

**DRAFT**

**FINDING OF SUITABILITY TO TRANSFER**

**(FOST)**

**FORT MONMOUTH, NEW JERSEY**

**Parcel R119**

**August 2025**

## TABLE OF CONTENTS

1.	PURPOSE .....	1
2.	PROPERTY DESCRIPTION.....	1
3.	ENVIRONMENTAL DOCUMENTATION .....	2
4.	ENVIRONMENTAL CONDITION OF PROPERTY.....	2
4.1	Environmental Remediation Sites .....	3
4.1.1	Installation Restoration Program .....	3
4.2	Storage, Release or Disposal of Hazardous Substances .....	3
4.3	Petroleum and Petroleum Products .....	3
4.3.1	Underground and Aboveground Storage Tanks .....	3
4.3.2	Non-UST/AST Storage, Release, or Disposal of Petroleum Products.....	4
4.4	Polychlorinated Biphenyls .....	4
4.5	Asbestos .....	4
4.6	Lead-Based Paint .....	4
4.7	Radiological Materials .....	4
4.8	Radon .....	4
4.9	Munitions and Explosives of Concern .....	4
4.10	Other Property Conditions .....	4
5.	ADJACENT PROPERTY CONDITIONS .....	5
6.	ENVIRONMENTAL REMEDIATION AGREEMENTS.....	5
7.	REGULATORY/PUBLIC COORDINATION .....	5
8.	NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE .....	6
9.	FINDING OF SUITABILITY TO TRANSFER.....	6

## LIST OF ENCLOSURES

Enclosure 1 - Figures

Enclosure 2 – Environmental Documentation

Enclosure 3 – Table 1 – Description of Property

Enclosure 4 – Table 2 – Notification of Petroleum Products Storage, Release and Disposal

Enclosure 5 – Access Provisions and Other Deed Provisions

Enclosure 6 – Regulatory/Public Comments and Responses

## LIST OF ACRONYMS AND ABBREVIATIONS

ACM	Asbestos-Containing Material
AST	Aboveground Storage Tank
ASTM	American Society of Testing and Materials
BRAC	Base Realignment and Closure
C4ISR	Command and Control, Communications, Computers, Intelligence, Sensors and Reconnaissance
CECOM	Communications-Electronics Command
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
DMM	Discarded Military Munitions
DOD	Department of Defense
ECP	Environmental Condition of Property
EDR	Environmental Data Report
EPP	Environmental Protection Provision
FMERA	Fort Monmouth Economic Revitalization Authority
FOST	Finding of Suitability to Transfer
FTMM	Fort Monmouth
IRP	Installation Restoration Program
LBP	Lead-Based Paint
MEC	Munitions and Explosives of Concern
NEPA	National Environmental Policy Act
NJ	New Jersey
NJDEP	New Jersey Department of Environmental Protection
NJDOT	New Jersey Department of Transportation
PCB	Polychlorinated Biphenyl
PR	Petroleum Release
PS	Petroleum Storage
RA	Remedial Action
RAR	Remedial Action Report
U.S.C.	United States Code
UST	Underground Storage Tank
UXO	Unexploded Ordnance

**DRAFT  
FINDING OF SUITABILITY TO TRANSFER  
(FOST)**

**Fort Monmouth, New Jersey  
Parcel R119**

**August 2025**

**1. PURPOSE**

The purpose of this Finding of Suitability to Transfer (FOST) is to document the environmental suitability for transfer of Parcel R119 located at Fort Monmouth, New Jersey. The Parcel was not transferred with the surrounding property as it has existed since 1965 as a right-of-way between the United States of America and the New Jersey (NJ) State Highway Department. This parcel is set to be transferred to the NJ State Highway consistent with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 120(h) and Department of Defense (DOD) policy. This FOST includes the CERCLA Access Provisions and other Deed Provisions and the Environmental Protection Provisions (EPPs) necessary to protect human health or the environment after such transfer.

**2. PROPERTY DESCRIPTION**

Fort Monmouth is located in the central-eastern portion of New Jersey, approximately 45 miles south of New York City, 70 miles northeast of Philadelphia and 40 miles east of Trenton (Figure 1). The Atlantic Ocean is located approximately 2.5 miles to the east. Fort Monmouth was composed of three operational areas: the Main Post (MP) encompasses an area of approximately 637 acres east of State Highway Route 35 and within the Boroughs of Eatontown and Oceanport; the Charles Wood Area is approximately 1 mile to the west of the MP and within the Boroughs of Eatontown and Tinton Falls; and the Evans Area is located approximately 10 miles south of the MP in Wall Township.

The primary mission of Fort Monmouth was to provide command, administrative and logistical support for the Headquarters, United States Army Communications-Electronics Command (CECOM). CECOM was a major subordinate command of the United States Army Materiel Command and was the host activity. Fort Monmouth served as the center for the development of the Army's Command and Control, Communications, Computers, Intelligence, Sensors and Reconnaissance (C4ISR) systems. In 2005, the United States Congress approved the BRAC Commission's recommendation to close Fort Monmouth by September 2011. The installation closed on September 15, 2011.

Fort Monmouth activities were realigned under four BRAC Commission recommendations in 1988, 1991, 1993 and 1995 prior to the recommendation for closure in 2005. The Evans Area was included in BRAC 1993 and the Main Post and Charles Wood Area were included in BRAC 2005. The majority of the Charles Wood Area and Parcel B of the Main Post were transferred to the Fort Monmouth Economic Revitalization Authority

(FMERA) as the Phase 1 Parcels in 2012 and 2014. Portions of the MP were transferred to the FMERA as the Phase 2 Parcels in 2016.

