



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, HONOLULU DISTRICT
230 OTAKE STREET
FORT SHAFTER, HAWAII 96858-5440

CEPOH-RO

14 May 2026

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 POH-2025-00129.

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.² 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.³

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),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

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 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ 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.

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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), POH-2025-00129

1. SUMMARY OF CONCLUSIONS.

- a. The review area is comprised entirely of dry land (i.e., there are no waters such as streams, rivers, wetlands, lakes, ponds, tidal waters, ditches, and the like in the entire review area and there are no areas that have previously been determined to be jurisdictional under the Rivers and Harbors Act of 1899 in the review area). Based on a review of the submitted site plans and roadway photographs, all 32 boring locations are situated entirely on developed areas including existing paved roadways, asphalt/concrete shoulders, concrete sidewalks, or maintained upland grassy right-of-ways.

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)

3. REVIEW AREA. The review area consists of the footprints of 32 discrete (4-inch diameter) geotechnical test borings (Locations 1-B1 through 1-B32) totaling approximately 403 square feet. The boring sites are located in developed areas along multiple roadways including Lalanghita Drive, Pale Ferdinand Court, and Nano Falls Road in Santa Rita; Seargent E Cruz Street, Chalan Obispo Olano, Route 2, Calle De Los Materes, and Finile Drive in Agat; and Chalan Canton Tasi in Umatac and Merizo (detailed locations Enclosure 1).

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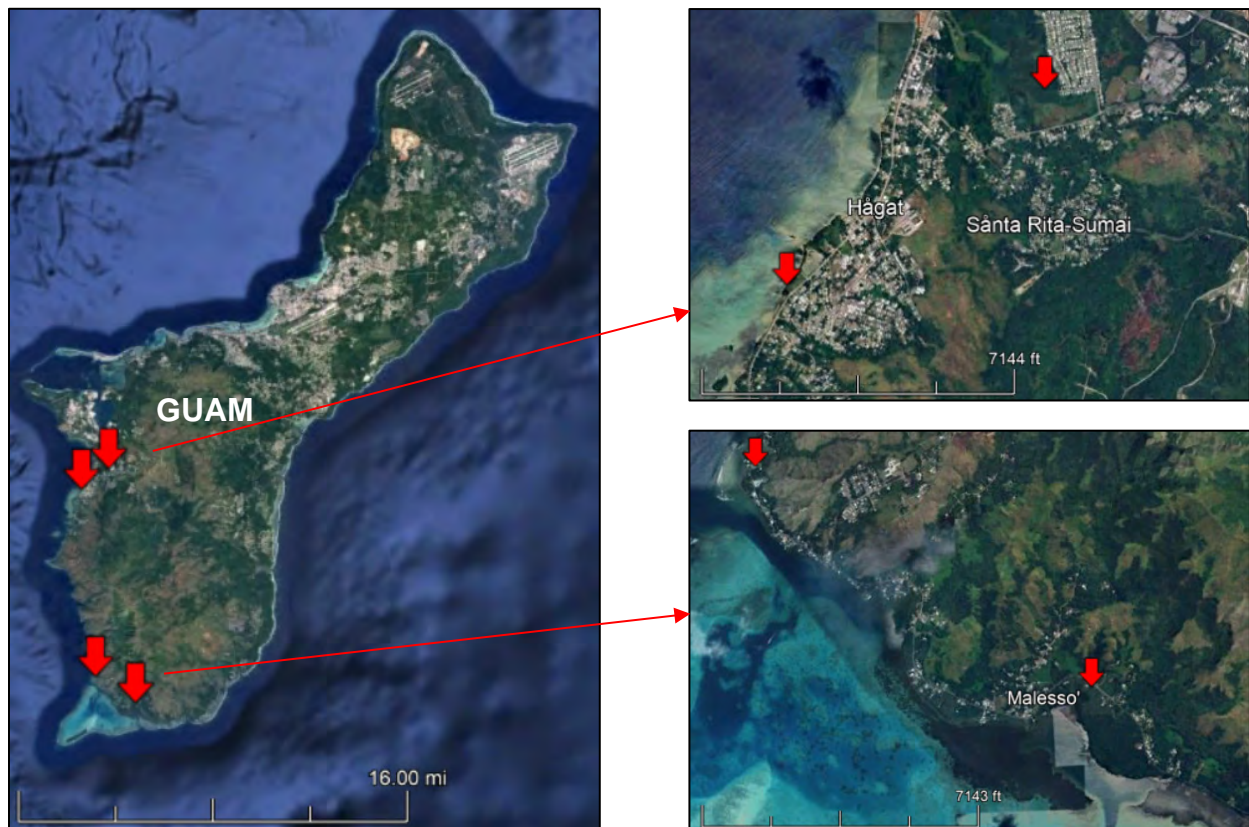


