



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

PAT MCCRORY
GOVERNOR

ANTHONY J. TATA
SECRETARY

November 1, 2013

Addendum No. 1

RE: Contract ID C203171

WBS # 32635.3.FR6

F. A. # BRNHF-0012(55)

Dare County (B-2500A)

Long Term Improvements (Phase II) To Pea Island On NC-12

November 19, 2013 Letting

To Whom It May Concern:

Reference is made to the proposal form furnished to you on this project.

The following revisions have been made to the proposal:

The first page of the Table of Contents has been revised to include the below noted new project special provision. Please void the first page of the Table of Contents in your proposal and staple the revised page thereto.

On Page No. 38 the project special provision entitled "Notes To Contractor" has been added. Please void Page No. 38 in your proposal and staple the revised Page No. 38 thereto.

On Page Nos. 81 thru 83 the project special provision entitled "Bridge Deck Rideability and Grooving" has been replaced with the new project special provision entitled "Bridge Deck Rideability - International Roughness Index (IRI)". Please void Page Nos. 81 thru 83 in your proposal and staple the revised Page Nos. 81 thru 83 and New Page Nos. 83A and 83B thereto.

On Page No. 133 the last paragraph under "Construction Methods" and the first paragraph under "Measurement and Payment" of the project special provision entitled "Pile Jetting" has been revised. Please void Page No. 133 in your proposal and staple the revised Page No. 133 thereto.

Page No. R-1 has been revised to indicate that permits have been received. Please void Page No. R-1 in your proposal and staple the revised Page No. R-1 thereto.

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
CONTRACT STANDARDS AND DEVELOPMENT UNIT
1591 MAIL SERVICE CENTER
RALEIGH NC 27699-1591

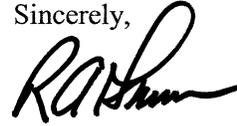
TELEPHONE: 919-707-6900
FAX: 919-250-4119

WEBSITE: www.ncdot.gov

LOCATION:
CENTURY CENTER COMPLEX
ENTRANCE B-2
1020 BIRCH RIDGE DRIVE
RALEIGH NC 27610

New Page Nos. R-2 thru R-147 have been added to include the permits required for the project. Please staple New Page Nos. R-2 thru R-147 in your proposal after revised Page No. R-1.

Sincerely,



R. A. Garris, PE
Contract Officer

RAG/jag

Attachments

cc: Mr. Ron Hancock, PE
Mr. Jerry Jennings, PE
Ms. D. M. Barbour, PE
Mr. J. V. Barbour, PE
Mr. G. R. Perfetti, PE
Mr. R.E. Davenport, PE
Mr. Brad Hibbs, PE (Attn: Mr. Jake Riggsbee, PE)
Project File (2)

Mr. Ray Arnold, PE
Ms. Natalie Roskam, PE
Mr. Ronnie Higgins
Ms. Marsha Sample
Mr. Larry Strickland
Ms. Lori Strickland

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100 grams of soil may indicate a high potential for turbidity and should be avoided when dewatering into surface water is proposed.

No additional compensation for monitoring borrow pit discharge will be paid.

EMPLOYMENT:

(11-15-11) (Rev. 1-17-12)

108, 102

SP1 G184

Revise the *2012 Standard Specifications* as follows:

Page 1-20, Subarticle 102-15(O), delete and replace with the following:

(O) Failure to restrict a former Department employee as prohibited by Article 108-5.

Page 1-65, Article 108-5 Character of Workmen, Methods, and Equipment, line 32, delete all of line 32, the first sentence of the second paragraph and the first word of the second sentence of the second paragraph.

STATE HIGHWAY ADMINISTRATOR TITLE CHANGE:

(9-18-12)

SP1 G185

Revise the *2012 Standard Specifications* as follows:

Replace all references to “State Highway Administrator” with “Chief Engineer”.

NOTES TO CONTRACTOR:

- 1) All construction equipment and personnel shall avoid all marked sea turtle nests. During turtle nesting season (May 1 to November 15), use the minimum number and the lowest wattage lights that are necessary for construction. During turtle nesting season, portable construction lighting shall be amber-colored LED lights with a predominant wavelength of approximately 650 nanometers. During turtle nesting season, utilize directional shields on all portable construction lights, and avoid directly illuminating the turtle nesting beach at night. During turtle nesting season, all portable construction lights shall be mounted as low to the ground as possible and all lights shall be turned off when not needed.
- 2) In order to obtain fresh water for construction activities on this project the Contractor will be allowed to construct a well within the Department’s existing Right of Way and the location must be approved by the Engineer. The well shall be properly sealed in accordance with Section 205 of the *Standard Specifications* when its use is no longer required. No separate measurement or payment will be made for this work as it is considered incidental to the various items in the contract.
- 3) All construction equipment and personnel shall avoid all Piping Plover designated bird closure areas within the Seashore and Refuge.
- 4) The Contractor’s attention is directed to the fact that Pea Island National Wildlife Refuge staff shall be allowed access to and use of all existing Refuge facilities and storage buildings during construction.

BRIDGE DECK RIDEABILITY – INTERNATIONAL ROUGHNESS INDEX (IRI)
(SPECIAL)

1.0 General

Perform the smoothness acceptance testing, diamond grinding, transverse grooving and all other related work associated with obtaining satisfactory rideability and surface texture of the bridge deck surface.

Use an inertial profiler(s) with line laser technology to perform this work. Contractor shall maintain responsibility for all costs relating to the procurement, handling, and maintenance of these devices.

2.0 Testing Requirements

Perform smoothness acceptance testing using an inertial profiler of the longitudinal profile of the finished bridge deck in the presence of the Engineer. Submit a proposed plan of action including but not limited to transition distances to begin and end testing, preparing start and stop markers for the profiler, handling of joints and blockouts, preparing segments to be tested, bridge deck preparation and cleaning and schedule for profiler testing for entire bridge deck surface to the Engineer. Produce International Roughness Index (IRI) and Mean Roughness Index (MRI) values for measuring smoothness.

Prior to smoothness testing, placement of the bridge deck and barrier rail within the section to be tested shall be complete, with the exception of blockouts required for the installation of joints. Do not install joints until the Engineer determines that the rideability requirements herein have been met. Joint locations shall be temporarily bridged sufficiently to facilitate operation of the profiler and corrective equipment across the joint including but not limited to filling joints with temporary material which is flush with surface on both sides and reasonably consolidated. Use a 10-ft stationary straightedge or other equipment furnished by the Contractor to ensure the joint locations are flush. Remove all obstructions from the bridge deck and sweep the surface clean of debris prior to profiler testing.

Use testing and recording software to produce electronic inertial road profiles in a format compatible with the latest version of FHWA's ProVAL (Profile Viewing and Analysis) software.

The inertial profiler shall be calibrated and verified in accordance with AASHTO M 328. Provide equipment calibration documentation and operator training certification that the inertial profiler system meets AASHTO M 328 to the Engineer before the first day the inertial profiler is used on the project.

Configure the profiler to record the elevation profile of the bridge deck surface. Do not use the profiler's internal IRI calculation mode. The profile data shall be filtered with a cutoff wavelength of 300 ft. The interval at which relative profile elevations are reported shall be 2".

Use personnel with proper training and experience to collect, record and evaluate IRI data.

Provide a competent operator, trained in the operation of the inertial profiler. Operation of the inertial profiling system shall conform to AASHTO R 57.

Provide the user selected inertial profiler settings to the Engineer for the project records. Certification of the inertial profiling system shall conform to AASHTO R 56.

Remove all objects and foreign material on the bridge deck surface prior to longitudinal bridge deck profile testing.

Traffic control and all associated activities included in the bridge deck smoothness testing of the bridge deck surface will be the responsibility of the Contractor.

Operate the profiler at any speed as per the manufacturer's recommendations, however, the speed shall be constant to within ± 3 mph of the intended speed and any required acceleration shall be gradual. For example, if the intended speed were 30 mph, the acceptable range of speed for testing would be 27 to 33 mph.

Operate the inertial profiler in the direction of the final traffic pattern. Collect IRI data from both wheel paths during the same run. It is permissible to collect data one wheel path at a time if each wheel path is tested and evaluated separately. Define a "wheel path" as 3 feet from the edge of the travel lane. MRI values are the average of the IRI values from both wheel paths. When using an inertial profiler that collects a single trace per pass, take care to ensure that the measurements from each trace in a travel lane start and stop at the same longitudinal locations. Unless otherwise specified, multiple runs are not necessary for data collection.

Operate the automatic triggering method at all times unless impractical. A tape stripe or traffic cone wrapped with reflective material may be used to alert the profiler's automatic triggering sensor to begin data collection. The profiler shall reach the intended operating speed before entering the test section. The runup and runout distances shall be sufficient to obtain the intended operating speed and to slow down after testing is completed.

The evaluation of the profiles will be performed on a section basis. A section is 0.05 mile of a single travel lane.

Perform all smoothness testing in the presence of the Engineer. Perform smoothness tests on the finished surface of the completed project or at the completion of a major stage of construction as approved by the Engineer. Coordinate with and receive authorization from the Engineer before starting smoothness testing. Perform smoothness tests within 7 days after receiving authorization. Any testing performed without the Engineer's presence, unless otherwise authorized, may be ordered retested at the Contractor's expense.

Areas excluded from testing by the profiler shall be tested by the Contractor and the Engineer using a 10-ft stationary straightedge furnished by the Contractor. Any location on the bridge deck selected by the Department shall be tested as well as all transverse joints. Apply the straightedge parallel to the centerline of the surface. Do not exceed 1/8" variation of the surface

being tested from the edge of the straightedge between any 2 contact points. Correct areas found to exceed this tolerance with corrective measures approved by the Engineer. Provide the work and materials required in the correction of defective work at no cost to the Department.

When corrections to the bridge deck surface are required, the method of correction shall be diamond grinding. See "Diamond Grinding" herein. Where corrections are made after the initial smoothness testing, the bridge deck will be retested by the Contractor to verify that corrections have produced the acceptable ride surface.

3.0 Reporting Requirements

After testing, transfer the profile data from the profiler portable computer's hard drive to a write once storage media (DVD-R or CD-R) or electronic media (flash drive) approved by the Engineer. Label the disk or electronic media with the Project number, Route, file number, date, and termini of the profile data. Submit the electronic data on the approved media to the Engineer immediately after testing and this media will not be returned to the Contractor.

Submit documentation and electronic data of the evaluation for each section to the Engineer within 10 days after completion of the smoothness testing. Submit the electronic files compatible with ProVAL and the evaluation in tabular form with each 0.05-mile segment occupying a row. Include each row with the beginning and ending station for the section, the length of the section, the original IRI values from each wheel path, and the MRI value for the section. Each continuous run for a section will occupy a separate table and each table will have a header that includes the following: the project contract number, county, the roadway number or designation, a lane designation, the dates of the smoothness runs, and the beginning and ending station of the continuous run. Summarize each table at the bottom.

IRI and MRI numbers recorded in inches per mile will be established from expansion joint to expansion joint for each travel lane of the finished bridge deck surface designated by the Contract.

4.0 Acceptance Criteria

The bridge deck smoothness acceptance criteria shall be an MRI, the average IRI from both wheel paths, of 130 in/mile or less.

5.0 Localized Roughness

Areas of localized roughness shall be identified through the "Smoothness Assurance Module" provided in the ProVAL software. Use the "Smoothness Assurance Module" to optimize repair strategies by analyzing the measurements from profiles collected using inertial profilers. The ride quality threshold for localized roughness shall be 300 in/mile at the continuous short interval of 25 ft. Submit a continuous roughness report to identify sections outside the threshold and identify all localized roughness areas.

The Department will review the localized roughness data and determine the areas that require any corrective action. Re-profile the corrected area to ensure that the corrective action was successful. If the corrective action is not successful, the Department will assess a penalty or require additional corrective action.

Corrective work for localized roughness shall be either diamond grinding or another method approved by the Engineer. Any corrective action performed shall not reduce the integrity or durability of the bridge deck that is to remain in place. Notify the Engineer 5 days prior to commencement of the corrective action.

Localized roughness correction work shall be for the entire traffic lane width. Bridge deck cross slope shall be maintained through corrective areas.

6.0 Diamond Grinding

If the deck does not meet the smoothness acceptance testing requirements, diamond grinding is required to make corrections. Diamond grind the full width of all lanes in the direction of travel.

Submit grinding equipment specifications to the Engineer for approval before any grinding is performed. Use a grinding machine with diamond tipped saw blades gang mounted on a power driven self-propelled machine capable of removing a minimum of 3 ft of width with each pass. Multiple passes may be needed to achieve the required depth of removal. In addition, hand grinding may be required to remove vertical steps between passes.

The ground surface shall consist of between 50 and 60 grooves per foot of width. The grooves shall be between 0.09" and 0.15" in width and 0.0625" in depth. The area between the grooves shall be between 0.06" and 0.13" in width. The final concrete texture shall be uniform.

Construct and operate the grinding machine such that it will not cause strain or damage to the deck surface, excessive ravels, aggregate fractures, spalls, or disturbance of transverse joints. Longitudinally grind the deck parallel to the roadway centerline.

Continuously remove all slurry or other debris resulting from the grinding operations by vacuum pick-up or other approved methods. Prevent the slurry from flowing into floor drains, onto the ground or into the body of water under the bridge. Dispose of all residues in accordance with Section 802 of the *2012 Standard Specifications*.

In completing all corrective work on the deck surface to satisfy the rideability criteria stated herein, limit grinding such that the final reinforcement cover is not less than the plan cover minus 1/2". In cases where this cannot be achieved, other corrective work may be required as directed by the Engineer.

If corrective action is required on an area equal to or greater than of 50% of the joint to joint section, then corrective action will be required on the entire section at no cost to the Department.

7.0 Grooving Bridge Floors

After the concrete surface profile has been accepted by the Engineer, the concrete blockouts poured, and the joints installed, groove the bridge deck in accordance with Subarticle 420-14(B) of the *2012 Standard Specifications*.

New 11-1-13

Project B-2500A

83B

Dare County

8.0 Basis of Payment

No separate payment will be made for the profiler testing or diamond grinding of the bridge deck. The cost of testing procedure, equipment, grinding operation, and removal and disposal of slurry resulting from the grinding operation is considered incidental to the contract bid price for "Reinforced Concrete Deck Slab".

excessive pile tensile stresses are observed. Mark all jet pipes and piles at 1-ft increments to aid in determining penetration depths.

For square concrete piles, the required pile driving resistance will be determined after completely withdrawing the jets. After jetting piles, drive square concrete piles to the required driving resistance and to a minimum of 5 feet below the final jet elevation unless pile refusal is met per the pile driving criteria. Restrike, at no cost to the Department, previously accepted square concrete piles to re-verify bearing if jetting occurs within 15 feet of the completed pile location.

Measurement and Payment

There will be no separate payment for pile jetting, spoil containment, protection of adjacent travel ways, or repair of adjacent travel ways damaged by jetting for either square concrete pile or concrete sheet pile, or restiking of previously accepted square concrete piles due to jetting within 15 feet of completed pile locations. All costs associated with jetting, spoil containment, protection of adjacent travel ways, and repair of adjacent travel ways damaged by jetting are incidental to the cost of the pile. No payment for jetting spoil disposal will be made if the Engineer directs the spoil to be disposed of within the project limits.

If the Engineer requires off-site jetting spoil disposal, measurement and payment for off-site disposal of jetting spoils will be accordance this provision. The quantity of *Off-site Jetting Spoil Disposal* to be measured for payment will be the actual quantity of *Off-site Jetting Spoil Disposal* in cubic yards as measured at the disposal site in its final location. The quantity of *Off-site Jetting Spoil Disposal* measured as provided above will be paid for at the contract unit price per cubic yard for *Off-site Jetting Spoil Disposal*. Seeding and mulching, fertilizer top dressing and establishing erosion control measures for waste or disposal areas will be measured and paid at the contract unit prices for the items established in the contract. The unit bid price for *Off-site Jetting Spoil Disposal* shall include all costs to meet the requirements of Section 802 of the NCDOT Standard Specifications except as otherwise provided above.

Payment for *Off-site Jetting Spoil Disposal* for will be made:

Pay Item

Pay Unit

Off-site Jetting Spoil Disposal

Cubic Yard

C203171 (B-2500A)

Dare County

PROJECT SPECIAL PROVISION

(10-18-95) (Rev. 10-15-13)

Z-1

PERMITS

The Contractor's attention is directed to the following permits, which have been issued to the Department of Transportation by the authority granting the permit.

PERMIT

AUTHORITY GRANTING THE PERMIT

Dredge and Fill and/or Work in Navigable Waters (404)	U. S. Army Corps of Engineers
Water Quality (401)	Division of Environmental Management, DENR State of North Carolina
State Dredge and Fill and/or CAMA	Division of Coastal Management, DENR State of North Carolina
Special Use Permit	U. S. Department of the Interior

The Contractor shall comply with all applicable permit conditions during construction of this project. Those conditions marked by * are the responsibility of the Department and the Contractor has no responsibility in accomplishing those conditions.

Agents of the permitting authority will periodically inspect the project for adherence to the permits.

The Contractor's attention is also directed to Articles 107-10 and 107-13 of the *2012 Standard Specifications* and the following:

Should the Contractor propose to utilize construction methods (such as temporary structures or fill in waters and/or wetlands for haul roads, work platforms, cofferdams, etc.) not specifically identified in the permit (individual, general, or nationwide) authorizing the project it shall be the Contractor's responsibility to coordinate with the Engineer to determine what, if any, additional permit action is required. The Contractor shall also be responsible for initiating the request for the authorization of such construction method by the permitting agency. The request shall be submitted through the Engineer. The Contractor shall not utilize the construction method until it is approved by the permitting agency. The request normally takes approximately 60 days to process; however, no extensions of time or additional compensation will be granted for delays resulting from the Contractor's request for approval of construction methods not specifically identified in the permit.

Where construction moratoriums are contained in a permit condition which restricts the Contractor's activities to certain times of the year, those moratoriums will apply only to the portions of the work taking place in the waters or wetlands provided that activities outside those areas is done in such a manner as to not affect the waters or wetlands.

U.S. ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT

Action Id. SAW-2013-01039 County: Dare U.S.G.S. Quad: Pea Island, NC

GENERAL PERMIT (REGIONAL AND NATIONWIDE) VERIFICATION

<u>Property Owner: Richard Hancock</u>	<u>Agent:</u> _____
<u>Environmental Management Director,</u>	_____
<u>PDEA</u>	<u>Address:</u> _____
<u>Address: N.C. Department of Transportation</u>	_____
<u>1598 Mail Service Center</u>	_____
<u>Raleigh, North Carolina</u>	_____
<u>27699-1598</u>	_____

Size and location of property (water body, road name/number, town, etc.): The project area is located within the existing NCDOT NC Highway 12 easement and will also include generally a 5 foot wide temporary construction easement obtained from the Pea Island National Wildlife Refuge. The project starts approximately 5.5 miles south of the southern terminus of the Bonner Bridge (at the southern end of the of the Refuge's south pond) and continues approximately 2.7 miles to the south. The project is adjacent to the Pamlico Sound. This portion of the project is considered Phase IIA of the overall TIP project B-2500 Latitude: Start 35.691655 End 35.651892 Longitude: Start -75.485098, End -75.477053

Description of projects area and activity: Applicant proposes to permanently impact 0.22 acres of jurisdictional wetlands and temporarily impact 0.90 acres of wetlands and 0.28 acres of open waters associated with the replacement of an existing three span temporary bridge over "New Inlet" with a permanent 2.1 mile long bridge. A temporary detour road is being constructed so two way traffic may be maintained on the highway system while NC Highway 12 is being modified. Approximately 1.75 miles of the detour road will remain following bridge construction to provide access to to an existing parking lot and boat access area located on PINWR property. The project is also authorized to temporarily impact (hand clear) 0.42 acres of wetlands for road and bridge construction purposes (typically the installation and maintenance of soil and erosion measures). NOTE - This permit is only authorizing section 404 discharges associated with the construction of the temporary soundbound detour road. Any bridge construction activities occurring completely on high ground is not associated with this authorization. NOTE - SEE ADDITIONAL SPECIAL CONDITIONS

Applicable Law: Section 404 (Clean Water Act, 33 USC 1344)
 Section 10 (Rivers and Harbors Act, 33 USC 403)
Authorization: Regional General Permit Number or Nationwide Permit Number: NWP 14

SEE ATTACHED NATIONWIDE AND SPECIAL CONDITIONS.

Your work is authorized by the above referenced permit provided it is accomplished in strict accordance with the attached conditions and your submitted application and attached information dated August 27, 2013. Any violation of the attached conditions or deviation from your submitted plans may subject the permittee to a stop work order, a restoration order and/or appropriate legal action.

This verification will remain valid until the expiration date identified below unless the nationwide authorization is modified, suspended or revoked. If, prior to the expiration date identified below, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until the expiration date identified below, provided it complies with all requirements of the modified nationwide permit. If the nationwide permit authorization expires or is suspended, revoked, or is modified, such that the activity would no longer comply with the terms and conditions of the nationwide permit, activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon the nationwide permit, will remain authorized provided the activity is completed within twelve months of the date of the nationwide permit's expiration, modification or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend or revoke the authorization.

Activities subject to Section 404 (as indicated above) may also require an individual Section 401 Water Quality Certification. You should contact the NC Division of Water Quality (telephone (919) 733-1786) to determine Section 401 requirements.

For activities occurring within the twenty coastal counties subject to regulation under the Coastal Area Management Act (CAMA), prior to beginning work you must contact the N.C. Division of Coastal Management .

This Department of the Army verification does not relieve the permittee of the responsibility to obtain any other required Federal, State or local approvals/permits.

If there are any questions regarding this verification, any of the conditions of the Permit, or the Corps of Engineers regulatory program, please contact Tracey Wheeler at (910) 251-4627.

Corps Regulatory Official Tracey Wheeler

Date: October 24, 2013

Expiration Date of Verification: March 18, 2017

The Wilmington District is committed to providing the highest level of support to the public. To help us ensure we continue to do so, please complete the attached customer Satisfaction Survey or visit <http://per2.nwp.usace.army.mil/survey.htm> to complete the survey online.

Copy Furnished:

Determination of Jurisdiction:

- A. Based on preliminary information, there appear to be waters of the US including wetlands within the above described project area. This preliminary determination is not an appealable action under the Regulatory Program Administrative Appeal Process (Reference 33 CFR Part 331).
- B. There are Navigable Waters of the United States within the above described project area subject to the permit requirements of Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- C. There are waters of the US and/or wetlands within the above described project area subject to the permit requirements of Section 404 of the Clean Water Act (CWA)(33 USC § 1344). Unless there is a change in the law or our published regulations, this determination may be relied upon for a period not to exceed five years from the date of this notification.
- D. The jurisdictional areas within the above described project area have been identified under a previous action. Please reference jurisdictional determination issued January 22, 2013. Action ID SAW-2013-00107.

Basis For Determination

The site exhibits wetland criteria as defined in the 1987 Corps Wetland Delineation Manual and appropriate Regional Supplement.

Remarks. See above referenced file.

Attention USDA Program Participants

This delineation/determination has been conducted to identify the limits of Corps' Clean Water Act jurisdiction for the particular site identified in this request. The delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are USDA Program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service, prior to starting work.

F. Appeals Information (This information applies only to approved jurisdictional determinations as indicated in B and C above).

This correspondence constitutes an approved jurisdictional determination for the above described site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and request for appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the following address:

US Army Corps of Engineers
 South Atlantic Division
 Attn: Jason Steele, Review Officer
 60 Forsyth Street SW, Room 10M15

ADDITIONAL SPECIAL CONDITIONS

Action I.D. # SAW-2013-01039 – NCDOT, NC Highway 12, TIP # B-2500, Phase II

A, Dare

County, NC

- a) All work authorized by this permit must be performed in strict compliance with the attached plans dated/submitted August 27, 2013, which is a part of this permit. Any modification to these plans must be approved by the US Army Corps of Engineers (USACE) prior to implementation.
- b) 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 or 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.
- 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. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. This prohibition applies to all borrow and fill activities connected with this project.
- d) The Permittee shall schedule an onsite preconstruction meeting between its representatives, the contractor's representatives and the appropriate Corps of Engineers Project Manager prior to undertaking any work within jurisdictional waters and wetlands to ensure that there is a mutual understanding of all terms and conditions contained within the Department of the Army permit. The Permittee shall notify the Corps of Engineers Project Manager a minimum of thirty (30) days in advance of the scheduled meeting in order to provide that individual with ample opportunity to schedule and participate in the required meeting.
- e) 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.
- f) Violation of these conditions or violation of Section 404 of the Clean Water Act of Section 10 of the Rivers and Harbors Act must be reported in writing to the Wilmington District U.S. Army Corps of Engineers within 24 hours of the permittee's discovery of the violation.
- g) A representative of the Corps of Engineers will periodically and randomly inspect the work for compliance with these conditions. Deviations from these procedures may result in an administrative financial penalty and/or directive to cease work until the problem is

resolved to the satisfaction of the Corps.

h) This permit only authorizes work on Phase II A of TIP B-2500. Construction on subsequent phases of TIP B-2500 shall not commence until approval has been obtained by the US Army Corps of Engineers (the Corps) in accordance with this permit authorization through an approved modification or a separate permit authorization.

i) The Permittee shall fully implement the Programmatic Agreement between the Permittee, the North Carolina State Historic Preservation Officer, the Advisory Council on Historic Preservation, and the Federal Highway Administration, signed in November 2010, which is incorporated herein by reference.

j) 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, or shall any activities take place that cause the degradation of waters or wetlands. There shall be no excavation from, waste disposal into, or degradation of, jurisdictional wetlands or waters associated with this permit without appropriate modification of this permit, including appropriate compensatory mitigation. This prohibition applies to all borrow and fill activities connected with this project. 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.

k). The Permittee shall fully implement the compensatory mitigation plan, entitled Final Wetland Mitigation Plan NC 12 Replacement of Herbert C. Bonner Bridge (Bridge No. 11) over Oregon Inlet, dated January 30, 2013 for the unavoidable impacts to 0.22 acres of wetlands. Activities prescribed by this plan shall be initiated prior to, or concurrently with, commencement of any construction activities within jurisdictional areas authorized by this permit. The permittee shall rehabilitate 50 acres of wetlands in accordance with the plan with the following conditions:

- 1) The permittee, North Carolina Department of Transportation, is the party responsible for the implementation, performance and long term management of the compensatory mitigation project.
- 2) Any changes or modifications to your mitigation plan shall be approved by the Corps.
- 3) The permittee shall maintain the entire mitigation site in its natural condition, as altered by the work in the mitigation plan, in perpetuity. Prohibited activities within the mitigation site specifically include, but are not limited to: Filling; grading; excavating; earth movement of any kind; construction of roads, walkways, buildings, signs, or any other structure; any activity that may alter the drainage patterns on the property; the destruction, cutting, removal, mowing, or other alteration of vegetation

on the property; disposal or storage of any garbage, trash, debris or other waste material; graze or water animals, or use for any agricultural or horticultural purpose; or any other activity which would result in the property being adversely impacted or destroyed, except as specifically authorized by this permit.

4) In accordance with the mitigation plan, the permittee will identify the proposed preservation mechanism to be used to maintain the entire mitigation site in perpetuity, subject to the approval of the Wilmington District. The District considers preservation of property for compensatory mitigation purposes to consist of maintaining the property in its natural condition, or, if restoration, creation, or enhancement work has been performed on the property, in its mitigated condition. There are several preservation mechanisms that may be used to preserve mitigation property, including, conservation easements, restrictive covenants, and conservation declaration of restrictions. Fee conveyance to an acceptable conservation organization may also be acceptable. The permittee shall not sell or otherwise convey any interest in the mitigation property used to satisfy the mitigation requirements for this permit to any third party, without prior written approval from the Wilmington District Corps of Engineers.

5) All mitigation areas shall be monitored for a minimum of 5 years or until deemed successful by the Corps in accordance with the monitoring requirements included in the mitigation plan.

Atlanta, Georgia 30303-8801
Phone: (404) 562-5137

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR part 331.5, and that it has been received by the Division 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 N/A.

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this correspondence.

Corps Regulatory Official: _____

Date: _____

Expiration Date: _____

Copy furnished: _____

Action ID Number: SAW-2013-01039

County: Dare

Permittee: N.C. Department of Transportation

Date Permit Issued: October 24, 2013

Project Manager: Tracey Wheeler

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

US ARMY CORPS OF ENGINEERS
WILMINGTON DISTRICT
Attn: Tracey Wheeler
Washington Regulatory Field Office
2407 West 5th Street
Washington, North Carolina 27889

Please note that your permitted activity is subject to a compliance inspection by a U. S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and condition of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature of Permittee

Date

**NATIONWIDE PERMIT 14
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 19, 2012**

Linear Transportation Projects. Activities required for the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project.

This NWP also authorizes temporary structures, fills, and work necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

- * **Notification:** The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 31.) (Sections 10 and 404)

Note: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under Section 404(f) of the Clean Water Act (see 33 CFR 323.4).

NATIONWIDE PERMIT CONDITIONS

The following General Conditions must be followed in order for any authorization by a NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.

* (c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

* (c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA

section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of

the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

* 30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- (b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

- * 31. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:
- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
 - (2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).
- (b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:
- (1) Name, address and telephone numbers of the prospective permittee;
 - (2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

D. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. The district engineer will also consider site specific factors, such as the environmental setting in the

vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

3. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (a) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period, with activity-specific

conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

FURTHER INFORMATION

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

DEFINITIONS

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term “discharge” means any discharge of dredged or fill material.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Ephemeral stream: An ephemeral stream has flowing water only during, and for a short duration after, precipitation events in a typical year. Ephemeral stream beds are located above the water table year-round. Groundwater is not a source of water for the stream. Runoff from rainfall is the primary source of water for stream flow.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water’s surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence

of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Intermittent stream: An intermittent stream has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities eligible for exemptions under Section 404(f) of the Clean Water Act are not considered when calculating the loss of waters of the United States.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. The definition of a wetland can be found at 33 CFR 328.3(b). Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of standing or

flowing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: An ordinary high water mark is a line on the shore established by the fluctuations of water and indicated by physical characteristics, or by other appropriate means that consider the characteristics of the surrounding areas (see 33 CFR 328.3(e)).

Perennial stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for most of the year. Groundwater is the primary source of water for stream flow. Runoff from rainfall is a supplemental source of water for stream flow.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands adjacent to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through

which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent

mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a wetland (i.e., water of the United States) that is inundated by tidal waters. The definitions of a wetland and tidal waters can be found at 33 CFR 328.3(b) and 33 CFR 328.3(f), respectively. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line, which is defined at 33 CFR 328.3(d).

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWP, a waterbody is a jurisdictional water of the United States. If a jurisdictional wetland is adjacent – meaning bordering, contiguous, or neighboring – to a waterbody determined to be a water of the United States under 33 CFR 328.3(a)(1)-(6), that waterbody and its adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)). Examples of “waterbodies” include streams, rivers, lakes, ponds, and wetlands.

Final Regional Conditions 2012**NOTICE ABOUT WEB LINKS IN THIS DOCUMENT:**

The web links (both internal to our District and any external links to collaborating agencies) in this document are valid at the time of publication. However, the Wilmington District Regulatory Program web page addresses, as with other agency web sites, may change over the timeframe of the five-year Nationwide Permit renewal cycle, in response to policy mandates or technology advances. While we will make every effort to check on the integrity of our web links and provide re-direct pages whenever possible, we ask that you report any broken links to us so we can keep the page information current and usable. We apologize in advanced for any broken links that you may encounter, and we ask that you navigate from the regulatory home page (wetlands and stream permits) of the Wilmington District Corps of Engineers, to the "Permits" section of our web site to find links for pages that cannot be found by clicking directly on the listed web link in this document.

**Final 2012 Regional Conditions for Nationwide Permits (NWP) in the
Wilmington District****1.0 Excluded Waters**

The Corps has identified waters that will be excluded from the use of all NWP's during certain timeframes. These waters are:

1.1 Anadromous Fish Spawning Areas

Waters of the United States identified by either the North Carolina Division of Marine Fisheries (NCDMF) or the North Carolina Wildlife Resources Commission (NCWRC) as anadromous fish spawning areas are excluded during the period between February 15 and June 30, without prior written approval from NCDMF or NCWRC and the Corps.

1.2 Trout Waters Moratorium

Waters of the United States in the twenty-five designated trout counties of North Carolina are excluded during the period between October 15 and April 15 without prior written approval from the NCWRC. (See Section 2.7 for a list of the twenty-five trout counties).

1.3 Sturgeon Spawning Areas as Designated by the National Marine Fisheries Service (NMFS)

Waters of the United States designated as sturgeon spawning areas are excluded during the period between February 1 and June 30, without prior written approval from the NMFS.

* **2.0 Waters Requiring Additional Notification**

The Corps has identified waters that will be subject to additional notification requirements for activities authorized by all NWP's. These waters are:

* **2.1 Western NC Counties that Drain to Designated Critical Habitat**

For proposed activities within Waters of the U.S. that require a Pre-Construction Notification pursuant to General Condition 31 (PCN) and are located in the sixteen counties listed below, applicants must provide a copy of the PCN to the US Fish and Wildlife Service, 160 Zillicoa Street, Asheville, North Carolina 28801. This PCN must be sent concurrently to the US Fish and Wildlife Service and the Corps Asheville Regulatory Field Office. Please see General Condition 18 for specific notification requirements related to Federally Endangered Species and the following website for information on the location of designated critical habitat.

Counties with tributaries that drain to designated critical habitat that require notification to the Asheville US Fish and Wildlife Service: Avery, Cherokee, Forsyth, Graham, Haywood, Henderson, Jackson, Macon Mecklenburg, Mitchell, Stokes, Surry, Swain, Transylvania, Union and Yancey.

Website and office addresses for Endangered Species Act Information:

The Wilmington District has developed the following website for applicants which provides guidelines on how to review linked websites and maps in order to fulfill NWP general condition 18 requirements: <http://www.saw.usace.army.mil/wetlands/ESA>

Applicants who do not have internet access may contact the appropriate US Fish and Wildlife Service offices listed below or the US Army Corps of Engineers at (910) 251- 4633:

US Fish and Wildlife Service
Asheville Field Office
160 Zillicoa Street
Asheville, NC 28801
Telephone: (828) 258-3939

Asheville US Fish and Wildlife Service Office counties: All counties west of and including Anson, Stanly, Davidson, Forsyth and Stokes Counties

US Fish and Wildlife Service
Raleigh Field Office
Post Office Box 33726
Raleigh, NC 27636-3726
Telephone: (919) 856-4520

Raleigh US Fish and Wildlife Service Office counties: all counties east of and including Richmond, Montgomery, Randolph, Guilford, and Rockingham Counties.

*** 2.2 Special Designation Waters**

Prior to the use of any NWP in any of the following identified waters and contiguous wetlands in North Carolina, applicants must comply with Nationwide Permit General Condition 31 (PCN). The North Carolina waters and contiguous wetlands that require additional notification requirements are:

“Outstanding Resource Waters” (ORW) or “High Quality Waters” (HQW) as designated by the North Carolina Environmental Management Commission; “Inland Primary Nursery Areas” (IPNA) as designated by the NCWRC; “Contiguous Wetlands” as defined by the North Carolina Environmental Management Commission; or “Primary Nursery Areas” (PNA) as designated by the North Carolina Marine Fisheries Commission.

2.3 Coastal Area Management Act (CAMA) Areas of Environmental Concern

Non-federal applicants for any NWP in a designated “Area of Environmental Concern” (AEC) in the twenty (20) counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA) must also obtain the required CAMA permit. Development activities for non-federal projects may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – 69 Darlington Avenue, Wilmington, NC 28403 or Washington Field Office – 2407 West 5th Street, Washington, NC 27889).

*** 2.4 Barrier Islands**

Prior to the use of any NWP on a barrier island of North Carolina, applicants must comply with Nationwide Permit General Condition 31 (PCN).

*** 2.5 Mountain or Piedmont Bogs**

Prior to the use of any NWP in a Bog classified by the North Carolina Wetland Assessment Methodology (NCWAM), applicants shall comply with Nationwide Permit General Condition 31 (PCN). The latest version of NCWAM is located on the NC DWQ web site at:

<http://portal.ncdenr.org/web/wq/swp/ws/pdu/ncwam> .

*** 2.6 Animal Waste Facilities**

Prior to use of any NWP for construction of animal waste facilities in waters of the US, including wetlands, applicants shall comply with Nationwide Permit General Condition 31 (PCN).

*** 2.7 Trout Waters**

Prior to any discharge of dredge or fill material into streams or waterbodies within the twenty-five (25) designated trout counties of North Carolina, the applicant shall comply with Nationwide Permit General Condition 31 (PCN). The applicant shall also provide a copy of the notification to the appropriate NCWRC office to facilitate the determination of any potential

impacts to designated Trout Waters. Notification to the Corps of Engineers will include a statement with the name of the NCWRC biologist contacted, the date of the notification, the location of work, a delineation of wetlands, a discussion of alternatives to working in the mountain trout waters, why alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to mountain trout waters.