However, Army retained a portion of property west of Parcel B of the Main Post where it had granted the NJ State Highway Department a right-of-way easement for Route 35. That property, which is the subject of this FOST, is known to the NJ Department of Transportation (NJDOT) as Parcel R119 and encompasses an area of approximately 0.511 acres and is herein referred to as “the Property” (Figure 2).

### **3. ENVIRONMENTAL DOCUMENTATION**

A determination of the environmental condition of the Property was made based upon the U.S. Army BRAC 2005 Environmental Condition of Property (2007) and the Environmental Condition of Property Update Report, Parcel R119 (May 2025). A complete list of documents providing information on environmental conditions of the Property is attached (Enclosure 2).

### **4. ENVIRONMENTAL CONDITION OF PROPERTY**

The DOD Environmental Condition of Property (ECP) category for the subject Property covered by this FOST is as follows:

ECP Category 2: Parcel R119

A summary of the ECP category for the parcel and the definitions are provided in Table 1 (Enclosure 3).

#### **4.1 ENVIRONMENTAL REMEDIATION SITES**

##### **4.1.1 INSTALLATION RESTORATION PROGRAM**

None of the property covered by this FOST includes areas that required remediation under the Installation Restoration Program (IRP).

#### **4.2 STORAGE, RELEASE, OR DISPOSAL OF HAZARDOUS SUBSTANCES**

There is no evidence that hazardous substances were stored, released, or disposed of on the Property in excess of reportable quantities specified in 40 Code of Federal Regulations (CFR) Part 373.

#### **4.3 PETROLEUM AND PETROLEUM PRODUCTS**

##### **4.3.1 UNDERGROUND AND ABOVEGROUND STORAGE TANKS (UST/AST)**

###### **Current UST/AST Sites –**

There is no evidence that there are no USTs or ASTs currently existing on the Property.

**Former UST/AST Sites** –

There is no evidence that petroleum products were stored in underground or above-ground storage tanks on the property. There were no former USTs/ASTs located on the Property.

**4.3.2 NON-UST/AST STORAGE, RELEASE, OR DISPOSAL OF PETROLEUM PRODUCTS**

There is evidence of non-UST/AST storage, release, or disposal of petroleum products on the Property. The adjacent, non-Army owned property had a release of petroleum, oil, or lubricants (POL) which have migrated onto the Property. See Table 2, Notification of Petroleum Product Storage, Release or Disposal.

**4.4 POLYCHLORINATED BIPHENYLS**

There is no evidence that PCB-containing equipment is located or was previously located on the Property.

**4.5 ASBESTOS**

The only building on the Property is a brick bus stop structure is located near the corner of Route 35 and Avenue of Memories. No potential asbestos containing material (ACM) was observed during the site reconnaissance visit

**4.6 LEAD-BASED PAINT**

There are no structures containing lead based (LBP) paint on the Property.

**4.7 RADIOLOGICAL MATERIALS**

There is no evidence that radioactive material or sources were stored or used on the Property.

**4.8 RADON**

Radon surveys were conducted in 1991 by the Directorate of Engineering and Housing's Environmental Office as part of the Army's Radon Reduction Program. The survey was conducted for all of Fort Monmouth. Radon was not detected above the U.S. Environmental Protection Agency residential action level of 4 picocuries per liter.

**4.9 MUNITIONS AND EXPLOSIVES OF CONCERN**

Based on a review of existing records and available information, there is no evidence that

Munitions and Explosives of Concern (MEC) are present on the Property.

The term “MEC” means military munitions that may pose unique explosives safety risks, including: (A) unexploded ordnance (UXO), as defined in 10 United States Code (U.S.C.) §101(e)(5); (B) discarded military munitions (DMM), as defined in 10 U.S.C. §2710(e)(2); or (C) munitions constituents (e.g., 2,4,6-Trinitrotoluene (TNT), Hexahydro-1,3,5-trinitro-1,3,5-triazine (RDX)), as defined in 10 U.S.C. §2710(e)(3), present in high enough concentrations to pose an explosive hazard.

#### **4.10 OTHER PROPERTY CONDITIONS**

There are no other hazardous conditions on the Property that present an unacceptable risk to human health and the environment.

### **5 ADJACENT PROPERTY CONDITIONS**

The following potentially hazardous conditions exist on adjacent property:

A former gasoline station, which was owned by BP America (BP), is located west of Route 35 at 162 Main Street (Route 35) Eatontown (Figure 3) and is currently undergoing remediation for a former gasoline release. A shallow groundwater plume associated with the gasoline release, previously extended westward under Route 35 and impacted Parcel R119 and Parcel B (Figure 4). A groundwater Classification Exception Area (CEA) was registered with the NJ Department of Environmental Protection (NJDEP) on February 8, 2019. Groundwater monitoring continues; however, sample results from monitoring wells located on Parcel B are currently “non-detect” indicating that the shallow groundwater contamination plume is no longer migrating from the former source under Route 35 (Figure 5).

### **6 ENVIRONMENTAL REMEDIATION AGREEMENTS**

There are no environmental remediation orders or agreements applicable to the property being transferred. The deed will include a provision reserving the Army’s right to conduct remediation activities, if necessary, in the future (Enclosure 5).

### **7 REGULATORY/PUBLIC COORDINATION**

The NJDEP and the public were notified of the initiation of this FOST. The draft FOST is being made available for review and comment for 30 days. The document was placed in the Fort Monmouth Environmental Restoration Public Information Repository (the Administrative Record) at the following location: Monmouth County Library, Eastern Branch, 1001 Route 35 Shrewsbury, NJ (732-683-8990).