Figure 1. Vicinity map of Review Areas in Agat, Santa Rita, Umatac, and Merizo.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A
6. SECTION 10 JURISDICTIONAL WATERS⁵: 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

⁵ 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.

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SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), POH-2025-00129

resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ 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 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

⁶ 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.

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within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁷ 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). N/A
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. Office desktop evaluation 11 May 2026.
 - b. Roadway Pictures of Boring Locations, submitted by agent/requestor 9 May 2026.
 - c. Site Plan with Aerial Imagery (Google Earth Mapping 2023) with Boring Locations, submitted by agent/requestor 9 May 2026.
 - d. Guam Waterworks Rehabilitation Contract Agreement, submitted by agent/requestor 9 May 2026.
 - e. U.S. Fish and Wildlife Service National Wetland Inventory Mapper. [accessed 11 May 2026: <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>]
 - f. U.S. Geological Survey. National Hydrography Dataset in The National Map. [accessed 11 May 2026: <https://apps.nationalmap.gov/viewer/>]

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.

⁷ 88 FR 3004 (January 18, 2023)

Table 1. Coordinates for the 32 boreholes for geotechnical exploration for POH-2025-00129.

Boring ID	Latitude	Longitude
1-B1	13.39847	144.67159
1-B2	13.39301	144.66932
1-B3	13.39297	144.66622
1-B4	13.39186	144.66968
1-B5	13.39067	144.67214
1-B6	13.39454	144.66412
1-B7	13.39564	144.66236
1-B8	13.39292	144.66154
1-B9	13.39083	144.66137
1-B10	13.38401	144.65594
1-B11	13.38285	144.65697
1-B12	13.38111	144.65408
1-B13	13.37956	144.65591
1-B14	13.27454	144.66375
1-B15	13.27302	144.66287
1-B16	13.27084	144.66304
1-B17	13.26858	144.66455
1-B18	13.26728	144.66633
1-B19	13.26550	144.66901
1-B20	13.26428	144.67132
1-B21	13.26460	144.67419
1-B22	13.26231	144.67498
1-B23	13.25977	144.67460
1-B24	13.25749	144.67549
1-B25	13.25635	144.67781
1-B26	13.25553	144.67986
1-B27	13.25489	144.68305
1-B28	13.25565	144.68361
1-B29	13.25704	144.68494
1-B30	13.25758	144.68726
1-B31	13.25610	144.68926
1-B32	13.25403	144.69132

Review Area - Bore locations 1-B1 through 1-B32



1-B1

Aga Dr

Lalanghita Dr

Lalanghita Dr

Santa Rosa Ave

Chandiha St

Chafu Ct

Pahong Dr

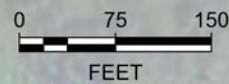
Aga Dr

Pahong Dr

Lemai Dr

Santa Rosa Ave

Lemai Dr



LEGEND

ALL LOCATIONS ARE APPROXIMATE

Boring (ENGEO, 2026)

