



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

ROY COOPER
GOVERNOR

JAMES H. TROGDON, III
SECRETARY

October 9, 2017

MEMORANDUM TO: Mr Jay Swain, P.E.
Division 13 Engineer

FROM: Philip S. Harris, III, P.E., Manager
for Environmental Analysis Unit

SUBJECT: Buncombe County; Modification of I-26/ NC 191 (Brevard Road)
Interchange; Federal Aid No. IMF-026-1(47);
WBS 45552.1.1; **TIP I-5504.**

Attached are the US Army Corps of Engineers Individual Permit and N.C. Division of Water Resources (NCDWR) Water Quality Certification for this project. All environmental permits have been received for the construction of this project.

A copy of this permit package will be posted on the NCDOT website at:

<https://connect.ncdot.gov/resources/Environmental/Pages/default.aspx>

Quick Links>Permit Documents> Issued Permits.

cc: w/o attachment (see website for attachments)

Mr. Ron Davenport, P.E. Contracts Management
Mr. Clarence Coleman, P.E., FHWA
Mr. Malcolm Watson, P.E., Design Build
Mr. Roger Bryan, Division 13 Environmental Officer
Dr. Majed Al-Ghandour, P.E., Programming and TIP
Mr. Carl Barclay, P.E., Utilities Unit
Mr. Stephen Morgan, P.E., Hydraulics
Mr. Brian Hanks, P.E., Structure Design
Mr. Mark Staley, Roadside Environmental
Mr. Ron Hancock, P.E., State Roadway Construction Engineer
Mr. Derrick Weaver, P.E., Project Delivery
Ms. Beth Harmon, NCDWR
Ms. Cheterra Sheff, Single Audit Compliance

PROJECT COMMITMENTS

T.I.P Project No. I-5504
I-26 Interchange Improvements at NC 191
Modification of I-26 / NC 191 (Brevard Road) interchange
Buncombe County
Federal Aid Project No. IMF-026-1(191)47
WBS Element 45552.1.1

COMMITMENTS FROM PROJECT DEVELOPMENT AND DESIGN

Design Build Team – Northern long-eared bat

The 404 permit will not be issued until compliance with the Endangered Species Act has been satisfied for the Northern long-eared bat.

- *Section 7 compliance, including for the Northern long-eared bat, has been completed.*

Division 13 / City of Asheville

The City of Asheville requested sidewalks on both sides of NC 191 (Brevard Road) and concrete bus stop pads be included at all of the existing bus stops within the project limits. In addition, the City requested that the construction phasing include provisions to mitigate and/or limit any adverse impacts to the existing transit service. Approximately one year prior to a construction let date, NCDOT Division 13 will initiate discussions with the City of Asheville to prepare a municipal agreement that considers the appropriate cost-sharing for construction of sidewalk on the north side of NC 191 (Brevard Road) and bus stop pads and municipal maintenance responsibilities.

- *NCDOT has entered into a Municipal Agreement with the City of Asheville, dated November 19, 2015, which addresses this commitment.*

Project Development & Environmental Analysis Unit

The Design-Build team will explore opportunities for design modifications to avoid and/or further minimize impacts to jurisdictional streams.

Five species from the NCDOT Invasive Exotic Plant List for North Carolina were found to occur in the study area. These species identified were multiflora rose (Threat), Chinese privet (Threat), Japanese silt grass (Threat), English ivy (Moderate Threat), and Japanese honeysuckle (Moderate Threat).

- *NCDOT will manage invasive plant species as appropriate.*

COMMITMENTS FROM PERMITTING

Division Construction, Design-Build Team

404 Permit Special Condition #9: The Permittee shall ensure that the following measures to protect the federally endangered gray bat, as noted in the USFWS letter dated July 7, 2017, are complied with:

1. Minimize direct lighting toward wooded areas. If lighting is needed for worker safety, the duration of lighting in the wooded areas should be minimized from April through October.
2. Immediately notify the USFWS if there are changes in the location or extent of the proposed work or the type of lighting.
3. Include a USFWS staff member in the construction kick-off meeting to represent concerns related to gray bats and the implementation of the project.
4. If project construction continues beyond 2019, NCDOT shall initiate a review of the remaining work in the project to determine if further minimization measures are needed to protect foraging gray bats.

Note that if number 4 applies (i.e. the project construction continues beyond 2019), the permittee shall ensure that a USFWS staff member is involved as early as possible in the discussion concerning further minimization measures.

DEPARTMENT OF THE ARMY PERMIT

Permittee: North Carolina Department of Transportation
Division of Highways
Attn: Mr. Philip S. Harris III, P.E., C.P.M.
Natural Environment Section Head
1598 Mail Service Center
Raleigh, NC 27699-1598

Permit No.: SAW-2014-02016, STIP I-5504

Issuing Office: CESA-W-RG-A

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

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

Project Description: The overall purpose of this project is to reduce projected traffic congestion at the I-26/NC 191 interchange (STIP I-5504). This work will involve the discharge of fill material into streams and other waters (i.e., wetlands and open waters). Construction of this project will permanently impact 2,170 linear feet (lf) of stream, 0.02 acre of wetland, and 0.03 acre of open water (pond).

