



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

April 13, 2006

MEMORANDUM TO: Mr. Anthony W. Roper, P.E.
Division One Engineer

FROM: Philip S. Harris, III, P.E., Unit Head *PSH*
Natural Environment Unit
Project Development and
Environmental Analysis Branch

SUBJECT: Chowan County, Replace Bridge No.16 on SR 1222 over Rocky
Hock Creek; T.I.P. Number B-3636; Federal Aid Project BRZ-
1222(5); State Project 8.2030401

Attached is the U. S. Army Corps of Engineers 404 Nationwide Permit Number 23, the general conditions for the Division of Water Quality 401 Water Quality Certification and CAMA permit from Division Coastal Management for the above referenced project. All environmental permits have been received for the construction of this project.

PSH/gyb

Attachment

cc: Mr. Art McMillan, P.E.
Mr. Jay Bennett, P.E.
Mr. David Chang, P.E.
Mr. Randy Garris, P.E.
Mr. Greg Perfetti, P.E.
Mr. Mark Staley
Mr. Omar Sultan
Mr. John F. Sullivan, FHWA
Mr. Clay Willis, Division 1 DEO

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS
1598 MAIL SERVICE CENTER
RALEIGH NC 27699-1598

TELEPHONE: 919-733-3141
FAX: 919-733-9794
WEBSITE: WWW.DOT.ORG

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

PROJECT COMMITMENTS

Chowan County
Bridge No. 16 on SR 1222
Over Rocky Hock Creek
Federal Aid Project BRZ-1222(5)
State Project 8.2030401
TIP No. B-3636

In addition to the standard Nationwide Permit #23 Conditions, the General Nationwide Permit Conditions, Section 404 Only Conditions, Regional Conditions, State Consistency Conditions, General Certification Conditions, and the Section 401 Conditions of Certification, the following Special Commitments have been agreed to by NCDOT:

In order to protect anadromous fisheries resources in Rockyhock Creek, no in-water work shall be conducted between February 15th to June 30th of any year without prior approval of the N.C. Division of Coastal Management (DCM), in consultation with the N.C. Wildlife Resources Commission. For the purposes of this moratorium, in-water is defined as those areas that are inundated at normal water level, including the waters or contiguous inundated wetlands of Rockyhock Creek.

The permittee shall implement the N.C. Department of Transportation's (NCDOT's) Stream Crossing Guidelines for Anadromous Fish Passage.

Excavation of ditches as depicted on the attached workplan drawing(s) shall not exceed a depth of 18 inches and a length of 25 feet, without permit modification. The width of ditches north of SR 1222 shall not exceed 15.5 feet. The width of ditches south of SR 1222 shall not exceed 10.5 feet, without permit modification.

The culvert invert shall be buried at least one foot below normal bed elevation to allow for passage of water and aquatic life.

This project will permanently impact approximately 0.198 acres of 404 wetlands (0.072 acres due to fill, 0.016 acres due to excavation and 0.110 acres due to mechanized clearing). This project will also permanently impact approximately 0.004 acres of surface waters.

During the bridge replacement, turbidity curtains and silt fences shall be used to isolate all work areas from Rockyhock Creek, including pile or casement installation, placement of riprap, excavation or filling. The turbidity curtains shall be installed parallel to the banks on each side of the creek. The turbidity curtains shall extend upstream and downstream past the construction limits and be attached to the silt fences containing the work site. To ensure that navigation is not adversely impacted, the turbidity curtains shall not fully encircle the work area or extend across Rockyhock Creek. The turbidity curtains shall be properly maintained and retained in the water until construction is complete and all of the work area contained by the turbidity curtains has been stabilized by vegetation or other means. The turbidity curtains shall be removed when turbidity within the curtains reaches ambient levels.

Subaqueous lines shall be placed a minimum of two feet below the bottom contour.



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
Washington Regulatory Field Office
Post Office Box 1000
Washington, North Carolina 27889-1000

IN REPLY REFER TO:

March 14, 2006

Underwood
RECEIVED

MAR 21 2006

DIVISION OF HIGHWAYS
PDEA-OFFICE OF NATURAL ENVIRONMENT

Regulatory Division

Subject: Action ID No. 200510073 and Nationwide Permit No. 23 (Approved Categorical Exclusions)

Dr. Gregory J. Thorpe, Ph.D.
Environmental Management Director, PDEA
N.C. Department of Transportation
1548 Mail Service Center
Raleigh, North Carolina 27699-1548

Dear Dr. Thorpe:

Reference your Categorical Exclusion Document, approved on October 7, 2004, and your subsequent correspondence dated January 3, 2006, for the replacement of Bridge No. 16 on NCSR 1222 over Rockyhock Creek, Federal Aid Project No. BRZ-1222 (5), State Project No. 8.2030401, T.I.P. No. B-3636, Chowan County, North Carolina. The preferred alternative involves an off site detour and will replace the existing structure in the same location with a 98-foot bridge using top-down construction and also involves replacing an existing concrete box culvert with an aluminum pipe arch to the southwest of Bridge No. 16 adversely impacting 0.198 acres of wetlands adjacent to the Rockyhock Creek.

For the purposes of the Corps of Engineers Regulatory Program, Title 33, Code of Federal Regulations (CFR), Part 330.6, published in the Federal Register on November 22, 1991, lists nationwide permits. Authorization pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, was provided for activities undertaken, assisted, authorized, regulated, funded or financed, in whole or part, by another Federal agency or department where that agency or department has determined, pursuant to the CEQ Regulation for the Implementing the Procedural Provisions of the National Environmental Policy Act, that the activity, work or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination.

Review of this project indicates that the construction of the new bridge will adversely impact 0.198 acres of riverine wetlands consisting of 0.072 acres of permanent fill, 0.016 acres of excavation, and 0.110 acres of mechanized land clearing in wetlands. The permanent wetland impacts are for the widening of the roadway shoulders at the approach fills for the replacement bridge.

Your work is authorized under Nationwide Permit 23, Categorical Exclusion, and provided it is accomplished in strict accordance with the enclosed Nationwide Permit Conditions and the following special conditions:

- a. Compensatory mitigation for the unavoidable impacts to 0.198 acres of riverine wetlands associated with the proposed project shall be provided by the Ecosystem Enhancement Program (EEP), as outlined in the letter dated February 28, 2006, from William D. Gilmore, EEP Director. Pursuant to the EEP Memorandum of Agreement (MOA) between the State of North Carolina and the US Army Corps of Engineers signed on July 22, 2003, the EEP will provide 0.40 acres of restoration equivalent riverine wetlands in the Chowan River basin (Hydrologic Cataloging Unit 03010203) by one year of the date of this permit. For wetlands, a minimum of 1:1 (impact to mitigation) must be in the form of wetland restoration. The NCDOT shall, within 30 days of the issue date of this permit, certify that sufficient funds have been provided to EEP to complete the required mitigation, pursuant to Paragraph V. of the MOA.
- b. To avoid adverse impacts to spawning populations of fish, anadromous and resident species at the project site, NCDOT will follow the "Stream Crossing Guidelines for Anadromous Fish Passage."
- c. To avoid adverse impacts to spawning populations of fish, anadromous and resident species at this project site, no in-water work will be conducted between February 15 and June 30. For the purpose of this moratorium, in water is defined as those areas that are inundated at mean high water.
- d. All measures will be taken to avoid any temporary fill from entering into the Rockyhock Creek from bridge demolition. Bridge demolition shall follow NCDOT best management practices for construction and maintenance activities dated August 2003 and incorporate NCDOT policy entitled "Bridge Demolition and Removal in Waters of the United States" dated September 20, 1999.
- e. No bridge demolition debris or excavated or fill material will be placed at any time, in any wetlands or surrounding waters, outside of the alignment of the fill area indicated on the work plans.
- f. All excavated materials will be confined above normal high water and landward of regularly or irregularly flooded wetlands behind adequate dikes or retaining structures to prevent spillover of solids into any wetlands or surrounding waters.

g. 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 any activities that cause the degradation of waters or wetlands, except as authorized by this permit, or any modification to this permit. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area. There shall be no excavation from, waste disposal into, or degradation of, jurisdictional waters or wetlands 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.

h. To ensure that all borrow and waste activities occur on high ground and do not result in the degradation of adjacent wetlands and streams, except as authorized by this permit, the permittee shall require its contractors and/or agents to identify all areas to be used to borrow material, or to dispose of dredged, fill, or waste material. The permittee shall provide the USACE with appropriate maps indicating the locations of proposed borrow or waste sites as soon as the permittee has that information. The permittee will coordinate with the USACE before approving any borrow or waste sites that are within 400 feet of any streams or wetlands. The permittee shall ensure that all such areas comply with condition (k) of this permit, and shall require and maintain documentation of the location and characteristics of all borrow and disposal sites associated with this project. This information will include data regarding soils, vegetation and hydrology sufficient to clearly demonstrate compliance with the preceding condition (k). All information will be available to the USACE upon request. NCDOT shall require its contractors to complete and execute reclamation plans for each waste and borrow site and provide written documentation that the reclamation plans have been implemented and all work is completed. This documentation will be provided to the Corps of Engineers within 30 days of the completion of the reclamation work.

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

j. Any violation of these conditions or violations of Section 404 of the Clean Water Act or 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 violation.

k. Failure to institute and carry out the details of special conditions a. - j., above, may result in a directive to cease all ongoing and permitted work within waters and/or wetlands associated with TIP No. B-3636, or such other remedy as the District Engineer or his authorized representatives may seek.

This nationwide permit does not relieve you of the responsibility to obtain any required State or local approval. This permit is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2007. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit. If, prior to the expiration date of March 18, 2007, the nationwide permit authorization is reissued and/or modified, this verification will remain valid until March 18, 2007, provided it complies with all new and/or modified terms and conditions. The District Engineer may, at any time, exercise his discretionary authority to modify, suspend, or revoke a case specific activity's authorization under any NWP.

Thank you for your time and cooperation. If you have any questions, you may contact me at the Washington Regulatory Field Office, Post Office Box 1000, Washington, North Carolina, 27889, or telephone 252-975-1616, extension 26.

Sincerely,



William Biddlecome
Project Manager

Copies Furnished:

Ms. Nicole Thomson
Water Quality Section
North Carolina Division of Environment
and Natural Resources
1650 Mail Service Center
Raleigh, North Carolina 27699-1650

Mr. Travis Wilson
Eastern Region Highway Project Coordinator
Habitat Conservation Program
1142 I-85 Service Road
Creedmoor, North Carolina 27522

Mr. Gary Jordan
U.S. Fish and Wildlife Service
Fish and Wildlife Enhancement
Post Office Box 33726
Raleigh, North Carolina 27636-3726

Mr. Ron Sechler
National Marine Fisheries Service
101 Pivers Island
Beaufort, North Carolina 28516

Mr. Chris Miliitscher
U.S. Environmental Protection Agency
C/O FHWA, Raleigh Office
310 New Bern Avenue, Room 206
Raleigh, North Carolina 27601

Mr. William D. Gilmore, P.E.
EEP Director
North Carolina Ecosystem Enhancement Program
1652 Mail Service Center
Raleigh, North Carolina 27699-1652

BCF:

Action ID Number:200510073

County:Chowan

Permittee: NCDOT

March 14 *myb*

Date Permit Issued: February 24, 2006

Project Manager: Biddlecome

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
WASHINGTON REGULATORY FIELD OFFICE
P.O. BOX 1000
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 23
DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS
FINAL NOTICE OF ISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS
FEDERAL REGISTER
AUTHORIZED MARCH 18, 2002

Approved Categorical Exclusions: Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where that agency or department has determined, pursuant to the Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (40 CFR part 1500 et seq.), that the activity, work, or discharge is categorically excluded from environmental documentation because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment, and the Office of the Chief of Engineers (ATTN: CECW-OR) has been furnished notice of the agency's or department's application for the categorical exclusion and concurs with that determination. Before to approval for purposes of this nationwide permit of any agency's categorical exclusions, the Chief of Engineers will solicit public comment. In addressing these comments, the Chief of Engineers may require certain conditions for authorization of an agency's categorical exclusions under this nationwide permit. (Sections 10 and 404)

NATIONWIDE PERMIT GENERAL CONDITIONS

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

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper Maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. 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.
4. 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. Culverts placed in streams must be installed to maintain low flow conditions.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. 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 or tribe in its Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination.
7. 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 in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. 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.
9. Water Quality.

a. In certain states and tribal lands an individual 401 Water Quality Certification must be obtained or waived (See 33 CFR 330.4(c)).

b. For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the state or tribal 401 certification (either generically or individually) does not require or approve water quality management measures, the permittee must provide water quality management measures that will ensure that the authorized work does not result in more than minimal degradation of water quality (or the Corps determines that compliance with state or local standards, where applicable, will ensure no more than minimal adverse effect on water quality). An important component of water quality management includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality (refer to General Condition 21 for stormwater management requirements). Another important component of water quality management is the establishment and maintenance of vegetated buffers next to open waters, including streams (refer to General Condition 19 for vegetated buffer requirements for the NWPs).

This condition is only applicable to projects that have the potential to affect water quality. While appropriate measures must be taken, in most cases it is not necessary to conduct detailed studies to identify such measures or to require monitoring.

10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see 33 CFR 330.4(d)).

11. Endangered Species.

a. No activity is authorized under any NWP which is likely to 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 destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the 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 may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. 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.

b. 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 USFWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical

habitat can be obtained directly from the offices of the USFWS and NMFS or their World Wide Web pages at <http://www.fws.gov/r9endspp/endspp.html> and <http://www.nfms.noaa.gov/protocols/overview/es.html> respectively.

12. **Historic Properties.** No activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. **Notification.**

a. **Timing;** where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the notification is complete within 30 days of the date of receipt and can 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 notification 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:

1. Until 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. If notified in writing by the District or Division Engineer that an Individual Permit is required; or

3. Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. 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 Notification:** The notification 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. Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; 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. 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 result in a quicker decision.);
4. For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 41, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));
5. For NWP 7 (Cutfall Structures and Maintenance), the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed;
6. For NWP 14 (Linear Transportation Projects), the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the US and a statement describing how temporary losses of waters of the US will be minimized to the maximum extent practicable;
7. For NWP 21 (Surface Coal Mining Activities), the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan, if applicable. To be authorized by this NWP, the District Engineer must determine that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are minimal both individually and cumulatively and must notify the project sponsor of this determination in writing;
8. For NWP 27 (Stream and Wetland Restoration Activities), the PCN must include documentation of the prior condition of the site that will be reverted by the permittee;
9. For NWP 29 (Single-Family Housing), the PCN must also include:
 - i. Any past use of this NWP by the Individual Permittee and/or the permittee's spouse;
 - ii. A statement that the single-family housing activity is for a personal residence of the permittee;
 - iii. A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 1/4-acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than

\1/4\-acre in size, formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

iv. A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

10. For NWP 31 (Maintenance of Existing Flood Control Facilities), the prospective permittee must either notify the District Engineer with a PCN prior to each maintenance activity or submit a five-year (or less) maintenance plan. In addition, the PCN must include all of the following:

- i. Sufficient baseline information identifying the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;
- ii. A delineation of any affected special aquatic sites, including wetlands; and,
- iii. Location of the dredged material disposal site;

11. For NWP 33 (Temporary Construction, Access, and Dewatering), the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources;

12. For NWPs 39, 43 and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization for losses of waters of the US were achieved on the project site;

13. For NWP 39 and NWP 42, the PCN must include a compensatory mitigation proposal to offset losses of waters of the US or justification explaining why compensatory mitigation should not be required. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

14. For NWP 40 (Agricultural Activities), the PCN must include a compensatory mitigation proposal to offset losses of waters of the US. This NWP does not authorize the relocation of greater than 300 linear feet of existing serviceable drainage ditches constructed in non-tidal streams unless, for drainage ditches constructed in intermittent nontidal streams, the District Engineer waives this criterion in writing, and the District Engineer has determined that the project complies with all terms and conditions of this NWP, and that any adverse impacts of the project on the aquatic environment are minimal, both individually and cumulatively;

15. For NWP 43 (Stormwater Management Facilities), the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with state and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the US. For discharges that cause the loss of greater than 300 linear feet of an intermittent stream bed, to be authorized, the District Engineer must determine that the activity complies with the other terms and conditions of the NWP, determine adverse environmental effects are minimal both individually and cumulatively, and waive the limitation on stream impacts in writing before the permittee may proceed;

16. For NWP 44 (Mining Activities), the PCN must include a description of all waters of the US adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the US, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for all aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities);

17. For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work; and

18. For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, 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.

c. Form of Notification: The standard Individual Permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(18) of General Condition 13. A letter containing the requisite information may also be used.

d. District Engineer's Decision: 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. The prospective permittee may submit a proposed mitigation plan with the PCN to expedite the process. 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 work are minimal. 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 conditions the District Engineer deems necessary. The District Engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. 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 plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific 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.

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:

1. 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;
2. that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or
3. 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. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the US will occur until the District Engineer has approved a specific mitigation plan.

e. Agency Coordination: 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.