Agat-Santa Rita Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023



SITE PLAN
GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT
AGAT, GUAM

PROJECT NO.: 26551.000.001

SCALE: AS SHOWN

DRAWN BY: NWC

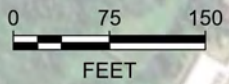
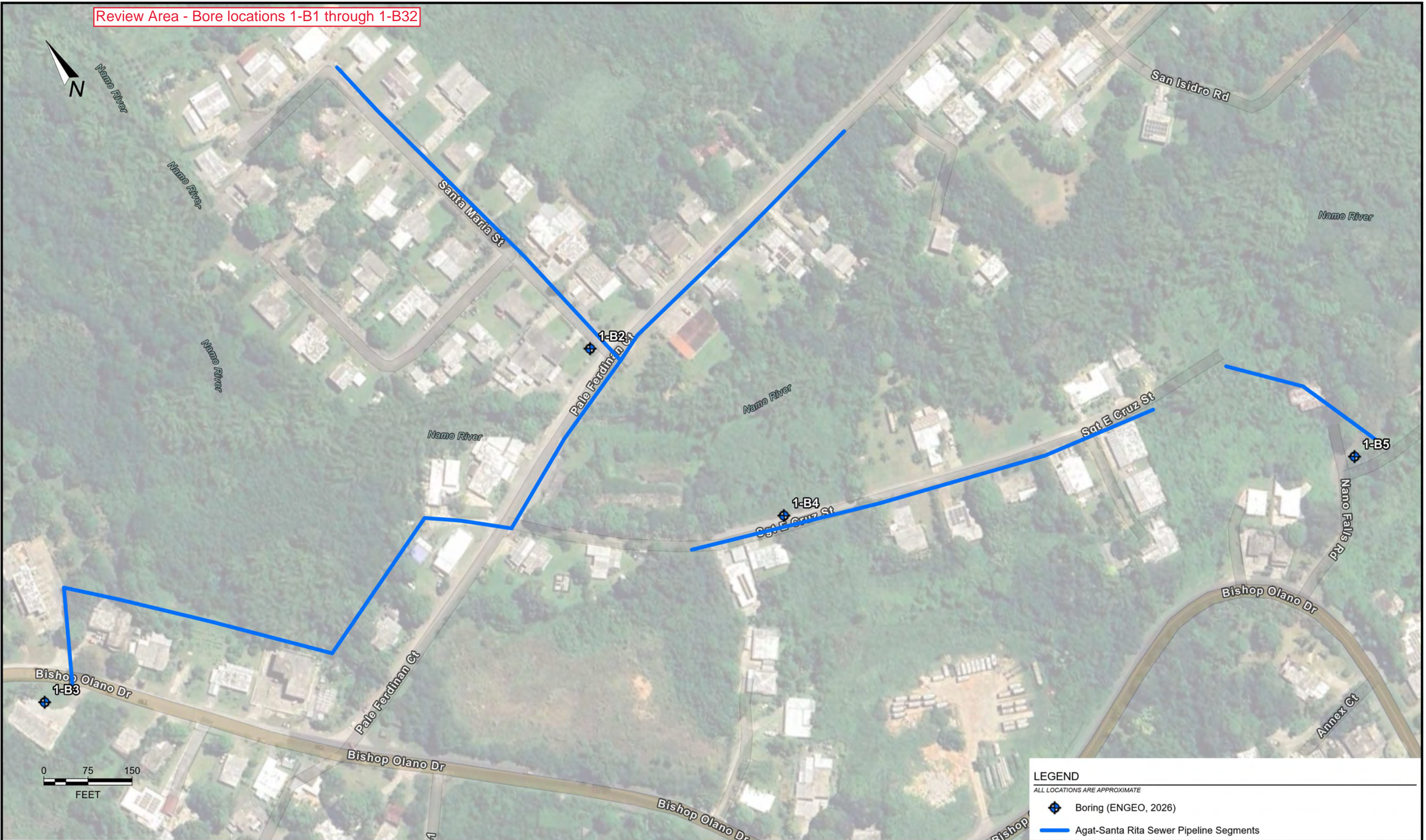
CHECKED BY: SOS

FIGURE NO.