Project Location: This project (STIP I-5504) is located at the I-26/NC 191 (Brevard Road) interchange in the City of Asheville, Buncombe County, North Carolina.

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2022. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

SEE ATTACHED SPECIAL CONDITIONS

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

☐ **Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).**

☒ **Section 404 of the Clean Water Act (33 U.S.C. 1344).**

☐ **Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).**

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. **Limits of Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.


b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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


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

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(PERMITTEE)

8/11/2017
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


Sgt (DISTRICT ENGINEER) ROBERT J. CLARK
COLONEL, U.S. ARMY
DISTRICT COMMANDER

11 Aug 2017
(DATE)

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

(TRANSFEREE)

(DATE)

Special Conditions
Action ID: SAW-2014-02016, STIP I-5504

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

WORK LIMITS

- 1) All work authorized by this permit must be performed in strict compliance with the attached Wetland and Surface Water Impacts Permit drawings titled "I-5504," Permit Drawing Sheets 1-26, undated. These drawings, and the description of work in the application and supporting information submitted by NCDOT, are now a part of this permit. Any modification to these plans must be approved by the U.S. Army Corps of Engineers (Corps) prior to implementation.
- 2) Except as authorized by this permit or any Corps approved modification to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, within waters or wetlands. This permit does not authorize temporary placement or double handling of excavated or fill material within waters or wetlands outside the permitted area.
- 3) Except as specified in the plans attached to this permit, no excavation, fill or mechanized land-clearing activities shall take place at any time in the construction or maintenance of this project, in such a manner as to impair normal flows and circulation patterns within waters or wetlands or to reduce the reach of waters or wetlands.
- 4) The permittee shall schedule a pre-construction meeting between their representatives, the contractor, and the Corps, Wilmington District, Asheville Regulatory Field Office, NCDOT Regulatory Project Manager (Division 13), prior to any work in jurisdictional waters of the U.S. to ensure that there is a mutual understanding of all terms and conditions contained in this DA permit. The permittee shall provide the NCDOT Regulatory Project Manager with a copy of the final plans prior to the pre-construction meeting along with a description of any changes that have been made to the project's design, construction methodology or construction timeframe. The permittee shall schedule the pre-construction meeting for a time when the Corps and the North Carolina Division of Water Resources (NCDWR) Project Managers can attend.
- 5) The permittee shall advise the Corps in writing at least two (2) weeks prior to beginning the work authorized by this permit and again upon completion of the work authorized by this permit.
- 6) Prior to commencing construction within jurisdictional waters of the U.S. for any portion of the project, the permittee shall forward the latest version of project

construction drawings to the Corps, Asheville Regulatory Field Office NCDOT Regulatory Project Manager (Division 13). Half-size drawings are acceptable.

RELATED LAWS

7) If the permittee discovers any previously unknown historic or archaeological sites while accomplishing the authorized work, he shall immediately stop work and notify the Corps, Asheville Regulatory Field Office NCDOT Regulatory Project Manager (Division 13), who will initiate the required State/Federal coordination.

8) All necessary precautions and measures will be implemented so that any activity will not kill, injure, capture, harass, or otherwise harm any protected federally listed species. While accomplishing the authorized work, if the permittee discovers or observes a damaged or hurt listed endangered or threatened species, the Corps Wilmington District Engineer will be immediately notified to initiate the required Federal coordination.

9) The permittee shall ensure that the following measures to protect the federally endangered gray bat, as noted in the USFWS letter dated July 7, 2017, are complied with:

1. Minimize directing lighting toward wooded areas. If lighting is needed for worker safety, the duration of lighting in wooded areas should be minimized from April through October.
2. Immediately notify the USFWS if there are changes in the location or extent of the proposed work or the type of lighting.
3. Include a USFWS staff member in the construction kick-off meeting to represent concerns related to gray bats and the implementation of the project.
4. If project construction continues beyond 2019, NCDOT shall initiate a review of the remaining work on the project to determine if further minimization measures are needed to protect foraging gray bats.

Note that if number 4 applies (i.e., the project construction continues beyond 2019), the permittee shall ensure that a USFWS staff member is involved as early as possible in the discussion concerning further minimization measures.

10) The NCDWR has issued a conditioned Water Quality Certification for this project (Certification No. 004080) on August 9, 2017. The conditions of this certification are hereby incorporated as special conditions of this permit. A copy of this certification is attached.