NCWRC and NC Trout Counties

Western Piedmont Region Coordinator	Alleghany	Caldwell	Watauga
20830 Great Smoky Mtn. Expressway	Ashe	Mitchell	Wilkes
Waynesville, NC 28786	Avery	Stokes	
Telephone: (828) 452-2546	Burke	Surry	

Mountain Region Coordinator	Buncombe	Henderson	Polk
20830 Great Smoky Mtn. Expressway	Cherokee	Jackson	Rutherford
Waynesville, NC 28786	Clay	Macon	Swain
Telephone: (828) 452-2546	Graham	Madison	Transylvania
Fax: (828) 452-7772	Haywood	McDowell	Yancey

3.0 List of Corps Regional Conditions for All Nationwide Permits

The following conditions apply to all Nationwide Permits in the Wilmington District:

3.1 Limitation of Loss of Perennial Stream Bed

NWPs may not be used for activities that may result in the loss or degradation of greater than 300 total linear feet of perennial, intermittent or ephemeral stream, unless the District Commander has waived the 300 linear foot limit for ephemeral and intermittent streams on a case-by-case basis and he determines that the proposed activity will result in minimal individual and cumulative adverse impacts to the aquatic environment. Loss of stream includes the linear feet of stream bed that is filled, excavated, or flooded by the proposed activity. Waivers for the loss of ephemeral and intermittent streams must be in writing and documented by appropriate/accepted stream quality assessments*. This waiver only applies to the 300 linear feet threshold for NWPs.

*NOTE: Applicants should utilize the most current methodology prescribed by Wilmington District to assess stream function and quality. Information can be found at:

<http://www.saw.usace.army.mil/wetlands/permits/nwp/nwp2012> (see “Quick Links”)

3.2 Mitigation for Loss of Stream Bed

For any NWP that results in a loss of more than 150 linear feet of perennial and/or ephemeral/intermittent stream, the applicant shall provide a mitigation proposal to compensate for more than minimal individual and cumulative adverse impacts to the aquatic environment. For stream losses less than 150 linear feet, that require a PCN, the District Commander may determine, on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effect on the aquatic environment.

3.3 Pre-construction Notification for Loss of Streambed Exceeding 150 Feet.

Prior to use of any NWP for any activity which impacts more than 150 total linear feet of perennial stream or ephemeral/ intermittent stream, the applicant must comply with Nationwide Permit General Condition 31 (PCN). This applies to NWPs that do not have specific notification requirements. If a NWP has specific notification requirements, the requirements of the NWP should be followed.

3.4 Restriction on Use of Live Concrete

For all NWPs which allow the use of concrete as a building material, live or fresh concrete, including bags of uncured concrete, may not come into contact with the water in or entering into waters of the US. Water inside coffer dams or casings that has been in contact with wet concrete shall only be returned to waters of the US when it is no longer poses a threat to aquatic organisms.

3.5 Requirements for Using Riprap for Bank Stabilization

For all NWPs that allow for the use of riprap material for bank stabilization, the following measures shall be applied:

3.5.1. Filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

3.5.2. The placement of riprap shall be limited to the areas depicted on submitted work plan drawings.

3.5.3. The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities that would not have an adverse environmental effect.

3.5.4. It shall be of a size sufficient to prevent its movement from the authorized alignment by natural forces under normal conditions.

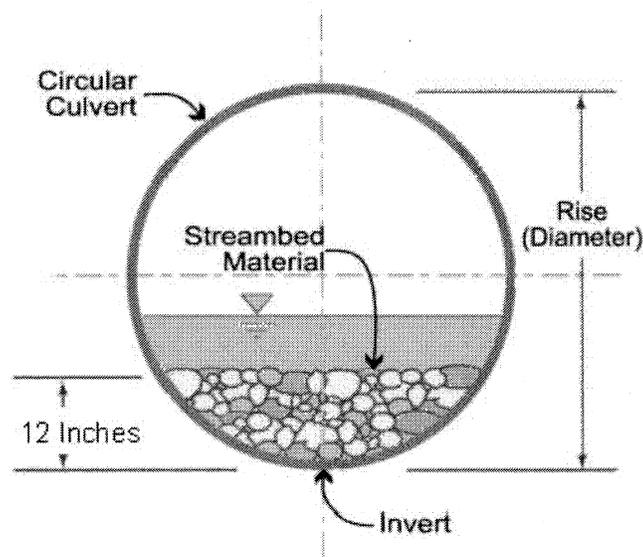
3.5.5. The riprap material shall consist of clean rock or masonry material such as, but not limited to, granite, marl, or broken concrete.

3.5.6. A waiver from the specifications in this Regional Condition may be requested in writing. The waiver will only be issued if it can be demonstrated that the impacts of complying with this Regional condition would result in greater adverse impacts to the aquatic environment.

3.6 Safe Passage Requirements for Culvert Placement

For all NWP's that involve the construction/installation of culverts, measures will be included in the construction/installation that will promote the safe passage of fish and other aquatic organisms. The dimension, pattern, and profile of the stream above and below a pipe or culvert should not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed culvert should be such as to pass the average historical low flow and spring flow without adversely altering flow velocity. Spring flow should be determined from gage data, if available. In the absence of such data, bankfull flow can be used as a comparable level.

In the twenty (20) counties of North Carolina designated as coastal counties by the Coastal Area Management Act (CAMA): All pipes/culverts must be sufficiently sized to allow for the burial of the bottom of the pipe/culvert at least one foot below normal bed elevation when they are placed within the Public Trust Area of Environmental Concern (AEC) and/or the Estuarine Waters AEC as designated by CAMA, and/or all streams appearing as blue lines on United States Geological Survey (USGS) 7.5-minute quadrangle maps.



In all other counties: Culverts greater than 48 inches in diameter will be buried at least one foot below the bed of the stream. Culverts 48 inches in diameter or less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic passage, and every effort shall be made to maintain the existing channel slope. The bottom of the culvert must be placed at a

depth below the natural stream bottom to provide for passage during drought or low flow conditions.

Culverts are to be designed and constructed in a manner that minimizes destabilization and head cutting. Destabilizing the channel and head cutting upstream should be considered and appropriate actions incorporated in the design and placement of the culvert.

A waiver from the depth specifications in this condition may be requested in writing. The waiver will be issued if it can be demonstrated that the proposal would result in the least impacts to the aquatic environment.

All counties: Culverts placed within riparian and/or riverine wetlands must be installed in a manner that does not restrict the flow and circulation patterns of waters of the United States. Culverts placed across wetland fills purely for the purposes of equalizing surface water do not have to be buried.

3.7 Notification to NCDENR Shellfish Sanitation Section

Applicants shall notify the NCDENR Shellfish Sanitation Section prior to dredging in or removing sediment from an area closed to shell fishing where the effluent may be released to an area open for shell fishing or swimming in order to avoid contamination from the disposal area and cause a temporary shellfish closure to be made. Such notification shall also be provided to the appropriate Corps of Engineers Regulatory Field Office. Any disposal of sand to the ocean beach should occur between November 1 and April 30 when recreational usage is low. Only clean sand should be used and no dredged sand from closed shell fishing areas may be used. If beach disposal were to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a swimming advisory shall be posted, and a press release shall be issued by the permittee.

3.8 Preservation of Submerged Aquatic Vegetation

Adverse impacts to Submerged Aquatic Vegetation (SAV) are not authorized by any NWP within any of the twenty coastal counties defined by North Carolina's Coastal Area Management Act of 1974 (CAMA).

3.9 Sedimentation and Erosion Control Structures and Measures

3.9.1. All PCNs will identify and describe sedimentation and erosion control structures and measures proposed for placement in waters of the US. The structures and measures should be depicted on maps, surveys or drawings showing location and impacts to jurisdictional wetlands and streams.

4.0 Additional Regional Conditions for Specific Nationwide Permits

4.1 NWP #14 - Linear Transportation Crossings

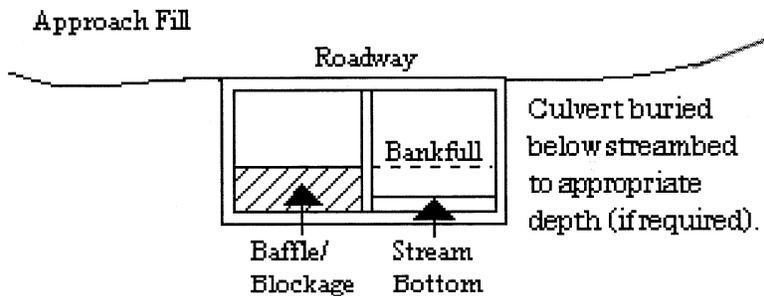
4.1.1. If appropriate, applicants shall employ natural channel design (see definition below and NOTE below) to the maximum extent practicable for stream relocations. In the event it is not appropriate to employ natural channel design, any stream relocation shall be considered a permanent impact and the applicant shall provide a mitigation plan to compensate for the loss of aquatic function associated with the proposed activity.

Natural Channel Design: A geomorphologic approach to stream restoration based on an understanding of valley type, general watershed conditions, dimension, pattern, profile, hydrology and sediment transport of natural, stable channels (reference condition) and applying this understanding to the reconstruction of a stable channel.

NOTE: For projects located within the Coastal Plain ecoregion of North Carolina and within headwater areas across the state, applicants should reference the following links for more information regarding appropriate stream design:

<http://www.saw.usace.army.mil/wetlands/permits/nwp>

4.1.2. Bank-full flows (or less) shall be accommodated through maintenance of the existing bank-full channel cross sectional area. Additional culverts at such crossings shall be allowed only to receive flows exceeding bank-full.



4.1.3. Where adjacent floodplain is available, flows exceeding bank-full should be accommodated by installing culverts at the floodplain elevation.

4.1.4. This NWP authorizes only upland to upland crossings and cannot be used in combination with Nationwide Permit 18 to create an upland within waters of the United States, including wetlands.

4.1.5. This NWP cannot be used for private projects located in tidal waters or tidal wetlands.

4.1.6. Excavation of existing stream channels shall be limited to the minimum necessary to construct or install the proposed culvert. The final width of the impacted streams at the culvert inlet and outlet should be no greater than the original stream width. A waiver from this condition may be requested in writing. The waiver will be issued if it can be demonstrated that it is not

practicable to limit the final width of the culvert to that of the impacted stream at the culvert inlet and outlet and the proposed design would result in less impacts to the aquatic environment.



North Carolina Department of Environment and Natural Resources

Division of Water Resources

Water Quality Programs

Thomas A. Reeder

Director

Pat McCrory
Governor

John E. Skvarla, III
Secretary

September 9, 2013
Dare County
NCDWR Project No. 20130144v.3
Bridge Over New Inlet on NC 12
TIP/State Project No. B-2500A

APPROVAL of 401 WATER QUALITY CERTIFICATION with ADDITIONAL CONDITIONS

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

Dear Dr. Thorpe:

This approval is issued in response to your recent request for modification of B-2500A, the replacement of the temporary bridge over the New Inlet on NC 12 with a permanent bridge dated received August 30, 2013. This approval addresses updated impacts and a change from General Permit 198200031(GP 31) to a Nationwide 14 (NW14) issued by the USACE. **Please note that this certification replaces the previous 401 Water Quality Certification issued on April 15, 2013 (DWR No. 20130144v.1).**

You have our approval, in accordance with the conditions listed below, for the following impacts for the purpose of replacing the existing temporary bridge over the New Inlet on NC 12 with a permanent bridge in Dare County:

Transportation Permitting Unit
1650 Mail Service Center, Raleigh, North Carolina 27699-1650
Location: 512 N. Salisbury St. Raleigh, North Carolina 27604
Phone: 919-807-6300 \ FAX: 919-807-6492
Internet: www.ncwaterquality.org



Wetland Impacts in the Pasquotank River Basin

Site	Location	Permanent Fill (ac)	Temporary Fill (ac)	Excavation (ac)	Mechanized Clearing (ac)	Hand Clearing (ac)	Total Wetland Impact (ac)	Impacts Requiring Mitigation (ac)
1	-L- 3078+90 to 3082+59	--	0.10	--	--	0.02	0.12	0.00
2	-L-3088+86 to 3092+69	0.02	0.07	--	--	0.03	0.12	0.02
3	-L- 3107+55 to 3115+62	0.18	0.15	--	--	0.06	0.39	0.18
4	-L- 3128+60 to 3123+06	0.01	0.03	--	--	0.02	0.06	0.01
5	-L- 3143+54 to 3136+31	<0.01	0.02	--	--	0.01	0.03	0.01
6	-L- 3139+49 to 3140+49	--	0.03	--	--	<0.01	0.03	0.00
7	-L- 3159+81 to 3163+48	--	0.02	--	--	<0.01	0.02	0.00
8	-L- 3163+62 to 3167+76	--	--	--	--	--	0.00	0.00
9	-L- 3166+66 to 3166+94	<0.01	--	--	--	<0.01	0.00	0.00
10	-L- 3170+97 to 3173+74	--	--	--	--	--	0.00	0.00
11	-L- 3177+49 to 3181+18	--	<0.01	--	--	<0.01	0.00	0.00
12	-L- 3191+04 to 3197+22	--	0.23	--	--	0.04	0.27	0.00
13	-L-3200+13 to 3205+63	--	0.22	--	--	0.04	0.26	0.00
14	-L- 3206+52 to 3210+71	--	0.02	--	--	0.02	0.04	0.00
15	-L- 3097+22 to 3097+32	--	--	--	--	0.14	0.14	0.00
16	-L- 3136+15 to 3136+48	--	--	--	--	--	0.00	0.00
Total		0.22	0.90	0.00	0.00	0.40	1.52	0.22*

Total Wetland Impact for Project: 1.55 acres

* Total impacts requiring mitigation are below the threshold; no mitigation required

Open Water Impacts in the Pasquotank River Basin

Site	Location	Permanent Fill in Open Waters (ac)	Temporary Fill in Open Waters (ac)	Total Fill in Open Waters (ac)
1	-L- 3078+90 to 3082+59	--	0.01	0.01
7	-L- 3159+81 to 3163+48	--	0.03	0.03
8	-L- 3163+62 to 3167+76	--	0.10	0.10
10	-L- 3170+97 to 3173+74	0.04	0.04	0.08
11	-L- 3177+49 to 3181+18	--	0.05	0.05
15	-L- 3097+22 to 3097+32	--	0.02	0.02
16	-L- 3136+15 to 3136+48	--	0.03	0.03
TOTAL		0.04	0.28	0.32

Total Open Water Impact for Project: 0.28 acres.

The project shall be constructed in accordance with your application dated received February 13, 2013, additional information received April 2, 2013, and the request for modification received August 30, 2013. After reviewing your application, we have decided that these impacts are covered by General Water Quality Certification Number 3886. This certification corresponds to Nationwide 14 issued by the Corps of Engineers. In addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

This approval is valid solely for the purpose and design described in your application and all subsequent information provided (unless modified below). Should your project change, you must notify the NCDWR 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 total wetland fills for this project (now or in the future) exceed one acre, or of total impacts to streams (now or in the future) exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you must adhere to the conditions listed in the attached certification(s) and any additional conditions listed below.

Conditions of Certification:**Project Specific Conditions**

1. No construction or other land disturbing activities shall begin until after the final environmental document, at this time believed to be a Record of Decision (ROD), has been published in the North Carolina Department of Administration's Environmental Bulletin and adopted by the NCDWR.
2. Mitigation
 - a. Currently, as proposed, total permanent impacts do not require in-kind or in-lieu fee mitigation as they are below the threshold requiring mitigation. However, should future impacts for this project meet or exceed one acre of jurisdictional wetlands or 150 linear feet of jurisdictional stream, mitigation may be required.
 - b. Once the temporary road is removed, areas of temporary impact shall be restored to pre-impact conditions as close as possible. Elevations shall be determined based on adjacent wetland areas, and appropriate vegetation shall be established.
 - c. Visual vegetation monitoring of the temporary roadbed will be required for survival and aerial coverage of vegetation. Visual monitoring shall be for a minimum of one year after completion of restoration. Vegetation monitoring will not cease prior to approval from the NCDWR. Since the restoration will occur on federally owned lands, the NCDWR will not agree to cease monitoring until the Pea Island National Wildlife Refuge representative(s) agrees that the restoration is satisfactory.
3. Jetting
 - a. The use of jetting to install bridge bents, remove the temporary bridge, and any other activity shall be kept to a minimum.
 - b. All jetting occurring within the New Inlet shall take place at ebb tide.
 - c. All jetting spoils shall be confined to the 100 foot transportation easement within the Pea Island National Wildlife Refuge unless otherwise allowed by the Refuge. Spoils shall not be deposited within wetlands or other jurisdictional areas.
 - d. Pipes and hoses used for jetting intake placed in wetland and other jurisdictional areas shall be placed by hand.
 - e. In order to prevent the intake of larval fish species into jetting intake hoses and pipes, a screen of sufficient size shall be placed on intake hoses. The size of the screen necessary shall be coordinated with the NCDMF.
4. No impacts from utility relocations are authorized with this certification. If impacts from utility relocations are found to be necessary, the NCDWR shall be notified as a modification may be required.
5. Strict adherence to the most recent version of NCDOT's Best Management Practices For Bridge Demolition and Removal approved by the US Army Corps of Engineers is a condition of the 401 Water Quality Certification.
6. All bridge construction shall be performed from the existing bridge, temporary work bridges, temporary causeways, or floating or sunken barges. If work conditions require barges, they shall be floated into position and then sunk. The barges shall not be sunk and then dragged into position. Under no circumstances should barges be dragged along the bottom of the surface water.
7. NCDOT shall be in compliance with the NCS00250 issued to the NCDOT, including the applicable requirements of the NCGO1000. Please note the extra protections for the special or threatened waters.
8. Adherence to *The Guidelines for Avoiding Impacts to the West Indian Manatee: Precautionary Measures for Construction Activities in North Carolina Waters* will be required throughout construction.

General Conditions

9. 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.
10. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S.
- * 11. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval.
12. 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.
13. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited.
14. 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 the NCDWR 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, the NCDWR may reevaluate and modify this certification.
15. The outside wetland or water boundary located within the construction corridor approved by this authorization 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.
16. 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.
17. Native riparian vegetation must be reestablished in the riparian areas within the construction limits of the project by the end of the growing season following completion of construction.
18. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit 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.
19. 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.

20. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification.
21. A copy of this Water Quality Certification shall be maintained on 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.
22. The Permittee shall report any violations of this certification to the Division of Water Resources within 24 hours of discovery.
- *23. Upon completion of the project (including any impacts at associated borrow or waste sites), the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify NCDWR when all work included in the 401 Certification has been completed.

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

The petition may be faxed-provided the original and one copy of the document is received by the Office of Administrative Hearings within five (5) business days following the faxed transmission. The mailing address for the Office of Administrative Hearings is:

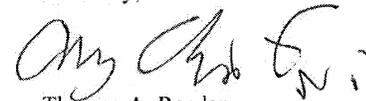
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone: (919)-431-3000, Facsimile: (919)-431-3100

A copy of the petition must also be served on DENR as follows:

Mr. Lacy Presnell, General Counsel
Department of Environment and Natural Resources
1601 Mail Service Center

This letter completes the review of the Division of Water Resources under Section 401 of the Clean Water Act. If you have any questions, please contact David Wainwright at (919)807-6405 or David.Wainwright@ncdenr.gov.

Sincerely,



Thomas A. Reeder
Director

cc: Clay Willis, Division 1 Environmental Officer
Tracey Wheeler, US Army Corps of Engineers, Washington Field Office (electronic copy only)
Mike Bryant, Pea Island National Wildlife Refuge Manager
Dennis Stewart, Pea Island National Wildlife Refuge Biologist
Chris Militscher, Environmental Protection Agency (electronic copy only)
Gary Jordan, US Fish and Wildlife Service (electronic copy only)
Travis Wilson, NC Wildlife Resources Commission (electronic copy only)
Cathy Brittingham, Division of Coastal Management (electronic copy only)
Garcy Ward, NCDWR Washington Regional Office (electronic copy only)
File Copy

Water Quality Certification No. 3886

GENERAL CERTIFICATION FOR PROJECTS ELIGIBLE FOR U.S. ARMY CORPS OF ENGINEERS NATIONWIDE PERMIT NUMBER 14 (LINEAR TRANSPORTATION PROJECTS) AND REGIONAL GENERAL PERMIT 198200031 (WORK ASSOCIATED WITH BRIDGE CONSTRUCTION, MAINTENANCE OR REPAIR CONDUCTED BY NCDOT OR OTHER GOVERNMENT AGENCIES) AND RIPARIAN AREA PROTECTION RULES (BUFFER RULES)

Water Quality Certification Number 3886 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 15A NCAC 02H .0500 and 15A NCAC 02B .0200 for the discharge of fill material to waters and adjacent wetland areas or to wetland areas that are not a part of the surface tributary system to interstate waters or navigable waters of the United States (as described in 33 CFR 330 Appendix A (B) (14) of the Corps of Engineers regulations (Nationwide Permit No. 14 and Regional General Permit 198200031) and for the Riparian Area Protection Rules (Buffer Rules) in 15A NCAC 02B .0200.

The State of North Carolina certifies that the specified category of activity will not violate applicable portions of Sections 301, 302, 303, 306 and 307 of the Public Laws 92-500 and 95-217 if conducted in accordance with the conditions hereinafter set forth.

- * Any proposed fill or modification of wetlands and/or waters, including streams, under this General Certification requires application to, and written approval from the Division of Water Quality except for the single family lot exemption described below.

Activities meeting any one (1) of the following thresholds or circumstances require written approval for a 401 Water Quality Certification from the Division of Water Quality (the "Division"):

- a) Any temporary or permanent impacts to wetlands, open waters and/or streams, including stream relocations, except for construction of a driveway to a single family lot as long as the driveway involves *less than 25 feet* of temporary and/or permanent stream channel impacts, including any in-stream stabilization needed for the crossing; or
 - b) Any impact associated with a high density project (as defined in Item (A)(iv) of the **401 Stormwater Requirements**) that is not subject to either a state stormwater program (such as, but not limited to, Coastal Counties, HQW, ORW or state-implemented Phase II NPDES) or a certified community's stormwater program; or
 - c) Any impact associated with a Notice of Violation or an enforcement action for violation(s) of DWQ Wetland Rules (15A NCAC 02H .0500), Isolated Wetland Rules (15A NCAC 02H .1300), DWQ Surface Water or Wetland Standards, or Riparian Buffer Rules (15A NCAC 02B .0200); or
 - * d) Any impacts to streams and/or buffers in the Neuse, Tar-Pamlico, or Catawba River Basins or in the Randleman, Jordan or Goose Creek Watersheds (or any other basin or watershed with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) *unless* the activities are listed as "EXEMPT" from these rules or a Buffer Authorization Certificate is issued through N.C. Division of Coastal Management (DCM) delegation for "ALLOWABLE" activities.
- * In accordance with North Carolina General Statute 143-215.3D(e), written approval for a 401 Water Quality General Certification must include the appropriate fee. If a project also requires a CAMA Permit, then one payment to both agencies shall be submitted and will be the higher of the two fees.

Activities included in this General Certification that do not meet one of the thresholds listed above do not require written approval from the Division as long as they comply with

Water Quality Certification No. 3886

the Conditions of Certification listed below. If any of these Conditions cannot be met, then written approval from the Division is required.

Conditions of Certification:

1. No Impacts Beyond those Authorized in the Written Approval or Beyond the Threshold of Use of this Certification

No waste, spoil, solids, or fill of any kind shall occur in wetlands, waters, or riparian areas beyond the footprint of the impacts depicted in the Pre-Construction Notification, as authorized in the written approval from the Division or beyond the thresholds established for use of this Certification without written authorization, including incidental impacts. All construction activities, including the design, installation, operation, and maintenance of sediment and erosion control Best Management Practices shall be performed so that no violations of state water quality standards, statutes, or rules occur. Approved plans and specifications for this project are incorporated by reference and are enforceable parts of this permit.

2. Standard Erosion and Sediment Control Practices

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 and if applicable, comply with the specific conditions and requirements of the NPDES Construction Stormwater Permit issued to the site:

- a. 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.
- b. 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*.
- c. Reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act and the Mining Act of 1971.
- d. Sufficient materials required for stabilization and/or repair of erosion control measures and stormwater routing and treatment shall be on site at all times.
- e. If the project occurs in waters or watersheds classified as Primary Nursery Areas (PNAs), SA, WS-I, WS-II, High Quality (HQW), or Outstanding Resource (ORW) waters, then the sedimentation and erosion control designs must comply with the requirements set forth in 15A NCAC 04B .0124, *Design Standards in Sensitive Watersheds*.

Water Quality Certification No. 3886

3. No Sediment and Erosion Control Measures in Wetlands or Waters

Sediment and erosion control measures shall not be placed in wetlands or waters. Exceptions to this condition require application submittal to and written approval by the Division. If placement of sediment and erosion control devices in wetlands and waters is unavoidable, then design and placement of temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands, stream beds, or banks, adjacent to or upstream and downstream of the above structures. All sediment and erosion control devices shall be removed and the natural grade restored within two (2) months of the date that the Division of Land Resources (DLR) or locally delegated program has released the specific area within the project.

4. Construction Stormwater Permit NCG010000

An NPDES Construction Stormwater Permit is required for construction projects that disturb one (1) or more acres of land. This Permit allows stormwater to be discharged during land disturbing construction activities as stipulated in the conditions of the permit. If your project is covered by this permit, full compliance with permit conditions including the erosion & sedimentation control plan, inspections and maintenance, self-monitoring, record keeping and reporting requirements is required. A copy of the general permit (NCG010000), inspection log sheets, and other information may be found at <http://portal.ncdenr.org/web/wq/ws/su/npdessw#tab-w>.

The North Carolina Department of Transportation (NCDOT) shall be required to be in full compliance with the conditions related to construction activities within the most recent version of their individual NPDES (NCS000250) stormwater permit.

5. Construction Moratoriums and Coordination

If activities must occur during periods of high biological activity (i.e. sea turtle nesting, fish spawning, or bird nesting), then biological monitoring may be required at the request of other state or federal agencies and coordinated with these activities.

All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) to lessen impacts on trout, anadromous fish, larval/post-larval fishes and crustaceans, or other aquatic species of concern shall be implemented. Exceptions to this condition require written approval by the resource agency responsible for the given moratorium.

Work within the twenty-five (25) designated trout counties or identified state or federal endangered or threatened species habitat shall be coordinated with the appropriate WRC, USFWS, NMFS, and/or DMF personnel.

6. Work in the Dry

All work in or adjacent to stream waters shall be conducted so that the flowing stream does not come in contact with the disturbed area. Approved best management practices from the most current version of the NC Sediment and Erosion Control Manual, or the NC DOT Construction and Maintenance Activities Manual, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water. Exceptions to this condition require application submittal to and written approval by the Division.

Water Quality Certification No. 3886

7. Riparian Area Protection (Buffer) Rules

Activities located in the protected riparian areas (whether jurisdictional wetlands or not), within the Neuse, Tar-Pamlico, or Catawba River Basins or in the Randleman, Jordan, or Goose Creek Watersheds (or any other basin or watershed with buffer rules) shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 02B .0233, .0259, .0243, .0250, .0267 and .0605, and shall be located, designed, constructed, and maintained to have minimal disturbance to protect water quality to the maximum extent practicable through the use of best management practices. All buffer rule requirements, including diffuse flow requirements, must be met.

8. If concrete is used during the construction, then all necessary measures shall be taken to prevent direct contact between uncured or curing concrete and waters of the state. Water that inadvertently contacts uncured concrete shall not be discharged to waters of the state due to the potential for elevated pH and possible aquatic life/ fish kills.
9. Bridge deck drains shall not discharge directly into the stream. Stormwater shall be directed across the bridge and pre-treated through site-appropriate means (grassed swales, pre-formed scour holes, vegetated buffers, etc.) before entering the stream. Please refer to the most current version of *Stormwater Best Management Practices*. Exceptions to this condition require written approval by the Division.

* 10. Compensatory Mitigation

In accordance with 15A NCAC 02H .0506 (h), compensatory mitigation may be required for losses of equal to or greater than 150 linear feet of streams (intermittent and perennial) and/or equal to or greater than one (1) acre of wetlands. For linear public transportation projects, impacts equal to or exceeding 150 linear feet per stream shall require mitigation.

Buffer mitigation may be required for any project with Buffer Rules in effect at the time of application for activities classified as "Allowable with Mitigation" or "Prohibited" within the Table of Uses.

A determination of buffer, wetland, and stream mitigation requirements shall be made for any General Water Quality Certification for this Nationwide and/or Regional General Permit. Design and monitoring protocols shall follow the US Army Corps of Engineers Wilmington District *Stream Mitigation Guidelines* (April 2003) or its subsequent updates. Compensatory mitigation plans shall be submitted to the Division for written approval as required in those protocols. The mitigation plan must be implemented and/or constructed before any impacts occur on site. Alternatively, the Division will accept payment into an in-lieu fee program or a mitigation bank. In these cases, proof of payment shall be provided to the Division before any impacts occur on site.

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11. Relocated stream designs should include the same dimensions, patterns, and profiles as the existing channel (or a stable reference reach if the existing channel is unstable), to the maximum extent practical. The new channel should be constructed in the dry and water shall not be turned into the new channel until the banks are stabilized. Vegetation used for bank stabilization shall be limited to native woody species, and should include establishment of a 30-foot wide wooded and an adjacent 20-foot wide vegetated buffer on both sides of the relocated channel to the maximum extent practical. A transitional phase incorporating appropriate erosion control matting materials and seedling establishment is allowable, however matting that incorporates plastic mesh and/or plastic twine shall not be used in wetlands, riparian buffers or floodplains as recommended by the North Carolina Sediment and Erosion Control Manual. Rip-rap, A-Jacks, concrete, gabions or other hard structures may be allowed if it is necessary to maintain the physical integrity of the stream; however, the applicant must provide written justification and any calculations used to determine the extent of rip-rap coverage. Please note that if the stream relocation is conducted as a stream restoration as defined in the US Army Corps of Engineers Wilmington District, April 2003 *Stream Mitigation Guidelines* (or its subsequent updates), the restored length may be used as compensatory mitigation for the impacts resulting from the relocation.

12. Stormwater Management Plan Requirements

All applications shall address stormwater management throughout the entire project area per the 401 Stormwater Requirements, referenced herein as "**Attachment A**" at the end of this Certification.

13. Placement of Culverts and Other Structures in Waters and Wetlands

Culverts required for this project shall be designed and installed in such a manner that the original stream profiles are not altered and allow for aquatic life movement during low flows. Existing stream dimensions (including the cross section dimensions, pattern, and longitudinal profile) must be maintained above and below locations of each culvert.

Placement of culverts and other structures in waters and streams must be 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 or equal to 48 inches, to allow low flow passage of water and aquatic life.

When topographic constraints indicate culvert slopes of greater than 5%, culvert burial is not required, provided that all alternative options for flattening the slope have been investigated and aquatic life movement/ connectivity has been provided when possible (rock ladders, crossvanes, etc). Notification to the Division including supporting documentation to include a location map of the culvert, culvert profile drawings, and slope calculations shall be provided to the Division 60 days prior to the installation of the culvert.

When bedrock is present in culvert locations, culvert burial is not required provided that there is sufficient documentation of the presence of bedrock. Notification to the Division including supporting documentation such as, but not limited to, a location map of the culvert, geotechnical reports, photographs, etc shall be provided to the Division a minimum of 60 days prior to the installation of the culvert. If bedrock is discovered during construction, then the Division shall be notified by phone or email within 24 hours of discovery.

If other site-specific topographic constraints preclude the ability to bury the culverts as described above and/or it can be demonstrated that burying the culvert would result in destabilization of the channel, then exceptions to this condition require application submittal to, and written approval by, the Division of Water Quality, regardless of the total impacts to streams or wetlands from the project.

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Installation of culverts in wetlands must ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions. Additionally, when roadways, causeways, or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges must be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in destabilization of streams or wetlands.

The establishment of native, woody vegetation and other soft stream bank stabilization techniques must be used where practicable instead of riprap or other bank hardening methods.

14. All temporary fill and culverts shall be removed and the impacted area returned to natural conditions within 60 days of the determination that the temporary impact is no longer necessary. The impacted areas shall be restored to original grade, including each stream's original cross sectional dimensions, plan form pattern, and longitudinal bed and bed profile, and the various sites shall be stabilized with natural woody vegetation (except for the approved maintenance areas) and restored to prevent erosion.
15. All temporary pipes/ culverts/ riprap pads etc, shall be installed in all streams as outlined in the most recent edition of the *North Carolina Sediment and Erosion Control Planning and Design Manual* or the *North Carolina Surface Mining Manual* so as not to restrict stream flow or cause dis-equilibrium during use of this General Certification.
16. Any riprap required for proper culvert placement, stream stabilization, or restoration of temporarily disturbed areas shall be restricted to the area directly impacted by the approved construction activity. All rip-rap shall be buried and/or "keyed in" such that the original stream elevation and streambank contours are restored and maintained. Placement of rip-rap or other approved materials shall not result in de-stabilization of the stream bed or banks upstream or downstream of the area.
17. Any rip-rap used for stream stabilization shall be of a size and density so as not to be able to be carried off by wave, current action, or stream flows and consist of clean rock or masonry material free of debris or toxic pollutants. Rip-rap shall not be installed in the streambed except in specific areas required for velocity control and to ensure structural integrity of bank stabilization measures.
18. A one-time application of fertilizer to re-establish vegetation is allowed in disturbed areas including riparian buffers, but is restricted to no closer than 10 feet from top of bank of streams. Any fertilizer application must comply with all other Federal, State and Local regulations.
19. If this Water Quality Certification is used to access building sites, then all lots owned by the applicant must be buildable without additional impacts to streams or wetlands. The applicant is required to provide evidence that the lots are buildable without requiring additional impacts to wetlands, waters, or buffers if required to do so in writing by the Division. For road construction purposes, this Certification shall only be utilized from natural high ground to natural high ground.
20. Deed notifications or similar mechanisms shall be placed on all retained jurisdictional wetlands, waters, and protective buffers within the project boundaries in order to assure compliance for future wetland, water, and buffer impact. These mechanisms shall be put in place at the time of recording of the property or of individual lots, whichever is appropriate. A sample deed notification can be downloaded from the 401/Wetlands Unit web site at <http://portal.ncdenr.org/web/wq/swp/ws/401/certsandpermits/apply/forms>. The text of the sample deed notification may be modified as appropriate to suit to a specific project. Documentation of deed notifications shall be provided to the Division upon request.

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- * 21. If an environmental document is required under the National or State Environmental Policy Act (NEPA or SEPA), then this General Certification is not valid until a Finding of No Significant Impact (FONSI) or Record of Decision (ROD) is issued by the State Clearinghouse.
- 22. In the twenty (20) coastal counties, the appropriate DWQ Regional Office must be contacted to determine if Coastal Stormwater Regulations will be required.
- 23. This General Certification does not relieve the applicant of the responsibility to obtain all other required Federal, State, or Local approvals.
- 24. The applicant/permittee and their authorized agents shall conduct all 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 the Division determines that such standards or laws are not being met, including 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, then the Division may reevaluate and modify this General Water Quality Certification.
- * 25. When written authorization is required for use of this certification, upon completion of all permitted impacts included within the approval and any subsequent modifications, the applicant shall be required to return the certificate of completion attached to the approval. One copy of the certificate shall be sent to the DWQ Central Office in Raleigh at 1650 Mail Service Center, Raleigh, NC, 27699-1650.
- 26. Additional site-specific conditions, including monitoring and/or modeling requirements, may be added to the written approval letter for projects proposed under this Water Quality Certification in order to ensure compliance with all applicable water quality and effluent standards.
- 27. This certification grants permission to the director, an authorized representative of the Director, or DENR staff, upon the presentation of proper credentials, to enter the property during normal business hours.

This General Certification shall expire on the same day as the expiration date of the corresponding Nationwide and/or Regional General Permit. The conditions in effect on the date of issuance of Certification for a specific project shall remain in effect for the life of the project, regardless of the expiration date of this Certification.

Non-compliance with or violation of the conditions herein set forth by a specific project may result in revocation of this General Certification for the project and may also result in criminal and/or civil penalties.

The Director of the North Carolina Division of Water Quality may require submission of a formal application for Individual Certification for any project in this category of activity if it is determined that the project is likely to have a significant adverse effect upon water quality, including state or federally listed endangered or threatened aquatic species, or degrade the waters so that existing uses of the wetland or downstream waters are precluded.

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Public hearings may be held for specific applications or group of applications prior to a Certification decision if deemed in the public's best interest by the Director of the North Carolina Division of Water Quality.

Effective date: March 19, 2012

DIVISION OF WATER QUALITY

By



Charles Wakild, P.E.