2A

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Review Area - Bore locations 1-B1 through 1-B32



LEGEND
 ALL LOCATIONS ARE APPROXIMATE

- ◆ Boring (ENGEO, 2026)
- Agat-Santa Rita Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023

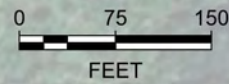


SITE PLAN
 GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT
 AGAT, GUAM

PROJECT NO.: 26551.000.001	FIGURE NO.
SCALE: AS SHOWN	2B
DRAWN BY: NWC	CHECKED BY: SOS

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Review Area - Bore locations 1-B1 through 1-B32



LEGEND

- ALL LOCATIONS ARE APPROXIMATE
- Boring (ENGEO, 2026)
- Agat-Santa Rita Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023

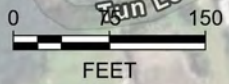
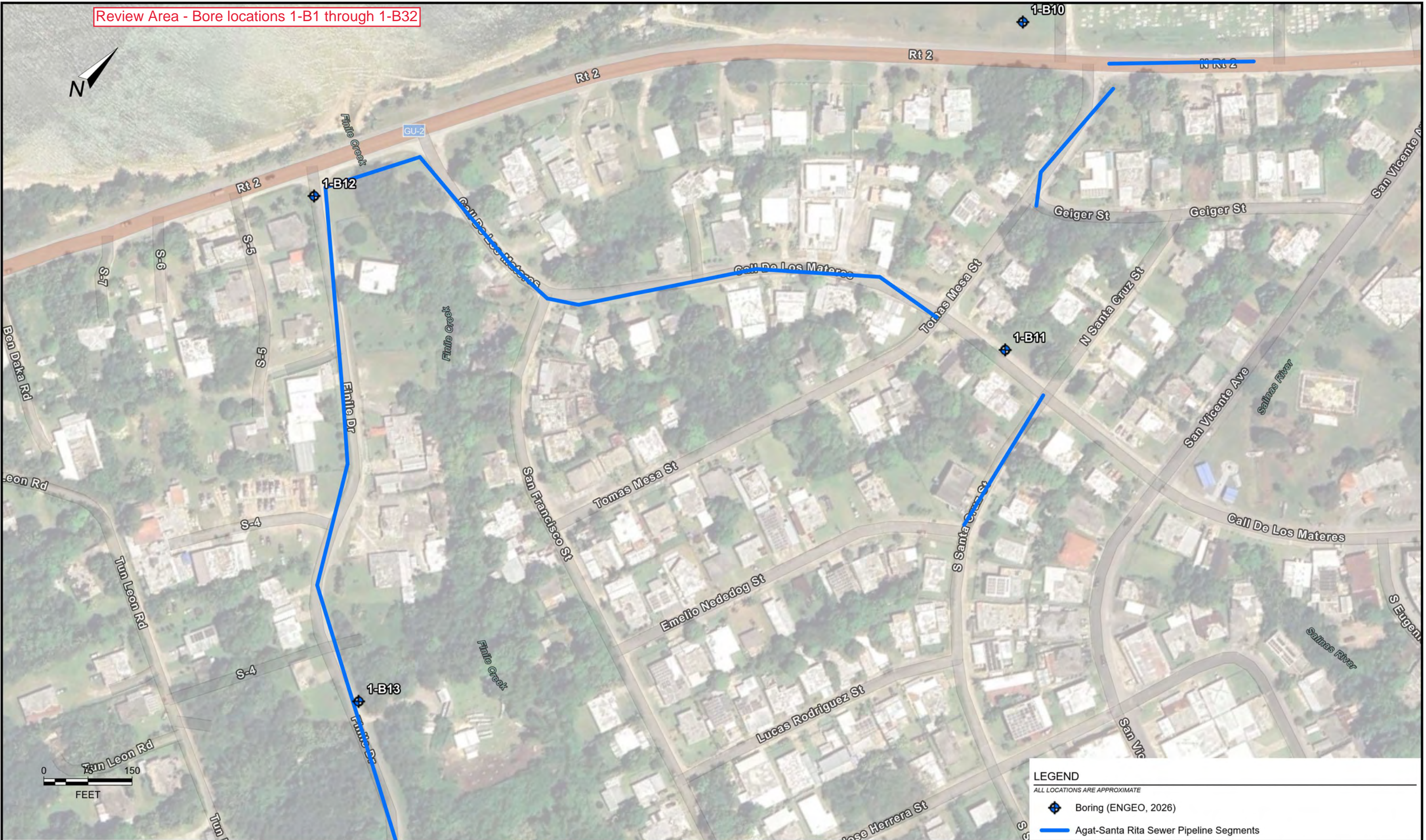


