

# STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

BEVERLY PERDUE **GOVERNOR** 

EUGENE CONTI **S**ECRETARY

E. J. Jude

January 12, 2009

**MEMORANDUM TO:** 

Mr. C. E. Lassiter, Jr., PE

**Division Two Engineer** 

FROM:

Philip S. Harris, III, P.E., Unit Head

Natural Environment Unit

Project Development and Environmental Analysis Branch

SUBJECT:

Lenoir County, Crescent Road from US 70 to US 258;

T.I.P. Number R-2719A; Federal Aid Project No. STP-

0224(3); WBS Project No. 34501.1.1

Attached are the U.S. Army Corps of Engineers Section 404 Individual Permit, N.C. Division of Water Quality Section 401 Individual Water Quality Certification and Riparian Buffer Authorization for the above referenced project. All environmental permits have been received for the construction of this project.

A copy of this permit package will be posted on the NCDOT website at: http://www.ncdot.gov/doh/preconstruct/pe/neu/permit.html

PSH/gyb

Attachment

Cc: W/attachment

Mr. Randy Garris, P.E. State Contract Officer

Ms. Beth Harmon, EEP

Mr. Jay B. Johnson, Division Environmental Officer

Cc:

W/o attachment (see website for attachments)

Mr. Majed Alghandour, P. E., Programming and TIP

Mr. Jay Bennett, P.E., Roadway Design Dr. David Chang, P.E., Hydraulics Mr. Art McMillan, P.E., Highway Design

Mr. Tom Koch, P.E., Structure Design Mr. Mark Staley, Roadside Environmental

Mr. John F. Sullivan, FHWA

Mr. Ron Hancock, P.E., State Roadway Construction Engineer Mr. Mike Robinson, P.E., State Bridge Construction Engineer Mr. Rob Hanson, P.E., PDEA Eastern Region Unit Head

TELEPHONE: 919-733-3141 FAX: 919-715-1501

WEBSITE: WWW.DOH.DOT.STATE.NC.US

# PROJECT COMMITMENTS

# CRESCENT ROAD FROM US 70 TO US 258 CITY OF KINSTON, LENOIR COUNTY, NORTH CAROLINA

FEDERAL AID PROJECT NO. STP-0224(3)
WBS PROJECT NO. 34501.1.1
TIP PROJECT NO. R-2719A

Current status, changes, or additions to the project commitments as shown in the environmental documents for the project are printed in *italics*.

# COMMITMENTS DEVELOPED DURING PROJECT DEVELOPMENT

# NCDOT Project Development and Environmental Analysis Branch (PDEA)

On-site stream mitigation will be performed by PDEA Office of Natural Environment. The remaining mitigation requirements will be fulfilled through the Ecosystem Enhancement Program.

NCDOT plans incorporate on-site stream, wetland, and buffer mitigation, as reflected in current permit applications. No EEP mitigation is required.

# NCDOT Roadway Design Unit / Division 2

A final design noise report will be will be performed based on the results of the planning noise study. Noise mitigation will be provided as needed in accordance with the NCDOT Noise Abatement Policy.

A final noise report was conducted. The report indicated that no additional noise mitigation (beyond what was shown on hearing maps) is necessary.

Adherence to FAA regulations with respect to clearance zones associated with obstructions to runways will be considered. Coordination will occur with local officials at Kinston Regional Jetport during the final design phase of the proposed project.

NCDOT coordination and analysis resulted in the following measures:

Project special provisions will stipulate the following clauses (subject to revisions for better clarity and ease of contractor management):

1. The contractor is notified that the project lies just underneath approach, departure, and circling airspace for the Kinston Regional Jetport, and as such certain FAA provisions apply. As such, obstructions to airspace are a serious consideration.

- 2. The contractor cannot use any means or measure which will cause a temporary obstruction (such as cranes and soil or equipment stockpiles) whereby any component of the obstruction is higher than 188 feet above mean sea level. Before extending/raising any crane for the first time at each usage site, the contractor will verify crane setup (with regard to elevations) with the engineer and obtain approval to extend/raise the trestle or boom.
- 3. For informational/example purposes only and not a project specification: Plans indicate that the highest grade point on the proposed interchange with US 25 (which is approximately 9,500 feet from the nearest runway) is 131.5 feet. Thus if a crane were set on this point, the crane cannot extend higher than 56.5 feet. Conversely, the proposed grade of Crescent road at the same interchange is around 105.5 feet. Thus if a crane was set on the lower roadway just below the grade separation it could rise as high as 82.5 feet.
- 4. At all times on site, all cranes, equipment, or temporary stockpiles taller than 50-feet in height must be outfitted with an operational FAA-approved obstruction warning light system that engages automatically (photosensitive switch) each night. The burden is placed on the contractor to submit proof that the system is FAA-approved, that power systems are operational, and that two replacement bulbs are on site prior to the equipment being allowed to be used or extend vertically on site. Reference: FAA Advisory Circular 150/5345-43.
- 5. Unless otherwise approved in writing by NCDOT, the contractor shall not locate any component of a borrow pit within 10,000 feet of the end of any runway at Kinston Regional Jetport.

Final design plans shall be prepared to ensure no construction activities occur within Falling Creek or its protective riparian buffer zones.

Final design plans include provision for high-visibility, protective fencing to be installed between the project start (Station 15+30) and falling creek. Project special provisions will indicate that the contractor must not impact the buffer zones or creek area.

Final design plans shall be prepared to ensure that no right-of-way will be purchased from The Sutton Farmhouse historic boundary.

No right-of-way was acquired from this property.

# **NCDOT Roadside Environmental Unit**

In order to retain a visual screen between the Sutton Farm House and the new interchange with Crescent Road and US 258, tree protection measures shall be used to minimize tree removal on the north side of the new interchange.

Final plans and contract special provisions will include tree protection fencing to contain contractor operations, thus preserving the existing tree buffer that lies between the Sutton Farm House property and the new interchange. This commitment was

"moved" from Roadway Design Unit to the Roadside Environmental Unit to ensure consistency.

Landscaping will be required along a portion of existing US 70 to be abandoned. The landscaping will be placed between Stations 45+00 and 70+00 to provide visual screening of relocated US 70/Crescent Road to the Parrott House, a historic property.

NCDOT will incorporate this commitment into its final landscape plans, in accordance with the Memorandum of Agreement between FHWA and HPO. The MOA also requires that the landscape be reviewed and commented upon by the HPO and the property owner prior to approval of landscape plans.

# NCDOT Geotechnical Unit / GeoEnvironmental Section

The NCDOT Geotechnical Unit/GeoEnvironmental Section will further assess the affected properties for hazardous materials and make right-of-way acquisition recommendations accordingly. Should hazardous substance sites be discovered during construction activities, measures to minimize and/or mitigate potential impacts would be implemented.

This hazmat assessment was conducted, and recommendations were provided to the NCDOT Right-of-Way Branch. Results of the assessment did not affect project design.

# **NCDOT Division 2**

The FAA regulations with respect to clearance zones associated with obstructions to runways must be considered during project construction, particularly with respect to the use of unusually tall construction equipment, such as cranes.

This requirement is satisfied in the previous project commitment under NCDOT Roadway Design Unit / Division 2, above, which provides specifications to ensure that obstructions to navigable airspace are avoided, and which also attempts to prevent any future bird collisions by establishing a 10,000 foot minimum distance between any borrow pits and the closest runway of Kinston Regional Jetport.

The Contractor shall be made aware that no construction activities occur within Falling Creek or its protective riparian buffer zones.

Final design plans include provision for high-visibility, protective fencing to be installed between the project start (Station 15+30) and falling creek. Project special provisions will indicate that the contractor must not impact the buffer zones or creek area that lie beyond fencing.

# NCDOT Project Development and Environmental Analysis Branch

Prior to initiation of work, NCDOT shall record the Sutton Farm House and its surroundings in accordance with the Historic Structures and Landscape Recordation Plan as shown in Appendix A of the Memorandum of Agreement (MOA).

The Sutton Farm House was recorded according to above requirement.

#### COMMITMENTS DEVELOPED DURING PROJECT PERMITTING

# NCDOT Division 2 / Natural Environmental Unit

# Stream Mitigation:

Compensatory mitigation for impacts to 1,118 linear feet of streams at a replacement ratio of 1:1 is required. Compensatory mitigation for impacts to jurisdictional streams shall be provided by on-site stream restoration of 2,077 linear feet at Banks School Road Mitigation Site 1 (an unnamed tributary to Falling Creek) and 268 linear feet of restoration at the Banks School Road Mitigation Site 2. On-site mitigation at these sites will be provided as follows:

Mitigation Type	Location	Stream length (lf)	Ratio	Credits
Restoration	Banks School Rd. Site 1 (on-site)	2,077	1:1	2,077
Restoration	Banks School Rd. Site 2 (on-site)	286	1:1	286
			TOTAL:	2,363

Monitoring of the both stream restoration areas shall consist of Level 1 monitoring requirements. Monitoring shall be performed twice annually (summer and winter) for each year of a five year period following completion of the work. Monitoring activities shall consist of reference photos, plant survival determinations, and visual inspection of stream stability. The sites shall be monitored for five years, provided at least two bankfull events have occurred during this monitoring period. If two bankfull events have not occurred by the end of the five year monitoring period, the NCDOT may, at the DWQ's discretion, cease further monitoring of the site. The two bankfull events should occur within different monitoring years.

On-site stream restoration shall be constructed in accordance with the design submitted in your February 15, 2008 application. Please be reminded that as-builts for the completed streams shall be submitted to the North Carolina Division of Water Quality 401 Wetlands Unit with the as-builts for the rest of the project. If the parameters of this condition are not met, then the permittee shall supply additional stream mitigation for the 1,118 linear feet of impacts. All channel work will be constructed in a dry work area, will be completed and stabilized, and must be approved on site by DWQ staff, prior to diverting water into the new channel. Whenever possible, channel relocations shall be allowed to stabilize for an entire growing season. All enhanced stream segments shall have a 50-foot

wide native wooded buffer planted on both sides of the stream unless otherwise authorized by this Certification. A transitional phase incorporating rolled erosion control product (RECP) and appropriate temporary ground cover is allowable.

# Wetland Mitigation:

Compensatory mitigation for impacts to 12.05 acres of jurisdictional wetlands will be required as a result of this project. Off-site mitigation credits shall be credited at a 2:1 ratio. Mitigation shall be provided as follows:

Mitigation Type	Location	Wetland Type	Impact Amount (ac)	Rati o	Credits Required (ac)
Restoration	Banks School Rd. Site 2 (on-site)	Riverine	0.68	1:1	0.68
Restoration	Jeffrey's Warehouse (offsite)	Riverine	2.02	2:1	4.04
Restoration	Jeffrey's Warehouse (offsite)	Non- riverine	2.76	2:1	5.52
Restoration	oration Casey-King (off-site)		6.59	2:1	13.18
		TOTAL:	12.05		23.42

If there are insufficient credits for 2:1 ratio at either Casey King or Jeffrey's Warehouse, credits must be debited from another site or from EEP. However, credits shall be debited or obtained at a 2:1 ratio. If credits are not debited as shown in the above table, the NCDOT shall notify the DWQ, in writing prior to construction, of where credits will be debited. If mitigation is provided through EEP, an acceptance letter shall be submitted to the DWQ.

Wetland mitigation area shall be planted with no less than 680 stems/acre. Vegetation success shall be measured by survivability over a 5-year monitoring period. Survivability will be based on 320 stems/acre after three years and 260 stems after five years. A survey of vegetation during the growing season shall be conducted annually over the five-year monitoring period and submitted to the NC Division of Water Quality. Monitoring should include tree density counts, photo documentation, and plots sufficient enough to demonstrate survival and diversity of tree species. If the surviving vegetation densities are below the required thresholds after the five-year monitoring period, the site may still be declared successful at the discretion of and with written approval from the NC Division of Water Quality.

Hydrologic success of the sites will be attained by restoration of a hydrologic regime that results in inundation or saturation of the soils within 12 inches of the ground surface for at least 12.5 percent of the growing season. The hydrologic monitoring shall persist for a total of five years. After the five-year monitoring period, if the monitoring requirements are not met, the site may still be declared successful at the discretion of and with written

approval from the NC Division of Water Quality. Monitoring should include both restoration and enhancement areas.

# **Buffer Mitigation:**

Compensatory mitigation for impacts to 158,132 square feet of protected riparian buffers in Zone 1 and 96,581 square feet of protected riparian buffers in Zone 2 shall be required, for a total of 254,713 square feet. Compensatory mitigation will be completed through a combination of both on-site and off-site mitigation as follows:

Location	Credits Proposed
Banks School Road. Site 1 (onsite)	165,963
Banks School Road Site 2 (onsite)	91,476
Crescent Road Site (off-site)	200,376
Jeffrey's Warehouse (off-site)	161,453
TOTAL:	619,268

In accordance with 15A NCAC 02B .0242(9) riparian vegetation re-establishment shall include a minimum of at least 2 native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity. The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal efficiencies.

The permittee shall monitor both on-site buffer mitigation sites. Monitoring shall consist of visual review and photo evidence. An annual report shall be submitted to the DWQ for a period of five years showing monitoring results, survival rate/success of tree and vegetation establishment, and that diffuse flow through the riparian buffer has been maintained. The first annual report shall be submitted within one year of final planting. Failure to achieve a buffer density of 320 trees per acre after five years will require the annual report to provide appropriate remedial actions to be implemented and a schedule for implementation. Approval of the final annual report, and a formal "close out" of the mitigation site by the DWQ is required. Additionally, the Jeffrey's Warehouse site, which has currently completed year 1 monitoring, shall continue to be monitored in accordance with the approved monitoring plan. Should either of the Banks School Road sites or Jeffrey's Warehouse site fail to obtain satisfactory results, the DWQ may require the NCDOT to seek appropriate compensatory mitigation from other approved sites or through the EEP.

# **NCDOT Division 2**

Two copies of the final construction drawings shall be furnished to NCDWQ Central Office prior to the pre-construction meeting. The permittee shall provide written verification that the final construction drawings comply with the drawings contained in the application dated February 15, 2008 and the revision dated August 5, 2008. Any

deviations from the approved drawings are not authorized unless approved by the NC Division of Water Quality.

The culvert at Site 9 will be left at natural ground level to avoid possible draining of the surrounding wetlands. However, all other culverts and other structures in waters, streams, and wetlands shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in disequilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by DWQ. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact the NC DWQ for guidance on how to proceed and to determine whether or not a modification to this certification will be required.

NC DOT shall use "Design Standards in Sensitive Watersheds" [15A NCAC 4B .0124(a)-(e)] for the entire project. However, due to the size of the project, NC DOT shall not be required to meet 15A NCAC 4B .0124(a) regarding the maximum amount of uncovered acres. Temporary cover (wheat, millet, or similar annual grain) or permanent herbaceous cover should be planted on all bare soil within 15 working days of ground disturbing activities to provide long-term erosion control. Erosion control matting should be used in conjunction with appropriate seeding on disturbed soils in steep slope and riparian areas. Steep slopes are defined as those slopes graded at an angle which cannot retain vegetative cover. Matting shall be secured in place with staples or wherever possible, live stakes of native trees. Straw mulch and tall fescue shall not be used in riparian areas.

No changes to the horizontal or vertical placement of the stormwater outfall locations, the horizontal or vertical placement of the culverts, the horizontal or vertical placement of bridges, the horizontal or vertical placement of grassed swales, or the horizontal or vertical placement of open ditches is permitted without written approval from the NC Division of Water Quality. In addition, no changes to the flow spreader locations or designs, preformed scour hole locations or designs are permitted without written approval from the NC Division of Water Quality.

# NCDOT Division 2 / Roadside Environmental

Pursuant to NCAC15A 2B .0233(6), sediment and erosion control devices shall not be placed in Zone 1 of any Neuse Buffer without prior approval by the NCDWQ. At this time, the NCDWQ has approved no sediment and erosion control devices in Zone 1, outside of the approved project impacts, anywhere on this project. Moreover, sediment and erosion control devices shall be allowed in Zone 2 of the buffers provided that Zone 1 is not compromised and that discharge is released as diffuse flow.



# DEPARTMENT OF THE ARMY WILMINGTON DISTRICT, CORPS OF ENGINEERS

Washington Regulatory Field Office P.O. Box 1000 Washington, North Carolina 27889-1000

January 7, 2009

Regulatory Division

Action ID. SAW 2008-02460

Gregory J. Thorpe, Ph.D.
Environmental Manager Director
Project Development and Environmental Analysis Branch
N.C. Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

Dear Dr. Thorpe,

In accordance with your written request of August 5, 2008, and the ensuing administrative record, enclosed are two copies of a permit to construct on new location the final section of Crescent Road (TIP R-2719A), starting from an intersection with existing US 70 east of Falling Creek and continuing northeast approximately four miles on new location to the intersection of US 258 and existing Crescent Road. The project is located west of Kinston in Lenoir County.

You should acknowledge that you accept the terms and conditions of the enclosed permit by signing and dating each copy in the spaces provided ("Permittee" on page 3). Your signature, as permittee, indicates that, as consideration for the issuance of this permit, you voluntarily accept and agree to comply with all of the terms and conditions of this permit. All pages of both copies of the signed permit with drawings should then be returned to the Wilmington District office for final authorization. A self-addressed envelope is enclosed for your convenience.

This correspondence contains an initial proffered permit for the above described activity. If you object to this decision or the enclosed special conditions you may request that the District Commander reconsider his decision. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this decision you must submit a completed RFA form to the District Commander, Wilmington District Corps of Engineers at the following address:

Col. Jefferson Ryscavage, District Commander US Army Corps of Engineers, Wilmington District Post Office Box 1890 Wilmington, NC 28402-1890 In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete and that it has been received by the District Office 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 9, 2009.

\*\*It is not necessary to submit an RFA form to the District Office if you do not object to the decision in contained in this correspondence.\*\*

After the permit is authorized in this office, the original copy will be returned to you; the duplicate copy will be permanently retained in this office. If you have questions, please contact William Wescott at the Washington Regulatory Field Office, telephone 252-975-1616 ext. 31.

Sincerely,

David M. Lekson, P.W.S.

Chief, Washington Regulatory Field Office

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**Enclosures** 

Blind Copies Furnished:

**CESAW-R** 

Perform work in or affecting navigable waters of the United States, upon recommendation of the Chief of Engineers, pursuant to <u>SECTION 10</u> of the Rivers and Harbor Act of March 3, 1899 <u>X</u> Discharge dredged or fill material into waters of the United States upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to <u>Section 404</u> of the Clean Water Act
Transport dredged material for the purpose of dumping it into ocean waters upon the issuance of a permit from the Secretary of the Army acting through the Chief of Engineers pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972

# SPECIAL CONDITIONS (Action ID. SAW 2008-02460; NCDOT/TIP R-2719A)

# COMPLIANCE WITH PLANS

- a) All work must be performed in strict compliance with the attached plans, which are a part of this permit. Any modification to the permit plans must be approved by the USACE prior to implementation.
- b) This authorization is only for TIP R-2719 Section A.

# **ACTIVITIES NOT AUTHORIZED**

c) Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill, or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands, nor shall any activities take place that cause the degradation of waters or wetlands. In addition, except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within, into, or out of waters or wetlands or to reduce the reach of waters or wetlands.

This permit does not authorize temporary placement or double handling of excavated or fill material within jurisdictional waters, including wetlands, outside the permitted area. Additionally, no construction materials or equipment will be placed or stored within jurisdictional waters, including wetlands.

# **CONSTRUCTION PLANS**

- d) The Permittee will ensure that the construction design plans for this project do not deviate from the permit plans attached to this authorization. Written verification shall be provided to Washington Regulatory Field Office that the final construction drawings comply with the attached permit drawings prior to any active construction in waters of the United States, including wetlands. Any deviation in the construction design plans will be brought to the attention of the Corps of Engineers, Washington Regulatory Field Office prior to any active construction in waters or wetlands.
- e) Prior to commencing construction within jurisdictional waters of the United States for any portion of the proposed project, the Permittee shall forward the latest version of project construction drawings to the Corps of Engineers, Washington Regulatory Field Office NCDOT Regulatory Project Manager. Half-size drawings will be acceptable.

# POLLUTION SPILLS

f) All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other toxic materials. No equipment staging or storage of construction material will occur in wetlands. Hydro-seeding equipment will not be discharged or washed out into any surface waters or wetlands. In the event of a spill of petroleum products or any other hazardous waste, the Permittee shall immediately report it to the N.C. Division of Water Quality at (919) 733-5083 or (800) 662-7956 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed.

# **NOTIFICATION**

g) The Permittee shall advise the Corps in writing at least two weeks prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.

# CLEAN FILL MATERIAL

h) Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

# CONTRACTOR COMPLIANCE

i) The Permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit, and any authorized modifications. A copy of this permit, and any authorized modifications, including all conditions, shall be available at the project site during construction and maintenance of this project.

# SEDIMENTATION AND EROSION CONTROL MEASURES

j) The Permittee shall use appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" to assure compliance with the appropriate turbidity water quality standard. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standards. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

Adequate sedimentation and erosion control measures must be implemented prior to any ground disturbing activities to minimize impacts to aquatic resources. These measures must be inspected and maintained regularly, especially following rainfall events. All fill material must be

adequately stabilized at the earliest practicable date to prevent sediment from entering into adjacent waters or wetlands.

The Permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and shall restore natural grades in those areas, prior to project completion.

No fill or excavation for the purposes of sedimentation and erosion control shall occur within jurisdictional waters, including wetlands, unless it is included on the plan drawings and specifically authorized by this permit.

# REPORTING OF VIOLATIONS

k) The Permittee will report any violation of these conditions or violations of Section 404 of the Clean Water Act to the Corps of Engineers, Washington Regulatory Field Office NCDOT Regulatory Project Manager, within 24 hours of the Permittee's discovery of the violation.

# COMPLIANCE WITH SPECIAL CONDITIONS

l) Failure to institute and carry out the details of these special conditions, will result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with the permitted project, or such other remedies and/or fines as the District Engineer or his authorized representatives may seek.

# PRECONSTRUCTION MEETING

m) The Permittee shall schedule a preconstruction meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Washington Regulatory Field Office, NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The Permittee shall provide the Corps of Engineers, Washington Regulatory Field Office, NCDOT Regulatory Project Manager, with a copy of the final plans at least two weeks prior to the preconstruction meeting along with a description of any changes that have been made to the project's design, construction methodology or construction timeframe. The Permittee shall schedule the preconstruction meeting for a time when the Corps of Engineers and North Carolina Division of Water Quality (NCDWQ) Project Managers can attend. The Permittee shall invite the Corps and NCDWQ Project Managers a minimum of thirty (30) days in advance of the scheduled meeting in order to provide those individuals with ample opportunity to schedule and participate in the required meeting.

#### **BORROW AND WASTE**

n) To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent wetlands and streams, except as authorized by this permit, the Permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The Permittee shall provide the Corps of Engineers

with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the Permittee has that information. The Permittee will coordinate with the Corps of Engineers before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. All jurisdictional wetland boundaries on borrow and waste sites shall be verified by the Corps of Engineers and shown on the approved reclamation plans. The Permittee shall ensure that all such areas comply with Special Condition c) of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the Special Condition c). All information will be available to the Corps of Engineers upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

#### **MITIGATION**

o) Compensatory mitigation for the unavoidable impacts to 2.70 acres of riverine wetlands, 9.35 acres of non-riverine wetlands, and 2,363 linear feet of stream associated with the proposed project shall be provided as outlined in the following table.

<b>Project Impacts</b>		Required Mitigation						
				Credits				
Type	Area	Type	Location	Ratio	Required			
Riverine	2.7 acres	Restoration Banks School Rd. Site 2 (on-site) 1		1:1	0.68 acres			
			Jeffery's Warehouse (off-site)	2:1	4.04 acres			
Non-	9.35 acres	Restoration	Casey-King (off-site)	2:1	13.18			
Riverine					acres			
			Jeffery's Warehouse (off-site)	2:1	5.52 acres			
Stream	2,363	Restoration	Banks School Rd. Site 1 (on-site)	1:1	2,077 feet			
	linear feet		Banks School Rd. Site 2 (on-site)	1:1	286 feet			

On-site mitigation will be in accordance with the Banks School Road Stream and Wetland Mitigation Site Plan dated January 8, 2008. Wetland mitigation success criteria will include the following. Vegetation success shall be measured by survivability over a 5-year period. Survivability will be based on 320 planted stems/acre after three years and 260 planted stems/acre after five years. Hydrologic success of the sites will be attained by restoration of a hydrologic regime that results in inundation or saturation of the soils within 12 inches of the ground surface for at least 12.5 percent of the growing season. The hydrologic monitoring shall occur over a 5-year period.

p) The Permittee owns Jeffery's Warehouse, and Banks School Rd. Sites 1 & 2 for the purpose of providing wetland and stream mitigation. The Permittee shall maintain the mitigation sites identified above in their natural condition, as altered by the mitigation plans, in perpetuity.

Except as authorized or required by the mitigation plan, prohibited activities on the mitigation properties include, but are not limited to, filling; grading; excavating; earth moving of any kind; construction of roads, walkways, buildings signs, or any other structure; any activity that may alter the drainage patterns on the property; destruction, mowing, or other alteration of vegetation on the property; disposal or storage of any garbage, trash, or other waste material. In addition, the Permittee shall take no action, whether on or off the mitigation properties, which will adversely impact the streams and/or wetlands on the mitigation properties.

q) Condition (p), above, runs with the land. The Permittee shall not sell, lease, or otherwise convey any interest in the mitigation properties without subjecting the properties to legally enforceable restrictions on the use of the properties, to ensure its preservation, approved in writing by the Wilmington District Corps of Engineers.

# NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: NCDOT	File Number: SAW 2008-	Date: January 7, 2009
	02460	
Attached is:		See Section below
INITIAL PROFFERED PERM	T (Standard Permit or Letter of	A
X permission)		
PROFFERED PERMIT (Standa	rd Permit or Letter of permission)	В
PERMIT DENIAL	C	
APPROVED JURISDICTIONA	D	
PRELIMINARY JURISDICTION	Е	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <a href="http://www.usace.army.mil/inet/functions/cw/cecwo/reg">http://www.usace.army.mil/inet/functions/cw/cecwo/reg</a> or Corps regulations at 33 CFR Part 331.

# A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final
  authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature
  on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the
  permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

# B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

# SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps the location of information that is already in the administrative record.

# may add new information or analyses to the record. However, you may provide additional information to clarify POINT OF CONTACT FOR QUESTIONS OR INFORMATION: If you have questions regarding this decision If you only have questions regarding the appeal process you and/or the appeal process you may contact: may also contact: Mr. Michael F. Bell, Administrative Appeal Review Officer U.S. Army Corps of Engineers Attn. Mr. William Wescott, Project Manager CESAD-ET-CO-R U.S. Army Corps of Engineers, South Atlantic Division Washington Regulatory Field Office 60 Forsyth Street, Room 9M15 Post Office Box 1000 Atlanta, Georgia 30303-8801 Washington, North Carolina 27889 RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations. Date: Telephone number: Signature of appellant or agent.

#### DEPARTMENT OF THE ARMY PERMIT

Permittee North Carolina Department of Transportation, Gregory J. Thorpe, Ph.D.

Permit No. SAW 2008-02460

Issuing Office CESAW-RG-W

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The proposed T.I.P. project R-2719 Section A involves constructing a divided multi-lane, full control of access freeway, interchanges at locations with major traffic movements, and grade separations at minor crossroads and railroads. The project is approximately 4 miles long starting east of Falling Creek on US 70, and going northeast on new location to US 258 to tie in with the northern section of Crescent Road west of Kinston, Lenoir County. The T.I.P. R-2719 Section A project would permanently impact 12.05 acres of jurisdictional wetlands and 2,363 linear feet of stream. The project would temporarily impact 1.50 acres of jurisdictional wetlands and 1,227 linear feet of stream.

Project Location: This project involves the construction of the final section of Crescent Road starting from US 70 east of Falling Creek and continuing northeast approximately four miles on new location to the intersection of US 258 and existing Crescent Road. The project is located west of Kinston in Lenoir County.

Permit Conditions:

General Conditions:

- 1. The time limit for completing the work authorized ends on **December 31, 2013** If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
- 2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
- 3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

- 4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
- 5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
- 6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit,

Special Conditions:

# SEE ATTACHED SPECIAL CONDITIONS

#### Further Information:

- 1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
  - ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
  - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
  - Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 2. Limits of this authorization.
  - a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project.
- 3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
- 4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
- 5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
  - a. You fail to comply with the terms and conditions of this permit.
  - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
  - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit, Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree	to comply with the terms and conditions of this permit.
E.L. Luck	1-12-09
(PERMITTEE) North Carolina Department of Transpor	rtation (DATE)
This permit becomes effective when the Federal official, designated to	act for the Secretary of the Army, has signed below.
(DISTRICT ENGINEER) Jefferson Ryscavage, COLONEL	(DATE)
When the structures or work authorized by this permit are still in existe conditions of this permit will continue to be binding on the new ow permit and the associated liabilities associated with compliance with its below.	ner(s) of the property. To validate the transfer of this
(TRANSFEREE)	(DATE)

# SPECIAL CONDITIONS (Action ID. SAW 2008-02460; NCDOT/TIP R-2719A)

#### COMPLIANCE WITH PLANS

- a) All work must be performed in strict compliance with the attached plans, which are a part of this permit. Any modification to the permit plans must be approved by the USACE prior to implementation.
- b) This authorization is only for TIP R-2719 Section A.

# **ACTIVITIES NOT AUTHORIZED**

c) Except as authorized by this permit or any USACE approved modification to this permit, no excavation, fill, or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands, nor shall any activities take place that cause the degradation of waters or wetlands. In addition, except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within, into, or out of waters or wetlands or to reduce the reach of waters or wetlands.

This permit does not authorize temporary placement or double handling of excavated or fill material within jurisdictional waters, including wetlands, outside the permitted area. Additionally, no construction materials or equipment will be placed or stored within jurisdictional waters, including wetlands.

#### CONSTRUCTION PLANS

- d) The Permittee will ensure that the construction design plans for this project do not deviate from the permit plans attached to this authorization. Written verification shall be provided to Washington Regulatory Field Office that the final construction drawings comply with the attached permit drawings prior to any active construction in waters of the United States, including wetlands. Any deviation in the construction design plans will be brought to the attention of the Corps of Engineers, Washington Regulatory Field Office prior to any active construction in waters or wetlands.
- e) Prior to commencing construction within jurisdictional waters of the United States for any portion of the proposed project, the Permittee shall forward the latest version of project construction drawings to the Corps of Engineers, Washington Regulatory Field Office NCDOT Regulatory Project Manager. Half-size drawings will be acceptable.

#### POLLUTION SPILLS

f) All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other

toxic materials. No equipment staging or storage of construction material will occur in wetlands. Hydro-seeding equipment will not be discharged or washed out into any surface waters or wetlands. In the event of a spill of petroleum products or any other hazardous waste, the Permittee shall immediately report it to the N.C. Division of Water Quality at (919) 733-5083 or (800) 662-7956 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed.

# **NOTIFICATION**

g) The Permittee shall advise the Corps in writing at least two weeks prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.

# CLEAN FILL MATERIAL

h) Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used.

#### CONTRACTOR COMPLIANCE

i) The Permittee shall require its contractors and/or agents to comply with the terms and conditions of this permit in the construction and maintenance of this project, and shall provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this permit, and any authorized modifications. A copy of this permit, and any authorized modifications, including all conditions, shall be available at the project site during construction and maintenance of this project.

# SEDIMENTATION AND EROSION CONTROL MEASURES

j) The Permittee shall use appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" to assure compliance with the appropriate turbidity water quality standard. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance with the appropriate turbidity water quality standards. Additionally, the project must remain in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4).

Adequate sedimentation and erosion control measures must be implemented prior to any ground disturbing activities to minimize impacts to aquatic resources. These measures must be inspected and maintained regularly, especially following rainfall events. All fill material must be adequately stabilized at the earliest practicable date to prevent sediment from entering into adjacent waters or wetlands.

The Permittee shall remove all sediment and erosion control measures placed in wetlands or waters, and shall restore natural grades in those areas, prior to project completion.

No fill or excavation for the purposes of sedimentation and erosion control shall occur within jurisdictional waters, including wetlands, unless it is included on the plan drawings and specifically authorized by this permit.

#### REPORTING OF VIOLATIONS

k) The Permittee will report any violation of these conditions or violations of Section 404 of the Clean Water Act to the Corps of Engineers, Washington Regulatory Field Office NCDOT Regulatory Project Manager, within 24 hours of the Permittee's discovery of the violation.

# COMPLIANCE WITH SPECIAL CONDITIONS

1) Failure to institute and carry out the details of these special conditions, will result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with the permitted project, or such other remedies and/or fines as the District Engineer or his authorized representatives may seek.

# PRECONSTRUCTION MEETING

m) The Permittee shall schedule a preconstruction meeting between its representatives, the contractor's representatives, and the Corps of Engineers, Washington Regulatory Field Office, NCDOT Regulatory Project Manager, prior to any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all of the terms and conditions contained within this Department of the Army Permit. The Permittee shall provide the Corps of Engineers, Washington Regulatory Field Office, NCDOT Regulatory Project Manager, with a copy of the final plans at least two weeks prior to the preconstruction meeting along with a description of any changes that have been made to the project's design, construction methodology or construction timeframe. The Permittee shall schedule the preconstruction meeting for a time when the Corps of Engineers and North Carolina Division of Water Quality (NCDWQ) Project Managers can attend. The Permittee shall invite the Corps and NCDWQ Project Managers a minimum of thirty (30) days in advance of the scheduled meeting in order to provide those individuals with ample opportunity to schedule and participate in the required meeting.

# **BORROW AND WASTE**

n) To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent wetlands and streams, except as authorized by this permit, the Permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The Permittee shall

provide the Corps of Engineers with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the Permittee has that information. The Permittee will coordinate with the Corps of Engineers before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. All jurisdictional wetland boundaries on borrow and waste sites shall be verified by the Corps of Engineers and shown on the approved reclamation plans. The Permittee shall ensure that all such areas comply with Special Condition c) of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the Special Condition c). All information will be available to the Corps of Engineers upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

# **MITIGATION**

o) Compensatory mitigation for the unavoidable impacts to 2.70 acres of riverine wetlands, 9.35 acres of non-riverine wetlands, and 2,363 linear feet of stream associated with the proposed project shall be provided as outlined in the following table.

Project	Impacts		Required Mitigation						
					Credits				
Туре	Area	Type	Location	Ratio	Required				
Riverine	2.7 acres	Restoration	estoration Banks School Rd. Site 2 (onsite)		0.68 acres				
		Jeffery's Warehouse (offsite)	2:1	4.04 acres					
Non- Riverine	9.35 acres	Restoration	storation Casey-King (off-site)		13.18 acres				
		·	Jeffery's Warehouse (offsite)	2:1	5.52 acres				
Stream	2,363 linear	Restoration	n Banks School Rd. Site 1 (on-site)		2,077 feet				
	feet		Banks School Rd. Site 2 (onsite)	1:1	286 feet				

On-site mitigation will be in accordance with the Banks School Road Stream and Wetland Mitigation Site Plan dated January 8, 2008. Wetland mitigation success criteria will include the following. Vegetation success shall be measured by survivability over a 5-year period. Survivability will be based on 320 planted stems/acre after three years and 260 planted stems/acre after five years. Hydrologic success of the sites will be attained by restoration of a hydrologic regime that results in inundation or saturation of the soils

within 12 inches of the ground surface for at least 12.5 percent of the growing season. The hydrologic monitoring shall occur over a 5-year period.

- p) The Permittee owns Jeffery's Warehouse, and Banks School Rd. Sites 1 & 2 for the purpose of providing wetland and stream mitigation. The Permittee shall maintain the mitigation sites identified above in their natural condition, as altered by the mitigation plans, in perpetuity. Except as authorized or required by the mitigation plan, prohibited activities on the mitigation properties include, but are not limited to, filling; grading; excavating; earth moving of any kind; construction of roads, walkways, buildings signs, or any other structure; any activity that may alter the drainage patterns on the property; destruction, mowing, or other alteration of vegetation on the property; disposal or storage of any garbage, trash, or other waste material. In addition, the Permittee shall take no action, whether on or off the mitigation properties, which will adversely impact the streams and/or wetlands on the mitigation properties.
- q) Condition (p), above, runs with the land. The Permittee shall not sell, lease, or otherwise convey any interest in the mitigation properties without subjecting the properties to legally enforceable restrictions on the use of the properties, to ensure its preservation, approved in writing by the Wilmington District Corps of Engineers.

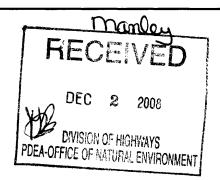


Coleen H. Sullins, Director Division of Water Quality



November 25, 2008

Dr. Greg Thorpe, PhD., Branch Manager Project Development and Environmental Analysis Branch North Carolina Department of Transportation 1598 Mail Service Center Raleigh, North Carolina, 27699-1548



Subject: Correction to 401 Water Quality Certification for R-2719A (Crescent Road) in Lenoir County,

DWO Project No. 20080314.

WQC No. 003763

Dear Dr. Thorpe:

This letter is in regards to the 401 Water Quality Certification (WQC) issued on October 28, 2008 for Crescent Road in Lenoir County (DWQ Project No. 20080314). Condition No. 29 of the WQC issued on October 28, 2008 contains the following language:

"No changes to the horizontal or vertical placement of the stormwater outfall locations, the horizontal or vertical placement of the culverts, the horizontal or vertical placement of bridges, the horizontal or vertical placement of open ditches is permitted without written approval from the NC Division of Water Quality. In addition, no changes to the flow spreader locations or designs, preformed scour hole locations or designs are permitted without written approval from the NC Division of Water Quality."

This language is hereby corrected to read as follows:

"In riparian buffer areas, no changes to the horizontal or vertical placement of the stormwater outfall locations, the horizontal or vertical placement of the culverts, the horizontal or vertical placement of bridges, the horizontal or vertical placement of grassed swales, or the horizontal or vertical placement of open ditches is permitted without written approval from the NC Division of Water Quality. In addition, no changes to the flow spreader locations or designs, preformed scour hole locations or designs are permitted without written approval from the NC Division of Water Quality."

Please attach a copy of this letter with any copies of the original Water Quality Certification. All other conditions written into the previous Water Quality Certification for this project dated October 28, 2008 still apply except where superceded by this correction. We are sorry for any inconvenience this may have caused. If you have any questions please contact David Wainwright at (919) 715-3415.