Director

History Note: Water Quality Certification (WQC) Number 3886 issued March 12, 2012 replaces WQC Number 3820 issued April 6, 2010; WQC Number 3627 issued March 2007; WQC Number 3404 issued March 2003; WQC Number 3375 issued March 18, 2002; WQC Number 3289 issued June 1, 2000; WQC Number 3103 issued February 11, 1997; WQC Number 2732 issued May 1, 1992; WQC Number 2666 issued January 21, 1992; WQC Number 2177 issued November 5, 1987. This WQC is rescinded when the Corps of Engineers reauthorizes any of the corresponding Nationwide and/or Regional General Permits or when deemed appropriate by the Director of the Division of Water Quality.

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Attachment A: 401 Stormwater Requirements

The requirements listed below shall be implemented in order to comply with Condition 12 of this General Certification. For the North Carolina Department of Transportation, compliance with NCDOT's Individual NPDES permit NCS000250 shall serve to satisfy the 401 and Isolated Wetland Stormwater Requirements.¹

- A. **Design and Implementation Requirements.** All projects, regardless of project area, amount of built-upon area or amount of jurisdictional impact, shall meet the following stormwater design requirements:
- i. **Non-Erosive Discharge to Streams and Wetlands.** Stormwater conveyances that discharge to streams and wetlands must discharge at a non-erosive velocity prior to entering the stream or wetland during the peak flow from the ten-year storm.²
 - ii. **Vegetated Setbacks.** A 30-foot wide vegetated setback must be maintained adjacent to streams, rivers and tidal waters in areas that are not subject to a state Riparian Area Protection Rule or other more stringent vegetated setback requirements. The width of the setback shall be measured horizontally from the normal pool elevation of impounded structures, the top-of-bank of streams and rivers, and the mean high waterline of tidal waters, perpendicular to shoreline. Vegetated setback and filters required by state rules or local governments may be met concurrently with this requirement and may contain coastal, isolated or 404 jurisdictional wetlands. Non-jurisdictional portions of the vegetated setback may be cleared and graded, but must be planted with and maintained in grass or other vegetative or plant material.³
 - iii. **Construction and Operation.** The stormwater management plan must be constructed and operational before any permanent building or other structure is occupied or utilized at the site. The stormwater management plan, including drainage patterns, must be maintained in perpetuity.⁴
 - iv. **Coordination with Other Stormwater Programs.** Projects that are subject to another Division of Water Quality (DWQ) stormwater program, including (but not limited to) the 20 Coastal Counties, HQW, ORW or state-implemented Phase II NPDES, or a Certified Community's stormwater management program, must be constructed and maintained in compliance with the approved stormwater management plan.⁵
 - v. **Stormwater Design Requirements for Projects Not Covered Under Item (iv).** Projects that are not subject to another DWQ stormwater program or a Certified Community's stormwater program shall meet all of the following requirements:
 - a. **Low Density.** A site is low density if all the following requirements are met:
 1. The development has a built upon area of twenty-four percent (24%) or less, considering both current and future development. When determining the amount of built upon area, coastal wetlands shall be included; however, ponds, lakes and rivers as specified in North Carolina's Schedule of Classifications shall be excluded. If a portion of project has a density greater than 24%, the higher density area must be located in an upland area and away from surface waters and drainageways to the maximum extent practicable.⁶
 2. All stormwater runoff from the built upon areas is transported primarily via vegetated conveyances designed in accordance with the most recent version of the *NC DWQ Stormwater Best Management Practices Manual*. Alternative designs may be approved if the applicant can show that the design provides

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equal or better water quality protection than the practices specified in the manual. The project must not include a stormwater collection system (such as piped conveyances) as defined in 15A NCAC 02B .0202(60).⁷

- b. **High Density.** Projects that do not meet the Low Density requirements shall meet the following requirements:
1. Stormwater runoff from the entire site must be treated by structural stormwater controls (BMPs) that are designed to remove eighty-five percent (85%) of the average annual amount of Total Suspended Solids (TSS). Stormwater runoff that drains directly to Nutrient Sensitive Waters (NSW) must also be treated to remove thirty percent (30%) of Total Nitrogen (TN) and Total Phosphorus (TP).⁸
 2. All BMPs must be designed in accordance with the version of the *NC DWQ Stormwater Best Management Practices Manual* that is in place on the date of stormwater management plan submittal. Alternative designs may be approved if the applicant can show that the design provides equal or better water quality protection than the practices specified in the manual.⁹
 3. DWQ may add specific stormwater management requirements on a case-by-case basis in order to ensure that a proposed activity will not violate water quality standards.¹⁰
 4. DWQ may approve Low Impact Developments (LIDs) that meet the guidance set forth in the *Low Impact Development: A Guidebook for North Carolina*.¹¹
 5. Proposed new development undertaken by a local government solely as a public road project shall follow the requirements of the NC DOT BMP Toolbox rather than Items (1)-(4) above.¹²

B. **Submittal Requirements.** The submittal requirements listed below apply only to projects that require written authorization as indicated in the applicable General Certification as well as projects that require an Isolated Wetlands Permit. **Any required documentation shall be sent to the Wetlands, Buffers and Stormwater Compliance and Permitting Unit at 1650 Mail Service Center, Raleigh, NC 27699-1650.**

- i. **Projects that are Subject to Another DWQ Stormwater Program:** If the project is subject to another DWQ stormwater program, such as the 20 Coastal Counties, HQW, ORW or state-implemented Phase II NPDES, then the applicant shall submit a copy of the stormwater approval letter before any impacts occur on site.¹³
- ii. **Projects that are Subject to a Certified Community's Stormwater Program.** If the project is subject to a certified local government's stormwater program, then the applicant shall submit one set of approved stormwater management plan details and calculations with documentation of the local government's approval before any impacts occur on site.⁵
- iii. **Projects Not Covered Under Items (i) or (ii).** If the project is not subject to another DWQ Stormwater Program or a Certified Community's stormwater program, then it shall be reviewed and approved by the DWQ through the Water Quality Certification authorization process.
 - a. **Low Density.** For low density projects, the applicant shall submit two copies of the DWQ Low Density Supplement Form with all required items.¹³

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- b. **High Density.** For high density projects, the applicant shall submit two copies of a DWQ BMP Supplement Form and all required items at the specified scales for each BMP that is proposed.¹³
- iv. **Phasing.** Stormwater management plans may be phased on a case-by-case basis, with the submittal of a final stormwater management plan per Items (i)-(iii) above required for the current phase and a conceptual stormwater management plan for the future phase(s). The stormwater management plan for each future phase must be approved by the appropriate entity before construction of that phase is commenced. The approved stormwater management plan for each future phase must be constructed and operational before any permanent building or other structure associated with that phase is occupied.¹⁴
- v. **Stormwater Management Plan Modifications.** The stormwater management plan may not be modified without prior written authorization from the entity that approved the plan. If the project is within a Certified Community, then the applicant shall submit one set of approved stormwater management plan details and calculations with documentation of the local government's approval for record-keeping purposes. If the project is subject to DWQ review, then the applicant shall submit two copies of the appropriate Supplement Forms per Item (iii) above for any BMPs that have been modified for DWQ's review and approval.¹⁵

¹ The stormwater requirement for 401 applications is codified in 15A NCAC 02H .0506(b)(5) and (c)(5).

² Non erosive discharge rates are required in SL 2008-211§2(b)(1). The 10-year design storm standard is codified in 15A NCAC 02H .1008(f)(2) and .1008(g)(1).

³ 30-foot vegetated setbacks are required in SL 2006-246§9(d), SL 2008-211§2(b), 15A NCAC 02H .1006(2)(c) and .1007(1)(a).

⁴ Construction and maintenance of the stormwater plan is necessary to satisfy 15A NCAC 02H .0506(b)(5).

⁵ Conveys application procedure to streamline the permitting process and reduce any unnecessary duplication in the review of stormwater management plans.

⁶ Low density built upon area thresholds are set in SL 2006-246§9(c) and SL 2008-211§2(b).

⁷ The requirement for low density development to use vegetated conveyances is codified in SL 2006-246§9(c), SL 2008-211§2(b), 15A NCAC 02H .1006(2)(b) and .1007(1)(a). The Stormwater BMP Manual is also referenced in 15A NCAC 02B .0265(3)(a) and .0277(4)(e).

⁸ 85% TSS removal is required in SL 2006-246§9(d), SL 2008-211§2(b), 15A NCAC 02H .1006(2)(c), 15A NCAC 02H .1007(1)(a). The 30% TN and TP removal requirements for NSW waters are set forth in 15A NCAC 02B .0232, 15A NCAC 02B .0257(a)(1), 15A NCAC 02B .0265(3)(a) and 15A NCAC 02B .0277(4).

⁹ The Stormwater BMP Manual is also referenced in 15A NCAC 02B .0265(3)(a) and .0277(4)(e).

¹⁰ The requirement for DWQ to ensure that water quality standards are protected before issuing a 401 certification is codified in 15A NCAC 02H .0506.

¹¹ The LID Toolbox is also referenced in 15A NCAC 02B .0277(4)(g).

¹² The term "public road project" is defined in 15A NCAC 02B .0265(3)(a).

¹³ Conveys application procedure to streamline the permitting process.

¹⁴ Phased development is addressed as a "common plan of development" in 15A NCAC 02H .1003(3).

¹⁵ Procedures for modifying stormwater plans are set forth in 15A NCAC 02H .1011.

Permit Class

Permit Number

NEW

106-12

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission

Permit

for

Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to N.C. Department of Transportation, 1598 Mail Service Center, Raleigh, NC 27699-1598

Authorizing development in Dare County at Oregon Inlet, Herbert C. Bonner Bridge on NC Highway 12, as requested in the permittee's application dated 6/21/12, including the attached AEC Hazard Notice dated received on 7/17/12, and the attached workplan drawings (81) as described in Condition No. 1 below.

This permit, issued on September 19, 2012, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

TIP No. B-2500, Phase I, Bridge Replacement

1) All work authorized by this permit shall be carried out in accordance with the following attached workplan drawings, except as modified herein:

Wetlands and Streams Impacts Drawings (41): 25 dated 5/23/12; 8 dated 5/24/12; 2 dated 6/13/12; 2 dated 6/5/12; 2 dated 5/31/12; 1 dated 7/11/12; and 1 dated 6/4/12.

Roadway Design Drawings (40): 29 dated 6/1/12; 4 dated 6/5/12; 4 dated 6/13/12; 2 dated 11/5/09; and 1 dated 9/27/06.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

No expiration date, pursuant to GS 136-44.7B

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.



Braxton C. Davis, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

E. L. Lusk for Gregory I. Thayer, PhD
Signature of Permittee

N.C. Department of Transportation

Permit No. 106-12

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ADDITIONAL CONDITIONS

NOTE: The North Carolina Department of Transportation (NCDOT) project TIP No. B-2500 authorized by this permit extends for approximately 15 miles from the southern end of Bodie Island to the community of Rodanthe. This permit only authorizes construction of Phase I of the TIP No. B-2500 project. Prior to initiating any construction on the remaining phases of this project, the permittee must receive additional authorization from the N.C. Division of Coastal Management (DCM).

- 2) In accordance with T15A:07H.0306(k), the authorized structures shall be relocated or dismantled when they become imminently threatened by changes in shoreline configuration. The structures shall be relocated or dismantled within two years of the time when they become imminently threatened, and in any case upon their collapse or subsidence. However, if natural shoreline recovery or beach re-nourishment takes place within two years of the time the structures become imminently threatened, so that the structures are no longer imminently threatened, then they need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under Rule T15A:07H.0308(a)(2).
- 3) Unless specifically altered herein, any mitigative measures or environmental commitments specifically made by the permittee in the CAMA permit application, the NEPA/404 Merger Process, and/or the Record of Decision document dated December 20, 2010 shall be implemented, regardless of whether or not such commitments are addressed by individual conditions of this permit.
- 4) The temporary placement and double handling of any excavated or fill material within waters or vegetated wetlands is not authorized, with the exception of that fill necessary for the jetting operation and the construction of the temporary work trestle. This condition also applies to the materials stored on work platforms and removal of the existing bridge, culvert, roadway asphalt, and associated materials.
- 5) No excavation or filling shall take place at any time in any vegetated wetlands or surrounding waters outside of the alignment of the areas indicated on the attached workplan drawings, without permit modification.
- 6) Material excavated from the project site may be used in fill areas associated with the project once properly dewatered. Otherwise, the material shall be removed from the site and taken to a high ground location.
- 7) All excavated materials shall be confined above normal high water and landward of regularly or irregularly flooded wetlands behind adequate dikes or other retaining structures to prevent spillover of solids into any wetlands or surrounding waters.
- 8) All fill material shall be clean and free of any pollutants except in trace quantities.
- 9) Live concrete shall not be allowed to contact waters of the State or water that will enter waters of the State.
- 10) Construction staging areas shall be located only in upland areas, and not in wetlands or waters of the State.

ADDITIONAL CONDITIONS

- 11) All construction access shall be through the use of the existing bridge, authorized temporary work trestles and platforms, the partially constructed new bridge, existing high ground areas, and/or barges.
- 12) Barges used for construction and demolition access shall be removed immediately when they are no longer needed for construction and demolition.
- 13) Dredging in any manner, including "kicking" with boat propellers is not authorized, without permit modification.
- 14) All reasonable efforts shall be made to contain all debris and excess materials associated with the removal of the existing and construction of the new bridge, temporary work trestle, and other existing structures, with the intent that materials/debris do not enter wetlands or Waters of the State, even temporarily, with the exception of any materials that may be utilized by the N.C. Division of Marine Fisheries (DMF) for artificial reef construction.
- 15) The temporary work trestle and the temporary extension and reconstruction of the existing roadway that leads to the emergency ferry landing on the south side of Oregon Inlet for barge access, including the work trestle/dock, shall be removed in their entirety and disposed of at an approved high ground location within 90 days after the structure(s) is no longer needed.
- 16) The placement of riprap shall be limited to the areas indicated on the attached workplan drawings. The riprap material shall be free from loose dirt or any pollutant except in trace quantities.

Installation and Removal of Piles

- 17) The installation and removal of the piles for the new bridge, existing bridge, temporary work trestles and platforms, and pipe piles at the casting yard, shall be accomplished by jetting, pile driving and/or the use of a vibratory hammer, as specified in the permit application. Should the permittee and/or its contractor desire to utilize another type of pile installation, such as drilled shaft construction, additional authorization from DCM shall be required.
- 18) In accordance with commitments made by the permittee in the permit application, a primary and secondary containment system shall be used to capture as much of the jetting water as possible and allow for re-use of the water within the jetting operation for bridge bents 47 through 78. Excess spoil shall be disposed of according to the NCDOT borrow/waste procedures at an approved off-site location.
- 19) All reasonable efforts shall be made to contain jetting spoils and keep them from entering wetlands or areas containing submerged aquatic vegetation.
- 20) Pilings in open water from the existing bridge and the temporary work trestles shall be removed in their entirety, except that in the event that a bridge piling breaks during removal and cannot be removed in its entirety, DCM shall be notified to determine an appropriate course of action. Existing bridge pilings in SAV areas and wetlands shall be cut off at the mudline.

N.C. Department of Transportation

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ADDITIONAL CONDITIONS**Demolition of Existing Bridge and Associated Structures**

- 21) As proposed in the permit application package for the proposed project, the permittee shall coordinate with and provide the N.C. Division of Marine Fisheries with suitable bridge demolition material that will be placed at four existing artificial reef sites in the Atlantic Ocean.
- 22) The permittee shall remove any scour protection devices (gabion mats, sand bags, A-jacks, etc.) that are exposed on the bed of Oregon Inlet at the time of construction, with the exception of those protecting the substructure of the existing bridge that will remain in place as a fishing pier. If the permittee desires to leave any exposed scour protection devices in place other than those associated with the approved fishing pier, then additional coordination with DCM shall be required. In addition, if any scour protection devices or other remnant structures become exposed in the future, the permittee shall coordinate with DCM and other appropriate resource agencies to determine if removal is necessary.

Retaining Walls for Abutment Fill Slope and Side Slope Protection

- 23) The retaining walls for abutment fill slope and side slope protection shall be structurally tight so as to prevent seepage of fill materials through the structure.
- 24) The retaining walls for abutment fill slope and side slope protection shall be in place prior to any backfilling activities.
- 25) All backfill material shall be obtained from a high ground source. No unconfined backfill shall be discharged into Waters of the State.

Utility Impacts

NOTE: The construction of the new bridge will also require the relocation of electric, telephone, and water utility lines with associated hand and mechanized clearing, including the relocation of an electric riser pole. Wetland and stream impacts resulting from the utility relocations have been included in the total wetland and stream impacts for this project.

- 26) Any relocation of utility lines that is not already depicted on the attached work plan drawings shall require approval by DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.

NOTE: Plans and specifications for the relocation and/or replacement of potable water supply lines must be submitted to the Division of Environmental Health, Public Water Supply Plan Review Section for approval prior to construction.

ADDITIONAL CONDITIONS**Historical and Cultural Resource Protection**

NOTE: A Programmatic Agreement dated 11/15/10 exists between the Federal Highway Administration, the Advisory Council on Historic Preservation, NCDOT, and the N.C. State Historic Preservation Office (SHPO) for the project and is included as Appendix D in the Record of Decision dated December 20, 2010.

Compensatory Mitigation for Impacts to Wetlands, Submerged Aquatic Vegetation and Waters of the State

NOTE: This project will permanently impact approximately 0.48 acres of 404 wetlands (0.38 acres due to fill, 0.02 acres due to excavation, and 0.08 acres due to mechanized clearing) and approximately 0.03 acres of CAMA Coastal Wetlands (0.02 acres due to fill and 0.01 acres due to mechanized clearing). This project will temporarily impact approximately 0.31 acres of 404 wetlands (0.05 acres due to fill and 0.26 acres due to hand clearing) and approximately 1.04 acres of CAMA Coastal Wetlands due to fill. This project will permanently impact approximately 1 acre of surface waters and will temporarily impact approximately 3.43 acres of surface waters. This project will permanently impact approximately 2.66 acres of SAV areas due to shading and will temporarily impact approximately 2.42 acres of SAV areas due to shading. The casting yard for this project will temporarily impact approximately 0.01 acres of surface waters.

- 27) Except as specified by conditions of this permit, wetland mitigation shall be carried out as described in the document titled "Revised Draft Wetland Mitigation Plan NC 12 Replacement of Herbert C. Bonner Bridge (Bridge No. 11) over Oregon Inlet" dated May 17, 2012.

NOTE: The permittee is strongly encouraged to coordinate with the N.C. Natural Heritage Program and the National Park Service (NPS) throughout implementation of the compensatory wetland mitigation within the Bodie Island Lighthouse Pond Significant Natural Heritage Area. The permittee should adhere to any recommendations regarding protection of state and federally listed species within the Bodie Island Lighthouse Pond Significant Natural Heritage Area.

- 28) DCM does not consider the SAV mitigation plan submitted with the permit application to be a final mitigation plan. Therefore, prior to initiating construction within any area containing SAV's, the permittee shall submit a final SAV mitigation plan to DCM, as well as other appropriate resource agencies. Approval of this plan shall be obtained from DCM prior to initiating construction activities in these SAV areas. The plan shall identify the location for the SAV mitigation site and the location of any SAV donor beds.

ADDITIONAL CONDITIONS

NOTE: The permittee is encouraged to incorporate the following considerations into the final SAV mitigation plan: a) utilize multiple locations to allow more chance for success; b) include openings of at least 5 feet for every 100 feet of structure length if breakwaters are utilized to allow fish to continue to use these areas; c) determine if any breakwaters or other structures will need to be removed after success criteria are met; d) develop a monitoring plan for the SAV mitigation site after any breakwaters or other structures are removed to determine long-term success; and e) define success criteria to include a higher percentage of SAV coverage 5 years after any breakwaters or other structures are removed

- 29) Any subsequent changes to the wetland and submerged aquatic vegetation mitigation plans authorized by this permit may require additional authorization from DCM.
- 30) An as-built report for the SAV mitigation site shall be submitted to DCM within 90 days after the mitigation site has been constructed.
- 31) Annual monitoring reports for the submerged aquatic vegetation mitigation site shall be provided to DCM for a minimum of five years after mitigation site construction, and for 5 years after the removal of any breakwaters or other structures. Annual monitoring reports shall include an evaluation of data, and an assessment of whether success criteria are being met. Progress reports shall also be provided upon request.

NOTE: This permit does not convey or imply approval of the suitability of any excess submerged aquatic vegetation mitigation credits generated by this project as compensatory mitigation for any particular future projects. The use of any portion of excess submerged aquatic vegetation mitigation credits generated by this project as compensatory mitigation for future projects shall be approved on a case-by-case basis during the permit review and/or consistency process.

- 32) Due to the possibility that compaction from jetting containment structures, shading under the work trestle, trenching of electric lines, mechanized clearing, and/or other site alterations might prevent the temporary Coastal Wetland and SAV impact areas from re-attaining pre-project functions, the permittee shall provide an annual update on the Coastal Wetland and SAV areas temporarily impacted by this project. This annual update shall consist of photographs and a brief written report on the progress of these temporarily impacted areas in re-attaining their pre-project functions. Within three years after project completion, the permittee shall hold an agency field meeting with DCM to determine if the Coastal Wetland and SAV areas temporarily impacted by this project have re-attained pre-project functions. If at the end of three years DCM determines that the Coastal Wetland and SAV areas temporarily impacted by the project have not re-attained pre-project functions, DCM will determine whether compensatory mitigation shall be required.
- 33) There shall be no clearing or grubbing of wetlands outside of the areas indicated on the attached workplan drawings without prior approval from DCM.
- 34) Construction mats shall be utilized to support equipment within wetland areas to minimize temporary wetland impacts during utility relocations as specified on the attached workplan drawings. These mats shall be removed immediately following project completion.

ADDITIONAL CONDITIONS**Threatened and Endangered Species Protection**

- 35) In accordance with commitments made by the permittee, the discretionary measures for the piping plover and three species of sea turtles that are described in the permit application that include the terms and conditions outlined in the July 10, 2008 United States Fish and Wildlife Service (USFWS) Biological and Conference Opinions shall be implemented.
- 36) In accordance with commitments made by the permittee, all conditions outlined in the USFWS Guidelines for Avoiding Impacts to the West Indian Manatee: Precautionary Measures for Construction Activities in North Carolina Waters shall be implemented.

Sedimentation and Erosion Control

- 37) Appropriate sedimentation and erosion control devices, measures, or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses, and property (e.g. silt fence, diversion swales or berms, etc.).
- 38) This project shall conform to all requirements of the N.C. Sedimentation Pollution Control Act and NCDOT's Memorandum of Agreement with the Division of Land Resources.

Stormwater Management

NOTE: The N.C. Division of Water Quality (DWQ) confirmed in a letter dated 7/19/12 (SW7120514) that the subject project is excluded from State Stormwater permitting requirements as set forth in Section 2(d)(1) of Session Law 2008-211, effective October 1, 2008, and the stormwater rules under Title 15A NCAC 2H .1000, as amended.

General

- 39) The permittee shall exercise all available precautions in the day-to-day operations of the facility to prevent waste from entering the adjacent waters and wetlands.
- 40) If it is determined that additional permanent and/or temporary impacts are necessary that are not shown on the attached workplan drawings or described in the authorized permit application, a permit modification and/or additional authorization from DCM shall be required. In addition, any changes in the approved plan may also require a permit modification and/or additional authorization from DCM. The permittee shall contact a representative of DCM prior to commencement of any such activity for this determination and any permit modification.

ADDITIONAL CONDITIONS

- 41) In accordance with the commitments made by the permittee, no permanent lighting shall be installed on the portion of the existing bridge to be retained as a fishing pier.
- 42) The permittee and/or his contractor shall meet on site with a DCM representative prior to project initiation.
- 43) Development authorized by this permit shall only be conducted on lands owned by the NCDOT and/or its Right-of-Ways and/or easements.
- 44) Nothing in this permit authorizes any activity that has not received approval from NPS and USFWS for work within the Cape Hatteras National Seashore and Pea Island National Wildlife Refuge. The proposed work shall not commence until the permittee has been issued Special Use Permits from the NPS and the USFWS, and a copy of the Special Use Permits are received by DCM.
- 45) The N.C. Division of Water Quality (DWQ) authorized the proposed project on 9/7/12 (DWQ Project No. 20120629) under Individual Water Quality Certification No. 003939. Any violation of the Certification approved by DWQ shall be considered a violation of this CAMA permit.

NOTE: The U.S. Army Corps of Engineers is reviewing this project as an Individual Permit (Action ID No. SAW-1993-03077).

NOTE: This permit does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required, including any necessary for the casting yard, aerial spraying of herbicides at the approved wetland mitigation site, and/or disposal of suitable material on artificial reefs.

MODIFICATION/MAJOR

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission

Permit

for

Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

Excavation and/or filling pursuant to NCGS 113-229

Issued to N.C. Department of Transportation, 1598 Mail Service Center, Raleigh, NC 27699-1598

Authorizing development in Dare County at Pea Island Breach Site on NC Highway 12,
as requested in the permittee's application dated 2/13/13, including the attached AEC Hazard Notice dated
2/13/13, and the attached workplan drawings (124) as described in Condition No. 1 below.

This permit, issued on April 26, 2013, is subject to compliance with the application (where consistent with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

- 1) Unless specifically altered herein, all work authorized by this Major Modification shall be carried out in accordance with the following attached workplan drawings:

CAMA Coastal Wetland and Oceanfront Setback Drawings (17): 7 dated 12/11/12; 1 dated 2/11/12; and 9 dated as received on 3/25/13.

Wetland Impacts Drawings (55): 54 dated 2/11/13; and 1 dated 2/12/13.

Roadway Design Drawings (31): 18 dated 10/16/12; 9 dated 11/20/12; and 4 dated 11/8/12.

Utility Impact Drawings (21): 11 dated as received on 3/25/13; and 10 dated 5/14/12.

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or other qualified persons within twenty (20) days of the issuing date. An appeal requires resolution prior to work initiation or continuance as the case may be.

This permit must be accessible on-site to Department personnel when the project is inspected for compliance.

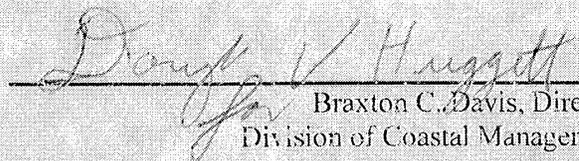
Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

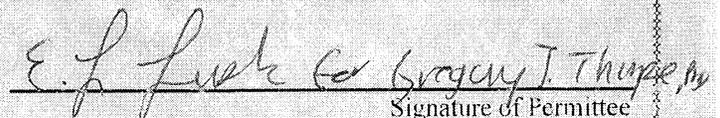
No expiration date, pursuant to GS 136-44.7B

In issuing this permit, the State of North Carolina agrees that your project is consistent with the North Carolina Coastal Management Program.

Signed by the authority of the Secretary of DENR and the Chairman of the Coastal Resources Commission.


Braxton C. Davis, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.


Signature of Permittee

ADDITIONAL CONDITIONS

- NOTE:** This Major Modification authorizes construction of TIP No. B-2500A, construction of a new bridge approximately 2.1 miles in length and related approaches over the Pea Island Breach Site.
- 2) As proposed, the authorized project would result in the loss of motor vehicle access to a public boat ramp and public parking lot near the Pea Island Breach Site. The permittee shall continue to discuss opportunities for replacing these lost public access facilities with the Pea Island National Wildlife Refuge (PINWR), the N.C. Division of Coastal Management (DCM), and the N.C. Division of Marine Fisheries (DMF). The construction of any new public access facility shall require additional authorization from DCM.
 - 3) Unless specifically altered herein, any mitigative measures or environmental commitments specifically made by the permittee in the CAMA permit application, the signed Section 404/NEPA Merger Project Agreements, the Record of Decision document dated December 20, 2010, and/or the final environmental document, shall be implemented, regardless of whether or not such commitments are addressed by individual conditions of this Major Modification.
 - 4) No vegetated wetlands or Waters of the State shall be excavated, without permit modification.
 - 5) No fill material shall be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the areas indicated on the attached workplan drawings, without permit modification.
 - 6) All fill material shall be clean and free of any pollutants except in trace quantities.
 - 7) Live concrete shall not be allowed to contact waters of the State or water that will enter waters of the State.
 - 8) Construction staging areas shall be located only in upland areas, and not in wetlands or waters of the State.
 - 9) All construction access shall be through the use of the existing bridge, authorized temporary work bridges, temporary detour roadway, the partially constructed new bridge, and/or existing high ground areas.
 - 10) The temporary placement and double handling of any fill material within waters or vegetated wetlands is not authorized, with the exception of that fill necessary for the construction of the temporary work bridges, temporary detour roadway, and associated materials. This condition also applies to the removal of the existing temporary bridge, roadway asphalt, sheet piling, riprap, sandbags and associated fabric, and associated materials.
 - 11) All temporary fill shall be placed on geo-textile fabric to facilitate the total removal upon completion of the project.
 - 12) All temporary structures and all remnant existing structures shall be removed in their entirety and disposed of at an approved high ground location as soon as practicable. This condition applies to the temporary work bridges, temporary detour roadway, temporary culverts and associated riprap, and temporary sheet piling. This condition also applies to the remnant existing temporary bridge, roadway asphalt, sandbags and associated fabric, sheet piling, riprap, and associated materials.

ADDITIONAL CONDITIONS

- 13) After the fill material associated with the temporary detour roadway is removed, disturbed areas associated with the temporary detour roadway shall be restored to their pre-existing contours and elevations.
- 14) The placement of riprap shall be limited to the areas indicated on the attached workplan drawings. The riprap material shall be free from loose dirt or any pollutant except in trace quantities.

Installation and Removal of Bridge Piles and Steel Sheet Piling

- 15) The installation and removal of the piles for the new bridge, existing bridge, temporary work bridges, and temporary steel sheet piling, shall be accomplished by jetting, pile driving and/or the use of a vibratory hammer, as specified in the permit application. Should the permittee and/or its contractor desire to utilize another type of pile installation, such as drilled shaft construction, additional authorization from DCM shall be required.

NOTE: The jetting operation will require the use of pumping and water intake stations at three designated locations as depicted on the attached workplan drawings: (1) Wetland Site 10, between Station 3170 and Station 3173, in the permanent easement at the Pea Island Inlet; (2) Wetland Site 15, Station 3097; and (3) Wetland Site 16, Station 3136, at the Refuge boat ramp temporary easement.

- 16) The permittee shall coordinate with DMF and the National Marine Fisheries Service (NMFS) to identify and implement practicable methods to minimize impacts to fish species from the water intakes during jetting.
- 17) In accordance with commitments made by the permittee in the permit application, all jetting that occurs within the Pea Island Breach Site will occur at ebb tide.
- 18) In accordance with commitments made by the permittee in the permit application, jetting spoil shall be confined to the existing transportation easement, and/or used by the U.S. Fish and Wildlife Service (USFWS) on PINWR, and/or disposed of at an approved upland disposal site.
- 19) All reasonable efforts shall be made to contain jetting spoils and keep them from entering wetlands or areas containing submerged aquatic vegetation.
- 20) Pilings from the existing temporary bridge and the temporary work bridges shall be removed in their entirety, except that in the event that a bridge piling breaks during removal and cannot be removed in its entirety, DCM shall be notified to determine an appropriate course of action.

ADDITIONAL CONDITIONS**Retaining Walls for Abutment Fill Slope and Side Slope Protection**

- 21) The retaining walls for abutment fill slope and side slope protection shall be structurally tight so as to prevent seepage of fill materials through the structure.
- 22) The retaining walls for abutment fill slope and side slope protection shall be in place prior to any backfilling activities.
- 23) All backfill material shall be obtained from a high ground source. No unconfined backfill shall be discharged into Waters of the State.

Utility Impacts

NOTE: The authorized project also includes the abandonment of existing underground telephone cables inside the project construction limits, and the installation of new underground telephone fiber optic and copper cables inside the Cape Hatteras Electric Membership Corporation (EMC) power easement.

- 24) Telephone utility lines shall be installed using a horizontal directional bore drilling method. Entry and exit points of this activity, including disposal of material from the drilling activity, shall be outside of all wetlands and Waters of the State.
- 25) The relocation of telephone utility lines shall not result in any permanent or temporary impacts to wetlands or Waters of the State, without permit modification.
- 26) Any relocation of utility lines that is not already depicted on the attached work plan drawings shall require approval by DCM, either under the authority of this Major Modification, or by the utility company obtaining separate authorization.

Historical and Cultural Resource Protection

NOTE: A Programmatic Agreement dated 11/15/10 exists between the Federal Highway Administration, the Advisory Council on Historic Preservation, the N.C. Department of Transportation (NCDOT), and the N.C. State Historic Preservation Office (SHPO) for the project and is included as Appendix D in the Record of Decision dated December 20, 2010.

ADDITIONAL CONDITIONS**Impacts to Wetlands and Waters of the State****NOTE:**

This project will permanently impact approximately 0.01 acres of CAMA Coastal Wetlands due to fill. This project will temporarily impact approximately 1.04 acres of 404 wetlands (0.79 acres due to fill, and 0.25 acres due to hand clearing) and will temporarily impact approximately 0.50 acres of CAMA Coastal Wetlands (0.33 acres due to fill and 0.17 acres due to hand clearing). This project will permanently impact approximately 0.04 acres of surface waters, and will temporarily impact approximately 0.28 acres of surface waters.

- 27) There shall be no clearing of wetlands outside of the areas indicated on the attached workplan drawings without prior approval from DCM.
- 28) Wetland areas to be temporarily impacted by clearing shall not be grubbed, without additional authorization from the Division.
- 29) Construction mats shall be utilized to support equipment within wetland areas to minimize temporary wetland impacts as specified on the workplan drawings. These mats shall be removed immediately following project completion.
- 30) The permittee shall minimize the need to cross wetlands to the maximum extent practicable.
- 31) Due to the possibility that compaction due to temporary roadway fill, jetting intake pumps and pipes, hand clearing, and/or other site alterations might prevent the temporary Coastal Wetland impact areas from re-attaining pre-project functions, the permittee shall provide an annual update on the Coastal Wetland areas temporarily impacted by this project. This annual update shall consist of photographs and a brief written report on the progress of these temporarily impacted areas in re-attaining their pre-project functions. Within three years after project completion, the permittee shall hold an agency field meeting with DCM to determine if the Coastal Wetland areas temporarily impacted by this project have re-attained pre-project functions. If at the end of three years DCM determines that the Coastal Wetland areas temporarily impacted by the project have not re-attained pre-project functions, DCM will determine whether compensatory mitigation shall be required.

Threatened and Endangered Species Protection

- 32) The permittee shall include the N.C. Wildlife Resources Commission (WRC) when it works with the DMF, NMFS, National Park Service (NPS) and USFWS to determine other areas near project construction where night lighting would need to be avoided or limited, as committed to by the permittee in Project Commitment #11 of the Environmental Assessment dated February 12, 2013.
- 33) In accordance with commitments made by the permittee, the discretionary measures for the piping plover and three species of sea turtles that include the terms and conditions outlined in the July 10, 2008 USFWS Biological and Conference Opinions shall be implemented.

ADDITIONAL CONDITIONS

- 34) In accordance with commitments made by the permittee, all conditions outlined in the USFWS Guidelines for Avoiding Impacts to the West Indian Manatee: Precautionary Measures for Construction Activities in North Carolina Waters shall be implemented.

Sedimentation and Erosion Control

- 35) Appropriate sedimentation and erosion control devices, measures, or structures shall be implemented to ensure that eroded materials do not enter adjacent wetlands, watercourses and properties (e.g. silt fence, diversion swales or berms, etc.).
- 36) This project shall conform to all requirements of the N.C. Sedimentation Pollution Control Act and NCDOT's Memorandum of Agreement with the N.C. Division of Energy, Minerals, and Land Resources.
- 37) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.

Stormwater Management

NOTE: The N.C. Division of Water Quality (DWQ) confirmed in a letter dated 4/17/13 (SW7130210) that the subject project is excluded from State Stormwater permitting requirements as set forth in Section 2(d)(1) of Session Law 2008-211, effective October 1, 2008, and the stormwater rules under Title 15A NCAC 2H .1000, as amended.

General

- 38) If it is determined that additional permanent and/or temporary impacts are necessary that are not shown on the attached workplan drawings or described in the authorized permit application, a permit modification and/or additional authorization from DCM shall be required. In addition, any changes in the approved plan may also require a permit modification and/or additional authorization from DCM. The permittee shall contact a representative of DCM prior to commencement of any such activity for this determination and any permit modification.
- 39) The permittee shall exercise all available precautions in the day-to-day operations of the facility to prevent waste from entering the adjacent waters and wetlands.
- 40) The permittee and/or his contractor shall contact the DCM Transportation Project Field Representative in Elizabeth City at (252) 264-3901 to request a pre-construction conference prior to project initiation.
- 41) Nothing in this Major Modification authorizes any activity that has not received approval from NPS and/or the USFWS for work within the Cape Hatteras National Seashore and/or PINWR. The proposed work shall not commence until the permittee has been issued Special Use Permit(s) from the NPS and the USFWS, if required, and a copy of the Special Use Permit(s) are received by DCM.