SITE PLAN
 GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT
 AGAT, GUAM

PROJECT NO.: 26551.000.001	FIGURE NO.
SCALE: AS SHOWN	2C
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Review Area - Bore locations 1-B1 through 1-B32



LEGEND

- ALL LOCATIONS ARE APPROXIMATE
- Boring (ENGE0, 2026)
- Agat-Santa Rita Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023

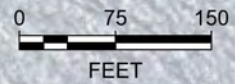


SITE PLAN
 GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT
 AGAT, GUAM

PROJECT NO.: 26551.000.001	FIGURE NO.
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Review Area - Bore locations 1-B1 through 1-B32



LEGEND	
ALL LOCATIONS ARE APPROXIMATE	
	Boring (ENGE0, 2026)
	Boring (NA, 1977)
	Umatac-Merizo Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023

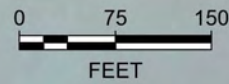


SITE PLAN
 GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT
 AGAT, GUAM

PROJECT NO.: 26551.000.001	FIGURE NO.
SCALE: AS SHOWN	2F
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Review Area - Bore locations 1-B1 through 1-B32



LEGEND	
ALL LOCATIONS ARE APPROXIMATE	
	Boring (ENGEEO, 2026)
	Boring (NA, 1977)
	Ejector Station
	Umatac-Merizo Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023

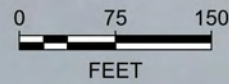
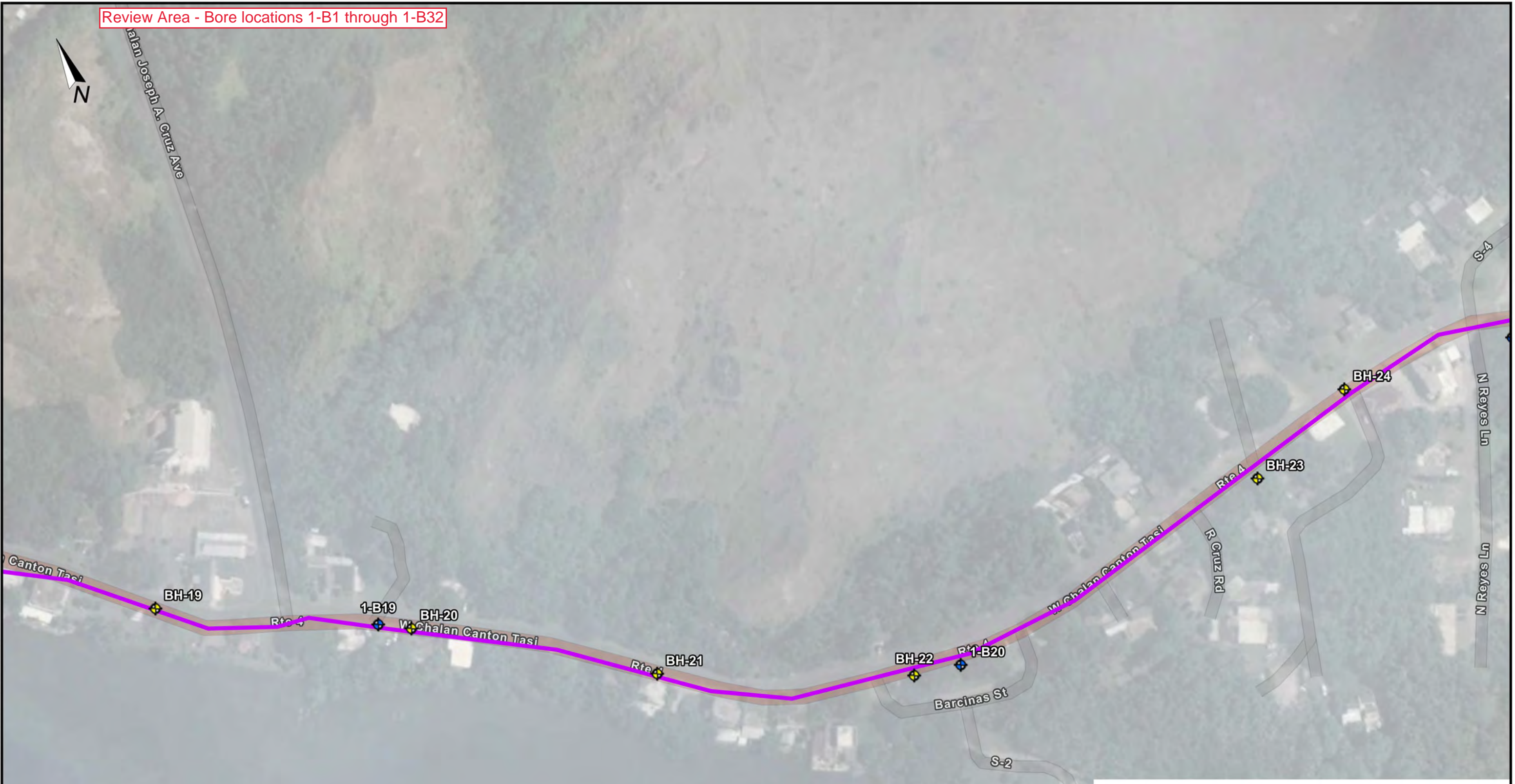