## 8 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

The environmental impacts associated with the proposed transfer of the Property have been analyzed in accordance with the National Environmental Policy Act (NEPA). The results of this analysis are documented in the *Final Environmental Assessment of the Implementation of the Base Realignment and Closure at Fort Monmouth, New Jersey, March 2009* and the *Finding of No Significant Impact Environmental Assessment of the Disposal and Reuse of Fort Monmouth, New Jersey, February 2010*. There were no encumbrances or conditions identified in the NEPA analysis as necessary to protect human health or the environment.

## 9 FINDING OF SUITABILITY TO TRANSFER

Based on the information above, I conclude that all removal or remedial actions necessary to protect human health and the environment have been taken. In addition, all Department of Defense requirements to reach a finding of suitability to transfer have been met, subject to the terms and conditions in the Environmental Protection Provisions that shall be included in the deed for the property. The deed will also include the Access Provision and Other Deed Provisions. Whereas no hazardous substances were stored for one year or more, known to have been released, or disposed of on the parcel, a hazardous substance notification is not required.

---

Mr. Richard C. Ramsdell  
Chief, BRAC Branch  
U.S. Army Environmental Division  
Installation Services Directorate  
HQDA/OSCS – G-9

---

Date



## **ENCLOSURE 1**

### **FIGURES**



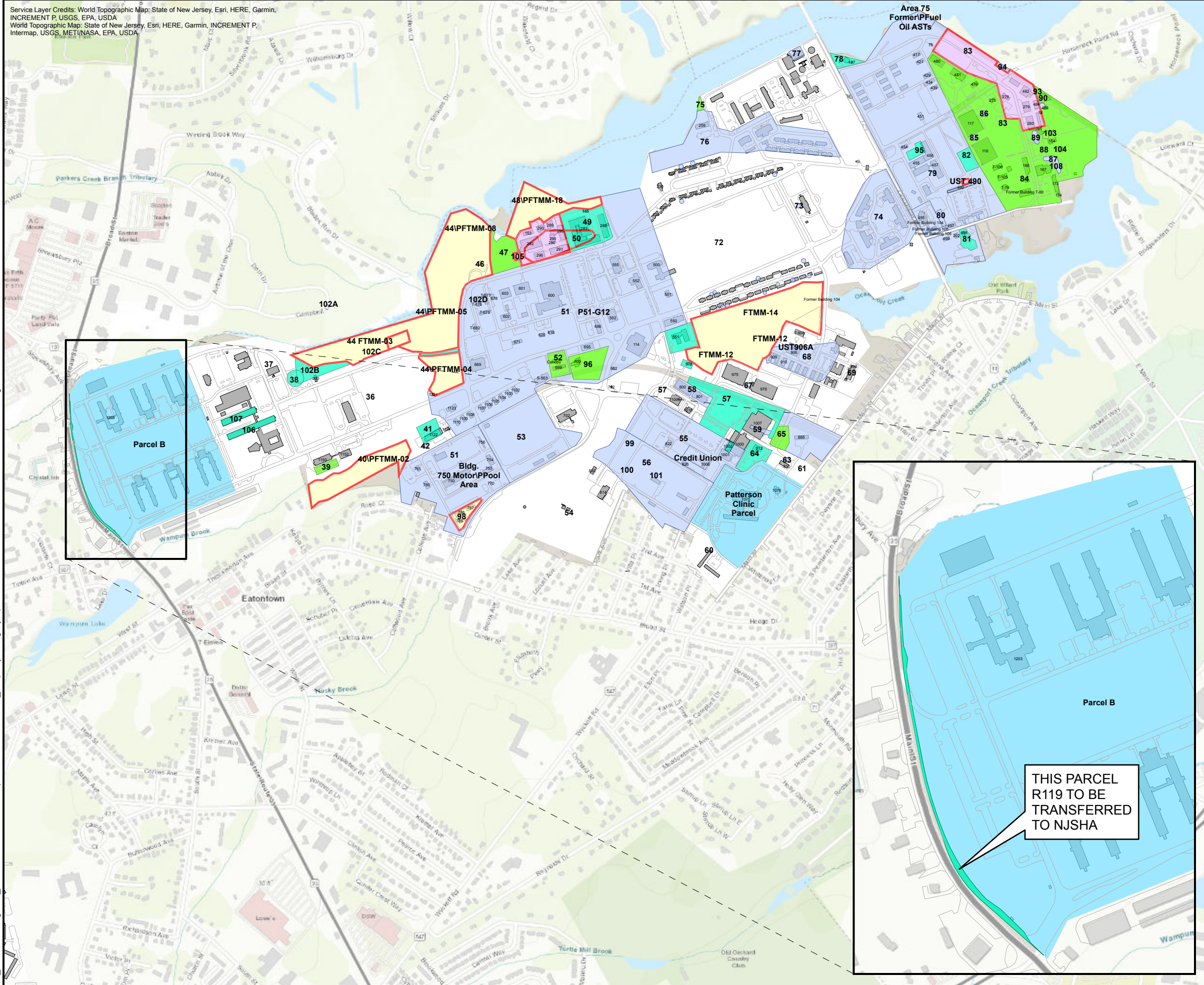
FORT MONMOUTH  
OCEANPORT, NEW JERSEY

FORT MONMOUTH LOCATION

Figure 1



CITY: NOVI, MI, DIV: ENV, DB, TRY, PIC: PM: TM: TR: PROJECT NUMBER: COORDINATE SYSTEM: NAD 1983 StatePlane New Jersey FIPS 2900 Feet  
T: ENV\NovBrighton\_MIFortMonmouthOceanportDocumentsIECP\_PropertyCategory.aprx PLOTTED: 4/16/2025 12:25 PM BY: T.Yarborough



**LEGEND:**

CATEGORY 1: AREAS WHERE NO RELEASE OR DISPOSAL OF HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS HAS OCCURRED (INCLUDING NO MIGRATION OF THESE SUBSTANCES FROM ADJACENT AREAS).