ADDITIONAL CONDITIONS

- 42) The permittee shall install and maintain at his expense any signal lights or signals prescribed by the U.S. Coast Guard, through regulation or otherwise, on the authorized facilities.
- 43) The permittee shall undertake measures to ensure that the jetting intake structures and associated equipment do not pose a hazard to navigation.
- 44) Development authorized by this Major Modification shall only be conducted on lands owned by the NCDOT and/or its right-of-ways and/or easements.
- 45) DWQ authorized the proposed project on 4/15/13 (DWQ Project No. 20130144 v.1) under General Water Quality Certification No. 3886. Any violation of the Certification approved by DWQ shall be considered a violation of this Major Modification.

NOTE: This Major Modification does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required.

- 46) This Major Modification shall be attached to the original of Permit No. 106-12, which was issued on 9/19/12, and copies of both documents shall be readily available on site when a Division representative inspects the project for compliance.
- 47) All conditions and stipulations of the active permit remain in force under this Major Modification unless altered herein.

Permit Class

Permit Number

MODIFICATION/MAJOR

106-12

STATE OF NORTH CAROLINA
Department of Environment and Natural Resources
and
Coastal Resources Commission

Permit

for

X Major Development in an Area of Environmental Concern
pursuant to NCGS 113A-118

X Excavation and/or filling pursuant to NCGS 113-229

Issued to N.C. Department of Transportation, 1598 Mail Service Center, Raleigh, NC 27699-1598

Authorizing development in Dare County at Pea Island Breach Site on NC Highway 12,
as requested in the permittee's application dated 8/27/13, including the attached AEC Hazard Notice dated
8/27/13, and the attached workplan drawings (105): 96 dated 8/11/13, and 9 dated as received on 9/5/13.

This permit, issued on 10/17/13, is subject to compliance with the application (where consistent
with the permit), all applicable regulations, special conditions and notes set forth below. Any violation of these terms may
be subject to fines, imprisonment or civil action; or may cause the permit to be null and void.

- 1) Unless specifically altered herein, this Major Modification authorizes the following: retention of
approximately 1.2 miles of a previously authorized temporary detour road as a permanent paved
public boating access to the Pamlico Sound on Pea Island National Wildlife Refuge; construction of
traffic lanes for southbound and northbound traffic to connect with the public boating access; and
updated workplan drawings for the entire project.
2) Nothing in this Major Modification authorizes any activity that has not received approval from the
National Park Service (NPS) and/or the United States Fish and Wildlife Service (USFWS) for work
within the Cape Hatteras National Seashore and/or Pea Island National Wildlife Refuge (PINWR).
The proposed work shall not commence until the permittee has been issued Special Use Permit(s)
from the NPS and the USFWS, if required, and a copy of the Special Use Permit(s) are received by
the N.C. Division of Coastal Management (DCM).

(See attached sheets for Additional Conditions)

This permit action may be appealed by the permittee or
other qualified persons within twenty (20) days of the issuing
date. An appeal requires resolution prior to work initiation or
continuance as the case may be.

This permit must be accessible on-site to Department
personnel when the project is inspected for compliance.

Any maintenance work or project modification not covered
hereunder requires further Division approval.

All work must cease when the permit expires on

No expiration date, pursuant to GS 136-44.7B

In issuing this permit, the State of North Carolina agrees
that your project is consistent with the North Carolina Coastal
Management Program.

Signed by the authority of the Secretary of DENR and the
Chairman of the Coastal Resources Commission.

Douglas V. Haggitt for

Braxton C. Davis, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

E.L. Lusk for Richard W. Hancock PE
Signature of Permittee

ADDITIONAL CONDITIONS

- 3) Development authorized by this Major Modification shall only be conducted on lands owned by the NCDOT and/or its right-of-ways and/or easements.
- 4) Prior to the initiation of construction within the Ocean Hazard Area of Environmental Concern (AEC), a representative of the N.C. Division of Coastal Management (DCM) shall approve the first line of stable, natural vegetation and the corresponding setbacks. All development authorized by this Major Modification shall be located landward of the appropriate setback lines. These setback determinations shall replace those done at the time the permit application was processed and approved. Construction shall begin within sixty days of this determination or the measurement is void and shall be re-established. In the case of a major shoreline change within that period, a new setback determination shall be required before construction begins.
- 5) In accordance with 15A NCAC 07H .0306(k), the authorized structures shall be relocated or dismantled when they become imminently threatened by changes in shoreline configuration. The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach re-nourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under Rule 15A NCAC 07H.0308(a)(2).

Impacts to Wetlands and Waters of the State and Compensatory Mitigation

NOTE: This project will permanently impact approximately 0.15 acres of CAMA Coastal Wetlands and approximately 0.07 acres of 404 wetlands due to fill. This project will temporarily impact approximately 0.87 acres of 404 wetlands (0.68 acres due to fill, and 0.19 acres due to hand clearing) and will temporarily impact approximately 0.43 acres of CAMA Coastal Wetlands (0.22 acres due to fill and 0.21 acres due to hand clearing). This project will permanently impact approximately 0.04 acres of surface waters, and will temporarily impact approximately 0.28 acres of surface waters.

- 6) Wetland mitigation shall be carried out as described in the document titled "Final Wetland Mitigation Plan NC 12 Replacement of Herbert C. Bonner Bridge (Bridge No. 11) over Oregon Inlet" dated January 30, 2013.

General

- 7) If it is determined that additional permanent and/or temporary impacts are necessary that are not shown on the attached workplan drawings or described in the authorized permit application, a permit modification and/or additional authorization from DCM shall be required. In addition, any changes in the approved plan may also require a permit modification and/or additional authorization from DCM. The permittee shall contact a representative of DCM prior to commencement of any such activity for this determination and any permit modification.

ADDITIONAL CONDITIONS

- 8) Due to the possibility that compaction due to temporary roadway fill, jetting intake pumps and pipes, hand clearing, and/or other site alterations might prevent the temporary Coastal Wetland impact areas from re-attaining pre-project functions, the permittee shall provide an annual update on the Coastal Wetland areas temporarily impacted by this project. This annual update shall consist of photographs and a brief written report on the progress of these temporarily impacted areas in re-attaining their pre-project functions. Within three years after project completion, the permittee shall hold an agency field meeting with DCM to determine if the Coastal Wetland areas temporarily impacted by this project have re-attained pre-project functions. If at the end of three years DCM determines that the Coastal Wetland areas temporarily impacted by the project have not re-attained pre-project functions, DCM will determine whether compensatory mitigation shall be required.
- 9) DWR authorized the proposed project on 9/9/13 (DWR Project No. 20130144 v.3). Any violation of the Certification approved by DWR shall be considered a violation of this Major Modification.

NOTE: This Major Modification does not eliminate the need to obtain any additional state, federal or local permits, approvals or authorizations that may be required.

- 10) This Major Modification shall be attached to the original of Permit No. 106-12, which was issued on 9/19/12, as well as the Major Modification which was issued on 4/26/13, and copies of all documents shall be readily available on site when a Division representative inspects the project for compliance.
- 11) All conditions and stipulations of the active permit remain in force under this Major Modification unless altered herein.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Raleigh Field Office
Post Office Box 33726
Raleigh, North Carolina 27636-3726

GUIDELINES FOR AVOIDING IMPACTS TO THE WEST INDIAN MANATEE Precautionary Measures for Construction Activities in North Carolina Waters

The West Indian manatee (*Trichechus manatus*), also known as the Florida manatee, is a Federally-listed endangered aquatic mammal protected under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1461 *et seq.*). The manatee is also listed as endangered under the North Carolina Endangered Species Act of 1987 (Article 25 of Chapter 113 of the General Statutes). The U.S. Fish and Wildlife Service (Service) is the lead Federal agency responsible for the protection and recovery of the West Indian manatee under the provisions of the Endangered Species Act.

Adult manatees average 10 feet long and weigh about 2,200 pounds, although some individuals have been recorded at lengths greater than 13 feet and weighing as much as 3,500 pounds. Manatees are commonly found in fresh, brackish, or marine water habitats, including shallow coastal bays, lagoons, estuaries, and inland rivers of varying salinity extremes. Manatees spend much of their time underwater or partly submerged, making them difficult to detect even in shallow water. While the manatee's principal stronghold in the United States is Florida, the species is considered a seasonal inhabitant of North Carolina with most occurrences reported from June through October.

To protect manatees in North Carolina, the Service's Raleigh Field Office has prepared precautionary measures for general construction activities in waters used by the species. Implementation of these measure will allow in-water projects which do not require blasting to proceed without adverse impacts to manatees. In addition, inclusion of these guidelines as conservation measures in a Biological Assessment or Biological Evaluation, or as part of the determination of impacts on the manatee in an environmental document prepared pursuant to the National Environmental Policy Act, will expedite the Service's review of the document for the fulfillment of requirements under Section 7 of the Endangered Species Act. These measures include:

1. The project manager and/or contractor will inform all personnel associated with the project that manatees may be present in the project area, and the need to avoid any harm to these endangered mammals. The project manager will ensure that all construction personnel know the general appearance of the species and their habit of moving about completely or partially submerged in shallow water. All construction personnel will be informed that they are responsible for observing water-related activities for the presence of manatees.
2. The project manager and/or the contractor will advise all construction personnel that

there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act and the Endangered Species Act.

3. If a manatee is seen within 100 yards of the active construction and/or dredging operation or vessel movement, all appropriate precautions will be implemented to ensure protection of the manatee. These precautions will include the immediate shutdown of moving equipment if a manatee comes within 50 feet of the operational area of the equipment. Activities will not resume until the manatee has departed the project area on its own volition (i.e., it may not be herded or harassed from the area).

4. Any collision with and/or injury to a manatee will be reported immediately. The report must be made to the U.S. Fish and Wildlife Service (ph. 919.856.4520 ext. 16), the National Marine Fisheries Service (ph. 252.728.8762), and the North Carolina Wildlife Resources Commission (ph. 252.448.1546).

5. A sign will be posted in all vessels associated with the project where it is clearly visible to the vessel operator. The sign should state:

CAUTION: The endangered manatee may occur in these waters during the warmer months, primarily from June through October. Idle speed is required if operating this vessel in shallow water during these months. All equipment must be shut down if a manatee comes within 50 feet of the vessel or operating equipment. A collision with and/or injury to the manatee must be reported immediately to the U.S. Fish and Wildlife Service (919-856-4520 ext. 16), the National Marine Fisheries Service (252.728.8762), and the North Carolina Wildlife Resources Commission (252.448.1546).

6. The contractor will maintain a log detailing sightings, collisions, and/or injuries to manatees during project activities. Upon completion of the action, the project manager will prepare a report which summarizes all information on manatees encountered and submit the report to the Service's Raleigh Field Office.

7. All vessels associated with the construction project will operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than a four foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

8. If siltation barriers must be placed in shallow water, these barriers will be: (a) made of material in which manatees cannot become entangled; (b) secured in a manner that they cannot break free and entangle manatees; and, (c) regularly monitored to ensure that manatees have not become entangled. Barriers will be placed in a manner to allow manatees entry to or exit from essential habitat.

Figure 1. The whole body of the West Indian manatee may be visible in clear water; but in the dark and muddy waters of coastal North Carolina, one normally sees only a small part of the head when the manatee raises its nose to breathe.

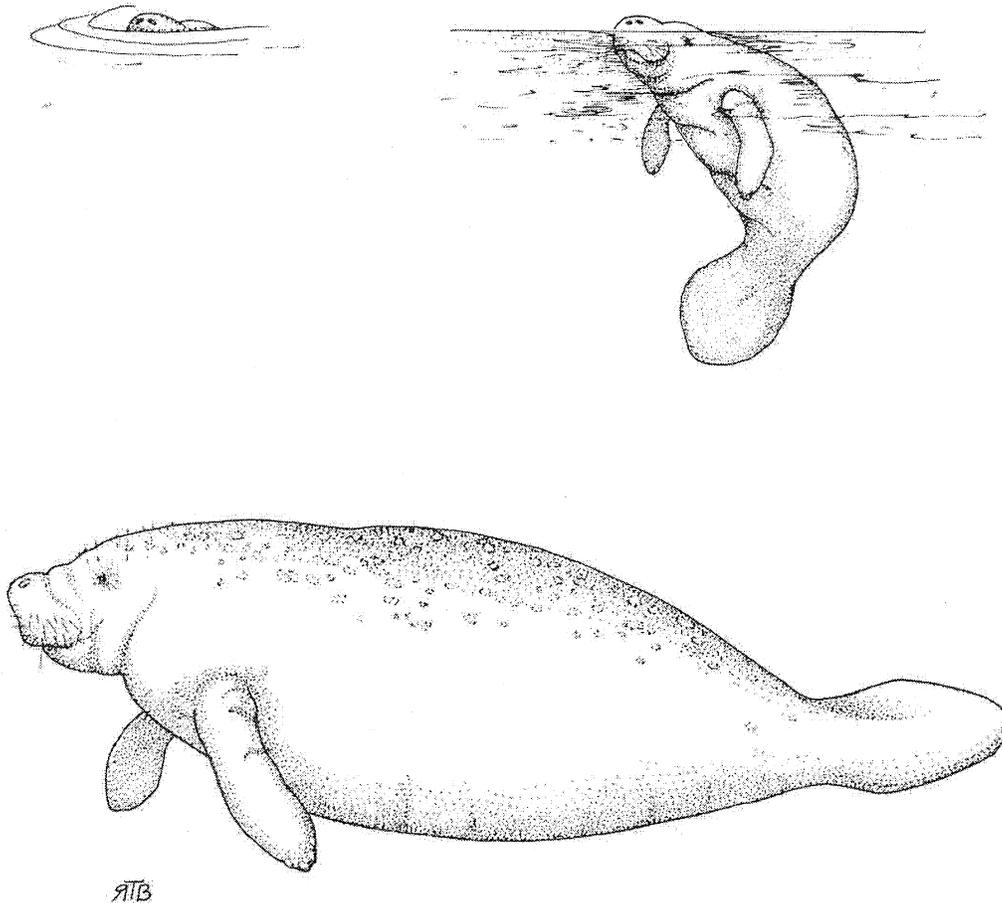


Illustration used with the permission of the North Carolina State Museum of Natural Sciences.
Source: Clark, M. K. 1987. Endangered, Threatened, and Rare Fauna of North Carolina: Part I. A re-evaluation of the mammals. Occasional Papers of the North Carolina Biological Survey 1987-3. North Carolina State Museum of Natural Sciences. Raleigh, NC. pp. 52.



United States Department of the Interior

UNITED STATES FISH AND WILDLIFE SERVICE
Alligator River National Wildlife Refuge
100 Conservation Way
Post Office Box 1969
Manteo, NC 27954

Phone: (252) 473.1132 FAX: (252) 473.1668

September 16, 2013



RECEIVED
Division of Highways

SEP 17 2013

reconstruction
Project Development and
Environmental Analysis Branch

Richard W. Hancock, PE
N. C. Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548

Dear Mr. Hancock:

The attached Special Use Permit is in reference to the B2500 Phase IIa bridge replacement project at New Inlet on Pea Island National Wildlife Refuge. This permit has been closely coordinated with Mr. Victor Barbour. Until today the plan was to issue the permit with Mr. Jerry Jennings name on it, but I was advised this morning that you would be the project contact.

Please sign at the two places indicated and return a signed copy to me as soon as possible. If you have questions, please contact Dennis Stewart, Refuge Biologist at (252) 473-1131 xt 231 or dennis_stewart@fws.gov.

Sincerely,

Mike Bryant
Project Leader
Coastal North Carolina National Wildlife Refuges Complex

United States Department of the Interior
U.S. Fish and Wildlife Service
National Wildlife Refuge System
General Special Use
Application and Permit

OMB Control Number 1018-0102
Expiration Date: 06/30/2014

Name of Refuge Pea Island
Address P. O. Box 1969 Manteo, NC 27954
Attn: (Refuge Official) Mike Bryant
Phone # (252) 473-1131 E-mail mike_bryant@fws.gov

Application

(To be filled out by applicant. Note: Not all information is required for each use. See instructions at the end of the notice.)

1) [X] New [] Renewal [] Modification [] Other

Applicant Information

2) Full Name: Richard W. Hancock, PE
3) Organization: NC Department of Transportation
4) Address: 1548 Mail Service Center
5) City/State/Zip: Raleigh, NC 27699-1548
6) Phone #: 919-707-6000
7) Fax #:
8) E-mail: rwhancock@ncdot.gov

9) Assistants/Subcontractors/Subpermittees: (List full names, addresses and phone #'s and specifically describe services provided if subcontractors are used.)

All work will be done under the provisions of a general private contractor. The general contractor will award subcontracts as specified in the general document or as needed to fulfill the terms and conditions of the contract/permits.

Activity Information

10) Activity type: [] Event [] Wood Cutting [] Group Visit [] Cabin/Subsistence Cabin [] Educational Activity
[X] Other B2500 Phase IIa Bridge construction for NC 12 at the Pea Island (New) Inlet

11) Describe Activity: (Specifically identify timing, frequency, and how the event is expected to proceed.)

NCDOT has planned construction of a new 2.1 mile long bridge on NC 12 at the "Pea Island Inlet" site. No new right-of-way is proposed but temporary construction easements are required. Total project length is 2.7 miles. The new bridge will be a two-lane section and will have 98 spans. Drainage systems will include open scuppers on bridge spans, grate inlets and pipe systems for ramps/end spans, and roadside ditches for approach pavement. Temporary easements will be necessary for NC 12 safety, construction, and erosion/sediment control. Total amount of Refuge land temporarily impacted is about 3.84 acres. This includes temporary easements at existing parking areas for staging, slope stabilization, and access for pumping stations to provide water for jetting activities. Work at night and use of welders/torches may be necessary during construction. The Permittee and Refuge Manager shall meet as needed to establish procedures for approval other activities that may arise.

12) Activity/site occupancy timeline: (Specifically identify beginning and ending dates, site occupation timeline, hours, clean-up and other major events.)

The project time line calls for a contract award date during the fall of 2013 with contractor mobilization and construction beginning soon thereafter. The project will take 3-4 years to complete.

Addendum No. 1

R-75

New 11-1-13

OMB Control Number 1018-0102
Expiration Date: 06/30/2014

(Depending on the activity for which you are requesting a permit, we may ask you for the following activity information. Please contact the specific refuge where the activity is being conducted to determine what activity information is required.)

13) Expected number of participants:
Children 0 Adults _____ Total _____

14) Grade level of educational group:
Grade _____ N/A

15) Will staff time/assistance be required?
 Yes No N/A

16a) Plan of Operation required? Yes No N/A

16b) Plan of Operation attached? Yes No

17) Location: (Specifically identify location; GPS location preferred.)

Pea Island National Wildlife Refuge, Dare County, North Carolina; "Pea Island (New) Inlet" 35.684120 -75.484016

18a) Is map of location(s) required?
 Yes No N/A

18b) Is map of location(s) attached?
 Yes No

Insurance Coverage/Certifications/Permits

19a) Is insurance required?
 Yes No N/A

19b) Insurance: (Provided carrier, type and policy number)

20) Other licenses/certifications/permits required: (Specifically identify licenses, certifications, and permits.)

Clean Water Act Section 404; NC Coastal Area Management Act, Endangered Species Act compliance; Section 106 Historic Resources compliance.

Logistics and Transportation

21) Does activity require personnel to stay overnight onsite? Yes No

22) Personnel involved:
Contractor will have people working day and night in crew shifts.

23) Specifically describe all equipment/gear and materials used:
Any and all equipment normally associated with bridge construction over water and land, including welders and cutting torches.

24) Transportation description(s) and license number(s) to access refuge(s): [Provide description of and specific auto license/boat/plane registration number(s).]

Standard NCDOT and contractor vehicles including transport trucks for supplies and materials.

25) Specifically describe onsite work and/or living accommodations:
Construction crews will likely be working 24 hours per day and 7 days per week.

26) Specifically describe onsite hazardous material storage or other onsite material storage space:
The NCDOT contract will require strict compliance with all OSHA as well as all other health and safety standards.

27) Signature of Applicant J. Vicki Bulson

Date of Application: September 16, 2013

Sign, date, and print this form and return it to the refuge for processing. Do not fill out information below this page.



For Official Use Only (This section to be filled out by refuge personnel only.)

Special Use Permit

Permit #: 2013-003

1) Date: September 16, 2013 2) Permit Approved Permit Denied 3) Station #: 41630

4) Additional special conditions required: (Special conditions may include activity reports, before and after photographs, and other conditions.)
 Yes No N/A

Additional sheets attached:
 Yes No

5) Other licenses/permits required:
 Yes No N/A

Verification of other licenses/permits, type:
Corps of Engineers, NC Division of Coastal Management, NC
Division of Water Quality

6) Insurance/certifications required:
 Yes No N/A

Verification of insurance/certification, type:

7) Record of Payments: Exempt Partial Full

Amount of payment: N/A Record of partial payment: N/A

8) Bond posted: Yes No

This permit is issued by the U.S. Fish and Wildlife Service and accepted by the applicant signed below, subject to the terms, covenants, obligations, and reservations, expressed or implied herein, and to the notice, conditions, and requirements included or attached. A copy of this permit should be kept on hand so that it may be shown at any time to any refuge staff.

Permit approved and issued by (Signature and title):

Michael R. Bryant Date: September 16, 2013

Permit accepted by (Signature of applicant):

J. Vito Balow Date: 9/27/13

Notice

In accordance with the Privacy Act (5 U.S. C. 552a) and the Paperwork Reduction Act (44 U.S. C. 3501), please note the following information:

1. The issuance of a permit and collection of fees on lands of the National Wildlife Refuge System are authorized by the National Wildlife Refuge System Administration Act (16 U.S. C. 668dd-ee) as amended, and the Refuge Recreation Act (16 U.S. C. 460k-460k-4).
2. The information that you provide is voluntary; however submission of requested information is required to evaluate the qualifications, determine eligibility, and document permit applicants under the above Acts. It is our policy not to use your name for any other purpose. The information is maintained in accordance with the Privacy Act. All information you provide will be considered in reviewing this application. False, fictitious, or fraudulent statements or representations made in the application may be grounds for revocation of the Special Use Permit and may be punishable by fine or imprisonment (18 U.S.C. 1001). Failure to provide all required information is sufficient cause for the U.S. Fish and Wildlife Service to deny a permit.
3. No Members of Congress or Resident Commissioner shall participate in any part of this contract or to any benefit that may arise from it, but this provision shall not pertain to this contract if made with a corporation for its general benefit.
4. The Permittee agrees to be bound by the equal opportunity "nondiscrimination in employment" clause of Executive Order 11246.
5. Routine use disclosures may also be made: (a) to the U.S. Department of Justice when related to litigation or anticipated litigation; (b) of information indicating a violation or potential violation of a statute, rule, order, or license to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulations, order, or license; (c) from the record of the individual in response to an inquiry from a Congressional office made at the request of the individual (42 FR 19083; April 11, 1977); and (d) to provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal Claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the Department (48 FR 54716; December 6, 1983).
6. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. This information collection has been approved by OMB and assigned control number 1018-0102. The public reporting burden for this information collection varies based on the specific refuge use being requested. The relevant public reporting burden for the General Use Special Use Permit Application form is estimated to average 30 minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Comments on this form should be mailed to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, MS 2042-PDM, Arlington, Virginia, 22203.

General Conditions and Requirements

1. **Responsibility of Permittee:** The permittee, by operating on the premises, shall be considered to have accepted these premises with all facilities, fixtures, or improvements in their existing condition as of the date of this permit. At the end of the period specified or upon earlier termination, the permittee shall give up the premises in as good order and condition as when received except for reasonable wear, tear, or damage occurring without fault or negligence. The permittee will fully repay the Service for any and all damage directly or indirectly resulting from negligence or failure on his/her part, and/or the part of anyone of his/her associates, to use reasonable care.
2. **Operating Rules and Laws:** The permittee shall keep the premises in a neat and orderly condition at all times, and shall comply with all municipal, county, and State laws applicable to the operations under the permit as well as all Federal laws, rules, and regulations governing national wildlife refuges and the area described in this permit. The permittee shall comply with all instructions applicable to this permit issued by the refuge official in

charge. The permittee shall take all reasonable precautions to prevent the escape of fires and to suppress fires and shall render all reasonable assistance in the suppression of refuge fires.

- 3. Use Limitations: The permittee's use of the described premises is limited to the purposes herein specified and does not, unless provided for in this permit, allow him/her to restrict other authorized entry onto his/her area; and permits the Service to carry on whatever activities are necessary for: (1) protection and maintenance of the premises and adjacent lands administered by the Service; and (2) the management of wildlife and fish using the premises and other Service lands.
- 4. Transfer of Privileges: This permit is not transferable, and no privileges herein mentioned may be sublet or made available to any person or interest not mentioned in this permit. No interest hereunder may accrue through lien or be transferred to a third party without the approval of the Regional Director of the Service and the permit shall not be used for speculative purposes.
- 5. Compliance: The Service's failure to require strict compliance with any of this permit's terms, conditions, and requirements shall not constitute a waiver or be considered as a giving up of the Service's right to thereafter enforce any of the permit's terms or conditions.
- 6. Conditions of Permit not Fulfilled: If the permittee fails to fulfill any of the conditions and requirements set forth herein, all money paid under this permit shall be retained by the Government to be used to satisfy as much of the permittee's obligation as possible.
- 7. Payments: All payment shall be made on or before the due date to the local representative of the Service by a postal money order or check made payable to the U.S. Fish and Wildlife Service.
- 8. Termination Policy: At the termination of this permit the permittee shall immediately give up possession to the Service representative, reserving, however, the rights specified in paragraph 11. If he/she fails to do so, he/she will pay the government, as liquidated damages, an amount double the rate specified in this permit for the entire time possession is withheld. Upon yielding possession, the permittee will still be allowed to reenter as needed to remove his/her property as stated in paragraph 11. The acceptance of any fee for the liquidated damages or any other act of administration relating to the continued tenancy is not to be considered as an affirmation of the permittee's action nor shall it operate as a waiver of the Government's right to terminate or cancel the permit for the breach of any specified condition or requirement.
- 9. Revocation Policy: This permit may be revoked by the Regional Director of the Service without notice for noncompliance with the terms hereof or for violation of general and/or specific laws or regulations governing national wildlife refuges or for nonuse. It is at all times subject to discretionary revocation by the Director of the Service. Upon such revocation the Service, by and through any authorized representative, may take possession of the said premises for its own and sole use, and/or may enter and possess the premises as the agent of the permittee and for his/her account.

10. ~~Damages. The United States shall not be responsible for any loss or damage to property including, but not limited to, growing crops, animals, and machinery or injury to the permittee or his/her relatives, or to the officers, agents, employees, or any other who are on the premises from instructions or by the sufferance of wildlife or employees or representatives of the Government carrying out their official responsibilities. The permittee agrees to save the United States or any of its agencies harmless from any and all claims for damages or losses that may arise to be incident to the flooding of the premises resulting from any associated Government river and harbor, flood control, reclamation, or Tennessee Valley Authority activity.~~

MS
9/27/13
MRB
10-17-13

11. Removal of Permittee's Property: Upon the expiration or termination of this permit, if all rental charges and/or damage claims due to the Government have been paid, the permittee may, within a reasonable period as stated in the permit or as determined by the refuge official in charge, but not to exceed 60 days, remove all structures, machinery, and/or equipment, etc. from the premises for which he/she is responsible. Within this period the permittee must also remove any other of his/her property including his/her acknowledged share of products or crops grown, cut, harvested, stored, or stacked on the premises. Upon failure to remove any of the above items within the aforesaid period, they shall become the property of the United States.

**Alligator River National Wildlife Refuge
Pea Island National Wildlife Refuge**



**CONDITIONS FOR SPECIAL USE PERMITS & AUTHORIZED ACTIVITIES
SUP 2013-003**

1. The Permittee or authorized person, and all officers, agents, employees, representatives, and clients of the Permittee or authorized person, shall comply with all Refuge, Federal, State, and local regulations and conditions that apply to the special use activity. Failure to comply with any applicable regulation or condition, and all Federal laws, rules, and regulations governing National Wildlife Refuges and the area described in the Special Use Permit (Permit) or authorizing documents may result in revocation of the Permit or authorized activity and/or criminal prosecution.
2. While engaged in a special use activity on the Refuge, the Permittee or authorized person, and his/her officers, agents, employees, or representatives, shall be in possession of a **copy** of the Permit or authorizing documents (including all attachments that contain conditions) and shall, upon request by an authorized Refuge official or by any authorized local, state, or federal law enforcement officer, display the **copy** authorizing their presence and activity on the Refuge and shall furnish any other licenses and identification documents as may be requested.
3. Entry on the Refuge during nighttime hours (i.e., ½-hour after sunset to ½-hour before sunrise) is prohibited, **unless authorized in writing by the Refuge Manager.**
4. It is unlawful to disturb, destroy, injure, collect, or take any wildlife, plant, natural object, mineral, cultural or historical feature, or public property on the Refuge, **unless authorized in writing by the Refuge Manager.**
5. Wildlife shall not be harmed or harassed and disturbance shall be kept to a minimum, this includes all snakes (poisonous and non-poisonous snakes), **unless authorized in writing by the Refuge Manager.**
6. The Refuge Manager should be contacted **immediately** at **(252) 473-1131** upon discovery of any **wildfire**, or any leak, spill, or break in a pipeline, power line, canal, or dike, or any other accident or incident that has the potential to have an adverse impact on the soil, wildlife, or plants in the area. Any unusual wildlife sightings or suspected illegal activities should be reported to the Refuge Manager.
7. Any accident that results in a personal injury (**i.e., an accident that requires professional medical treatment**) shall be reported to the Refuge Manager within 24 hours of the accident.
8. All **locked** Refuge gates shall be closed and locked upon entering and leaving Refuge property. Refuge gates should be left the way they are found (i.e., open, closed, either locked or unlocked as the case may be).

9. Vehicle travel shall only be on designated roads or routes of travel, **unless authorized in writing by the Refuge Manager**. Vehicles, boats, trailers, and other equipment shall be parked in such a manner that **roads and trails, including canoe trails and navigable waters, are not to be blocked**. Roads and trails need to be accessible to other Refuge visitors and to Refuge staff, cooperative farmers, fire trucks, emergency vehicles, maintenance equipment, and law enforcement patrols.
10. Vehicles with catalytic converters shall be restricted to paved roads, recently maintained gravel or dirt roads, or bare soil areas because of the high fire potential. Vehicles with catalytic converters shall not be parked over high vegetation or other fire hazardous materials.
11. Refuge gate or building keys **shall not be loaned** to other agencies, companies, or persons. If there is a need for access by other persons, please have them contact the Refuge Manager. All Refuge keys shall be returned to the Refuge Manager, or a designated staff member, within 10 calendar days, after expiration or termination of the Permit or authorized activity.
12. All dogs (or any other pet) must be confined or on a leash while on the Refuge, **unless authorized in writing by the Refuge Manager**. Leashed pets must be under the immediate control of the Permittee or authorized person, or the leash must be secured to a stationary object. The leash shall not be in excess of 10 feet in length.
13. Possession or use of firearms, air guns, bows and arrows, cross bows, spears, or gigs; or illegal knives, weapons, or devices; or explosives of any type is prohibited on the Refuge when engaged in a special use activity, **unless authorized in writing by the Refuge Manager**.
14. Littering is prohibited. **All** materials brought into the Refuge shall be removed and properly disposed. Drink cans, bottles, candy wrappers, toilet paper, and other garbage and refuse shall not be left on the Refuge.
15. The Refuge Manager shall be contacted **before** any surface work is done. This includes mowing, road or trail improvements, digging, clearing or trimming of brush or vegetation, installation of structures, etc.
16. The use of herbicides and pesticides on Refuge property is prohibited, **unless authorized in writing by the Refuge Manager**. Unrestricted, over-the-counter-type, insect repellents may be used on or near the body and clothing to repel biting or stinging insects.
17. No permanent or semi-permanent markings shall be made on any Refuge building, structure, gate, post, sign, fence, tree, vegetation, or soil by either marking, painting, cutting, scratching, blazing, mowing, digging, or other destructive method, **unless authorized in writing by the Refuge Manager**. When needed, only temporary, removable markers (e.g., flagging tape, survey stakes, metal/paper/plastic tags, etc.) shall be used to mark site locations, plots, etc. Safety signs, informational signs, and any other signs required by law or regulation for the special use activity being

conducted, shall be posted as required, **but only with prior authorization by the Refuge Manager.** All markers and signs shall be removed upon conclusion of the special use activity or upon expiration or termination of the Permit.

18. The use or possession of traps, snares, or other passive (i.e., unattended) collection devices, which are used to collect wildlife, is prohibited, **unless authorized in writing by the Refuge Manager.** Each individual trap, snare, or passive collection device shall have a weather-resistant, permanent tag attached with the Permittee's, authorized person's, and/or organization's name legibly marked on the tag or shall have the Permittee's, authorized person's, and/or organization's name legibly marked, imprinted, or engraved on the trap, snare, or device.
19. No permanent or semi-permanent fences, buildings, shelters, docks, piers, or other structures or facilities may be erected, built, or placed on the Refuge, **unless authorized in writing by the Refuge Manager.** No machinery, equipment, supplies, or materials may be placed or stored on the refuge, **unless authorized in writing by the Refuge Manager.**
20. All open fires are prohibited, **unless authorized in writing by the Refuge Manager.** Leaving an **authorized** open fire unattended or not completely extinguished is prohibited. Setting on fire or causing to be set on fire any timber, brush, grass, or other inflammable material, including camp or cooking fires, is prohibited, **unless authorized in writing by the Refuge Manager.** The use of cutting torches, arc welders, or any other open flame/sparking devices (which are required to conduct the special use activity) shall be exercised with caution and **only with prior authorization from the Refuge Manager or Refuge Fire Management Officer.** When use of these devices is necessary, the operator(s) shall have **immediate access to appropriate fire control equipment** (e.g., fire extinguishers, shovels, etc.) and **immediate communication access to local emergency services** (e.g., cellular telephone, two-way radio, etc.). Tobacco smokers shall practice caution when smoking; shall completely extinguish all matches, cigars, cigarettes, and pipes; and shall dispose of same in a proper container (e.g., a vehicle ash tray).

**SPECIAL CONDITIONS FOR BRIDGE CONSTRUCTION OVER PEA ISLAND (NEW) INLET
PROJECT B-2500 PHASE IIa
N. C. HIGHWAY 12 TRANSPORTATION MANAGEMENT PLAN
Pea Island National Wildlife Refuge
Attachment to Special Use Permit 2013-003**

1. Special Use Permit # 2013-003 is issued for the expressed and sole purpose of establishing temporary easements adjacent to the existing N. C. Highway 12 (NC 12) right-of-way (ROW) as a temporary measure to facilitate construction of a new bridge to replace the existing temporary bridge over the Pea Island Inlet in the vicinity of the historic New Inlet.
2. This permit does not authorize any activity other than the use of refuge lands for the expressed purposes stated in SUP# 2013-003. It is the permittee's responsibility to obtain any and all other necessary local, state, or federal approvals prior to commencing work activities. All other permits, approvals, or agreements, written or verbal, whether from individuals or local, state, or federal agencies or other entities shall be coordinated by NCDOT so as to not in any way interfere with implementation of the terms and provisions of SUP # 2013-003.
3. The effective dates of this permit include the period from September 16, 2013 through December 31, 2017. If it should become necessary to extend the effective period, a request for extension should be submitted no less than 5 days in advance. The Refuge Manager or designee shall be notified no less than 3 days prior to commencement of activities on the Refuge.
4. Activities authorized through this permit include reasonable and prudent work within the existing North Carolina Department of Transportation (NCDOT) ROW for the existing NC Highway 12 and those areas identified in pre-construction drawings as temporary easement areas for the purpose of maintaining safe traffic flow while preparing for and construction of a concrete replacement bridge to replace the temporary steel bridge. Care shall be taken so as to avoid harm to wildlife and fisheries resources, including their habitats.
5. Temporary work outside of the existing NC 12 ROW as described in project plans reviewed by the Refuge Manager is authorized to the extent necessary to complete construction of the replacement bridge and restoration of NC 12 in a safe and effective manner. This authorization is conditional upon full restoration of affected areas is completed to the satisfaction of the Refuge Manager or designee. Prior consultation with the Refuge Manager or designee is required for any additional temporary work outside of the existing ROW and not shown on the pre-construction drawings.
6. Special Use Permit 2013-003 is limited to the specific request for sufficient temporary easement for bridge construction at the "Pea Island Inlet" site
7. FHWA and NCDOT are asking for a temporary easement to perform such tasks related to overall construction such as erecting erosion control structures, placing temporary shoring, staging areas, and pipe placement. These actions would all be temporary in nature. FHWA asserts that this "easement" would be a temporary occupancy and thus not a "use" of the Refuge requiring approval under Section 4(f) of the Department of Transportation Act of 1966. FHWA cites the 4(f) implementing regulations at 23 C.F.R. 774.13(d), which set forth the criteria for a temporary occupancy.