SITE PLAN
 GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT
 AGAT, GUAM

PROJECT NO.: 26551.000.001	FIGURE NO.
SCALE: AS SHOWN	2G
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Review Area - Bore locations 1-B1 through 1-B32



LEGEND
 ALL LOCATIONS ARE APPROXIMATE

- Boring (ENGE0, 2026)
- Boring (NA, 1977)
- Umatac-Merizo Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023



SITE PLAN
 GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT
 AGAT, GUAM

PROJECT NO.: 26551.000.001	FIGURE NO.
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Review Area - Bore locations 1-B1 through 1-B32



LEGEND
ALL LOCATIONS ARE APPROXIMATE

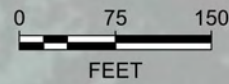
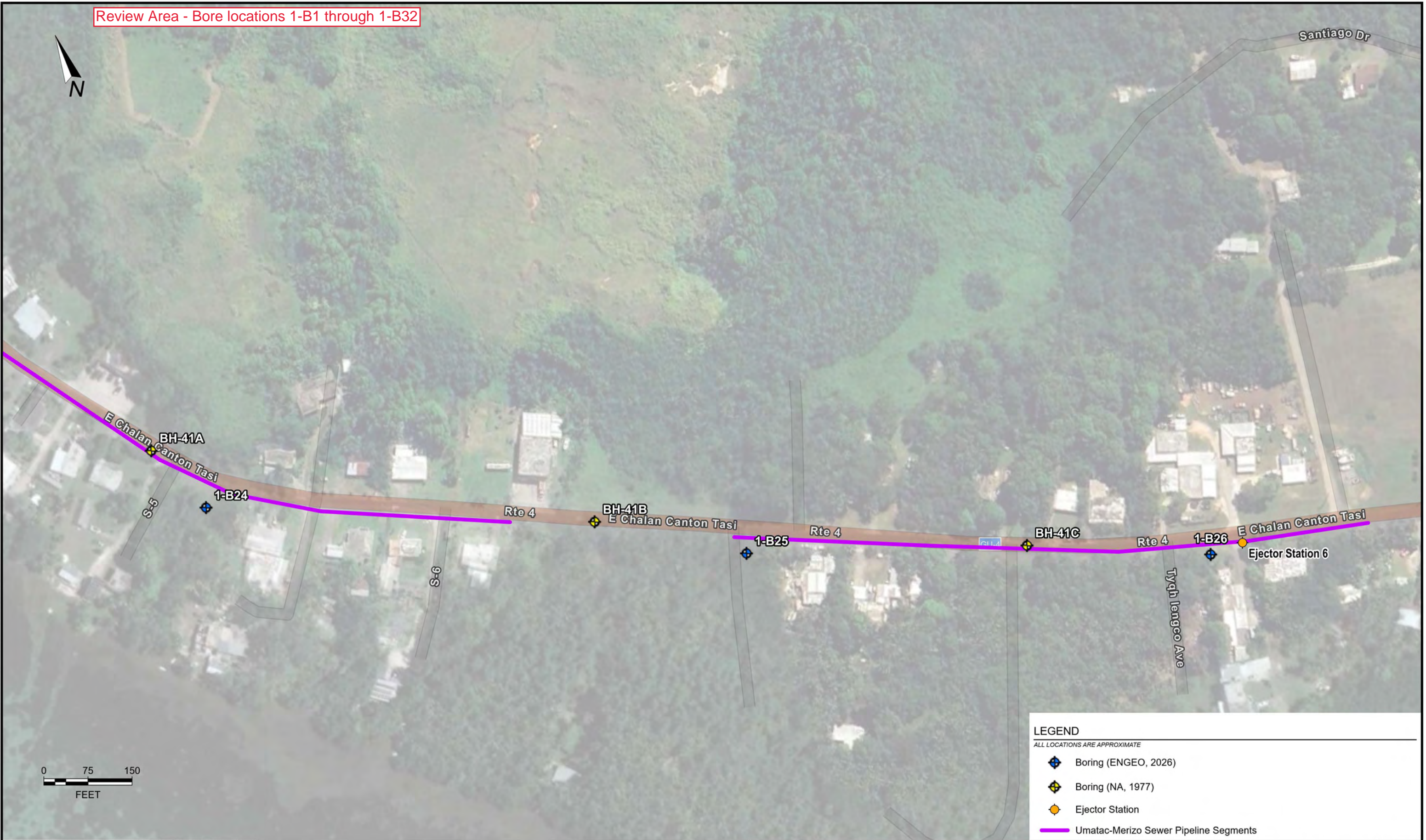
- Boring (ENGEO, 2026)
- Boring (NA, 1977)
- Pump Station
- Umatac-Merizo Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023

	SITE PLAN	PROJECT NO.: 26551.000.001	FIGURE NO.
	GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT	SCALE: AS SHOWN	21
AGAT, GUAM		DRAWN BY: NWC	CHECKED BY: SOS

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Review Area - Bore locations 1-B1 through 1-B32



LEGEND	
ALL LOCATIONS ARE APPROXIMATE	
	Boring (ENGEO, 2026)
	Boring (NA, 1977)
	Ejector Station
	Umatac-Merizo Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023

	SITE PLAN GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT AGAT, GUAM	PROJECT NO.: 26551.000.001 SCALE: AS SHOWN DRAWN BY: NWC CHECKED BY: SOS	FIGURE NO. 2J
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 LAYOUT: 02A-02L SITE PLAN 11X17 LANDSCAPE (MAP SERIES) USER: N.CLOUGH

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Review Area - Bore locations 1-B1 through 1-B32



LEGEND
ALL LOCATIONS ARE APPROXIMATE

- ◆ Boring (ENGEO, 2026)
- ◆ Boring (NA, 1977)
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- Umatac-Merizo Sewer Pipeline Segments