CATEGORY 2: AREAS WHERE ONLY RELEASE OR DISPOSAL OF PETROLEUM PRODUCTS OR THEIR DERIVATIVES HAS OCCURRED.

CATEGORY 3: AREAS WHERE RELEASE, DISPOSAL, AND/OR MITIGATION OF HAZARDOUS SUBSTANCES HAS OCCURRED, BUT AT CONCENTRATIONS THAT DO NOT REQUIRE A REMOVAL OR REMEDIAL RESPONSE.

CATEGORY 4: AREAS WHERE RELEASE, DISPOSAL, AND/OR MITIGATION OF HAZARDOUS SUBSTANCES HAS OCCURRED, AND ALL REMOVAL OR REMEDIAL ACTIONS TO PROTECT HUMAN HEALTH AND THE ENVIRONMENT HAVE BEEN TAKEN.

CATEGORY 5: AREAS WHERE RELEASE, DISPOSAL, AND/OR MITIGATION OF HAZARDOUS SUBSTANCES HAS OCCURRED, AND REMOVAL OR REMEDIAL ACTIONS ARE UNDERWAY, BUT ALL REQUIRED REMEDIAL ACTIONS HAVE NOT YET BEEN TAKEN.

CATEGORY 7: AREAS THAT ARE NOT EVALUATED OR REQUIRE ADDITIONAL EVALUATIONS.