- a. Duration must be temporary, i.e., less than the time needed for construction of the project, and there should be no change in the ownership of the land;
 - b. Scope of the work must be minor, i.e., both the nature and magnitude of the changes to the Section 4(f) property are minimal;
 - c. There are no anticipated permanent adverse physical impacts except as shown in Exhibit 1 attached to this permit, nor will there be interference with the protected activities, features, or attributes of the property, on either a temporary or permanent basis;
 - d. The land being used must be fully restored, i.e., the property must be returned to a condition which is at least as good as that which existed prior to the project; and
 - e. There must be documented agreement of the official(s) with jurisdiction over the Section 4(f) resource regarding the above conditions.
8. Special Use Permit 2013-003 does not convey any kind of recordable property interest.
 9. Special Use Permit 2013-003 shall be invalidated in the event of failure by NCDOT or FHWA to satisfactorily complete the environmental administrative record for compliance with full disclosure and permitting requirements.
 10. In the event of bird or turtle nesting activity within or adjacent to the project area as determined by the Refuge Manager NCDOT shall work with the contractor and incorporate remedial measures as recommended by USFWS to minimize or eliminate lighting, noise, or construction and associated activities. NCDOT shall be responsible for monitoring nesting activity as determined necessary by the Refuge Manager.
 11. Any and all temporary easement, staging, or other work areas on the Refuge shall be sloped, contoured, and re-vegetated to pre-work conditions or to the satisfaction of the Refuge Manager.
 12. Upon completion of construction, NCDOT shall address the issue of public access in the vicinity of New Inlet through the following measures:
 - a. The existing parking lot on the east side of the NC Highway 12 and closest to Pea Island (New) Inlet shall be fully removed along with all construction materials, including concrete, asphalt, contaminated soils, and any other material not naturally belonging on the site. A replacement parking lot shall be constructed and the kiosk shall be relocated/reconstructed at a new site near the northern terminus of the Phase IIb bridge. The site will be selected by the Refuge Manager with input from NCDOT upon completion of the Phase IIb Bridge.
 - b. The existing parking lot (New Inlet Parking Lot) and primitive boat access point on the west side of NC Highway 12 shall be fully restored upon completion of construction and an access drive similar to the one for the parking lot at the Bonner Bridge shall be constructed from the southern terminus of the new bridge to the New Inlet Parking Lot within the existing easement to the greatest extent possible. In order to minimize wetland impacts while providing safe ingress and egress from the boat access drive, NCDOT will be allowed to construct a turnaround on the east side of the existing easement, as well as a small area outside the easement on the west side of the existing easement, as depicted

on Exhibit 1. Upon project completion, the maintenance of the driveway and turnaround will be the responsibility of USFWS.

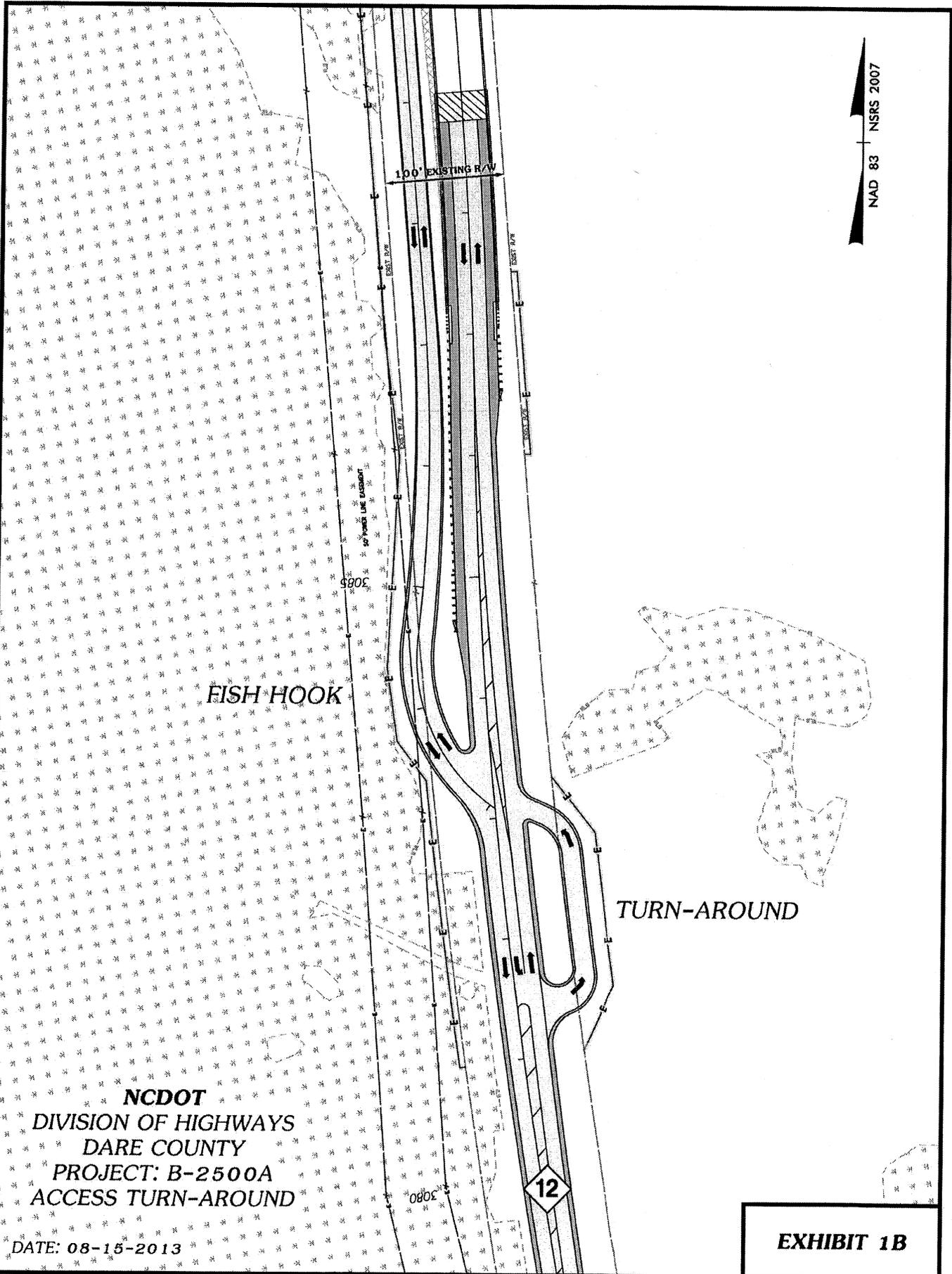
13. Permittee is responsible for removing any and all construction debris, materials, and equipment from the Refuge to the satisfaction of the Refuge Manager.
14. At the discretion of the Refuge Manager, a determination of failure to comply with all terms and provisions of SUP # 2013-003 shall result in revocation of the permit and removal of all fill and complete restoration of areas covered by temporary construction easements. Upon revocation or expiration of SUP # 2013-003, all debris, materials, vehicles, equipment, or other construction related items deemed by the Refuge Manager to be an un-natural addition to the refuge shall be removed within 30 days from receipt of notice of revocation or expiration of the permit.
15. Upon discovery of new ecological or biological information regarding fish, wildlife, or their habitats that could be affected by this project, the Refuge Manager retains the authority to amend this permit to protect natural resources in the interests of achieving the refuge system mission or the purpose for establishing the refuge.



NCDOT
 DIVISION OF HIGHWAYS
 DARE COUNTY
 PROJECT: B-2500A
 ACCESS TURN-AROUND

DATE: 08-15-2013

EXHIBIT 1A



NCDOT
 DIVISION OF HIGHWAYS
 DARE COUNTY
 PROJECT: B-2500A
 ACCESS TURN-AROUND

DATE: 08-15-2013

EXHIBIT 1B

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
United States Coast Guard
Fifth Coast Guard District

431 Crawford Street
Portsmouth, Va. 23704-5004
Staff Symbol: dpb
Phone: (757) 398-6557
Fax: (757) 398-6334
Email: James.L.Rousseau2@uscg.mil

16593
1 MAY 2013

Mr. Gregory J. Thorpe, Ph.D.
Manager, Project D & E Analysis Unit
State of North Carolina Department of Transportation
1598 Mail Service Center
Raleigh, NC 27699-1598

Dear Dr. Thorpe:

Review of your proposed bridge project is complete. Based on the documentation provided and that four comments were received and resolved to Public Notice 5-1292 from the NC State Clearing House and the NC Division of Coastal Management it is determined that a formal Coast Guard bridge permit will not be required for the proposed replacement of the temporary bridge with a new bridge over the New Inlet or Pea Island Breach between Whalebone and Rodanthe near Oregon Inlet, Dare County, NC.

The project will be placed in our Advance Approval category as per Title 33 Code of Federal Regulations Part 115.70. This Advance Approval determination is for the location and proposed replacement of the temporary bridge with a new bridge across the New Inlet or Pea Island Breach and **is valid for five years from the date of this letter**. If the replacement does not commence within this time period, you must contact this office for reaffirmation of this authorization.

Future bridge projects along the same waterway will have to be independently evaluated before they may be considered for Advance Approval. The fact that a Coast Guard bridge permit is not required does not relieve you of the responsibility for compliance with the requirements of any other Federal, State, or local agency who may have jurisdiction over any aspect of the project. Although the project will not require a bridge permit, other areas of Coast Guard jurisdiction apply. The following must be met:

- a. At no time during the bridgework will the waterway be closed to navigation without the prior notification and approval of the Coast Guard.
- b. This office should be notified as soon as possible to commencement and completion of bridgework so that appropriate announcements may be prepared for our Local Notice to Mariners publication.
- c. The lowest portion of the superstructure of the bridge across the waterway should clear the 100-year flood height elevation, if feasible.

The National Ocean Service (NOS) of the National Oceanic and Atmosphere Administration (NOAA) is responsible for maintaining the charts of U.S. waters; therefore, they must be notified of this proposed work. You must notify our office and the NOS upon completion of the activity approved in this letter. Your notification of completion must include as-built drawings, which

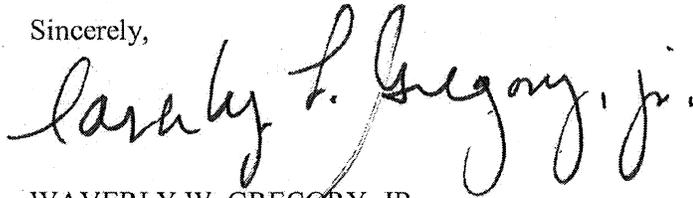
16593
1 MAY 2013

certifies the location and clearance of the bridge that was constructed. This information will be sent to the following address:

Ms. Allison Wittrock
National Ocean Service
N/CS26, Room 7317
1315 East-West Highway
Silver Spring, MD 20910-3282

If you have any further questions, please contact Jim Rousseau at the above-listed address or telephone number.

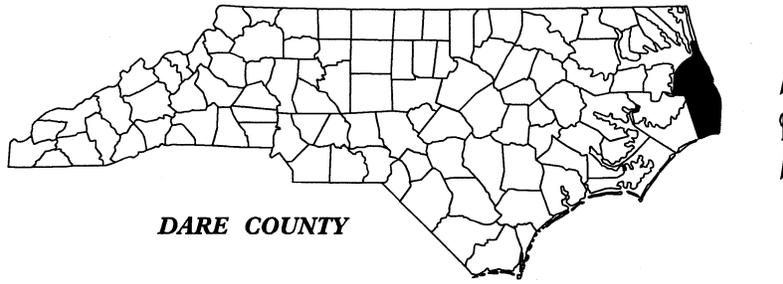
Sincerely,



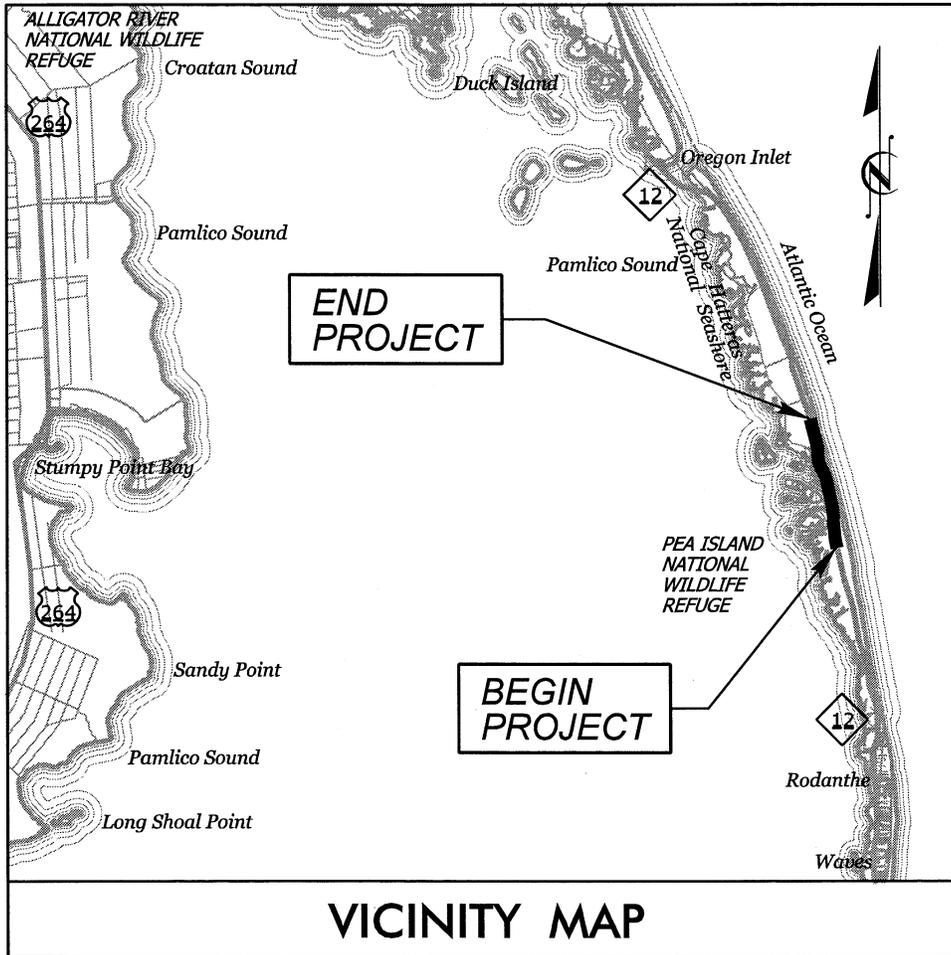
WAVERLY W. GREGORY, JR.
Bridge Program Manager
By direction of the Commander
Fifth Coast Guard District

Copy: Sector North Carolina, Waterways Management
Ms. Allison Wittrock, NOS

NORTH CAROLINA



DARE COUNTY



VICINITY MAP

**VICINITY
MAP**

NCDOT

DIVISION OF HIGHWAYS

DARE COUNTY

PROJECT: B-2500A

NC HWY 12 OVER PEA

ISLAND BREACH

WETLAND PERMIT IMPACT SUMMARY												
Site No.	Station (From/To)	Structure Size / Type	WETLAND IMPACTS					SURFACE WATER IMPACTS				
			Permanent Fill in Wetlands (ac)	Temp. Fill in Wetlands (ec)	Excavation in Wetlands (ac)	Mechanized Clearing in Wetlands (ec)	Hand Clearing in Wetlands (ac)	Permanent SW impacts (ac)	Temp. SW impacts (ac)	Natural Stream Design (ft)		
1	-L- 3078+90 to 3082+59			0.10				0.02				0.01
2	-L- 3088+86 to 3092+69			0.07				0.03				
3	-L- 3107+55 to 3115+62			0.15				0.06				
4	-L- 3128+60 to 3132+06			0.03				0.02				
5	-L- 3134+54 to 3136+31			0.02				0.01				
6	-L- 3139+49 to 3140+49			0.03				<0.01				
7	-L- 3159+81 to 3163+48			0.02				<0.01				0.03
8	-L- 3163+62 to 3167+76											0.10
9	-L- 3166+66 to 3166+94											
10	-L- 3170+97 to 3173+74	Bent #67									0.04	0.04
		Bent #71, #72, & #73										
		* Temp. Work Bridge 1										
		** Temp. Work Bridge 2										
		*** Remove Exist Bridge										
		Jetting Intake Pipe										
11	-L- 3177+49 to 3181+18			<0.01								0.05
		**** Temp. Work Bridge 2										
12	-L- 3191+04 to 3197+22			0.23				0.04				
13	-L- 3200+13 to 3205+63			0.22				0.04				
14	-L- 3206+52 to 3210+71			0.02				0.02				
15	-L- 3097+22 to 3097+32	Jetting Intake Pipe						0.14				0.02
16	-L- 3136+15 to 3136+48	Jetting Intake Pipe										0.03
TOTALS:			0.22	0.90			0.40	0.04			0.28	

Notes:
 * Temp. Work Bridge #1 (16 Bents @ 40 SF = 640 SF Total Impact)
 ** Temp. Work Bridge #2 (25 Bents @ 40 SF = 1,000 SF Total Impact)
 *** Remove Exist. Bridge (6 Footings @ 130 SF = 780 SF Total Impact)
 **** Site 11 Temp. Work Bridge #2 (2 Bents @ 20 SF = 40 SF Total Impact)

CAMA Wetland Impacts by Site:
 Site 1: 0.04 ac Temporary Fill, <0.01 ac Hand Clearing
 Site 3: 0.13 Permanent Fill, 0.11 ac Temporary Fill, 0.05 ac Hand Clearing
 Site 4: 0.01 Permanent Fill, 0.03 ac Temporary Fill, 0.02 ac Hand Clearing
 Site 5: <0.01 Permanent Fill, 0.02 ac Temporary Fill, 0.01 ac Hand Clearing
 Site 7: 0.02 ac Temporary Fill, <0.01 ac Hand Clearing
 Site 9: (bridge bent) <0.01 ac Permanent Fill, 0.01 ac Hand Clearing
 Site 15: 0.11 ac Hand Clearing

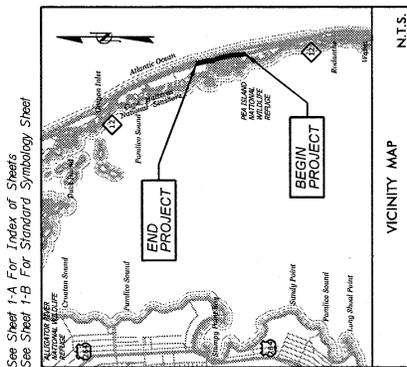
Total CAMA Impacts:
 Permanent Fill in Wetlands: 0.15 ac
 Temporary Fill in Wetlands: 0.22 ac
 Hand Clearing in Wetlands: 0.21 ac
Erosion Control Measures Impacts:
 0.08 acre of Temporary Fill in Wetlands in the Hand Clearing areas for erosion control measures.

NC DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 DARE COUNTY
 B-2500A
 SHEET 3 OF 59
 9/15/2013

STATE OF NORTH CAROLINA
DIVISION OF HIGHWAYS
DARE COUNTY

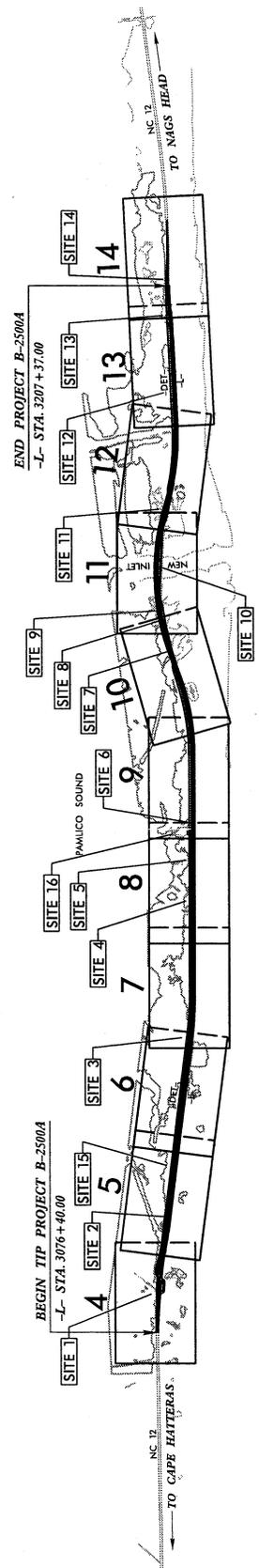
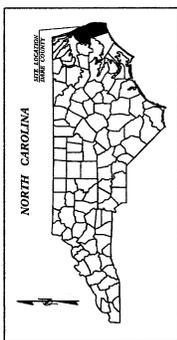
LOCATION: PHASE II, NC 12 LONG-TERM IMPROVEMENTS AT PEA ISLAND
TYPE OF WORK: GRADING, PAVING, DRAINAGE & STRUCTURE

WETLAND & SURFACE WATER IMPACTS



See Sheet 1-A For Index of Sheets
See Sheet 1-B For Standard Symboling Sheet

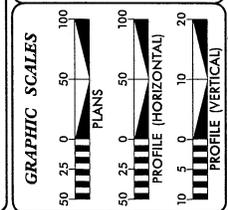
STATE	N.C.	STATE PROJECT NUMBER	B-2500A	SHEET	1
PROJECT	32655-1.6	DESCRIPTION	P.E.		
	32655-2.2		BRNH-002185		
	32655-3.6		BRNH-002185		
			CONST.		



Permit Drawing
Sheet 4 of 59

PROJECT: B-2500A

CONTRACT:



DESIGN DATA

ADT 2012	= 7,300
ADT 2032	= 10,900
DHV	= N/A
D	= N/A
T	= 6%
V	= 60 MPH

FUNC. CLASSIFICATION:
COLLECTOR
T = 1% TTST + 5% DUALS
REGIONAL TIER

PROJECT LENGTH

LENGTH OF ROADWAY TIP PROJECT B-2500A	= 0.366 MILES
LENGTH OF STRUCTURE TIP PROJECT B-2500A	= 2.114 MILES
TOTAL LENGTH OF TIP PROJECT B-2500A	= 2.480 MILES

NC DOT CONTACT: GARY LOVERING, PE
Project Engineer, Roadway Design

PLANS PREPARED FOR THE NCDOT BY:
STV/RALPH WHITEHEAD ASSOCIATES, INC.
1000 West Main Street, Suite 200, Raleigh, NC 27608
REG. NO. 10000, REG. DATE 12/15/09, EXPIRES 12/15/14

RIGHT OF WAY DATE: N/A

LETTING DATE: SEPTEMBER 17, 2013

PROJECT ENGINEER: JOHN N. JOHNSON, PE
PROJECT ARCHITECT: SEAN C. STEPHENS, EI

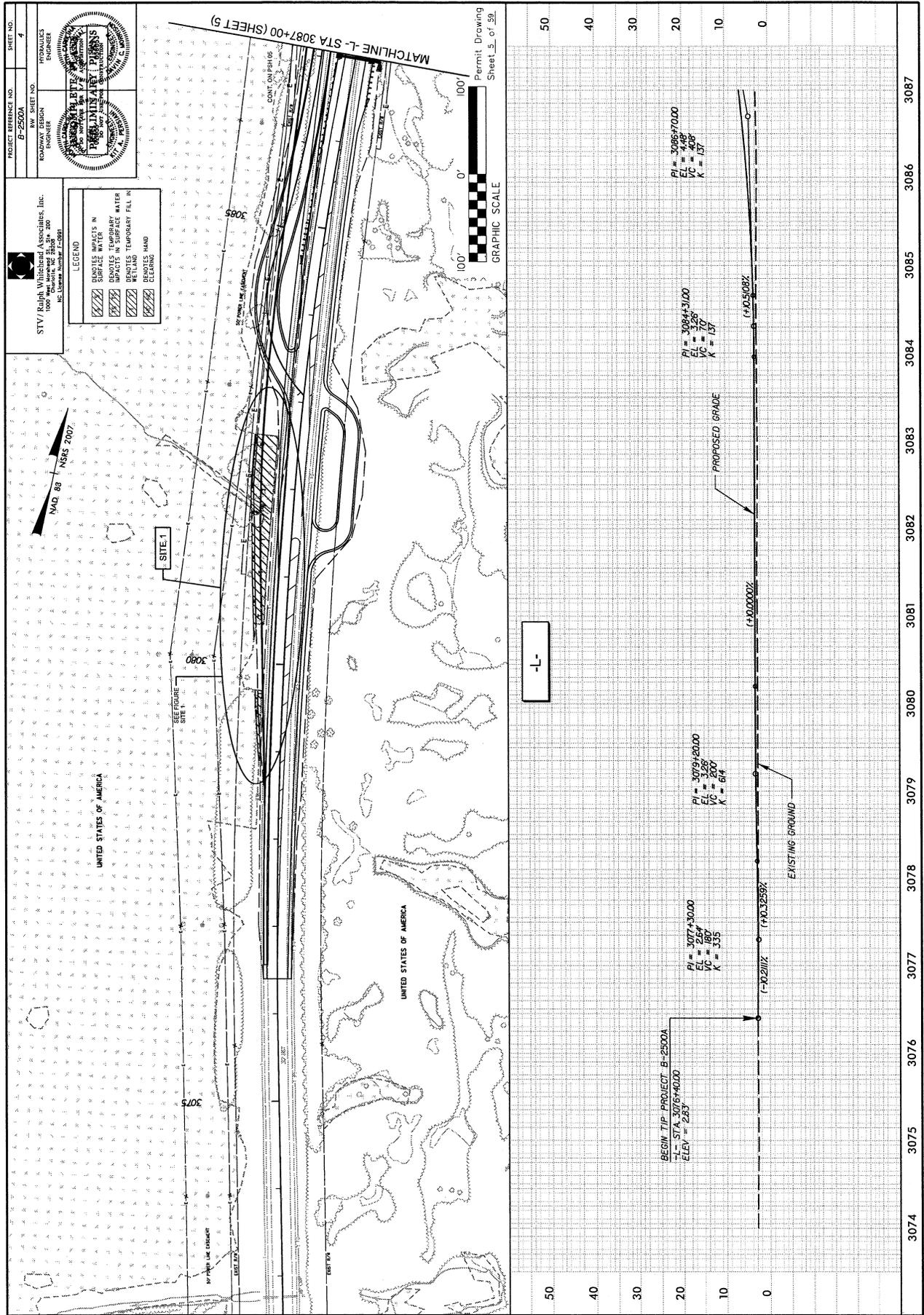
HYDRAULICS ENGINEER: [Signature]

ROADWAY DESIGN ENGINEER: [Signature]

PRELIMINARY SEAL: [Signature]

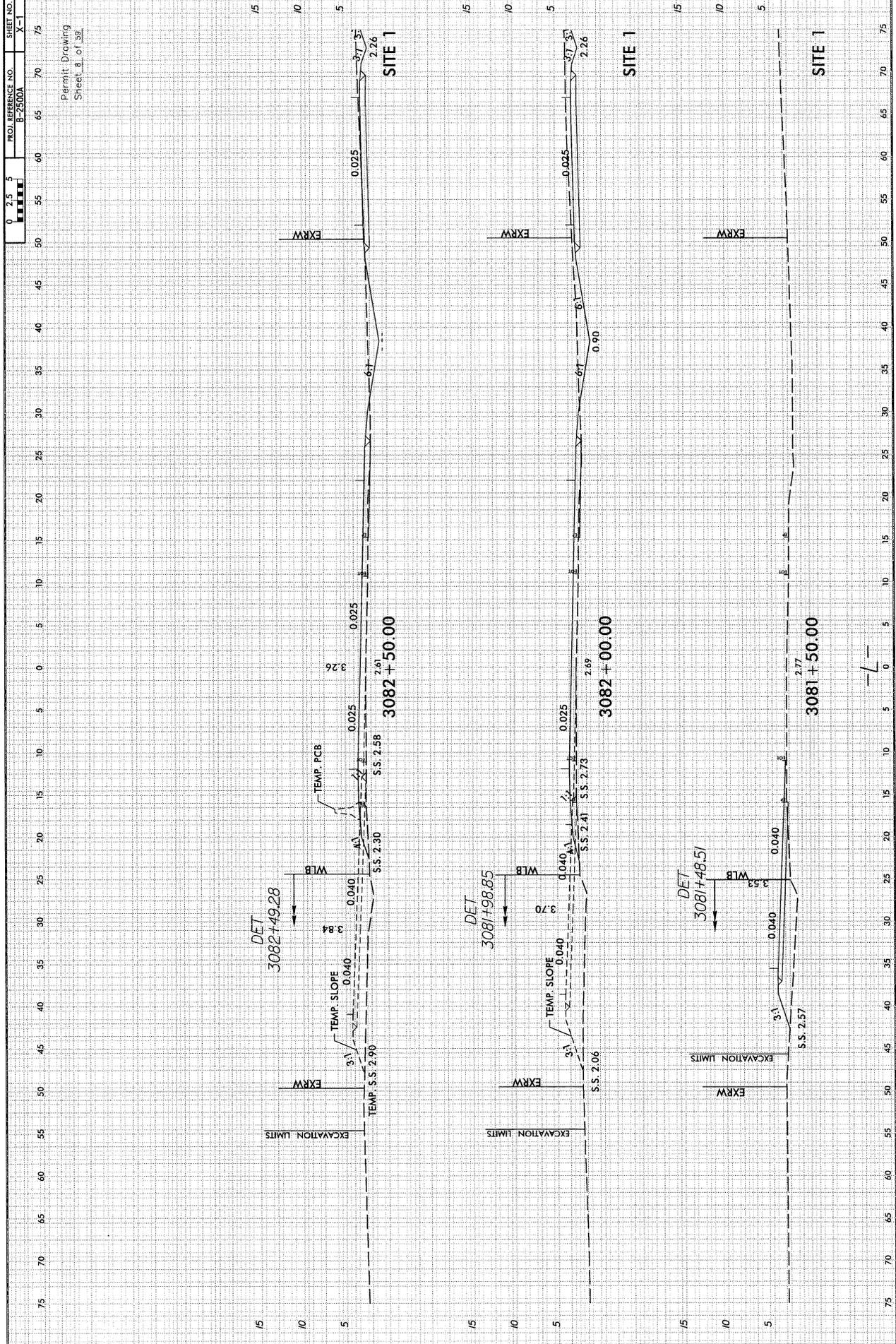
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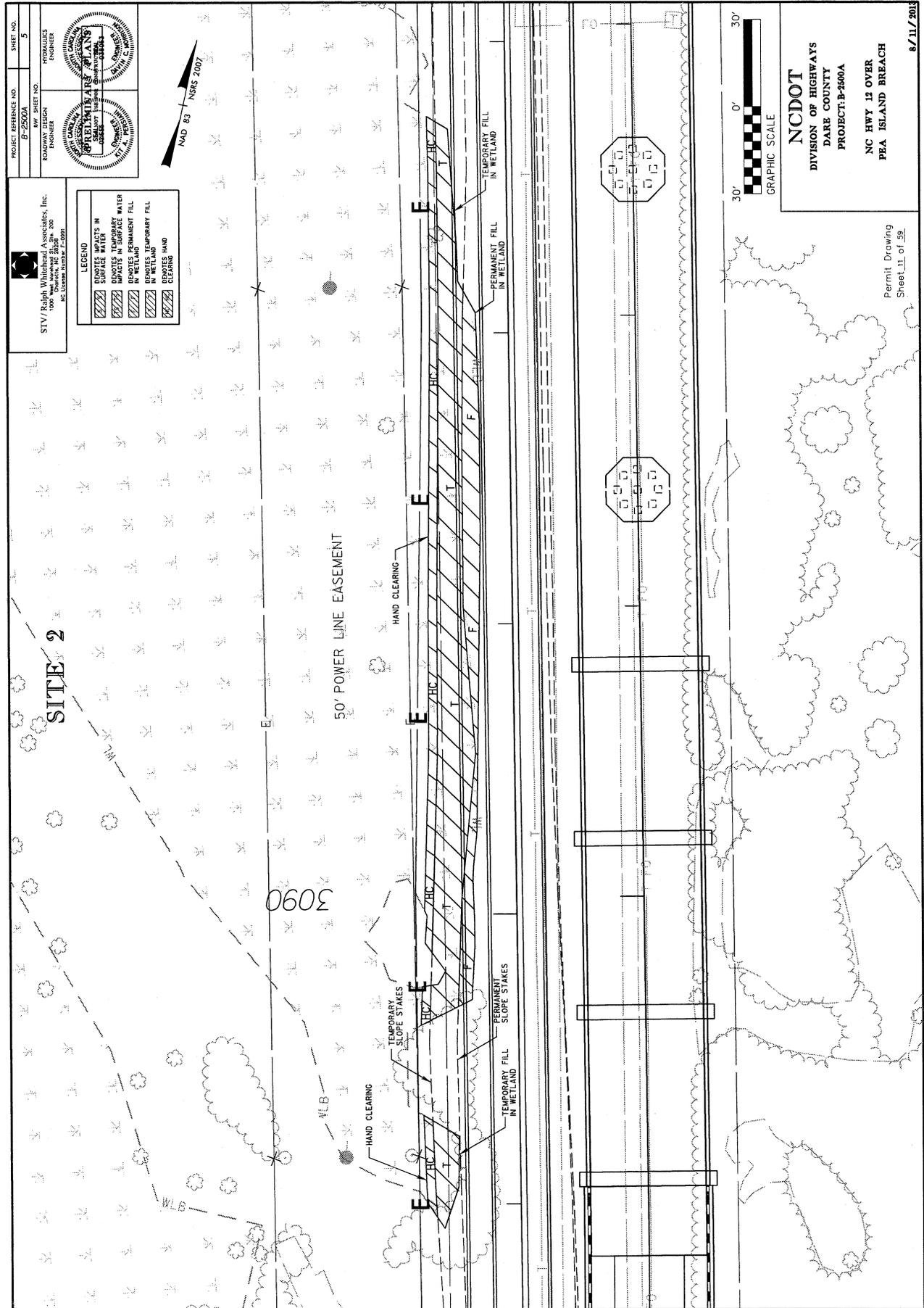




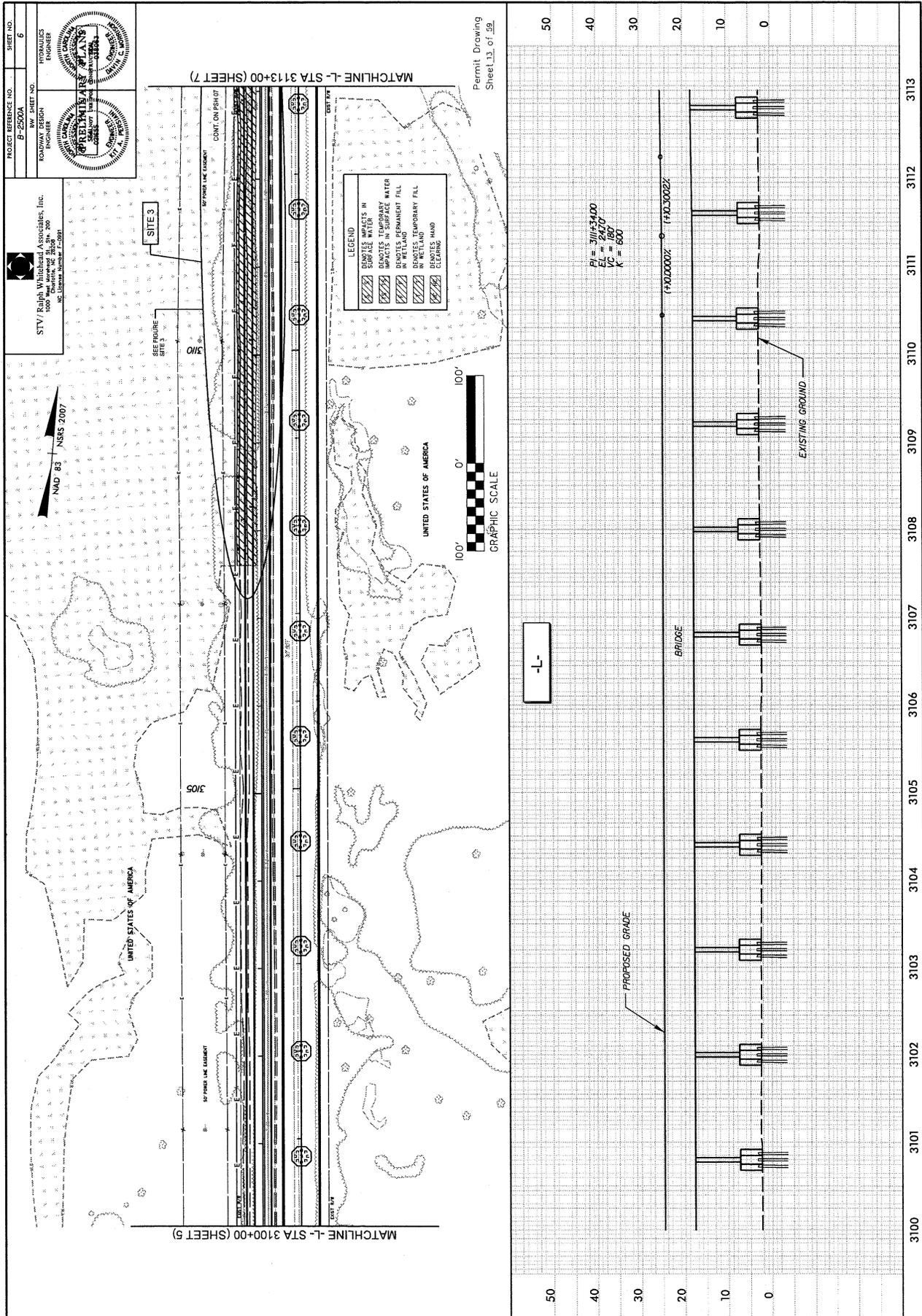
SHEET NO.	X-1
PROJ. REFERENCE NO.	B-2500A