Sincerely,

Coleen H. Sullins,

Director

NorthCarolina *Naturally*  cc: William Wescott, US Army Corps of Engineers, Washington Field Office Kathy Matthews, Environmental Protection Agency Chris Militscher, Environmental Protection Agency Travis Wilson, NC Wildlife Resources Commission (electronic) Gary Jordan, US Fish and Wildlife Service (electronic) Garcy Ward, DWQ Washington Regional Office File Copy





Coleen Sullins, Director Division of Water Quality

October 28, 2008

A-OFFICE OF NATURAL ENVIRONMEN

Dr. Greg Thorpe, PhD., Branch Manager Project Development and Environmental Analysis Branch North Carolina Department of Transportation 1548 Mail Service Center Raleigh, North Carolina, 27699-1548

Subject: 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act and NEUSE BUFFER RULES with ADDITIONAL CONDITIONS for the proposed southern section of Crescent Road from US 70 to US 258 in Lenoir County, Federal Aid Project No. STP-224(3) State Project No.

8.2200101, TIP No. R-2719A. DWQ Project No. 20080314

WQC003763

Dear Dr. Thorpe:

Attached hereto is a copy of Certification No. 003763 issued to The North Carolina Department of Transportation dated October 28, 2008.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

Coleen Sullins Director

#### Attachments

William Wescott, US Army Corps of Engineers, Washington Field Office Kathy Matthews, Environmental Protection Agency Chris Militscher, Environmental Protection Agency Travis Wilson, NC Wildlife Resources Commission (electronic) Gary Jordan, US Fish and Wildlife Service (electronic) Garcy Ward, DWO Washington Regional Office File Copy





# 401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act and NEUSE BUFFER RULES with ADDITIONAL CONDITIONS

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Quality (DWQ) Regulations in 15 NCAC 2H .0500 and [15A NCAC 2B .0233]. This certification authorizes the NCDOT to impact 13.22 acres of jurisdictional wetlands, 3,590 linear feet of jurisdictional streams and 348,634 square feet of protected riparian buffers in Lenoir County. The project shall be constructed pursuant to the initial application dated received February 15, 2008 and the revision to the initial application dated received August 6, 2008. The authorized impacts are as described below:

Stream Impacts in the Neuse River Basin

Site	Permanent Fill in Intermittent Stream (linear ft.)	Temporary Fill in Intermittent Stream (linear ft)	Permanent Fill in Perennial Stream (linear ft)	Temporary Fill in Perennial Stream (linear ft)	Total Stream Impact (linear ft)	Stream Impacts Requiring Mitigation (linear ft)
1	0	0	499	208	707	499
2	0	0	619	245	864	619
3	158	18	0	0	176	0
4	119	18	0	0	137	0
5A	0	0	50	18	68	0
5B	21	61	0	0	82	0
6	286	36	0	0	322	0
7	0	0	0	0	0	0
8	0	0	0	0	0	0
9	0	0	0	0	0	0
10	0	0	0	0	0	0
11	237	182	0	0	419	0
12	188	155	0	0	343	0
13	0	0 .	0	0	0	0
14	0	0	0	0	0	0
15	0	0	0	0	0	0
16	0	0	0	0	0	0
17	0	0	0	109	109	0
18	0	0	0	0	0	0
19	186	177	0	0	363	0
TOTAL:	1,195	647	1,168	580	3,590	1,118

Total Stream Impact for Project: 3,590 linear feet





Wetland Impacts in the Neuse River Basin

Site	Fill (ac)	Fill (temporary) (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Total Wetland Impact (ac)
1	0	0	0	0	0	0
2	0	0	0	0	0	0
3	0	0	0	0	0	0
4	0	0	0	0	0	0
5A	0	0	0	0	0	0
5B	0	0	0	0	0	0
6	0	0	0	0	0	0
7	0.03	0	0	0	0.01	0.04
8	2.67	0	0	0	0.2	2.87
9	2.93	0	0 .	0	0.31	3.24
10	1.96	. 0	0	0	0.18	2.14
11	1.36	0	0.03	0	0.14	1.53
12	0.94	0	0.01	0	0.10	1.05
13	0.73	0	0.03	0	0.09	0.85
14*	0.91*	0	0.01	0.02	0.04	0.98
15	0.06	0	0	0	0.01	0.07
16	0.36	0	0	0	0.08	0.44
17	0	0	0	0	0	0
18	0	0	0	0	0.01	0.01
19	0	0	0	0	0	0
TOTAL:	11.95	0	0.08	0.02	1.17	13.22

<sup>\*</sup>An additional impact of 0.02 acres is added to the total impact at Site 14 due to a total taking of the associated wetlands **Total Wetland Impact for Project: 13.22 acres.** 

Neuse River Riparian Buffer Impacts

Site	Zone 1 Impact (sq ft)	minus Wetlands in Zone 1 (sq ft)	= Zone 1 Buffers (not wetlands) (sq ft)	Impact Requiring Mitigation (sq ft)	Zone 1 Buffer Mitigation Required (using 3:1 ratio)		Zone 2 Impact (sq ft)	minus Wetland s in Zone 2 (sq ft)	= Zone 2 Buffers (not wetlands) (sq ft)	Impact Requiring Mitigation (sq ft)	Zone 2 Buffer Mitigation Required (using 1.5:1 ratio)
1	37,815	0	37,815	37,815	113,445		22,339	0	22,339	22,339	33,509
2	49,052	0	49,052	49,052	147,156		29,064	0	29,064	29,064	43,596
3	10,004	0	10,004	10,004	30,012		6,561	0	6,561	6,561	9,842
4	7,794	0	7,794	N/A	N/A		5,174	0	5,174	N/A	N/A
5	4,119	0	4,119	N/A	N/A		2,798	0	2,798	N/A	N/A
6	20,004	0	20,004	N/A	N/A		14,987	0	14,987	N/A	N/A
7	19,349	0	19,349	19,349	58,047		14,532	0	14,532	14,532	21,798
8	21,619	9,646	11,973	11,973	35,919		12,965	5,333	7,632	7,632	11,448
9	17,781	7,787	9,994	9,994	29,982	3.93	10,457	4,499	5,958	5,958	8,937
10	0	0	0	N/A	N/A		129	0	129	N/A	N/A
11	6,596	0	6,596	N/A	N/A		4,469	0	4,469	N/A	N/A
12	0	0	0	N/A	N/A		586	0	586	N/A	N/A
13	19,945	0	19,945	19,945	59,835		10,495	0	10,495	10,495	15,743
TOTAL:	214,078	17,433	196,645	158,132	474,396		134,556	9,832	124,724	96,581	144,873

<sup>\*</sup> N/A = Total for Site is less than 1/3 acre and 150 linear feet of impact, or is allowable and therefore no is mitigation required **Total Buffer Impact for Project: 348,634 square feet.** 





The application provides adequate assurance that the discharge of fill material into the waters of the Neuse River Basin in conjunction with the proposed development will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

This approval is only valid for the purpose and design that you submitted in your application dated received February 15, 2008 and the associated revision dated received August 6, 2008. Should your project change, you are required to notify the DWQ and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or 150 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.

#### **Conditions of Certification:**

#### **Project Specific Conditions**

1. Two copies of the final construction drawings shall be furnished to NCDWQ Central Office prior to the pre-construction meeting. The permittee shall provide written verification that the final construction drawings comply with the drawings contained in the application dated February 15, 2008 and the revision dated August 5, 2008. Any deviations from the approved drawings are not authorized unless approved by the NC Division of Water Quality.

#### 2. Stream Mitigation:

Compensatory mitigation for impacts to 1,118 linear feet of streams at a replacement ratio of 1:1 is required. Compensatory mitigation for impacts to jurisdictional streams shall be provided by on-site stream restoration of 2,077 linear feet at Banks School Road Mitigation Site 1 (an unnamed tributary to Falling Creek) and 268 linear feet of restoration at the Banks School Road Mitigation Site 2. On-site mitigation at these sites will be provided as follows:

Mitigation Type	Location	Stream length (lf)	Ratio	Credits
Restoration	Banks School Rd. Site 1 (on-site)	2,077	1:1	2,077
Restoration	Banks School Rd. Site 2 (on-site)	268	1:1	268
			TOTAL:	2,345

Monitoring of the both stream restoration areas shall consist of Level 1 monitoring requirements. Monitoring shall be performed twice annually (summer and winter) for each year of a five year period following completion of the work. Monitoring activities shall consist of reference photos, plant survival determinations, and visual inspection of stream stability. The sites shall be monitored for five years, provided at least two bankfull events have occurred during this monitoring period. If two bankfull events have not occurred by the end of the five year monitoring period, the NCDOT may, at the DWQ's discretion, cease further monitoring of the site. The two bankfull events should occur within different monitoring years.

NorthCarolina
\*\*NorthCarolina\*\*
\*\*NorthCarolina\*\*



On-site stream restoration shall be constructed in accordance with the design submitted in your February 15, 2008 application. Please be reminded that as-builts for the completed streams shall be submitted to the North Carolina Division of Water Quality 401 Wetlands Unit with the as-builts for the rest of the project. If the parameters of this condition are not met, then the permittee shall supply additional stream mitigation for the 1,118 linear feet of impacts. All channel work will be constructed in a dry work area, will be completed and stabilized, and must be approved on site by DWQ staff, prior to diverting water into the new channel. Whenever possible, channel relocations shall be allowed to stabilize for an entire growing season. All enhanced stream segments shall have a 50-foot wide native wooded buffer planted on both sides of the stream unless otherwise authorized by this Certification. A transitional phase incorporating rolled erosion control product (RECP) and appropriate temporary ground cover is allowable.

#### 3. Wetland Mitigation:

Compensatory mitigation for impacts to 12.05 acres of jurisdictional wetlands will be required as a result of this project. Off-site mitigation credits shall be credited at a 2:1 ratio. Mitigation shall be provided as follows:

Mitigation Type	Location	Wetland Type	Impact Amount (ac)	Ratio	Credits Required (ac)
Restoration	Banks School Rd. Site 2 (on-site)	Riverine	0.68	1:1	0.68
Restoration	Jeffrey's Warehouse (off-site)	Riverine	2.02	2:1	4.04
Restoration	Jeffrey's Warehouse (off-site)	Non-riverine	2.76	2:1	5.52
Restoration	Casey-King (off-site)	Non-riverine	6.59	2:1	13.18
		TOTAL:	12.05	$\times$	23.42

If there are insufficient credits for 2:1 ratio at either Casey King or Jeffrey's Warehouse, credits must be debited from another site or from EEP. However, credits shall be debited or obtained at a 2:1 ratio. If credits are *not* debited as shown in the above table, the NCDOT shall notify the DWQ, in writing prior to construction, of where credits will be debited. If mitigation is provided through EEP, an acceptance letter shall be submitted to the DWQ.

Wetland mitigation area shall be planted with no less than 680 stems/acre. Vegetation success shall be measured by survivability over a 5-year monitoring period. Survivability will be based on 320 stems/acre after three years and 260 stems after five years. A survey of vegetation during the growing season shall be conducted annually over the five-year monitoring period and submitted to the NC Division of Water Quality. Monitoring should include tree density counts, photo documentation, and plots sufficient enough to demonstrate survival and diversity of tree species. If the surviving vegetation densities are below the required thresholds after the five-year monitoring period, the site may still be declared successful at the discretion of and with written approval from the NC Division of Water Quality.

Hydrologic success of the sites will be attained by restoration of a hydrologic regime that results in inundation or saturation of the soils within 12 inches of the ground surface for at least 12.5 percent of the growing season. The hydrologic monitoring shall persist for a total of five years. After the five-year monitoring period, if the monitoring requirements are not met, the site may still be declared successful at the discretion of and with written approval from the NC Division of Water Quality. Monitoring should include both restoration and enhancement areas.





#### 4. Buffer Mitigation:

Compensatory mitigation for impacts to 158,132 square feet of protected riparian buffers in Zone 1 and 96,581 square feet of protected riparian buffers in Zone 2 shall be required, for a total of 254,713 square feet. Compensatory mitigation will be completed through a combination of both on-site and off-site mitigation as follows:

Location	Credits Proposed		
Banks School Road. Site 1 (on-site)	165,963		
Banks School Road Site 2 (on-site)	91,476		
Crescent Road Site (off-site)	200,376		
Jeffrey's Warehouse (off-site)	161,453		
TOTAL:	619,268		

In accordance with 15A NCAC 02B .0242(9) riparian vegetation re-establishment shall include a minimum of at least 2 native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity. The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal efficiencies.

The permittee shall monitor both on-site buffer mitigation sites. Monitoring shall consist of visual review and photo evidence. An annual report shall be submitted to the DWQ for a period of five years showing monitoring results, survival rate/success of tree and vegetation establishment, and that diffuse flow through the riparian buffer has been maintained. The first annual report shall be submitted within one year of final planting. Failure to achieve a buffer density of 320 trees per acre after five years will require the annual report to provide appropriate remedial actions to be implemented and a schedule for implementation. Approval of the final annual report, and a formal "close out" of the mitigation site by the DWQ is required. Additionally, the Jeffrey's Warehouse site, which has currently completed year 1 monitoring, shall continue to be monitored in accordance with the approved monitoring plan. Should either of the Banks School Road sites or Jeffrey's Warehouse site fail to obtain satisfactory results, the DWQ may require the NCDOT to seek appropriate compensatory mitigation from other approved sites or through the EEP.

- 5. All mitigation sites used for project impact credits shall be under a conservation easement and/or right-of-way agreement which will be maintained in perpetuity by the NCDOT, or if the property is sold, the respective property owner.
- 6. The culvert at Site 9 will be left at natural ground level to avoid possible draining of the surrounding wetlands. However, all other culverts and other structures in waters, streams, and wetlands shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by DWQ. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact the NC DWQ for guidance on how to proceed and to determine whether or not a modification to this certification will be required.
- 7. NC DOT shall use "Design Standards in Sensitive Watersheds" [15A NCAC 4B .0124(a)-(e)] for the entire project. However, due to the size of the project, NC DOT shall not be required to meet 15A NCAC 4B .0124(a) regarding the maximum amount of uncovered acres. Temporary cover (wheat, millet, or similar annual grain) or permanent herbaceous cover should be planted on all bare soil within 15 working days of





ground disturbing activities to provide long-term erosion control. Erosion control matting should be used in conjunction with appropriate seeding on disturbed soils in steep slope and riparian areas. Steep slopes are defined as those slopes graded at an angle which cannot retain vegetative cover. Matting shall be secured in place with staples or wherever possible, live stakes of native trees. Straw mulch and tall fescue shall not be used in riparian areas.

#### **General Conditions**

- 8. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills.
- 9. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions.
- 10. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification.
- 11. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life
- 12. The Permittee shall ensure that the final design drawings adhere to the certification and to the drawings submitted for approval.
- 13. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water.
- 14. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers.
- 15. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream.
- 16. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials.
- 17. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
- 18. The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If DWQ determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, DWQ may reevaluate and modify this certification.
- 19. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification.



Division of Water Quality



- 20. The outside buffer, wetland or water boundary located within the construction corridor approved by this certification shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to areas within the fencing are prohibited unless otherwise authorized by this certification.
- 21. The issuance of this certification does not exempt the Permittee from complying with any and all statutes, rules, regulations, or ordinances that may be imposed by other government agencies (i.e. local, state, and federal) having jurisdiction, including but not limited to applicable buffer rules, stormwater management rules, soil erosion and sedimentation control requirements, etc.
- 22. Native riparian vegetation must be reestablished within the construction limits of the project by the end of the growing season following completion of construction.
- 23. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this certification without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities.
- 24. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards:
  - a. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
  - b. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
  - c. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
  - d. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
- 25. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification.
- 26. All stormwater runoff shall be directed as sheetflow through stream buffers at non-erosive velocities, unless otherwise approved by this certification.
- 27. All riparian buffers impacted by the placement of temporary fill or clearing activities shall be restored to the preconstruction contours and revegated. Maintained buffers shall be permanently revegetated with non-woody species by the end of the growing season following completion of construction. For the purpose of this condition, maintained buffer areas are defined as areas within the transportation corridor that will be subject to regular DOT maintenance activities including mowing. The area with non-maintained buffers shall be permanently revegetated, with native woody species before the next growing season following completion of construction.
- 28. Pursuant to NCAC15A 2B .0233(6), sediment and erosion control devices shall not be placed in Zone 1 of any Neuse Buffer without prior approval by the NCDWQ. At this time, the NCDWQ has approved no sediment and erosion control devices in Zone 1, outside of the approved project impacts, anywhere on this



Division of Water Quality



project. Moreover, sediment and erosion control devices shall be allowed in Zone 2 of the buffers provided that Zone 1 is not compromised and that discharge is released as diffuse flow.

- 29. No changes to the horizontal or vertical placement of the stormwater outfall locations, the horizontal or vertical placement of the culverts, the horizontal or vertical placement of bridges, the horizontal or vertical placement of grassed swales, or the horizontal or vertical placement of open ditches is permitted without written approval from the NC Division of Water Quality. In addition, no changes to the flow spreader locations or designs, preformed scour hole locations or designs are permitted without written approval from the NC Division of Water Quality.
- 30. A copy of this Water Quality Certification shall be maintained on site at the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager.
- 31. The Permittee shall report any violations of this certification to the Division of Water Quality within 24 hours of discovery.
- 32. Upon completion of the project (including any impacts at associated borrow or waste site), the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify DWQ when all work included in the 401 Certification has been completed.

Violations of any condition herein set forth may result in revocation of this Certification and may result in criminal and/or civil penalties. This Certification shall become null and void unless the above conditions are made conditions of the Federal 404 and/or Coastal Area Management Act Permit. This Certification shall expire upon the expiration of the 404 or CAMA permit.

If this Certification is unacceptable to you have the right to an adjudicatory hearing upon written request within sixty (60) days following receipt of this Certification. This request must be in the form of a written petition conforming to Chapter 150B of the North Carolina General Statutes and filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, N.C. 27699-6714. If modifications are made to an original Certification, you have the right to an adjudicatory hearing on the modifications upon written request within sixty (60) days following receipt of the Certification. Unless such demands are made, this Certification shall be final and binding.

This the 28th day of October 2008

DIVISION OF WATER QUALITY

Coleen Sullins Director

WQC No. 003763

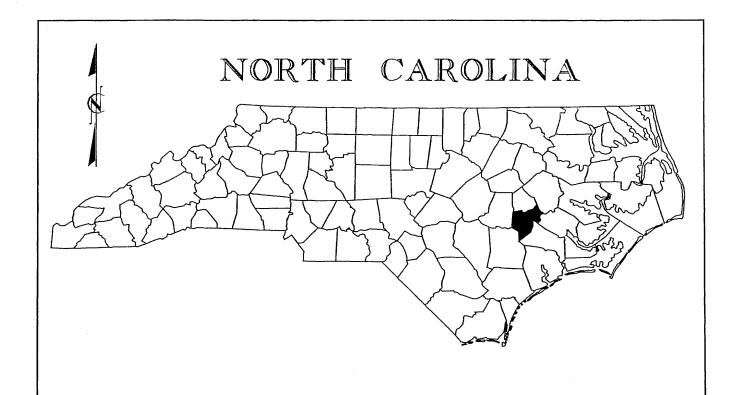


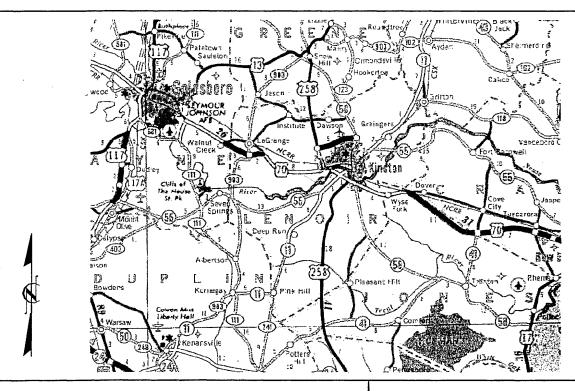
Coleen Sullins, Director Division of Water Quality



DWQ Project No.:	County:	
Applicant:		
Project Name:		
Date of Issuance of 401 Water	Quality Certification:	
Certificate of Comple	etion	
Upon completion of all work approany subsequent modifications, the Carolina Division of Water Quality	oved within the 401 Water Quality Certification applicant is required to return this certificate to y, 1650 Mail Service Center, Raleigh, NC, 2769, the applicant's authorized agent, or the project	the 401/Wetlands Unit, North 99-1650. This form may be
Applicant's Certification		
	, hereby state that, to the best of mion of the construction such that the construction intent of the 401 Water Quality Certification and supporting materials.	
Signature:	Date:	
Agent's Certification		
	, hereby state that, to the best of motion of the construction such that the construction intent of the 401 Water Quality Certification an supporting materials.	
Signature:	Date:	
If this project was designed b	y a Certified Professional	
(periodically, weekly, full time) the my abilities, due care and diligence observed to be built within substan	, as a duly registered Profession c.) in the State of North Carolina, having been at a construction of the project, for the Permitee has was used in the observation of the construction tial compliance and intent of the 401 Water Questifications, and other supporting materials.	ereby state that, to the best of n such that the construction was
Signature	Registration No	Date







VICINITY MAP

Permit Drawing
Sheet \ of <u>ble</u>

# NCDOT

DIVISION OF HIGHWAYS
LENOIR COUNTY
PROJECT: 3450LL1 (R-2719A)
CRESCENT ROAD
IN KINSTON FROM
US 70 TO US 258

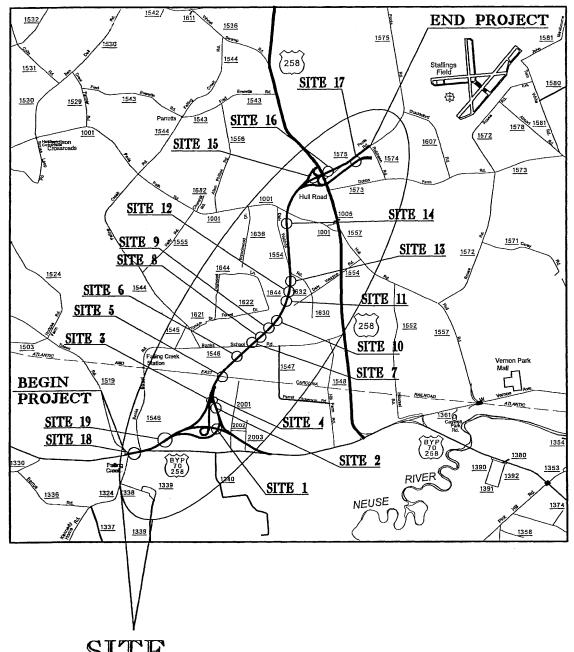
SHEET

OF

5 / 26 / 06

6/2/2006 R:\Hudraulios\new oermits\r2719a-Hud-prm-

# WETLAND SITE MAP



SITE

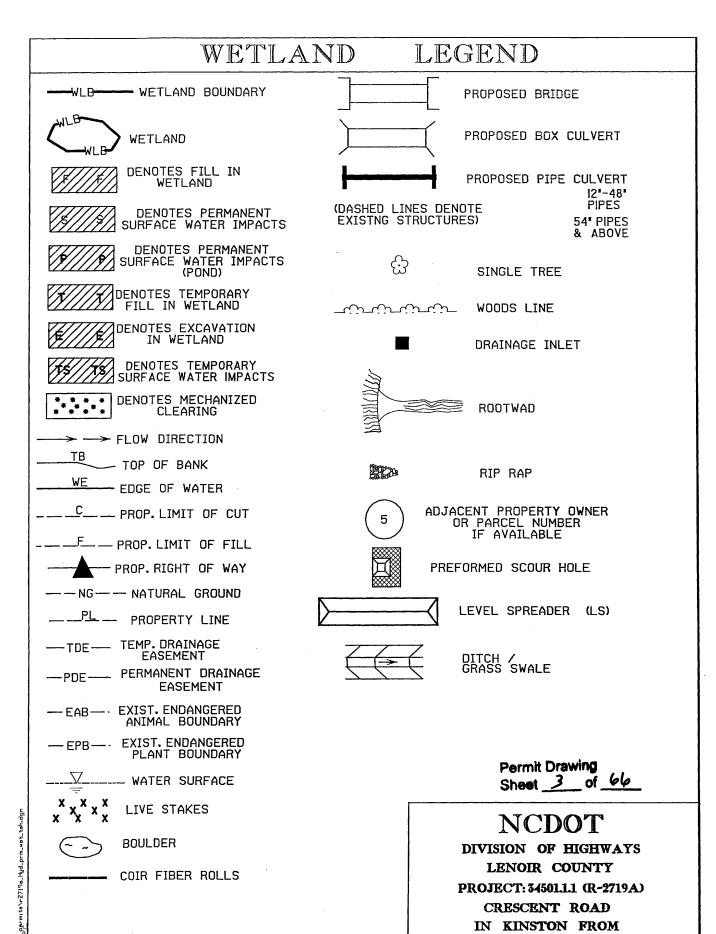
Permit Drawing Sheet 2 of 66

# NCDOT

DIVISION OF HIGHWAYS LENOIR COUNTY PROJECT: 34501.1.1 (R-2719A) CRESCENT ROAD IN KINSTON FROM US 70 TO US 258







SHEET

US 70 TO US 258

OF

3 / 20 / 07

# WETLAND IMPACTS SUMMARY OF AFFECTED PROPERTY OWNERS

TRACT NO.	PROPERTY OWNER	ADDRESS	SITE NO.
8	FALLING CREEK FARMS INC.	818 WEST MINISTER LN KINSTON, NC 28501	19
(14)	ERWIN W. PARROT, et al	818 WEST MINISTER LN KINSTON, NC 28501	1,2,3 & 4
<u>le</u> )	PROPERTY OF LENOIR COUNTY	PO BOX 3289 KINSTON, NC 28502-3289	l <b>,</b> 2
(33)	FALLING CREEK FARMS INC.	818 WEST MINISTER LN KINSTON, NC 28501	2 <b>,</b> 5A
34)	JOHN P. CASEY	2702 BANKS SCHOOL RD KINSTON, NC 28504	5B
(38)	THE STATE OF NORTH CAROLINA	II6 WEST JONES ST RALEIGH, NC 27603	5B <b>,6,</b> 7
46)	THE STATE OF NORTH CAROLINA	II6 WEST JONES ST RALEIGH, NC 27603	8,9,10,11
48)	THE STATE OF NORTH CAROLINA	II6 WEST JONES ST RALEIGH, NC 27603	9,10,11
(5I)	ELLIS A. KING, et al	PO BOX 6007 KINSTON, NC 28502	11,12
60)	HATTIE E. DALY ESTATE	12807 PINE TREE LANE FORT WASHINGTON, MD 20744	12,13
67	NINA L. HILL	2189 PAULS PATH ROAD KINSTON, NC 28504	14
97	WILLIAM H. ROUSE, et al	1904 HARDEE ROAD KINSTON, NC 28504	15
(104)	WILLIAM H. ROUSE, et al	1904 HARDEE ROAD KINSTON, NC 28504	16
(67) (97)	NINA L. HILL WILLIAM H. ROUSE, et al	2189 PAULS PATH ROAD KINSTON, NC 28504 1904 HARDEE ROAD KINSTON, NC 28504	14

Permit Drawing
Sheet 4 of 66

# NCDOT

DIVISION OF HIGHWAYS LENOIR COUNTY PROJECT: 3450LL1 (R-2719A) CRESCENT ROAD IN KINSTON FROM US 70 TO US 258



			WET	WET	WETLAND PERMIT IMPACT SUMMARY	ERMIT IM	PACT SUM	MARY	ARY SIIDEACE WATED IMPACTS	ADACTC	
			WE	LAND IMPA	212			SURFAC	WAIEK IN	MPACIS	
		Dormonont	Tomo	T. C. C. C.	Locitor dock	Hand	Dormont	Tomor	Existing	Existing	4014
Structure		Filland		LACAVALIUII	Clearing	בו בו	SW	SW.	Impacts	Impacts	Stream
Size / Type		Wetlands	Wetlands	Wetlands	.⊑	Wetlands	impacts	impacts	Permanent	Temp.	Design
		(ac)	(ac)	(ac)	(ac)	(ac)	(ac)	(ac)	(#)	(#)	) (#)
3@12'x10' RCBC	ပ						0.10	0.05	499	208	
3@12'X10' RCBC	O						0.18	0.07	619	245	
60" RCP							0.01	< 0.01	158	18	
60" RCP							0.01	< 0.01	119	18	
2@60" RCP							0.02	0.01	20	18	
TEMP 2@36" CSP							0.02	< 0.01	21	9	
36" RCP							0.03	0.01	286	36	286*
Roadway Fill		60.0				<0.01					
Roadway Fill		2.67				0.20					
Roadway Fill		2.93				0.31				appears,	
Roadway Fill		1.96				0.18					!
2@9'X8' RCBC		1.36		0.03		0.14	0.03	0.03	237	182	
2@8'X8' RCBC		0.94		0.01		0.10	0.02	0.02	188	155	
Roadway Fill		0.73		0.03		0.09					
Roadway Fill		0.89		0.01	0.02	0.04					
Roadway Fill		90.0				0.01					
Roadway Fill		0.36				0.08					
TEMP 48" CSP								0.02		109	
<b>EXISTING BRIDGE</b>						<0.01					
2@9'X6' RCBC							0.04	0.04	186	177	
		11.93	0.00	0.08	0.02	1.15	0.46	0.25	2363	1227	286
	7										

# \* SEE MITIGATION PLANS

\*\* The wetland impact to site 14 aong right side should be considered as a "total take", and the additional impact area is 0.02 acre.

Therefore, the total wetland impact = (0.89+0.01+0.02+0.04)+0.02 = 0.98 acre

Site 5B - Temporary impacts/pipes due to need for Construction Access

0.35 acres of Temporary Fill In Wetlands in the Hand Clearing areas for erosion control measures.

NC DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS

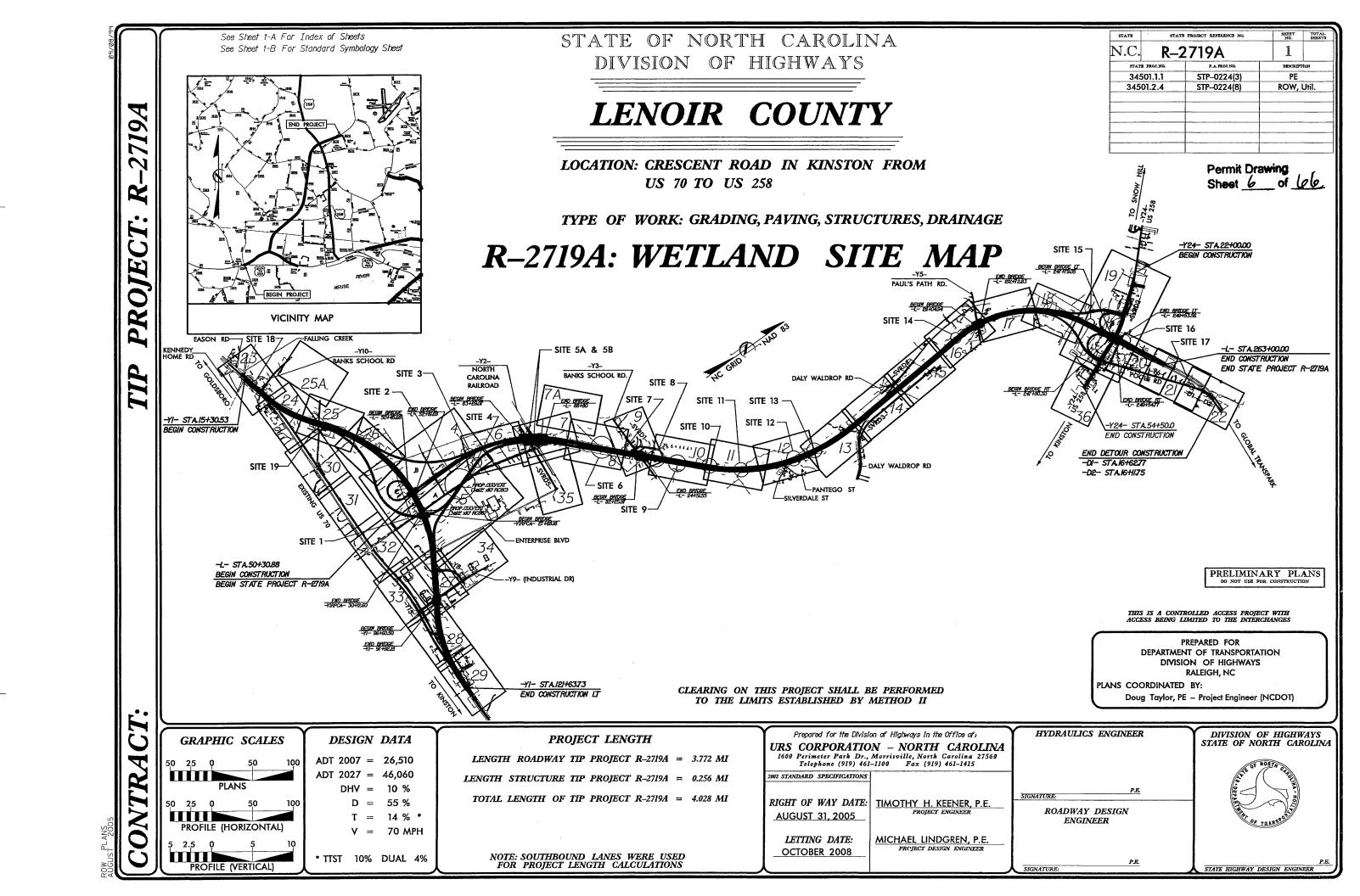
Permit Drawing Sheet 5 of 66

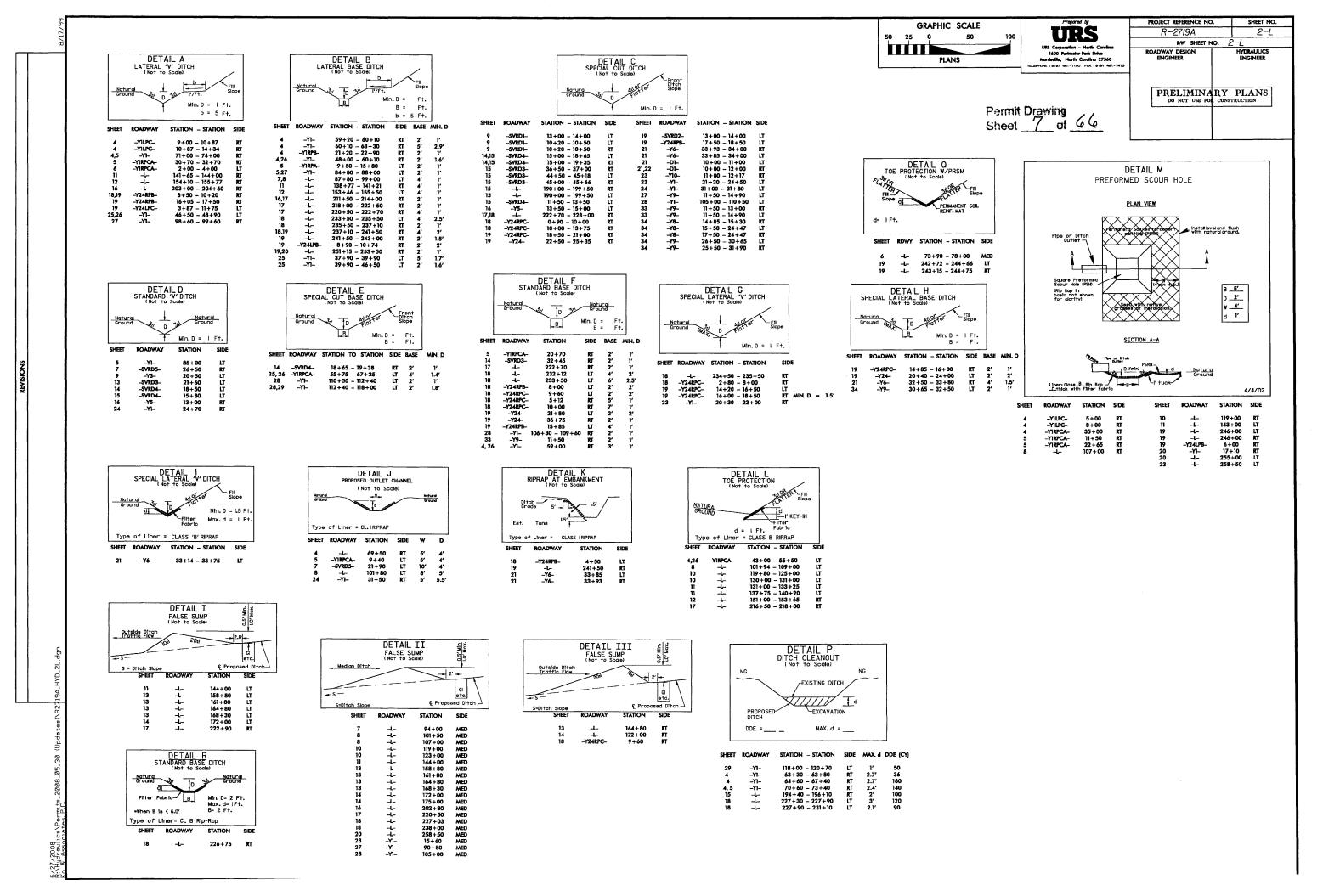
LENOIR COUNTY PROJECT: 34501.1.1 (R-2719A)

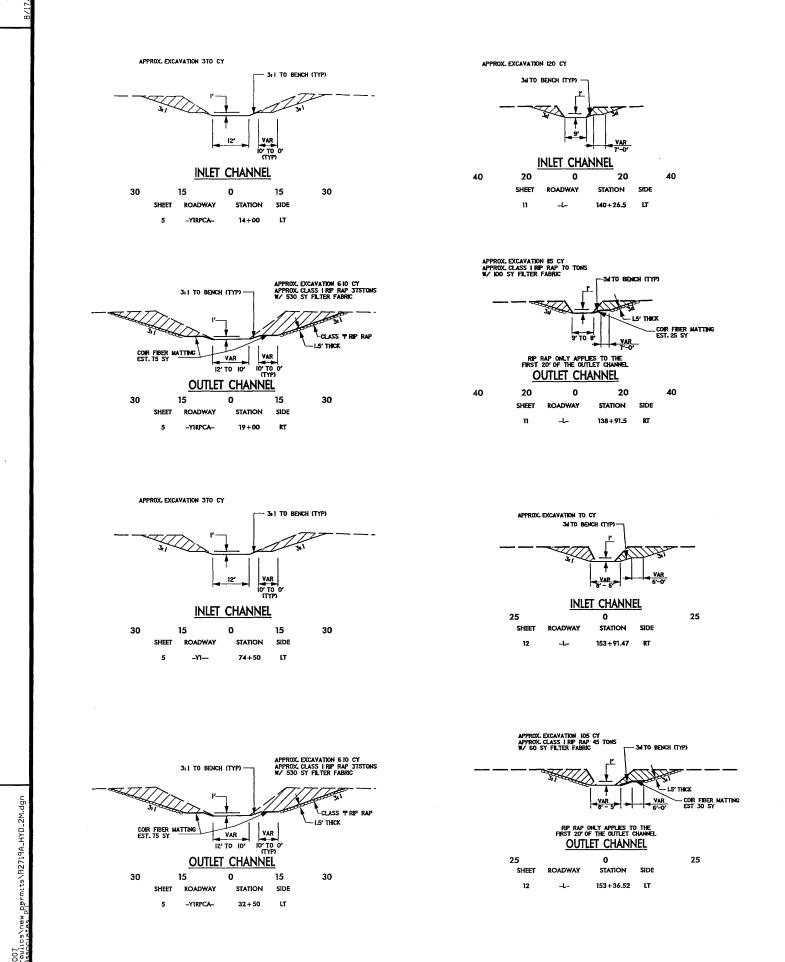
June-08

SHEET

ATN Revised 3/31/05







SHEET NOT TO SCALE

APPROX. EXCAVATION 140 CY

3:1 TO BENCH (TYP)

38+00

INLET CHANNEL

RIP RAP ONLY APPLIES TO THE FIRST 20' OF THE OUTLET CHANNEL OUTLET CHANNEL

APPROX. EXCAVATION 190 CY APPROX. CLASS I RIP RAP 155 TONS W/ 220 SY FILTER FABRIC URS
URS
URS Corporation -- North Corolina
1600 Perimeter Park Drive
Morrirille, North Carolina 27500

PROJECT REFERENCE NO. SHEET NO.