TRANSFERRED PROPERTY

CARVE OUT AREA

44 ECP PARCEL NUMBER

SCALE IN FEET

FORT MONMOUTH  
OCEANPORT, NEW JERSEY

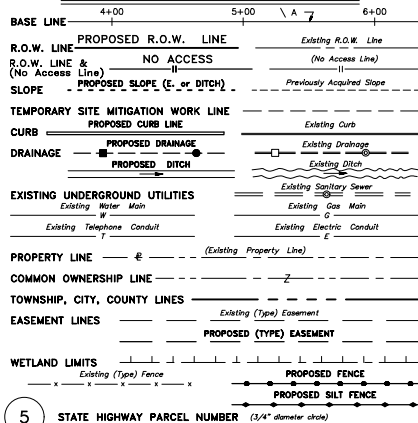
ECP PROPERTY CATERGORY MAP

FIGURE  
2



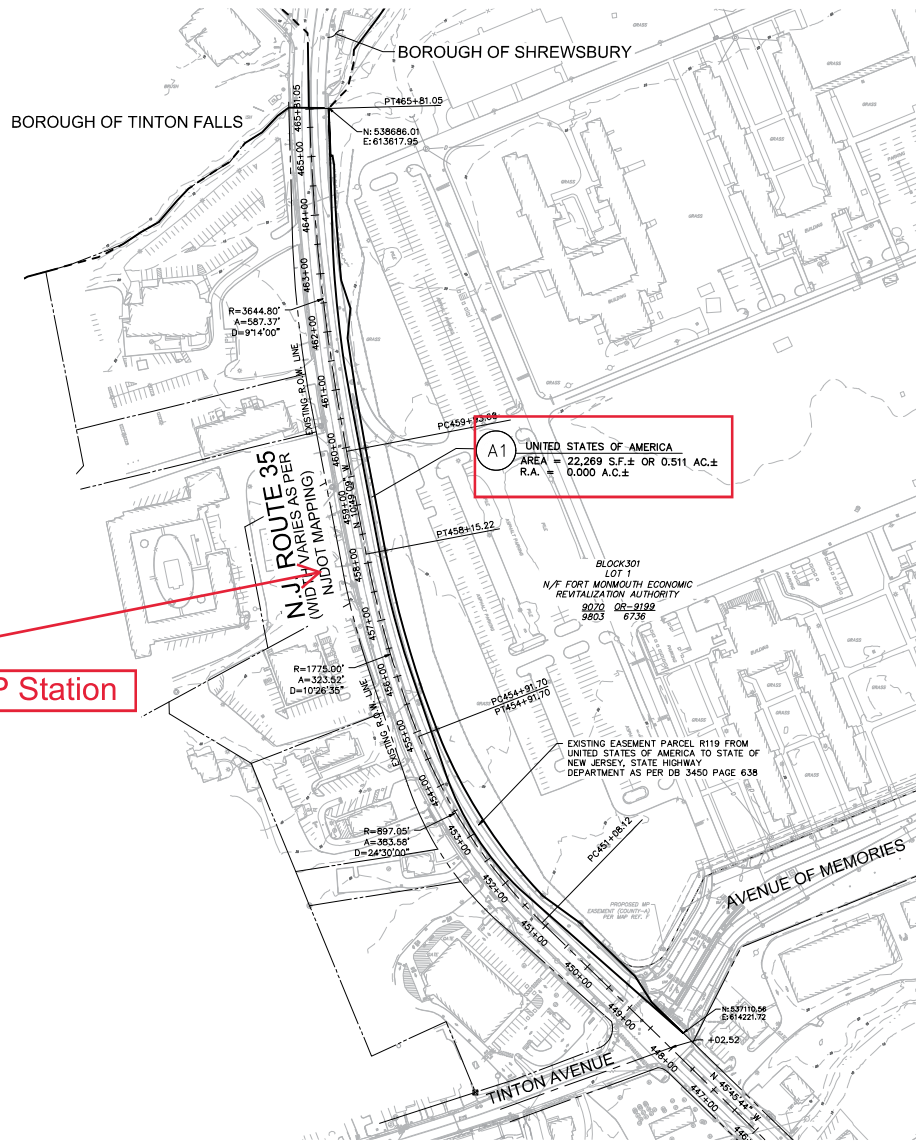
REVISIONS	DATE	BY	APP'D

# NEW JERSEY DEPARTMENT OF TRANSPORTATION STANDARD R.O.W. LEGEND



- 5 STATE HIGHWAY PARCEL NUMBER
- ② CURVE NUMBER
- P.C. POINT OF CURVATURE
- P.C.G. POINT OF COMPOUND CURVATURE
- P.T. POINT OF TANGENCY
- P.O.L. POINT ON LINE
- P.O.C. POINT ON CURVE
- P.R.C. POINT OF REVERSE CURVATURE
- P.I. POINT OF INTERSECTION
- ④ BASE LINE
- ⑤ PROPERTY LINE
- ⑥ CENTER LINE
- ⑦ SURVEY LINE
- ⑧ DEED COURSE NUMBER
- (m) MEASURED
- (c) CALCULATED
- (s) MORE OR LESS
- (d) DEED DATA
- (sur.) SURVEY DATA
- D.A. DEED AREA
- (FM) FILED MAP
- (TM) TAX MAP
- (S) SCALED
- 94 TAX MAP BLOCK NO.
- 94 FILED MAP BLOCK NO.
- 21 TAX MAP LOT NO.
- 21 FILED MAP LOT NO.
- 6897 DEED BOOK
- 506 PAGE
- R.A. REMAINING AREA
- NOTES:
- THE PROPOSED PARCEL COURSES AND THE NORTH ARROW DEPICTED MAY DIFFER FROM THE SYSTEM UTILIZED TO PLOT THE DEED DISTANCES AND COURSES.
- PROPOSED MONUMENT
- W o WATER GATE VALVE
- G o GAS GATE VALVE
- POLE
- Hyd. P. HYDRANT
- DECIDUOUS TREE
- SHRUB
- EVERGREEN TREE
- HEDGE
- SWAMP
- BUILDINGS

NAD 1983



BOROUGH OF EATONTOWN

COUNTY OF MONMOUTH

## MAP REFERENCES:

- MAP ENTITLED "STATE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION, GENERAL PROPERTY PARCEL MAP, ROUTE 35 (1953) SECTION 4, EATONTOWN TO RED BANK, SHOWING EXISTING RIGHT OF WAY AND PARCELS TO BE ACQUIRED IN THE BOROUGH OF EATONTOWN, NEW SHREWSBURY, SHREWSBURY AND RED BANK, COUNTY OF MONMOUTH, SCALE: AS INDICATED, MAY 1959", SHEETS 5, 6 AND 7 OF 20, MAP NO. 35-194.
- EXISTING BOUNDARY AND TOPOGRAPHY IS BASED ON PLAN TITLED "FORT MONMOUTH, BLOCK 105, LOTS 1-3; BLOCK 106, LOTS 1-2, BLOCK 110, LOT 4 & PORTIONS OF LOT 1, BOROUGH OF OCEANPORT, BLOCK 301, LOT 1, 01 & PORTIONS OF LOT 1, BOROUGH OF EATONTOWN, MONMOUTH COUNTY, NEW JERSEY, SITE SURVEY", PREPARED BY LANGAN ENGINEERING & ENVIRONMENTAL SERVICES, DATED MARCH 11, 2024.
- EASEMENT BETWEEN THE SECRETARY OF THE ARMY AND THE STATE OF NEW JERSEY (STATE HIGHWAY DEPARTMENT) DATED FEBRUARY 27, 1965 AND FILED IN THE MONMOUTH COUNTY CLERK'S OFFICE ON DECEMBER 31, 1965 IN BOOK 3450 PAGE 638.

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP MEETS THE MINIMUM SURVEY DETAIL REQUIREMENTS OF THE STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND HAS BEEN MADE UNDER MY SUPERVISION, AND COMPLIES WITH THE "MAP FILING LAW". I CERTIFY THE MONUMENTS SHOWN HEREON WILL BE SET.

Matthew G. Sipple  
Digitally signed by Matthew G. Sipple  
Date: 2025.01.17 16:27:16-0500