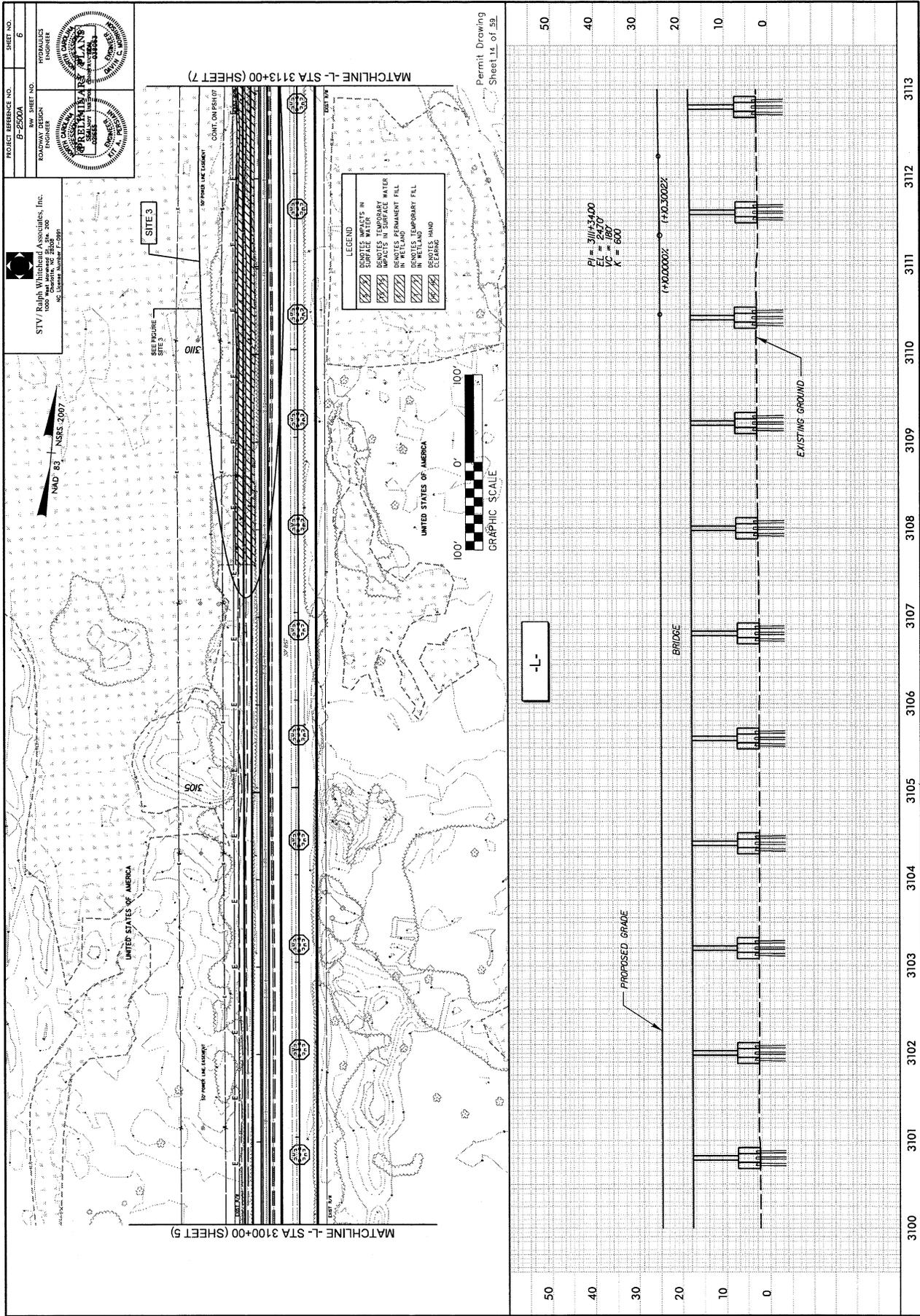
Permit Drawing
Sheet 8 of 88

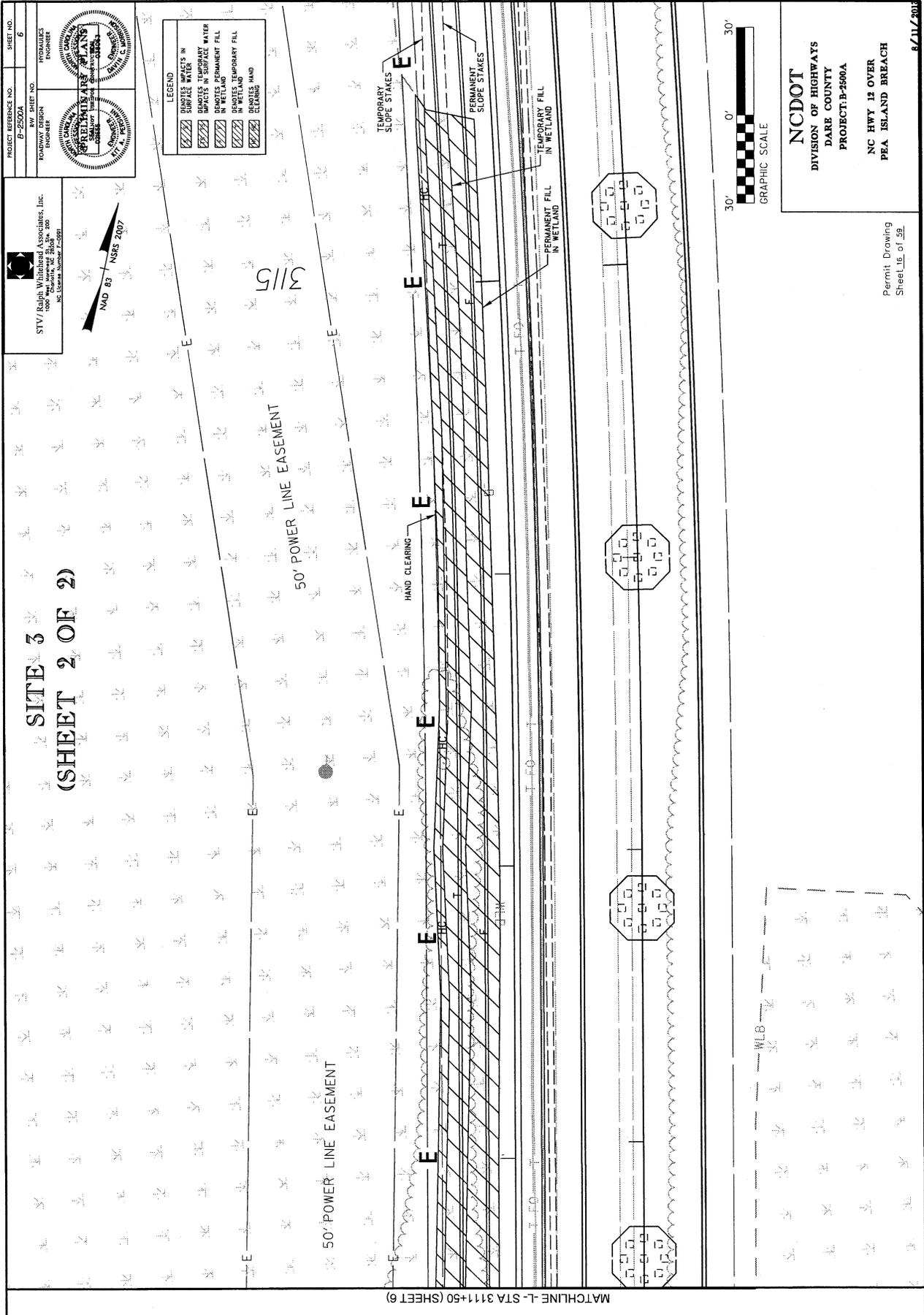




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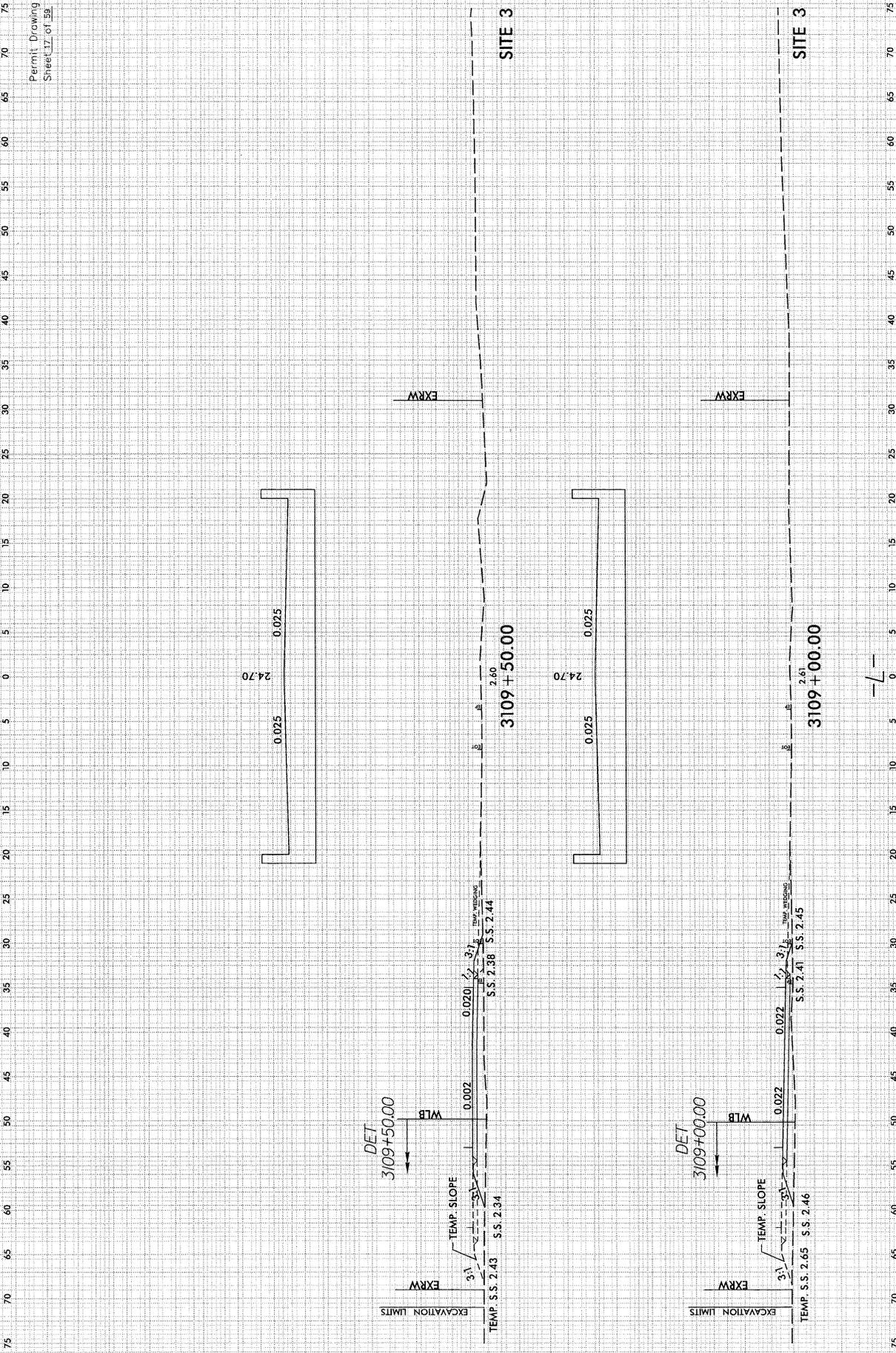
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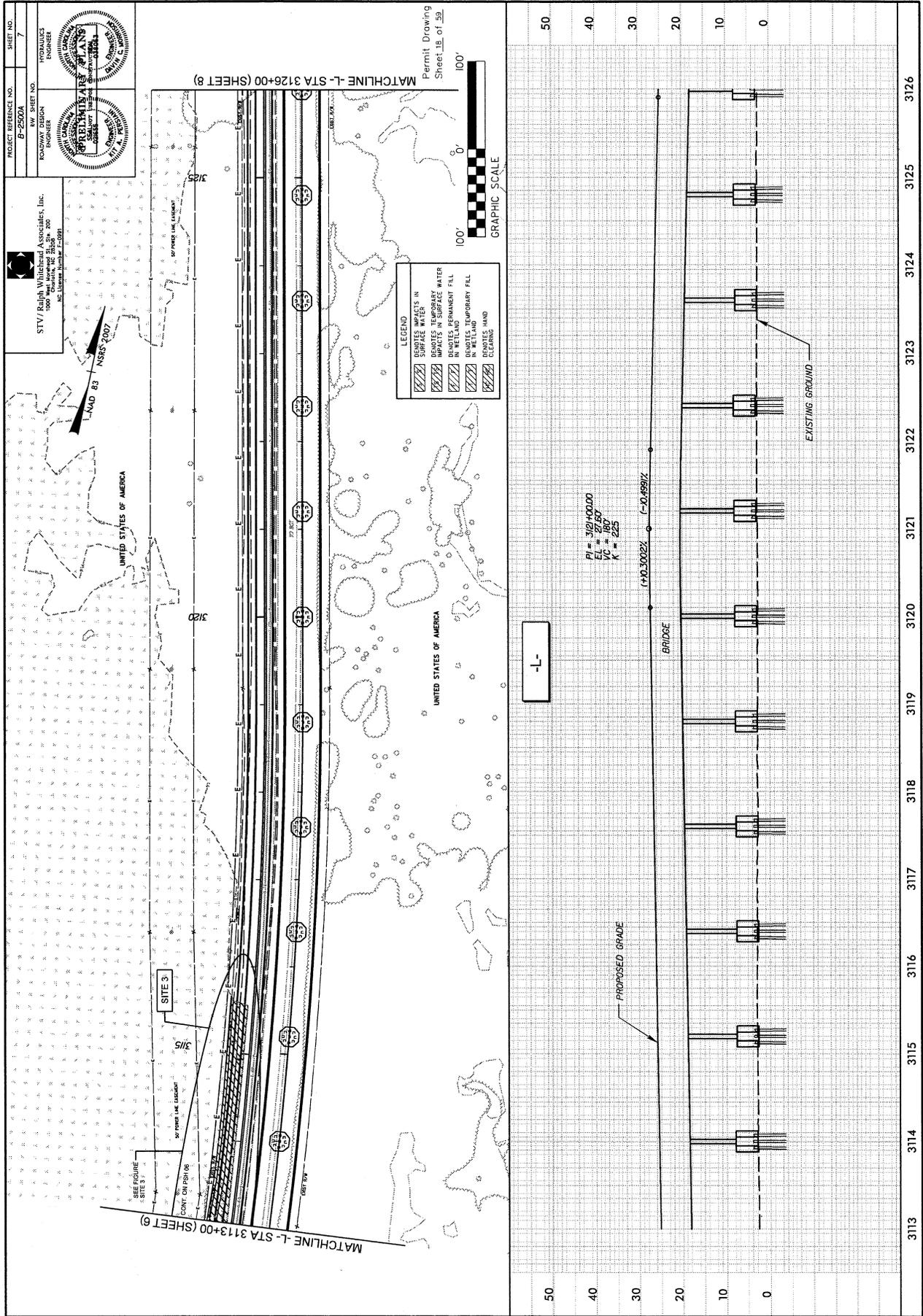
R-105

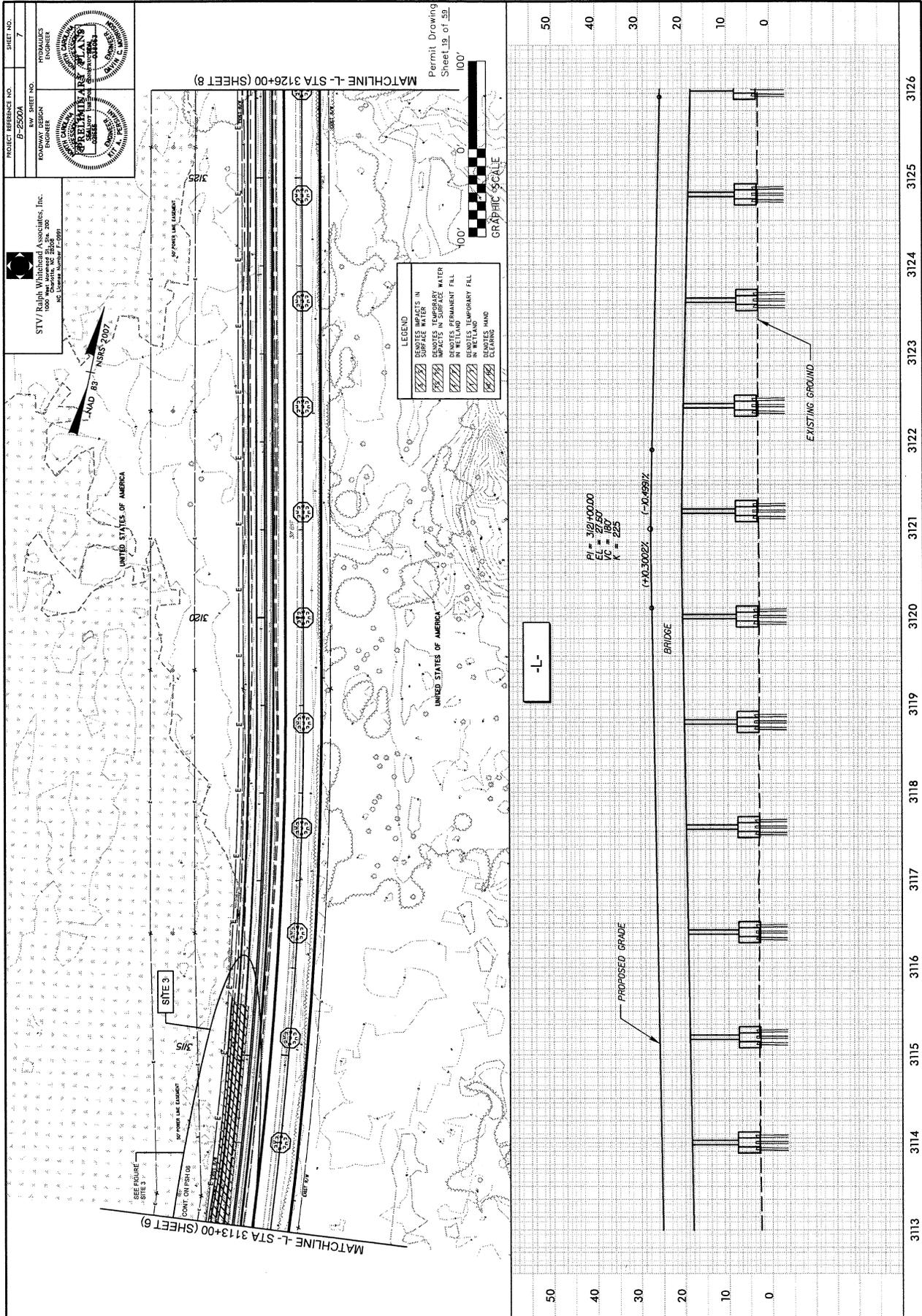
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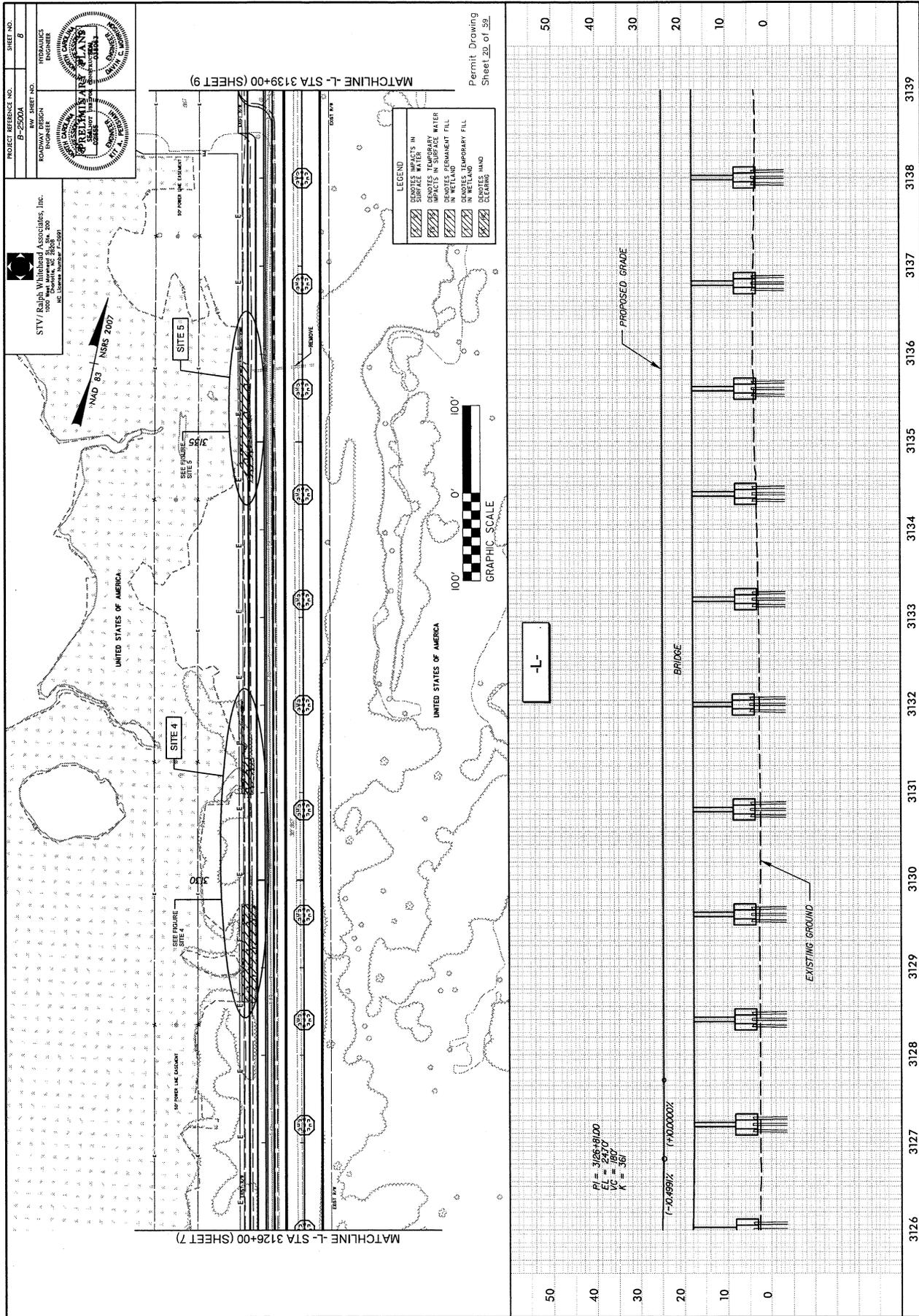
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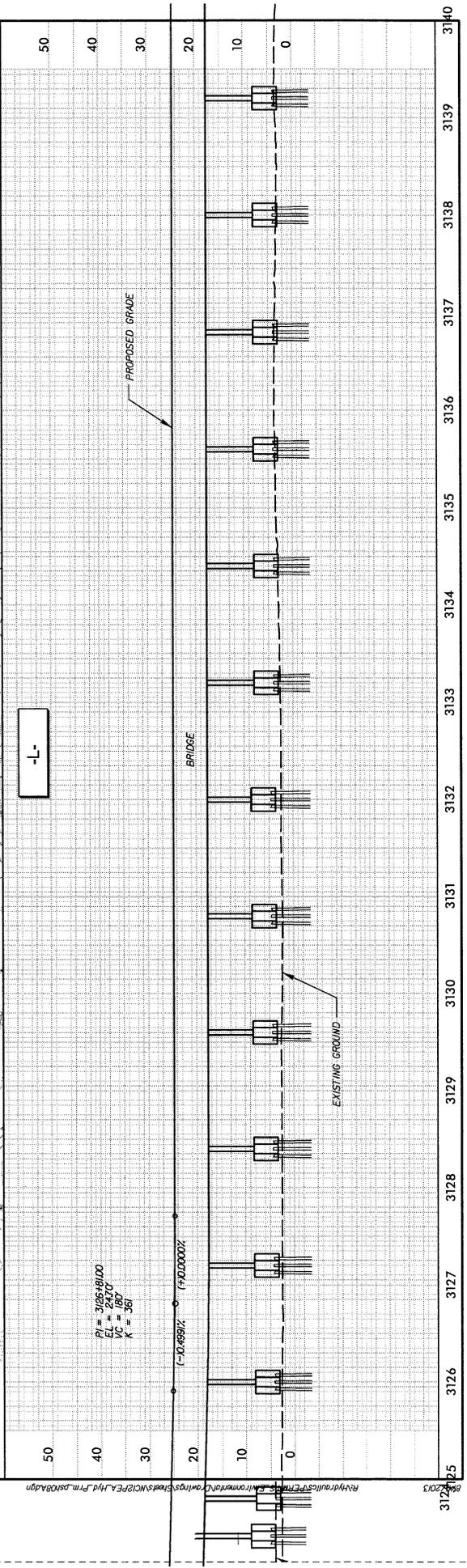
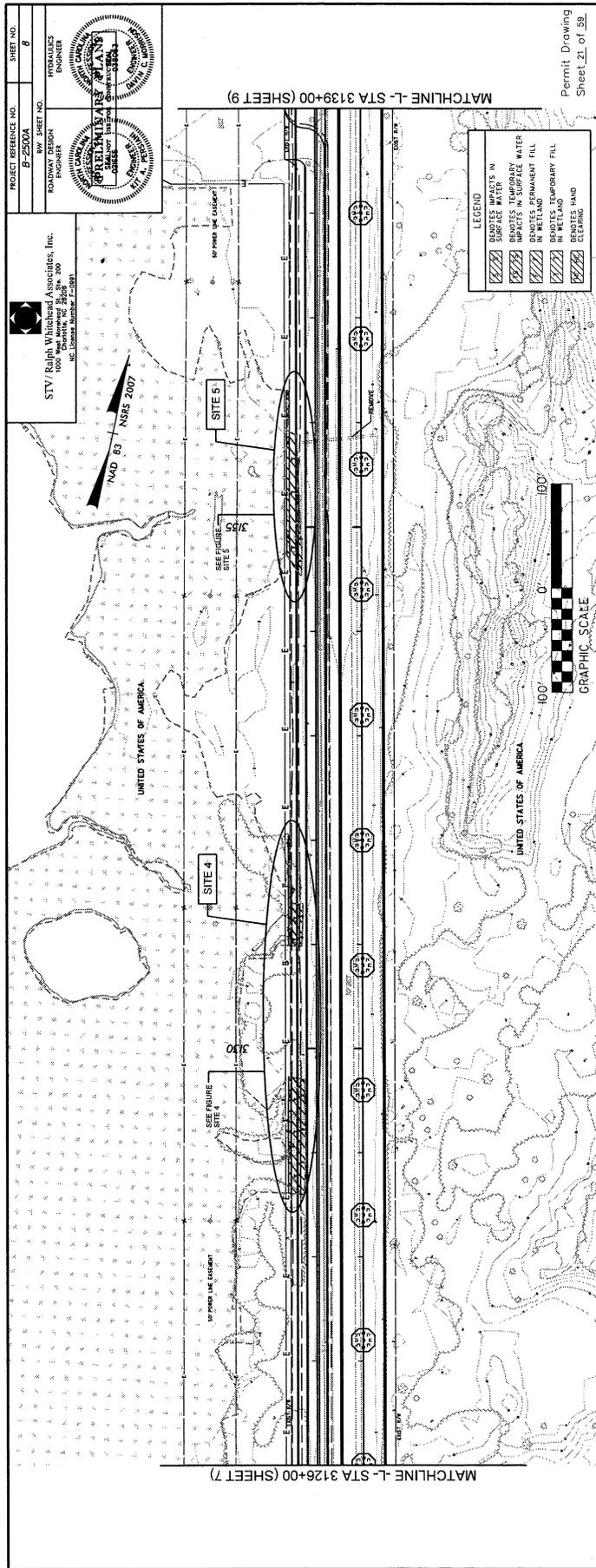
Permit Drawing
Sheet 17 of 59