11) This Department of the Army permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

PROJECT MAINTENANCE

12) Unless otherwise authorized by this permit, all fill material placed in waters or wetlands shall be generated from an upland source and will be clean and free of any

pollutants except in trace quantities. Metal products, organic materials (including debris from land clearing activities), or unsightly debris will not be used. Soils used for fill shall not be contaminated with any toxic substance in concentrations governed by Section 307 of the Clean Water Act.

13) All mechanized equipment will be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids, or other toxic materials. In the event of a spill of petroleum products or any other hazardous waste, the permittee shall immediately report it to the NCDWR at (919) 733-3300 or (800) 858-0368 and provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act will be followed.

14) 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, shall be available at the project site during construction and maintenance of this project.

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

16) The permittee shall ensure that the project remains in full compliance with all aspects of the Sedimentation Pollution Control Act of 1973 (North Carolina General Statutes Chapter 113A Article 4). Adequate sedimentation and erosion control measures must be implemented prior to any ground disturbing activities to minimize impacts to downstream aquatic resources. These measures must be inspected and maintained regularly, especially following rainfall events. All fill material must be adequately stabilized at the earliest practicable date to prevent sediment from entering into adjacent waters or wetlands.

17) The permittee shall ensure that NCDOT's Best Management Practices for the Protection of Surface Waters and for Construction and Maintenance Activities are utilized and enforced.

18) The permittee shall ensure that all excavation and/or construction areas in waters of the U.S. are temporarily dewatered during work.

19) During the clearing phase of the project, heavy equipment must not be operated in surface waters or stream channels. Temporary stream crossings will be used to access the opposite sides of stream channels. All temporary diversion channels and stream crossings will be constructed of non-erodible materials. Grubbing of riparian vegetation will not occur until immediately before construction begins on a given segment of stream channel.

20) The permittee shall take measures to prevent live or fresh concrete, including bags of uncured concrete, from coming into contact with any water in, or entering into, waters of the U.S. Water inside coffer dams or casings that has been in contact with concrete shall only be returned to waters of the U.S. when it no longer poses a threat to aquatic organisms (concrete is set and cured).

21) Unless otherwise requested in the application and depicted on the approved work plans, culverts greater than 48 inches in diameter will be buried at least one foot below the bed of the stream. Culverts 48 inches in diameter and less shall be buried or placed on the stream bed as practicable and appropriate to maintain aquatic passage, and every effort shall be made to maintain existing channel slope. The bottom of the culvert must be placed at a depth below the natural stream bottom to provide for passage during drought or low flow conditions. Destabilization of the channel and head cutting upstream should be considered in the placement of the culvert.

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

23) Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in the disequilibrium of wetlands, streambeds or stream banks adjacent to, upstream of or downstream of the structures. When practicable, riprap armoring of streams at culvert inlets and outlets shall be minimized above ordinary high water elevation in favor of bioengineering techniques such as bank sloping, erosion control matting and revegetation with deep-rooted native woody plants.

24) The permittee shall implement all reasonable and practicable measures to ensure that equipment, structures, fill pads, work, and operations associated with this project do not adversely affect upstream and/or downstream reaches. Adverse effects include, but are not limited to, channel instability, flooding, and/or stream bank erosion. The permittee shall routinely monitor for these effects, cease all work when detected, take initial corrective measures to correct actively eroding areas, and notify this office immediately. Permanent corrective measures may require additional authorization by the Corps.

25) The permittee shall remove all temporary fills placed in waters of the U.S., to include authorized sediment and erosion control measures, and shall restore natural grades in these areas, prior to project completion. Affected upland areas must be revegetated with native vegetation within 60 days of completion of project construction. If vegetation cannot be planted due to the time of the year, all disturbed areas will be seeded with a native mix appropriate for the impacted area, and vegetation will be

planted in the fall. A native seed mix may contain non-invasive small grain annuals (e.g., millet and rye grain) to ensure adequate cover while native vegetation becomes established.

26) The permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the work will, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the water or wetland to its pre-project condition.

27) All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Asheville Regulatory Field Office, NCDOT Regulatory Project Manager (Division 12), 151 Patton Avenue, Room 208, Asheville, NC 28801-5006, and by telephone at: (828) 271-7980. The permittee shall reference the following permit number on all submittals: SAW-2010-00032, TIP No. U-3633.

COMPENSATORY MITIGATION

28) In order to compensate for the impacts associated with this permit, mitigation shall be provided in accordance with the provisions outlined on the most recent version of the attached Compensatory Mitigation Responsibility Transfer Form. The requirements of this form, including any special conditions listed on this form, are hereby incorporated as special conditions of this permit.

ENFORCEMENT

29) A representative of the Corps will periodically and randomly inspect the work for compliance with these conditions. Deviations from these procedures may result in an administrative financial penalty and/or directive to cease work until the problem is resolved to the satisfaction of the Corps.

30) Violation of these conditions or violation of Section 404 of the Clean Water Act must be reported in writing to the Corps, Wilmington District, within 24 hours of the permittee's discovery of the violation.