R—27/9A 2M

RW SHEET NO.

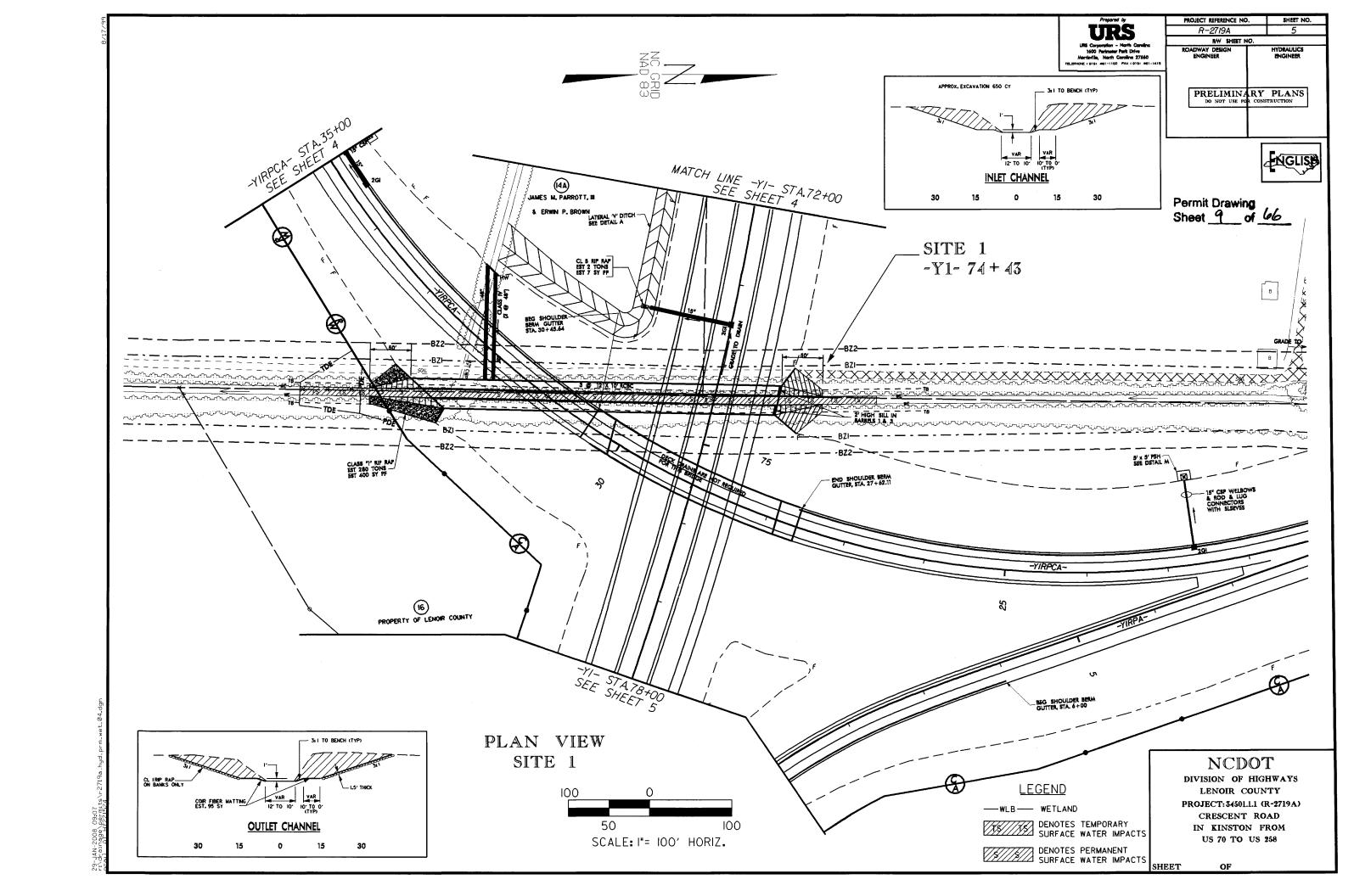
ROADWAY DESIGN HYDRAJUCS ENGINEER

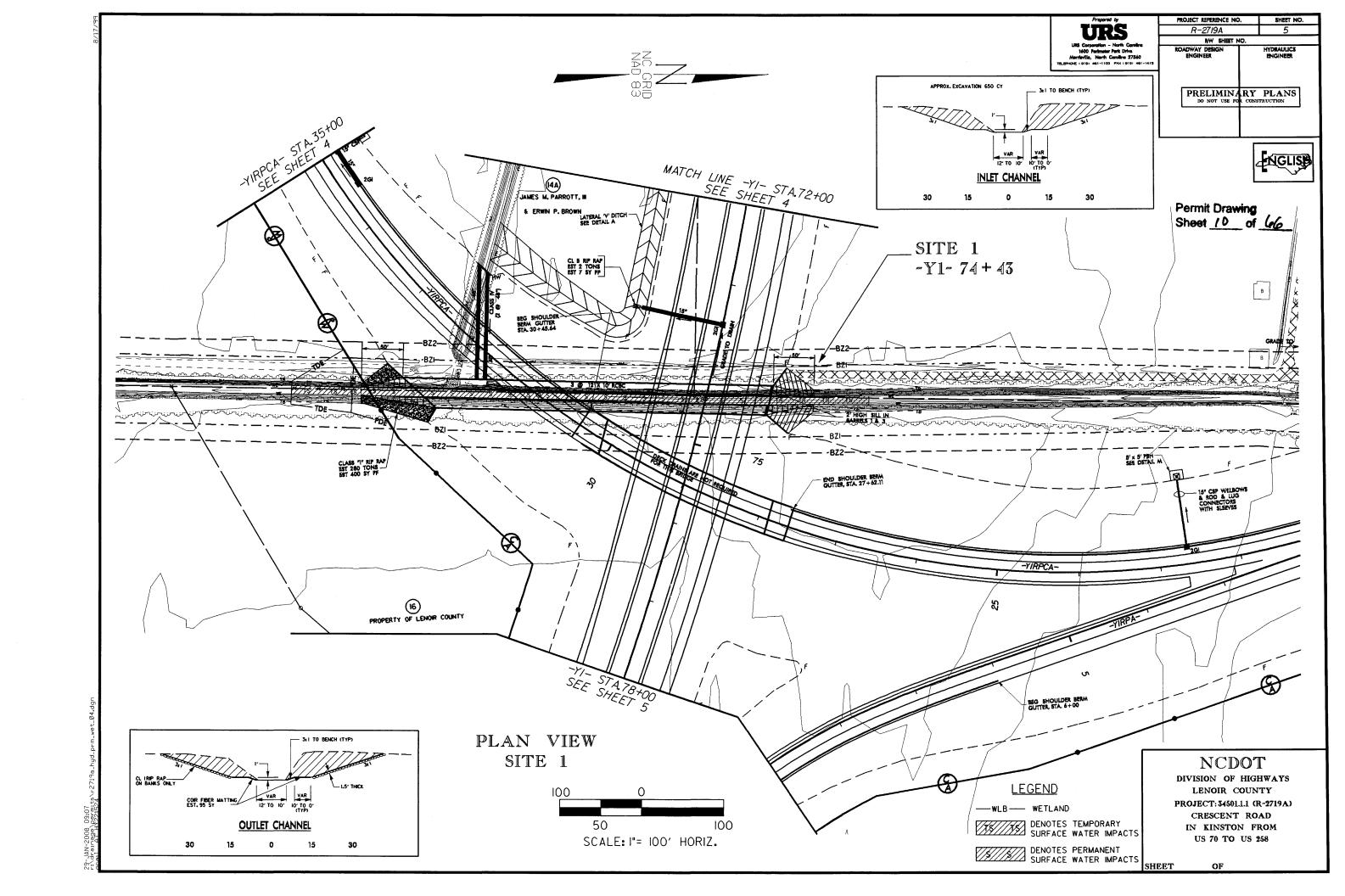
ENGINEER

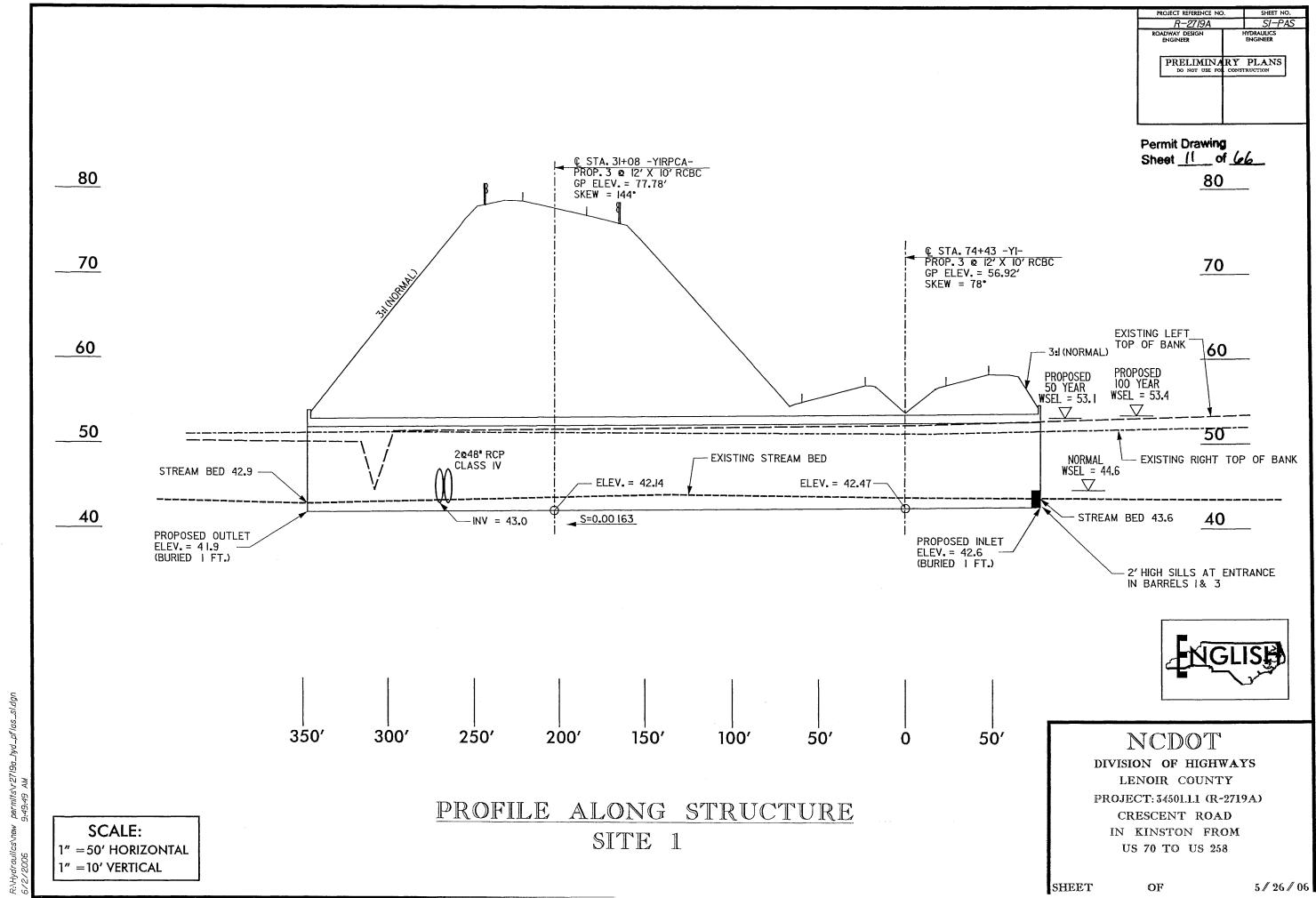
Permit Drawing
Sheet 8 of 66

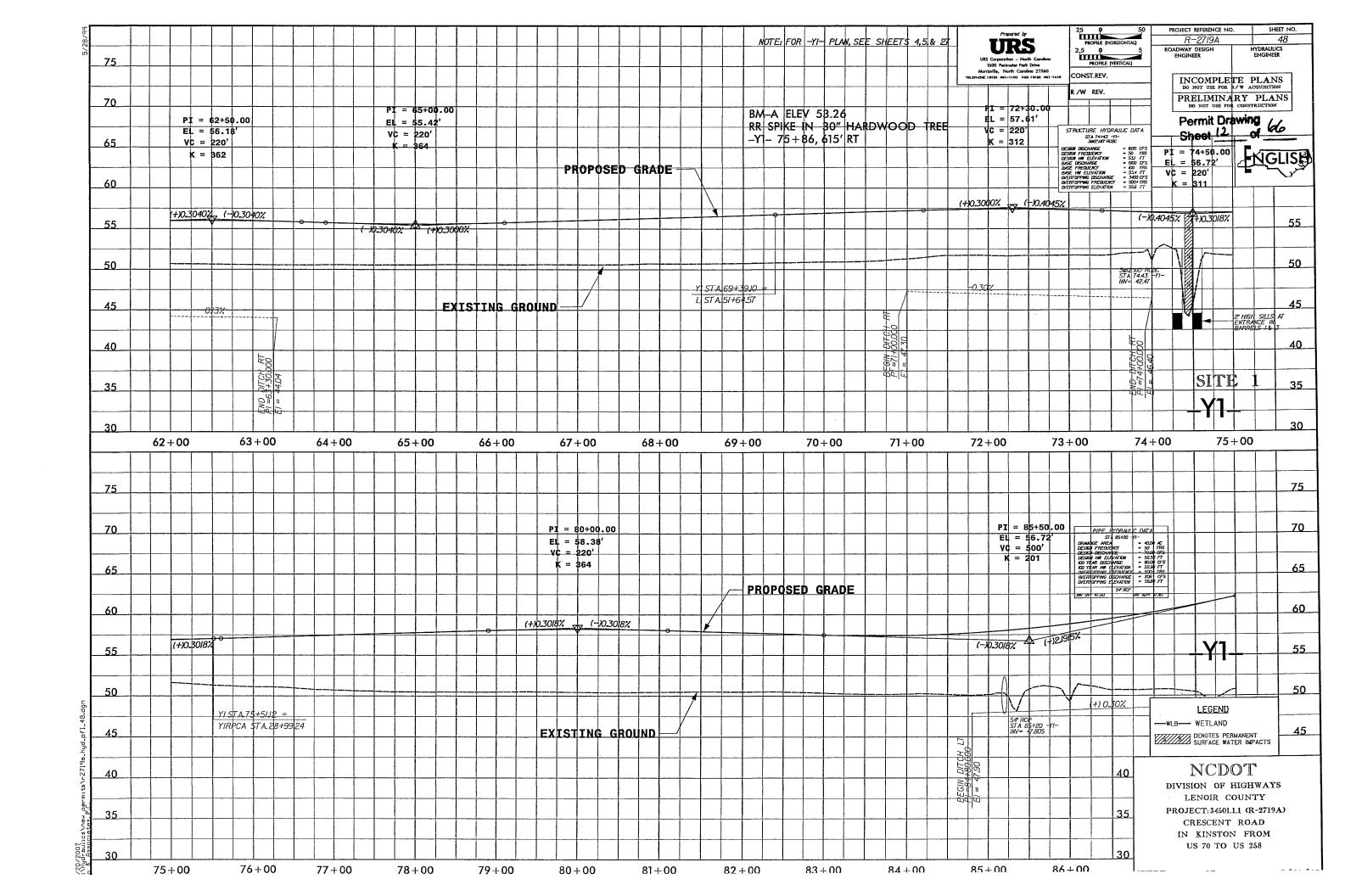
PRELIMINARY PLANS
DO NOT USE FOI CONSTRUCTION