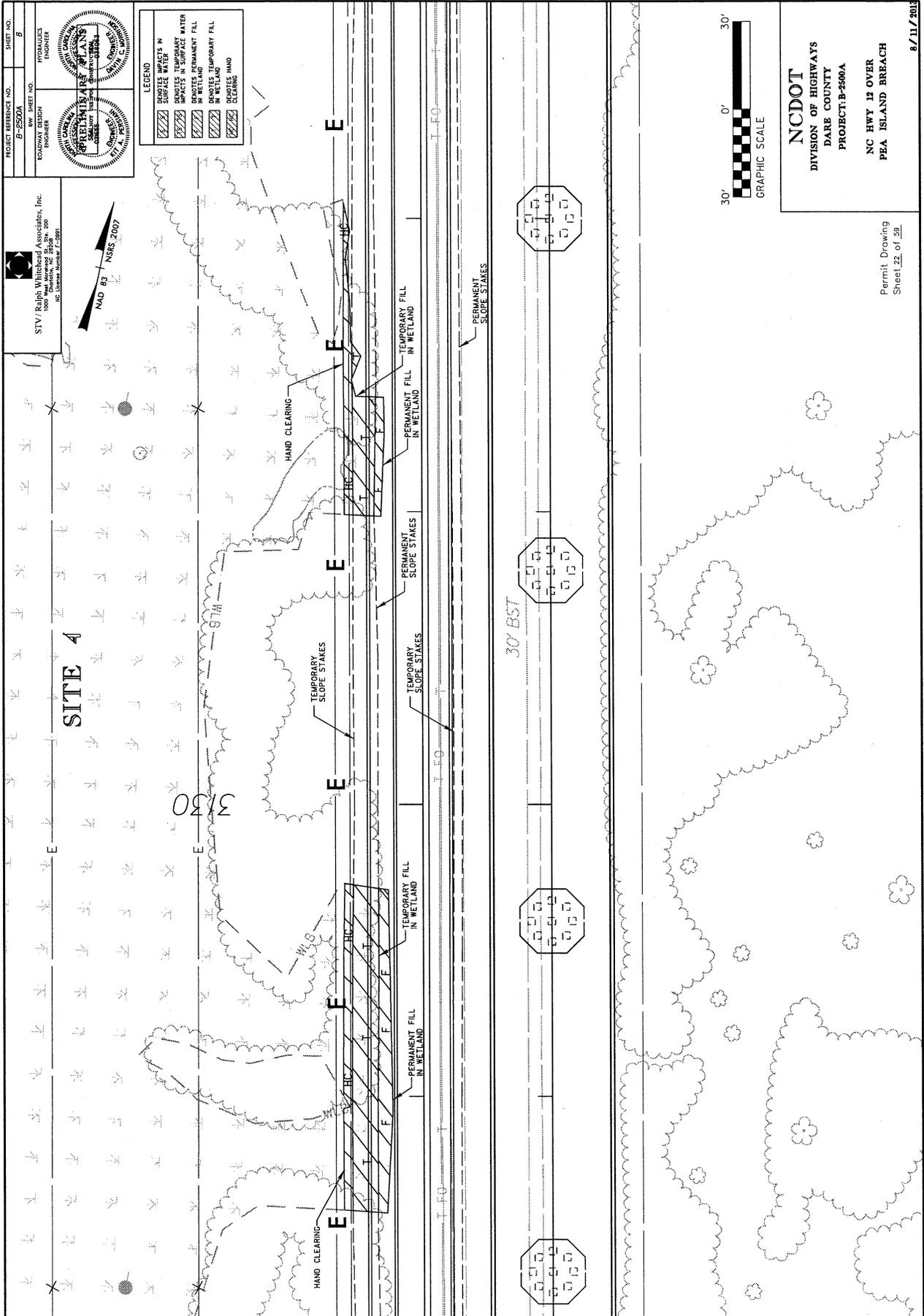












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R-111

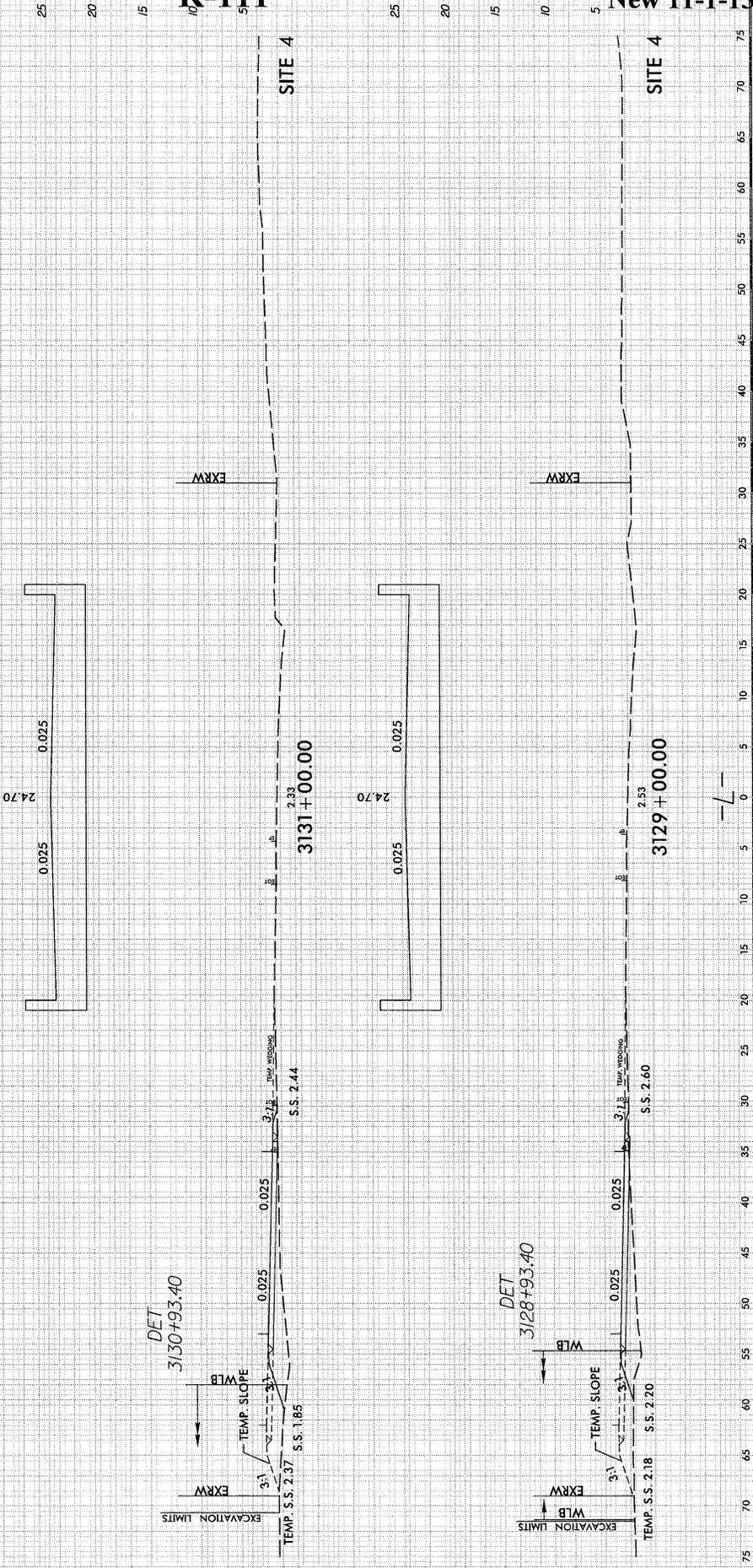
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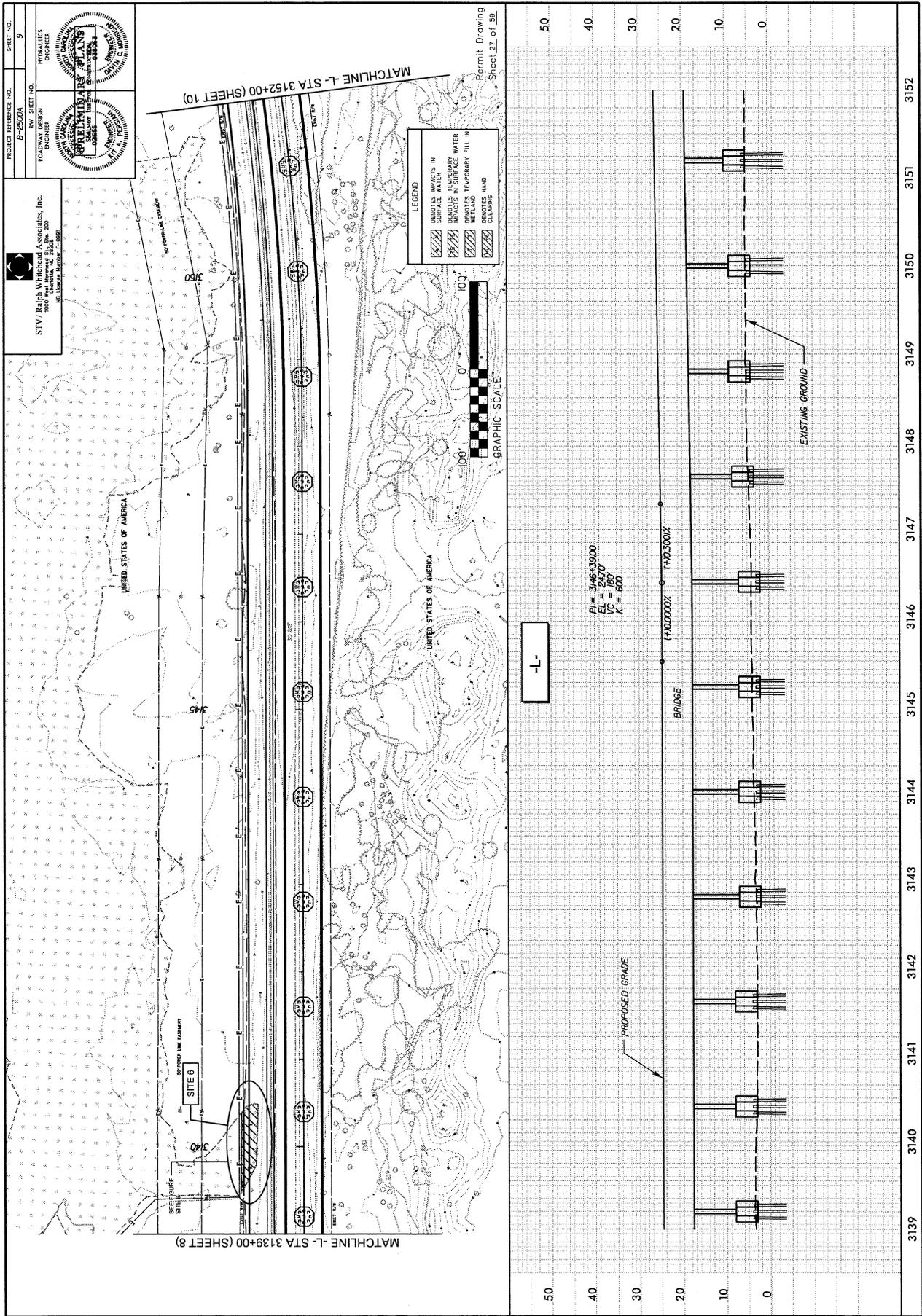
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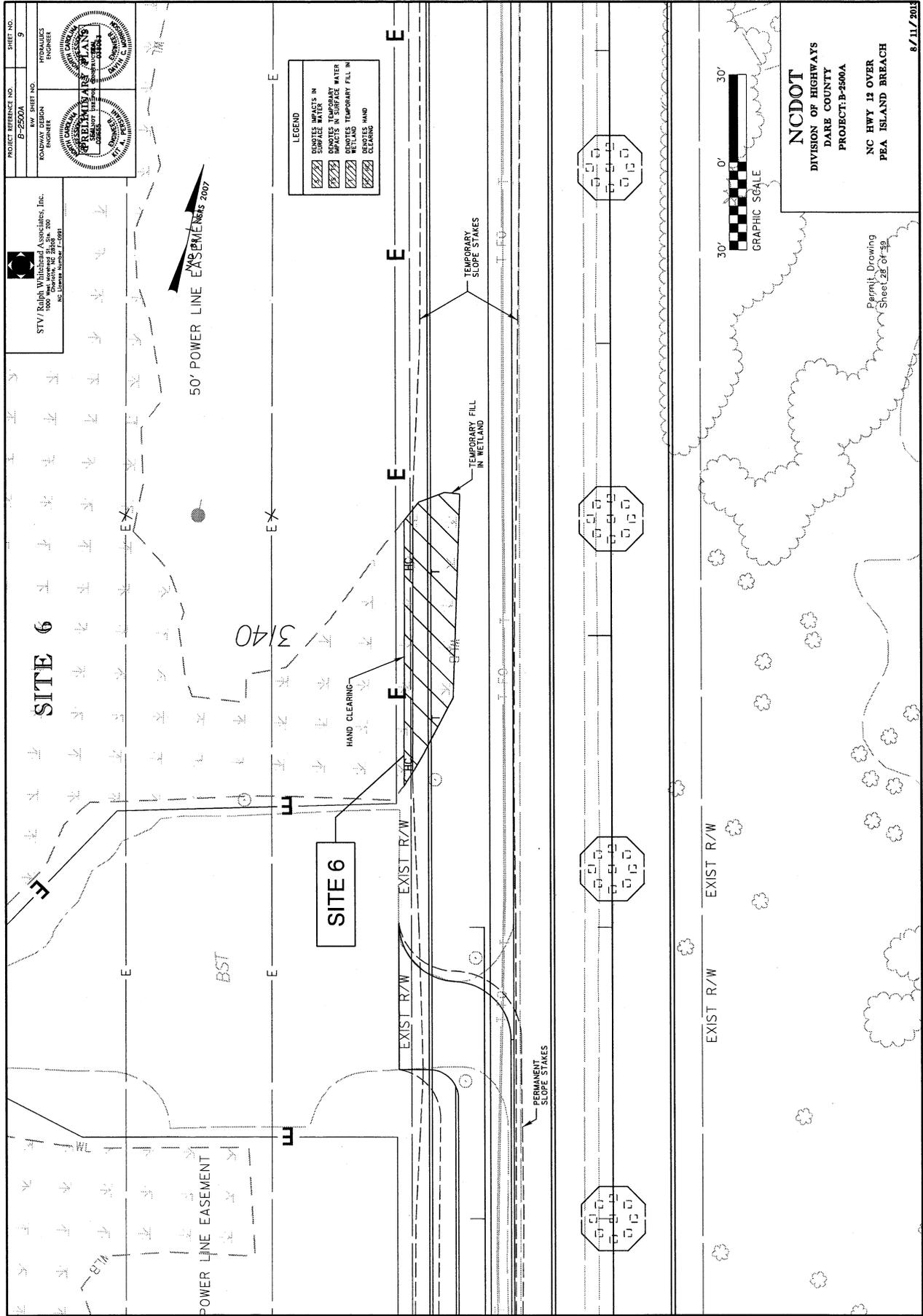
SHEET NO. X-4

PROJ. REFERENCE NO. B-2500A

Permit Drawing
Sheet 23 of 59







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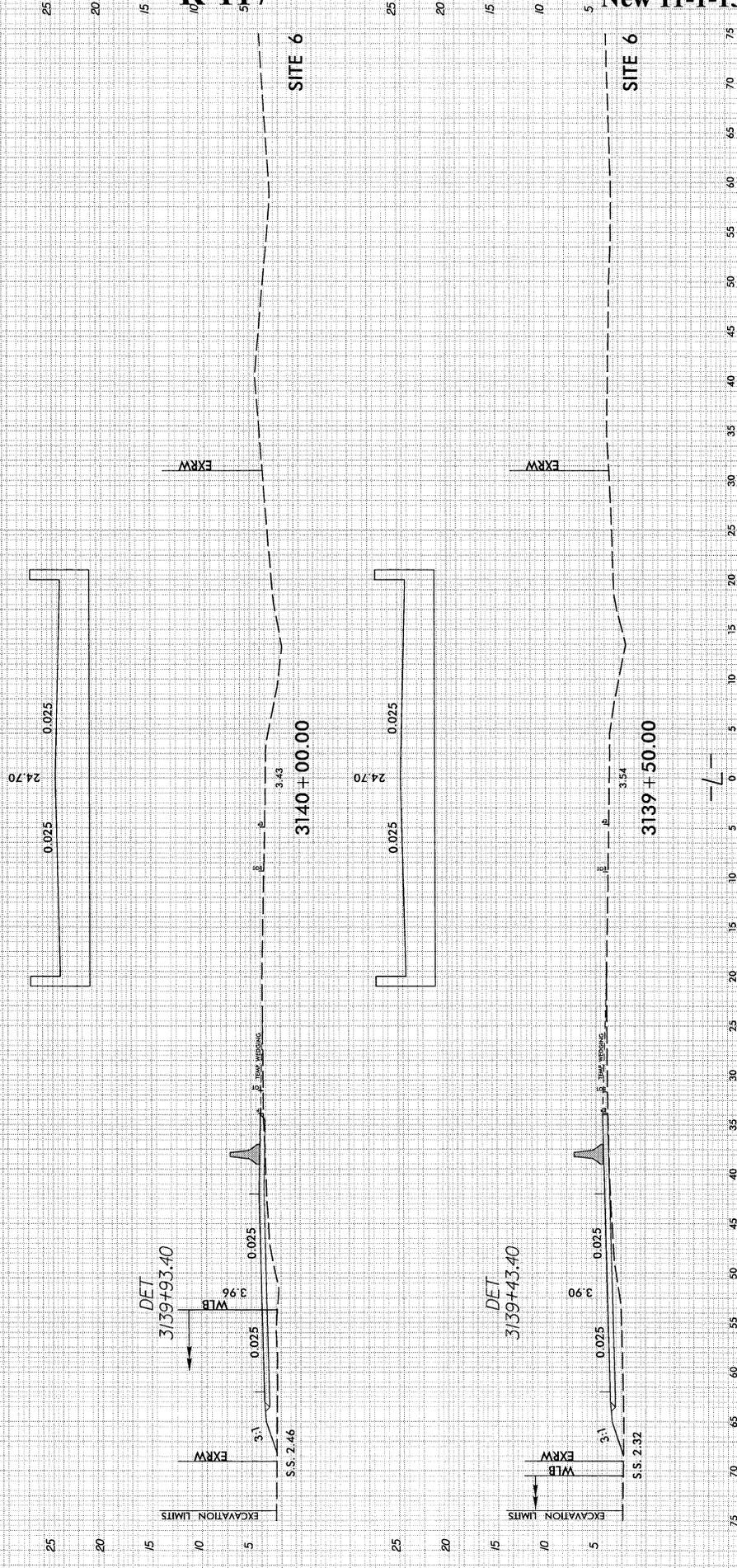
Addendum No. 1

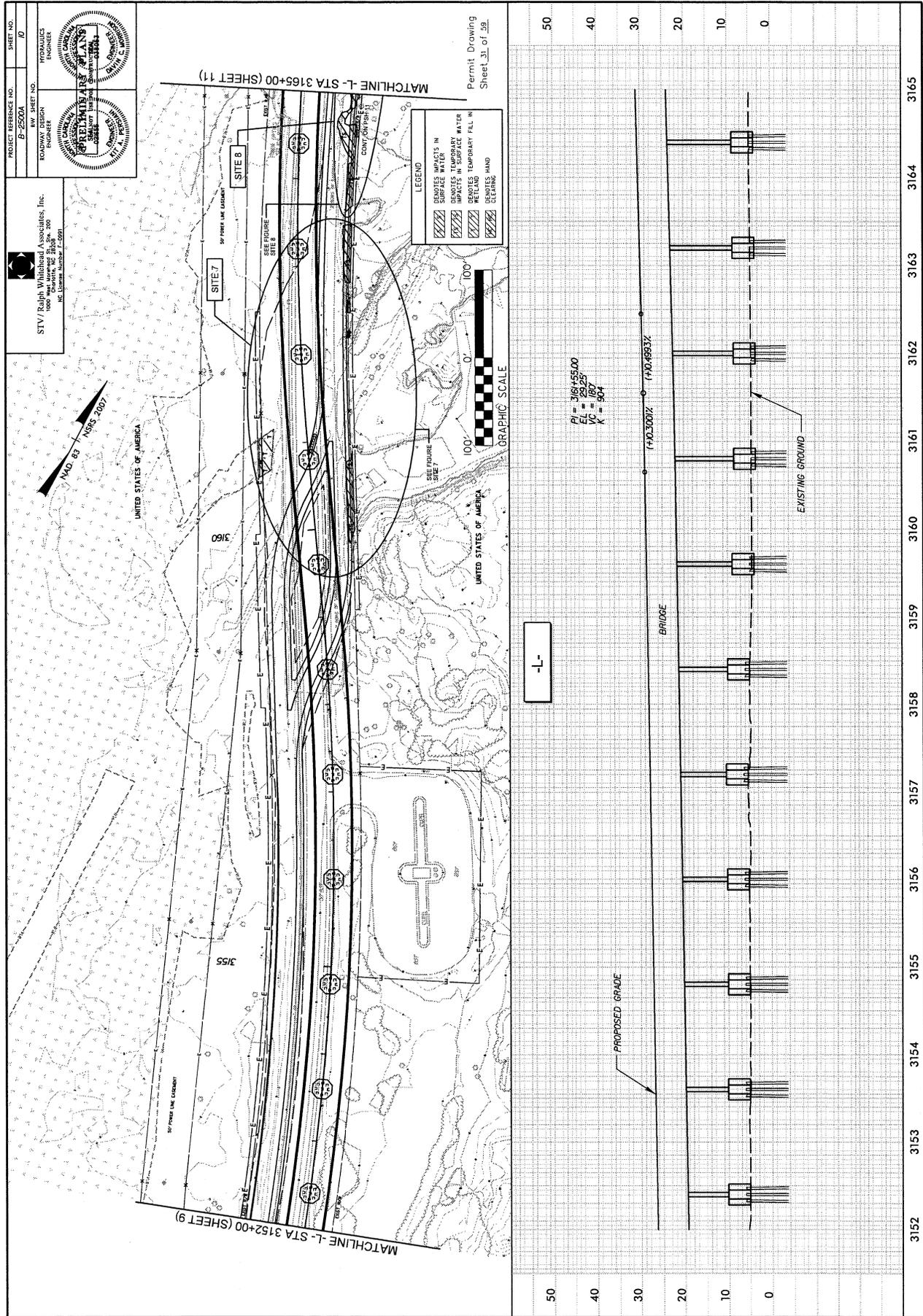
R-117

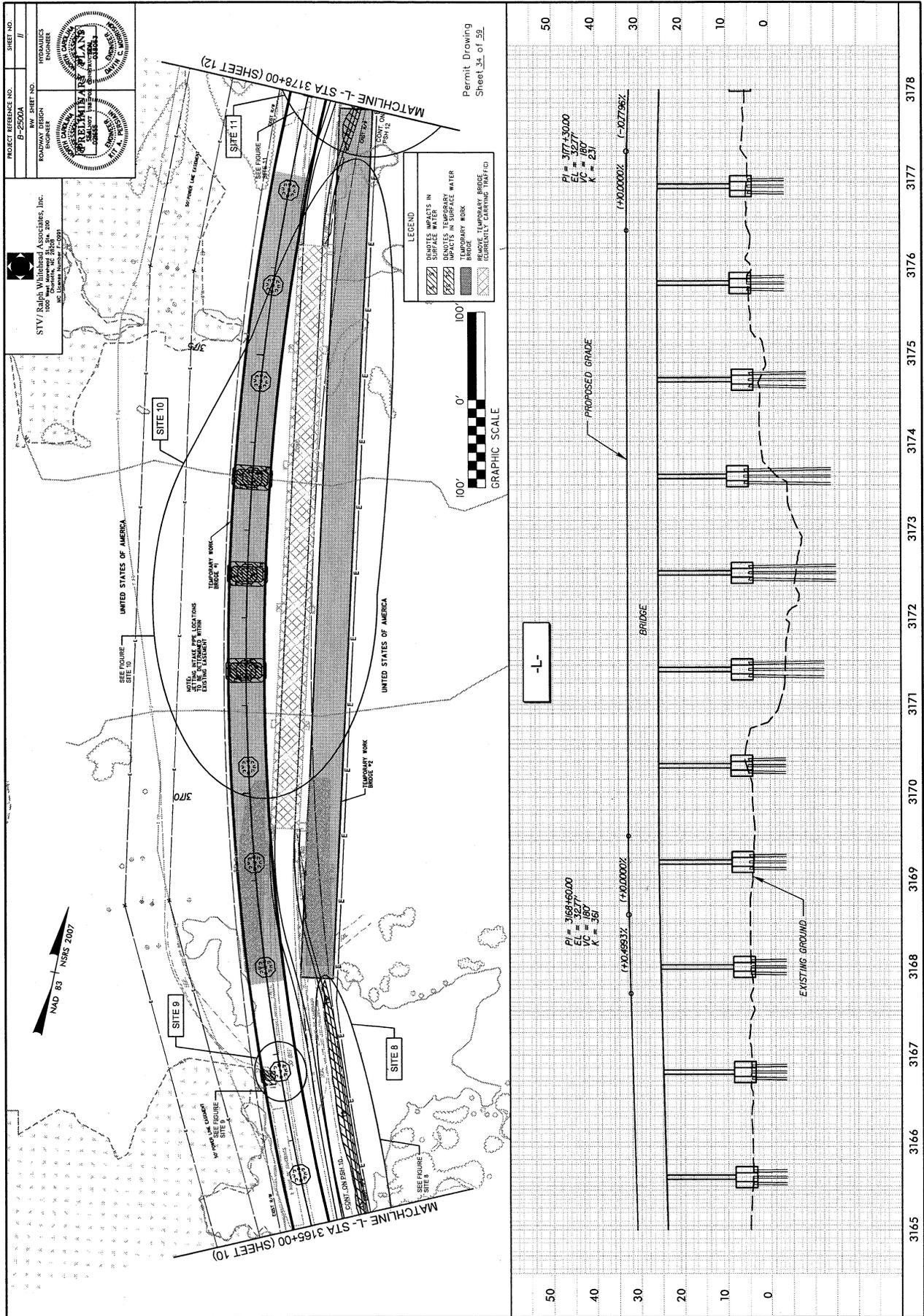
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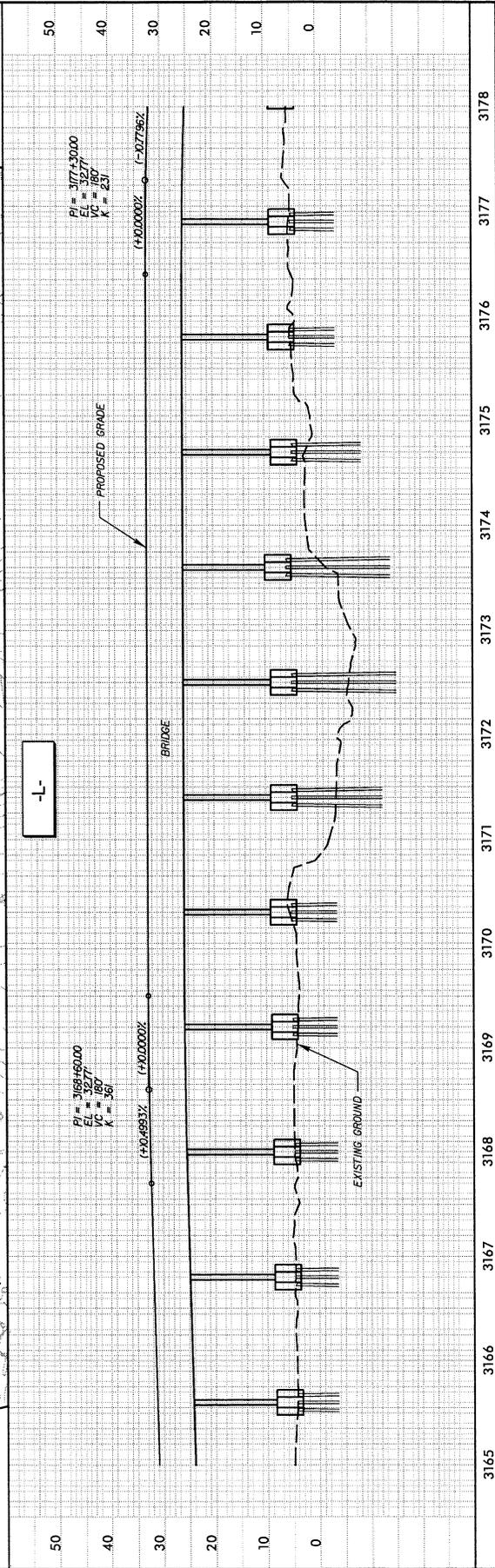
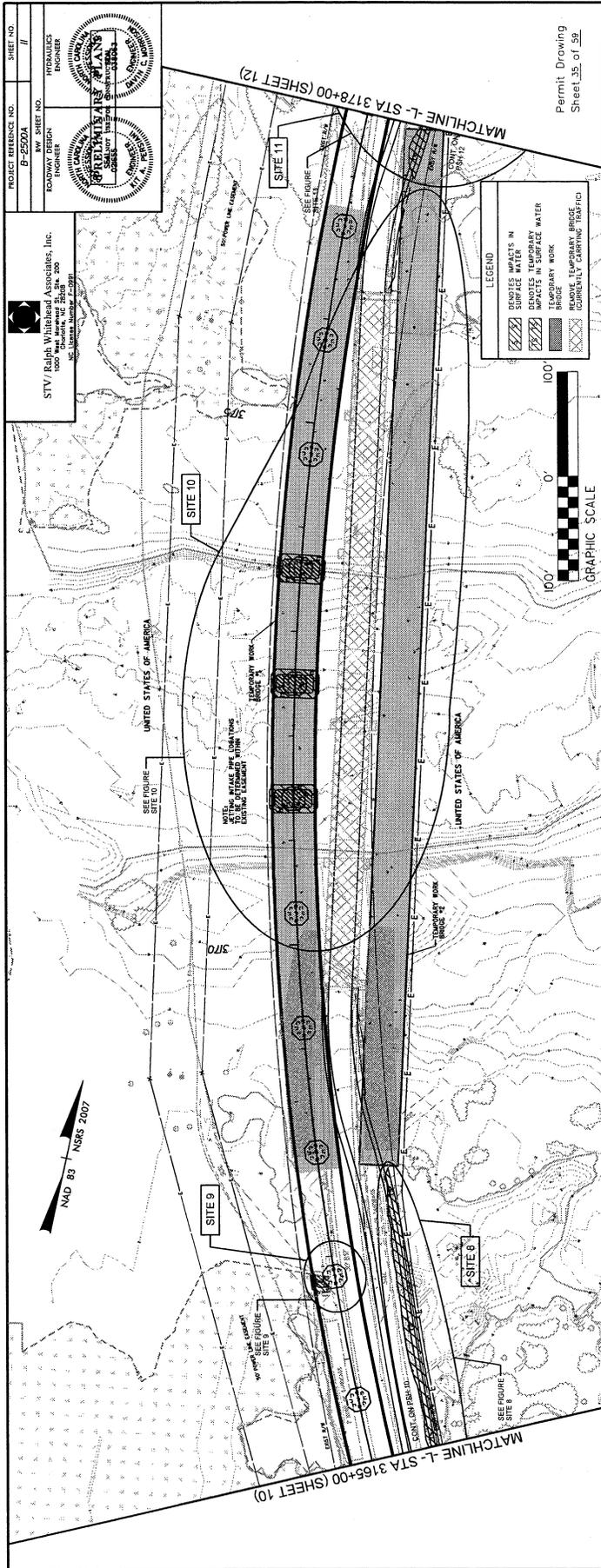
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SHEET NO. X-6																

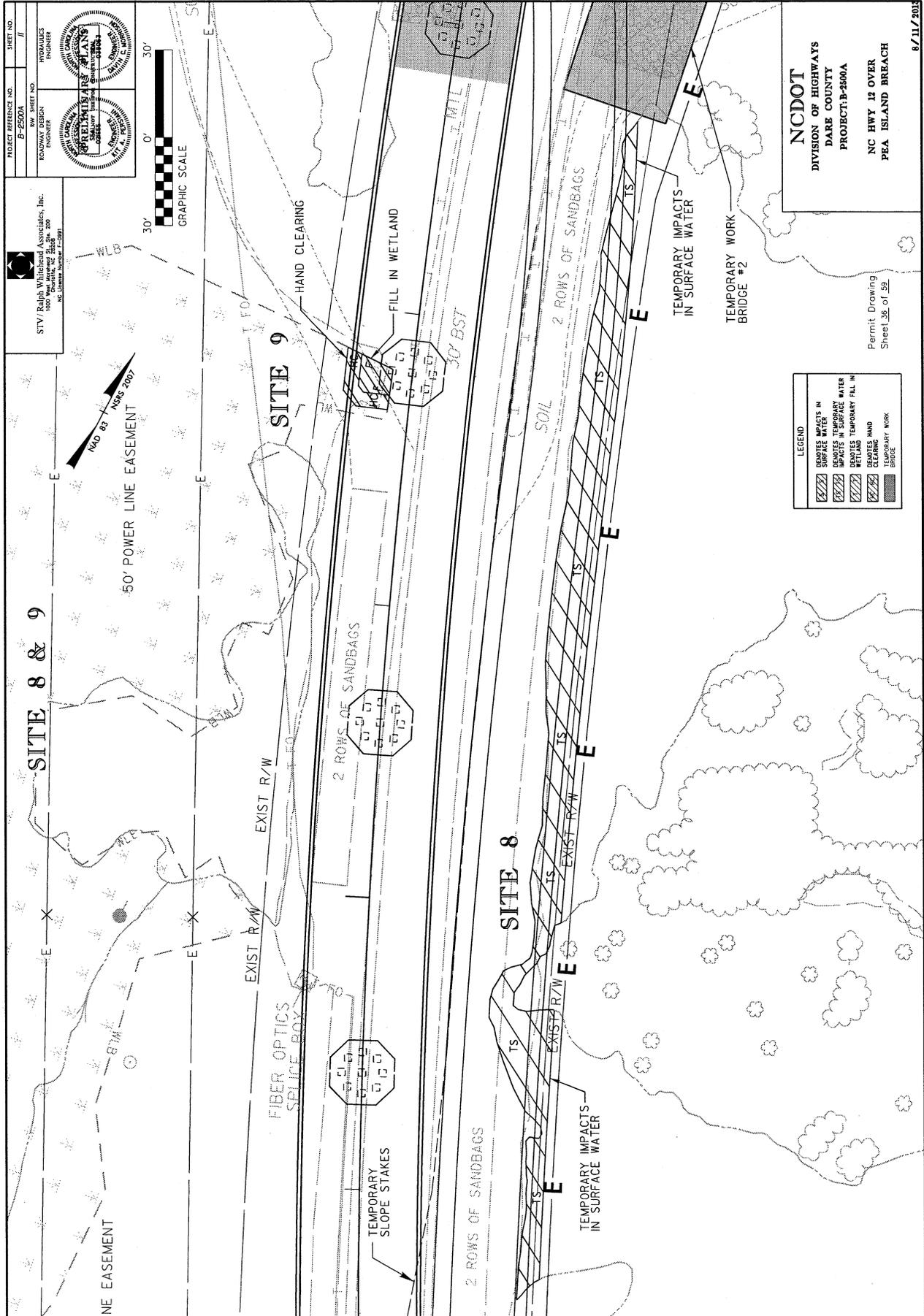
Permit Drawing
Sheet 29 of 59











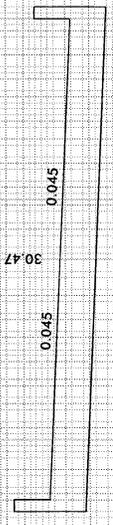
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Addendum No. 1

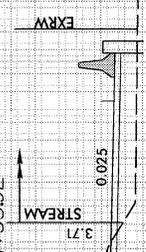
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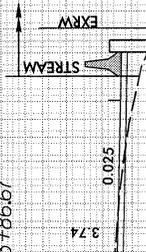
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PROJ. REFERENCE NO. B-2500A																
SHEET NO. X-8																
Permit Drawing Sheet 32 of 59																



DET
3164+35.92



DET
3163+86.67



3164+50.00

3164+00.00

EXRW

EXRW

TEMP. WIDENING

TEMP. WIDENING

4.88

4.85



SITE 10

PROJECT REFERENCE NO. B-25200A
 SHEET NO. 11

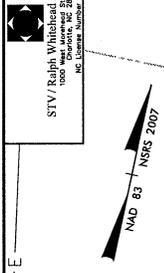
PROVIDED BY:
 STV/Rajha Whitehead Associates, Inc.
 1500 University Blvd., Suite 200
 Raleigh, NC 27601
 REG. LICENSE NUMBER: 1-0991

PROVIDED FOR:
 ROADWAY DESIGN
 ENGINEER

PROVIDED BY:
 HYDRAULICS
 ENGINEER

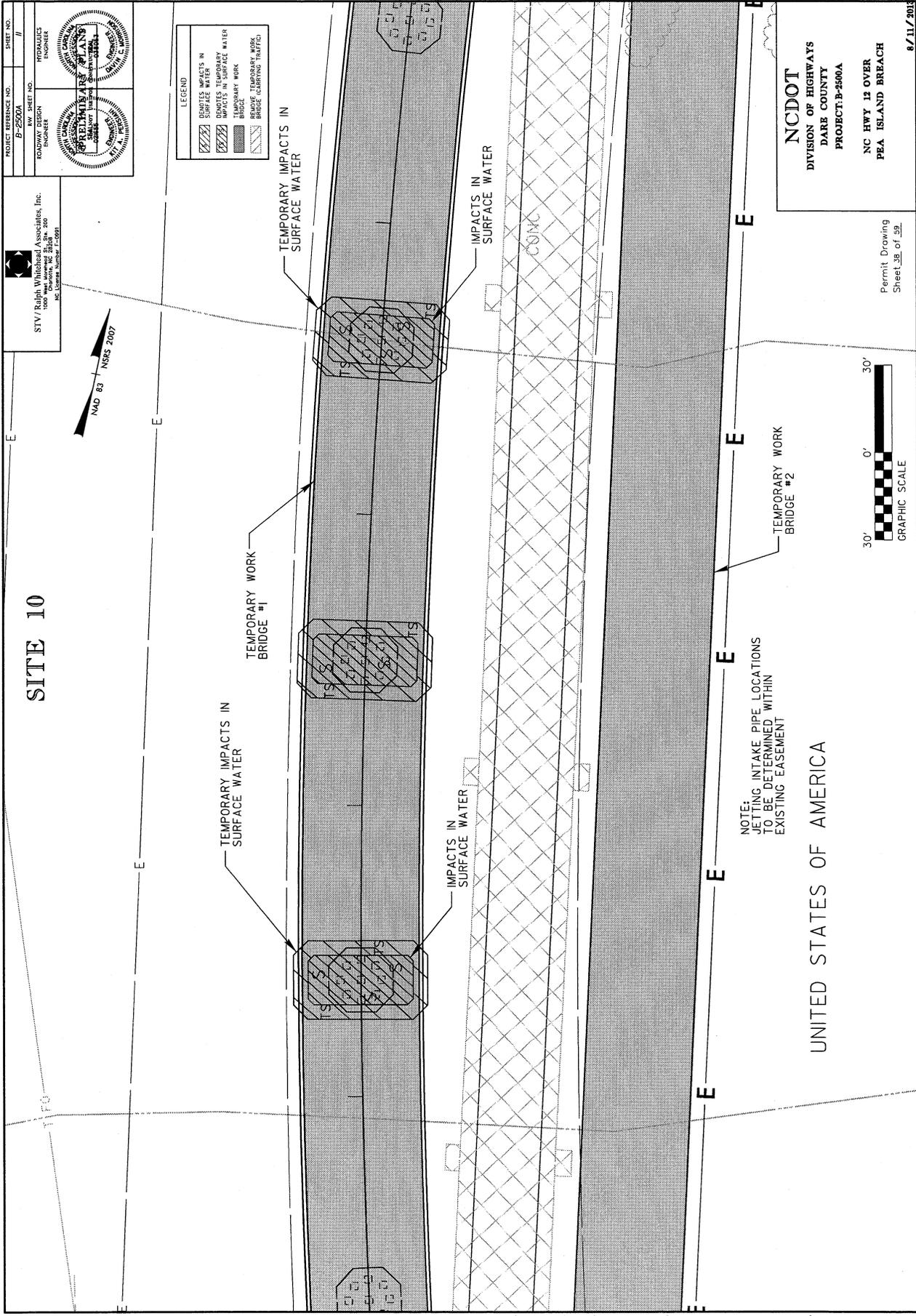
PROVIDED FOR:
 HYDRAULICS
 ENGINEER

DATE: 11/11/2013



LEGEND

- DIAMETER IMPACTS IN SURFACE WATER
- TEMPORARY IMPACTS IN SURFACE WATER
- TEMPORARY WORK
- BRIDGE (CARRYING TRAFFIC)