U.S. ARMY CORPS OF ENGINEERS
Wilmington District
Compensatory Mitigation Responsibility Transfer Form

Permittee: North Carolina Department of Transportation
Project Name: STIP I-5504

Action ID: SAW-2014-02016
County: Buncombe

Instructions to Permittee: The Permittee must provide a copy of this form to the Mitigation Sponsor, either an approved Mitigation Bank or the North Carolina Division of Mitigation Services (NCDMS), who will then sign the form to verify the transfer of the mitigation responsibility. Once the Sponsor has signed this form, it is the Permittee's responsibility to ensure that to the U.S. Army Corps of Engineers (USACE) Project Manager identified on page two is in receipt of a signed copy of this form before conducting authorized impacts, unless otherwise specified below. If more than one mitigation Sponsor will be used to provide the mitigation associated with the permit, or if the impacts and/or the mitigation will occur in more than one 8-digit Hydrologic Unit Code (HUC), multiple forms will be attached to the permit, and the separate forms for each Sponsor and/or HUC must be provided to the appropriate mitigation Sponsors.

Instructions to Sponsor: The Sponsor must verify that the mitigation requirements (credits) shown below are available at the identified site. By signing below, the Sponsor is accepting full responsibility for the identified mitigation, regardless of whether or not they have received payment from the Permittee. Once the form is signed, the Sponsor must update the bank ledger and provide a copy of the signed form and the updated bank ledger to the Permittee, the USACE Project Manager, and the Wilmington District Mitigation Office (see contact information on page 2). The Sponsor must also comply with all reporting requirements established in their authorizing instrument.

Permitted Impacts and Compensatory Mitigation Requirements:

Permitted Impacts Requiring Mitigation*

8-digit HUC and Basin: 06010105, French Broad River Basin

Stream Impacts (linear feet)			Wetland Impacts (acres)			
Warm	Cool	Cold	Riparian Riverine	Riparian Non-Riverine	Non-Riparian	Coastal
	2,115		0.02			

*If more than one mitigation sponsor will be used for the permit, only include impacts to be mitigated by this sponsor.

Compensatory Mitigation Requirements:

8-digit HUC and Basin: 06010105, French Broad River Basin

Stream Mitigation (credits)			Wetland Mitigation (credits)			
Warm	Cool	Cold	Riparian Riverine	Riparian Non-Riverine	Non-Riparian	Coastal
	2,906		0.04			

Mitigation Site Debited: NCDMS

(List the name of the bank to be debited. For umbrella banks, also list the specific site. For NCDMS, list NCDMS. If the NCDMS acceptance letter identifies a specific site, also list the specific site to be debited).

Section to be completed by the Mitigation Sponsor

Statement of Mitigation Liability Acceptance: I, the undersigned, verify that I am authorized to approve mitigation transactions for the Mitigation Sponsor shown below, and I certify that the Sponsor agrees to accept full responsibility for providing the mitigation identified in this document (see the table above), associated with the USACE Permittee and Action ID number shown. I also verify that released credits (and/or advance credits for NCDMS), as approved by the USACE, are currently available at the mitigation site identified above. Further, I understand that if the Sponsor fails to provide the required compensatory mitigation, the USACE Wilmington District Engineer may pursue measures against the Sponsor to ensure compliance associated with the mitigation requirements.

Mitigation Sponsor Name: _____

Name of Sponsor's Authorized Representative: _____

Signature of Sponsor's Authorized Representative

Date of Signature

**USACE Wilmington District
Compensatory Mitigation Responsibility Transfer Form, Page 2**

Conditions for Transfer of Compensatory Mitigation Credit:

- Once this document has been signed by the Mitigation Sponsor and the USACE is in receipt of the signed form, the Permittee is no longer responsible for providing the mitigation identified in this form, though the Permittee remains responsible for any other mitigation requirements stated in the permit conditions.
- Construction within jurisdictional areas authorized by the permit identified on page one of this form can begin only after the USACE is in receipt of a copy of this document signed by the Sponsor, confirming that the Sponsor has accepted responsibility for providing the mitigation requirements listed herein. For authorized impacts conducted by the North Carolina Department of Transportation (NCDOT), construction within jurisdictional areas may proceed upon permit issuance; however, a copy of this form signed by the Sponsor must be provided to the USACE within 30 days of permit issuance. NCDOT remains fully responsible for the mitigation until the USACE has received this form, confirming that the Sponsor has accepted responsibility for providing the mitigation requirements listed herein.
- Signed copies of this document must be retained by the Permittee, Mitigation Sponsor, and in the USACE administrative records for both the permit and the Bank/ILF Instrument. It is the Permittee's responsibility to ensure that the USACE Project Manager (address below) is provided with a signed copy of this form.
- If changes are proposed to the type, amount, or location of mitigation after this form has been signed and returned to the USACE, the Sponsor must obtain case-by-case approval from the USACE Project Manager and/or North Carolina Interagency Review Team (NCIRT). If approved, higher mitigation ratios may be applied, as per current District guidance and a new version of this form must be completed and included in the USACE administrative records for both the permit and the Bank/ILF Instrument.