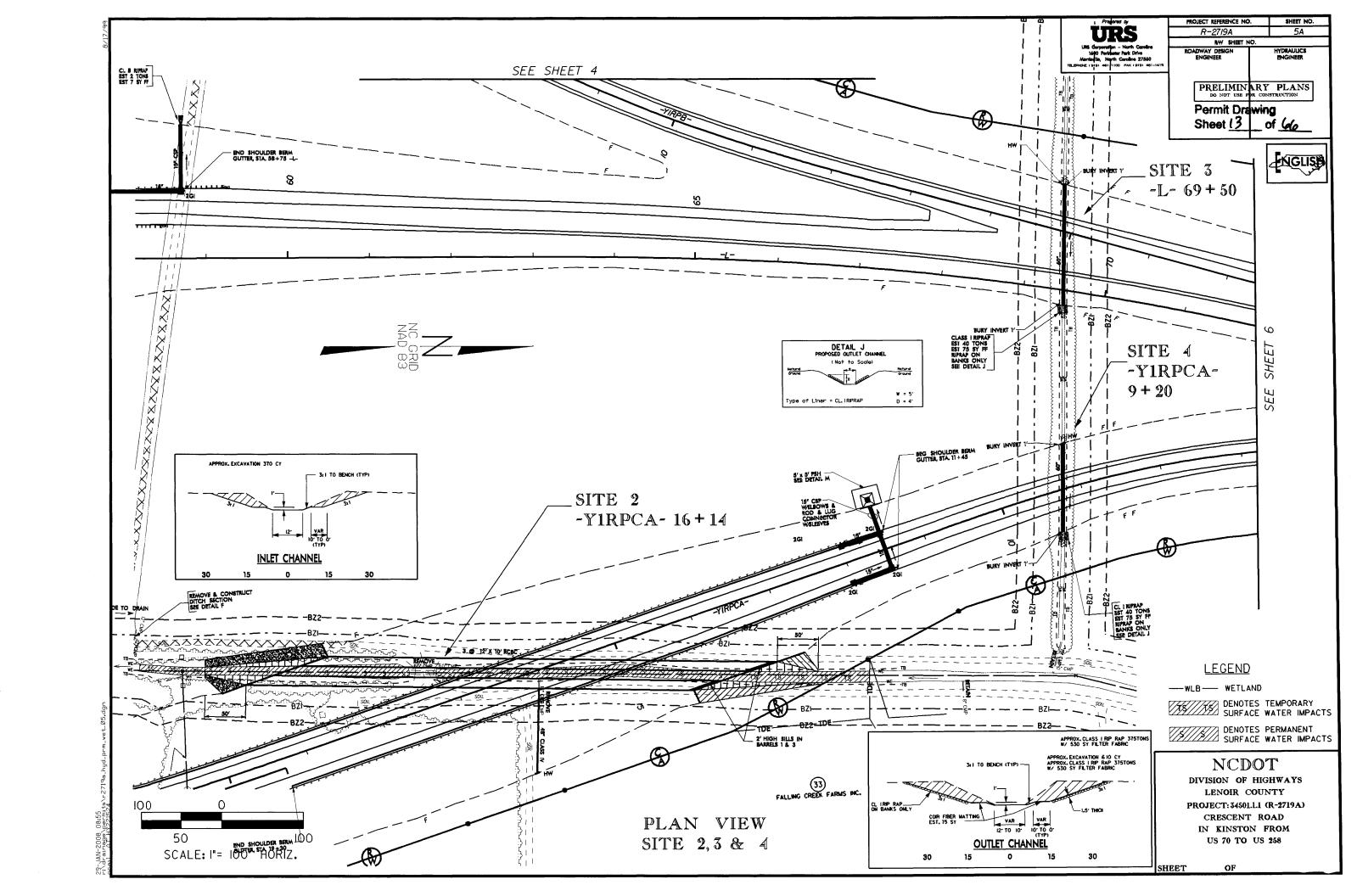
CULVERT CHANNEL DETAILS

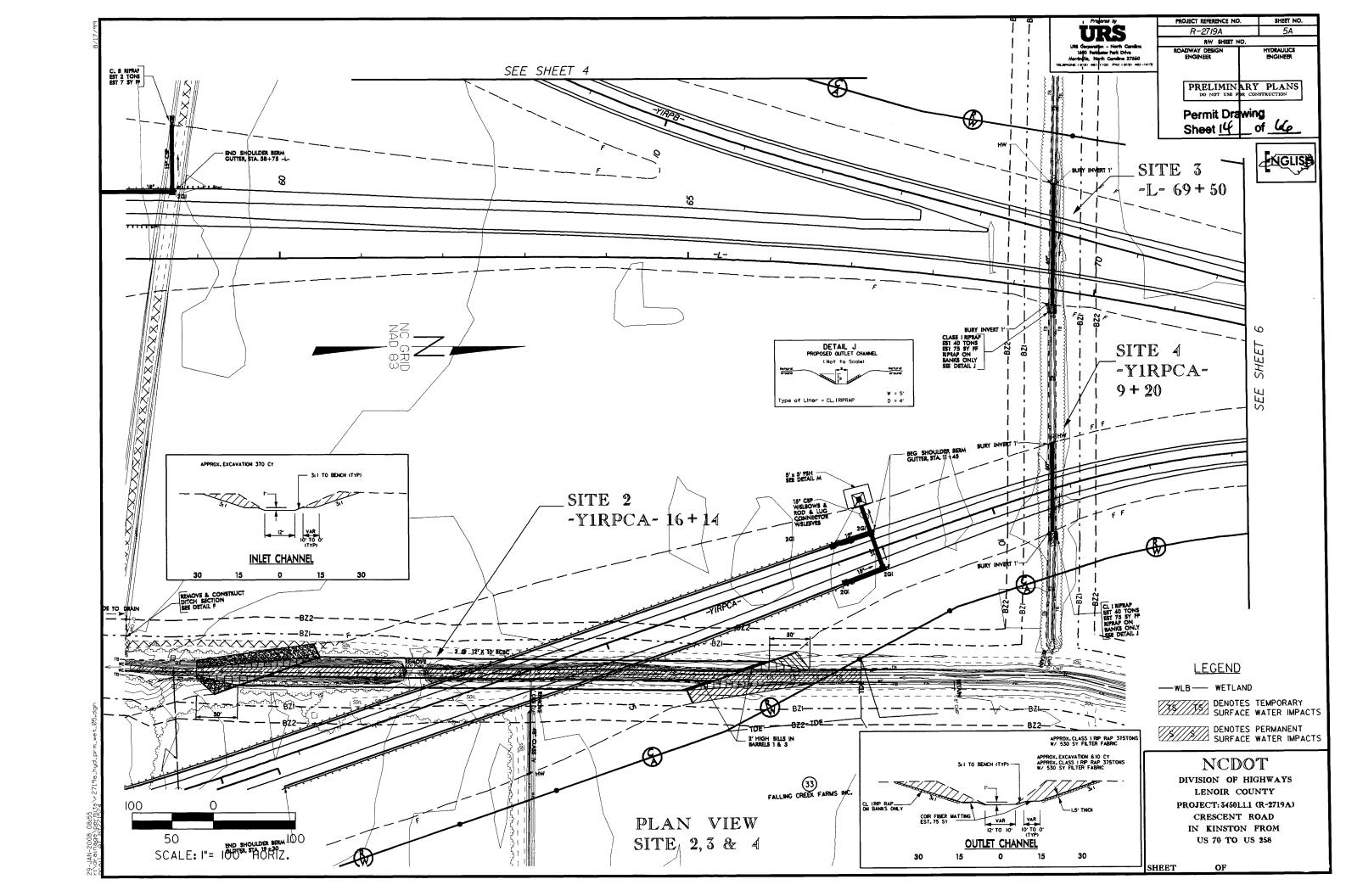


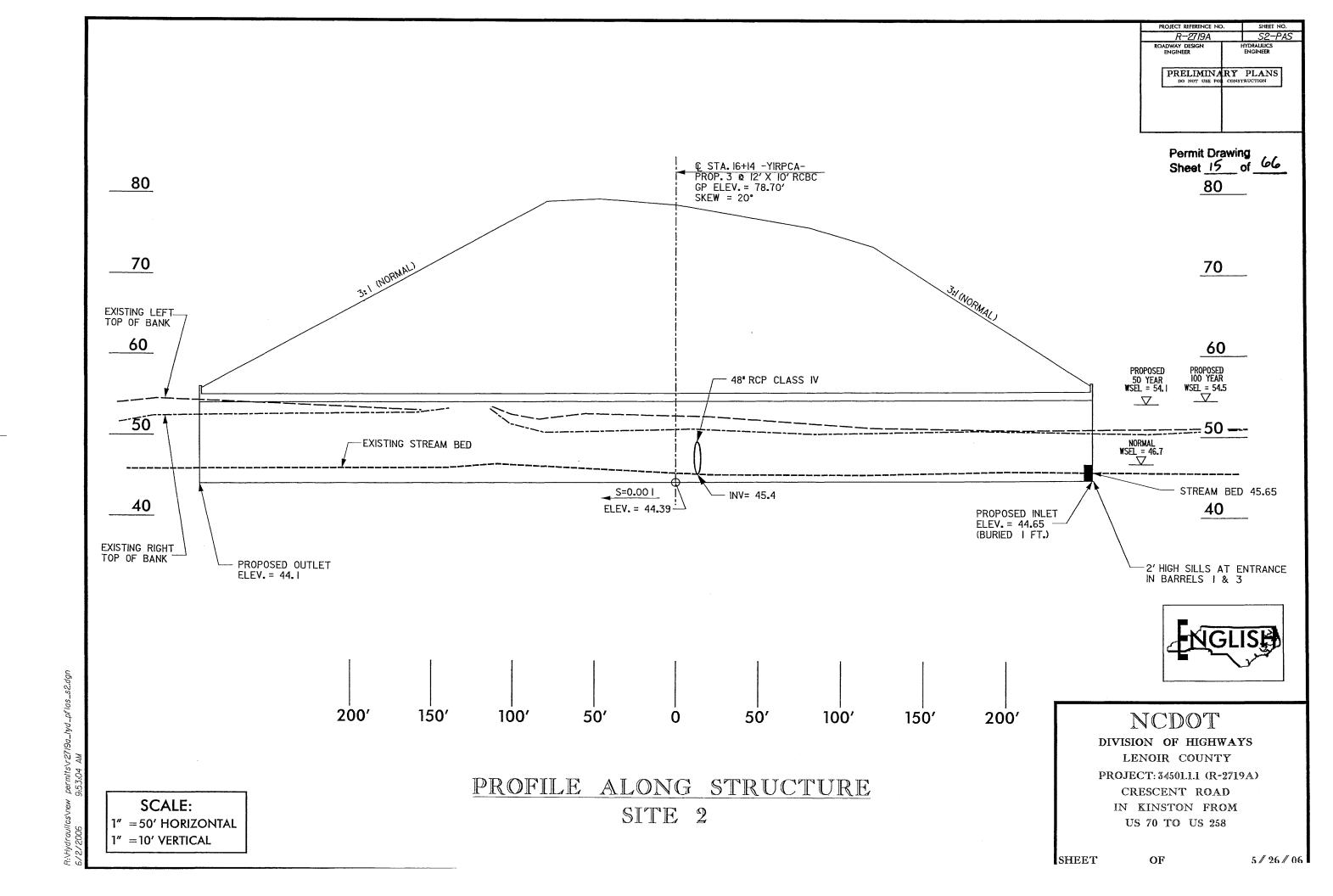


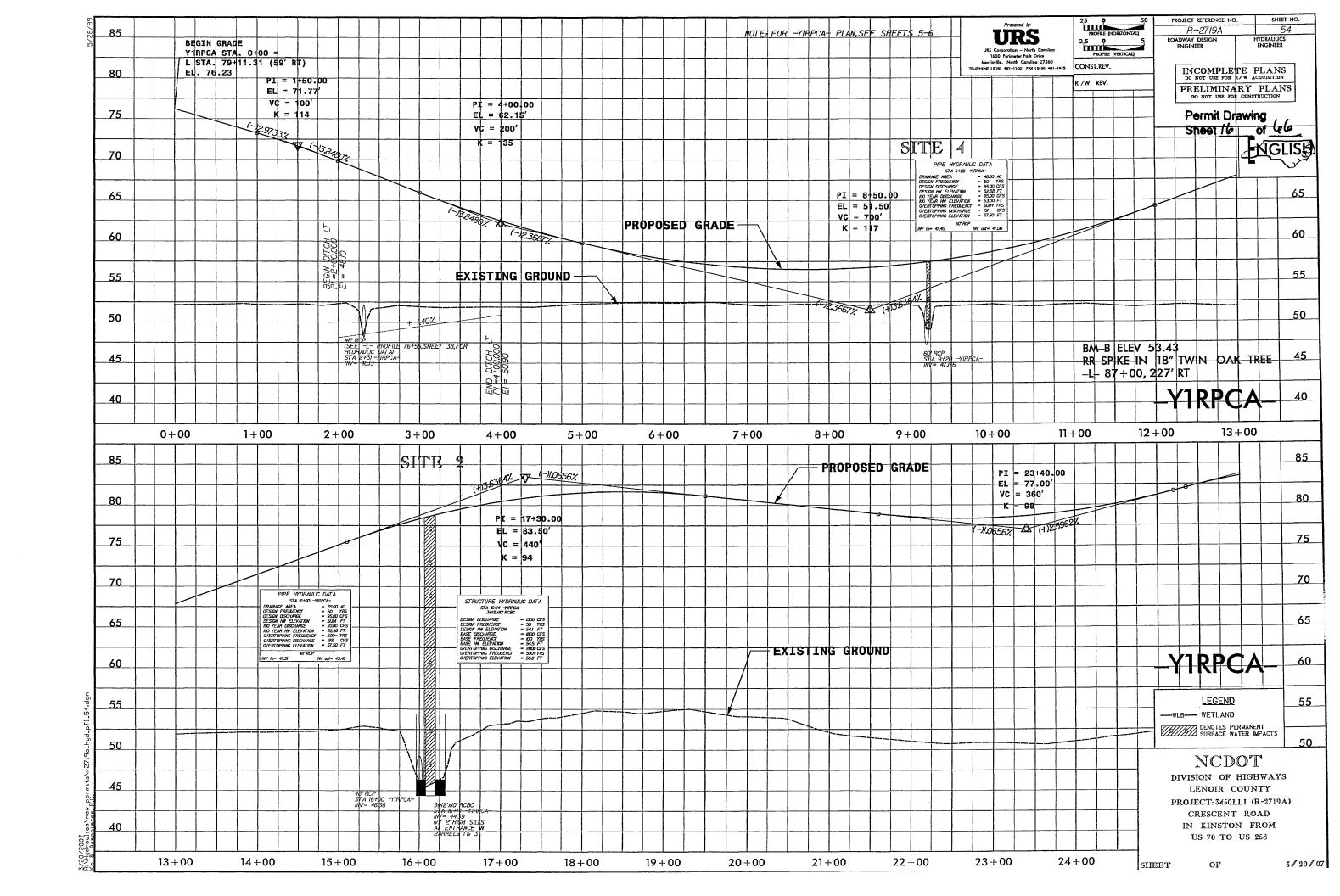


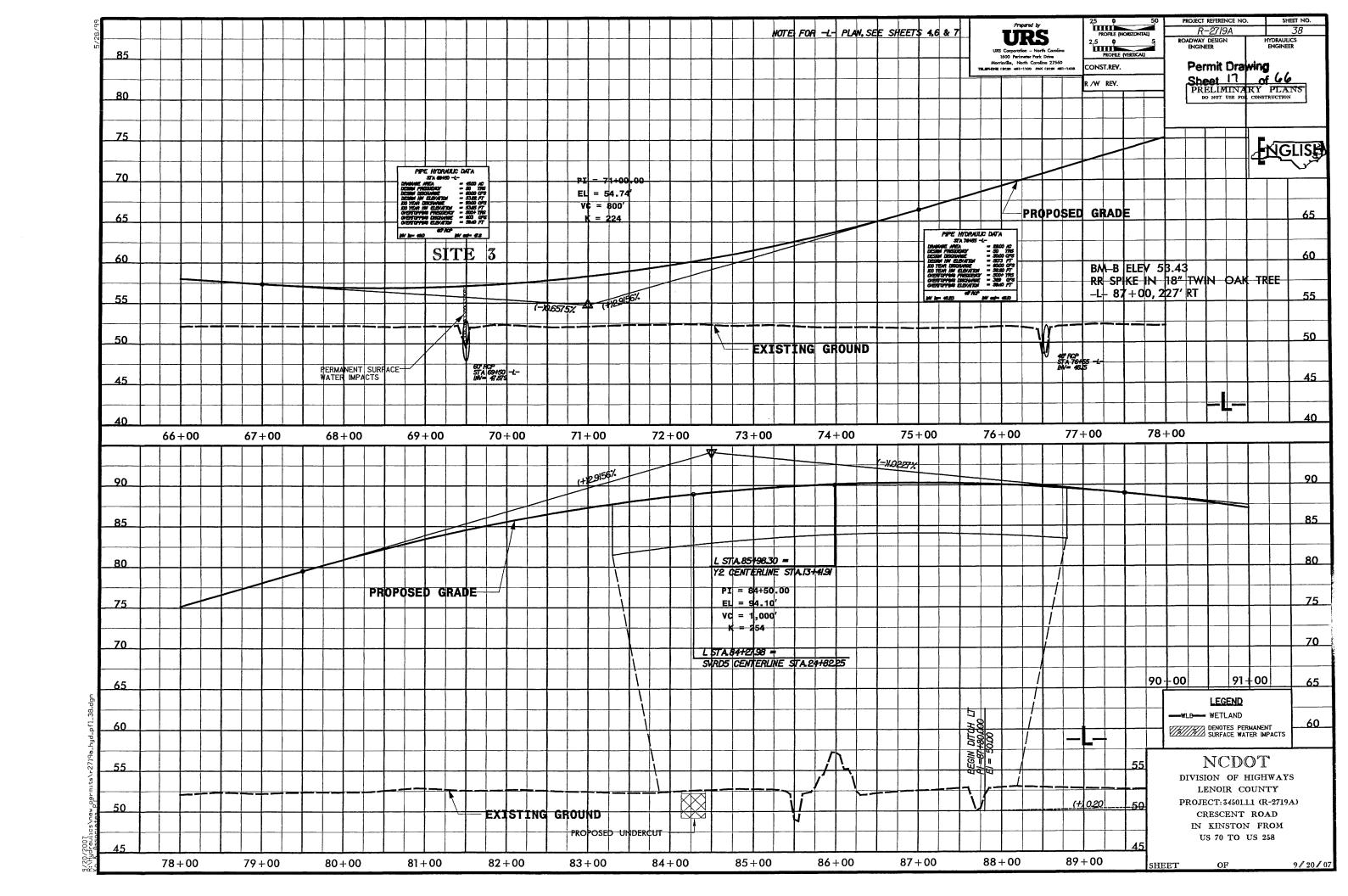


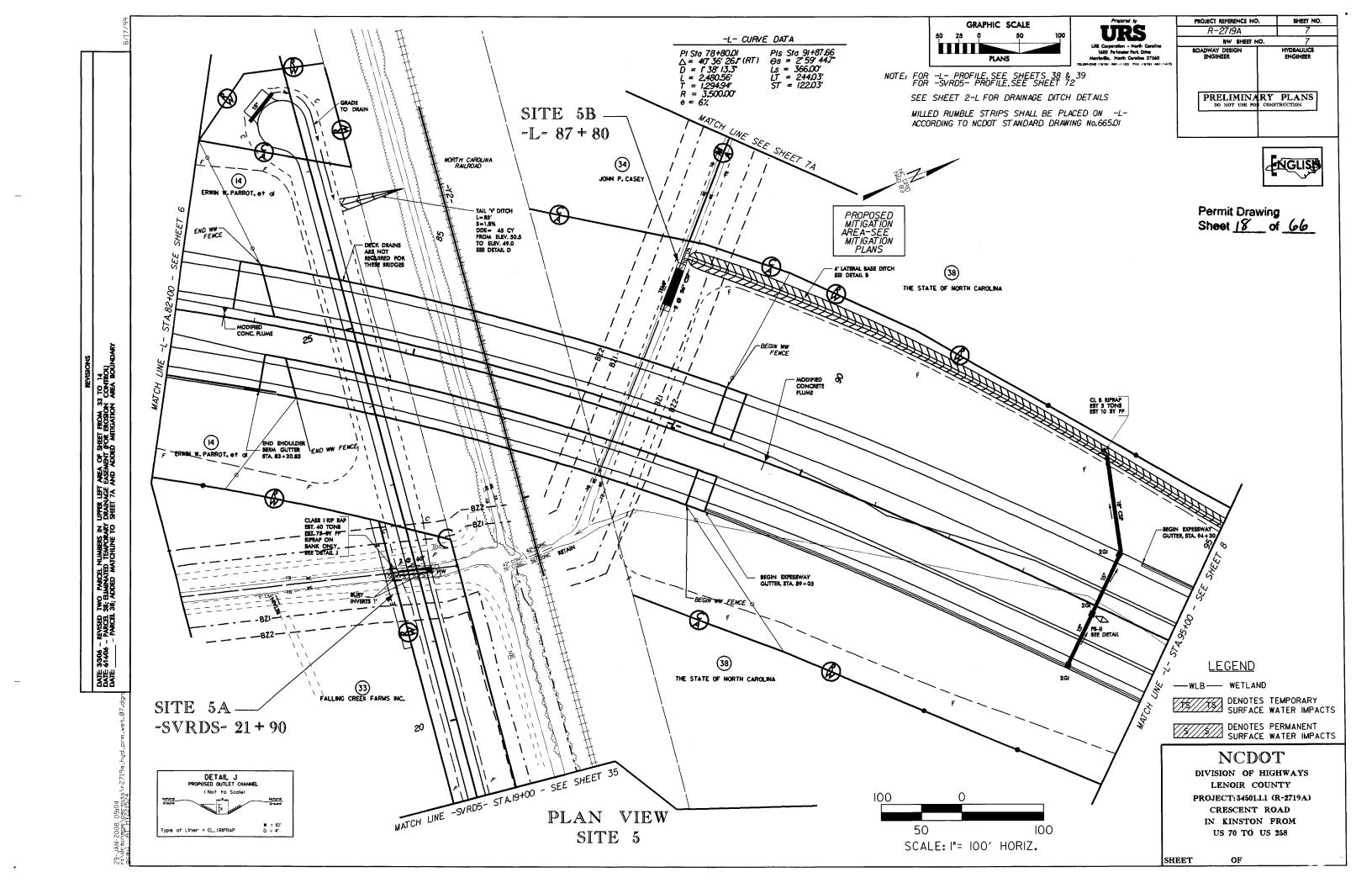


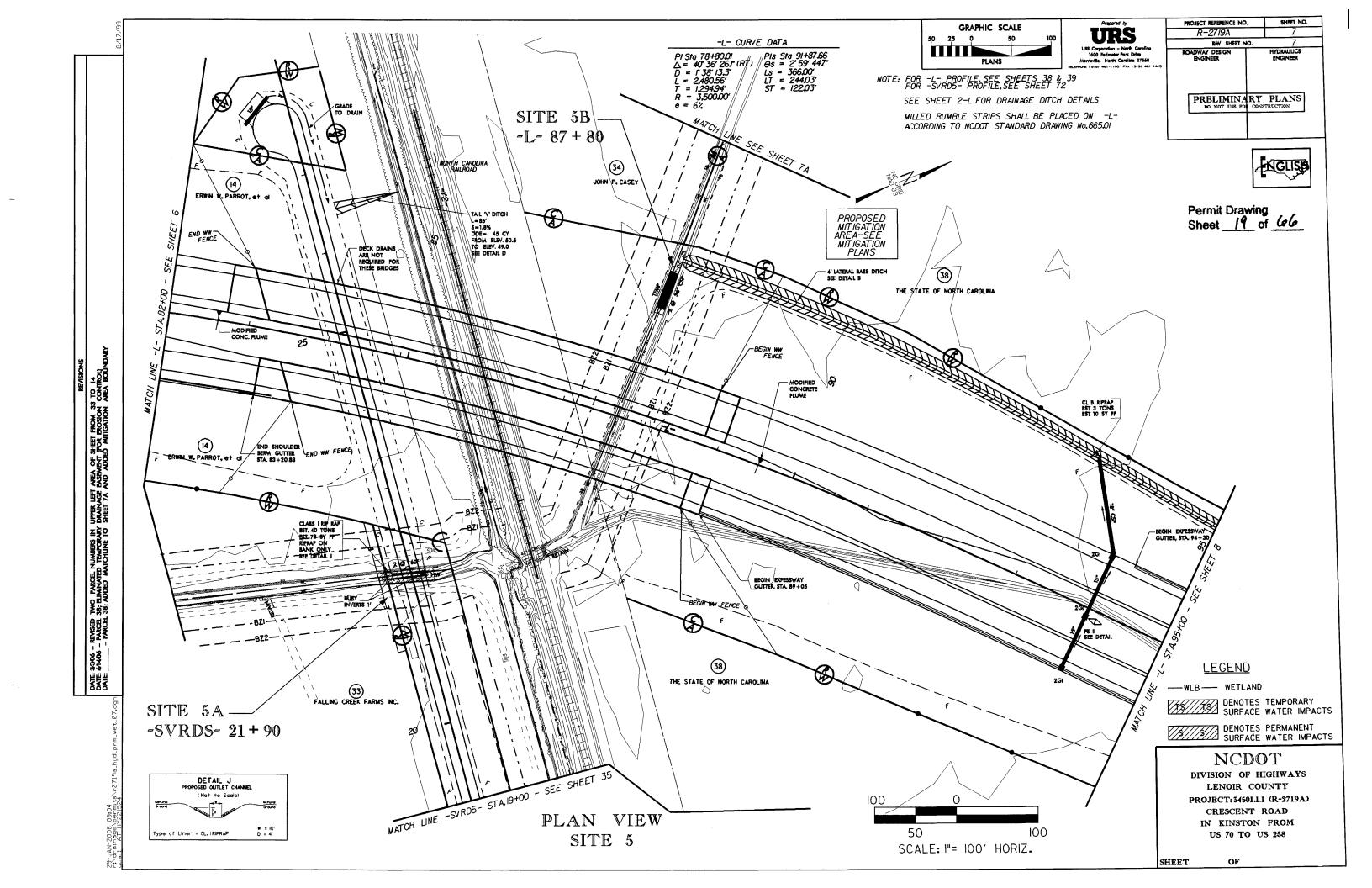


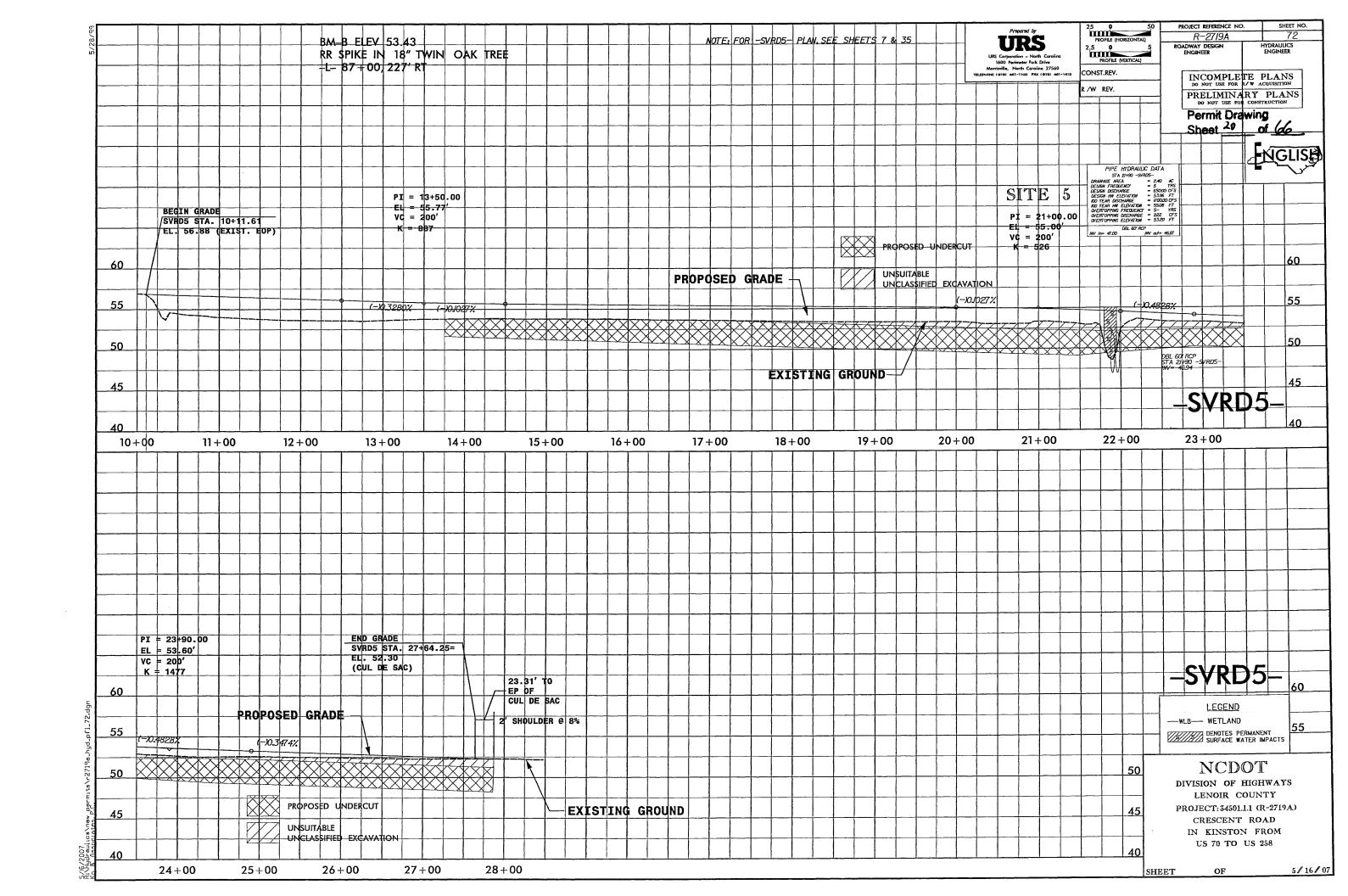


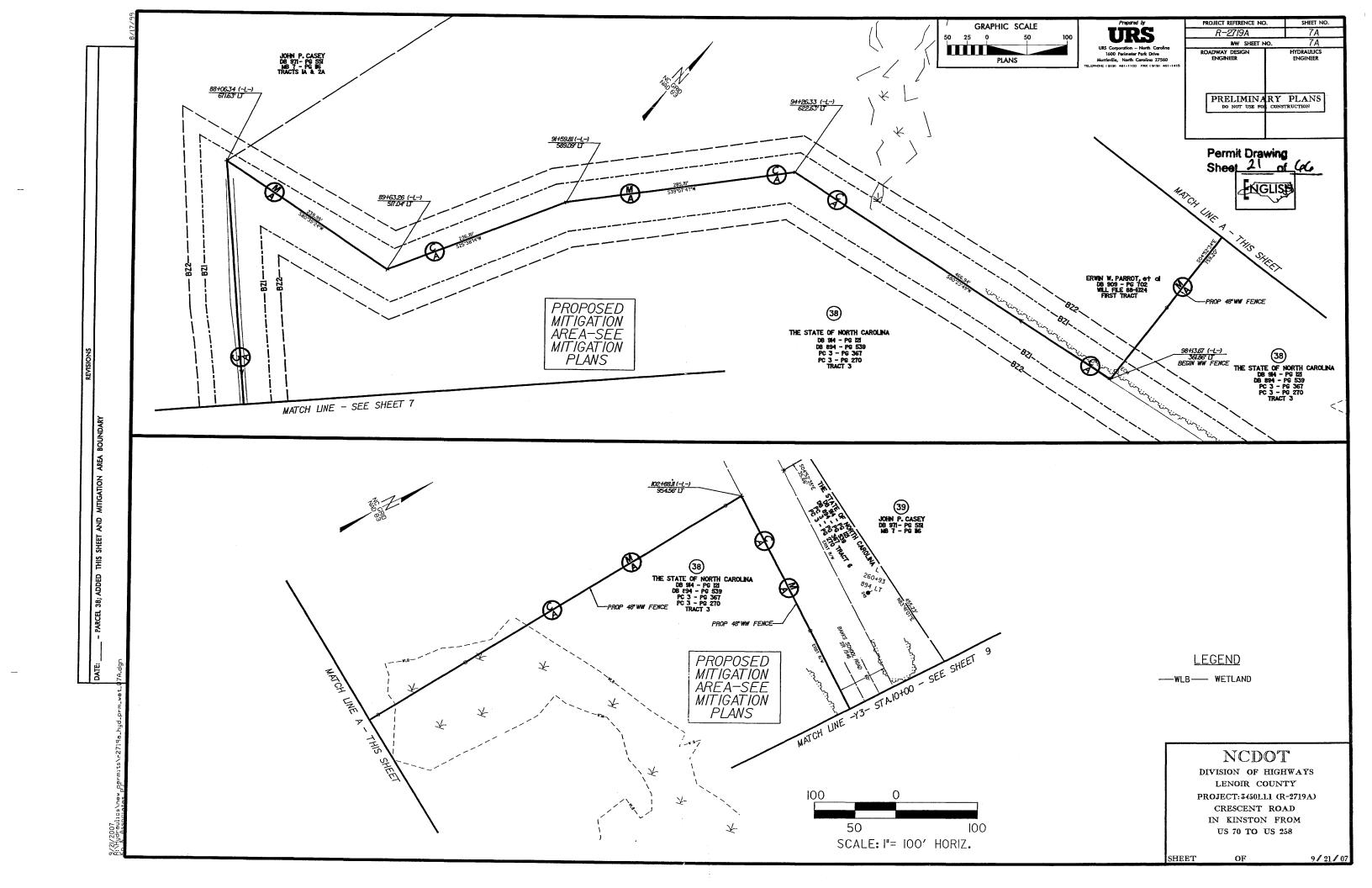


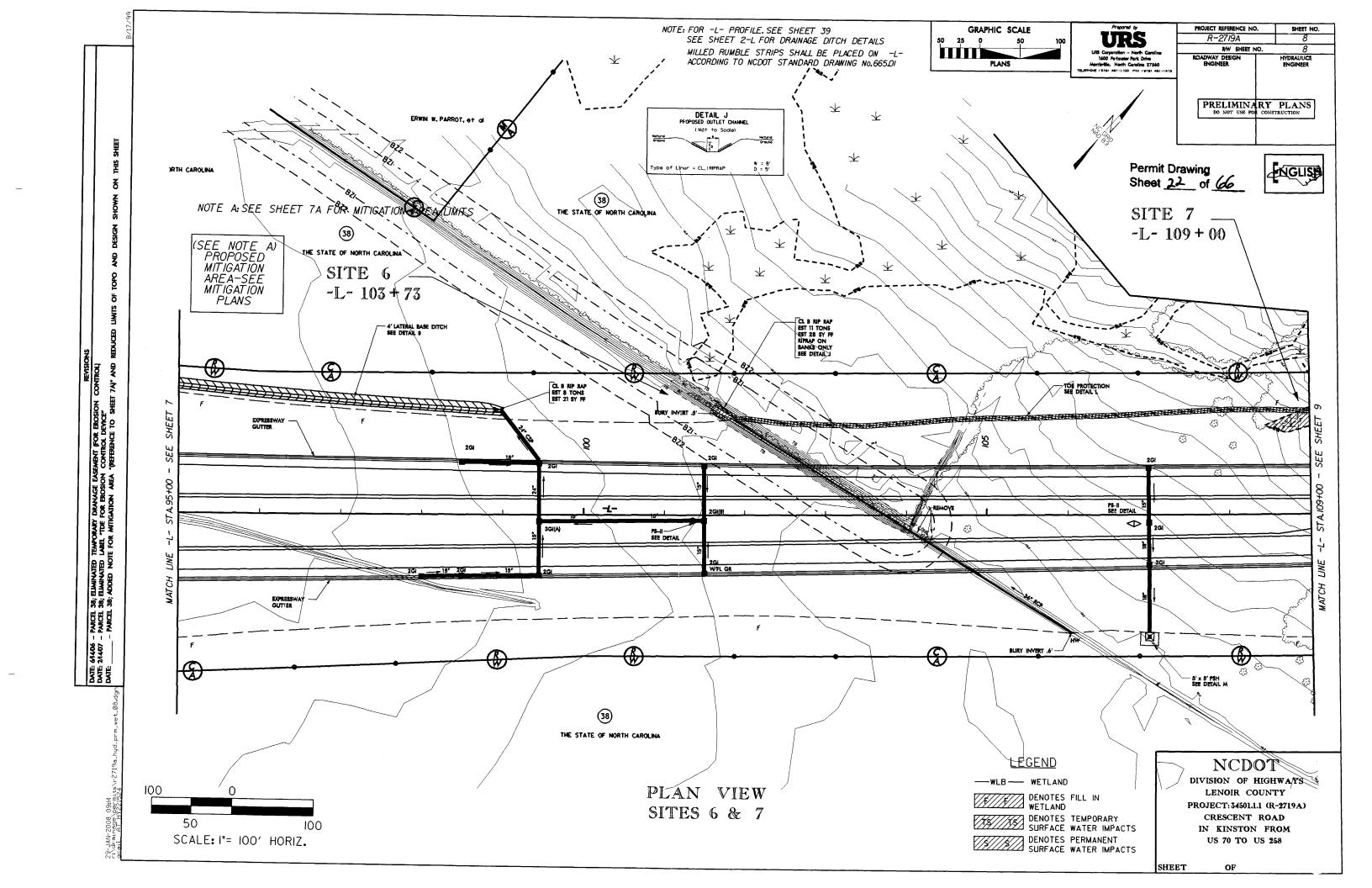


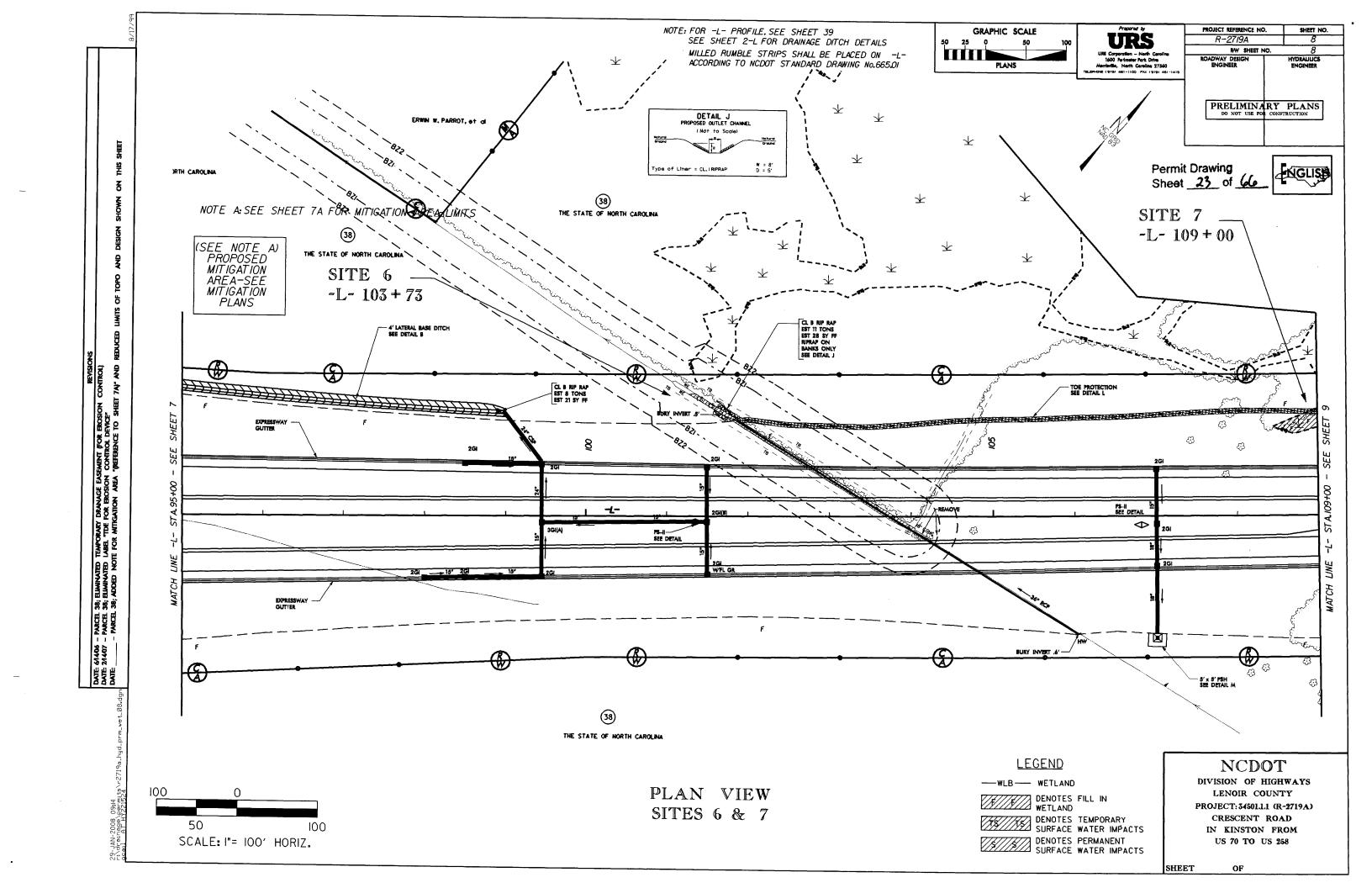


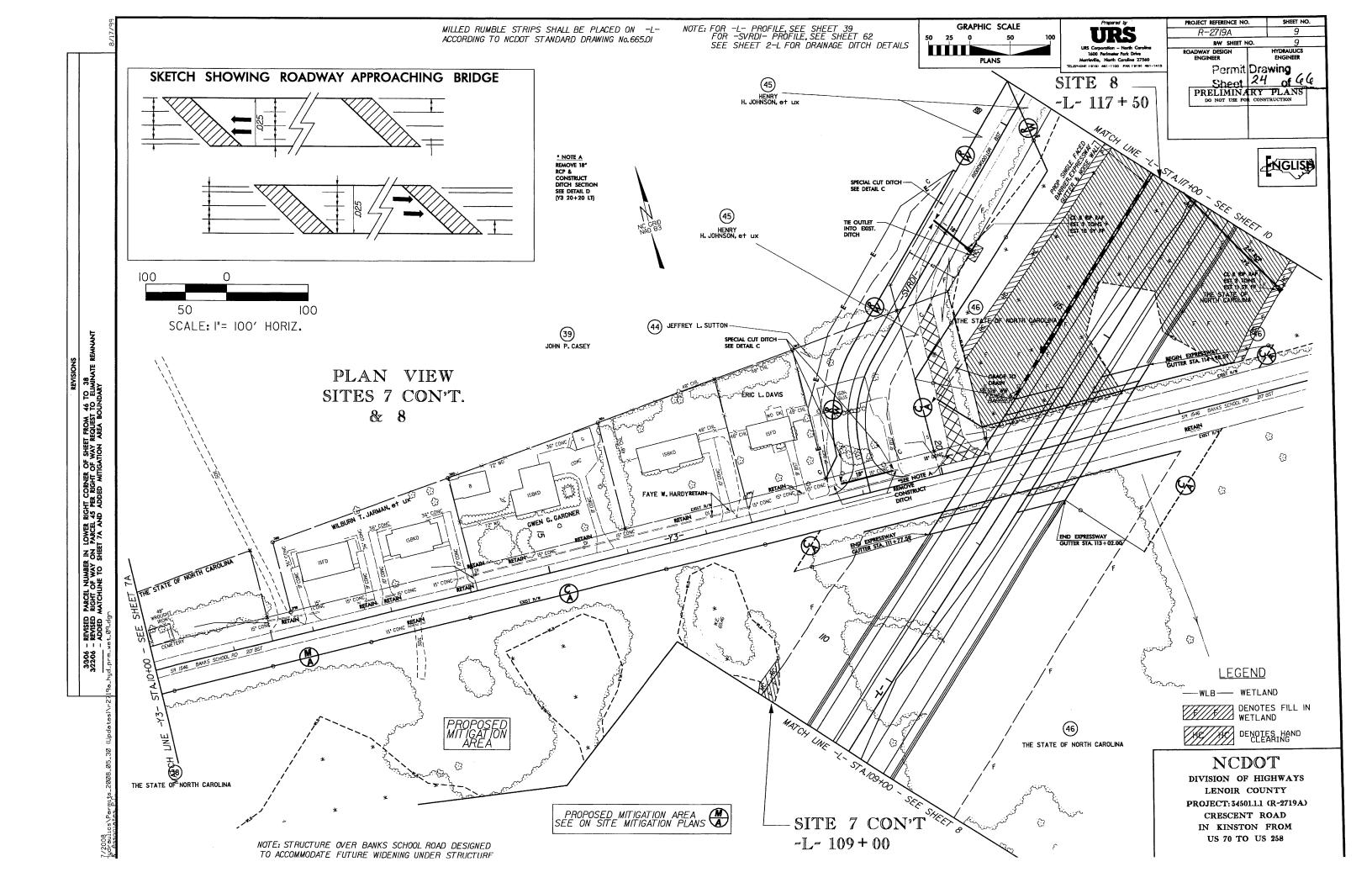


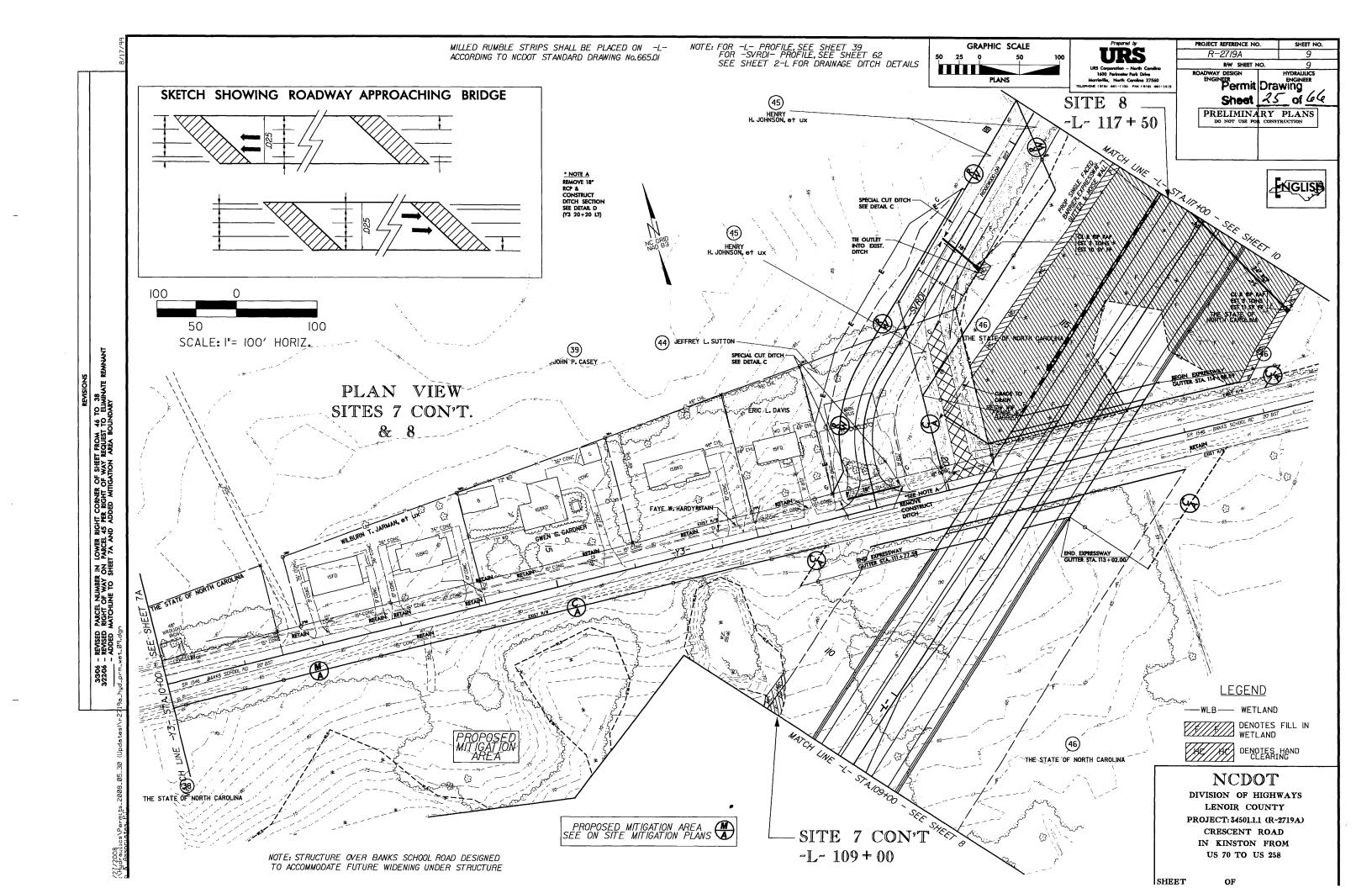


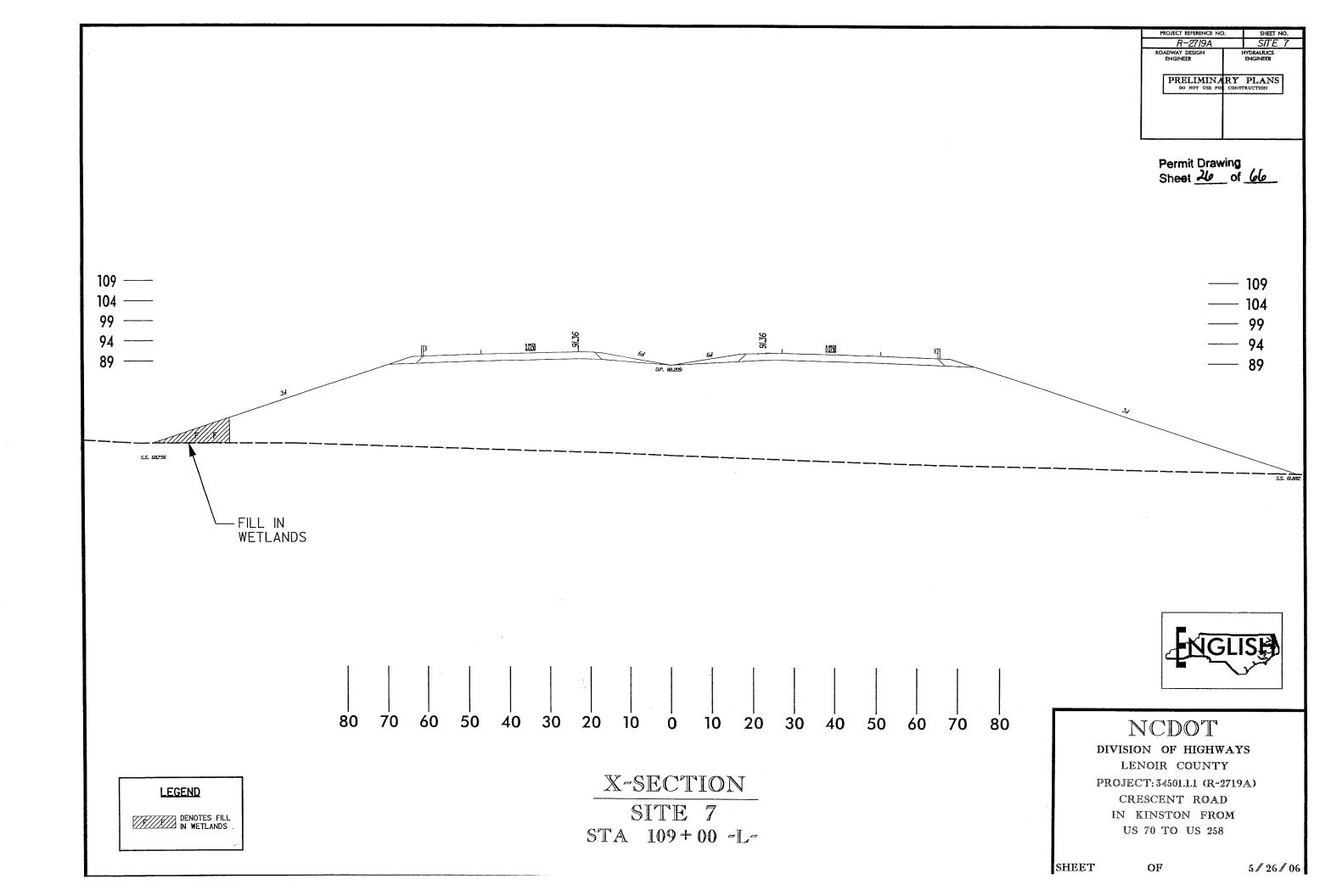


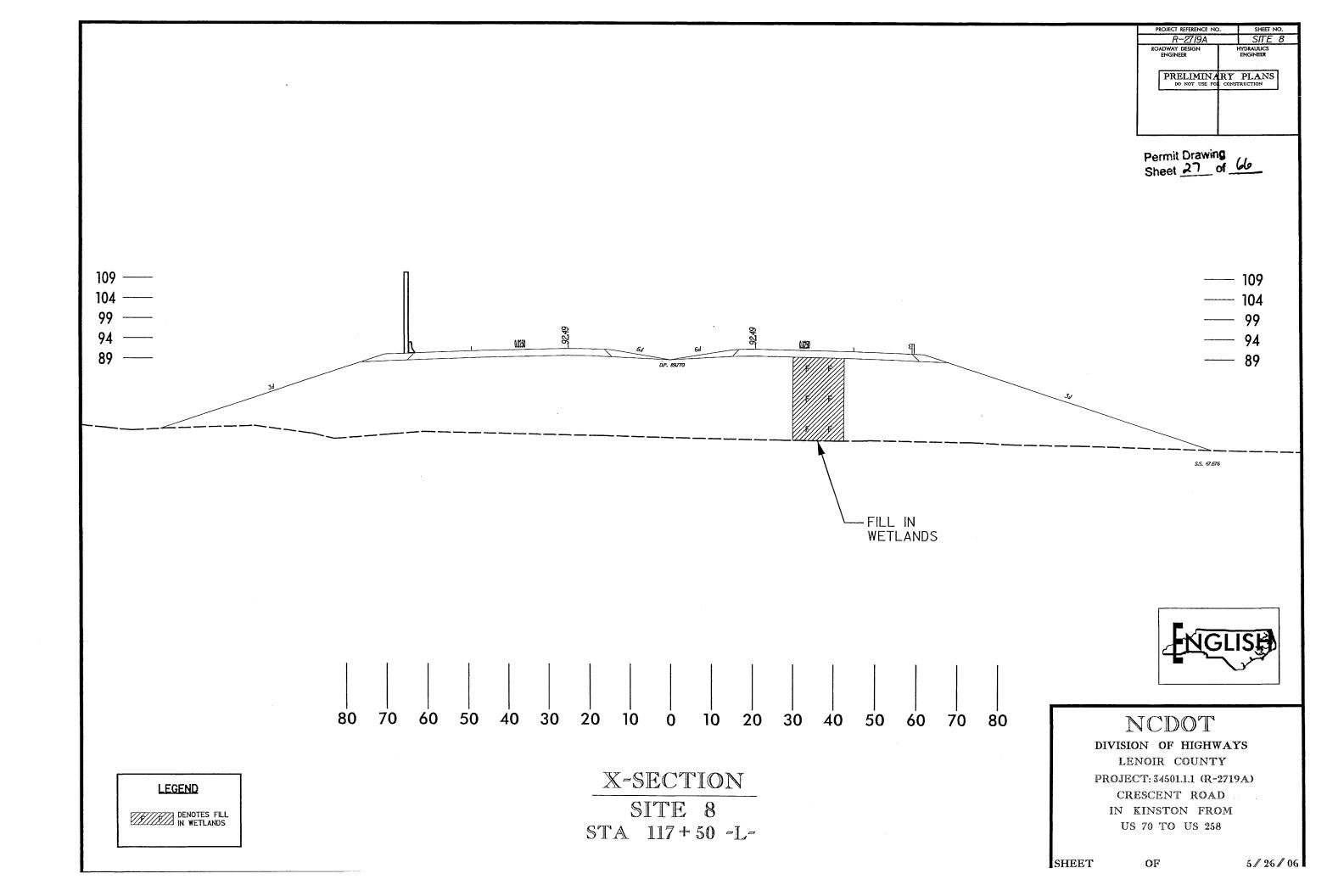


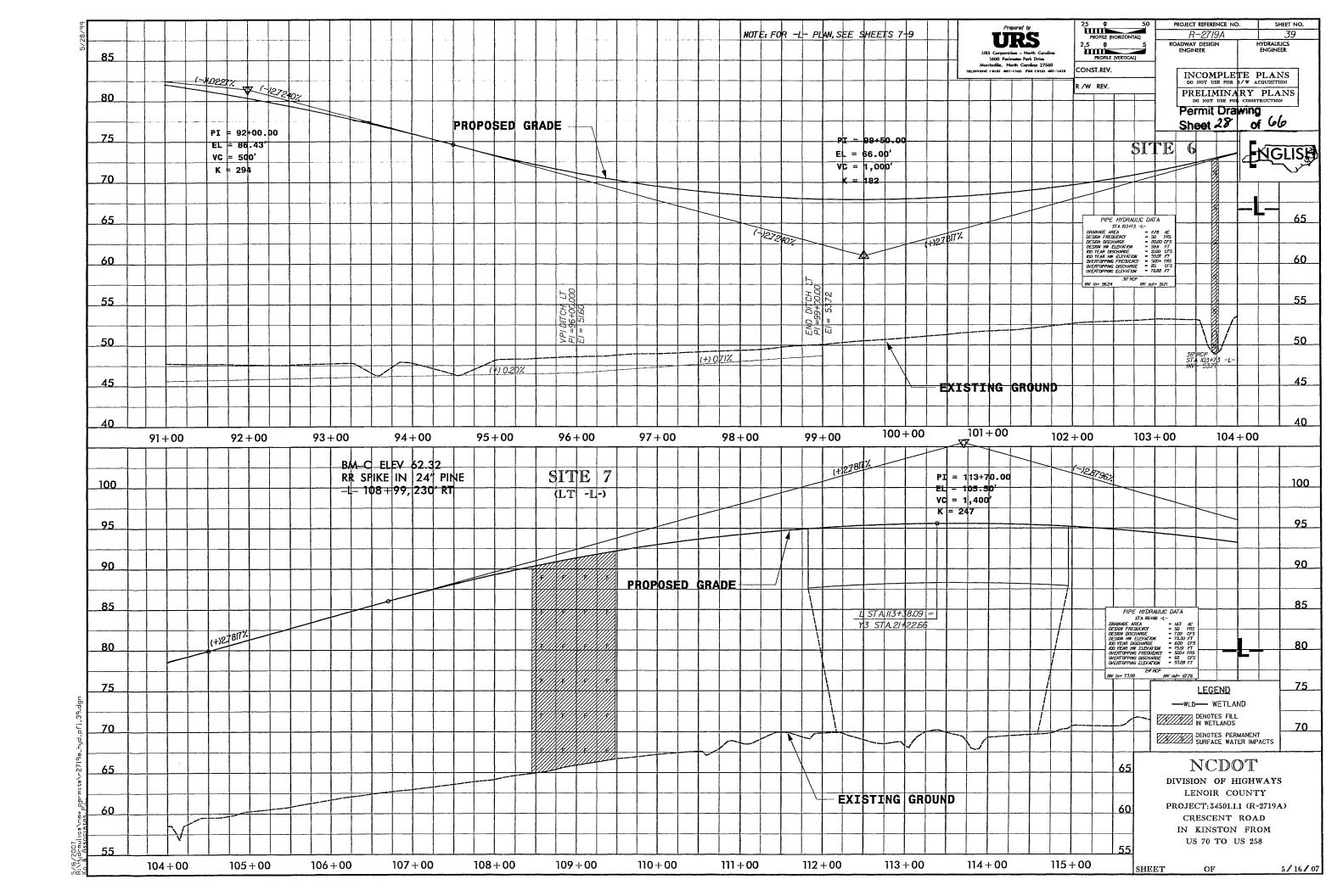


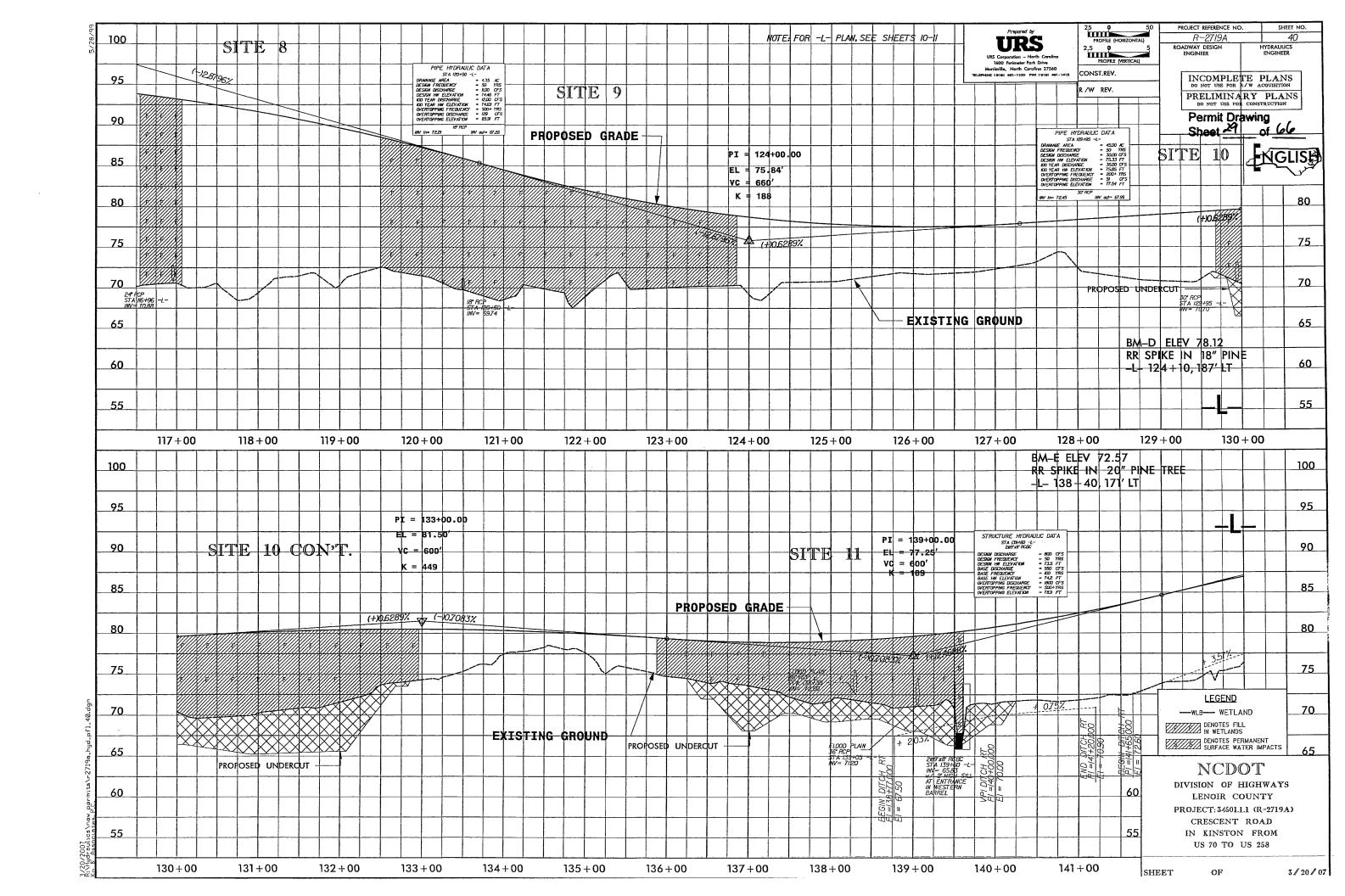


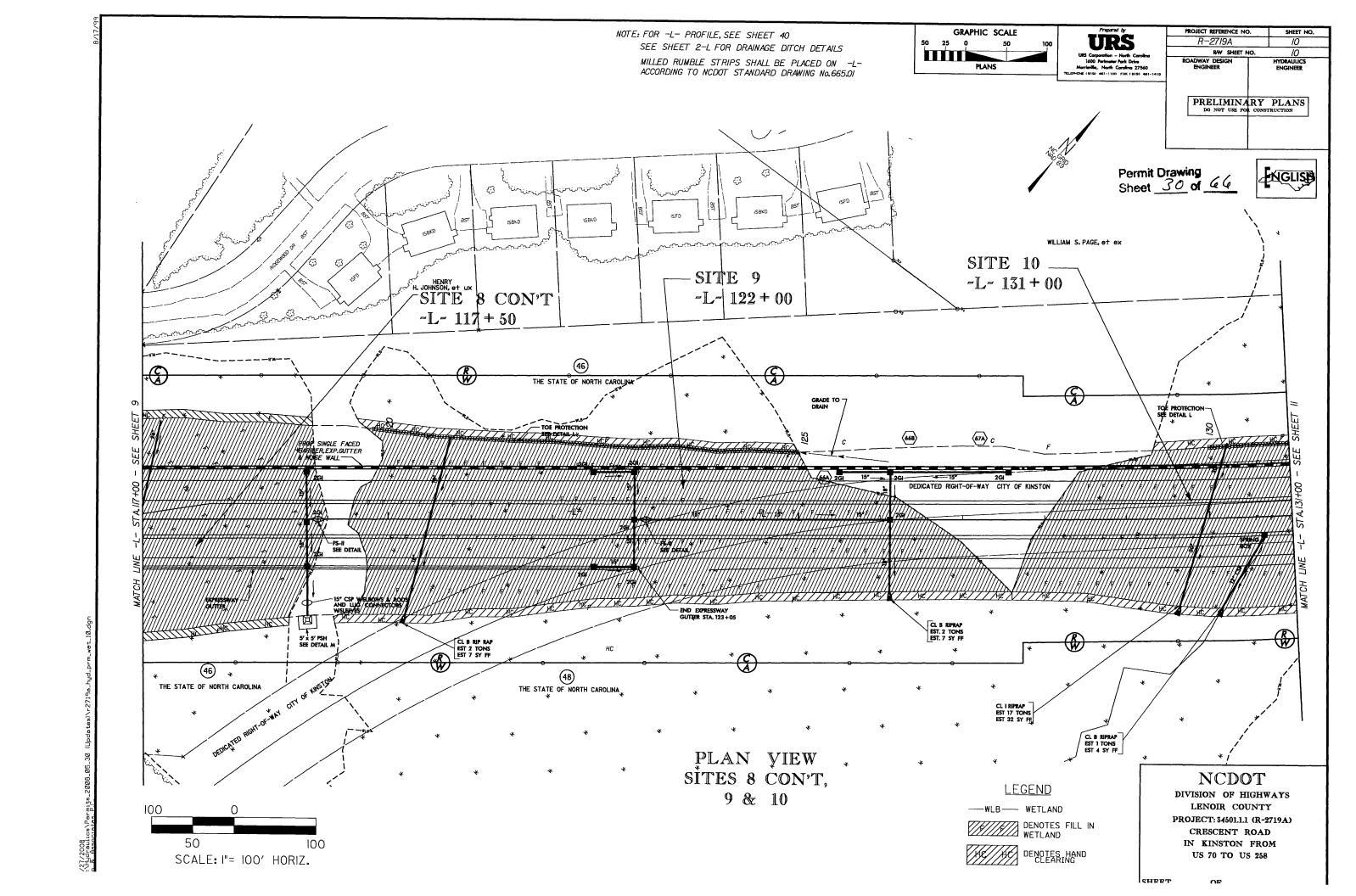


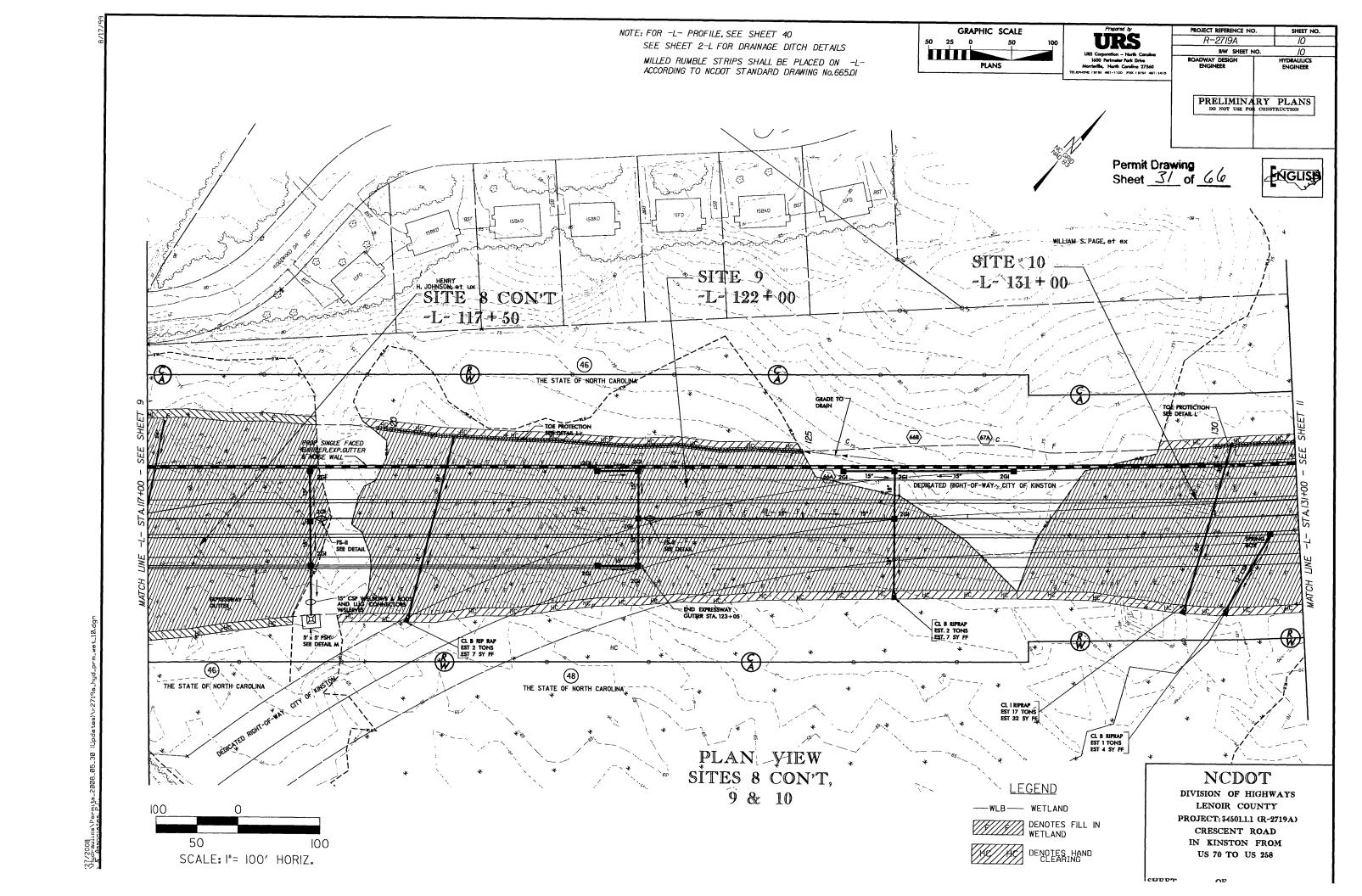




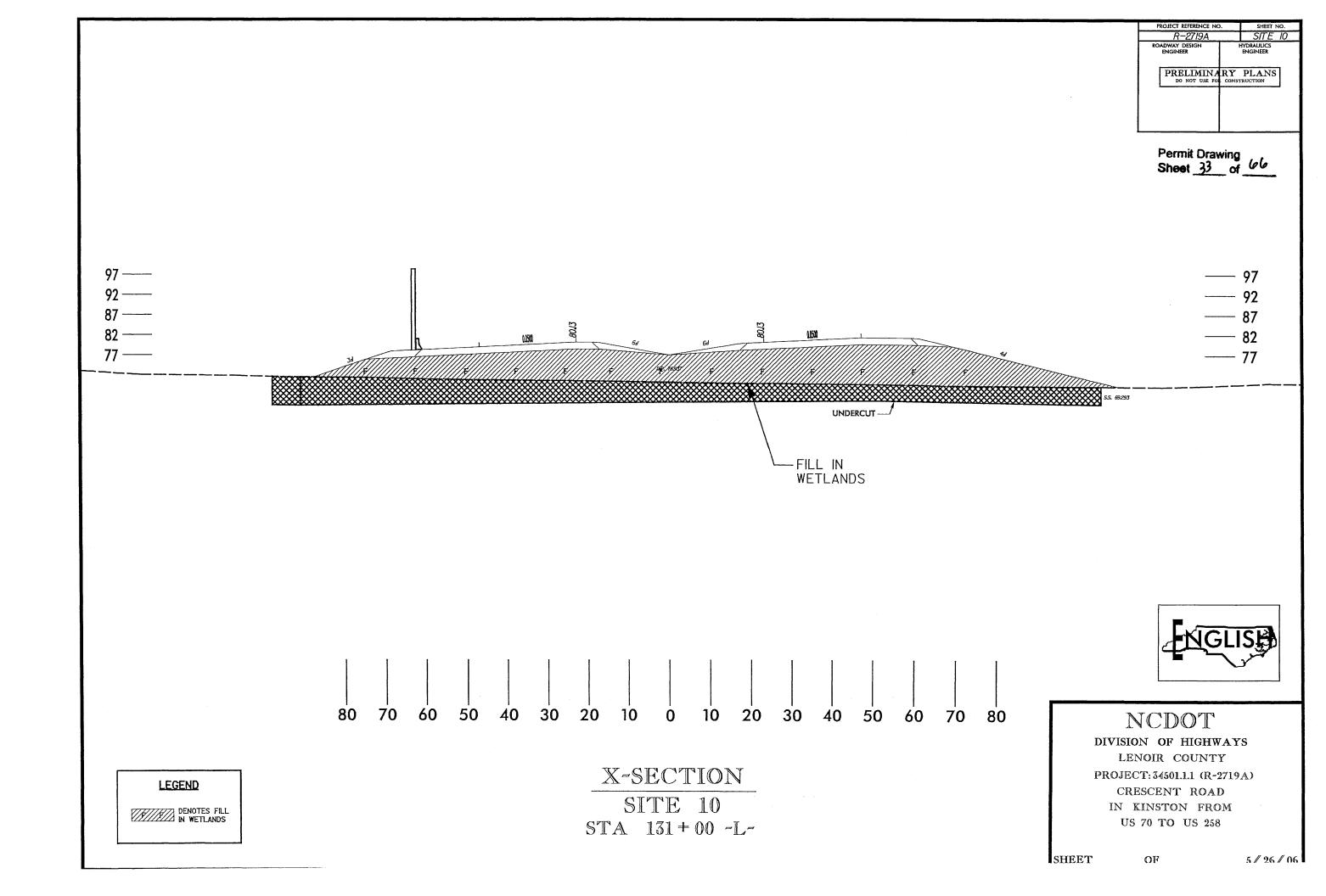


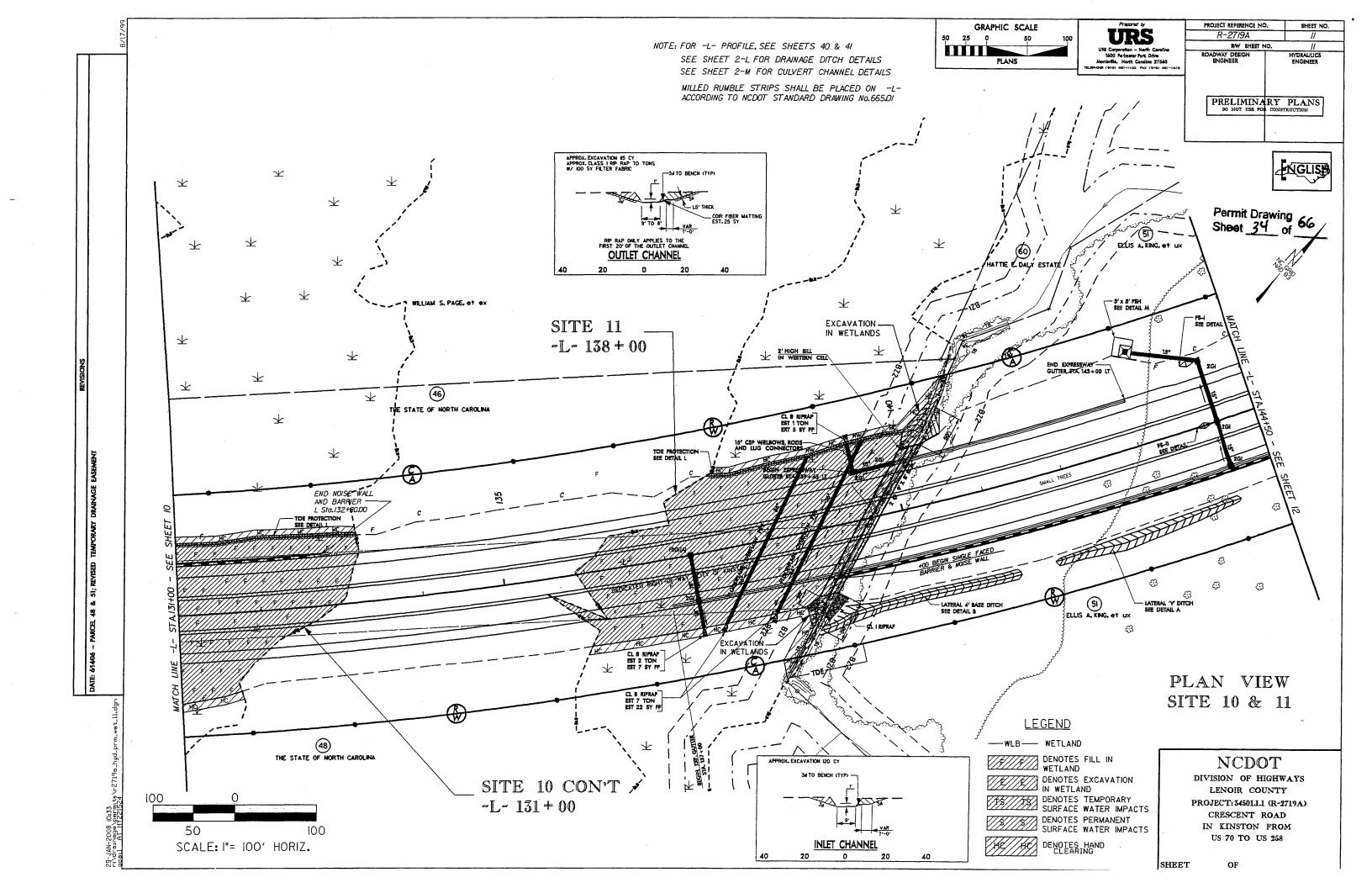


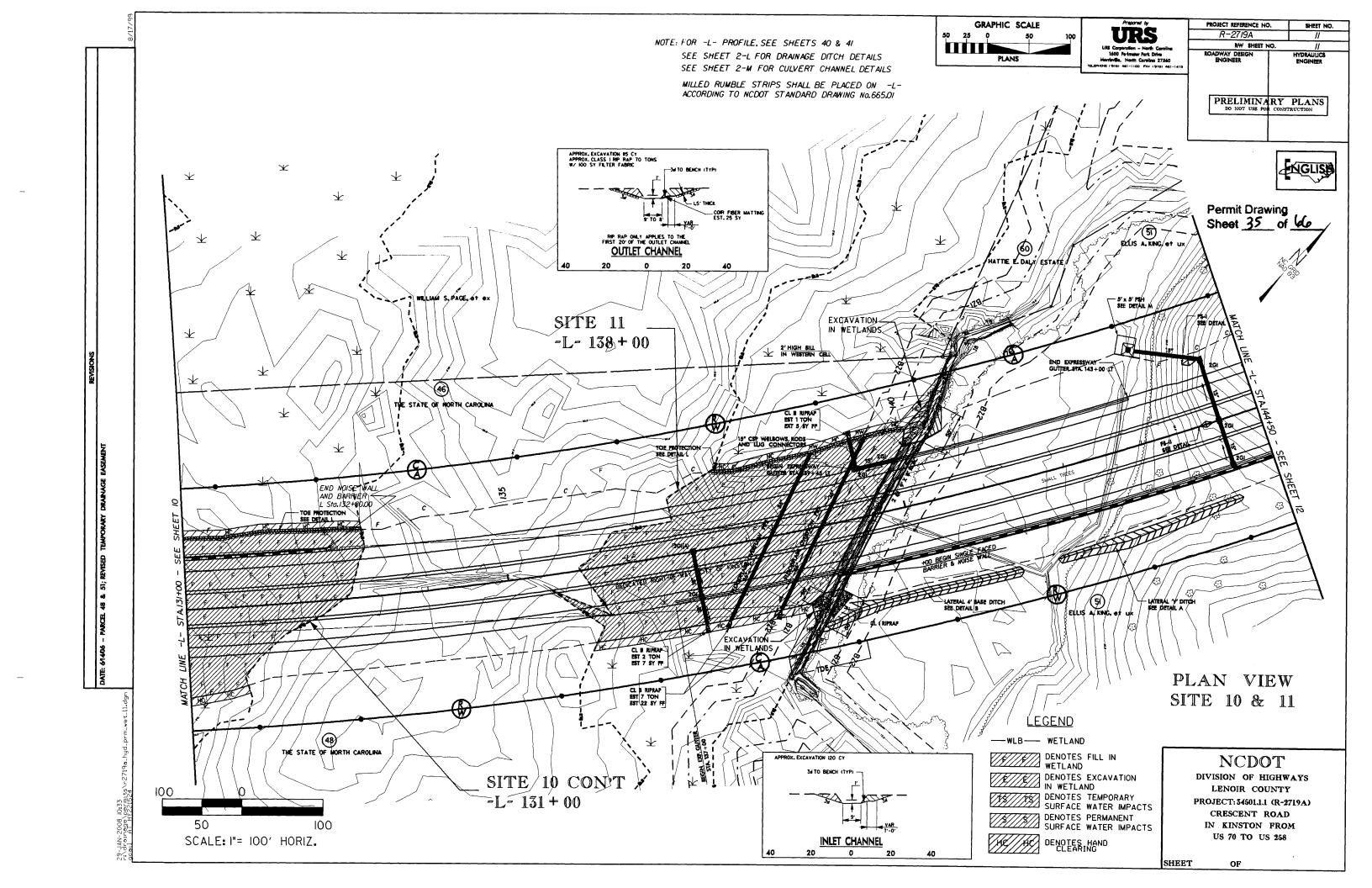


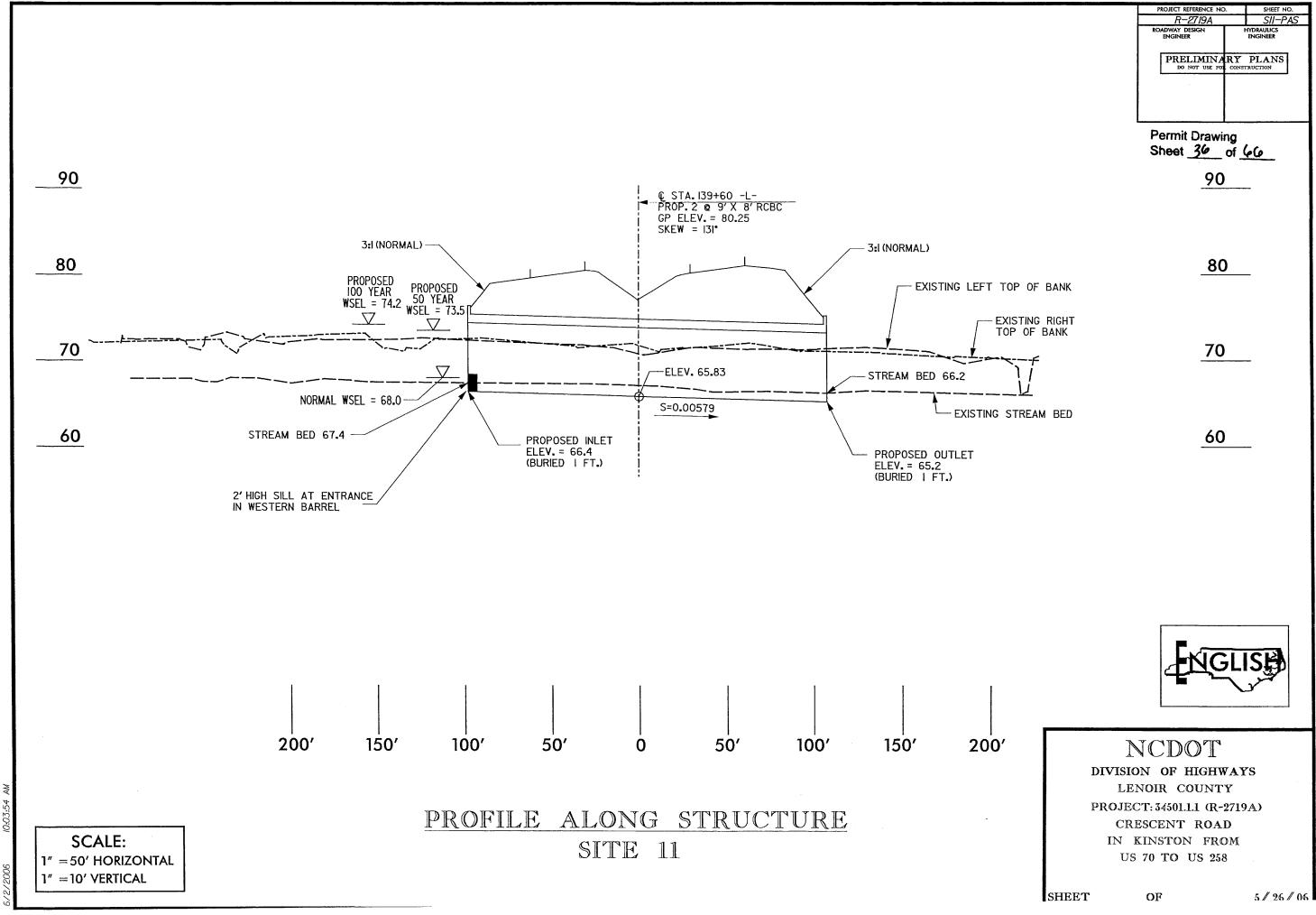


PRELIMINARY PLANS