For activities requiring notification to the District Engineer that result in the loss of greater than 1/2-acre of waters of the US, the District Engineer will provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then 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. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies'

concerns were considered. As required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to NMFS within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

f. Wetland Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps (For NWP 29 see paragraph (b)(9)(iii) for parcels less than (1/4\)-acre in size). The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received NWP verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter and will include:

- a. A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions;
- b. A statement that any required mitigation was completed in accordance with the permit conditions; and
- c. The signature of the permittee certifying the completion of the work and mitigation.

15. 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 US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit (e.g. 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 US for the total project cannot exceed \ 1/3\)-acre) .

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the US or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash,

debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).

19. Mitigation. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

a. The project must be designed and constructed to avoid and minimize adverse effects to waters of the US 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) 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 impacts requiring a PCN, unless the District Engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. Consistent with National policy, the District Engineer will establish a preference for restoration of wetlands as compensatory mitigation, with preservation used only in exceptional circumstances.

d. Compensatory mitigation (i.e., replacement or substitution of aquatic resources for those impacted) will not be used to increase the acreage losses allowed by the acreage limits of some of the NWPs. For example, $\frac{1}{4}$ -acre of wetlands cannot be created to change a $\frac{3}{4}$ -acre loss of wetlands to a $\frac{1}{2}$ -acre loss associated with NWP 39 verification. However, $\frac{1}{2}$ -acre of created wetlands can be used to reduce the impacts of a $\frac{1}{2}$ -acre loss of wetlands to the minimum impact level in order to meet the minimal impact requirement associated with NWPs.

e. To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed.

f. Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., easements, deed restrictions) of vegetated buffers to open waters. In many cases, vegetated buffers will be the only compensatory mitigation required. Vegetated buffers should consist of native species. The width of the vegetated buffers required will address documented water quality or aquatic habitat loss concerns. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineers may require slightly wider vegetated buffers to address documented water quality or habitat loss concerns. Where both wetlands and

open waters exist on the project site, the Corps will determine the appropriate compensatory mitigation (e.g., stream buffers or wetlands compensation) based on what is best for the aquatic environment or, a watershed basis. In cases where vegetated buffers 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 impacts.

g. Compensatory mitigation proposals submitted with the " notification" may be either conceptual or detailed. If conceptual plans are approved under the verification, then the Corps will condition the verification to require detailed plans be submitted and approved by the Corps prior to construction of the authorized activity in waters of the US.

h. Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases that require compensatory mitigation, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

20. Spawning Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity, and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and provide for not increasing water flows from the project site, relocating water, or redirecting water flow beyond preconstruction conditions. Stream channelizing will be reduced to the minimal amount necessary, and the activity must, to the maximum extent practicable, reduce

adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows. In most cases, it will not be a requirement to conduct detailed studies and monitoring of water flow.

This condition is only applicable to projects that have the potential to affect waterflows. While appropriate measures must be taken, it is not necessary to conduct detailed studies to identify such measures or require monitoring to ensure their effectiveness. Normally, the Corps will defer to state and local authorities regarding management of water flow.

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

structures and work in navigable waters of the US, or discharges of dredged or fill material.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the US or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

a. Except as noted below, discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the US may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the USFWS or the NMFS has concurred in a determination of compliance with this condition.

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 13, 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.

26. Fills Within 100-Year Floodplains. For purposes of this General Condition, 100-year floodplains will be identified through the existing Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

a. Discharges in Floodplain; Below Headwaters. Discharges of dredged or fill material into waters of the US within the mapped 100-year floodplain, below headwaters (i.e. five cfs), resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, 43, and 44.

b. Discharges in Floodway; Above Headwaters. Discharges of dredged or fill material into waters of the US within the FEMA or locally mapped floodway, resulting in permanent above-grade fills, are not authorized by NWPs 39, 40, 42, and 44.

c. The permittee must comply with any applicable FEMA-approved state or local

floodplain management requirements.

27. Construction Period. For activities that have not been verified by the Corps and the project was commenced or under contract to commence by the expiration date of the NWP (or modification or revocation date), the work must be completed within 12-months after such date (including any modification that affects the project).

For activities that have been verified and the project was commenced or under contract to commence within the verification period, the work must be completed by the date determined by the Corps.

For projects that have been verified by the Corps, an extension of a Corps approved completion date maybe requested. This request must be submitted at least one month before the previously approved completion date.

FURTHER INFORMATION

1. District Engineers have authority to determine if an activity complies with the terms and conditions of a 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): BMPs are 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 nonstructural. A BMP policy may affect the limits on a development.

Compensatory Mitigation: For purposes of Section 10/404, compensatory mitigation is the restoration, creation, enhancement, or in exceptional circumstances, preservation of wetlands and/or other aquatic resources for the purpose of compensating for unavoidable adverse impacts, which remain, after all appropriate and practicable avoidance and minimization has been achieved.

Creation: The establishment of a wetland or other aquatic resource where one did not formerly

exist.

Enhancement: Activities conducted in existing wetlands or other aquatic resources that increase one or more aquatic functions.

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.

Farm Tract: A unit of contiguous land under one ownership that is operated as a farm or part of a farm.

Flood Fringe: That portion of the 100-year floodplain outside of the floodway (often referred to as “floodway fringe”).

Floodway: The area regulated by Federal, state, or local requirements to provide for the discharge of the base flood so the cumulative increase in water surface elevation is no more than a designated amount (not to exceed one foot as set by the National Flood Insurance Program) within the 100-year floodplain.

Independent Utility: A test to determine what constitutes a single and complete 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.

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 US: Waters of the US that include the filled area and other waters that are permanently adversely affected by flooding, excavation, or drainage because of the regulated activity. Permanent adverse effects include permanent above-grade, at-grade, or below-grade fills 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 US is the threshold measurement of the impact to existing waters for determining whether a project may qualify for a 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 values. The loss of stream bed includes the linear feet of stream bed that is filled or excavated. Waters of the US temporarily filled, flooded, excavated, or drained, but restored to preconstruction contours and elevations after construction, are not included in the measurement of loss of waters of the US. Impacts to ephemeral waters are only not included in the acreage or linear foot measurements of loss of waters of the US or loss of stream bed, for the purpose of determining compliance with the threshold limits of the NWPs.

Non-tidal Wetland: An area that, during a year with normal patterns of precipitation has standing or flowing water for sufficient duration to establish an ordinary high water mark. 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. The term “open water” includes rivers, streams, lakes, and ponds. For the purposes of the NWPs, this term does not include ephemeral waters.

Perennial Stream: A perennial stream has flowing water year-round during a typical year. The water table is located above the stream bed for the 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.

Permanent Above-grade Fill: A discharge of dredged or fill material into waters of the US, including wetlands, that results in a substantial increase in ground elevation and permanently converts part or all of the waterbody to dry land. Structural fills authorized by NWPs 3, 25, 36, etc. are not included.

Preservation: The protection of ecologically important wetlands or other aquatic resources in perpetuity through the implementation of appropriate legal and physical mechanisms. Preservation may include protection of upland areas adjacent to wetlands as necessary to ensure protection and/or enhancement of the overall aquatic ecosystem.

Restoration: Re-establishment of wetland and/or other aquatic resource characteristics and function(s) at a site where they have ceased to exist, or exist in a substantially degraded state.

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.

Single and Complete Project: 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 (see definition of independent utility). For linear projects, the “single and complete project” (i.e., a single and complete crossing) will apply to each crossing of a separate water of the US (i.e., a single waterbody) at that location. An exception is for linear projects crossing a single waterbody several times at separate and distant locations; each crossing is considered a single and complete project. 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.

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 BMPs, 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 Channelization: The manipulation of a stream channel to increase the rate of water flow through the stream channel. Manipulation may include deepening, widening, straightening, armoring, or other activities that change the stream cross-section or other aspects of stream channel geometry to increase the rate of water flow through the stream channel. A channelized stream remains a water of the US, despite the modifications to increase the rate of water flow.

Tidal Wetland: A tidal wetland is a wetland (i.e., water of the US) 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 (i.e., spring high tide line) and are inundated by tidal waters two times per lunar month, during spring high tides.

Vegetated Buffer: A vegetated upland or wetland area next to rivers, streams, lakes, or other open waters, which separates the open water from developed areas, including agricultural land. Vegetated buffers provide a variety of aquatic habitat functions and values (e.g., aquatic habitat

for fish and other aquatic organisms, moderation of water temperature changes, and detritus for aquatic food webs) and help improve or maintain local water quality. A vegetated buffer can be established by maintaining an existing vegetated area or planting native trees, shrubs, and herbaceous plants on land next to openwaters. Mowed lawns are not considered vegetated buffers because they provide little or no aquatic habitat functions and values. The establishment and maintenance of vegetated buffers is a method of compensatory mitigation that can be used in conjunction with the restoration, creation, enhancement or preservation of aquatic habitats to ensure that activities authorized by NWPs result in minimal adverse effects to the aquatic environment. (See General Condition 19.)

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: A waterbody is any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high water mark is established. Wetlands contiguous to the waterbody are considered part of the waterbody.

FINAL REGIONAL CONDITIONS FOR NATIONWIDE PERMITS IN THE WILMINGTON DISTRICT

1. Waters Excluded from NWP or Subject to Additional Notification Requirements:

a. The Corps identified waters that will be excluded from use of this NWP. These waters are:

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

2. Discharges into Waters of the United States designated as sturgeon spawning areas are prohibited during the period between February 1 and June 30, without prior written approval from the National Marine Fisheries Service (NMFS).

b. The Corps identified waters that will be subject to additional notification requirements for activities authorized by this NWP. These waters are:

1. Prior to the use of any NWP in any of the following North Carolina *designated waters*, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant must furnish a written statement of compliance with all of the conditions of the applicable Nationwide Permit. The North Carolina *designated waters* that require additional notification requirements are “Outstanding Resource Waters” (ORW) and “High Quality

Waters" (HQW) (as defined by the North Carolina Division of Water Quality), or "Inland Primary Nursery Areas" (IPNA) (as defined by the North Carolina Wildlife Resources Commission), or contiguous wetlands (as defined by the North Carolina Division of Water Quality), or "Primary Nursery Areas" (PNA) (as defined by the North Carolina Division of Marine Fisheries).

2. Applicants for any NWP in a designated "Area of Environmental Concern" (AEC) in the twenty (20) coastal counties of Eastern North Carolina covered by the North Carolina Coastal Area Management Act (CAMA), must also obtain the required CAMA permit.

Construction activities may not commence until a copy of the approved CAMA permit is furnished to the appropriate Wilmington District Regulatory Field Office (Wilmington Field Office – P.O. Box 1890, Wilmington, NC 28402 or Washington Field Office – P.O. Box 1000, Washington, NC 27889) for authorization to begin work.

3. Prior to the use of any NWP on a Barrier Island of North Carolina, applicants must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable Nationwide Permit.

4. Prior to the use of any NWP in a "Mountain or Piedmont Bog" of North Carolina, applicants shall comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP.

Note: The following wetland community types identified in the N.C. Natural Heritage Program document, "Classification of Natural communities of North Carolina (Michael P. Schafale and Alan S. Weakley, 1990), are subject to this regional condition.

Mountain Bogs

Swamp Forest-Bog Complex

Swamp Forest-Bog Complex (Spruce Subtype)

Southern Appalachian Bog (Northern Subtype)

Southern Appalachian Bog (Southern Subtype)

Southern Appalachian Fen

Piedmont Bogs

Upland Depression Swamp Forest

5. Prior to the use of any NWP in Mountain Trout Waters within twenty-five (25) designated counties of North Carolina, applicants shall comply with Nationwide General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Notification will include a letter of comments and recommendations from the North Carolina Wildlife Resources Commission (NCWRC), the

location of work, a delineation of wetlands, a discussion of alternatives to working in the Mountain Trout Waters, why other alternatives were not selected, and a plan to provide compensatory mitigation for all unavoidable adverse impacts to the Mountain Trout Waters. To facilitate coordination with the NCWRC, the proponent may provide a copy of the notification to the NCWRC concurrent with the notification to the District Engineer. The NCWRC will respond both to the proponent and directly to the Corps of Engineers.

The twenty-five (25) designated counties are:

Alleghany	Ashe	Avery	Yancey
Buncombe	Burke	Caldwell	Wilkes
Cherokee	Clay	Graham	Swain
Haywood	Henderson	Jackson	Surry
Macon	Madison	McDowell	Stokes
Mitchell	Polk	Rutherford	
Transylvania	Watauga		

6. 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 of the disposal area and allow a temporary shellfish closure to be made. Any disposal of sand to the 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. If beach disposal was to occur at times other than stated above or if sand from a closed shell fishing area is to be used, a swim advisory shall be posted and a press release shall be made. NCDENR Shellfish Sanitation Section must be notified before commencing this activity.

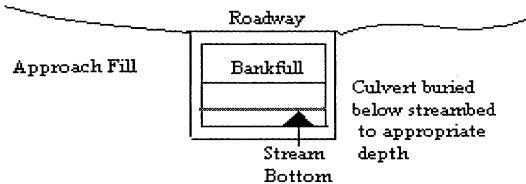
2. List of Final Corps Regional Modifications and Conditions for All Nationwide Permits

- a. Individual or multiple NWPs may not be used for activities that result in the cumulative loss or degradation of greater than 300 total linear feet of perennial streambed or intermittent streambed that exhibits important aquatic function(s).
- b. Prior to the use of any NWP (except 13, 27, and 39) for any activity that has more than a total of 150 total linear feet of perennial streambed impacts or intermittent streambed impacts (if the intermittent stream has important aquatic function), the applicant must comply with Nationwide Permit General Condition 13. In addition, the applicant shall furnish a written statement of compliance with all of the conditions listed of the applicable NWP. Compensatory mitigation is typically required for any impact that requires such notification. [Note: The Corps uses the Intermittent Channel Evaluation Form, located with Permit Information on the Regulatory Program Web Site, to aid in the determination of the intermittent channel stream status. Also, NWPs 13, 27 and 39 have specific reporting requirements.]
- c. For all Nationwide Permits which allow the use of concrete as a building material, measures will be taken to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with waters of the state until the concrete has hardened.

d. For all Nationwide Permits that allow for the use of riprap material for bank stabilization, filter cloth must be placed underneath the riprap as an additional requirement of its use in North Carolina waters.

e. For all NWP's that involve the construction of culverts, measures will be included in the construction that will promote the safe passage of fish and other aquatic organisms.

All culverts in the 20 CAMA coastal counties must be buried to a depth of one foot below the



bed of the stream or wetland. For all culvert construction activities, 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. Culvert inverts will be buried at least one foot below the bed of the stream for culverts greater than 48 inches in diameter. For culverts 48 inches in diameter or smaller, culverts must be buried below the bed of the stream to a depth equal to or greater than 20 percent of the diameter of the culvert. Bottomless arch culverts will satisfy this condition. A waiver from the depth 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 more adverse impacts to the aquatic environment.

NORTH CAROLINA DIVISION OF WATER QUALITY

GENERAL CERTIFICATION CONDITIONS

GC3361

1. Proposed fill or substantial modification of wetlands or waters (including streams) under this General Certification requires notification to the Division of Water Quality. Two copies shall be submitted to DWQ at the time of notification in accordance with 15A NCAC 2H .0501(a).

Written concurrence from DWQ is not required unless any standard conditions of this Certification cannot be met;

2. Appropriate sediment and erosion control practices which equal or exceed those outlined in the most recent version of the "North Carolina Sediment and Erosion Control Planning and Design Manual" or the "North Carolina Surface Mining Manual" whichever is more appropriate (available from the Division of Land Resources (DLR) in the DENR Regional or Central Offices) shall be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to assure compliance

with the appropriate turbidity water quality standard;

3. In accordance with 15A NCAC 2H .0506 (h) compensatory mitigation may be required for impacts to 150 linear feet or more of streams and/or one acre or more of wetlands. In addition, buffer mitigation may be required for any project with Buffer Rules in effect at the time of application for buffer impacts resulting from activities classified as "allowable with mitigation" within the "Table of Uses" section of the Buffer Rules or require a variance under the Buffer Rules. A determination of buffer, wetland and stream mitigation requirements shall be made for any Certification for this Nationwide Permit. The most current design and monitoring protocols from DWQ shall be followed and written plans submitted for DWQ approval as required in those protocols. When compensatory mitigation is required for a project, the mitigation plans must be approved by DWQ in writing before the impacts approved by the Certification occur. The mitigation plan must be implemented and/or constructed before any permanent building or structure on site is occupied. In the case of public road projects, the mitigation plan must be implemented before the road is opened to the traveling public;
4. Compensatory stream mitigation shall be required at a 1:1 ratio for all perennial and intermittent stream impacts equal to or exceeding 150 feet and that require application to DWQ in watersheds classified as ORW, HQW, Tr, WS-I and WS-II;
5. All sediment and erosion control measures placed in wetlands or waters shall be removed and the original grade restored within two months after the Division of Land Resources has released the project;
6. Measures shall be taken to prevent live or fresh concrete from coming into contact with waters of the state until the concrete has hardened;
7. In accordance with North Carolina General Statute Section 143-215.3D(e), any request for written concurrence for a 401 Water Quality Certification must include the appropriate fee. If a project also requires a CAMA Permit, one payment to both agencies shall be submitted and will be the higher of the two fees;
8. Impacts to any stream length in the Neuse, Tar-Pamlico, Randleman and Catawba River Basins (or any other river basins with Riparian Area Protection Rules [Buffer Rules] in effect at the time of application) requires written concurrence from DWQ in accordance with 15A NCAC 2B.0200. Activities listed as "exempt" from these rules do not need to apply for written concurrence under this Certification. New development activities located in the protected 50-foot wide riparian areas (whether jurisdictional wetlands or not) within the Neuse, Tar-Pamlico, Randleman and Catawba River Basins shall be limited to "uses" identified within and constructed in accordance with 15A NCAC 2B .0200. All new development 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;
9. Additional site-specific conditions may be added to projects for which written concurrence is required or requested under this Certification in order to ensure compliance with all applicable water quality and effluent standards;

10. Concurrence from DWQ that this Certification applies to an individual project shall expire three years from the date of the cover letter from DWQ or on the same day as the expiration date of the corresponding Nationwide and Regional General Permits, whichever is sooner;
11. When written concurrence is required, the applicant is required to use the most recent version of the Certification of Completion form to notify DWQ when all work included in the 401 Certification has been completed.