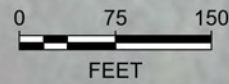
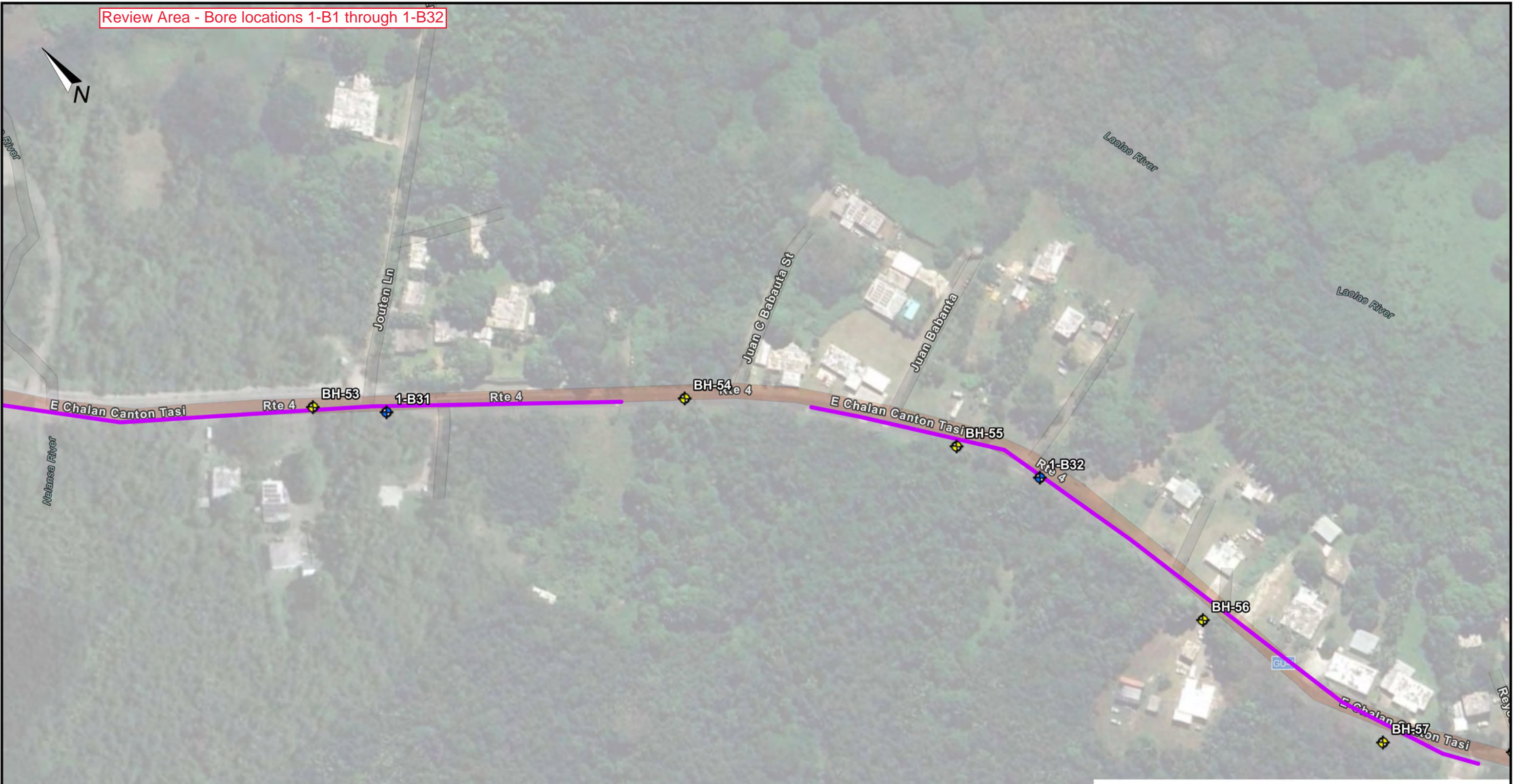
BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023

	SITE PLAN	PROJECT NO.: 26551.000.001	FIGURE NO.
	GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT	SCALE: AS SHOWN	2K
AGAT, GUAM	DRAWN BY: NWC	CHECKED BY: SOS	

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 LAYOUT: 02A-02L SITE PLAN 11X17 LANDSCAPE (MAP SERIES) USER: N.CLOUGH

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Review Area - Bore locations 1-B1 through 1-B32



LEGEND	
ALL LOCATIONS ARE APPROXIMATE	
	Boring (ENGE0, 2026)
	Boring (NA, 1977)
	Umatac-Merizo Sewer Pipeline Segments

BASEMAP SOURCE: GOOGLE EARTH MAPPING SERVICE, 2023



SITE PLAN
 GWA SEWER REPAIR, REHABILITATION, AND REPLACEMENT
 AGAT, GUAM

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