DO NOT USE FOI CONSTRUCTION Permit Drawing Sheet 32 of 66 S.S. 67.974 -FILL IN WETLANDS 30 20 10 10 20 30 40 50 70 80 NCDOT DIVISION OF HIGHWAYS LENOIR COUNTY X-SECTION PROJECT: 34501.1.1 (R-2719A) **LEGEND** CRESCENT ROAD SITE 9 IN KINSTON FROM DENOTES FILL IN WETLANDS US 70 TO US 258 STA 122 + 00 -L-SHEET  $\mathbf{OF}$ 5 / 26 / 06







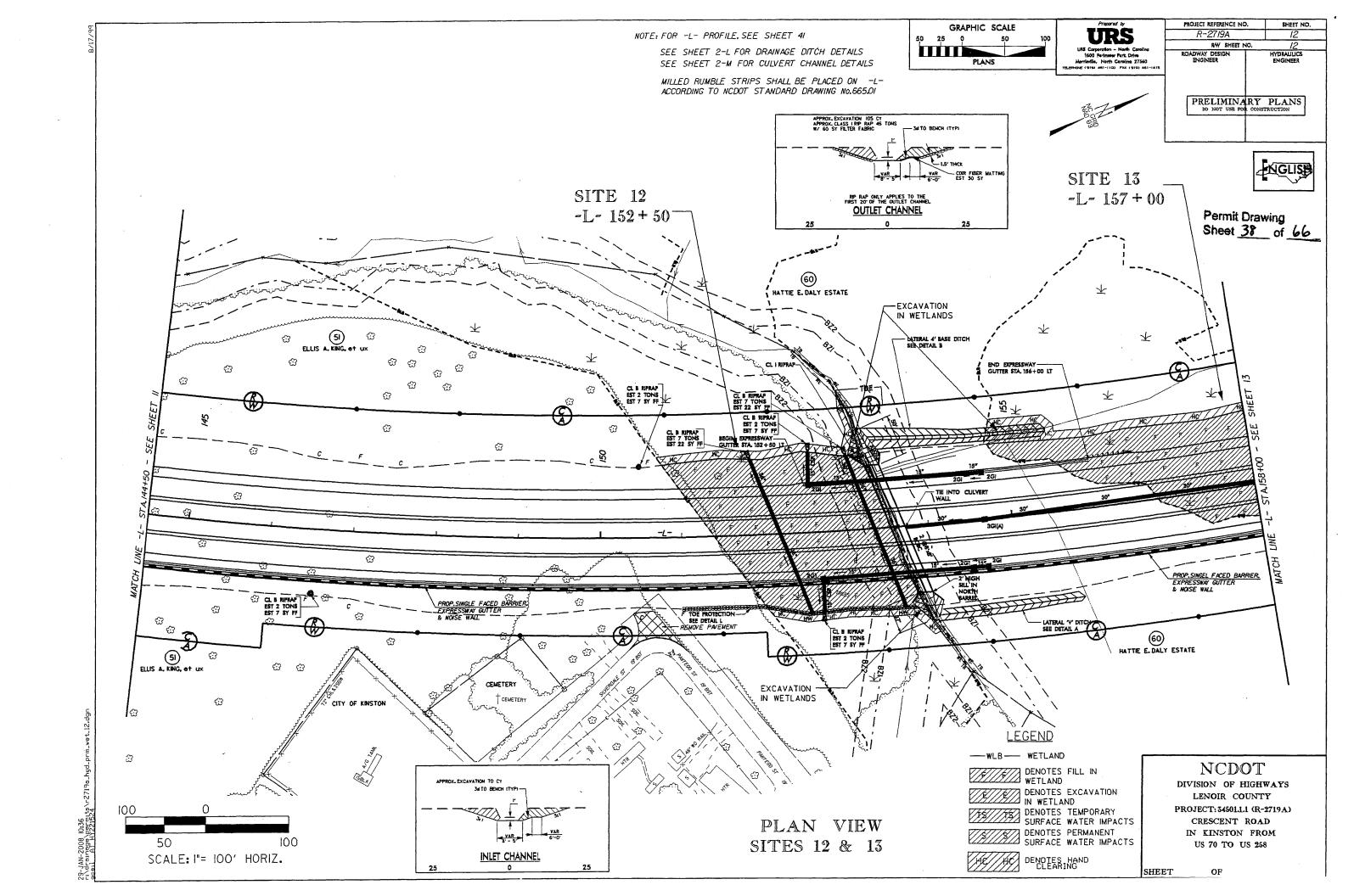


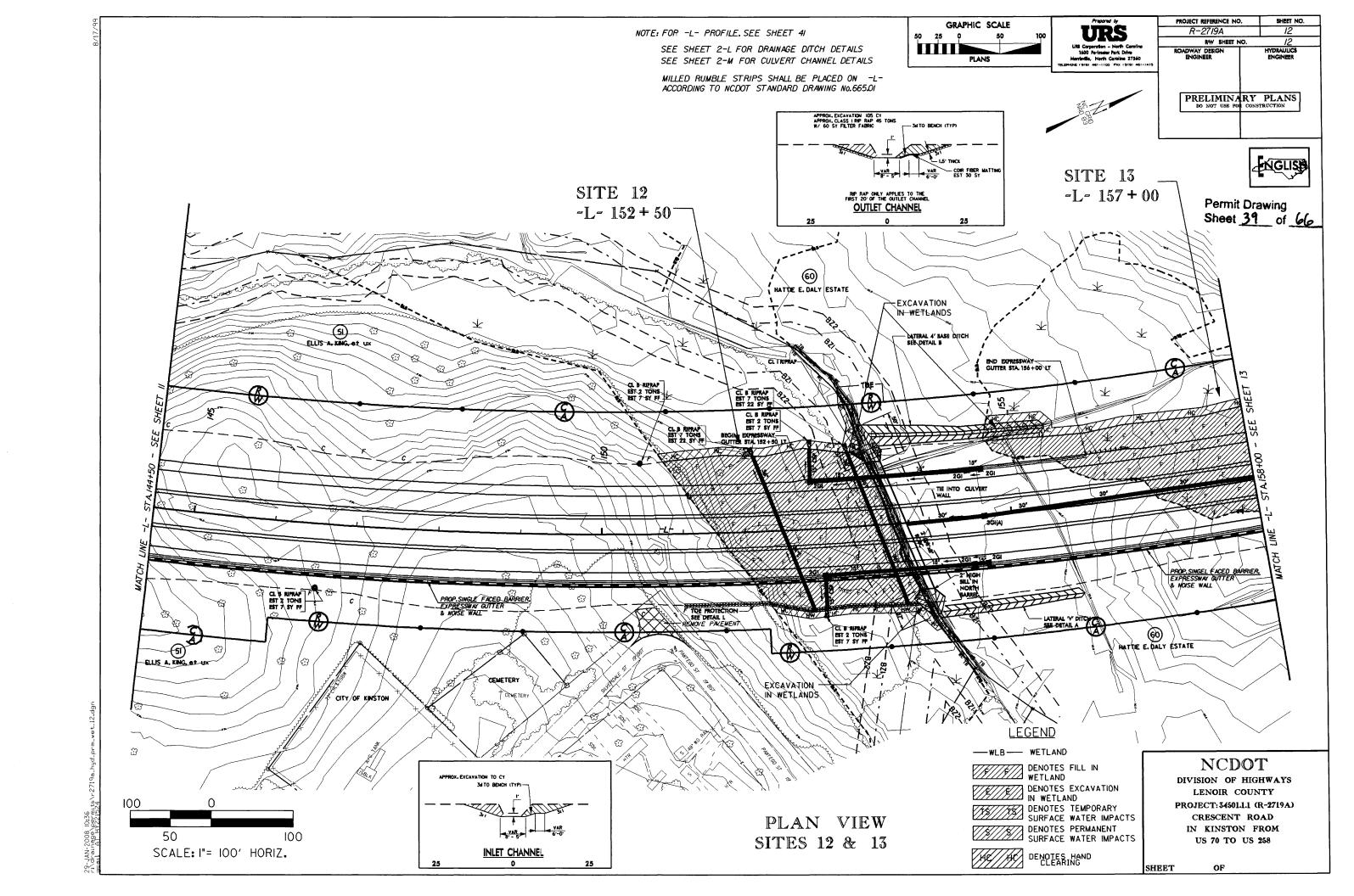
K:\Hydraulics\new permits\rz\!9d\_fyd\_p

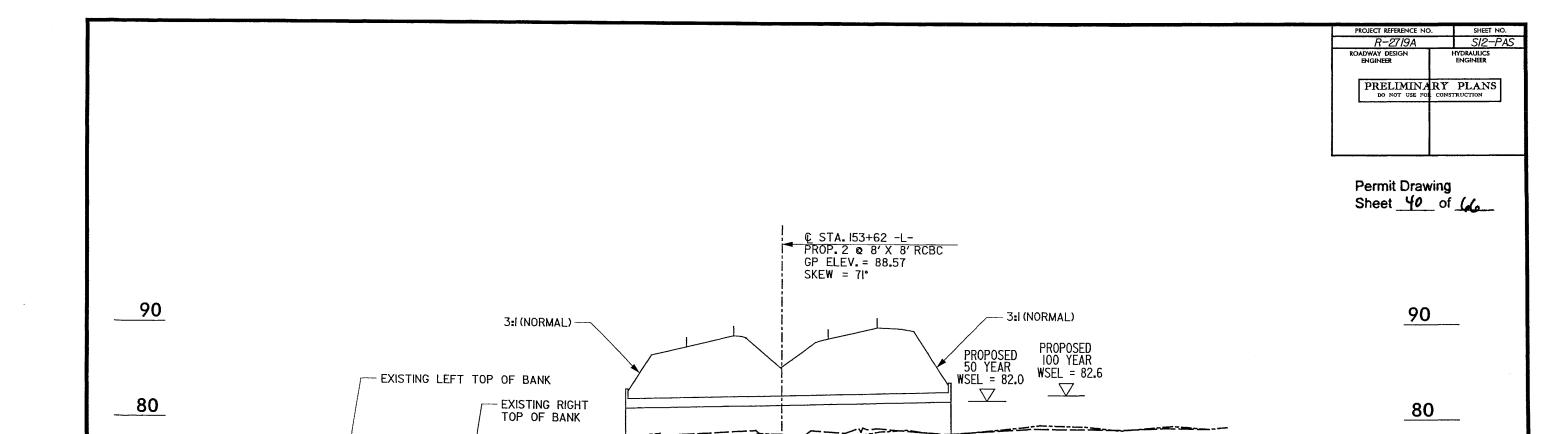
PRELIMINARY PLANS
DO NOT USE FOI CONSTRUCTION Permit Drawing
Sheet 37 of 66 <del>---- 96</del> <del>---- 76</del> UNDERCUT\_ -FILL IN WETLANDS 50 40 30 20 10 10 20 30 40 50 60 70 80 NCDOT DIVISION OF HIGHWAYS LENOIR COUNTY X-SECTION PROJECT: 34501.1.1 (R-2719A) LEGEND CRESCENT ROAD SITE 11 IN KINSTON FROM DENOTES FILL IN WETLANDS US 70 TO US 258 STA 138 + 00 -L-

SHEET

5 / 26 / 06







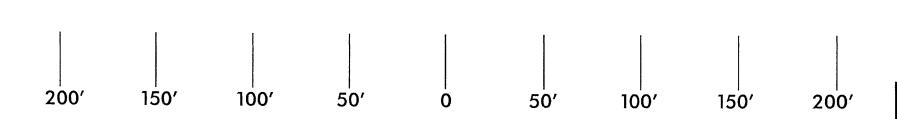
S=0.00472

PROPOSED OUTLET -ELEV. = 73.1 (BURIED | FT.)

STREAM BED 74.1-

-ELEV. 73.49

2' HIGH SILL AT ENTRANCE IN NORTHERN BARREL



# PROFILE ALONG STRUCTURE SITE 12

70

60

#### NCDOT

DIVISION OF HIGHWAYS LENOIR COUNTY PROJECT: 34501.1.1 (R-2719A) CRESCENT ROAD IN KINSTON FROM US 70 TO US 258

SHEET

EXISTING STREAM BED

- NORMAL WSEL = 75.9

-STREAM BED 74.9

PROPOSED INLET ELEV. = 73.9 (BURIED | FT.)