MATTHEW G. SIPPLE  
PROFESSIONAL LAND SURVEYOR, N.J. LIC. NO. 246504332100

NEW JERSEY DEPARTMENT OF TRANSPORTATION

ENTIRE TRACT MAP  
ROUTE 35 (1953) SECTION 1

Figure 3

Borough of Eatontown  
Scale: As Indicated

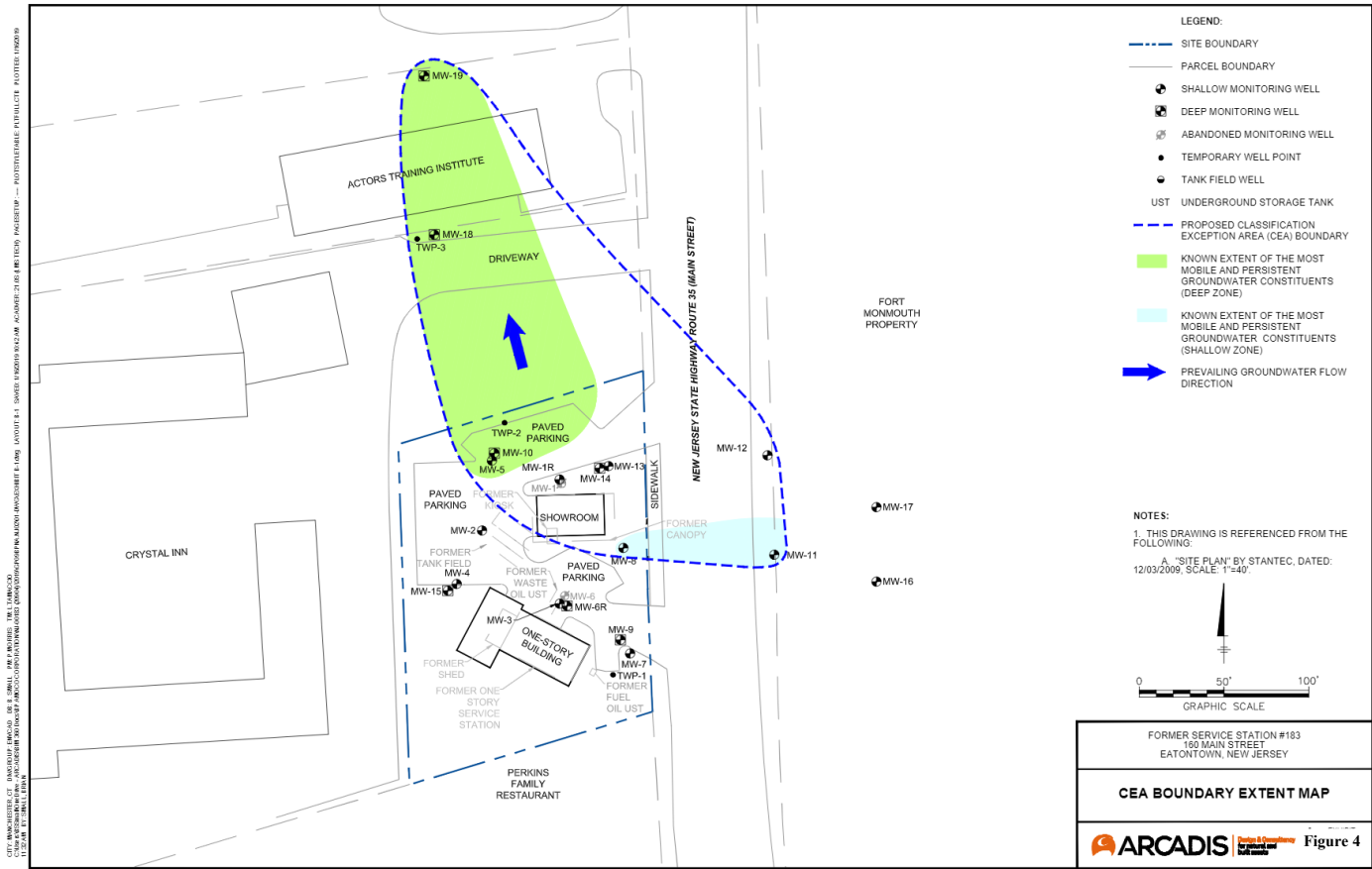
County of Monmouth  
January 2025

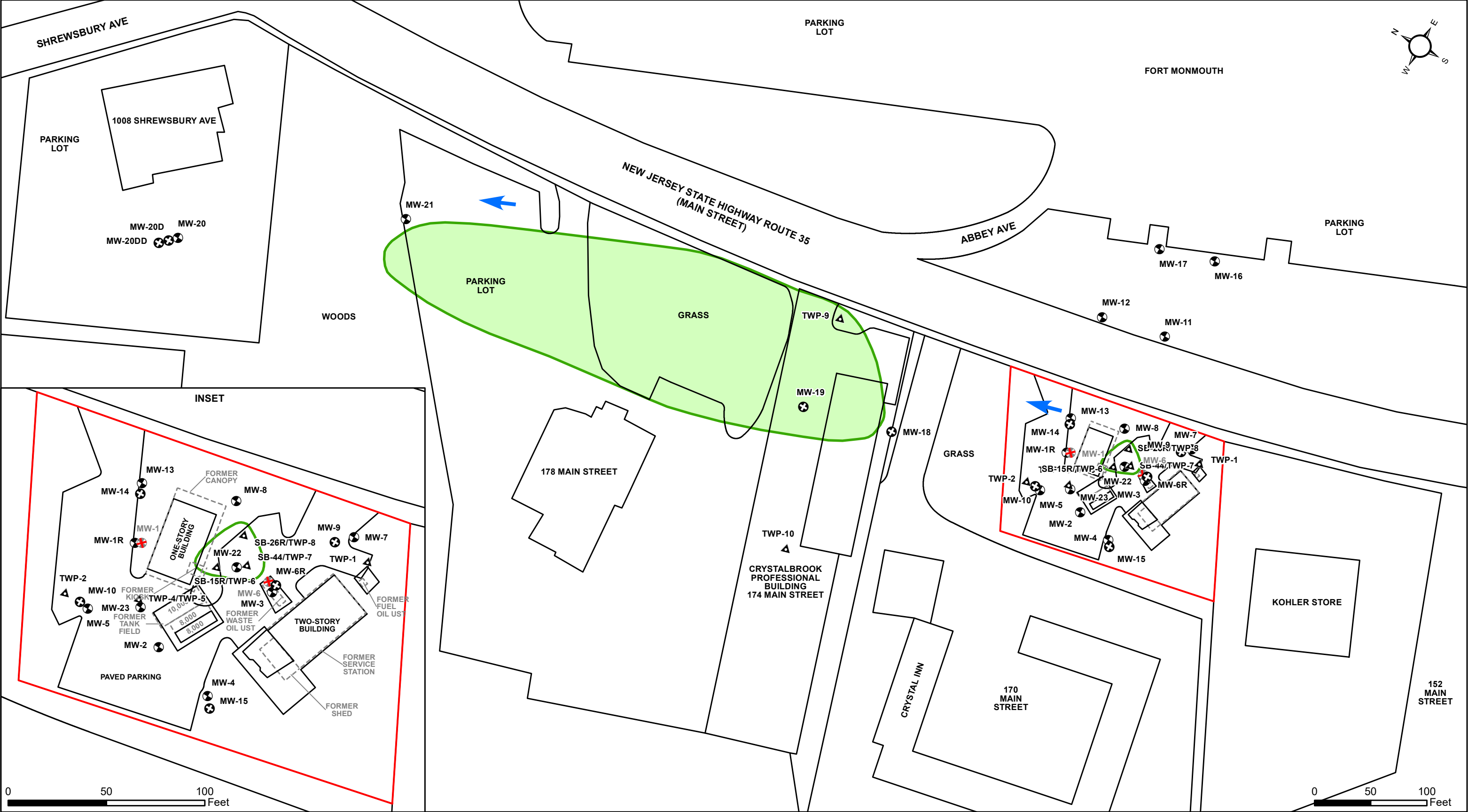
1

300 Kestrel Drive  
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www.langan.com

LANGAN  
INCORPORATED  
A Division of Langan Engineering & Environmental Services, Inc.  
LANGAN ENGINEERING & ENVIRONMENTAL SERVICES, INC.

# Exhibit B- CEA Boundary Map and Cross Section





Monitoring Well - Shallow

Monitoring Well - Deep

Abandoned Monitoring Well

Temporary Monitoring Well

CEA Boundary (Shallow Zone)

CEA Boundary (Deep Zone)

Site Boundary

Groundwater Flow Direction

Figure 5  
CEA Boundary Map

Former BP Service Station #183  
160 Main Street  
Eatontown, New Jersey  
PI#: 000970

PARSONS

Drawn By:  
PDS

Revision Date:  
1/30/2024

1011 US-22W, Suite 201  
Bridgewater, NJ 08807

MW\_Location\_183.mxd

## ENCLOSURE 2

### ENVIRONMENTAL DOCUMENTATION

- U.S. Army BRAC 2005 Environmental Condition of Property Report Fort Monmouth, Monmouth County, New Jersey, Final, 29 January 2007
- Final Historical Site Assessment and Addendum to Environmental Condition of Property Report, Fort Monmouth, Eatontown, New Jersey, January 2007
- U.S. Army BRAC 2005 Site Investigation Report Fort Monmouth, Final, 21 July 2008
- Right-of-Way Acquisition Parcel Survey, New Jersey State Highway Route 35 (1953 Station 448+00 to 465+81.05). Borough of Eatontown, Monmouth County, NJ (January 2025). Langan Engineering and Environmental Services
- New Jersey Geological Survey. (2000). Open-File Map 38, Surficial Geology of the Long Branch Quadrangle, Monmouth County, New Jersey
- New Jersey Geological Survey. (2010). Open-File Map 78, Bedrock Geology of the Long Branch Quadrangle, Monmouth County, New Jersey.
- Remedial Action Report (RAR), Former BP Service Station #0183, 1600 Main Street, Eatontown, NJ. Monmouth County, NJ. April 18, 2019
- Brinkerhoff Environmental Services (Brinkerhoff). (2010). *Baseline Ecological Evaluation, Former BP Service Station #00183, 160 Route 35, Block 201, Lot 6, Borough of Eatontown, Monmouth County, New Jersey, NJDEP Case No. 00-05-31-1103-53.*
- Arcadis Design and Consultancy. *Remedial Action Report, Former BP Service Station #00183, 160 Main Street, Eatontown, Monmouth County New Jersey* (April 2029)