Comments/Additional Conditions:

Mitigation is required as follows: 791 lf of good/medium quality streams at a 2:1 ratio, 1,324 lf of fair/low quality streams at a 1:1 ratio, and 0.02 acre of wetland at a 2:1 ratio.

This form is not valid unless signed below by the USACE Project Manager and by the Mitigation Sponsor on Page 1. ***Once signed, the Sponsor should provide copies of this form along with an updated bank ledger to: 1) the Permittee, 2) the USACE Project Manager at the address below, and 3) the Wilmington District Mitigation Office, Attn: Todd Tugwell, 11405 Falls of Neuse Road, Wake Forest, NC 27587 (email: todd.tugwell@usace.army.mil).*** Questions regarding this form or any of the permit conditions may be directed to the USACE Project Manager below.

USACE Project Manager: Lori Beckwith
USACE Field Office: Asheville Regulatory Field Office
US Army Corps of Engineers
151 Patton Avenue, Room 208
Asheville, North Carolina 28801-5006

Email: loretta.a.beckwith@usace.army.mil

**BECKWITH.LORETT
A.ANN.1173452264**

Digitally signed by
BECKWITH.LORETTA.ANN.1173452264
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,
ou=USA, cn=BECKWITH.LORETTA.ANN.1173452264
Date: 2017.08.09 13:21:30 -04'00'

USACE Project Manager Signature

August 9, 2017

Date of Signature

Current Wilmington District mitigation guidance, including information on mitigation ratios, functional assessments, and mitigation bank location and availability, and credit classifications (including stream temperature and wetland groupings) is available at <http://ribits.usace.army.mil>.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: NCDOT, STIP I-5504		File Number: SAW-2014-02016	Date: August 10, 2017
Attached is:			See Section below
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

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

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

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

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

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

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

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

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

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

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

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

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

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
Lori Beckwith, Regulatory Project Manager
USACE Asheville Regulatory Field Office
151 Patton Ave, Room 208
Asheville, NC 28801
828-271-7980, ext. 4223

If you only have questions regarding the appeal process you may also contact:
Administrative Appeal Review Officer
CESAD-ET-CO-R
U.S. Army Corps of Engineers, South Atlantic Division
60 Forsyth Street, Room 9M15
Atlanta, Georgia 30303-8801

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
----------------------------------	-------	-------------------

DIVISION ENGINEER:

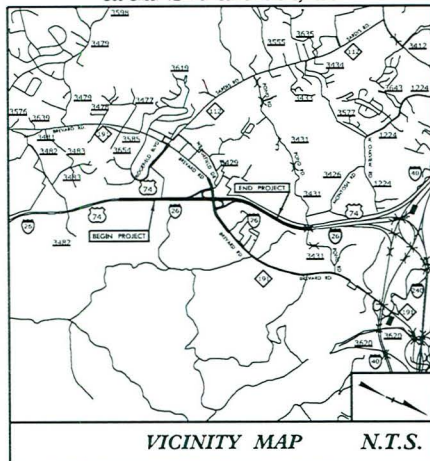
Commander

U.S. Army Engineer Division, South Atlantic
60 Forsyth Street, Room 9M15
Atlanta, Georgia 30303-3490

TIP PROJECT: I-5504

CONTRACT: C203754

See Sheet 1A For Index of Sheets
See Sheet 1B For Conventional Symbols



STATE OF NORTH CAROLINA DIVISION OF HIGHWAYS

BUNCOMBE COUNTY

LOCATION: I-26/NC 191 (BREVARD ROAD) INTERCHANGE MODIFICATIONS
AND I-26 WIDENING AND PAVEMENT RECONSTRUCTION

TYPE OF WORK: GRADING, DRAINAGE, PAVING, STRUCTURES, CULVERT,
RETAINING WALLS, SOUND WALLS, SIGNALS, AND SIGNING

WETLAND AND SURFACE WATER IMPACTS PERMIT

STATE	STATE PROJECT REFERENCE NO.	SHEET NO.	TOTAL SHEETS
N.C.	I-5504	1	
STATE FUNDING	F.A. PROJECT NO.	DESCRIPTION	
45552.3.1	BMF-026-1(191)47	P.E.	