NORTH CAROLINA DIVISION OF COASTAL MANAGEMENT
STATE CONSISTENCY

Consistent.

Citations:

2002 Nationwide Permits - Federal Register Notice 15 Jan 2002
2002 Nationwide Permits Corrections - Federal Register Notice 13 Feb 2002
2002 Regional Conditions – Authorized 17 May 2002



North Carolina Department of Environment and Natural Resources
Division of Coastal Management

Michael F. Easley, Governor

Charles S. Jones, Director

William G. Ross Jr., Secretary

April 13, 2006

N.C. Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548

Dear Sirs:

The enclosed permit constitutes authorization under the Coastal Area Management Act, and where applicable, the State Dredge and Fill Law, for you to proceed with your project proposal. The original (buff-colored form) is retained by you and it must be available on site when the project is inspected for compliance. Please sign both the original and the copy and return the copy to this office in the enclosed envelope. Signing the permit and proceeding means you have waived your right of appeal described below.

If you object to the permit or any of the conditions, you may request a hearing pursuant to NCGS 113A-121.1 or 113-229. Your petition for a hearing must be filed in accordance with NCGS Chapter 150B with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27611-6714, (919) 733-2698 within twenty (20) days of this decision on your permit. You should also be aware that if another qualified party submits a valid objection to the issuance of this permit within twenty (20) days, the matter must be resolved prior to work initiation. The Coastal Resources Commission makes the final decision on any appeal.

The project plan is subject to those conditions appearing on the permit form. Otherwise, all work must be carried out in accordance with your application. Modifications, time extensions, and future maintenance require additional approval. Please read your permit carefully prior to starting work and review all project plans, as approved. If you are having the work done by a contractor, it would be to your benefit to be sure that he fully understands all permit requirements.

From time to time, Department personnel will visit the project site. To facilitate this review, we request that you complete and mail the enclosed Notice Card just prior to work initiation. However, if questions arise concerning permit conditions, environmental safeguards, or problem areas, you may contact Department personnel at any time for assistance. By working in accordance with the permit, you will be helping to protect our vitally important coastal resources.

Sincerely,


Douglas V. Huggett
Major Permits and Consistency Manager

Enclosure

1638 Mail Service Center, Raleigh, North Carolina 27699-1638
Phone: 919-733-2293 \ FAX: 919-733-1495 \ Internet: <http://dcm2.enr.state.nc.us>

An Equal Opportunity \ Affirmative Action Employer - 50% Recycled \ 10% Post Consumer Paper

Permit Class
NEW

Permit Number
63-06

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, 1548 Mail Service Center, Raleigh, NC 27699-1548

Authorizing development in Chowan County at Rockyhock Creek, Bridge No. 16 on SR 1222, near Edenton, as requested in the permittee's application dated 1/3/06, including the attached workplan drawings (15), 5 dated 12/22/05 and 10 dated 12/20/05

This permit, issued on April 11, 2006, 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-3636, Bridge and Culvert Replacement

- 1) In order to protect anadromous fisheries resources in Rockyhock Creek, no in-water work shall be conducted between February 15th to June 30th of any year without prior approval of the N.C. Division of Coastal Management (DCM), in consultation with the N.C. Wildlife Resources Commission. For the purposes of this moratorium, in-water is defined as those areas that are inundated at normal water level, including the waters or contiguous inundated wetlands of Rockyhock Creek.
- 2) The permittee shall implement the N.C. Department of Transportation's (NCDOT's) Stream Crossing Guidelines for Anadromous Fish Passage.

(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.

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


Charles S. Jones, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

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.


Signature of Permittee

ADDITIONAL CONDITIONS

- 3) Excavation of ditches as depicted on the attached workplan drawing(s) shall not exceed a depth of 18 inches and a length of 25 feet, without permit modification. The width of ditches north of SR 1222 shall not exceed 15.5 feet. The width of ditches south of SR 1222 shall not exceed 10.5 feet, without permit modification.
- 4) In accordance with the e-mail received from the permittee on 4/7/06, the dimensions of the culvert shall be 7 feet and 11 inches wide and 5 feet 7 inches high.
- 5) The culvert invert shall be buried at least one foot below normal bed elevation to allow for passage of water and aquatic life.
- 6) The permittee did not propose the use of deck drains. Any future proposal to utilize deck drains shall require additional coordination with the Division of Coastal Management.
- 7) No temporary impacts to wetlands or waters of the State are authorized by this permit without prior approval from DCM.
- 8) Material excavated may be used in fill areas associated with the project or shall be removed from the site and taken to an approved high ground location.
- 9) The temporary placement and double handling of any excavated or fill material within waters or vegetated wetlands is not authorized. This condition also applies to the removal of the existing bridge, culvert, roadway asphalt and associated materials.
- 10) No excavation 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 drawing(s), without permit modification.
- 11) No excavated or fill material shall be placed at any time in any vegetated wetlands or surrounding waters outside of the alignment of the fill area(s) as indicated on the attached workplan drawing(s), without permit modification.
- 12) All fill material shall be clean and free of any pollutants except in trace quantities.
- 13) Live concrete shall not be allowed to contact the water in or entering into Rockyhock Creek or the adjacent wetlands.
- 14) The bridge shall be constructed using top down construction methodologies. Any other construction methodologies may require additional authorization.
- 15) Unless specifically altered herein, NCDOT's document "Best Management Practices for Bridge Demolition and Removal" (final 9/20/99) shall be followed during both demolition and construction activities.
- 16) Piling from the existing bridge, as well as any remnant piling from previous bridges, shall be removed in their entirety. In the event that a piling breaks during removal and cannot be removed in its entirety, the piling may be cut off flush with the bed of the water body only if prior approval is received from DCM.

ADDITIONAL CONDITIONS

- 17) If the pile installation practice for the bridge is accomplished using pile driving, then additional authorization from DCM shall not be required. Should the permittee and/or its contractor propose to utilize another type of pile installation, such as jetting or drilled shaft construction, additional authorization from DCM shall be required.
- 18) Debris resulting from the removal of the existing bridge, culvert, roadway asphalt and associated materials, shall not enter wetlands or waters of the State, even temporarily.
- 19) All materials and debris associated with the removal and/or construction of the existing and/or new bridge, causeway, culvert, and associated materials shall be disposed of at an approved upland site or shall be recycled in an environmentally appropriate manner provided appropriate authorizations from any relevant state, federal, or local authorities are obtained.
- 20) The placement of riprap shall be limited to the areas as depicted on the attached workplan drawing(s). The riprap material shall be clean and free from loose dirt or any pollutant except in trace quantities. The riprap material shall consist of clean rock or masonry materials such as, but not limited to, granite, marl or broken concrete.

Mitigation

NOTE: This project will permanently impact approximately 0.198 acres of 404 wetlands (0.072 acres due to fill, 0.016 acres due to excavation and 0.110 acres due to mechanized clearing). This project will also permanently impact approximately 0.004 acres of surface waters.

- 21) Compensatory mitigation for 0.198 acres of riverine wetland impacts associated with the proposed project shall be provided in accordance with the letter dated 2/28/06 from the Ecosystem Enhancement Program (EEP), and in accordance with the "Tri-Party" Memorandum of Agreement (MOA) entered into on 7/22/03 by the NC Department of Environment and Natural Resources (NCDENR), NCDOT, and the United States Army Corps of Engineers (USACE), Wilmington District, and in accordance with the "Two-Party" MOA entered into on 4/12/04 by NCDENR and NCDOT.

Sedimentation and Erosion Control

- 22) During the bridge replacement, turbidity curtains and silt fences shall be used to isolate all work areas from Rockyhock Creek, including pile or casement installation, placement of riprap, excavation or filling. The turbidity curtains shall be installed parallel to the banks on each side of the creek. The turbidity curtains shall extend upstream and downstream past the construction limits and be attached to the silt fences containing the work site. To ensure that navigation is not adversely impacted, the turbidity curtains shall not fully encircle the work area or extend across Rockyhock Creek. The turbidity curtains shall be properly maintained and retained in the water until construction is complete and all of the work area contained by the turbidity curtains has been stabilized by vegetation or other means. The turbidity curtains shall be removed when turbidity within the curtains reaches ambient levels.

ADDITIONAL CONDITIONS

- 23) 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.).
- 24) 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 Land Resources.
- 25) The permittee shall follow "Best Management Practices for the Protection of Surface Waters".
- 26) In order to protect water quality, runoff from construction shall not visibly increase the amount of suspended sediments in adjacent waters.

Stormwater Management

- 27) The N.C. Division of Water Quality (DWQ) approved this project under stormwater management rules of the Environmental Management Commission under Stormwater Permit No. SW7050512 on 6/27/05. Any violation of the permit approved by the DWQ shall be considered a violation of this CAMA permit.

General

- 28) Any relocation of utility lines that is not specifically depicted on the attached workplan drawings, or described within the attached permit application, shall require approval from DCM, either under the authority of this permit, or by the utility company obtaining separate authorization.
- 29) Subaqueous lines shall be placed a minimum of two feet below the bottom contour.
- 30) Utility relocations 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.
- 31) The navigational clearance under the completed bridge shall be equal to or greater than the pre-project navigational clearance under the existing bridge.
- 32) No attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work.
- 33) The permittee shall exercise all available precautions in the day-to-day operation of the facility to prevent waste from entering the adjacent waters.
- 34) Development authorized by this permit shall only be conducted within NCDOT Right-of-Ways and/or easements.

ADDITIONAL CONDITIONS

- 35) If it is determined that additional permanent and/or temporary impacts (such as but not limited to temporary access roads, detours, or matting to transport equipment across wetlands) are necessary that are not shown on the attached workplan drawings, 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.
- 36) DWQ authorized the proposed project on 2/8/06 (DWQ Project No. 05-0724) under General Water Quality Certification Nos. 3403 and 3366. Any violation of the Certifications approved by DWQ shall be considered a violation of this CAMA permit.

NOTE: The U.S. Army Corps of Engineers authorized the proposed project under Nationwide Permit Number 23 (COE Action ID No. 200510073), which was issued on 3/14/06.

NOTE: This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.

Permit Class
NEW

Permit Number
63-06

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

COPY

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, 1548 Mail Service Center, Raleigh, NC 27699-1548

Authorizing development in Chowan County at Rockyhock Creek, Bridge No. 16 on SR 1222, near Edenton, as requested in the permittee's application dated 1/3/06, including the attached workplan drawings (15), 5 dated 12/22/05 and 10 dated 12/20/05

This permit, issued on April 11, 2006, 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-3636, Bridge and Culvert Replacement

- 1) In order to protect anadromous fisheries resources in Rockyhock Creek, no in-water work shall be conducted between February 15th to June 30th of any year without prior approval of the N.C. Division of Coastal Management (DCM), in consultation with the N.C. Wildlife Resources Commission. For the purposes of this moratorium, in-water is defined as those areas that are inundated at normal water level, including the waters or contiguous inundated wetlands of Rockyhock Creek.
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(See attached sheets for Additional Conditions)

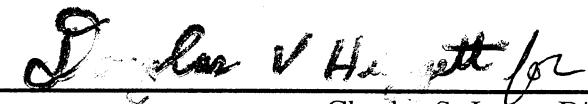
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Any maintenance work or project modification not covered hereunder requires further Division approval.

All work must cease when the permit expires on

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



Charles S. Jones, Director
Division of Coastal Management

This permit and its conditions are hereby accepted.

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.

Signature of Permittee

ADDITIONAL CONDITIONS

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- 33) The permittee shall exercise all available precautions in the day-to-day operation of the facility to prevent waste from entering the adjacent waters.
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ADDITIONAL CONDITIONS

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- 36) DWQ authorized the proposed project on 2/8/06 (DWQ Project No. 05-0724) under General Water Quality Certification Nos. 3403 and 3366. Any violation of the Certifications approved by DWQ shall be considered a violation of this CAMA permit.

NOTE: The U.S. Army Corps of Engineers authorized the proposed project under Nationwide Permit Number 23 (COE Action ID No. 200510073), which was issued on 3/14/06.

NOTE: This permit does not eliminate the need to obtain any additional permits, approvals or authorizations that may be required.



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

January 31, 2006

Division of Coastal Management
1367 U.S. 17 South
Elizabeth City, NC 27909

RECEIVED
FEB 8 2006

ATTENTION: Ms. Wanda Gooden
NCDOT Coordinator

Dear Madam:

Subject: **Revision to the CAMA Major Development Permit Application** for the Replacement of Bridge No. 16 over Rockyhock Creek on SR 1222, Chowan County. Federal Aid Project No. BRZ-1222(5), State Project No. 8.2030401, TIP Project No. B-3636.

Please reference the CAMA Major Development Permit Application dated January 3, 2006. The original application stated that the proposed bridge will be 80 feet long. The proposed bridge will be 98 feet long.

If you have any questions or need additional information, please contact Chris Underwood at (919) 715-1451.

Sincerely,

Gregory J. Thorpe, Ph.D., Environmental Management Director
Project Development and Environmental Analysis

Mr. John Hennessy, NCDWQ
Mr. Travis Wilson, NCWRC
Mr. Gary Jordan, USFWS
Mr. Ron Sechler, NMFS
Mr. Michael Street, NCDMF
Ms. Cathy Brittingham, NCDCM
Dr. David Chang, P.E., Hydraulics
Mr. Greg Perfetti, P.E., Structure Design
Mr. Mark Staley, Roadside Environmental
Mr. Anthony Roper, P.E., Division 1
Engineer
Mr. Clay Willis, Division Environmental
Officer

Mr. Scott McLendon, USACE, Wilmington
Mr. Bill Biddlecome, USACE, Washington
Mr. Jay Bennett, P.E., Roadway Design
Mr. Majed Alghandour, P. E., Programming and
TIP
Mr. Art McMillan, P.E., Highway Design
Ms. Beth Harmon, EEP
Mr. Todd Jones, NCDOT External Audit
Branch
Mr. John Williams, P.E., Planning Engineer

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS
1548 MAIL SERVICE CENTER
RALEIGH NC 27699-1548

TELEPHONE: 919-733-3141
FAX: 919-733-9794

WEBSITE: WWW.NCDOT.ORG

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

MICHAEL F. EASLEY
GOVERNOR

LYNDO TIPPETT
SECRETARY

January 3, 2006

Division of Coastal Management
1367 U.S. 17 South
Elizabeth City, NC 27909

RECEIVED
JAN 09 2006
DIV. OF COASTAL MANAGEMENT
RALEIGH

ATTENTION: Ms. Wanda Gooden
NCDOT Coordinator

Dear Madam:

Subject: **CAMA Major Development Permit Application** for the Replacement of Bridge No. 16 over Rockyhock Creek on SR 1222, Chowan County. Federal Aid Project No. BRZ-1222(5), State Project No. 8.2030401, TIP Project No. B-3636.

Please find enclosed the CAMA Major Development Permit Application, permit drawings, half-size plans, Categorical Exclusion Action Classification (CE), Natural Resources Technical Report (NRTR), Ecosystem Enhancement Program (EEP) acceptance letter, and the landowner receipts for the above-mentioned project. WBS Element 33184.1.1 will be debited for \$400.00 for the application of the subject project. The North Carolina Department of Transportation proposes to replace existing Bridge No. 16 over Rockyhock Creek on SR 1222 in Chowan County. The project involves replacement of the existing structure with an 80-foot long bridge in the same location using top-down construction. The approach roadway will consist of 12-foot travel lanes with five-foot shoulders (eight-foot where guardrails are needed). The proposed structure for Bridge No. 16 will provide a 24-foot travel-way with 3-foot offsets on each side. An offsite detour will be utilized. NCDOT also proposes to replace the 2.5-foot x 8-foot reinforced concrete box culvert with an 8-foot, 2-inch x 5-foot, 9-inch aluminum pipe arch to the southwest of Bridge No. 16. The project schedule calls for an April 18, 2006 let with a review date of February 28, 2006. Proposed permanent impacts include 0.198 acre of wetland. Proposed permanent impacts to surface water will be 0.004 acre.