- ERIS Database, December 12, 2024

## ENCLOSURE 3

**TABLE 1 – DESCRIPTION OF PROPERTY**

<b>Building Number and Property Description</b>	<b>ECP Parcel Designation</b>	<b>Condition Category</b>	<b>Remedial Actions</b>
0.511 acres of land located on the western boundary of Fort Monmouth Parcel B, running parallel along the eastern boundary of Route 35 from the southeast corner of Avenue of Memories and Route 35 south to boundary of Eatontown and Shrewsbury boroughs	R119	2	None Required

- ECP Area Type 1: Areas where no release or disposal of hazardous substances or petroleum products has occurred (including no migration of these substances from adjacent areas).
- ECP Area Type 2: Areas where only release or disposal of petroleum products has occurred.
- ECP Area Type 3: Areas where release, disposal, and/or migration of hazardous substances has occurred, but at concentrations that do not require a removal or remedial response.
- ECP Area Type 4: Areas where release, disposal, and/or migration of hazardous substances has occurred and all removal or remedial actions to protect human health and the environment have been taken.
- ECP Area Type 5: An area or parcel of real property where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred, and removal or remedial actions, or both, are under way, but all required actions have not yet been taken.
- ECP Area Type 6 : An area or parcel of real property where release, disposal, or migration, or some combination thereof, of hazardous substances has occurred, but required response actions have not yet been initiated.
- ECP Area Type 7: An area or parcel of real property that is unevaluated or requires additional evaluation.



## ENCLOSURE 4

**TABLE 2 – NOTIFICATION OF PETROLEUM PRODUCT  
STORAGE, RELEASE OR DISPOSAL**

Property Description	Name of Petroleum Product(s)	Date of Storage, Release, or Disposal	Remedial Actions
R119	Gasoline	A release on adjacent property migrated benzene/TBA in shallow groundwater onto subject property.	Former British Petroleum (BP) Station #0183 (NJDEP Case Number 00-05-31-1103 53). Tank removed and surrounding soil over excavated 02-29-2002. Monitoring Well 11 and Monitoring Well 12 installed on subject property to delineate GW benzene/TBA plume. CEA established in 2019. GW LTM continues and indicates COCs currently non-detect in property MWs.