PERMIT DRAWING
SHEET 1 OF 26

BEGIN CONSTRUCTION
-L- STA. 16+45.00

BEGIN TIP PROJECT I-5504
-L- STA. 19+25.00

SITE 1

BEGIN BRIDGE
-YRT- STA. 31+34.37

BEGIN BRIDGE
-YLT- STA. 31+63.67

END BRIDGE
-YRT- STA. 33+14.87

END BRIDGE
-YLT- STA. 33+44.17

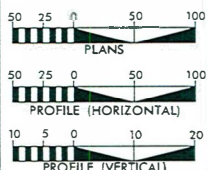
END TIP PROJECT I-5504
-L- STA. 83+25.00

SITE 2

SITE 3

THIS PROJECT IS WITHIN THE MUNICIPAL BOUNDARIES OF ASHEVILLE.
THIS IS A CONTROLLED ACCESS PROJECT WITH ACCESS TO INTERCHANGES.
CLEARING ON THIS PROJECT SHALL BE PERFORMED TO LIMITS ESTABLISHED BY METHOD II.
DESIGN EXCEPTION REQUIRED FOR THE HORIZONTAL RADIUS OF -LND- AND -RPD-.

GRAPHIC SCALES



DESIGN DATA

ADT 2016 = 95,900
ADT 2040 = 118,300
DHW = 10 %
D = 55 %
T = 14 %
V = 70 MPH
* (TTST = 10% + DUAL = 4%)
FUNC CLASS = INTERSTATE

PROJECT LENGTH

LENGTH ROADWAY TIP PROJECT I-5504 = 1.212 MILES
LENGTH STRUCTURE TIP PROJECT I-5504 = 0.000 MILES
TOTAL LENGTH TIP PROJECT I-5504 = 1.212 MILES

*NOTE: EASTBOUND LANES USED TO CALCULATE LENGTH OF PROJECT.

K. ZAK HAMIDI, PE

NC DOT CONTACT

Prepared in the Office of:
RS&H
ARCHITECTS-ENGINEERS-PLANNERS, INC.
8601 SIX FORKS ROAD, SUITE 260
RALEIGH, NC 27615

2012 STANDARD SPECIFICATIONS

RIGHT OF WAY DATE:
FEBRUARY 16, 2016

LETTING DATE:
FEBRUARY 16, 2016

JASON TALLEY, PE
PROJECT ENGINEER

ALLISON DRAKE, PE
PROJECT DESIGN ENGINEER

HYDRAULIC DESIGN
ENGINEER

SIGNATURE: P.E.
ROADWAY DESIGN
ENGINEER

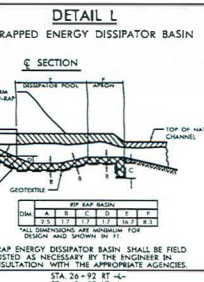
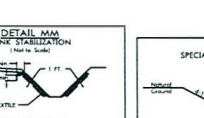
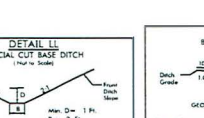
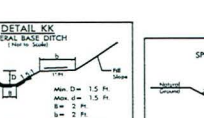
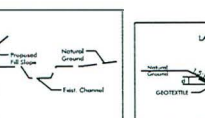
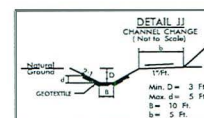
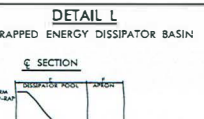
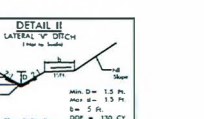
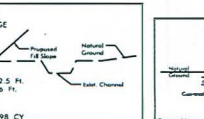
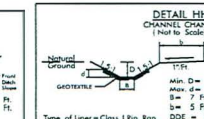
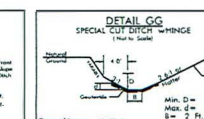
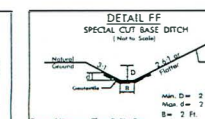
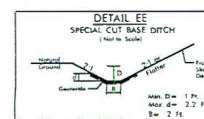
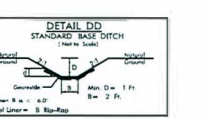
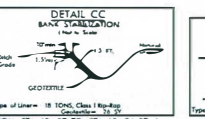
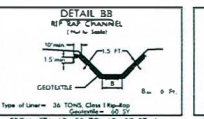
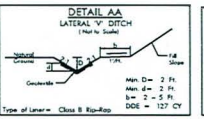
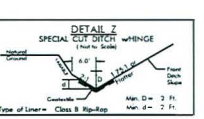
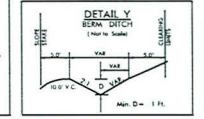
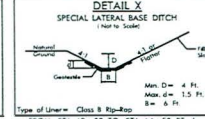
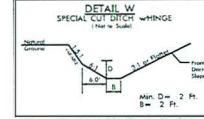
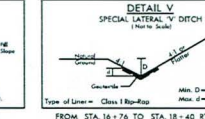
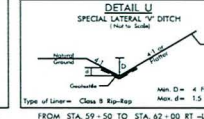
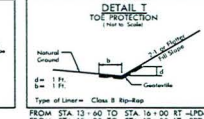
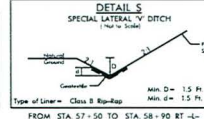
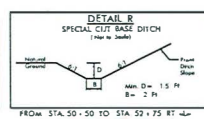
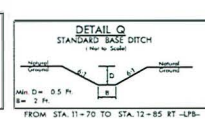
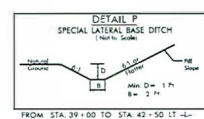
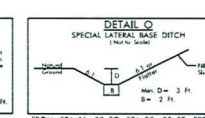
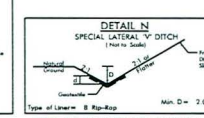
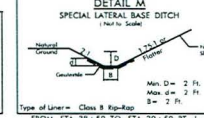
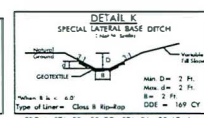
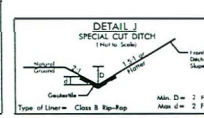
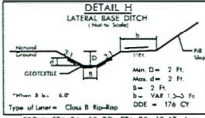
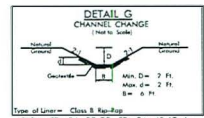
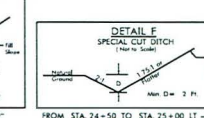
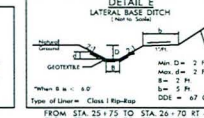
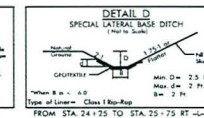
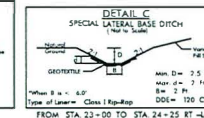
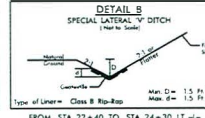
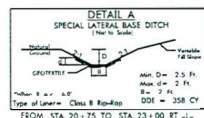
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UNLESS ALL SIGNATURES COMPLETED