Impacts to Water of the United States

General Description: Rockyhock Creek is located in the 03010203 CU of the Chowan River Basin. The Division of Water Quality (DWQ) has assigned Rockyhock Creek a Stream Index Number of 25-22. DWQ has assigned a best usage classification of **B NSW**.

Permanent Impacts: Rockyhock Creek and adjacent riverine wetlands will be impacted by the proposed project. Construction of the proposed project will result in permanent impacts of 0.072 acre of fill, 0.016 acre of excavation, and 0.110 acre of mechanized clearing in wetlands (see permit drawings). In addition, 0.004 acre of surface water will be impacted by this project.

MAILING ADDRESS:
NC DEPARTMENT OF TRANSPORTATION
PROJECT DEVELOPMENT AND ENVIRONMENTAL ANALYSIS
1548 MAIL SERVICE CENTER
RALEIGH NC 27699-1548

TELEPHONE: 919-733-3141
FAX: 919-733-9794
WEBSITE: WWW.NCDOT.ORG

LOCATION:
TRANSPORTATION BUILDING
1 SOUTH WILMINGTON STREET
RALEIGH NC

RECEIVED

Utility Impacts: There will be no impacts to jurisdictional waters. The existing utilities will be replaced using directional bore and staying within the slope stakes (see permit drawings). *JAN 09 2006*

Bridge Demolition

**DM. OF COASTAL MANAGEMENT
Raleigh**

The superstructure for Bridge No. 16 should allow removal without dropping components into the water. Likewise, it should be possible to remove the timber piles without dropping them into the water. The concrete piers may result in as much as 55 cubic yards of fill depending on the method of removal to be determined after a contractor is selected. Best Management Practices for Bridge Demolition and Removal will be implemented. Any component of the bridge dropped into the water shall be immediately removed.

NCDOT will observe an in-stream construction moratorium from February 15 to June 30 and utilize Stream Crossing Guidelines for Anadromous Fish Passage.

Avoidance and Minimization

Due to the location of this project and the juxtaposition of adjacent wetlands and surface waters, total avoidance of the surrounding marsh and wetland is impossible during the construction of this project. NCDOT has taken steps to minimize the impacts to this resource.

To minimize impacts to the wetland adjacent to Bridge No. 16, NCDOT is replacing the bridge in place and utilizing an off-site detour.

Minimum width for the approaches and structure has been utilized. Fill slopes in wetlands on this project will be 3:1 due to the loose alluvial sandy soils lacking clay or cohesion in order to avoid major erosion and slope failure.

Mitigation

NCDOT proposes to use the North Carolina Ecosystem Enhancement Program (EEP) to mitigate for permanent impacts associated with this project. The EEP acceptance letter was received on October 3, 2005. A copy of this letter is included with this application.

Federally Protected Species

As of January 29, 2003, the US Fish and Wildlife Service (USFWS) lists the bald eagle (*Haliaeetus leucocephalus*) as threatened for Chowan County. The biological conclusion of "May Affect, Not Likely to Adversely Affect" remains valid.

Regulatory Approvals

NCDOT requests that the proposed work be authorized under a Coastal Area Management Act Major Development Permit. The landowner receipts are attached. NCDOT has also applied for the issuance of a United States Army Corps of Engineers NWP 23 & 33, and a 401 Water Quality Certification under separate cover. NCDOT has received a stormwater permit for this project.

A copy of this permit application will be posted on the NCDOT website at: <http://www.ncdot.org/planning/pe/naturalunit/Permit.html>.

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If you have any questions or need additional information, please contact Chris Underwood at (919) 715-1451.

DM OF CAPITAL MANAGEMENT
RALEIGH

Sincerely,


fa

Gregory J. Thorpe, Ph.D., Environmental Management Director
Project Development and Environmental Analysis

W/attachment:

Mr. John Hennessy, NCDWQ
Mr. Travis Wilson, NCWRC
Mr. Gary Jordan, USFWS
Mr. Ron Sechler, NMFS
Mr. Michael Street, NCDMF
Ms. Cathy Brittingham, NCDCM
Dr. David Chang, P.E., Hydraulics
Mr. Greg Perfetti, P.E., Structure Design
Mr. Mark Staley, Roadside Environmental
Mr. Anthony Roper, P.E., Division 1 Engineer
Mr. Clay Willis, Division 1 Environmental Officer

W/o attachment

Mr. Scott McLendon, USACE, Wilmington
Mr. Bill Biddlecome, USACE, Washington
Mr. Jay Bennett, P.E., Roadway Design
Mr. Majed Alghandour, P. E., Programming and TIP
Mr. Art McMillan, P.E., Highway Design
Ms. Beth Harmon, EEP
Mr. Todd Jones, NCDOT External Audit Branch
Mr. John Williams, P.E., Planning Engineer

APPLICATION

(To be completed by all applicants)

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DIV OF COASTAL MANAGEMENT
RUFEC

1. APPLICANT

a. Landowner:

Name N. C. Department of TransportationAddress P.O. Box 850City Edenton State N.C.Zip 27932 Day Phone (252) 482-7977Fax (252) 482-8722

b. Authorized Agent:

Name _____

Address _____

City _____ State _____

Zip _____ Day Phone _____

Fax _____

c. Project name (if any) _____

NOTE: *Permit will be issued in name of landowner(s), and/or project name.*

2. LOCATION OF PROPOSED PROJECT

a. County Chowan

- b. City, town, community or landmark
Edenton, NC
- c. Street address or secondary road number
SR 1222
- d. Is proposed work within city limits or planning jurisdiction? Yes No
- e. Name of body of water nearest project (e.g. river, creek, sound, bay) Rockyhock Creek

3. DESCRIPTION AND PLANNED USE OF PROPOSED PROJECT

- a. List all development activities you propose (e.g. building a home, motel, marina, bulkhead, pier, and excavation and/or filling activities).
Replacement of bridge #16 and pipe arch on SR 1222
- b. Is the proposed activity maintenance of an existing project, new work, or both? Both
- c. Will the project be for public, private or commercial use? Public
- d. Give a brief description of purpose, use, methods of construction and daily operations of proposed project. If more space is needed, please attach additional pages.
Roadway transportation over bridge and pipe arch. Top down construction for bridge and replacement in the same location for the pipe arch.

4. LAND AND WATER CHARACTERISTICS

a. Size of entire tract N/A, NCDOT Right of Way

b. Size of individual lot(s) N/A

c. Approximate elevation of tract above MHW or NWL
Appr. 6.0'

d. Soil type(s) and texture(s) of tract
Stream crossing, wetland

e. Vegetation on tract Bottomland Hardwoods

f. Man-made features now on tract
Bridge, RCBC, roadway, utilities

g. What is the CAMA Land Use Plan land classification of the site? *(Consult the local land use plan.)*
 Conservation Transitional
 Developed Community
 Rural Other

h. How is the tract zoned by local government?
Residential

i. Is the proposed project consistent with the applicable zoning? Yes No
(Attach zoning compliance certificate, if applicable)

j. Has a professional archaeological assessment been done for the tract? Yes No
If yes, by whom? NCDOT

k. Is the project located in a National Registered Historic District or does it involve a National Register listed or eligible property?
 Yes No

l. Are there wetlands on the site? Yes No
Coastal (marsh) Other _____
If yes, has a delineation been conducted? Yes _____
(Attach documentation, if available)

m. Describe existing wastewater treatment facilities.
N/A

n. Describe location and type of discharges to waters of the state. (For example, surface runoff, sanitary wastewater, industrial/commercial effluent, "wash down" and residential discharges.)
Surface runoff, point discharge

o. Describe existing drinking water supply source.
N/A

5. ADDITIONAL INFORMATION

In addition to the completed application form, the following items must be submitted:

- **A copy of the deed** (with state application only) or other instrument under which the applicant claims title to the affected properties. If the applicant is not claiming to be the owner of said property, then forward a copy of the deed or other instrument under which the owner claims title, plus written permission from the owner to carry out the project.

- **An accurate, dated work plat** (including plan view and cross-sectional drawings) drawn to scale in black ink on an 8 1/2" by 11" white paper. (Refer to Coastal Resources Commission Rule 7J.0203 for a detailed description.)

Please note that original drawings are preferred and only high quality copies will be accepted. Blue-line prints or other larger plats are acceptable only if an adequate number of quality copies are provided by applicant. (Contact the U.S. Army Corps of Engineers regarding that agency's use of larger drawings.) A site or location map is a part of plat requirements and it must be sufficiently detailed to guide agency personnel unfamiliar with the area to the site. Include highway or secondary road (SR) numbers, landmarks, and the like.

- **A Stormwater Certification**, if one is necessary.

- A list of the **names and complete addresses of the adjacent waterfront (riparian) landowners** and **signed return receipts as proof that such owners have received a copy of the application and plats by certified mail**. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal

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RALEIGH

Management. Upon signing this form, the applicant further certifies that such notice has been provided.

Name See attached list

Address _____

Phone _____

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

approved Coastal Management Program and will be conducted in a manner consistent with such program.

I certify that I am authorized to grant, and do in fact, grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

This is the 3 day of January, 2008.

Print Name Phil Harris

Signature Phil Harris
Landowner or Authorized Agent

Please indicate attachments pertaining to your proposed project.

- DCM MP-2 Excavation and Fill Information
- DCM MP-3 Upland Development
- DCM MP-4 Structures Information
- DCM MP-5 Bridges and Culverts
- DCM MP-6 Marina Development

NOTE: Please sign and date each attachment in the space provided at the bottom of each form.

6. CERTIFICATION AND PERMISSION TO ENTER ON LAND

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to conditions and restrictions contained in the permit.

I certify that to the best of my knowledge, the proposed activity complies with the State of North Carolina's

EXCAVATION AND FILL

(Except bridges and culverts)

Attach this form to Joint Application for CAMA Major Permit, Form DCM-MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project.

Describe below the purpose of proposed excavation or fill activities. **All values to be given in feet.**

	Length	Width	Average Existing Depth	Final Project Depth
Access channel (MLW) or (NWL)	86.0' (Pipe arch)	8.0' (Pipe arch)		
Canal				
Boat basin				
Boat ramp				
Rock groin				
Rock breakwater				
Other (Excluding shoreline stabilization)				

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RALEIGH

1. EXCAVATION

- Amount of material to be excavated from below MHW or NWL in cubic yards 295 (Pipe arch)
- Type of material to be excavated Swamp
- Does the area to be excavated include coastal wetlands (marsh), submerged aquatic vegetation (SAVs) or other wetlands? Yes No
- High ground excavation in cubic yards 1320 (Bridge)

2. DISPOSAL OF EXCAVATED MATERIAL

- Location of disposal area to be determined by the contractor
- Dimensions of disposal area to be determined by the contractor
- Do you claim title to disposal area?
Yes No
If no, attach a letter granting permission from the owner.
- Will a disposal area be available for future maintenance? Yes No
If yes, where? to be determined by the contractor

Form DCM-MP-2

e. Does the disposal area include any coastal wetlands (marsh), SAVs or other wetlands?

Yes No

f. Does the disposal include any area in the water?

Yes No

3. SHORELINE STABILIZATION N/A

a. Type of shoreline stabilization

Bulkhead Riprap

b. Length _____

c. Average distance waterward of MHW or NWL

d. Maximum distance waterward of MHW or NWL

e. Shoreline erosion during preceding 12 months

(Source of information) _____

f. Type of bulkhead or riprap material

g. Amount of fill in cubic yards to be placed below water level

(1) Riprap _____

(2) Bulkhead backfill _____

h. Type of fill material

i. Source of fill material

4. OTHER FILL ACTIVITIES

(Excluding Shoreline Stabilization)

a. Will fill material be brought to site?

Yes No

If yes,

(1) Amount of material to be placed in the water
None

(2) Dimensions of fill area
0.104 ac

(3) Purpose of fill Roadway slope

b. Will fill material be placed in coastal wetlands (marsh), SAVs or other wetlands?

Yes No

If yes,

(1) Dimensions of fill area See above

(2) Purpose of fill See above

5. GENERAL

a. How will excavated or fill material be kept on site and erosion controlled?

Standard erosion control (AEC)

Fill to be stored on causeway

b. What type of construction equipment will be used (for example, dragline, backhoe, or hydraulic dredge)?

Standard road construction equipment

c. Will wetlands be crossed in transporting equipment to project site? Yes No

If yes, explain steps that will be taken to lessen environmental impacts.

NCDDT

Applicant or Project Name

Ralph S. Hines

Signature

1/3/06

Date

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BRIDGES AND CULVERTS

Attach this form to Joint Application for CAMA Major Permit, Form DCM-MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project.

1. BRIDGES

a. Public Private _____

b. Type of bridge (construction material)
Cored Slab

c. Water body to be crossed by bridge
Rockyhock Creek

d. Water depth at the proposed crossing at MLW or NWL Water depth appr. 6.0'

e. Will proposed bridge replace an existing bridge?
 Yes _____ No

If yes,

(1) Length of existing bridge 66.0'

(2) Width of existing bridge 24.0'

(3) Navigation clearance underneath existing bridge Appr. 6.0'

(4) Will all, or a part of, the existing bridge be removed? (Explain) All

f. Will proposed bridge replace an existing culvert(s)?
 Yes No

If yes,

(1) Length of existing culvert _____

(2) Width of existing culvert _____

(3) Height of the top of the existing culvert above the MHW or NWL _____

(4) Will all, or a part of, the existing culvert be removed? (Explain) _____

g. Length of proposed bridge 98.0'

h. Width of proposed bridge 36.0'

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RALEIGH

i. Height of proposed bridge above wetlands
the bridge will be over the stream, not wetlands

j. Will the proposed bridge affect existing water flow?

____ Yes No

If yes, explain _____

k. Navigation clearance underneath proposed bridge
Appr. 6.0'

l. Will the proposed bridge affect navigation by reducing or increasing the existing navigable opening? ____ Yes No

If yes, explain _____

m. Will the proposed bridge cross wetlands containing no navigable waters? ____ Yes No

If yes, explain _____

n. Have you contacted the U.S. Coast Guard concerning their approval?

____ Yes No

If yes, please provide record of their action.

2. CULVERTS

a. Water body in which culvert is to be placed
Overflow culvert

b. Number of culverts proposed 1

c. Type of culvert (construction material, style)
8'2" X 5'9" aluminum pipe arch

d. Will proposed culvert replace an existing bridge?

____ Yes No

If yes,

(1) Length of existing bridge _____

(2) Width of existing bridge _____

Form DCM-MP-5

(3) Navigation clearance underneath existing bridge _____

(4) Will all, or a part of, the existing bridge be removed? (Explain) _____

e. Will proposed culvert replace an existing culvert?
 Yes No
 If yes,
 (1) Length of existing culvert 40.0'
 (2) Width of existing culvert 10.0'
 (3) Height of the top of the existing culvert above the MHW or NWL _____
 (4) Will all, or a part of, the existing culvert be removed? (Explain) Yes

f. Length of proposed culvert 86.0' _____

g. Width of proposed culvert 5'9" _____

h. Height of the top of the proposed culvert above the MHW or NWL Appr. 4.0' _____

i. Will the proposed culvert affect existing water flow?
 Yes No
 If yes, explain _____

j. Will the proposed culvert affect existing navigation potential? Yes No
 If yes, explain _____

3. EXCAVATION AND FILL

a. Will the placement of the proposed bridge or culvert require any excavation below the MHW or NWL?
 Yes No
 If yes,
 (1) Length of area to be excavated 86.0'
 (2) Width of area to be excavated 6.0'
 (3) Depth of area to be excavated 1.0'
 (4) Amount of material to be excavated in cubic yards Appr. 325 _____

b. Will the placement of the proposed bridge or culvert require any excavation within:
 Coastal Wetlands SAVs Other Wetlands
 If yes,
 (1) Length of area to be excavated 86.0'
 (2) Width of area to be excavated 6.0' _____

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(3) Amount of material to be excavated in cubic yards Appr. 325 _____

c. Will the placement of the proposed bridge or culvert require any highground excavation?
 Yes No
 If yes,
 (1) Length of area to be excavated _____
 (2) Width of area to be excavated _____
 (3) Amount of material to be excavated in cubic yards _____

d. If the placement of the bridge or culvert involves any excavation, please complete the following:
 (1) Location of the spoil disposal area
 to be determined by the contractor _____

(2) Dimensions of spoil disposal area
 to be determined by the contractor _____

(3) Do you claim title to the disposal area?
 Yes No
 If no, attach a letter granting permission from the owner.