OF

5 / 26 / 06

70

60

SCALE:

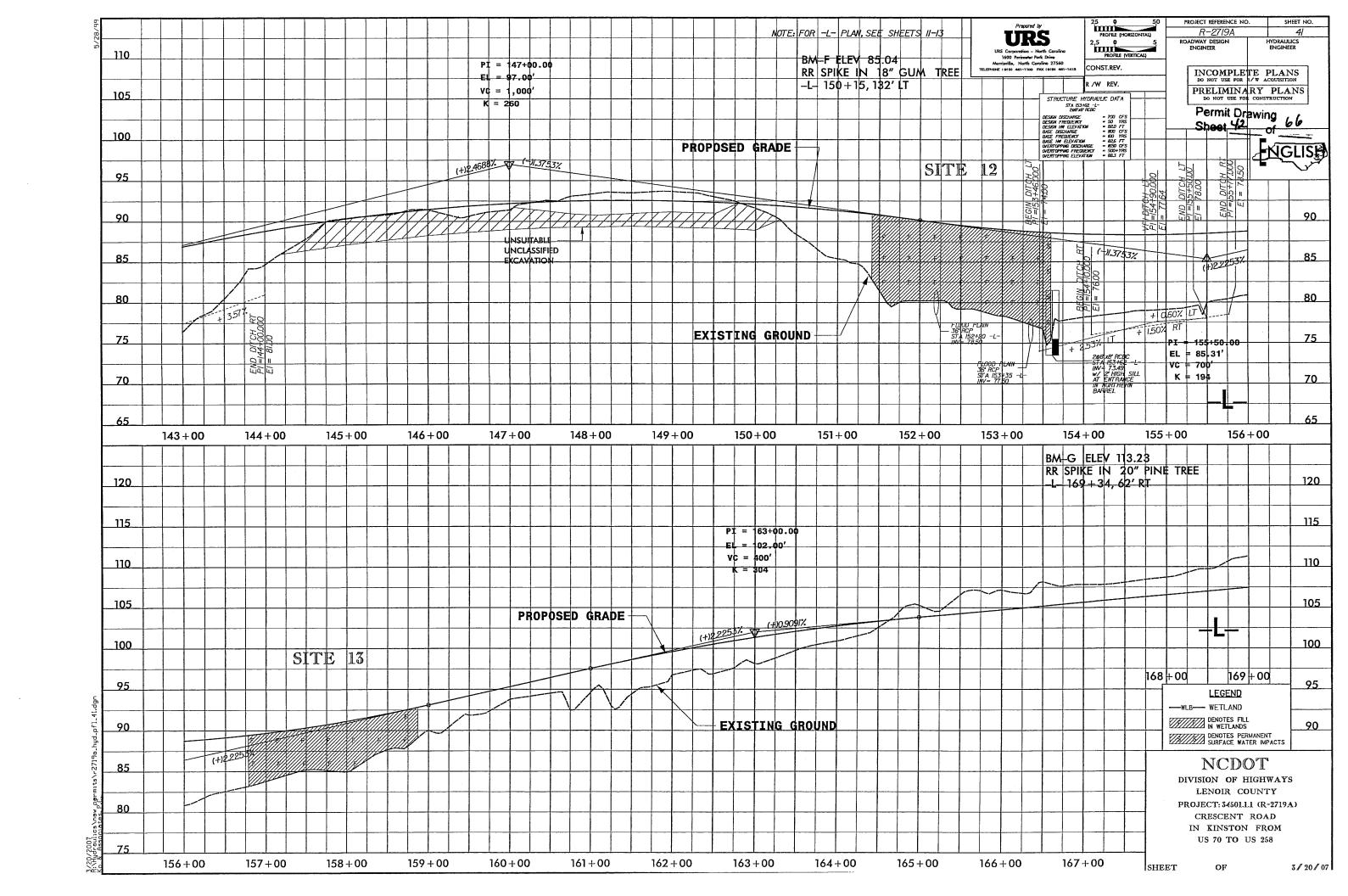
1" = 10' VERTICAL

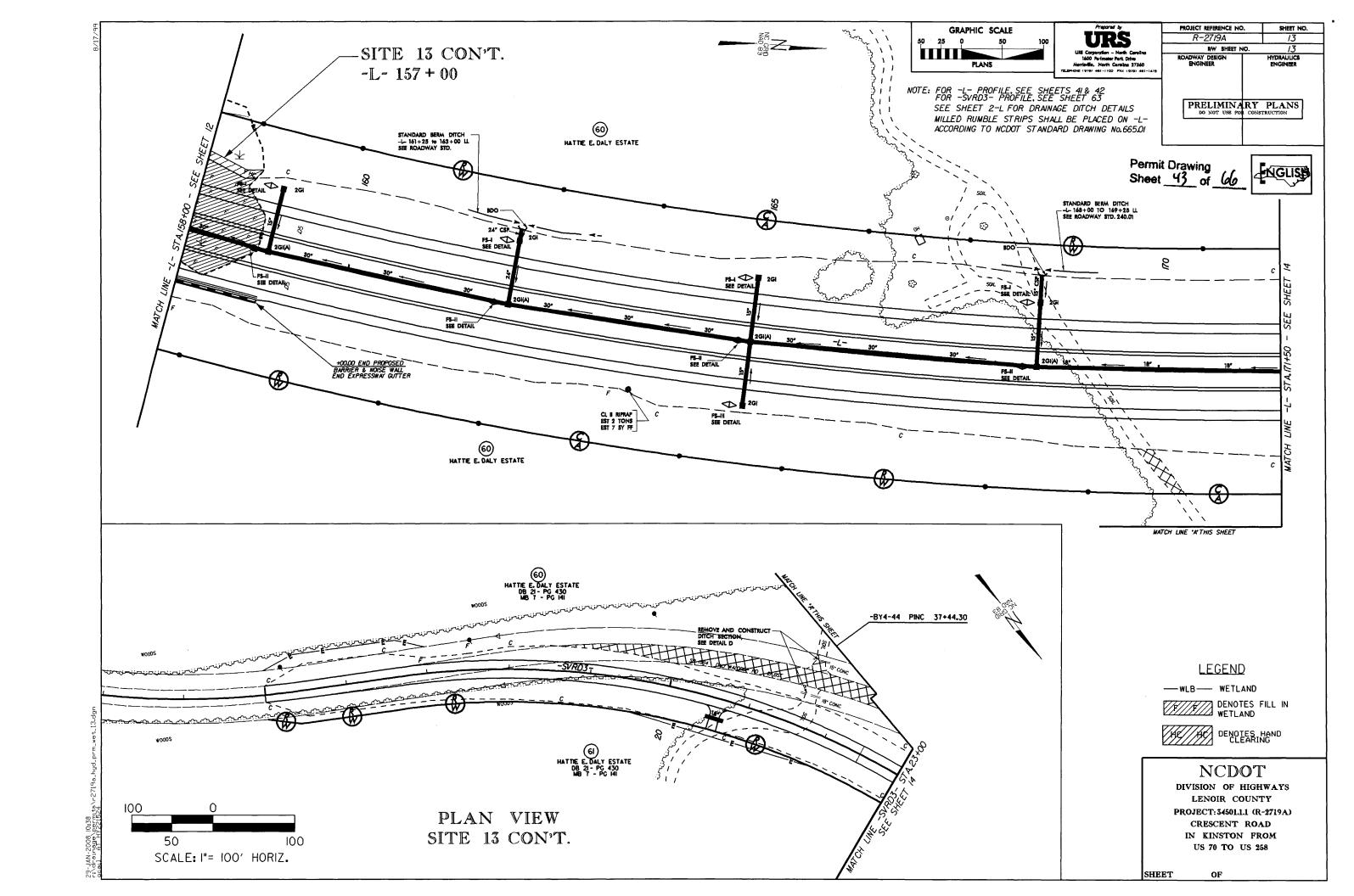
1'' = 50' HORIZONTAL

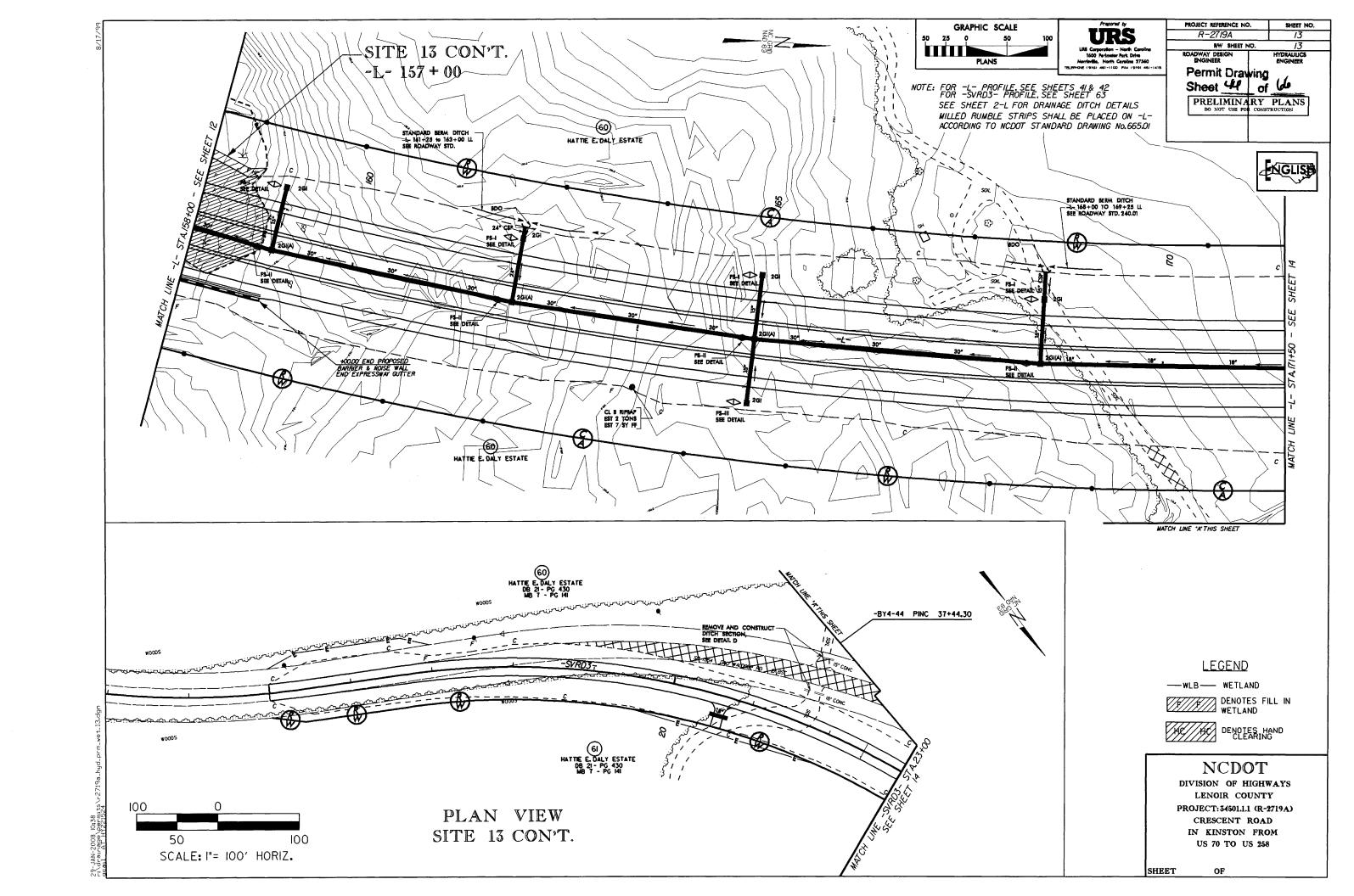
PRELIMINARY PLANS
DO NOT USE FOI CONSTRUCTION Permit Drawing
Sheet 41 of 66 107 ----<del>----- 107</del> 102 ----<del>----- 102</del> <del>----- 87</del> S.S. 77.626 -FILL IN WETLANDS 70 30 20 10 0 10 20 30 50 40 60 70 80 NCDOT DIVISION OF HIGHWAYS LENOIR COUNTY X-SECTION PROJECT: 34501.1.1 (R-2719A) **LEGEND** CRESCENT ROAD SITE 12 DENOTES FILL IN WETLANDS IN KINSTON FROM US 70 TO US 258 STA 152 + 50 -L-