## **ENCLOSURE 5**

### **CERCLA Access Provisions and Other Deed Provisions**

The following CERCLA Access Provisions, along with the Other Deed Provisions, will be placed in the deed in a substantially similar form to ensure protection of human health and the environment and to preclude any interference with ongoing or completed remediation activities.

#### **1. Access Rights**

a. The United States retains and reserves a perpetual and assignable easement and right of access on, over, and through the Property, to enter upon the Property in any case in which an environmental response action or corrective action is found to be necessary on the part of the United States, without regard to whether such environmental response action or corrective action is on the Property or on adjoining or nearby lands. Such easement and right of access includes, without limitation, the right to perform any environmental investigation, survey, monitoring, sampling, testing, drilling, boring, coring, test-pitting, installing monitoring or pumping wells or other treatment facilities, response action, corrective action, or any other action necessary for the United States to meet its responsibilities under applicable laws and as provided for in this instrument. Such easement and right of access shall be binding on the Grantee and its successors and assigns and shall run with the land.

b. In exercising such easement and right of access, the United States shall provide the Grantee or its successors or assigns, as the case may be, with reasonable notice of its intent to enter upon the Property and exercise its rights under this clause, which notice may be severely curtailed or even eliminated in emergency situations. The United States shall use reasonable means, but without significant additional costs to the United States, to avoid and to minimize interference with the Grantee's and the Grantee's successors' and assigns' quiet enjoyment of the Property. At the completion of work, the work site shall be reasonably restored. Such easement and right of access includes the right to obtain and use utility services, including water, gas, electricity, sewer, and communications services available on the Property at a reasonable charge to the United States. Excluding the reasonable charges for such utility services, no fee, charge, or compensation will be due the Grantee, nor its successors and assigns, for the exercise of the easement and right of access hereby retained and reserved by the United States.

c. In exercising such easement and right of access, neither the Grantee nor its successors and assigns, as the case may be, shall have any claim at law or equity against the United States or any officer, employee, agent, contractor of any tier, or servant of the United States based on actions taken by the United States or its officers, employees, agents, contractors of any tier, or servants pursuant to and in accordance with this clause: Provided, however, that nothing in this paragraph shall be considered a waiver by the Grantee, its successors and assigns, of any remedy available to them under the Federal Tort Claims Act.

#### **2. "AS IS" CONDITION OF PROPERTY**

a. The Grantee acknowledges that it has inspected or has had the opportunity to inspect

the Property and accepts the condition and state of repair of the Property. The Grantee understands and agrees that the Property and any part thereof is conveyed "AS IS" without any representation, warranty, or guaranty by the Grantor as to the quantity, quality, title, character, condition, size, or kind, or that the same is in a suitable condition or fit to be used for the purpose(s) intended by the Grantee, and no claim for allowance or deduction upon such grounds will be considered.

b. No warranties, either express or implied, are given with regard to the condition of the Property including, without limitation, whether the Property does or does not contain asbestos or lead-based paint. The Grantee shall be deemed to have relied solely on its own judgment in assessing the overall condition of all or any portion of the Property including, without limitation, any asbestos, lead-based paint, or other conditions on the Property. The failure of the Grantee to inspect or to exercise due diligence to be fully informed as to the condition of all or any portion of the Property will not constitute grounds for any claim or demand against the Grantor.

### **3. HOLD HARMLESS**

a. To the extent authorized by law, the Grantee, its successors and assigns, covenant and agree to indemnify and hold harmless the Grantor, its officers, agents, and employees from (1) any and all claims, damages, judgments, losses, and costs, including fines and penalties, arising out of the violation of the NOTICES, covenants, conditions, and restrictions in this Deed by the Grantee, its successors and assigns, and (2) any and all claims, damages, judgments, losses, and costs arising out of, or in any manner predicated upon, exposure to asbestos, lead-based paint, or other condition on any portion of the Property after the date of the conveyance.

b. The Grantee, for itself, its successors and assigns, covenants and agrees that the Grantor shall not be responsible for any costs associated with modification or termination of the notices, covenants, conditions, and restrictions in this Deed including, without limitation, any costs associated with additional investigation or remediation of asbestos, lead-based paint, or other condition on any portion of the Property.

### **4. POST-TRANSFER DISCOVERY OF CONTAMINATION**

a. If an actual or threatened release of a hazardous substance is discovered on the Property after the date of conveyance herein, Grantee, its successors or assigns, shall be responsible for such release or threatened release of such newly discovered substance unless Grantee is able to demonstrate that such release or threatened release of such newly discovered substance was due to Grantor's activities, use, or ownership of the Property. If the Grantee, or it successors or assigns believe the newly discovered hazardous substance is due to the Grantor's activities, use or ownership of the Property, the Grantee, or it successors or assigns, shall immediately secure the site and notify the Grantor of the existence of the hazardous substance(s), and Grantee, or it successors or assigns, shall not further disturb such hazardous substances without the written permission of the Grantor.

b. Grantee, for itself, its successors and assigns, as part of the consideration for the conveyance of the Property, hereby releases the Grantor from any liability or responsibility for

any claims arising solely out of the release or threatened release of any hazardous substance on the Property occurring after the date of the conveyance herein where such hazardous substance was placed on the Property by the Grantee, or its successors, assigns, employees, invitees, agents, contractors, or any person other than the Grantor after the conveyance herein.

**ENCLOSURE 6**

**REGULATORY/PUBLIC COMMENTS AND RESPONSES**