(4) Will the disposal area be available for future maintenance? N/A Yes No

(5) Does the disposal area include any coastal wetlands (marsh), SAVs, or other wetlands?
 Yes No
 If yes, give dimensions if different from (2) above. _____

(6) Does the disposal area include any area below the MHW or NWL? Yes No
 If yes, give dimension if different from No. 2 above. _____

e. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed below MHW or NWL? Yes No
 If yes,
 (1) Length of area to be filled 20 feet _____
 (2) Width of area to be filled 8 feet _____
 (3) Purpose of fill Road _____

f. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed within:
 Coastal Wetlands SAVs Other Wetlands
 If yes,
 (1) Length of area to be filled Appr. 360'
 (2) Width of area to be filled Appr. 3.0'
 (3) Purpose of fill Roadway fill _____

g. Will the placement of the proposed bridge or culvert result in any fill (other than excavated material described in Item d. above) to be placed on highground? Yes No

If yes,

(1) Length of area to be filled 1425 feet
 (2) Width of area to be filled 40 feet
 (3) Purpose of fill Improving the existing causeway

4. GENERAL

a. Will the proposed project involve any mitigation?

Yes No

If yes, explain in detail Compensatory mitigation will be provided by the NC Ecosystem Enhancement Program

b. Will the proposed project require the relocation of any existing utility lines? Yes No

If yes, explain in detail the existing utilities will be relocated via directional boring and beneath the fill slope

c. Will the proposed project require the construction of any temporary detour structures?

Yes No

If yes, explain in detail _____

d. Will the proposed project require any work channels?

Yes No

If yes, complete Form DCM-MP-2

e. How will excavated or fill material be kept on site and erosion controlled? _____

Standard erosion control (AEC)

f. What type of construction equipment will be used (for example, dragline, backhoe or hydraulic dredge)?
Road construction equipment (backhoe,crane, etc.)

g. Will wetlands be crossed in transporting equipment to project site? Yes No

If yes, explain steps that will be taken to lessen environmental impacts. _____

h. Will the placement of the proposed bridge or culvert require any shoreline stabilization?

Yes No

If yes, explain in detail _____

NC DOT

Applicant or Project Name

RFSH

Signature

1/3/06

Date

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DIVISION OF HIGHWAYS
PDEA-OFFICE OF NATURAL ENVIRONMENT

February 28, 2006

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

Dear Dr. Thorpe:

Subject: EEP Mitigation Acceptance Letter:

B-3636, Bridge Number 16 over Rockyhock Creek on SR 1222,
Chowan County

The purpose of this letter is to notify you that the Ecosystem Enhancement Program (EEP) will provide the compensatory riverine wetland mitigation for the subject project. Based on the information supplied by you in a letter dated January 30, 2006, the impacts are located in CU 03010203 of the Chowan River Basin in the Northern Outer Coastal Plain (NOCP) Eco-Region, and are as follows:

Riverine Wetland: 0.198 acre

Previously, you indicated a need for stream mitigation to offset approximately 72 feet of stream impacts associated with this project. EEP issued a mitigation acceptance letter on October 3, 2005 committing to provide the riverine wetland and stream mitigation. Since this project was accepted by EEP, the project has been re-designed and stream mitigation is now no longer required from EEP.

This mitigation acceptance letter replaces the mitigation acceptance letter issued on October 3, 2005. EEP will provide the compensatory riverine wetland mitigation in accordance with Section X of the Memorandum of Agreement between the N. C. Department of Environment and Natural Resources, the N. C. Department of Transportation, and the U. S. Army Corps of Engineers, signed on July 22, 2003. According to the 2005 Impact Projection Database, there were no anticipated impacts listed for this project. Fortunately, sufficient assets are available in the cataloging unit to meet the mitigation needs for this project. If the above referenced impacts amounts are



revised, then this mitigation acceptance letter will no longer be valid and a new mitigation acceptance letter will be required from EEP.

If you have any questions or need additional information, please contact Ms. Beth Harmon at 919-715-1929.

Sincerely,



William D. Gilmore, P.E.
EEP Director

cc: Mr. Bill Biddlecome, USACE-Washington
Mr. John Hennessy, Division of Water Quality, Wetlands/401 Unit
File: B-3636 Revised



February 28, 2006

Mr. Bill Biddlecome
U. S. Army Corps of Engineers
Washington Regulatory Field Office
Post Office Box 1000
Washington, North Carolina 27889-1000

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APR 07 2006
DOE

Dear Mr. Biddlecome:

Subject: EEP Mitigation Acceptance Letter

B-3636, Replace Bridge 16 over Rockyhock Creek on SR 1222, Chowan County; Chowan River Basin (Cataloging Unit 03010203); Northern Outer Coastal Plain (NOCP) Eco-Region

The purpose of this letter is to notify you that the Ecosystem Enhancement Program (EEP) will provide the compensatory riverine wetland mitigation for the unavoidable impact associated with the above referenced project. Previously, the NCDOT had requested stream mitigation for 72 feet of stream impact; however, stream mitigation is now no longer needed by the NCDOT for this project. As indicated in the NCDOT's revised mitigation request letter dated January 30, 2006, the project will impact 0.198 acre of riverine wetlands.

This mitigation acceptance letter replaces the mitigation acceptance letter dated October 3, 2005. Mitigation for this project will be provided in accordance with Section X of the Memorandum of Agreement between the N. C. Department of Environment and Natural Resources, the N. C. Department of Transportation, and the U. S. Army Corps of Engineers. EEP commits to implement sufficient compensatory riverine wetland mitigation up to a 2:1 ratio to offset the impacts associated with this project by the end of the MOA year in which this project is permitted. If the impacts change from the above listed amount, then this mitigation strategy letter will no longer be valid and a new mitigation strategy letter will be required from EEP.

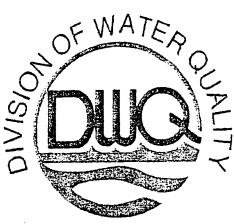
If you have any questions or need additional information, please contact Ms. Beth Harmon at 919-715-1929.

Sincerely,

William D. Gilmore, P.E.
EEP Director

cc: Mr. Gregory J. Thorpe, Ph.D., NCDOT-PDEA
Mr. John Hennessey, Division of Water Quality, Wetlands/401 Unit
File: B-3636 Revised





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DIVISION OF HIGHWAYS
PDEA-OFFICE OF NATURAL ENVIRONMENT

Michael F. Easley, Governor

William G. Ross Jr., Secretary
North Carolina Department of Environment and Natural Resources

Alan W. Klimek, P.E. Director
Division of Water Quality

DIVISION OF WATER QUALITY
June 27, 2005

Dr. Gregory J. Thorpe
NC Department of Transportation
1548 Mail Service Center
Raleigh, NC 27699-1548

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JUN 10 2005

DIV. OF CONSTR. MANAGEMENT
RALEIGH

Subject:

Permit No. SW7050512
TIP No. B-3636, # 16 Bridge Replacement
Other Stormwater Permit
Linear Public Road/Bridge Project
Chowan County

Dear Dr. Thorpe:

The Washington Regional Office received a completed Stormwater Application for the subject project on May 13, 2005. Staff review of the plans and specifications has determined that the project, as proposed, will comply with the Stormwater Regulations set forth in Title 15A NCAC 2H.1000. We are forwarding Permit No. SW7050512 dated June 27, 2005 to the NC Department of Transportation for the proposed replacement of bridge # 16 over Rocky Creek and widening of a section of SR 1222 in Chowan County.

This permit shall be effective from the date of issuance until rescinded and shall be subject to the conditions and limitations as specified therein.

If any parts, requirements, or limitations contained in this permit are unacceptable, you have the right to request an adjudicatory hearing upon written request within thirty (30) days following receipt of this permit. This request must be in the form of a written petition, conforming to Chapter 150B of the North Carolina General Statutes, and filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714. Unless such demands are made this permit shall be final and binding.

If you have any questions, or need additional information concerning this matter, please contact me at (252) 948-3923.

Sincerely,

A handwritten signature in cursive ink, appearing to read "Roger K. Thorpe".
Roger K. Thorpe
Environmental Engineer
Washington Regional Office

cc: Washington Regional Office
Central Files

One
NorthCarolina
Natura

STATE OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
DIVISION OF WATER QUALITY

STATE STORMWATER MANAGEMENT PERMIT
OTHER PERMIT

In accordance with the provisions of Article 21 of Chapter 143, General Statutes of North Carolina as amended, and other applicable Laws, Rules, and Regulations

PERMISSION IS HEREBY GRANTED TO

NC Department of Transportation

Chowan County

FOR THE

Construction of a public road/bridge in compliance with the provisions of 15A NCAC 2H.1000 (hereafter referred to as the "stormwater rules") and the approved stormwater management plans and specifications and other supporting data as attached and on file with and approved by the Division of Water Quality and considered a part of this permit for the replacement of bridge # 16 and the widening of a section of SR 1222 in Chowan County.

This permit shall be effective from the date of issuance until rescinded and shall be subject to the following specified conditions and limitations:

I. DESIGN STANDARDS

1. The runoff from the impervious surfaces has been directed away from surface waters as much as possible.
2. The Amount of built-upon area has been minimized as much as possible.
3. Best management Practices are employed which minimizes water quality impacts.
4. Approved plans and specifications for this project are incorporated by reference and are enforceable parts of the permit.
5. Vegetated roadside ditches are 3:1 slopes or flatter.

II. SCHEDULE OF COMPLIANCE

1. The permittee shall at all times provide adequate erosion control measures in conformance with the approved Erosion Control Plan.
2. The Director may notify the permittee when the permitted site does not meet one or more of the minimum requirements of the permit. Within the time frame specified in the notice, the permittee shall submit a written time schedule to the Director for modifying the site to meet minimum requirements. The permittee shall provide copies of revised plans and certification in writing to the Director that the changes have been made.
3. The permittee shall submit all information requested by the Director or his representative within the time frame specified in the written information request.
4. The permittee shall submit to the Director and shall have received approval for revised plans, specifications, and calculations prior to construction for the following items:
 - a. Major revisions to the approved plans, such as road realignment, deletion of any proposed BMP, changes to the drainage area or scope of the project, etc.
 - b. Project name change.
 - c. Redesign of, addition to, or deletion of the approved amount of built-upon area, regardless of size.
 - d. Alteration of the proposed drainage.
5. The Director may determine that other revisions to the project should require a modification to the permit.

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III. GENERAL CONDITIONS

DIVISION OF WATER QUALITY
RALEIGH

1. This permit is not transferable to any person except after notice to and approval by the Director. The Director may require modification or revocation and reissuance of the permit to change name and incorporate such other requirements as may be necessary. A formal permit request must be submitted to the Division of Water Quality accompanied by the appropriate fee, documentation from the parties involved, and other supporting materials as may be appropriate. The approval of this request will be considered on its merits and may or may not be approved. The permittee is responsible for compliance with the terms and conditions of this permit until such time as the Director approves the transfer.
2. Failure to abide by the conditions and limitations contained in this permit may subject the Permittee to enforcement action by the Division of Water Quality, in accordance with North Carolina General Statute 143-215.6(A) to 143-215.6(C).
3. The issuance of this permit does not preclude the Permittee from complying with any and all statutes, rules, regulations, or ordinances which may be imposed by other government agencies (local, state, and federal) which have jurisdiction.
4. The issuance of this permit does not prohibit the Director from reopening and modifying the permit, revoking and reissuing the permit, or terminating the permit as allowed by laws, rules, and regulations contained in Title 15A of the North Carolina Administrative Code, Subchapter 2H .1000; and North Carolina General Statute 143-215.1 et. al.

5. The permit may be modified, revoked and reissued or terminated for cause. The filing of a request for a permit modification, revocation and reissuance or termination does not stay any permit condition.
6. The permit issued shall continue in force and effect until revoked or terminated.
7. The permittee shall notify the Division of any name, ownership or mailing address changes within 30 days.

Permit issued this the 27 th day of June, 2005.

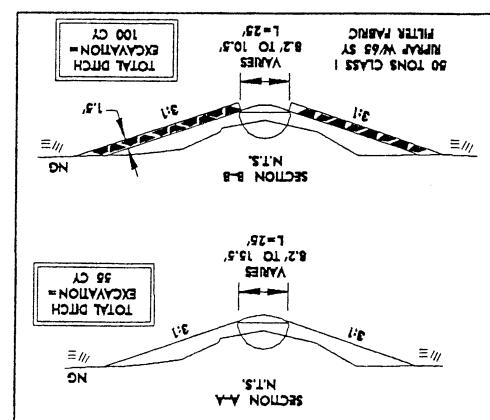
NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION


for Alan W. Klimek, P.E. Director
Division of Water Quality
By Authority of the Environmental Management Commission

Permit Number SW7050512

DENOTES TEMPORARY SURFACE IMPACTS	
DENOTES WATER IN SURFACE	
DENOTES FILL IN METALLIC	
DENOTES EXCAVATION IN METALLIC	
DENOTES MECHANIZED CLEARING	

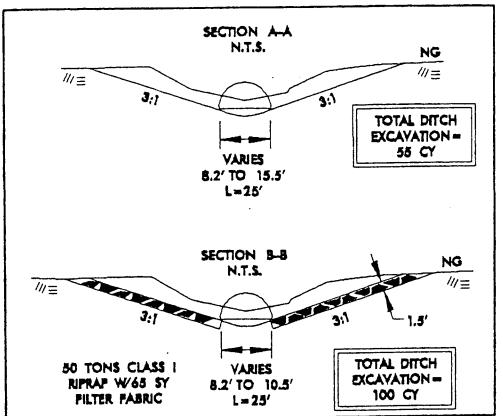
THE EXISTING WATER LINE
IS OWNED BY CHOWAN COUNTY
WATER DISTRICT



7/2/99

REVISION

THE EXISTING WATER LINE
IS OWNED BY CHOWAN COUNTY
WATER DISTRICT



PI Sto 23+04.74
 $\Delta = 15^{\circ}29' 33.4''$ (LT)
 $D = 2^{\circ}55' 00.0''$
 $L = 53^{\circ}18'$
 $T = 267.22'$
 $R = 1964.43'$