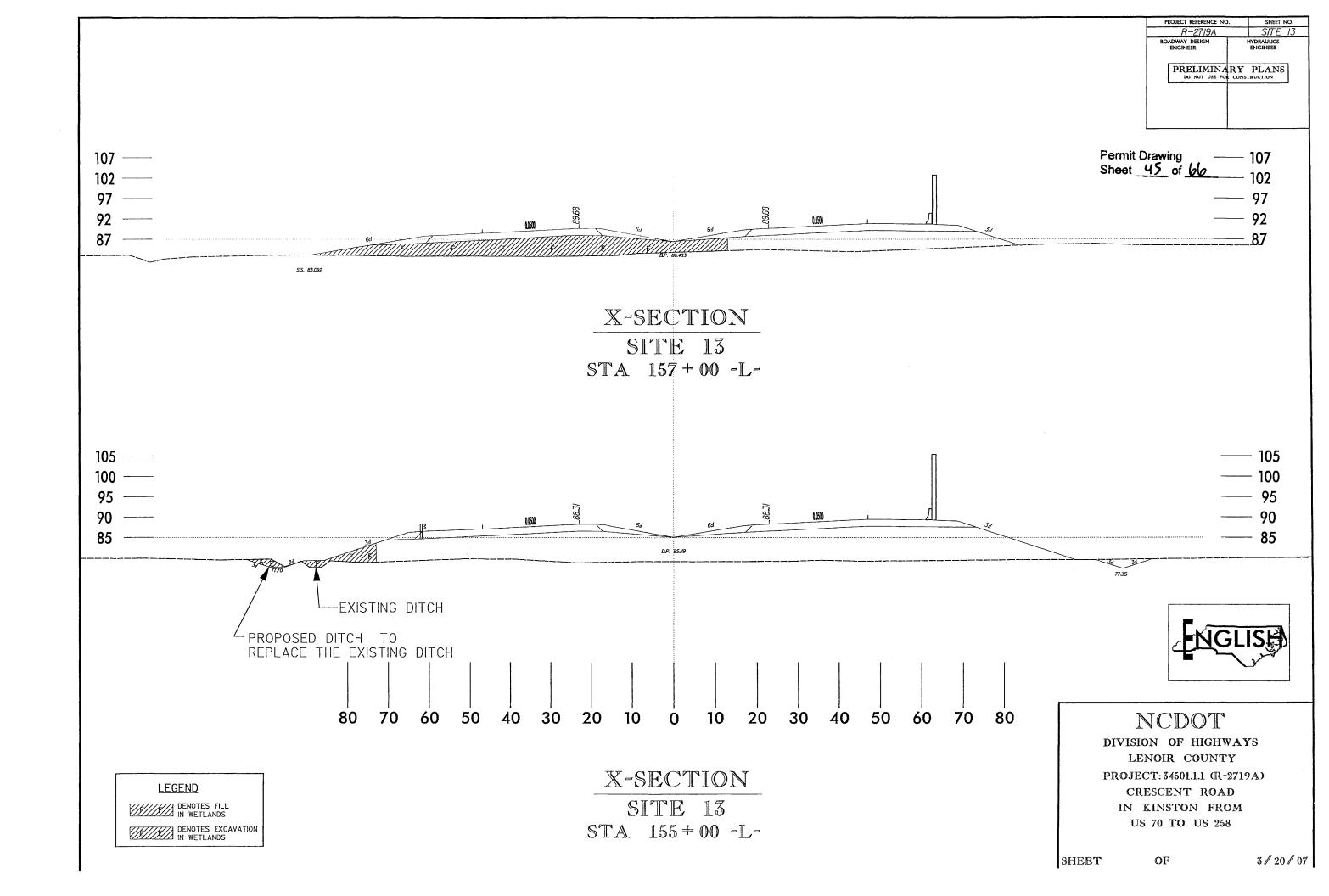
SHEET OF

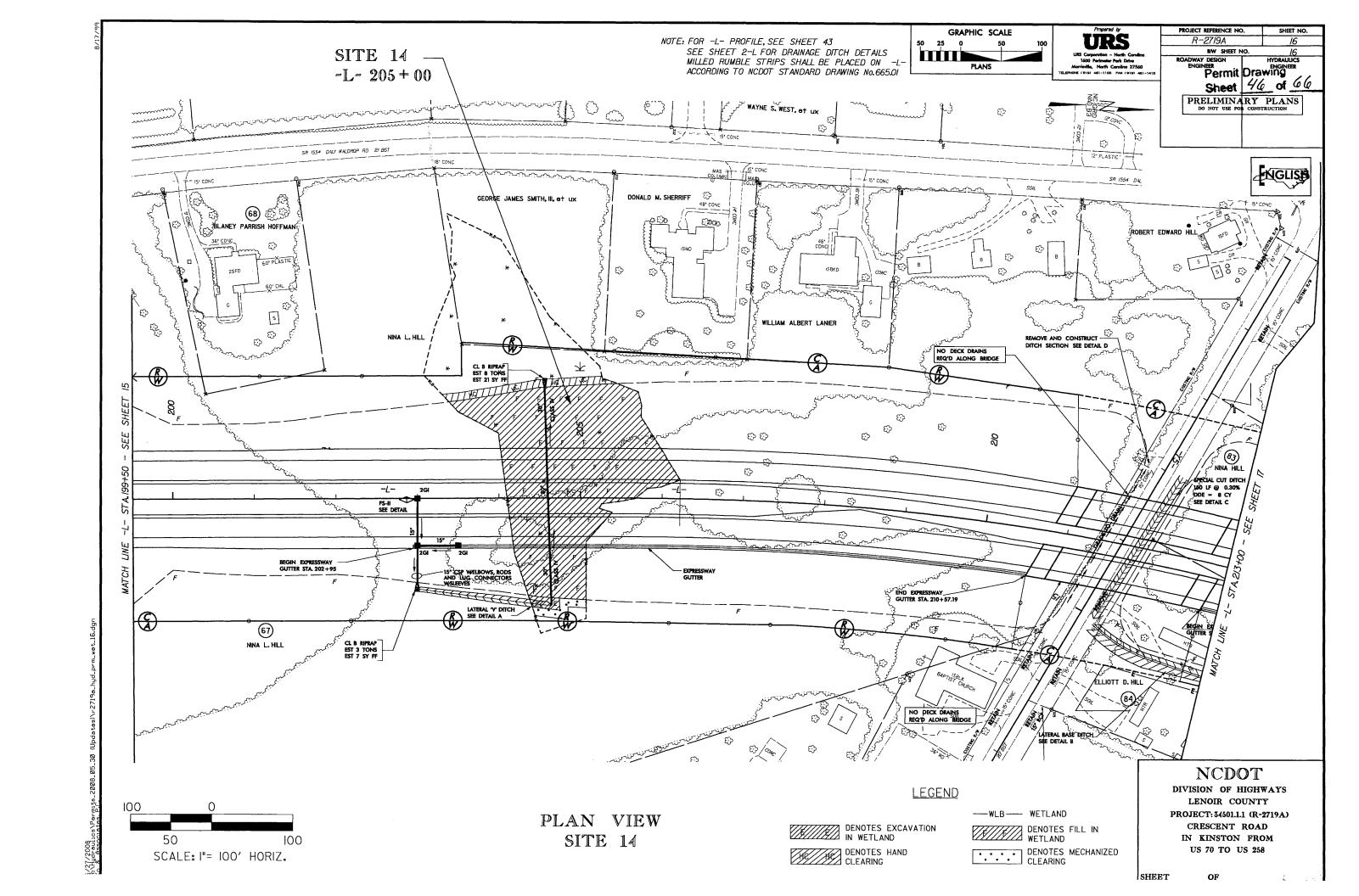
5 / 26 / 06

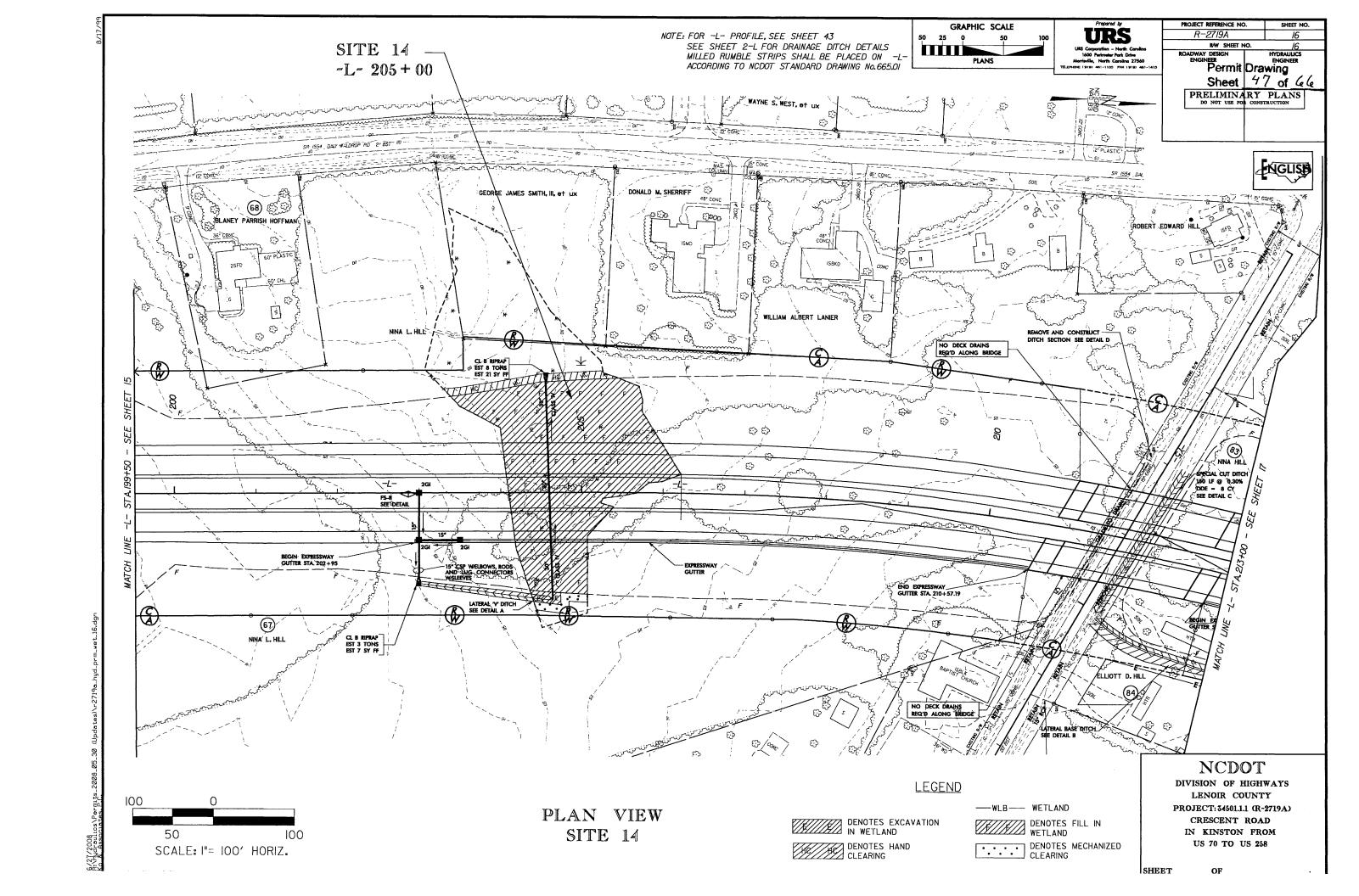


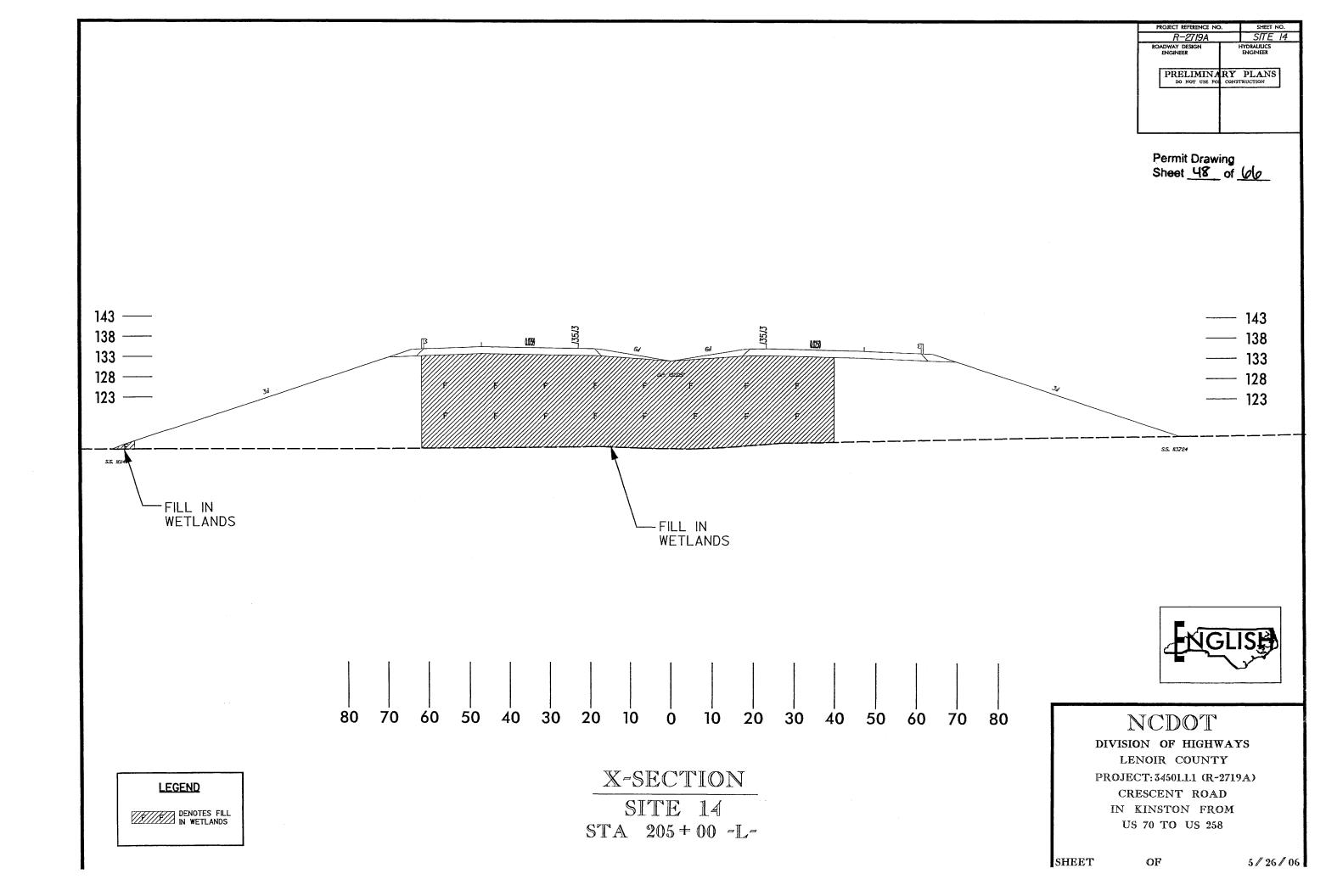


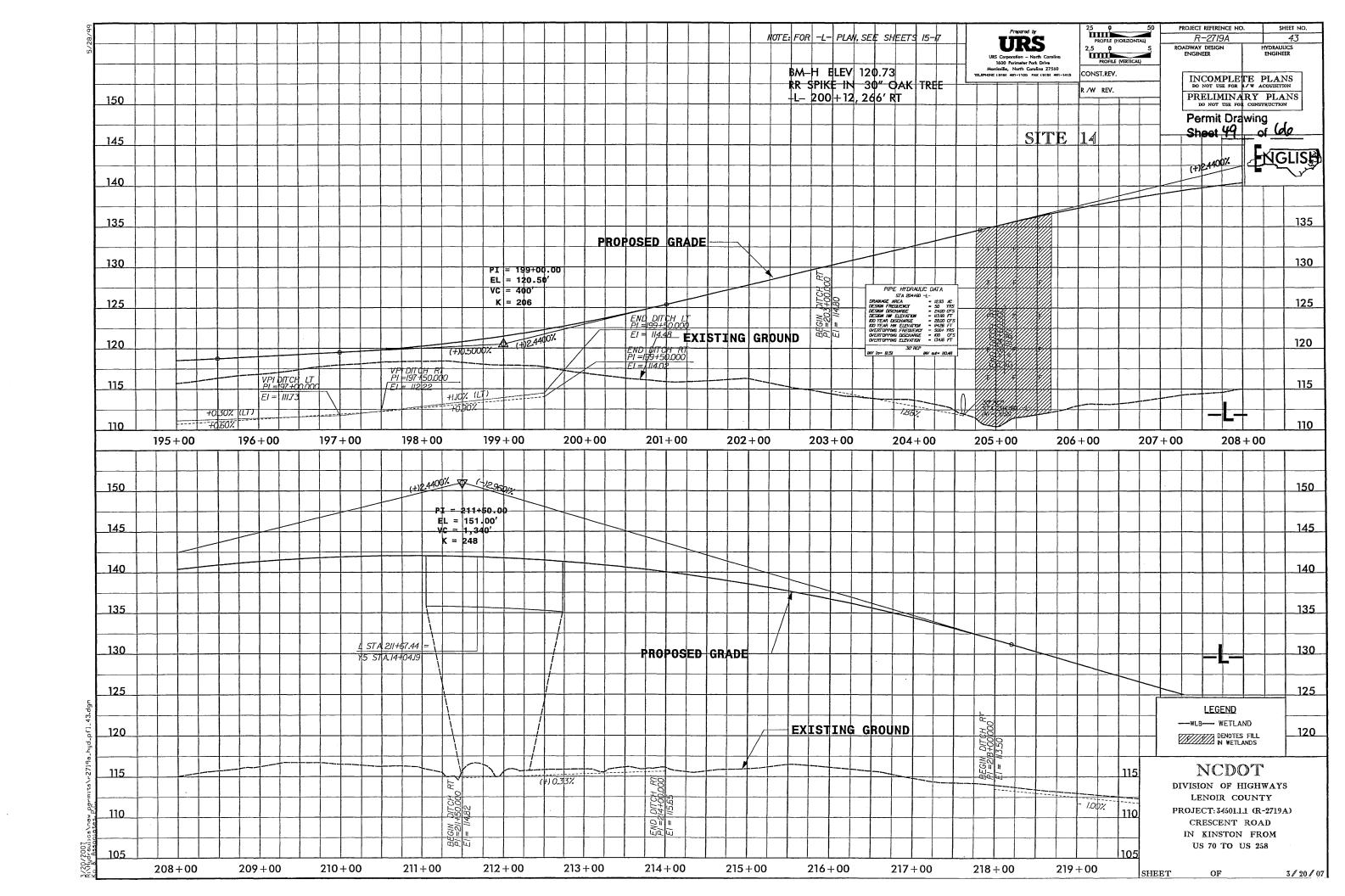


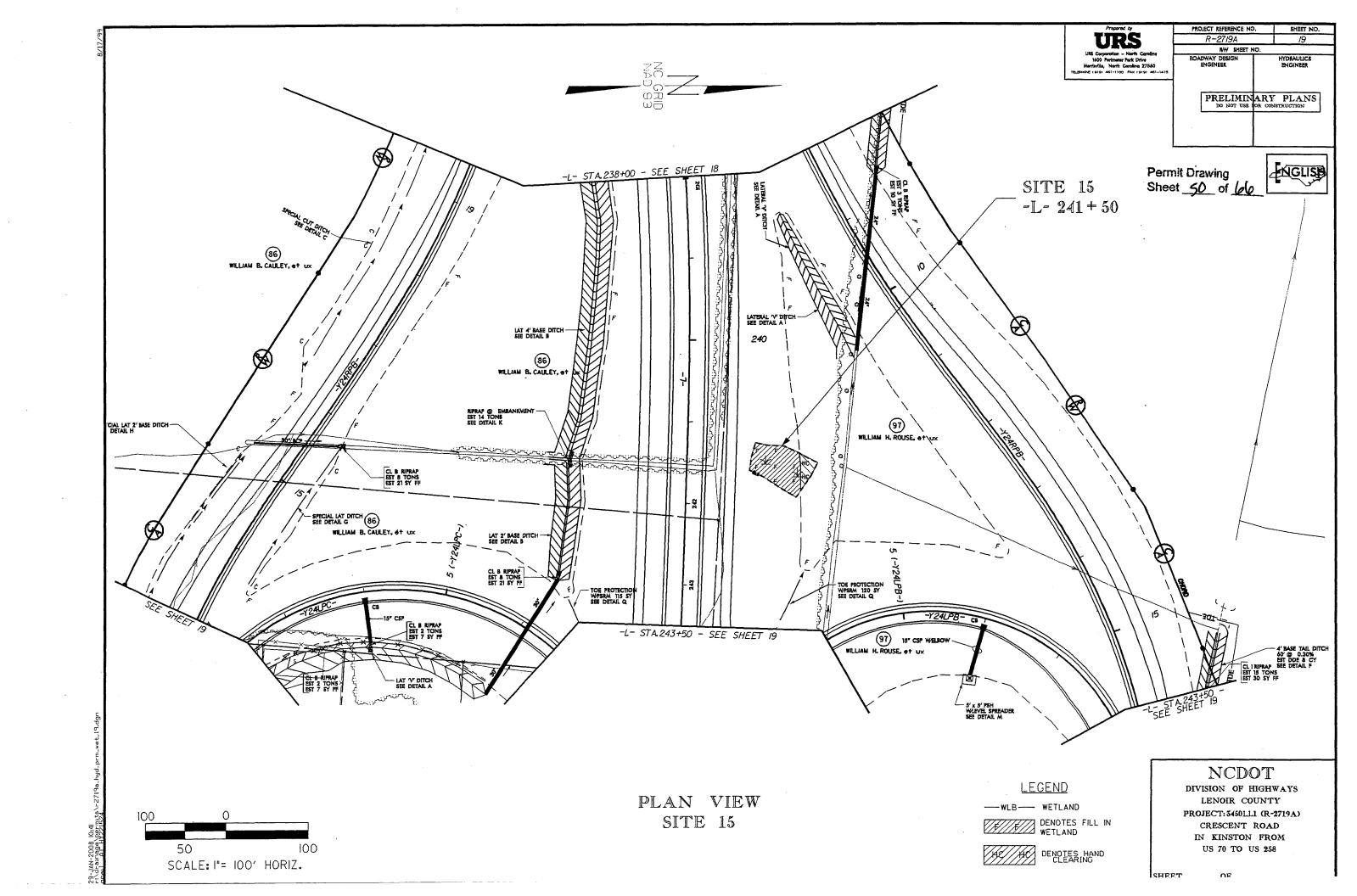


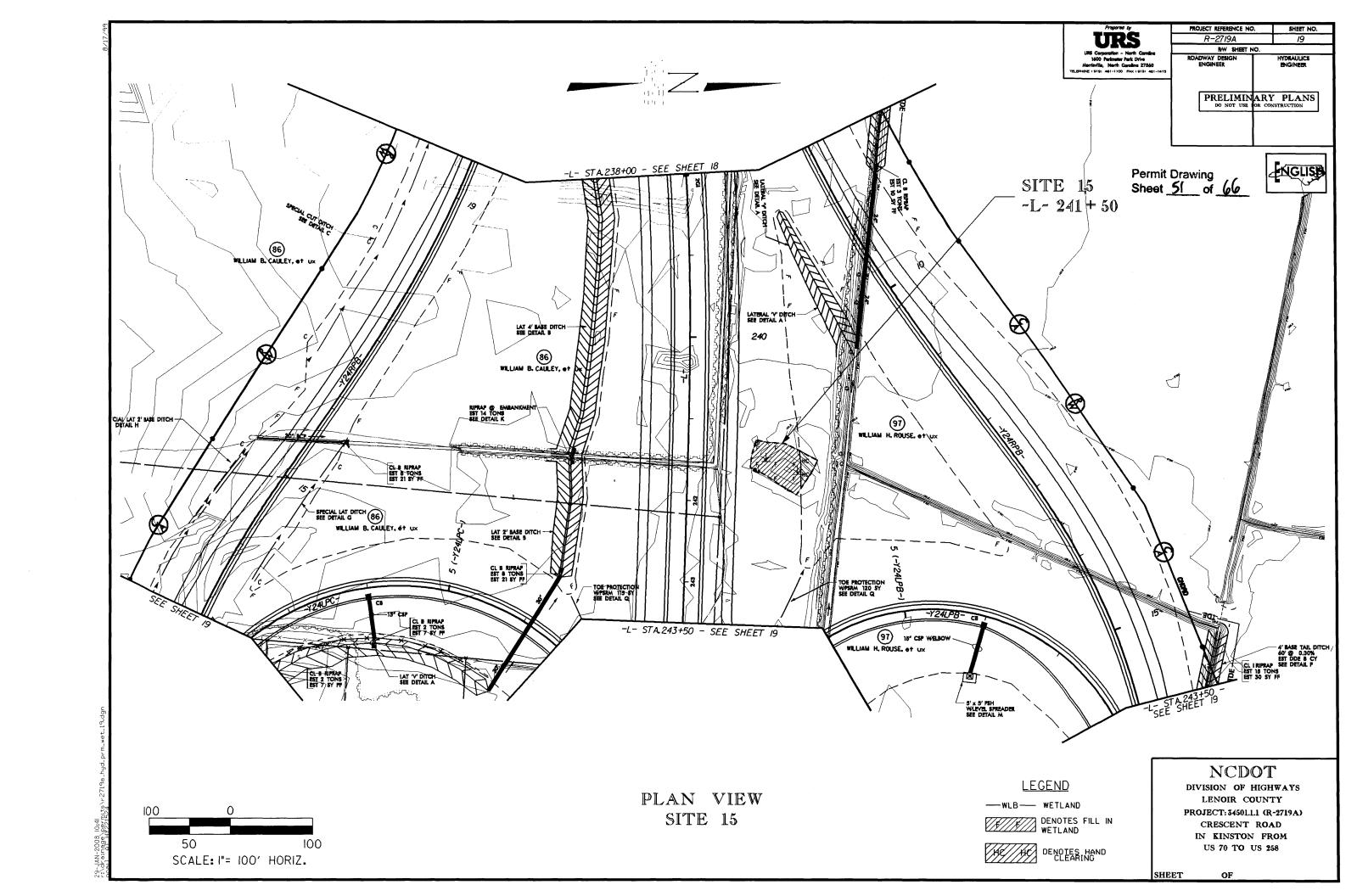


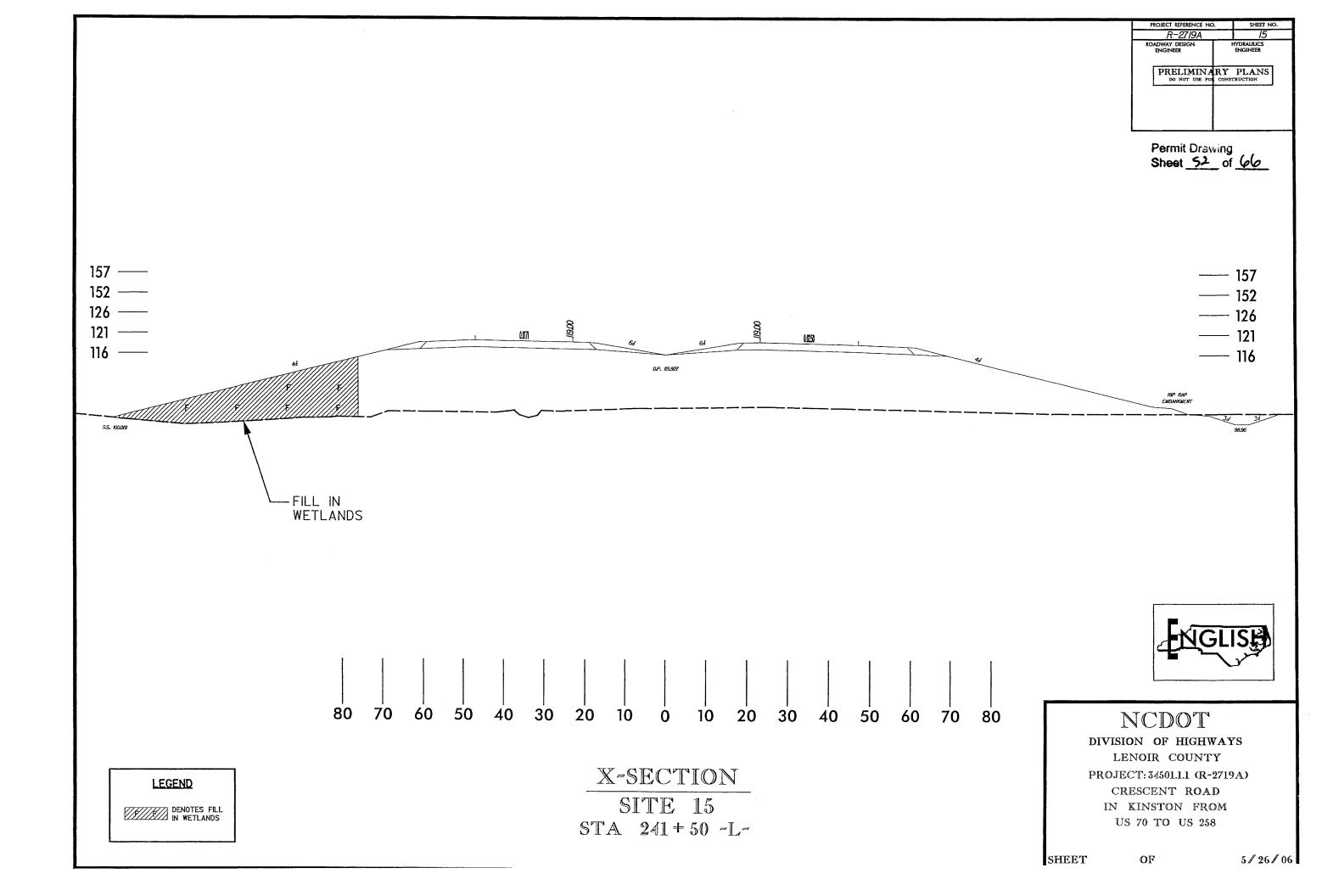


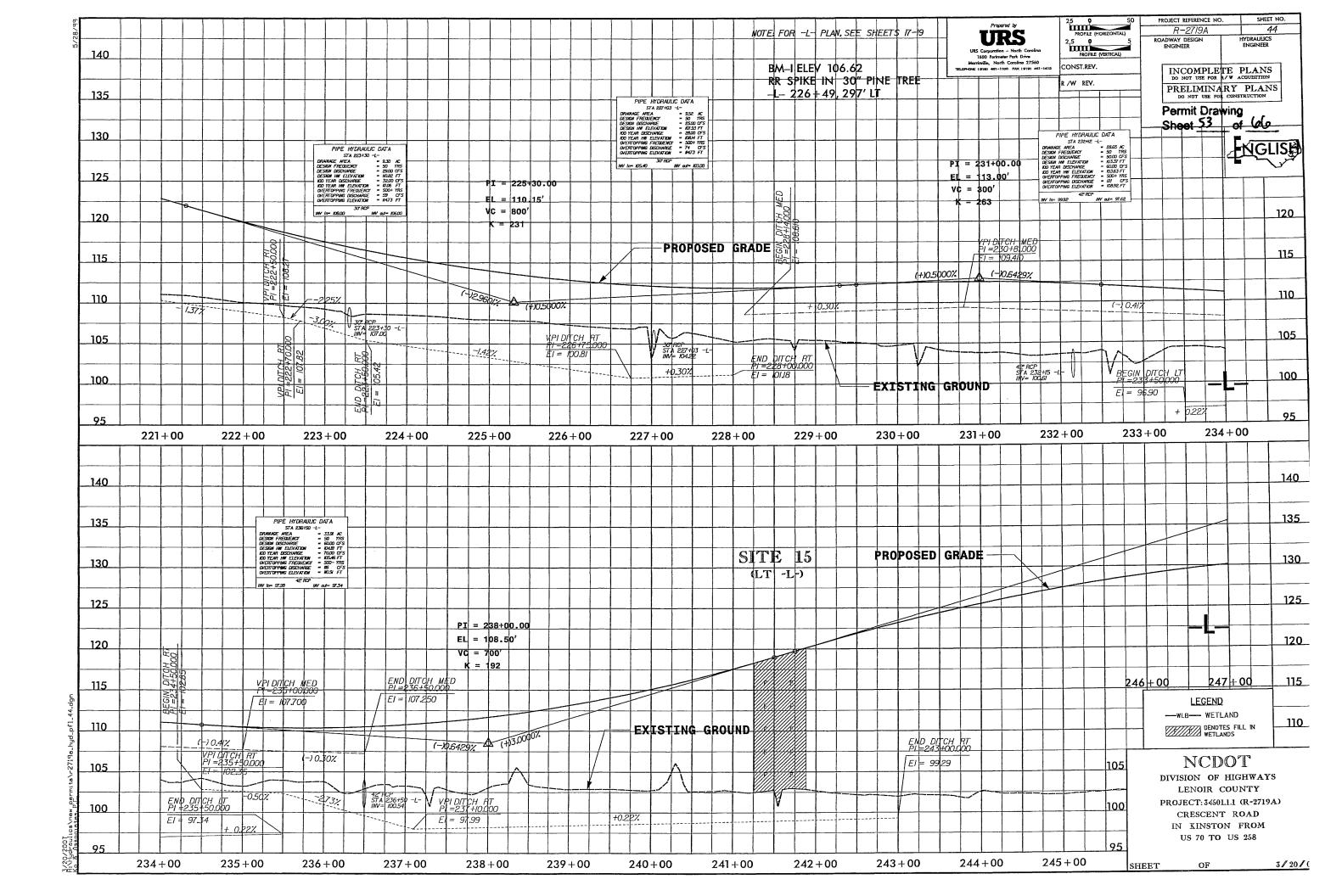


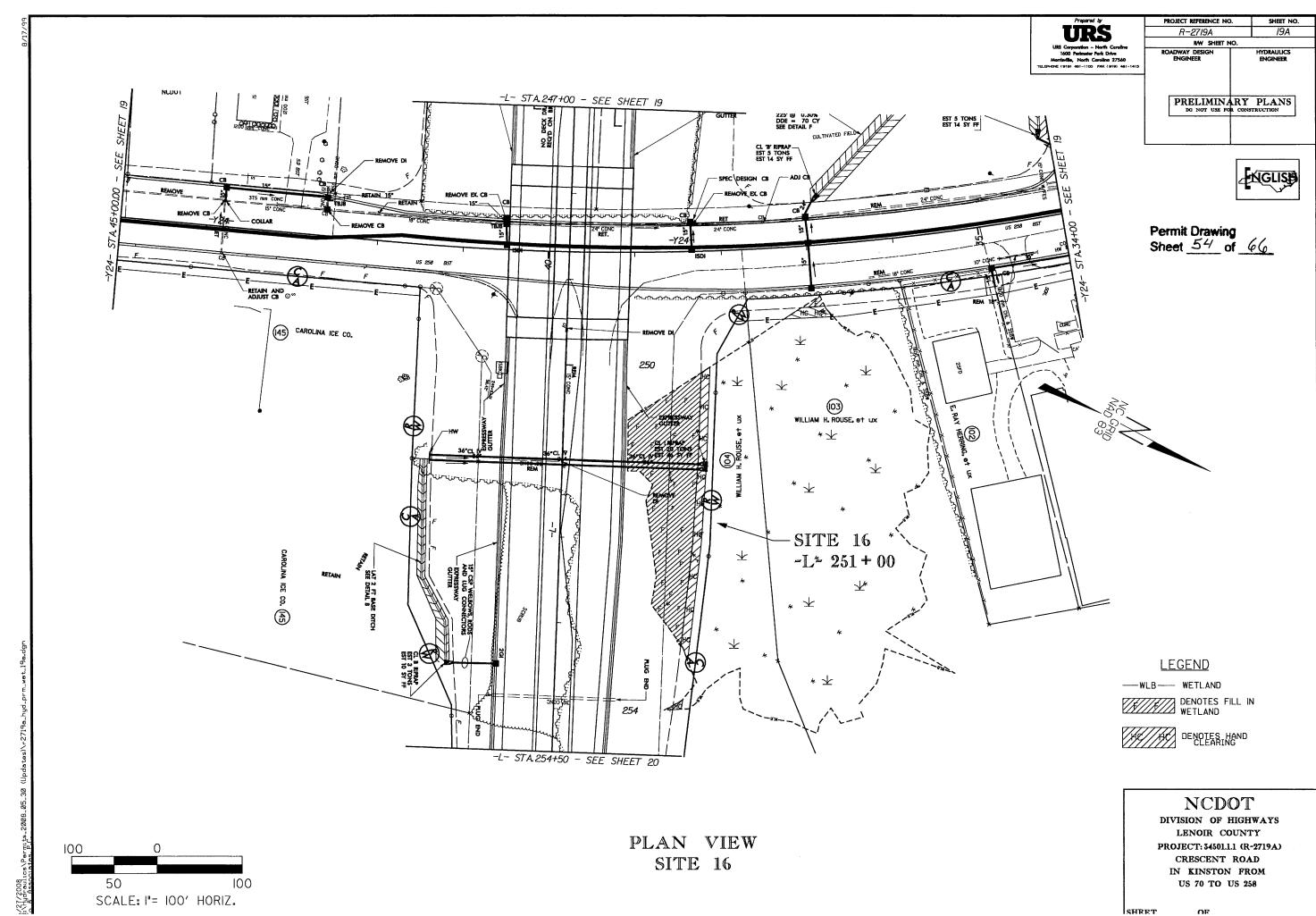


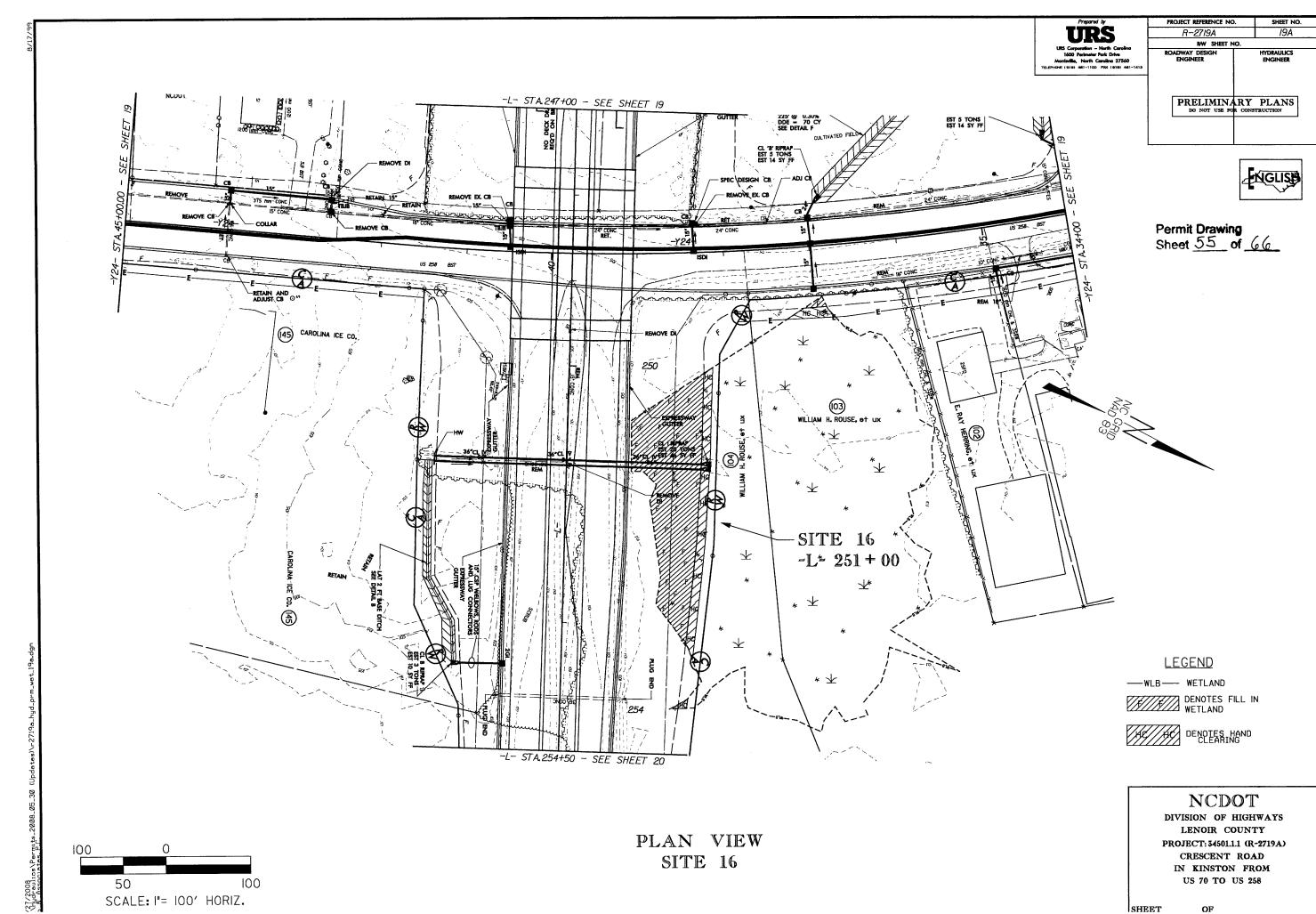


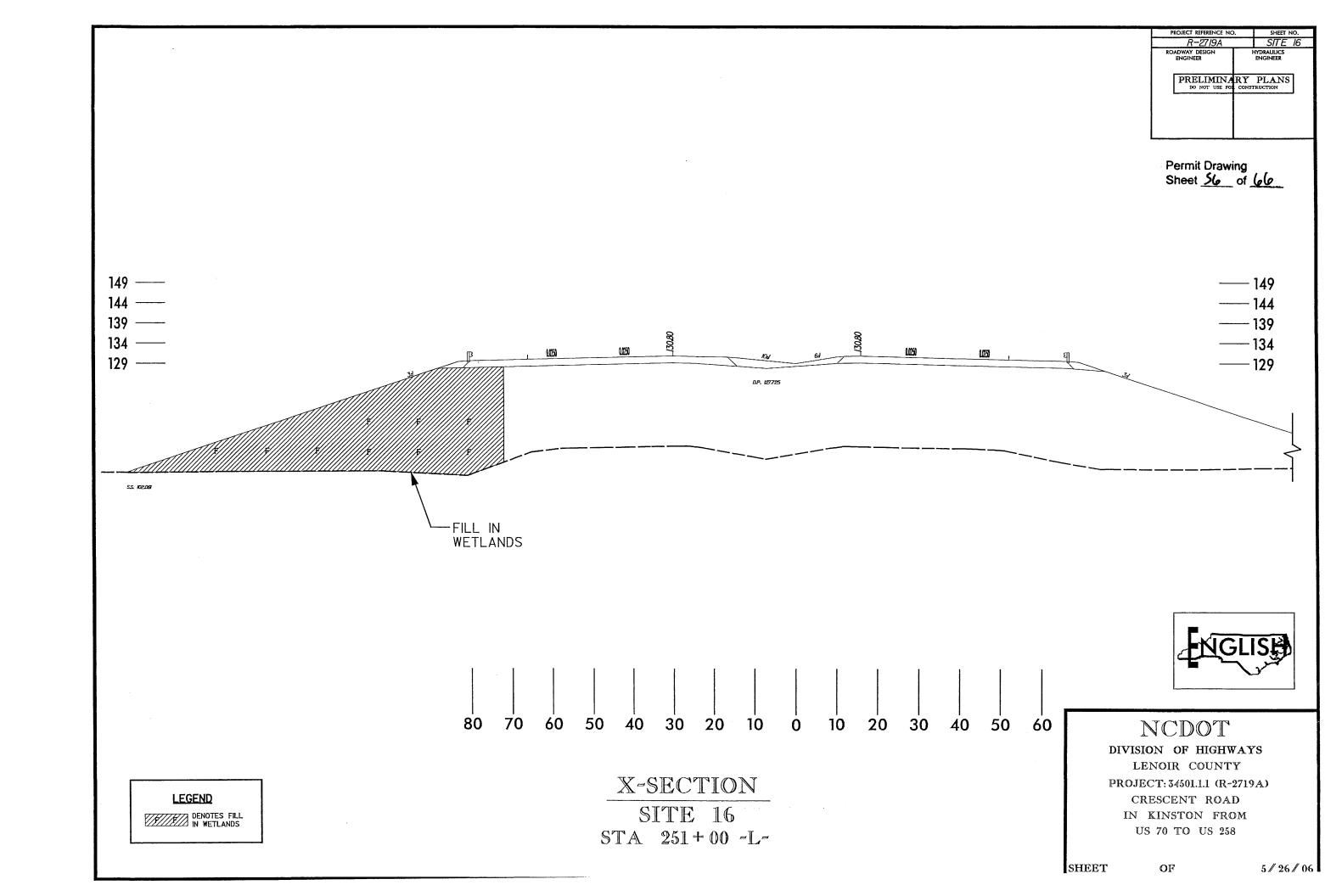


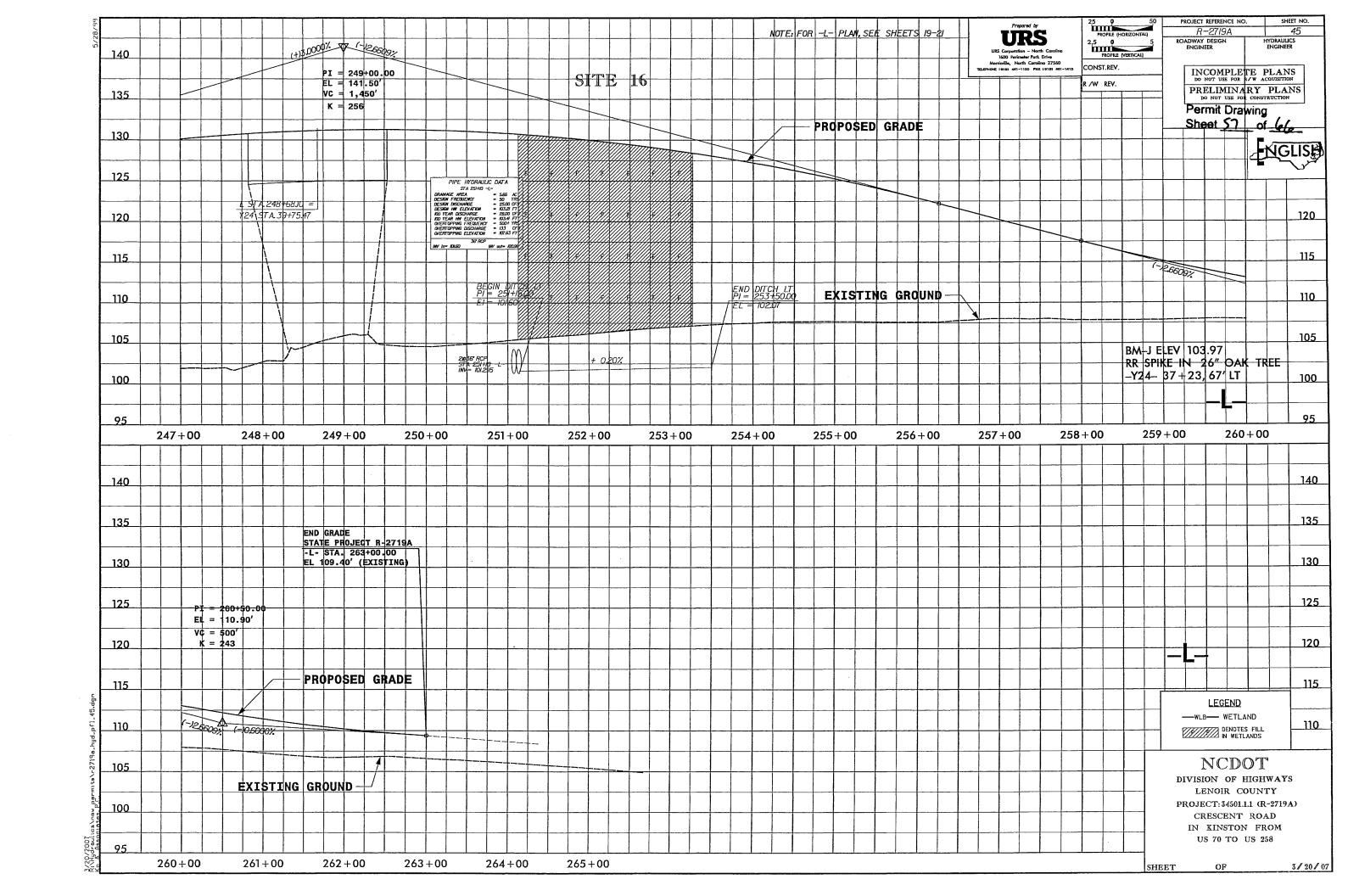


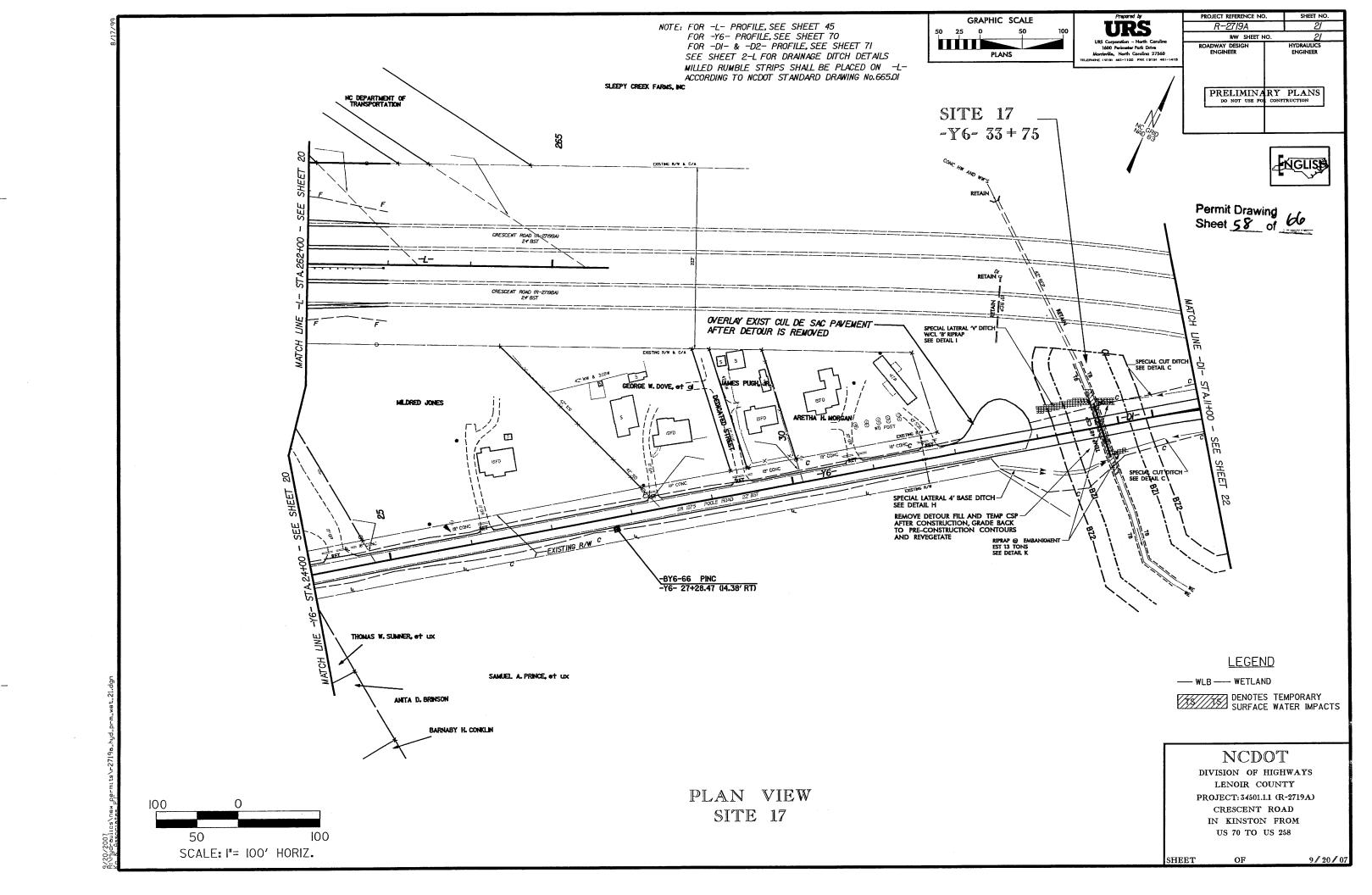


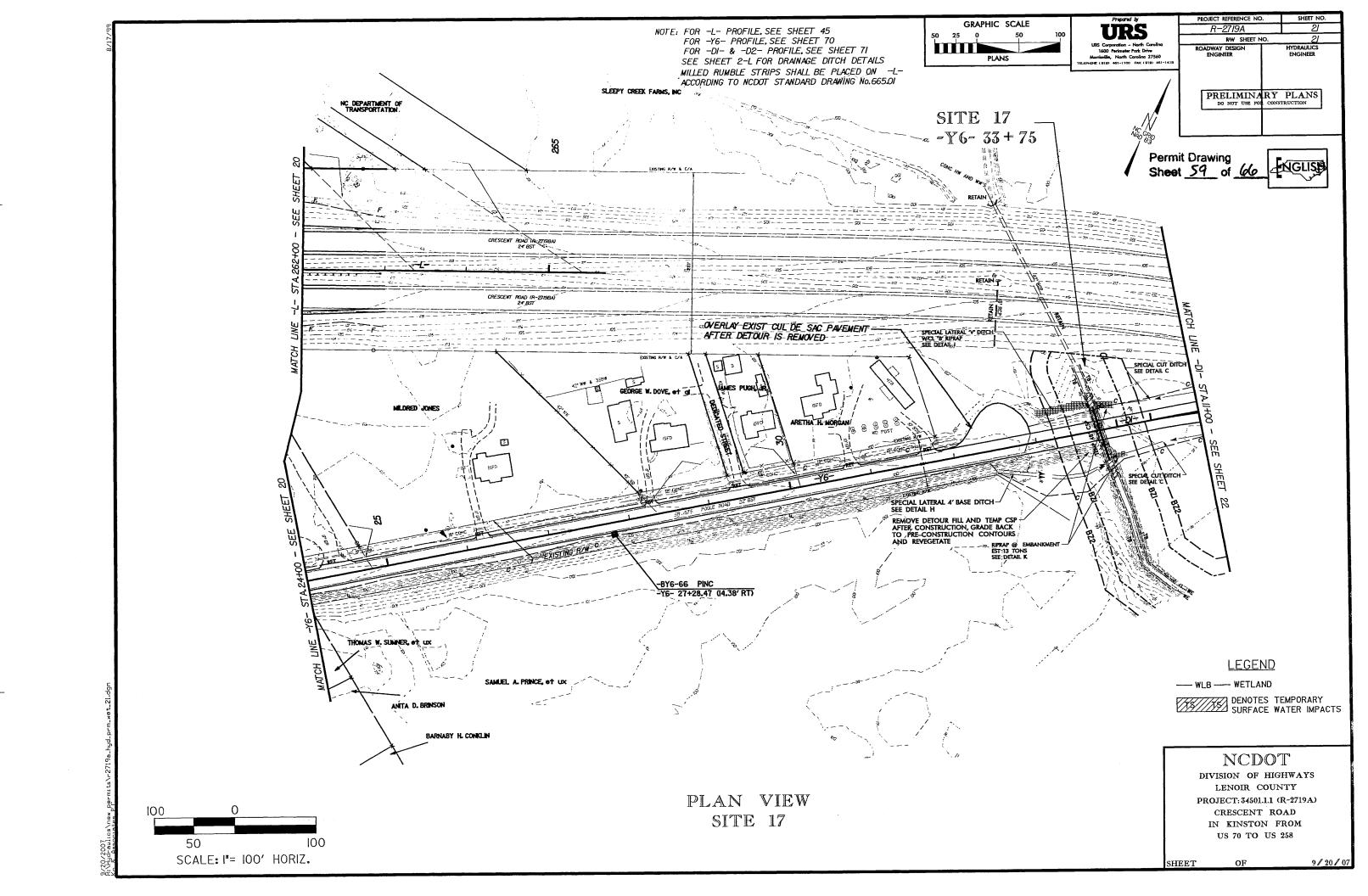


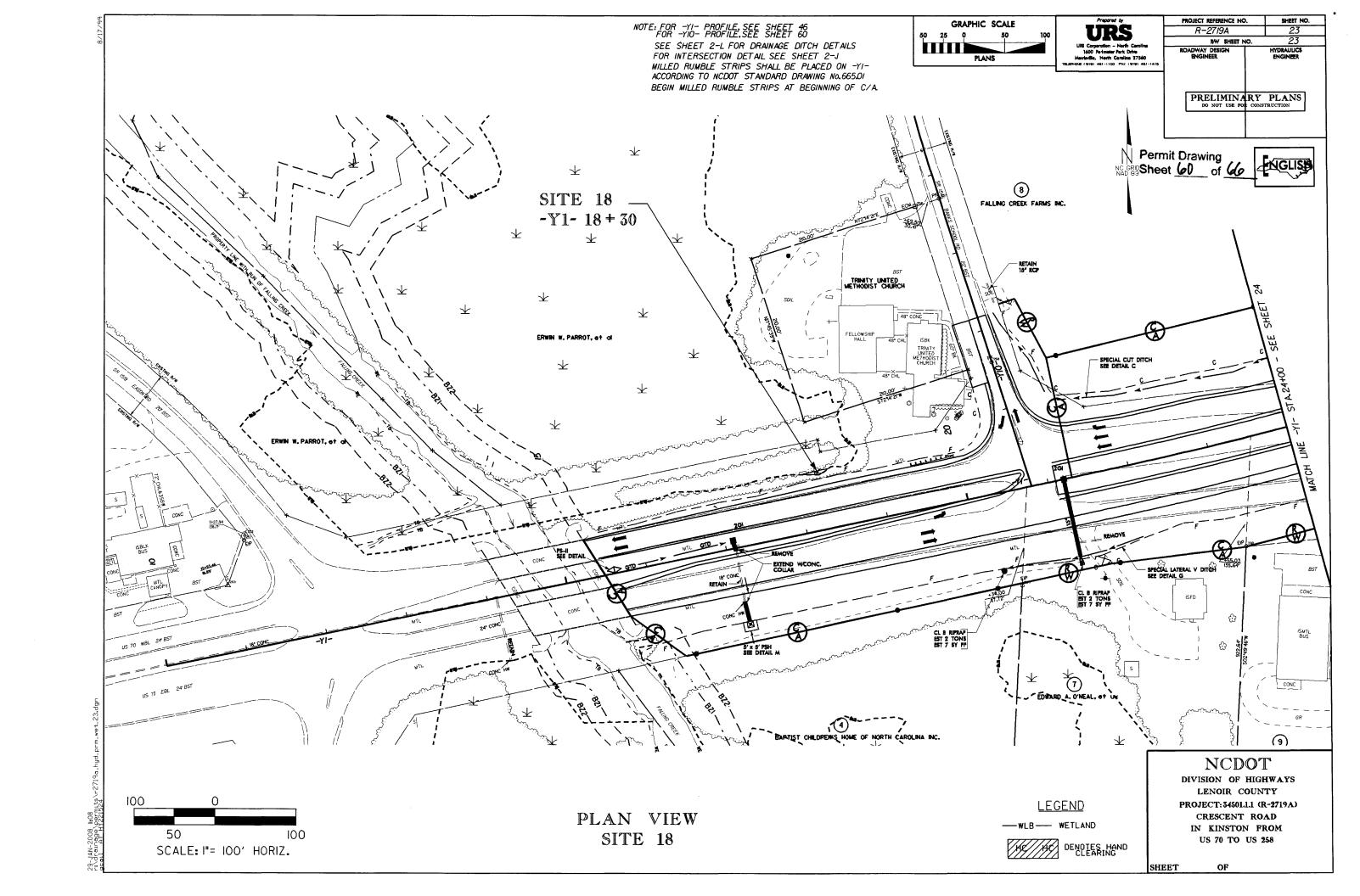


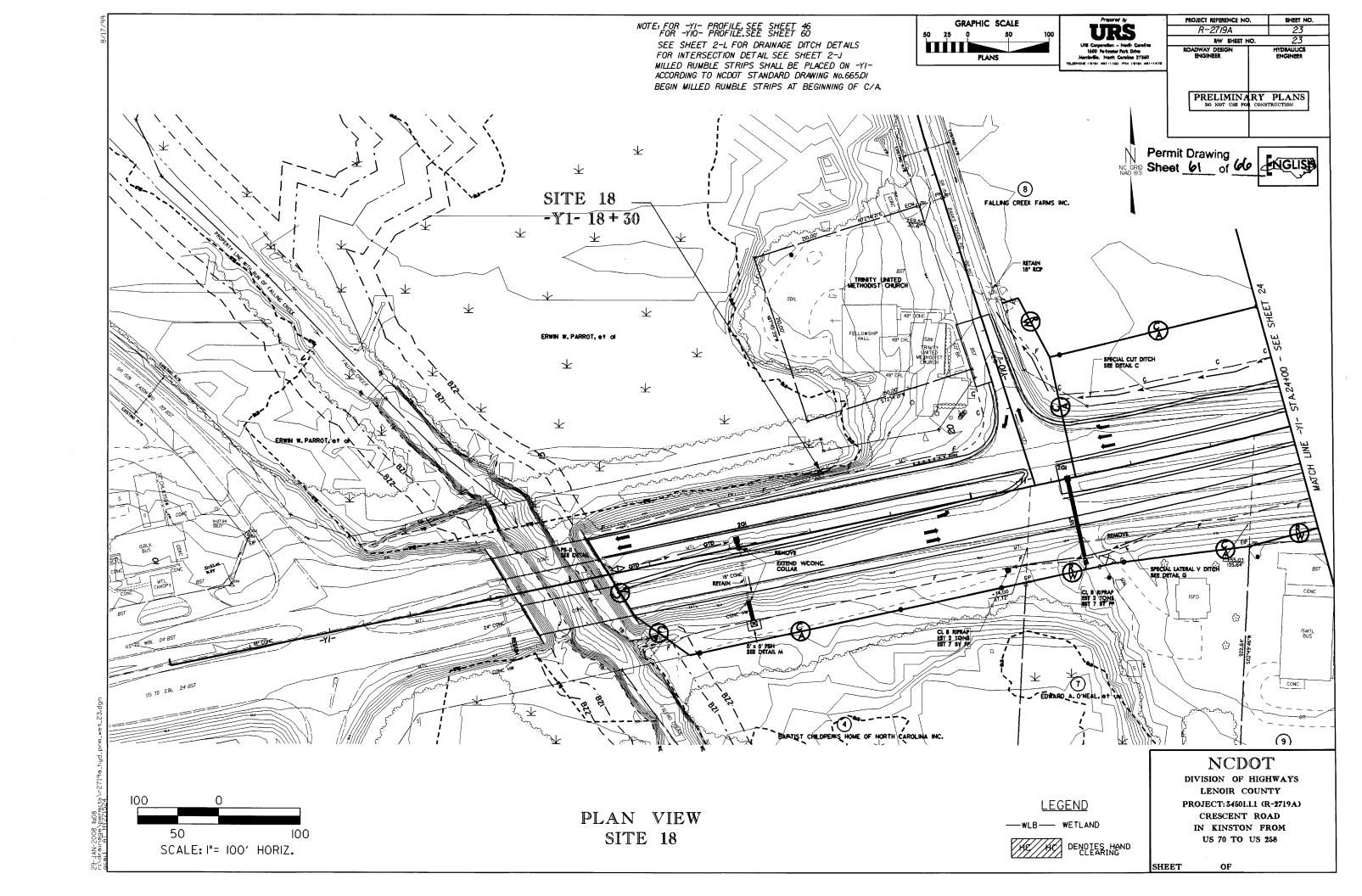


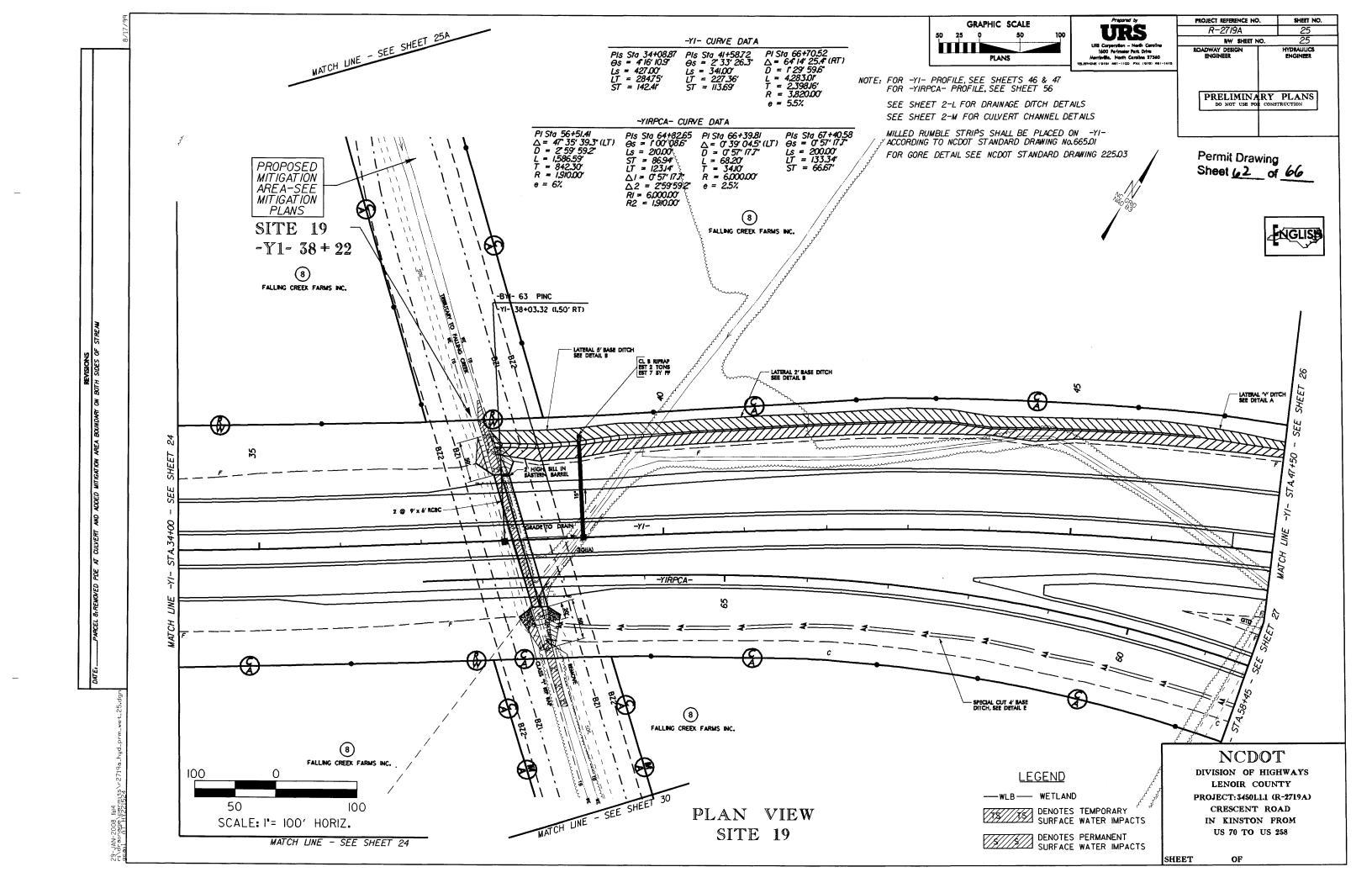


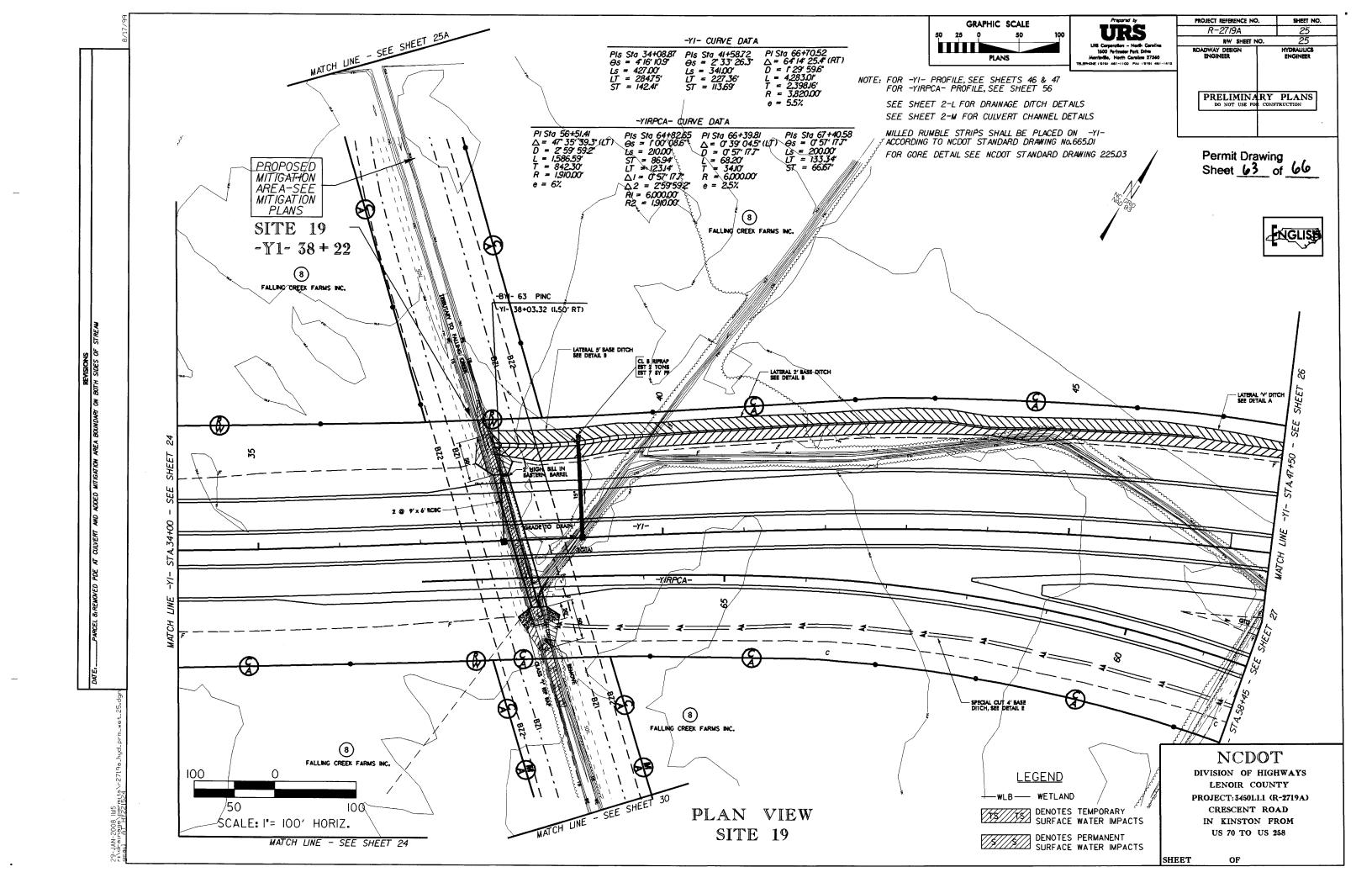


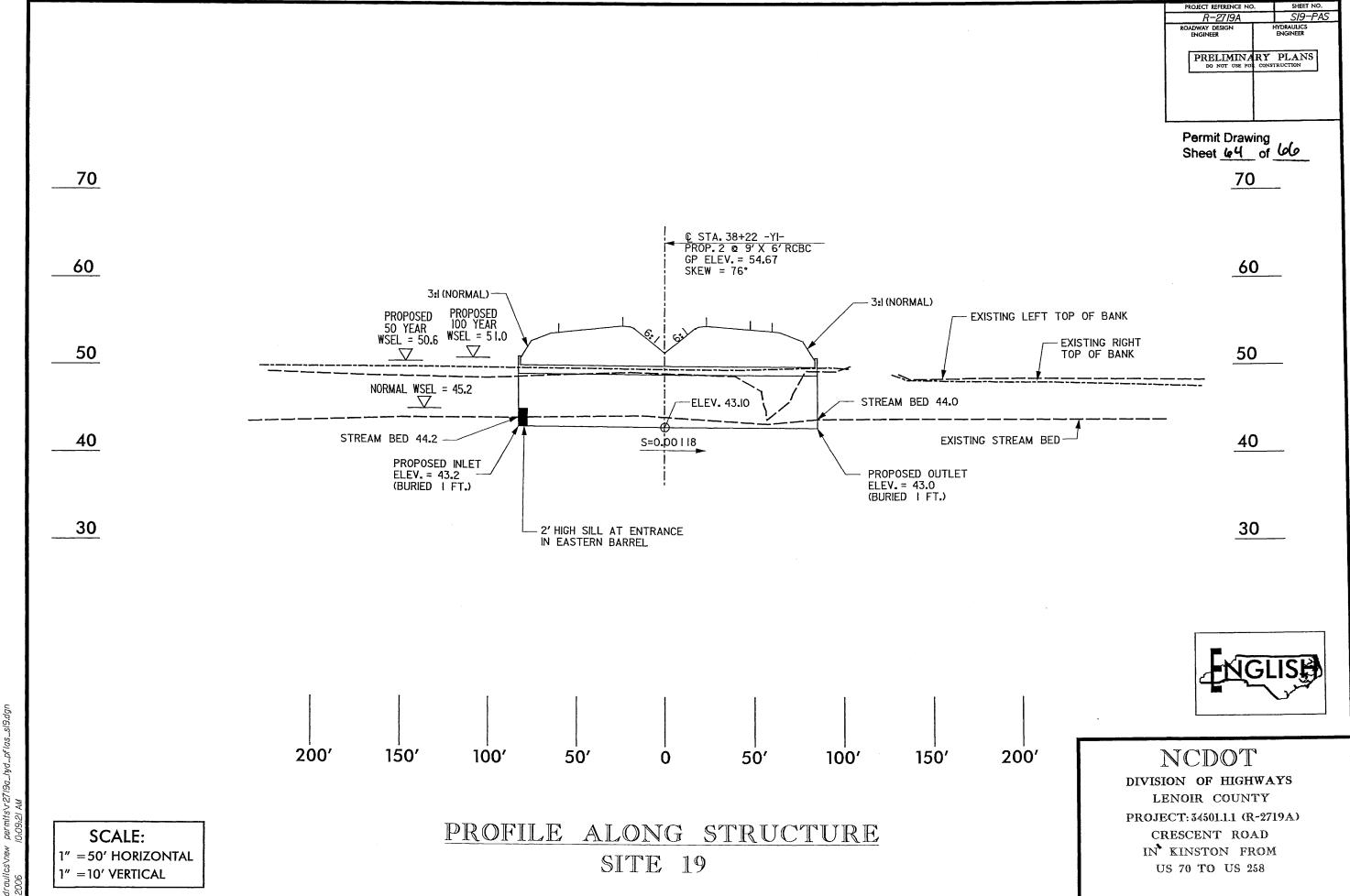








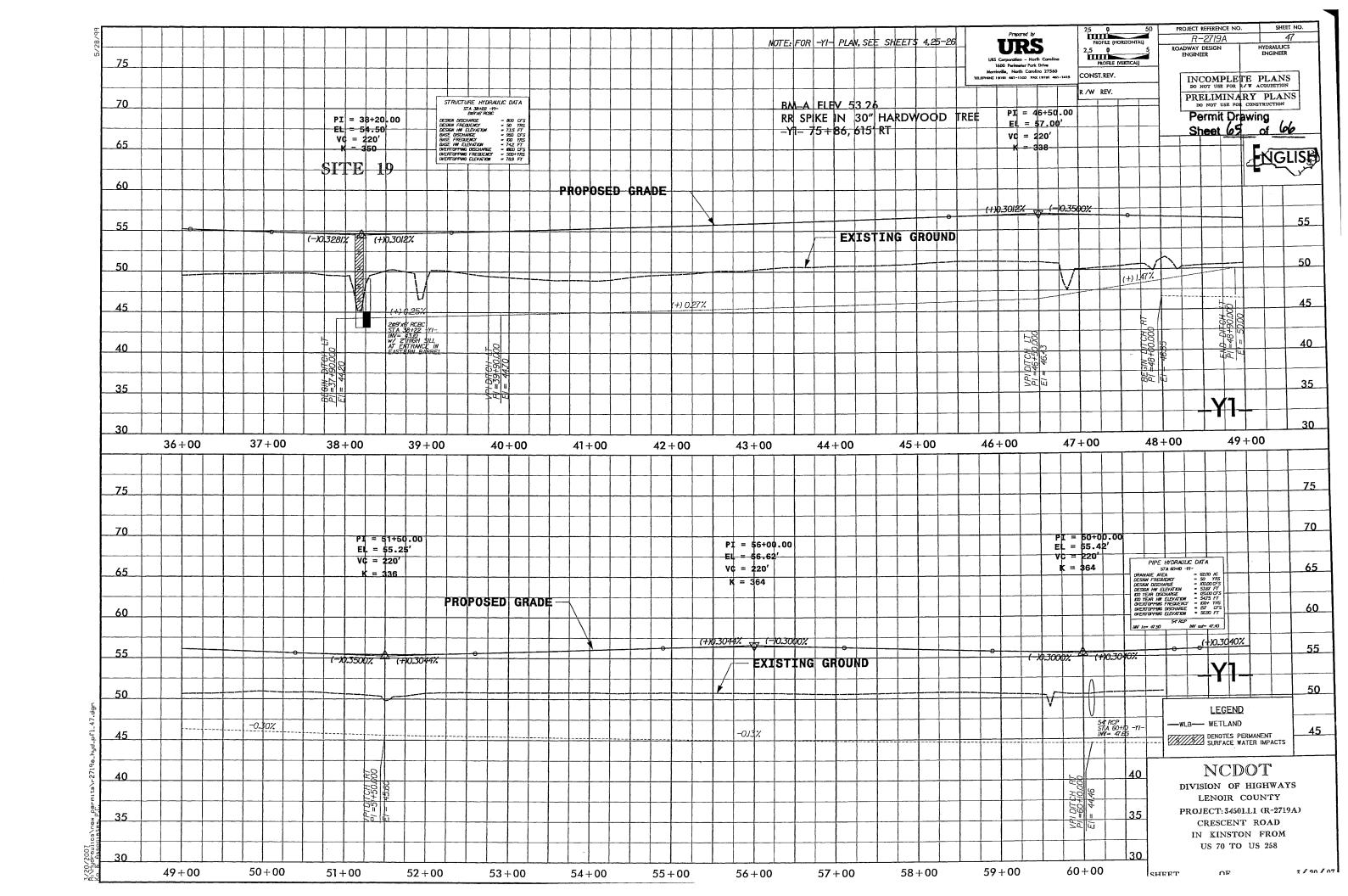


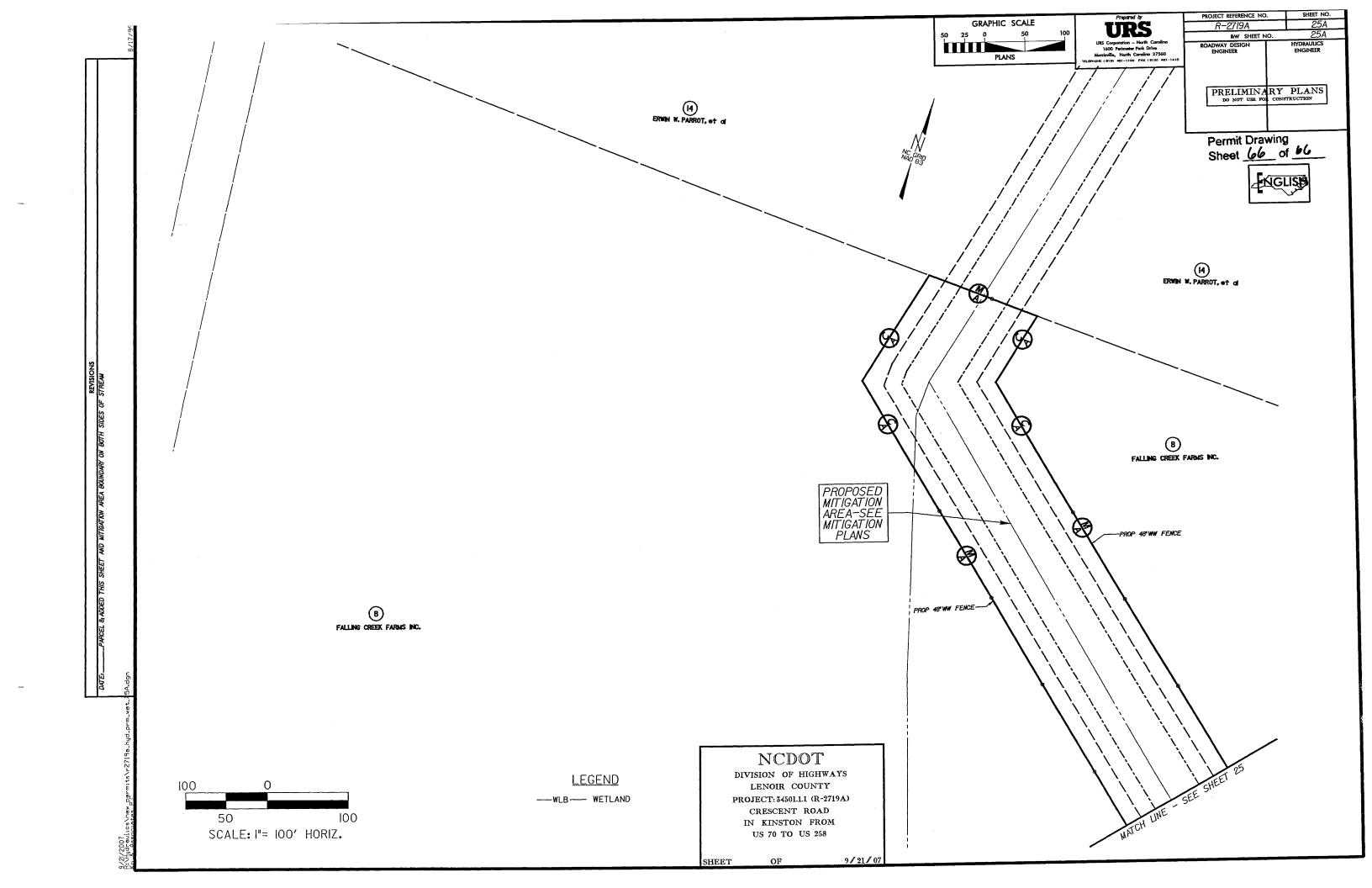


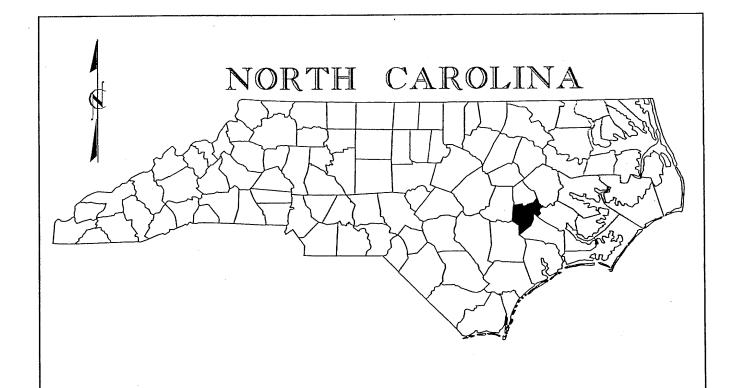
5 / 26 / 06

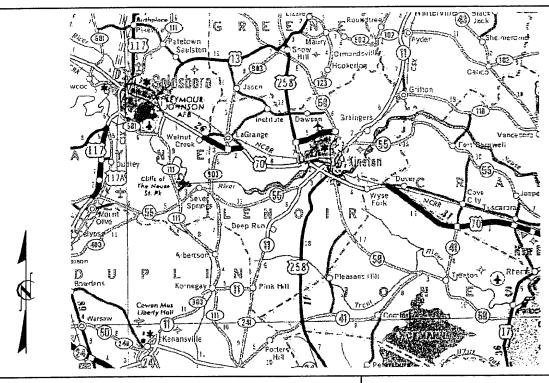
OF

SHEET









# VICINITY MAP

Buffer Drawing Sheet \_\_\_\_ of \_\_3/\_\_

#### NCDOT

DIVISION OF HIGHWAYS
LENOIR COUNTY
PROJECT: 3450LL1 (R-2719A)
CRESCENT ROAD
IN KINSTON FROM
US 70 TO US 258

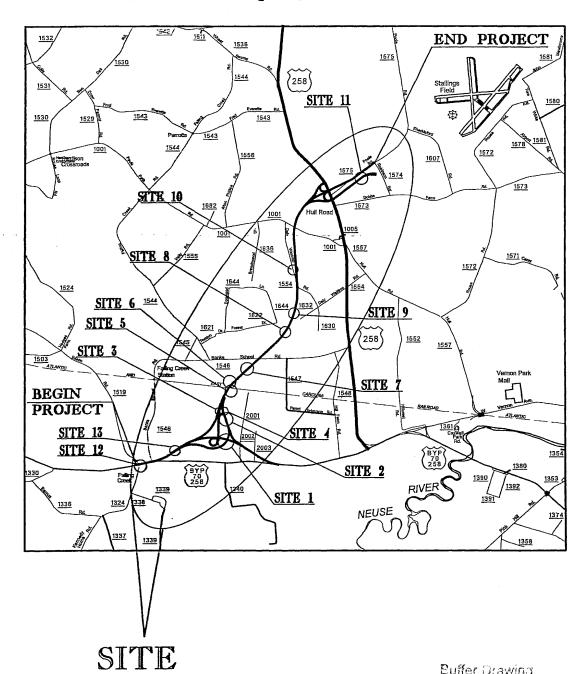
SHEET

OF

5/26/06

6/2/2006 Billydroulics\new\_permits\r271

## BUFFER SITE MAP



Euffer Drawing Sheet 2 of 31

### NCDOT

DIVISION OF HIGHWAYS
LENOIR COUNTY
PROJECT: 34501.1.1 (R-2719A)
CRESCENT ROAD
IN KINSTON FROM
US 70 TO US 258

OF



SHEET

3/20/07

2007 draulica\nex\_permits\r2719e\_Hud\_prm\_buf\_tsh.d

## BUFFER WETLAND BOUNDARY ₩LB-WETLAND ALLOWABLE IMPACTS ZONE I ALLOWABLE IMPACTS ZONE 2 MITIGABLE IMPACTS ZONE I MITIGABLE IMPACTS ZONE 2 ---BZ --- RIPARIAN BUFFER ZONE ---BZ1--- RIPARIAN BUFFER ZONE 1 3Ø ft (9.2m) -BZ2- RIPARIAN BUFFER ZONE 2 2Ø ft (6.1m) ➤ FLOW DIRECTION - TOP OF BANK WE -EDGE OF WATER \_C\_\_\_ PROP.LIMIT OF CUT E\_\_ PROP.LIMIT OF FILL - PROP. RIGHT OF WAY — NG — — NATURAL GROUND PL PROPERTY LINE -TDE- TEMP. DRAINAGE **EASEMENT** -- PDE---- PERMANENT DRAINAGE **EASEMENT** --- EAB--- EXIST. ENDANGERED ANIMAL BOUNDARY — EPB— EXIST. ENDANGERED PLANT BOUNDARY --- WATER SURFACE

LIVE STAKES

COIR FIBER ROLLS

BOULDER



PROPOSED BRIDGE

PROPOSED BOX CULVERT

PROPOSED PIPE CULVERT (DASHED LINES DENOTE

EXISTNG STRUCTURES)

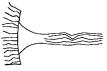
12"-48" PIPES 54' PIPES & ABOVE

£3

SINGLE TREE

WOODS LINE

DRAINAGE INLET



ROOTWAD

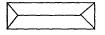
RIP RAP



ADJACENT PROPERTY OWNER OR PARCEL NUMBER IF AVAILABLE



PREFORMED SCOUR HOLE (PSH)



LEVEL SPREADER (LS)



DITCH/ GRASS SWALE

**Buffer Drawing** Sheet 3 of 3/

#### NCDOT

DIVISION OF HIGHWAYS LENOIR COUNTY PROJECT: 3450L1.1 (R-2719A) CRESCENT ROAD IN KINSTON FROM US 70 TO US 258

SHEET

OF

