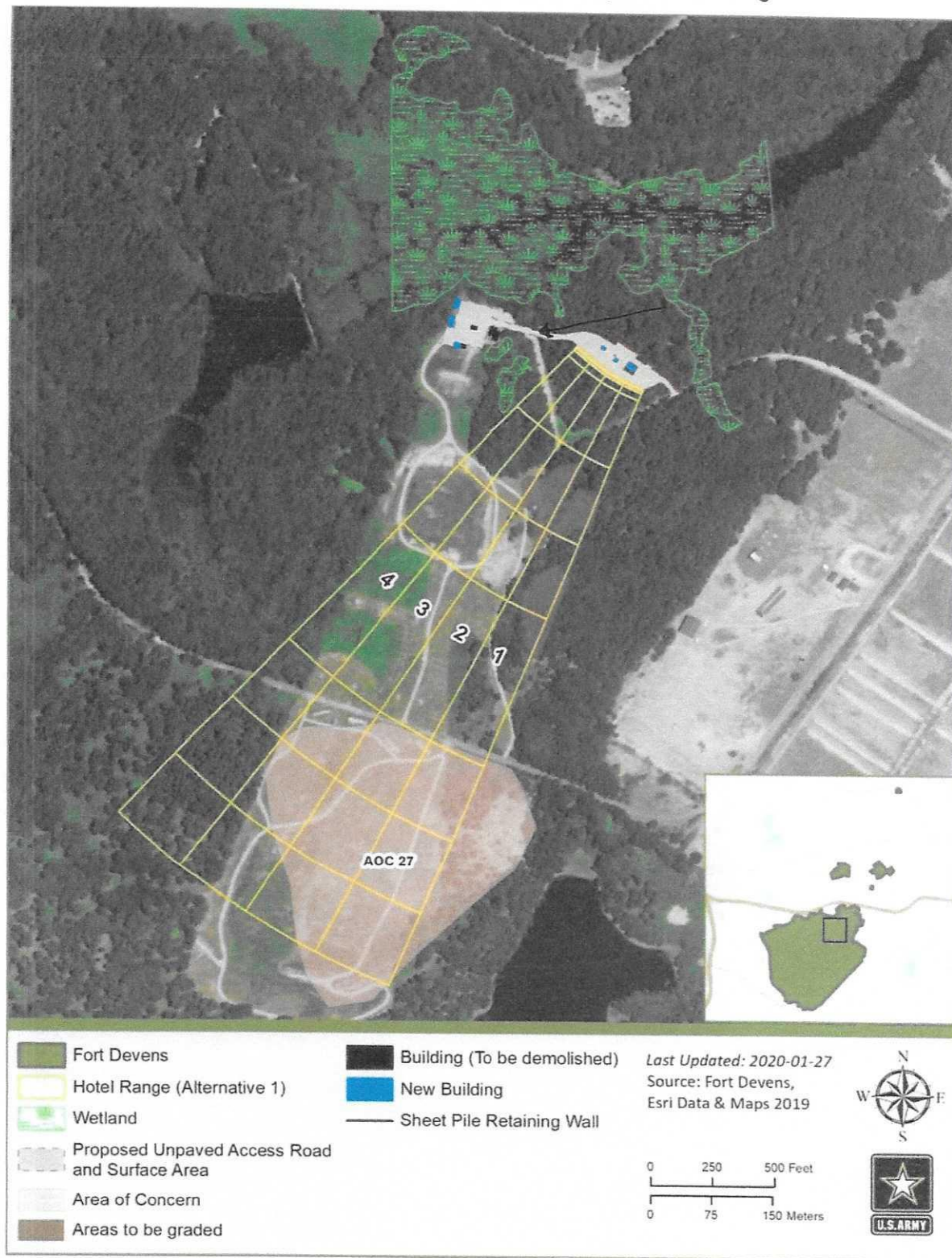
Figure 3-6. Alternative 1 Floodplains and Wetland Buffers (Preferred)





Path: J:\Projects\DevensMA_24190\MXD\Fig1_StudyArea_FortDevens_092918.mxd

Figure 2-2. Alternative 1 Hotel Range, Full View (Preferred)



Fort Devens Hotel Range

Write a description for your map. 9/2019

Legend

Feature 1

NATIONAL WILDLIFE REFUGE

Oxbow National Wildlife Refuge

Oxbow NWR

Hotel Range Control Wetland 4 Area



Untitled Placemark

Jackson Rd

Cranberry Pond

Riverside Trail

Turnpike Trail

Google Earth

© 2020 Google

© USFWS

2000 ft



Fort Devens Hotel Range

Write a description for your map. 12/2001

Legend

Feature 1

NATIONAL WILDLIFE REFUGE

Oxbow National Wildlife Refuge

Oxbow NWR

Hotel Range Control Wetland 4 Area
Untitled Placemark

Old Shirley Rd

Old Turnpike Rd

Jackson Rd

Google Earth

Image MassGIS, Commonwealth of Massachusetts EOEA



1000 ft

Fort Deven Hotel Range



Fort Devens Hotel Range
Fort Devens, Massachusetts
NAE-2020-00216