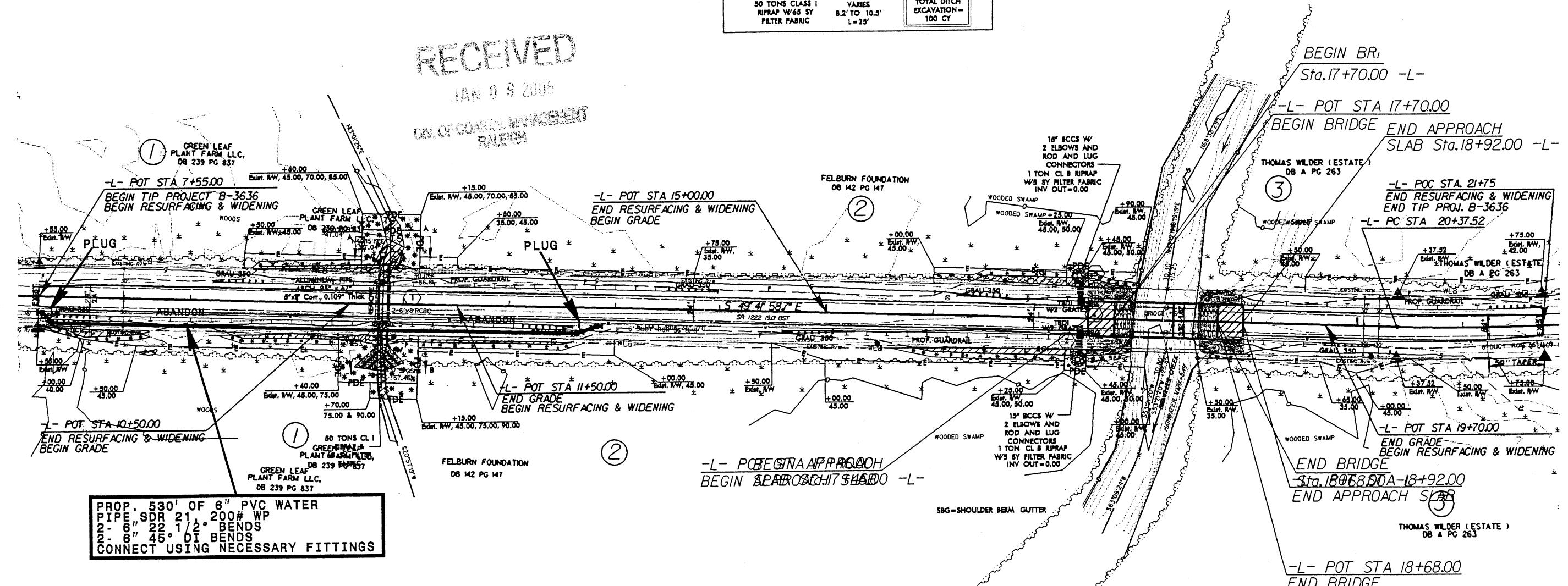
NAD
83

- B-3636
- CHOWAN CO., NC
- BRIDGE NO. 16, PIPE ARCH
AND APPROACHES ON SR 1222
OVER ROCKYHOCK CREEK
- 404 WETLANDS

RECEIVED

32 09 2006

DEPT. OF COASTAL MANAGEMENT
RAJESH



TS TS DENOTES TEMPORARY
SURFACE WATER
IMPACTS

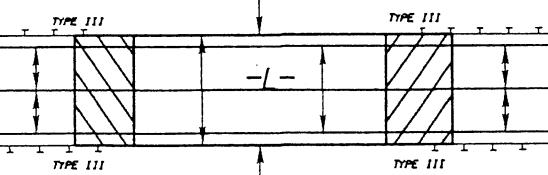
 DENOTES FILL IN SURFACE WATER

 DENOTES FILL IN WETLAND

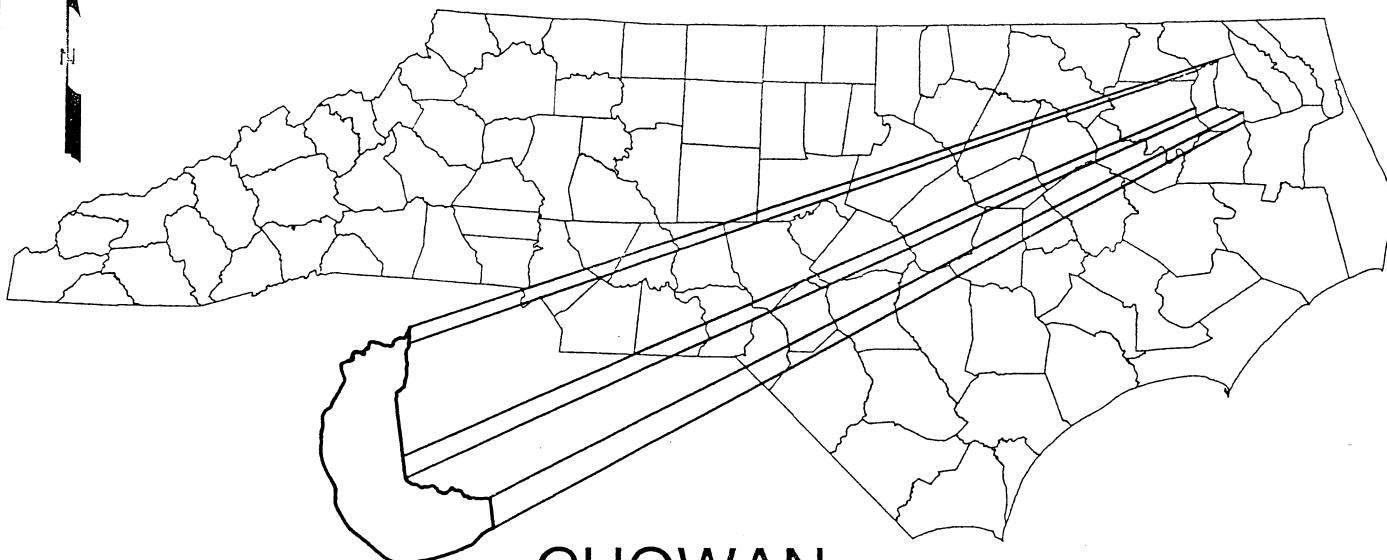
* * * DENOTES MECHANIZED
* * * CLEARING

OTE: **ILL IN WATER SURFACE DUE TO BRIDGE PIERS= 25sf**

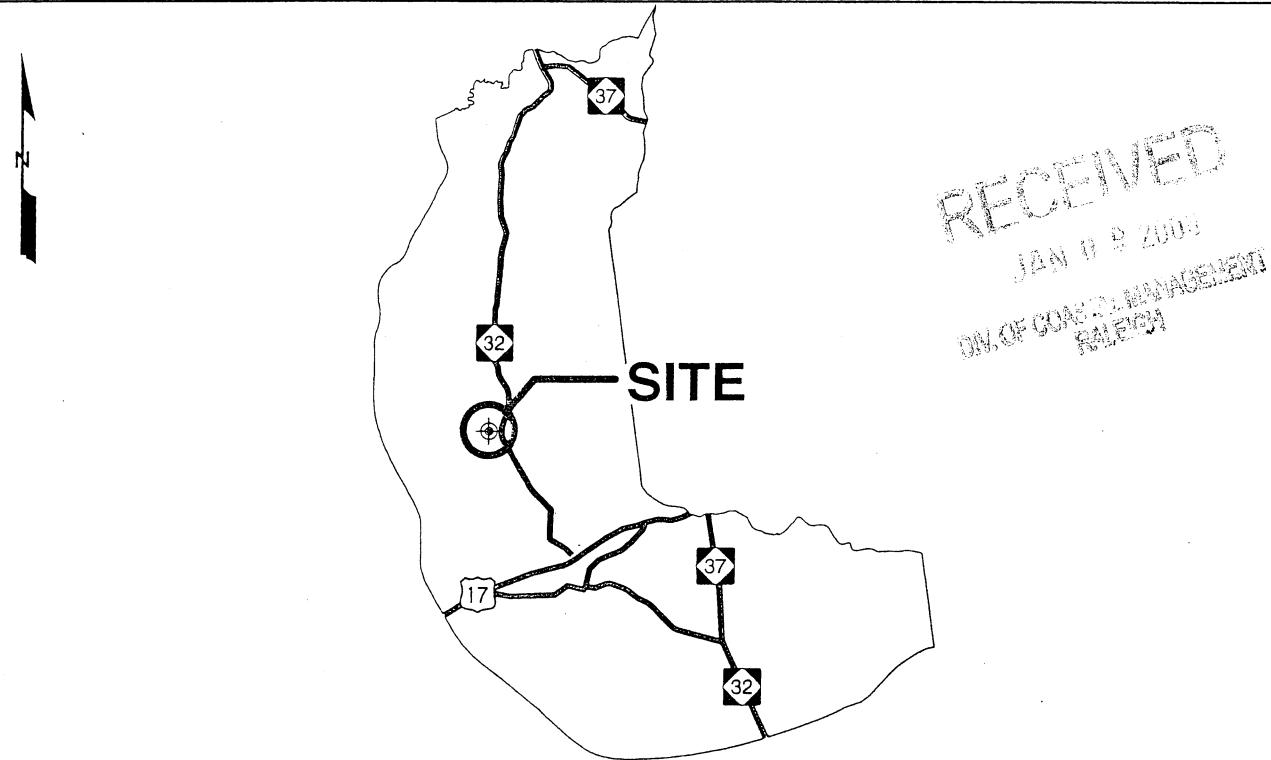
SKETCH OF PAVEMENT IN RELATION TO BRIDGE WIDTH



NORTH CAROLINA



CHOWAN



VICINITY MAP

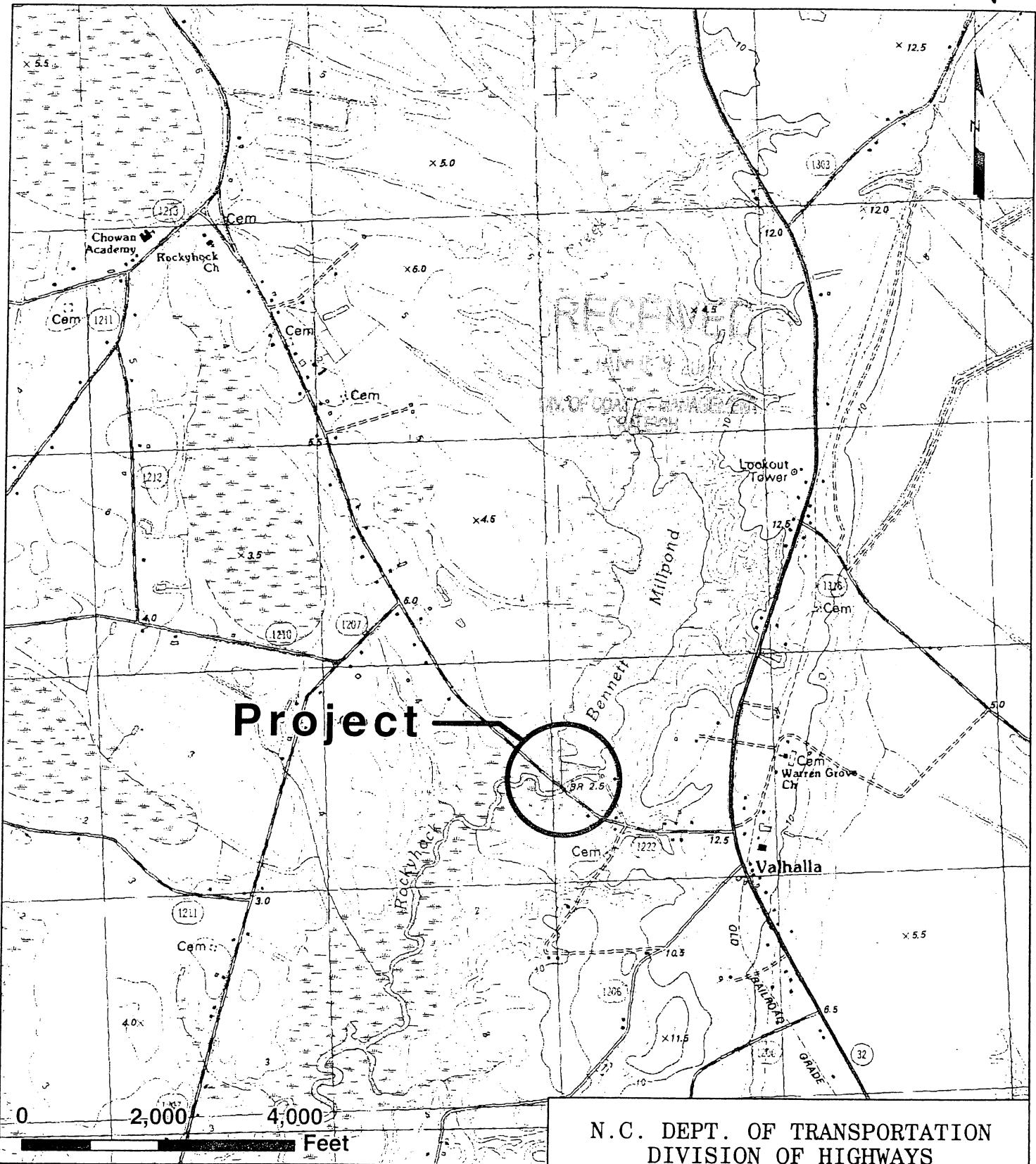
N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
CHOWAN COUNTY

PROJECT NO. 33184.1.1 (B-3636)

BRIDGE NO. 16, PIPE ARCH,
AND APPROACHES ON SR 1222
OVER ROCKYHOCK CREEK

3/23/05

permit drawing 1 of 7



N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
CHOWAN COUNTY

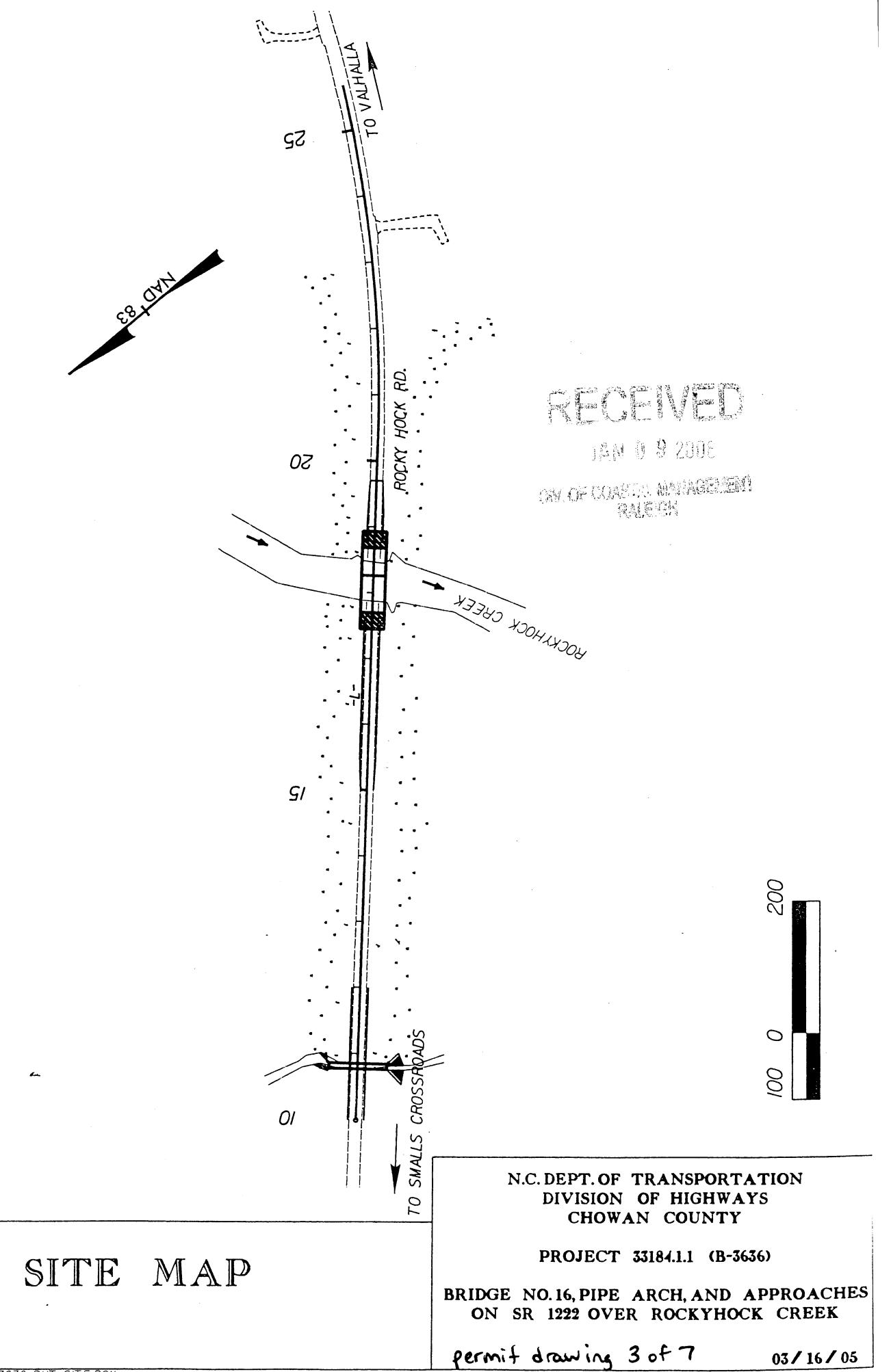
PROJECT NO. 33184.1.1 (B-3636)

BRIDGE NO. 16, PIPE ARCH,
AND APPROACHES ON SR 1222
OVER ROCKYHOCK CREEK

3/23/05

Source: USGS 7.5 Minute Quadrangles, Val-Halla, NC

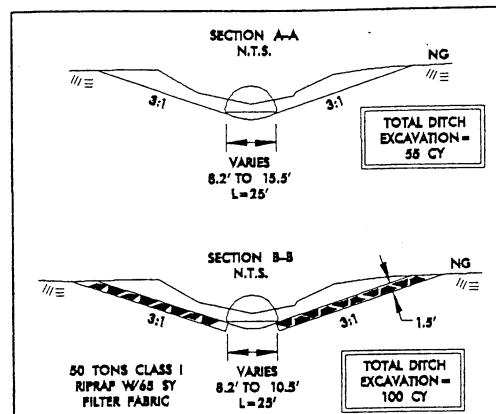
permit drawing 2 of 7



RECEIVED

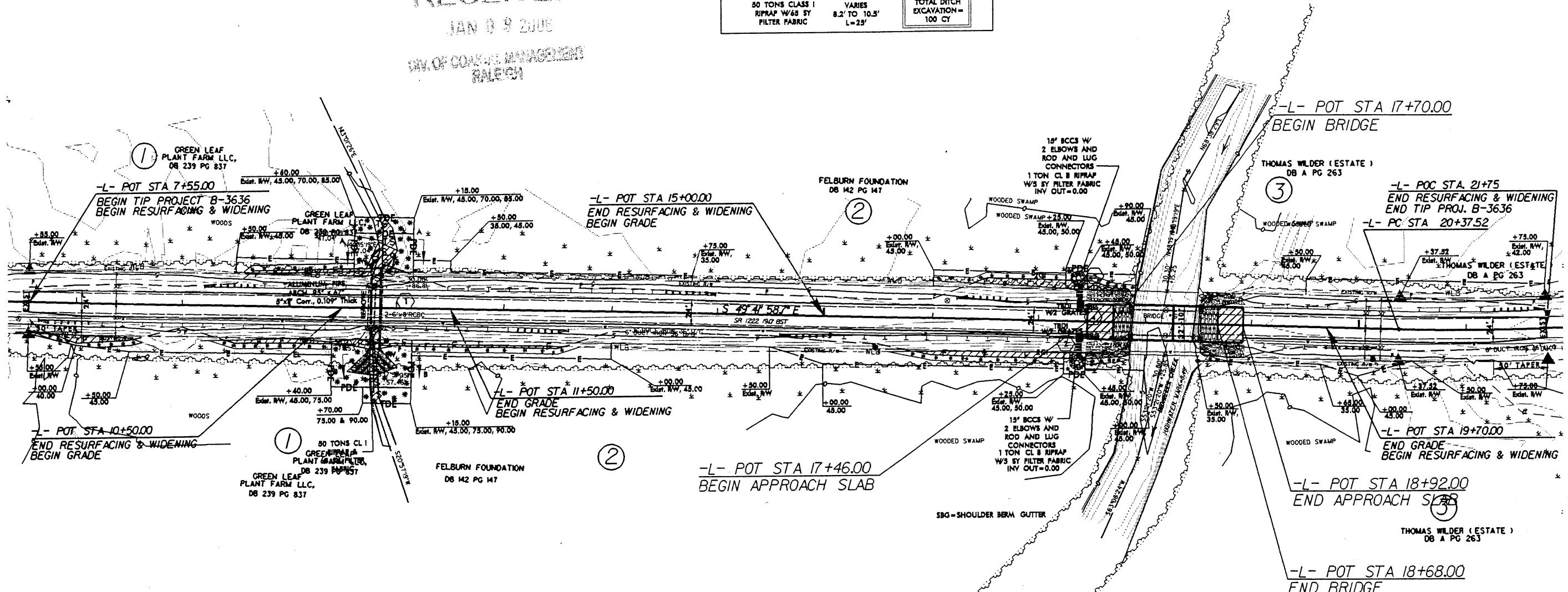
ISBN 9 9 2900

DIV. OF COASTAL MANAGEMENT
RALEIGH



$P1\text{ Sta } 23^{\circ}04'47''$
 $\Delta = 15^{\circ}29'33.4'' \text{ (LT)}$
 $D = 2^{\circ}55'00.0''$
 $L = 53^{\circ}13'$
 $T = 267.22'$
 $R = 1,964.43'$