5 / 26 / 06

# BUFFER IMPACTS SUMMARY OF AFFECTED PROPERTY OWNERS

TRACT NO.	PROPERTY OWNER	ADDRESS	SITE NO.
8	FALLING CREEK FARMS INC.	818 WEST MINISTER LN KINSTON, NC 28501	13
14	ERWIN W.PARROT, et al	818 WEST MINISTER LN KINSTON, NC 28501	1,2,3 & 4
<u>l6</u>	PROPERTY OF LENOIR COUNTY	PO BOX 3289 KINSTON, NC 28502-3289	l <b>,</b> 2
33	FALLING CREEK FARMS INC.	818 WEST MINISTER LN KINSTON, NC 28501	2,5
34)	JOHN P. CASEY	2702 BANKS SCHOOL RD KINSTON, NC 28504	6
38	THE STATE OF NORTH CAROLINA	II6 WEST JONES ST RALEIGH, NC 27603	6,7
46)	THE STATE OF NORTH CAROLINA	NG WEST JONES ST RALEIGH, NC 27603	8
48	THE STATE OF NORTH CAROLINA	II6 WEST JONES ST RALEIGH, NC 27603	8
(5l)	ELLIS A. KING, et al	PO BOX 6007 KINSTON, NC 28502	8,9
60)	HATTIE E. DALY ESTATE	12807 PINE TREE LANE FORT WASHINGTON, MD 20744	9
62)	NINA L. HILL	2189 PAULS PATH ROAD KINSTON, NC 28504	10
		The second secon	

Buffer Drawing Sheet 4 of 3/

#### NCDOT

DIVISION OF HIGHWAYS LENOIR COUNTY PROJECT: 34501.1.1 (R-2719A) CRESCENT ROAD IN KINSTON FROM US 70 TO US 258



SHEET

			BUFF	ER II	BUFFER IMPACTS SUMMARY	S SU	MMAF	≿					
							IMPACT					BUF	RUFFFR
				TYPE		AL	ALLOWABLE	E		MITIGABLE		REPLAC	REPLACEMENT
SITE NO.	STRUCTURE SIZE / TYPE	STATION (FROM/TO)	ROAD CROSSING BRIDGE	BRIDGE	PARALLEL IMPACT	ZONE 1 (ft²)	ZONE 2 (ft²)	TOTAL (ff²)	ZONE 1 (ft²)	ZONE 2 (ft²)	TOTAL (ft²)	ZONE 1 (ft²)	ZONE 2 (ft²)
-	3@12'X10' RCBC	-71-74+43	×						37815	22339	60154		
2	3@12'X10' RCBC	-Y1RPCA- 16+14	×						49052	29064	78116		
က	60" RCP	05+69-T-	×						10004	6561	16565		
4	60" RCP	-Y1RPCA- 9+20	×			7794	5174	12968					
5	2@60" RCP	-SVRD5- 21+90	×			4119	2798	6917					
9	DUAL BRIDGES	-L- 87+50		×		20004	14987	34991					
*/	36" RCP	-L- 103+73	×						19349	14532	33881		
80	2@9'X8' RCBC	-L- 139+60	×						21619	12965	34584		
6	2@8'X8' RCBC	-L- 153+62	×						17781	10457	28238		
10	EXISTING 15" PLASTIC PIPE	-SVRD4- 19+00	×				129	129					
11	TEMP 48" CSP	-Y6- 33+75	×			6596	4469	11065					
12	EXISTING BRIDGE	-Y1- 15+00	×				586	286					
13	2@9'X6' RCBC	-Y1- 38+22	×						19945	10495	30440		
TOTAL:						38513	28143	66656	175565	106413	281978		

\* SEE MITIGATION PLANS

Site 6 - Impacts include need for Construction Access to Bridge/Piers.

N.C. DEPT. OF TRANSPORTATION DIVISION OF HIGHWAYS

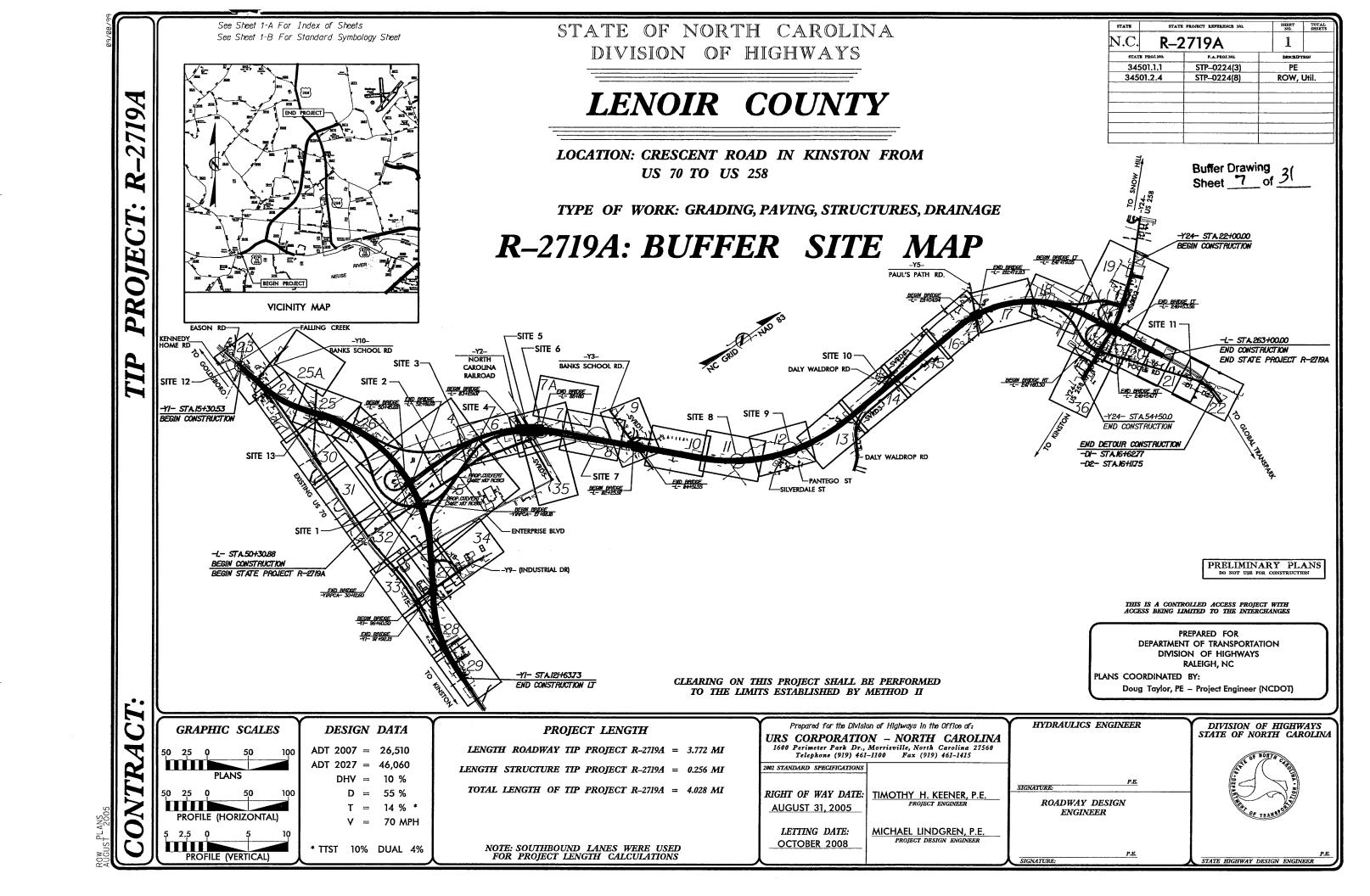
LENOIR COUNTY PROJECT: 34501.1.1 (R-2719A)

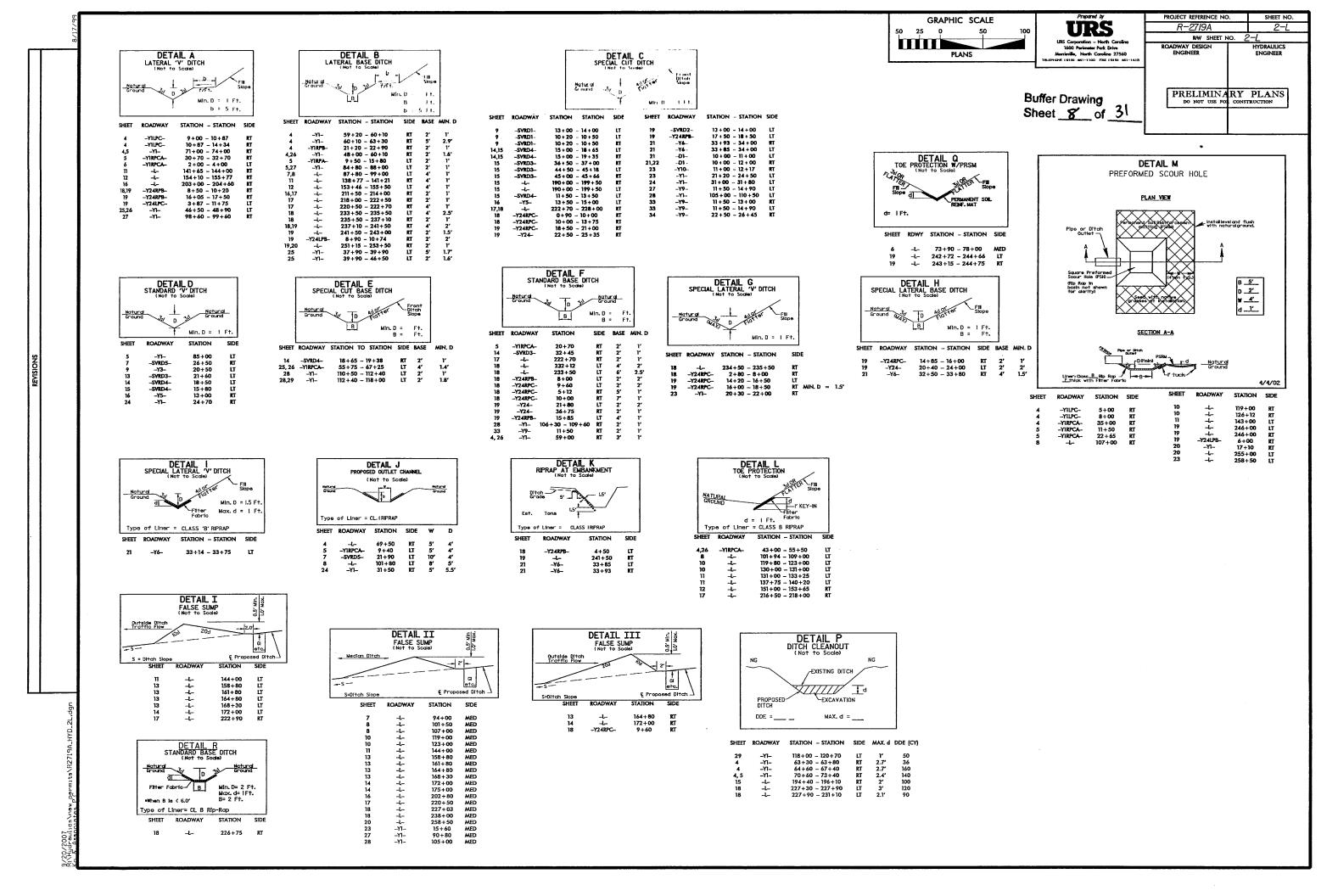
9/20/2007 SHEET OF

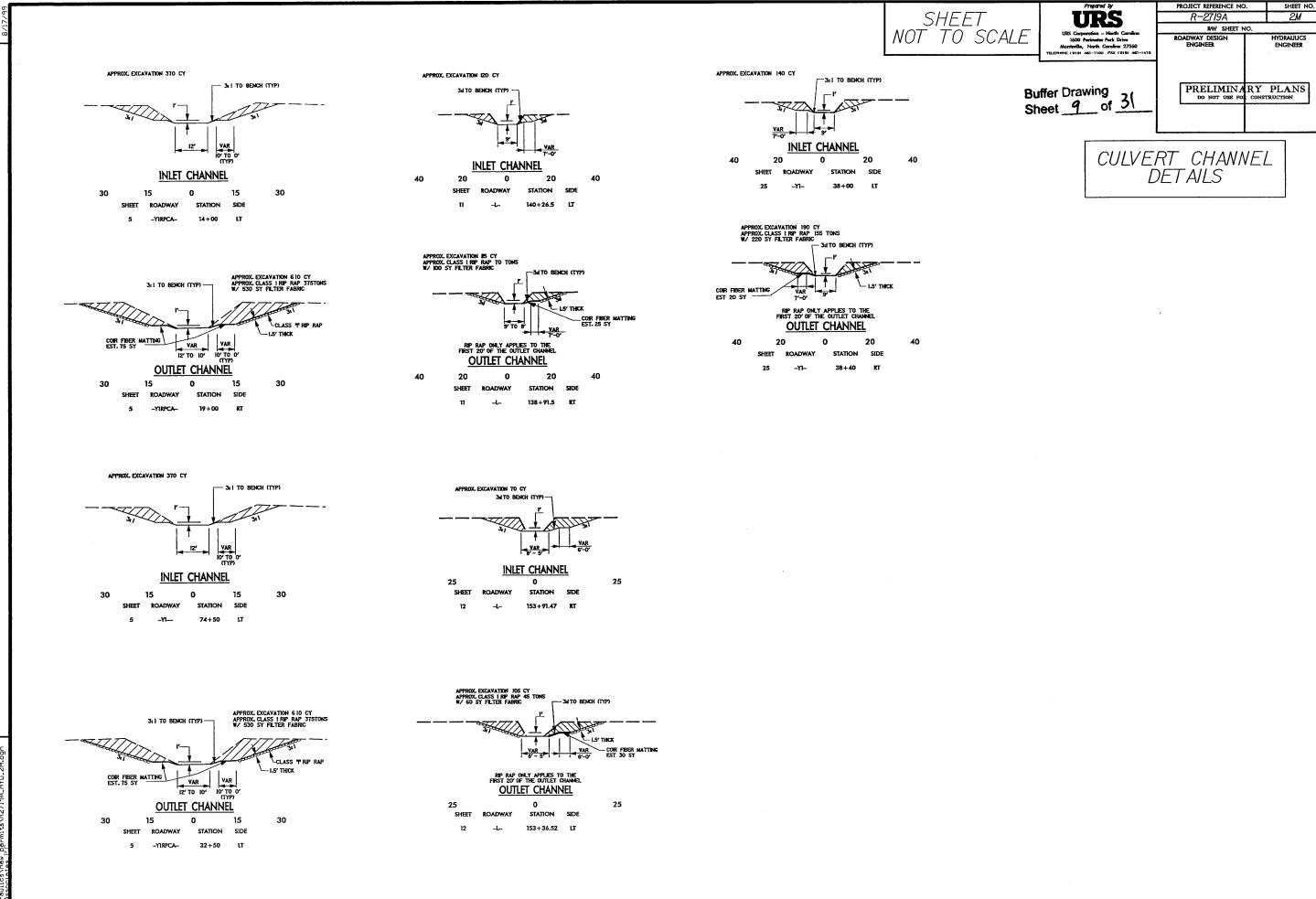
Buffer Drawing Sheet 5 of

B	BUFFER IMPACTS SUMMARY	ACTS SUMI	MARY	
		WETLANDS IN BUFFER	IN BUFFER	
Site	Station	ZONE 1 (ft²)	ZONE 2 (ft²)	
8	-L- 139+60	9646	5333	
6	-L- 153+62	7787	4499	
-				
		17433	9832	
				N.C. DEPT. OF TRANSPORTATION DIVISION OF HIGHWAYS
				LENOIR COUNTY PROJECT: 34501.1.1 (R-2719A)
				5/26/2006 SHEET OF

Buffer Drawing Sheet 6 of 3







PROJECT REFERENCE NO.

R-2719A