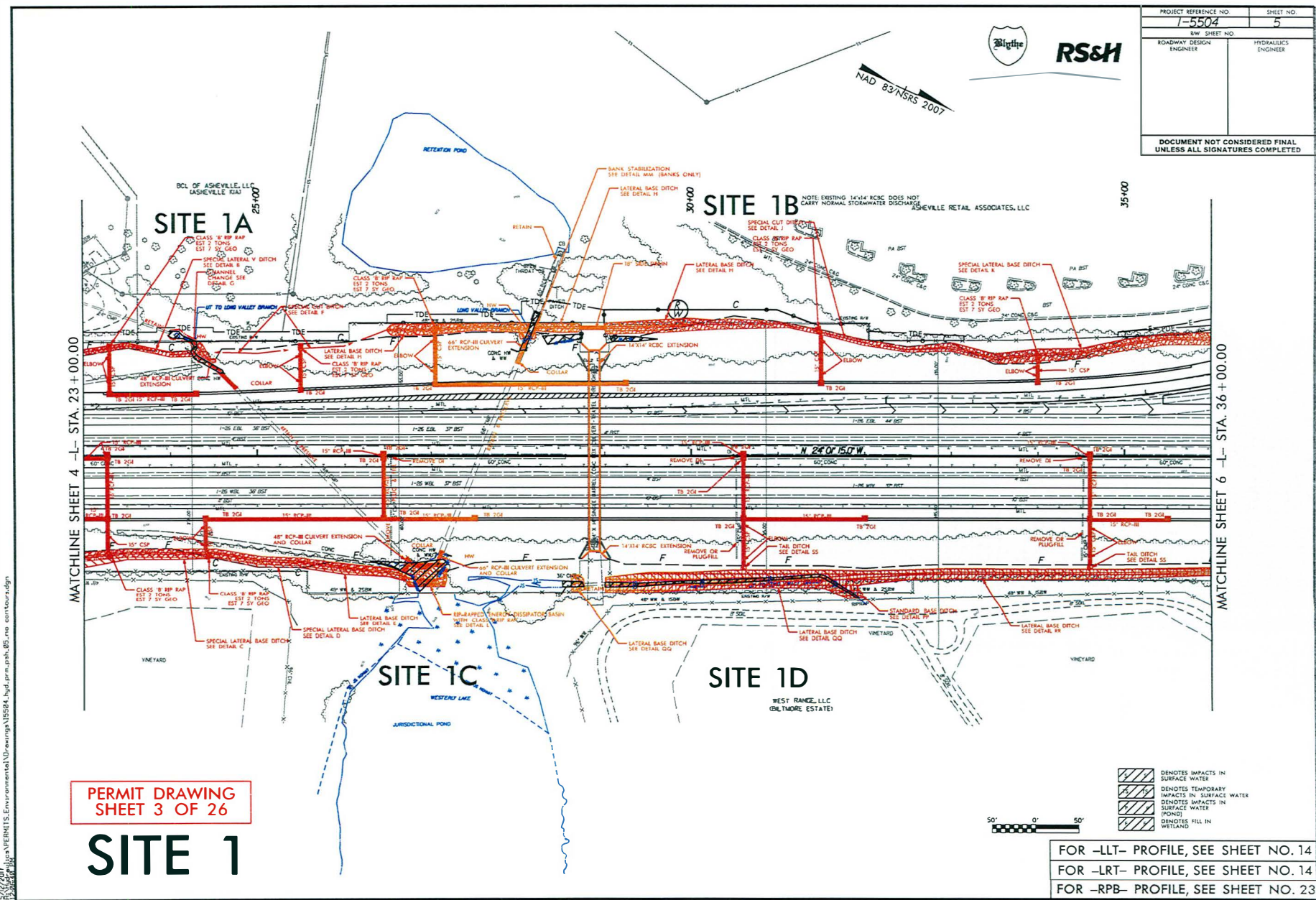
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