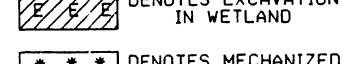
NAD 83



 TS DENOTES TEMPORARY SURFACE WATER IMPACTS

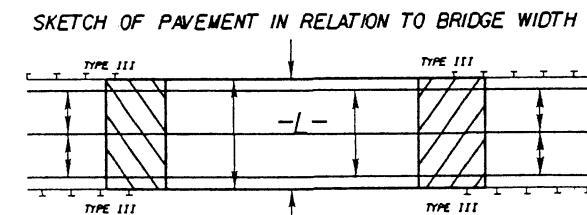


 S S DENOTES FILL IN SURFACE WATER



 DENOTES EXCAVATION
IN WETLAND

NOTE:
FILL IN WATER SURFACE DUE TO BRIDGE PIERS= 25sf



WETLAND PERMIT IMPACT SUMMARY

RECEIVED

WEEK OF CONVENTION SCHEDULE

Note: 25sf fill in surface water for piers

Revised 3/31/05
R:\mischi\hydro\WellandPermitSummary.xls

NC DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS

CHOWAN COUNTY
PROJECT 33184.1.1 (B-3636)
Permit Drawing 7 of 7

1/3/2006

PROP. NO.	PROPERTY OWNER NAME	PROP. OWNER ADDRESS
1	GREE LEAF PLANT FARM LLC	2153 Rocky Hock Rd., Edenton, NC 27932-9549
2	FELBURN FOUNDATION	1429 Hwy 176 West, Tryon, NC 28782
3	THOMAS WILDER (ESTATE)	2034 Rocky Hock Rd., Edenton, NC 27932

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10/12/2005
N.C. DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
CHOWAN COUNTY
PROJECT: 33184.1.1 (B-3636)

10/12/2005
permit drawing 6 of 7

CONTRACT: C201469 TIP PROJECT: B-3636

33-855-3006 07-33

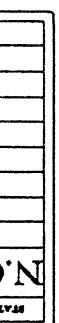
See Sheet 1-A For Index of Sheets

VLS

STATE OF NORTH CAROLINA
DIVISION OF HIGHWAYS

CHOWAN COUNTY

LOCATION: BRIDGE NO. 16 OVER ROCKYHOCK CREEK ON SR 1222
TYPE OF WORK: GRADING, PAVING, DRAINAGE, STRUCTURE



83
NAD

VALHALLA/NC 32

4

TO SMALLS CROSROADS

OUR

BEGIN STA 7+55.00

END STA 7+55.00

BEGIN STA 18+68.00

END STA 18+68.00

BEGIN STA 17+70.00

END STA 17+70.00

BEGIN TIP PROJ. B-3636

END TIP PROJ. B-3636

L- POT STA 21+75.00

END TIP STA 21+75.00

L- POC STA 21+75.00

END BRIDGE

ROCKYHOCK CREEK

ROCKYHOCK CREEK TRIBUTARY

SR 122

END BRIDGE

DEPARTMENT OF HIGHWAYS STATE OF NORTH CAROLINA

HYDRAULICS ENGINEER

DIVISION OF HIGHWAYS
1000 Ridge Road • Raleigh NC 27610

PROJECT LENGTH

DESIGN DATA

GRAPHIC SCALE

MISSION OF HIGHWAYS

HYDRAULICS ENGINEER

Prae-

LENGTH ROADWAY TIP PROJECT B-3636 = 0.250 M
 LENGTH STRUCTURE TIP PROJECT B-3636 = 0.019 M
 TOTAL LENGTH TIP PROJECT B-3636 = 0.269 M

ADT 2004 = 2,540 vpd

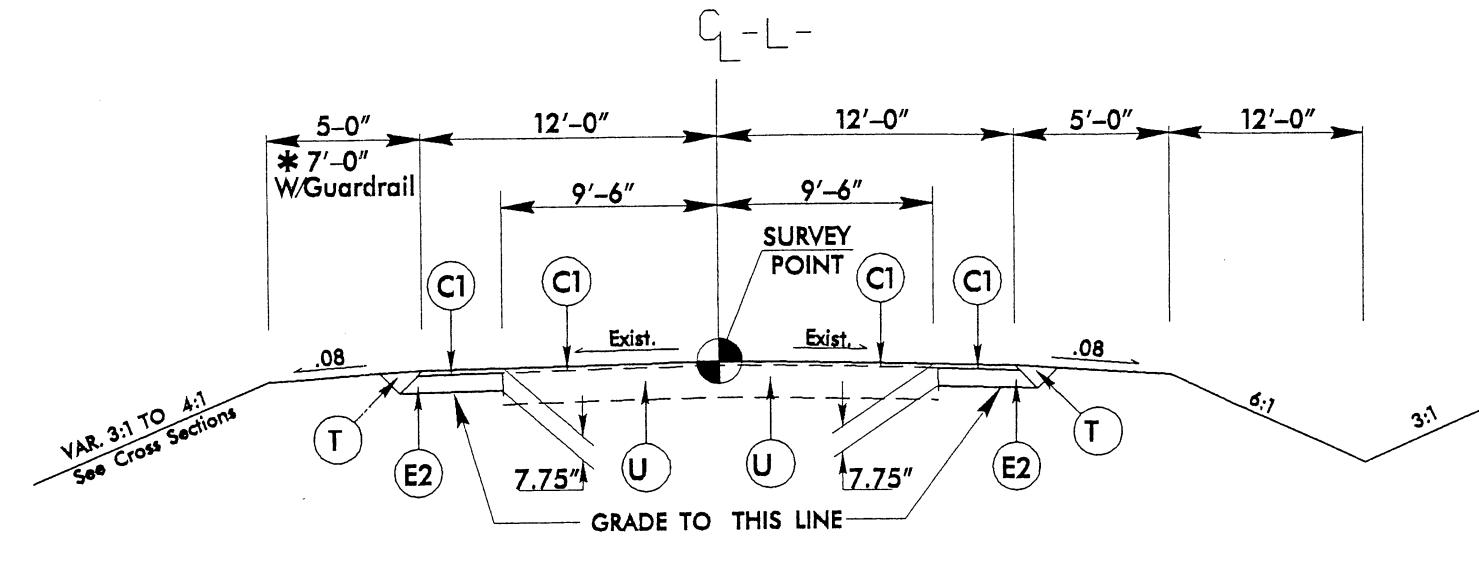
Figure 1 consists of three horizontal bar charts. The top chart is labeled 'PROFILE (HORIZONTAL)' and has a scale from 0 to 20. The middle chart is labeled 'PLANS' and has a scale from 0 to 50. The bottom chart is labeled 'VERTICALS' and has a scale from 0 to 100. Each chart has a black and white striped pattern across its bars.

CONTINUOUS

PAVEMENT SCHEDULE

C1	PROP. APPROX. $1\frac{1}{4}$ " ASPHALT CONCRETE SURFACE COURSE, TYPE SF9.5A. AT AN AVERAGE RATE OF 137.5 LBS. PER SQ. YD.
C2	PROP. APPROX. $2\frac{1}{2}$ " ASPHALT CONCRETE SURFACE COURSE, TYPE SF9.5A. AT AN AVERAGE RATE OF 137.5 LBS. PER SQ. YD. IN EACH OF TWO LAYERS.
C3	PROP. VAR. DEPTH ASPHALT CONCRETE SURFACE COURSE, TYPE SF9.5A. AT AN AVERAGE RATE OF 110 LBS. PER SQ. YD. PER 1" DEPTH TO BE IN LAYERS NOT TO EXCEED 1.5" IN DEPTH
E1	PROP. APPROX. $4\frac{1}{2}$ " ASPHALT CONCRETE BASE COURSE, TYPE B25.0B. AT AN AVERAGE RATE OF 513 LBS. PER SQ. YD.
E2	PROP. APPROX. $6\frac{1}{2}$ " ASPHALT CONCRETE BASE COURSE, TYPE B25.0B. AT AN AVERAGE RATE OF 370.5 LBS. PER SQ. YD. IN EACH OF TWO LAYERS
U	EXISTING PAVEMENT.
T	EARTH MATERIAL.

NOTE: ALL SLOPES ARE 1:1 UNLESS SHOWN OTHERWISE



TYPICAL SECTION NO. 1

USE TYPICAL SECTION NO. 1 AT THE FOLLOWING LOCATIONS:

-L STA. 7 + 55.00 to 10 + 50.00
-L STA. 11 + 50.00 to 15 + 00.00
-L STA. 19 + 70.00 to 21 + 75.00

The diagram illustrates a cored slab bridge with a total width of 32' 10" and a clear roadway of 32' 0". The bridge is divided into four sections: two 16' - 5" sections and two 4' - 5" sections. A central 12' section is also indicated. The bridge is supported by 12 units, with grade points labeled C2, C3, and C4. The height of the bridge is 6.5".

C -I- (SR 1222)

32' 10" CLEAR ROADWAY

16' - 5" 16' - 5"

4' - 5" 12' 12' 4' - 5"

GRADE POINT

C2 **C3** **C4**

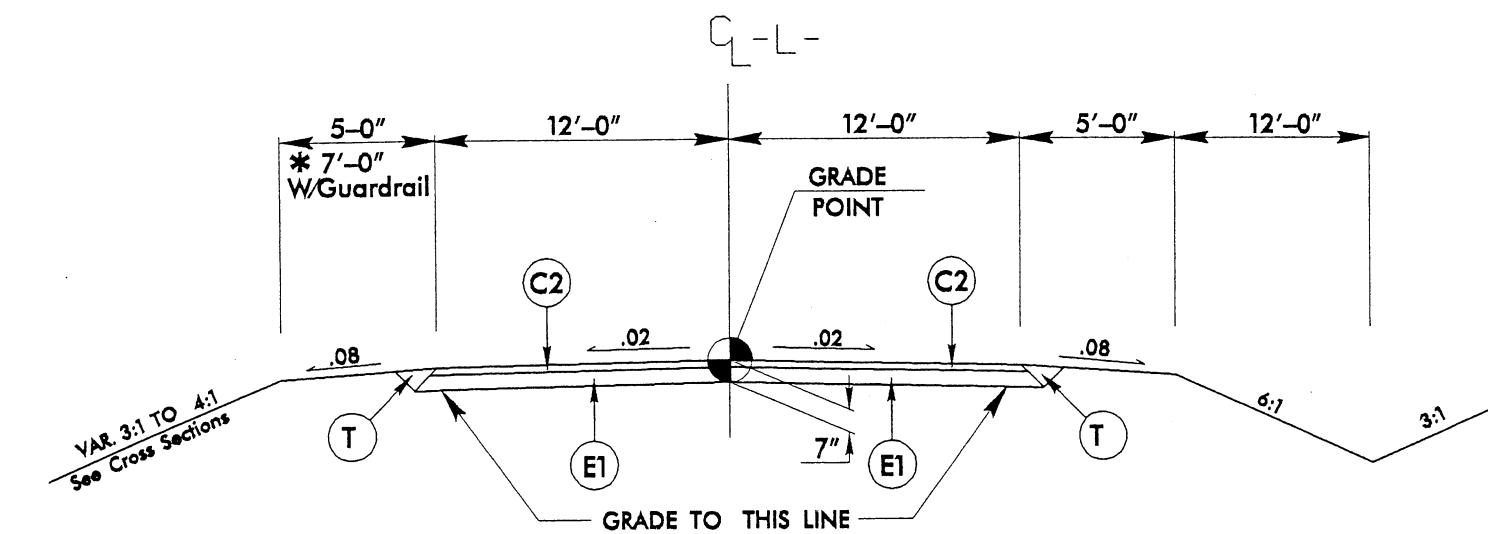
02 02

6.5"

CORED SLAB BRIDGE
(12 UNITS)