NOTE:
 JETTING INTAKE PIPE LOCATIONS
 TO BE DETERMINED WITHIN
 EXISTING EASEMENT

UNITED STATES OF AMERICA

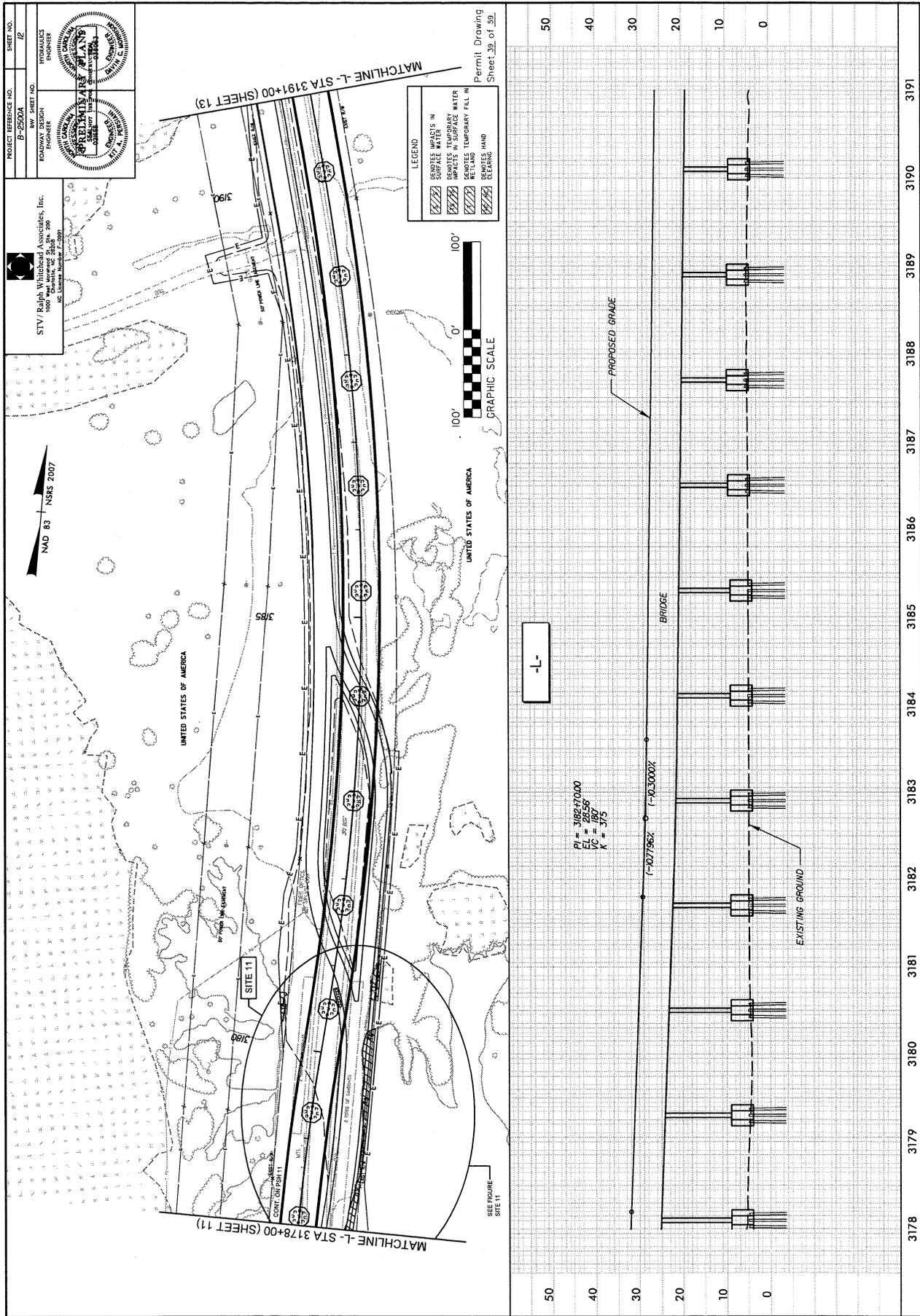


Permit Drawing
 Sheet 38 of 59

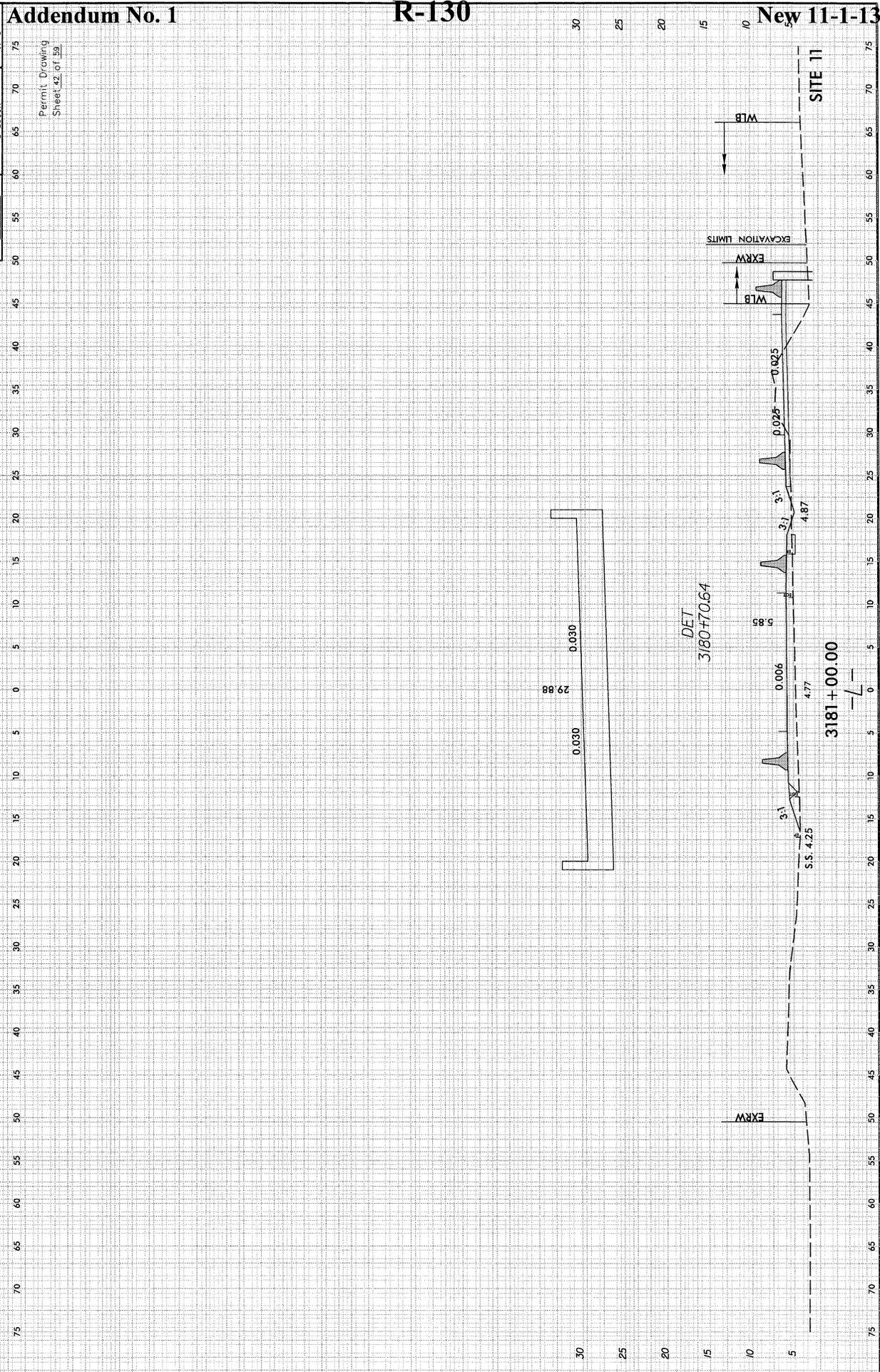
NC DOT
 DIVISION OF HIGHWAYS
 DARE COUNTY
 PROJECT: B-2500A

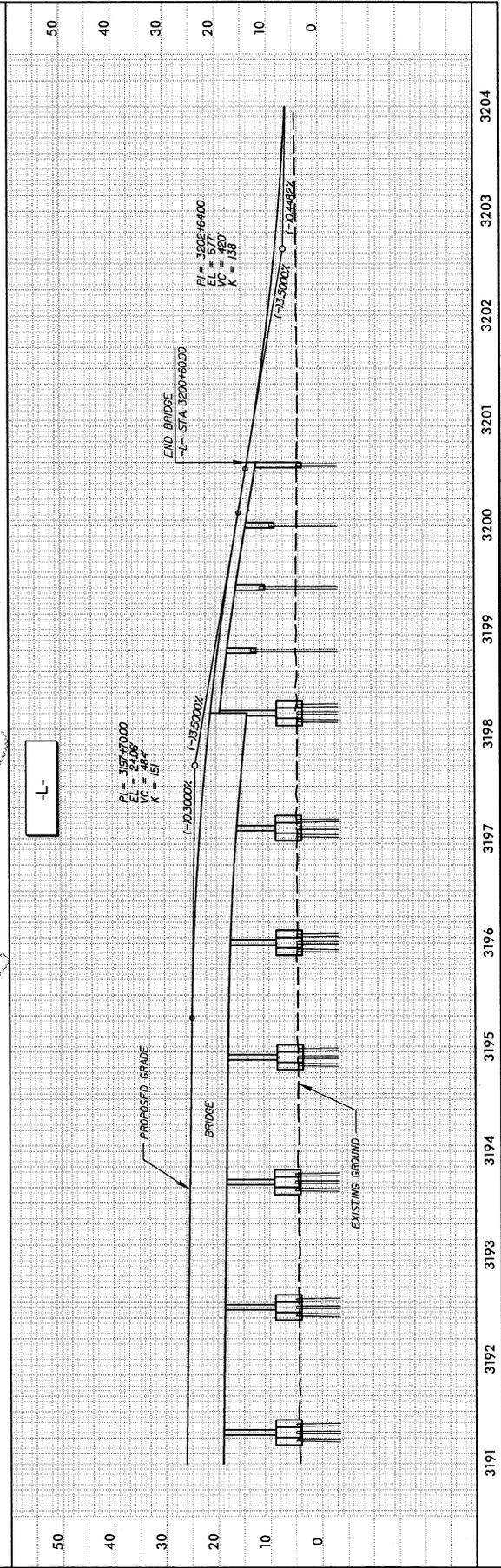
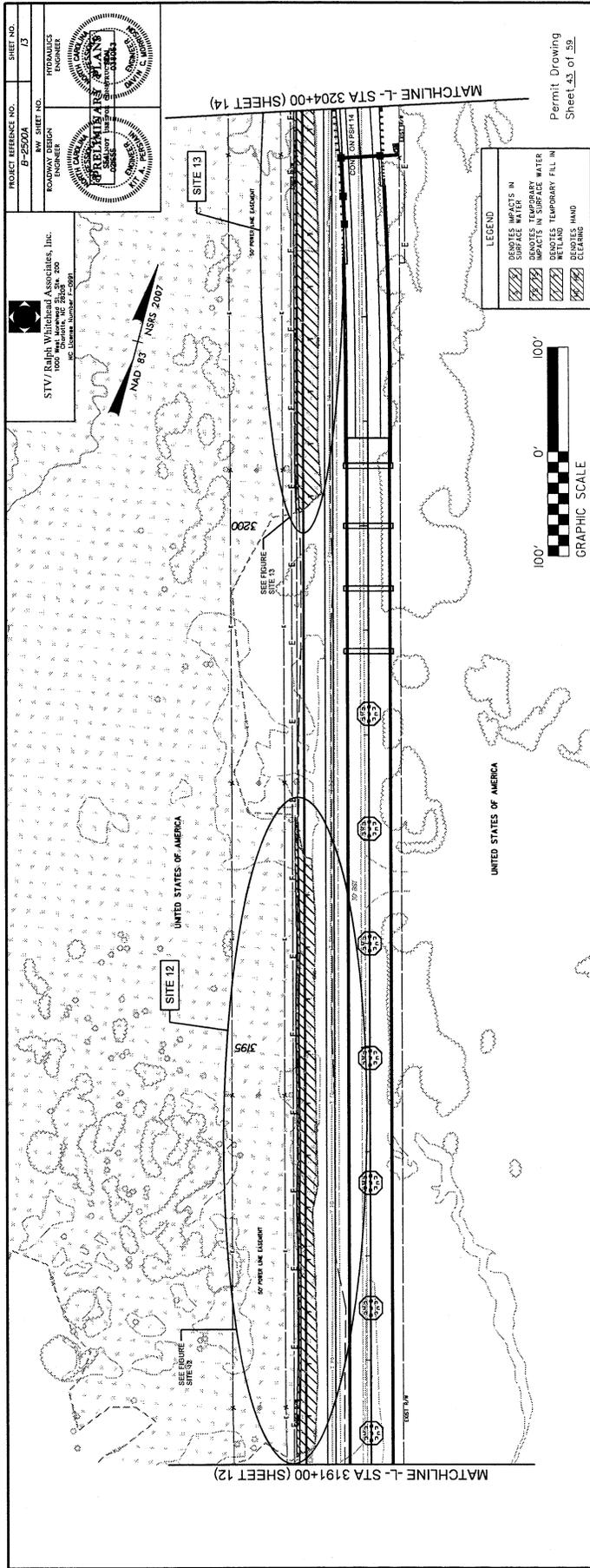
NC HWY 12 OVER
 PEA ISLAND BREACH

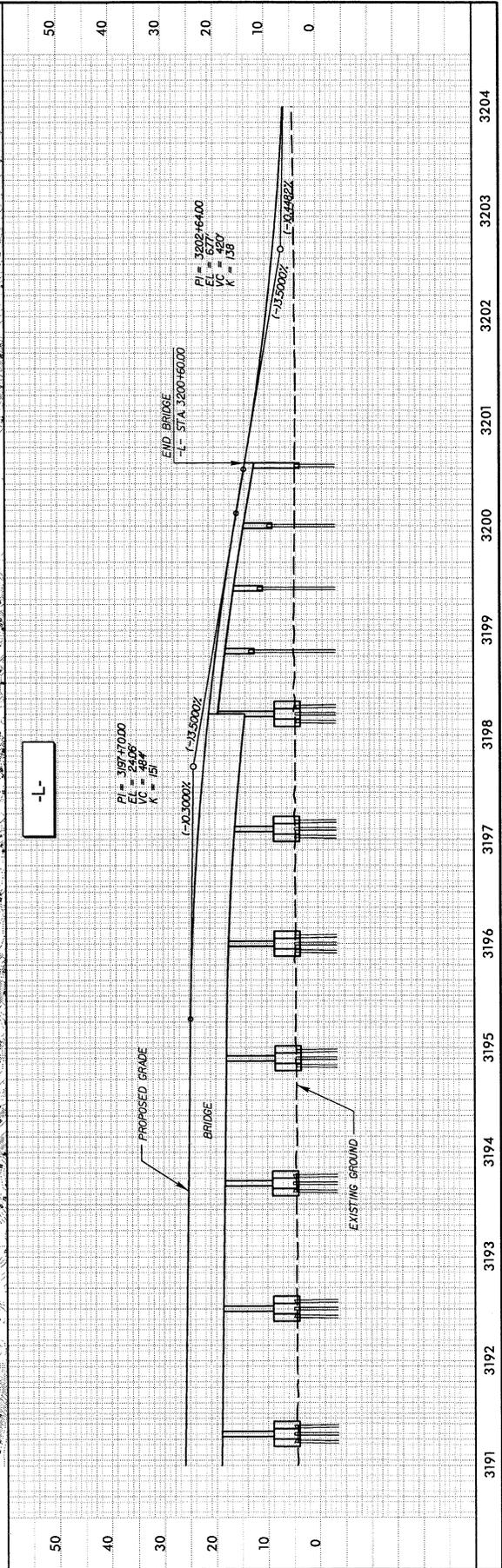
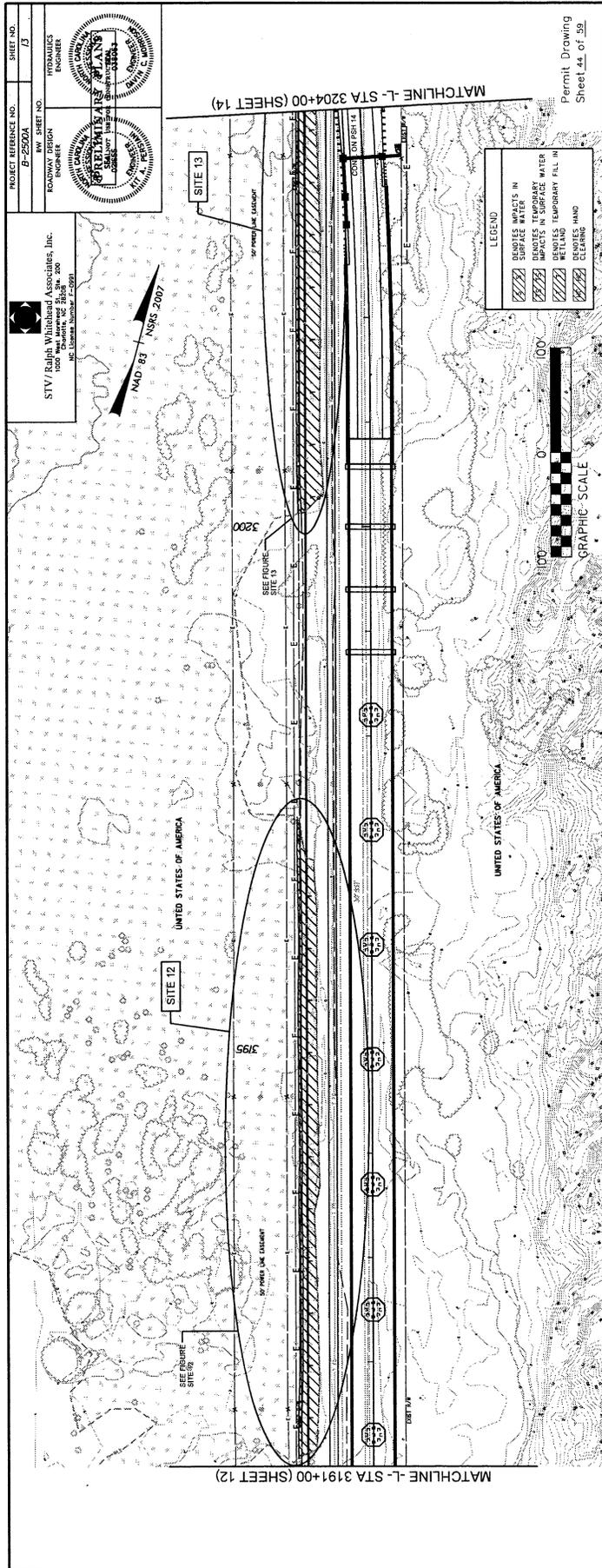
8/11/2013

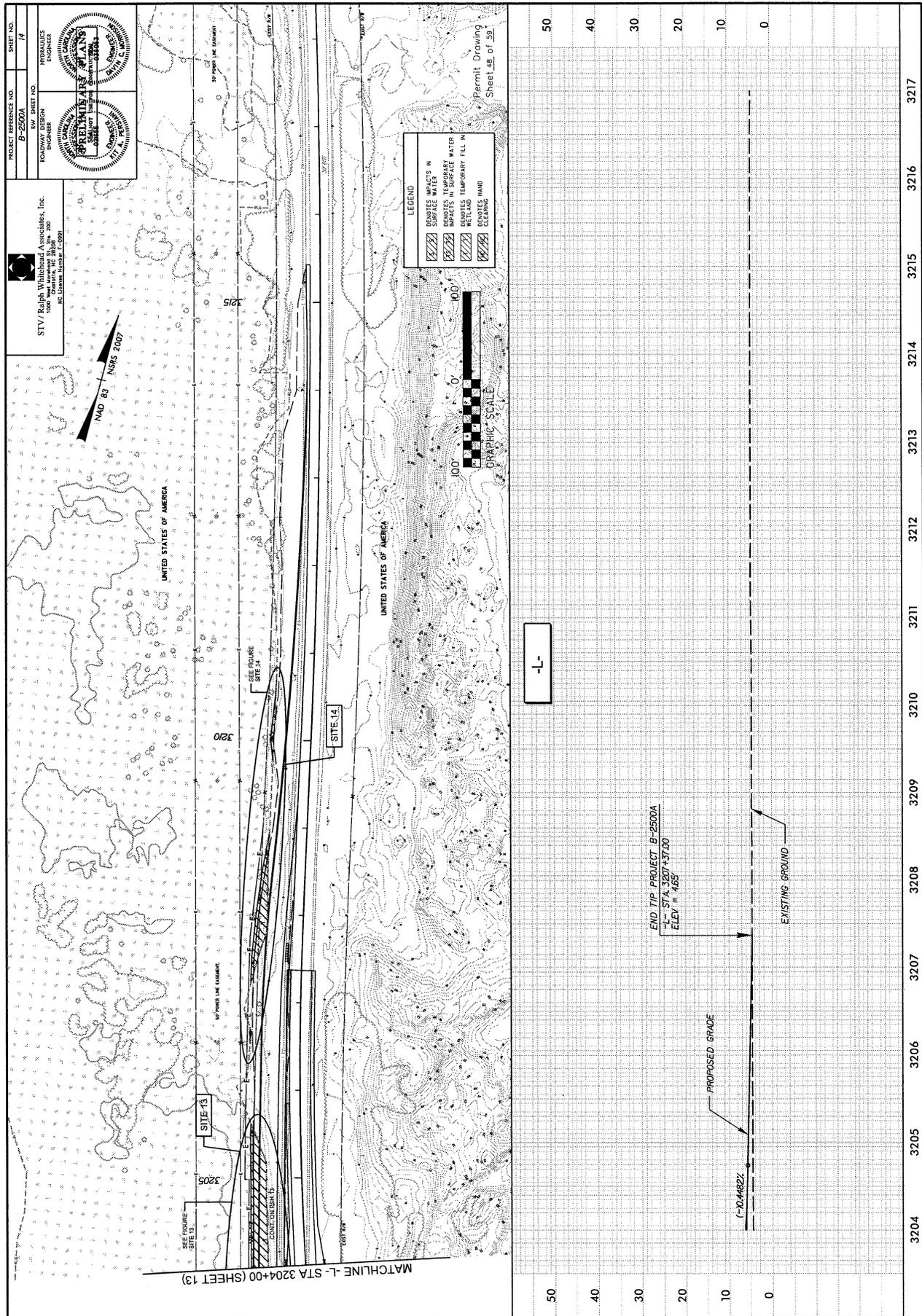


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PROJ. REFERENCE NO. B-2600A																
SHEET NO. XI-9																
Permit Drawing Sheet 42 of 58																

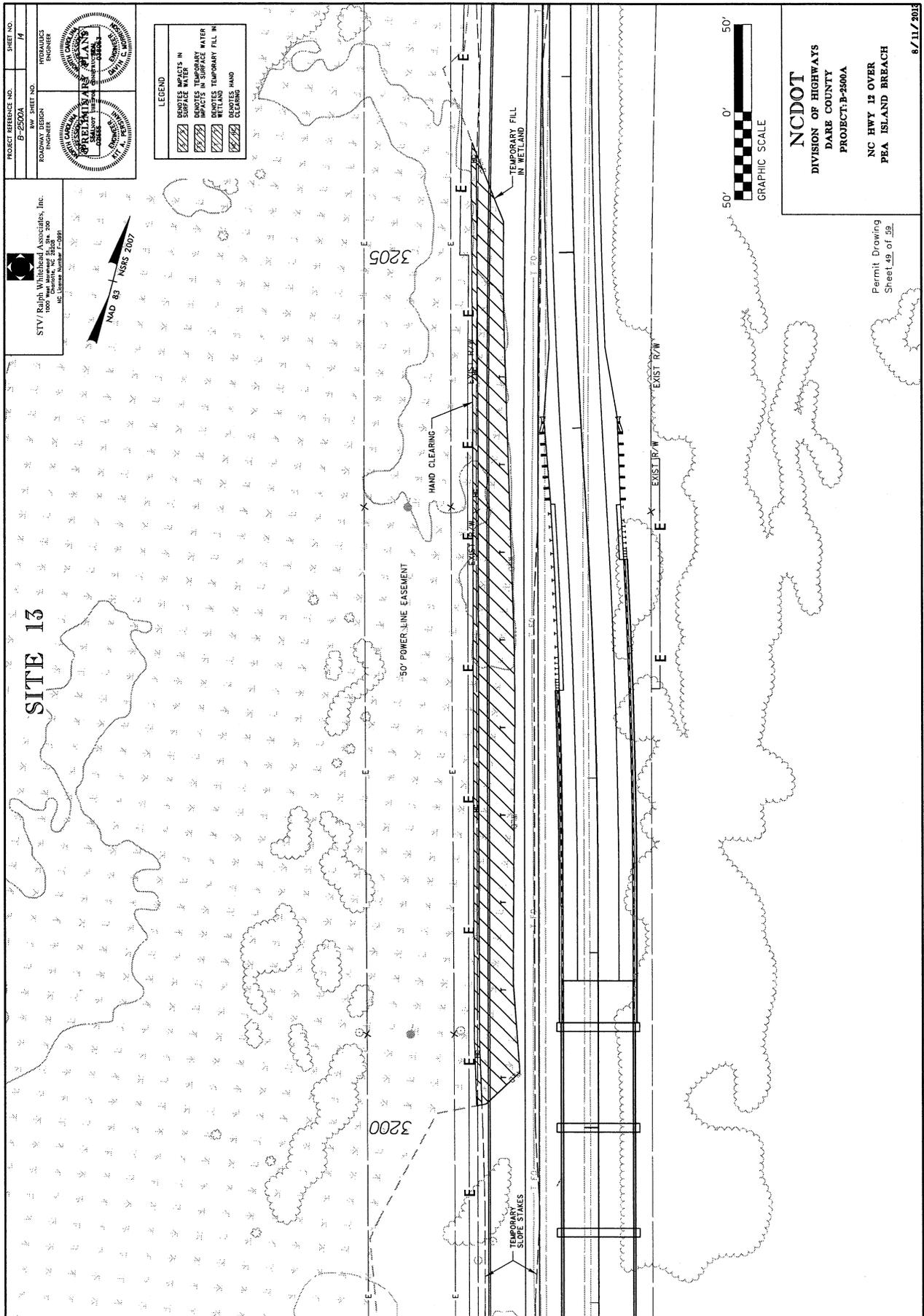








B/11/2013 Hydraulic/E/EM/RT'S/Environment/C/Drawings/Sheet/M/2/F/A/H/4/Frm_psd44.dgn

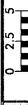


Permit Drawing
Sheet 49 of 59

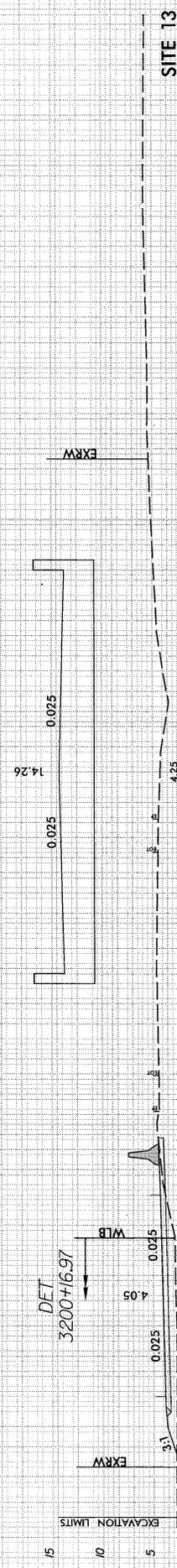
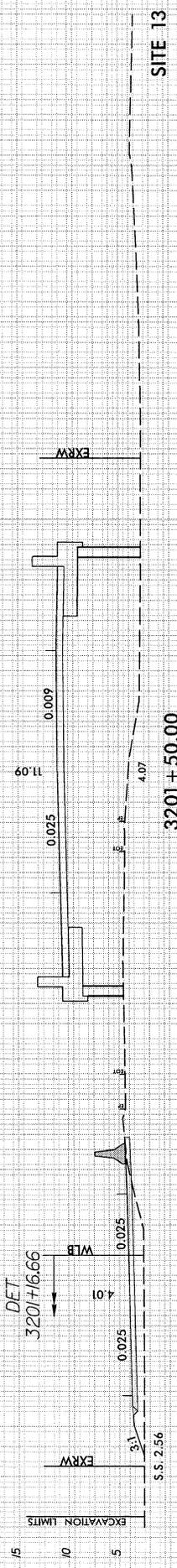
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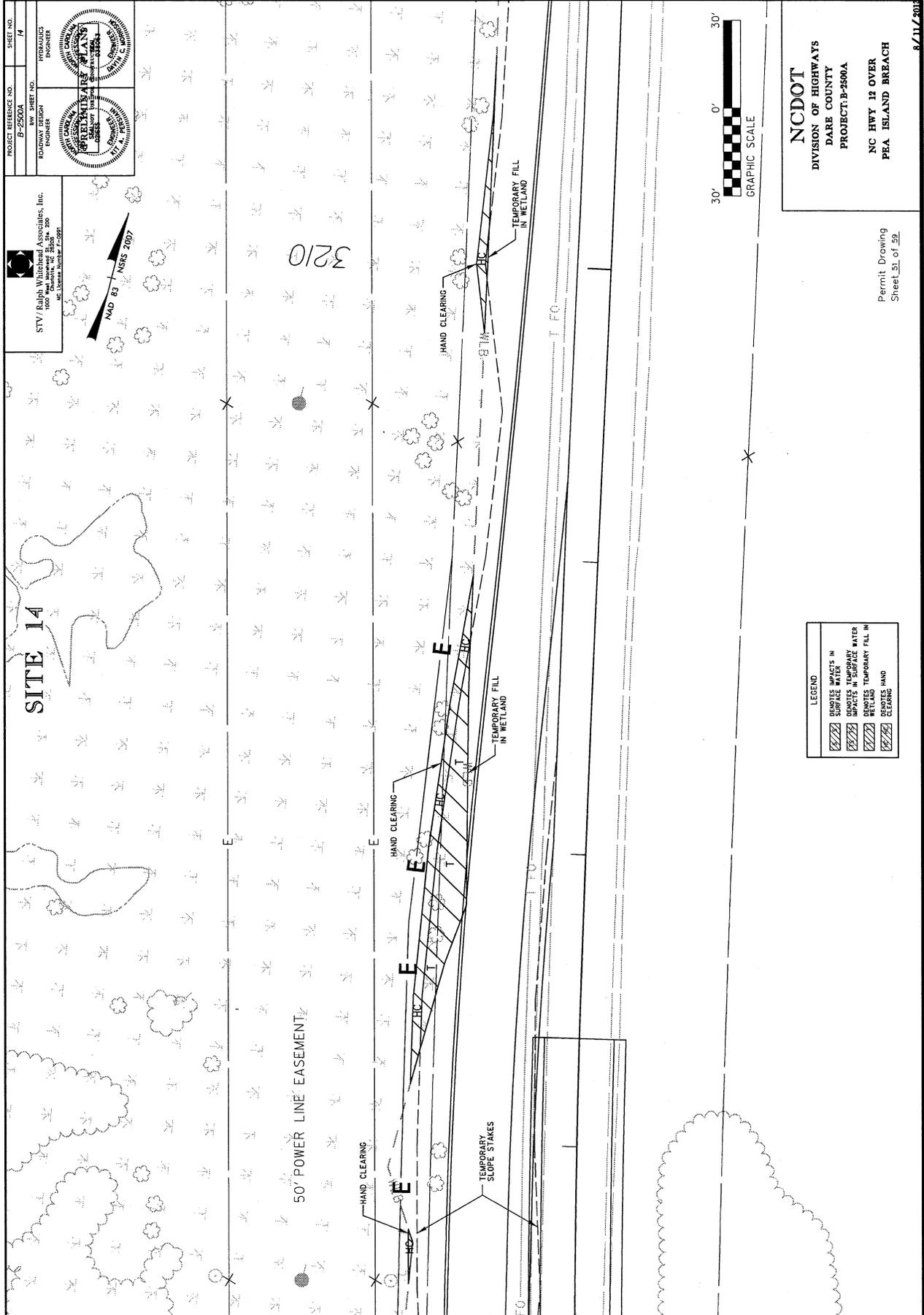
SHEET NO. X-11
PROJ. REFERENCE NO. B-2500A

Permit Drawing
Sheet 50 of 59



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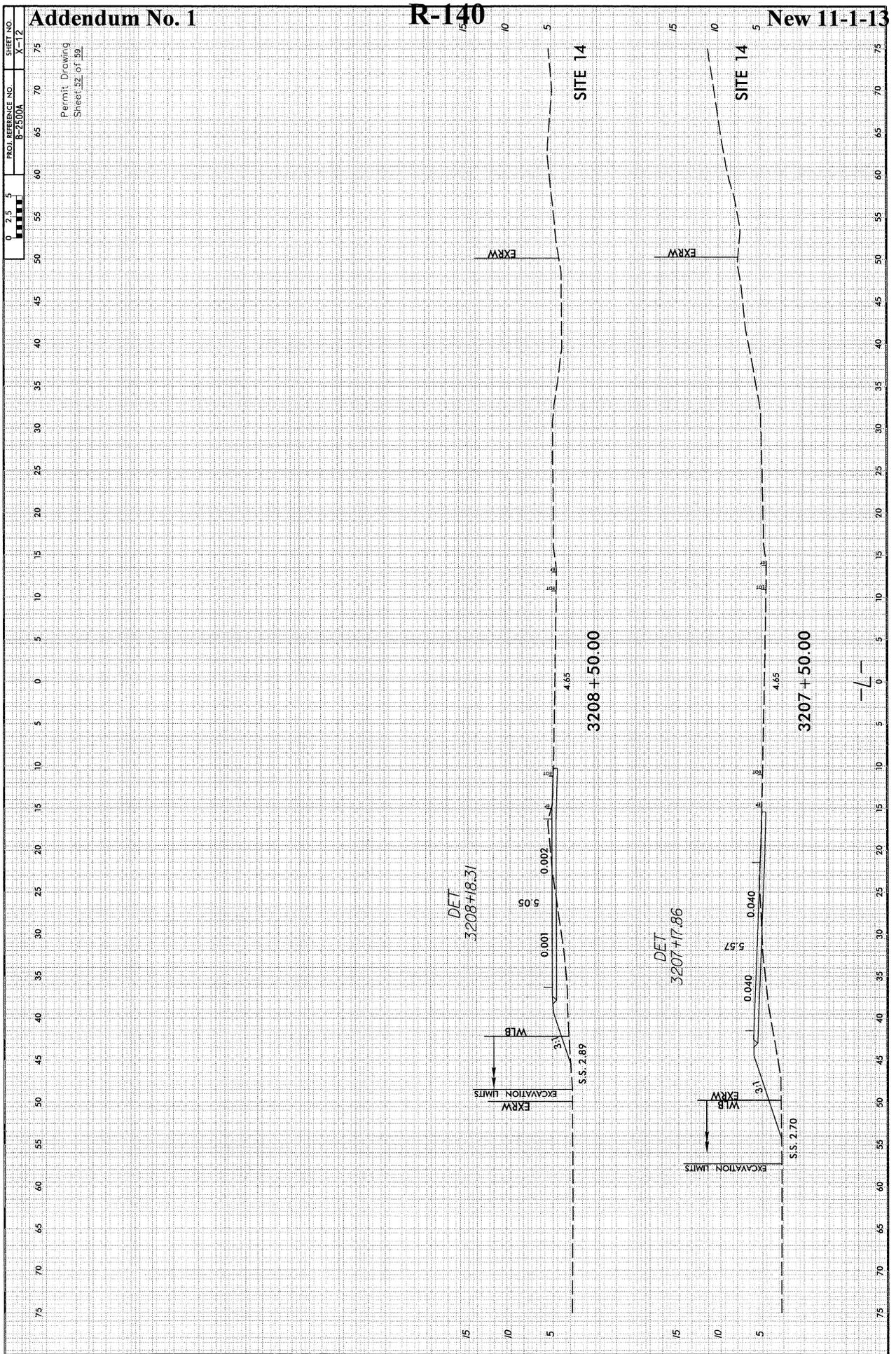


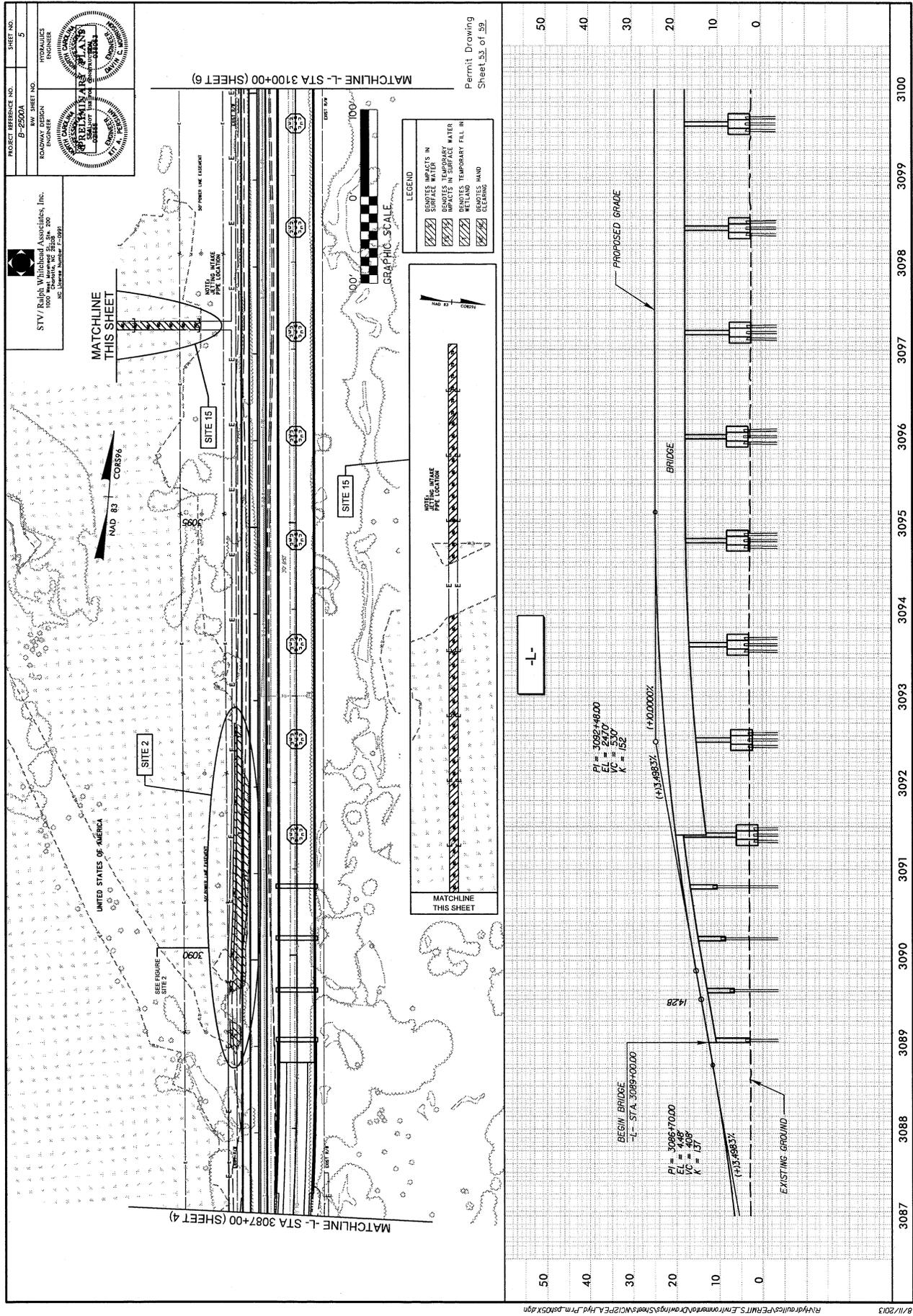


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SHEET NO. X-12
PROJ. REFERENCE NO. B-2500A

Permit Drawing
Sheet 52 of 59





Permit Drawing
 Sheet 53 of 59

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