TYPICAL SECTION ON STRUCTURE

-L- STA 17+70.00 +/- TO 18+68.00 +/-

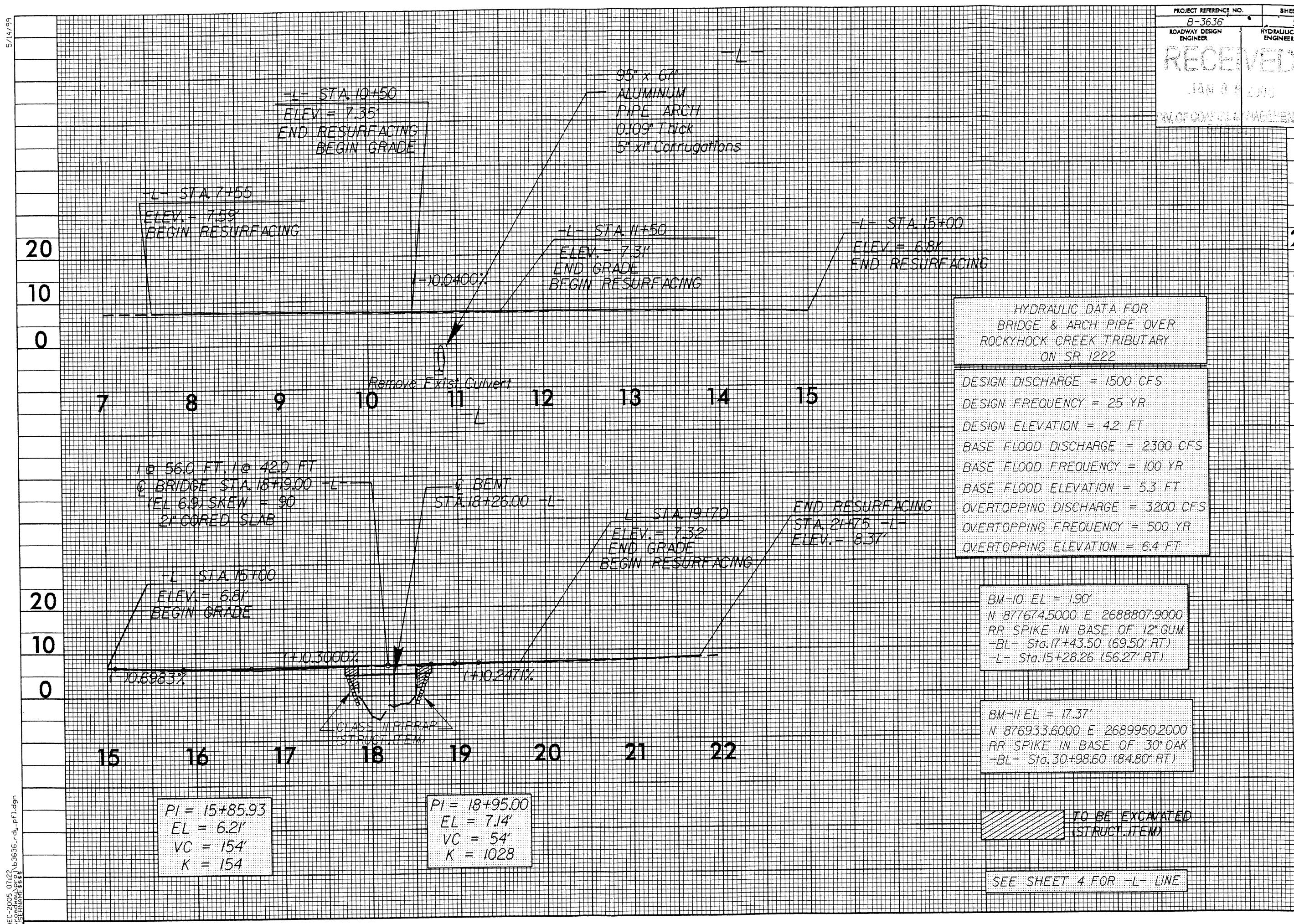


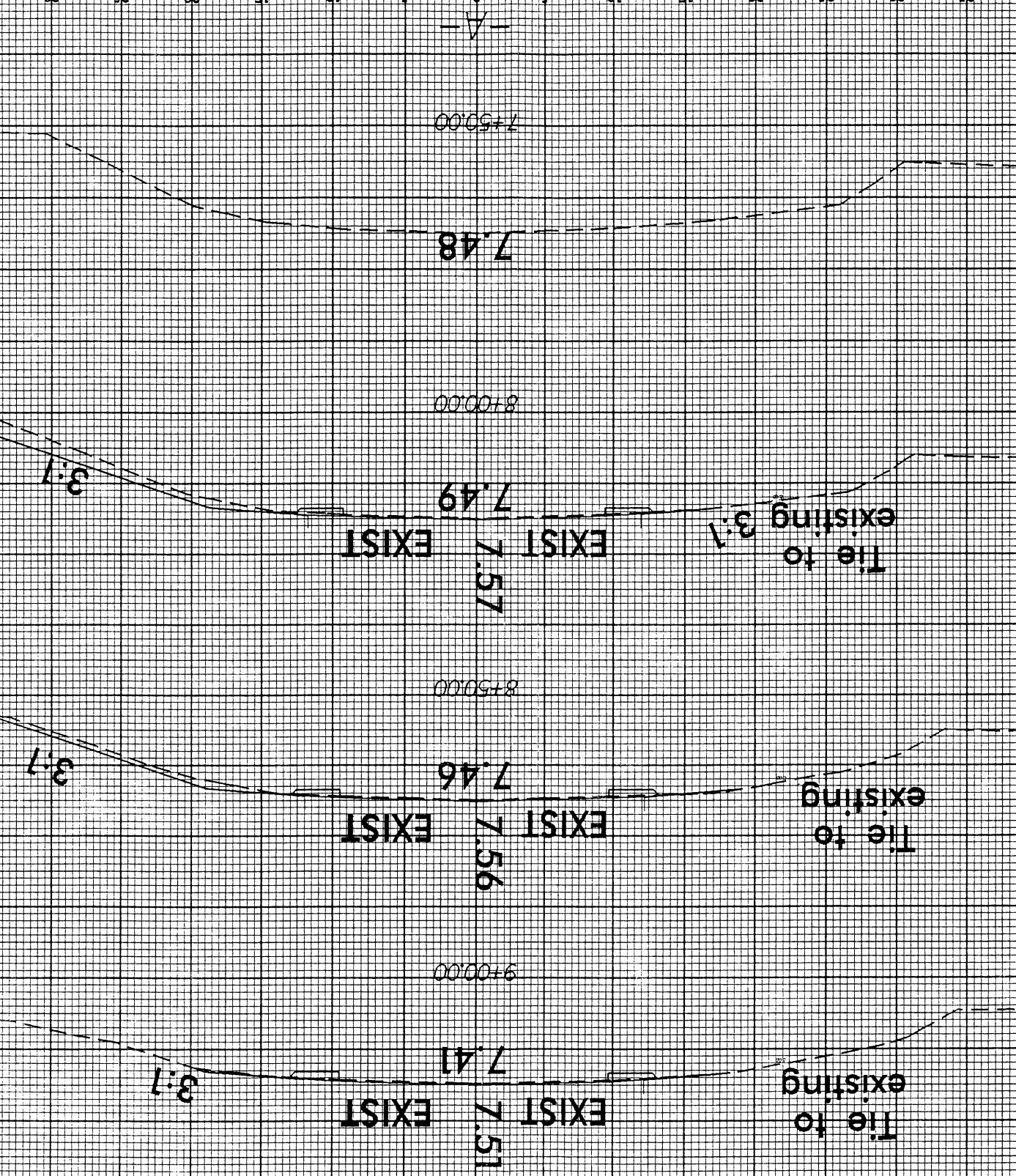
TYPICAL SECTION NO. 2

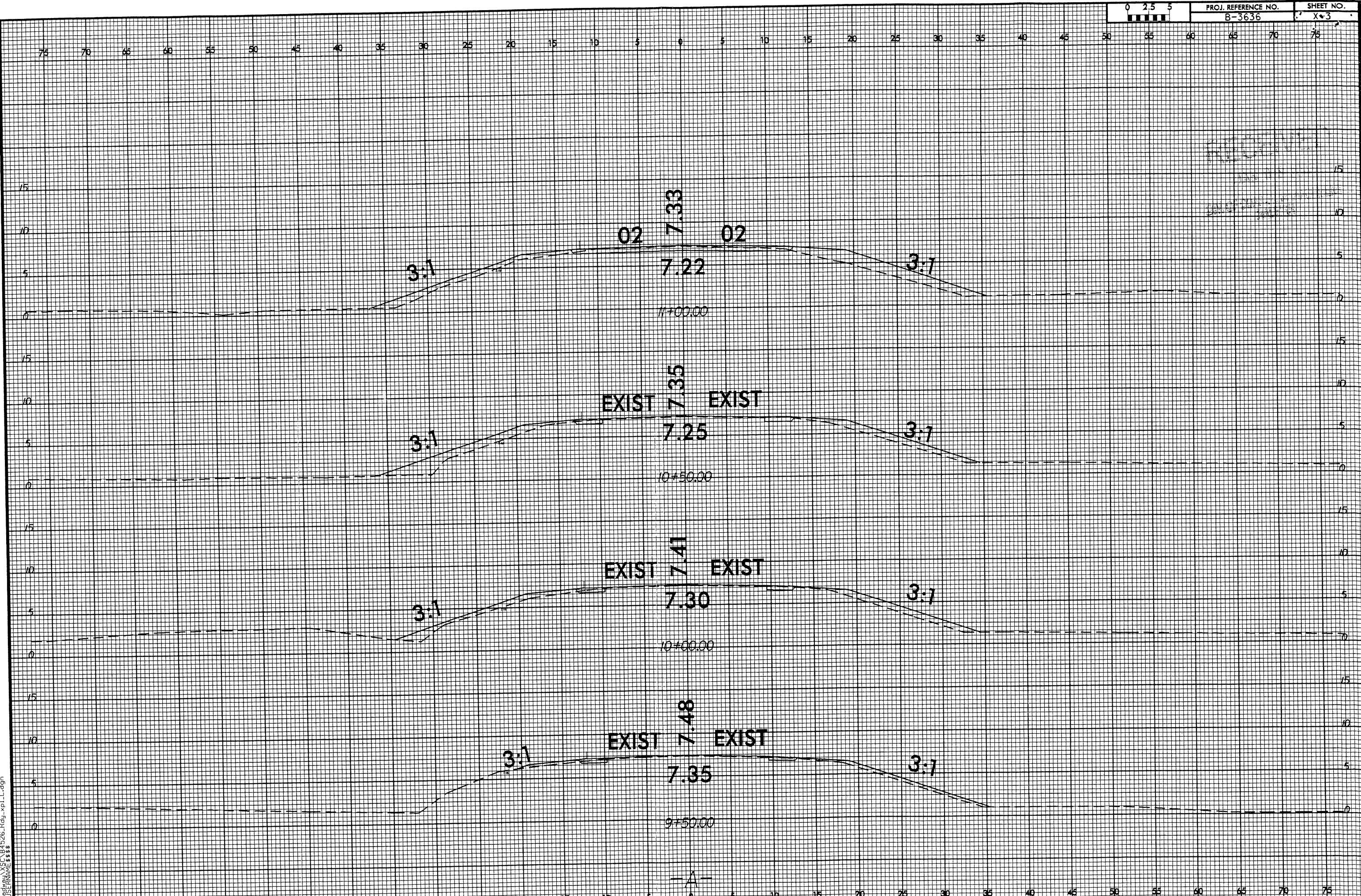
USE TYPICAL SECTION NO. 2 AT THE FOLLOWING LOCATIONS:

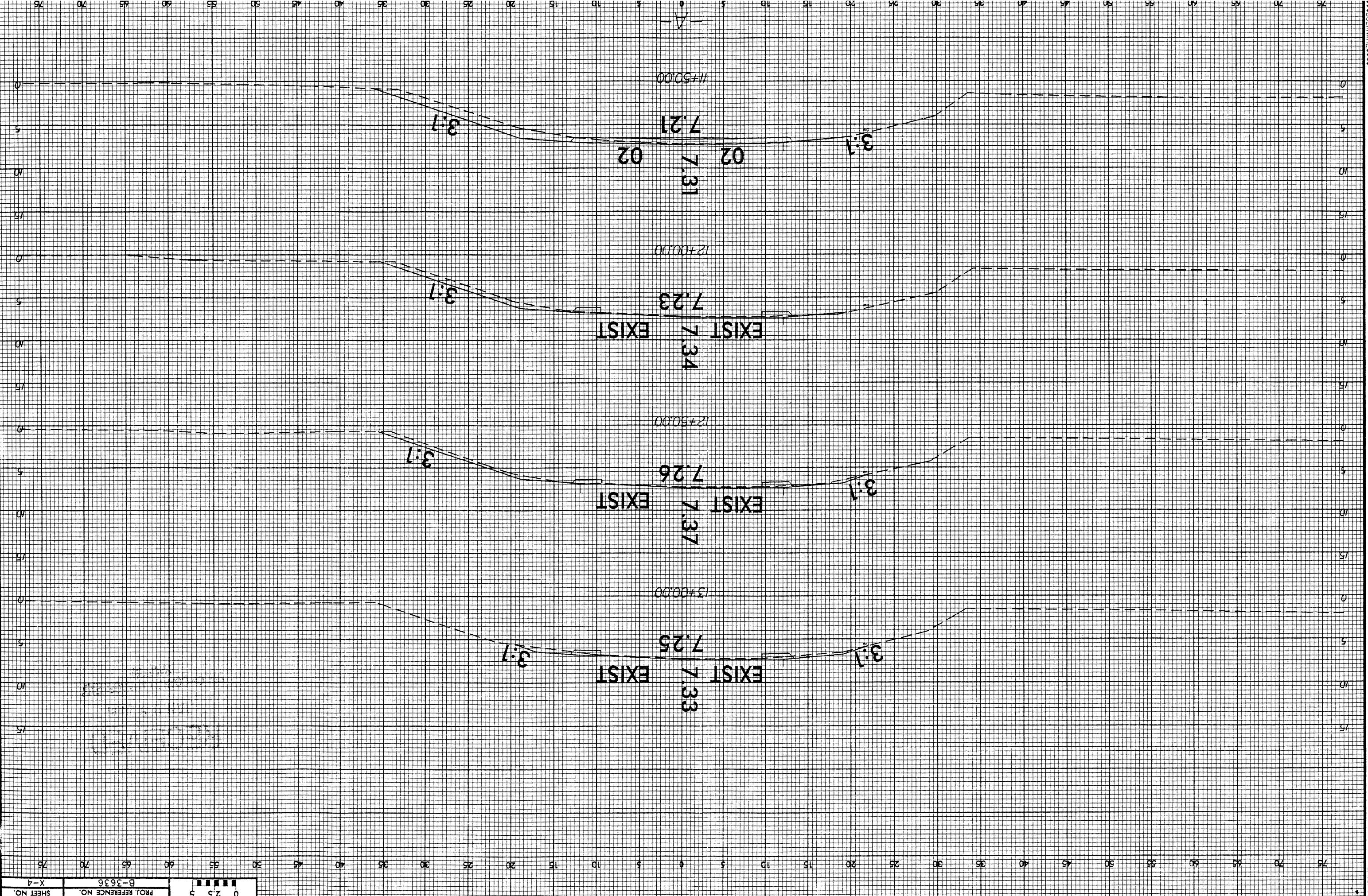
-L- STA. 10 + 50.00 TO 11 + 50.00
-L- STA. 15 + 00.00 TO 17 + 70.00
L STA. 18 + 68.00 TO 18 + 70.00

RECEIVED
JAN 9 2000
OR COAHLIA LIBRARY









-A-

15+50.00

3:1

02

6.55

3:1

02

16+00.00

3:1

02

6.46

3:1

02

6.55

16+50.00

3:1

02

6.53

3:1

02

6.56

17+00.00

3:1

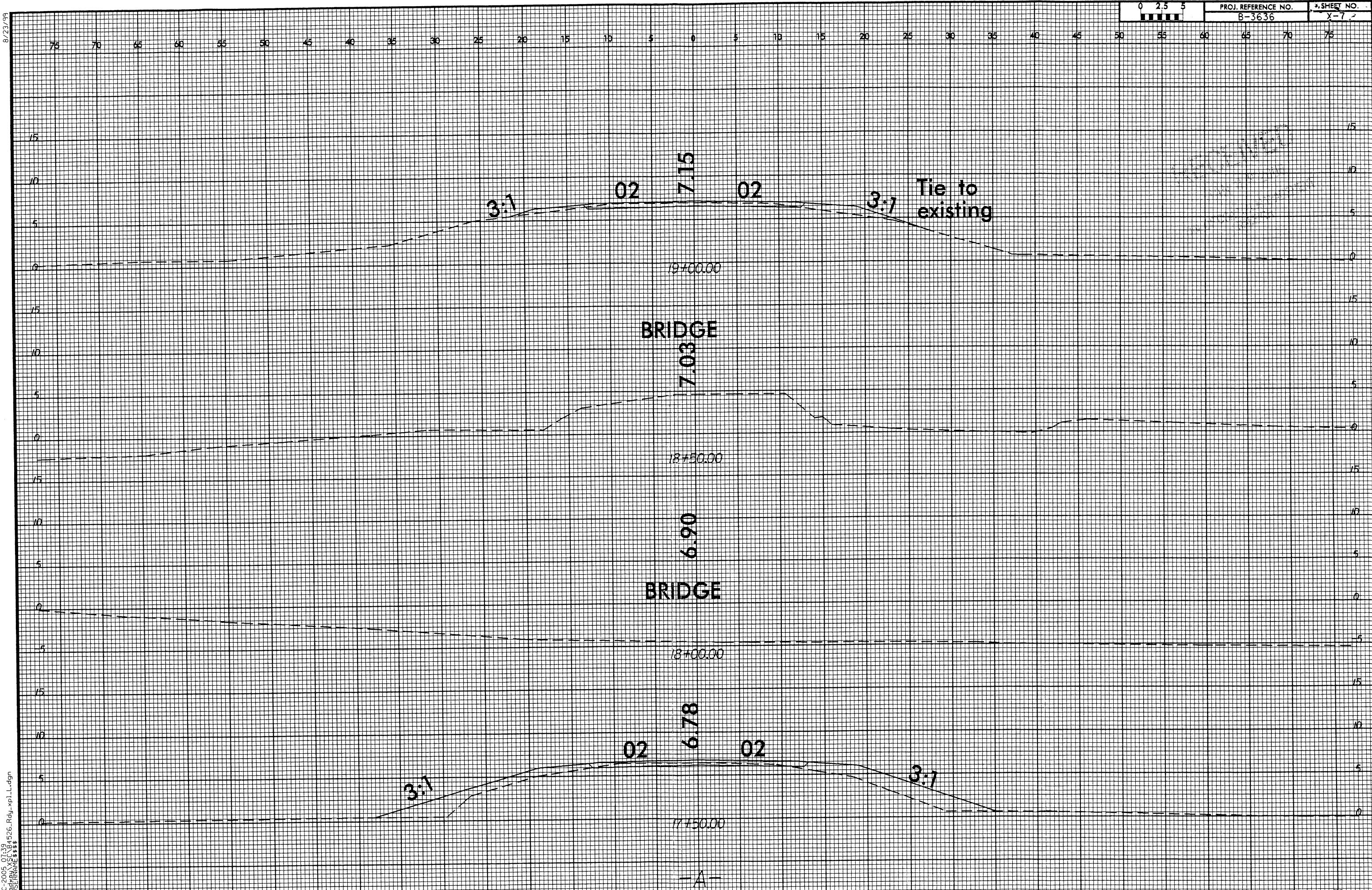
02

6.66

3:1

02

6.66



0.09461

L:8

70

1:3

20100.00

4.5

EXIST

2945000

1.3

EXSIX

00:00+18

7.5

EXI EXIT

00:06:17

— 1 —

LEADS LEADS

1960-61

3.5

110

PROT. REFERENCE NO.	B-3636	X-8
SEARCHED	INDEXED	FILED