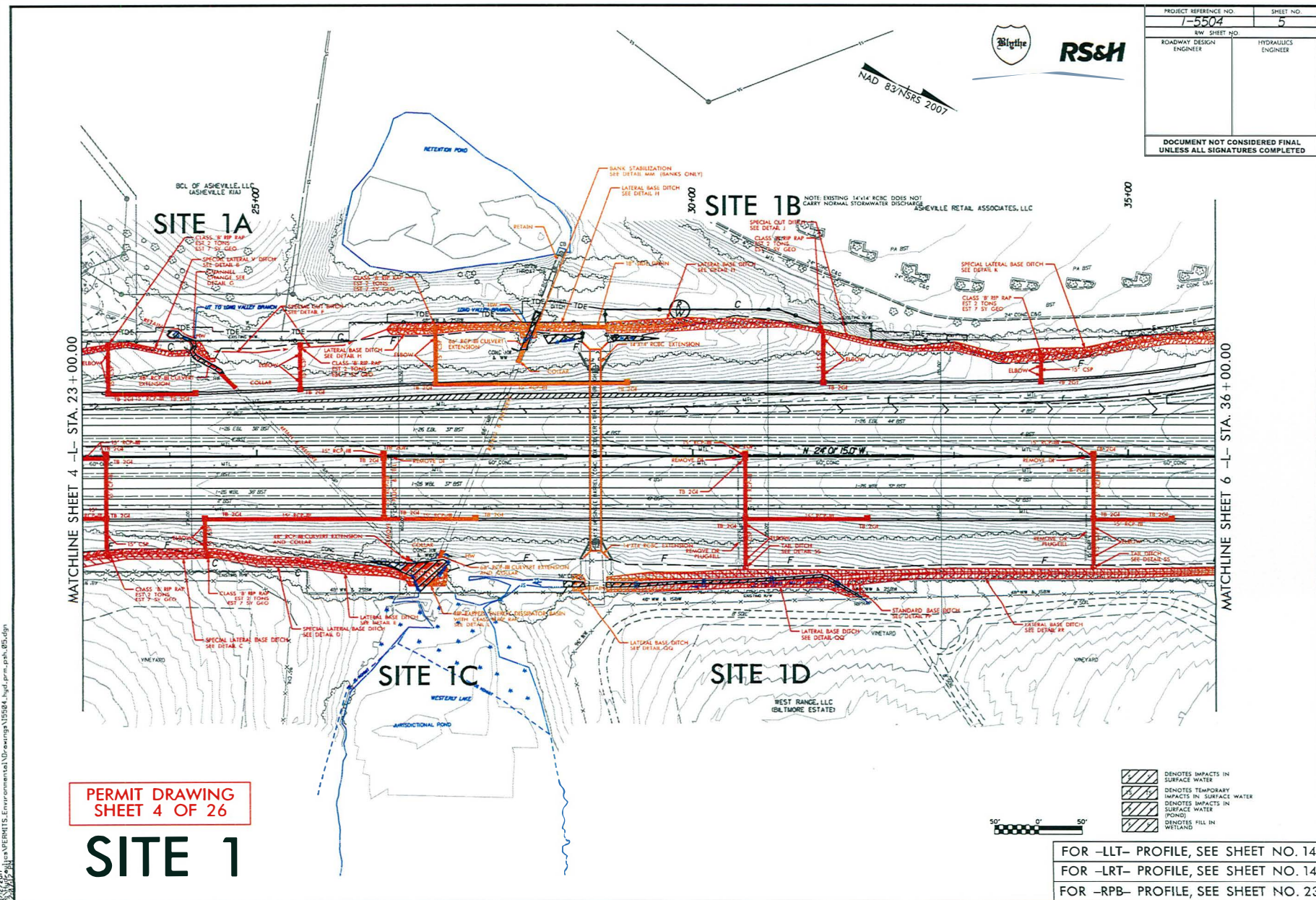
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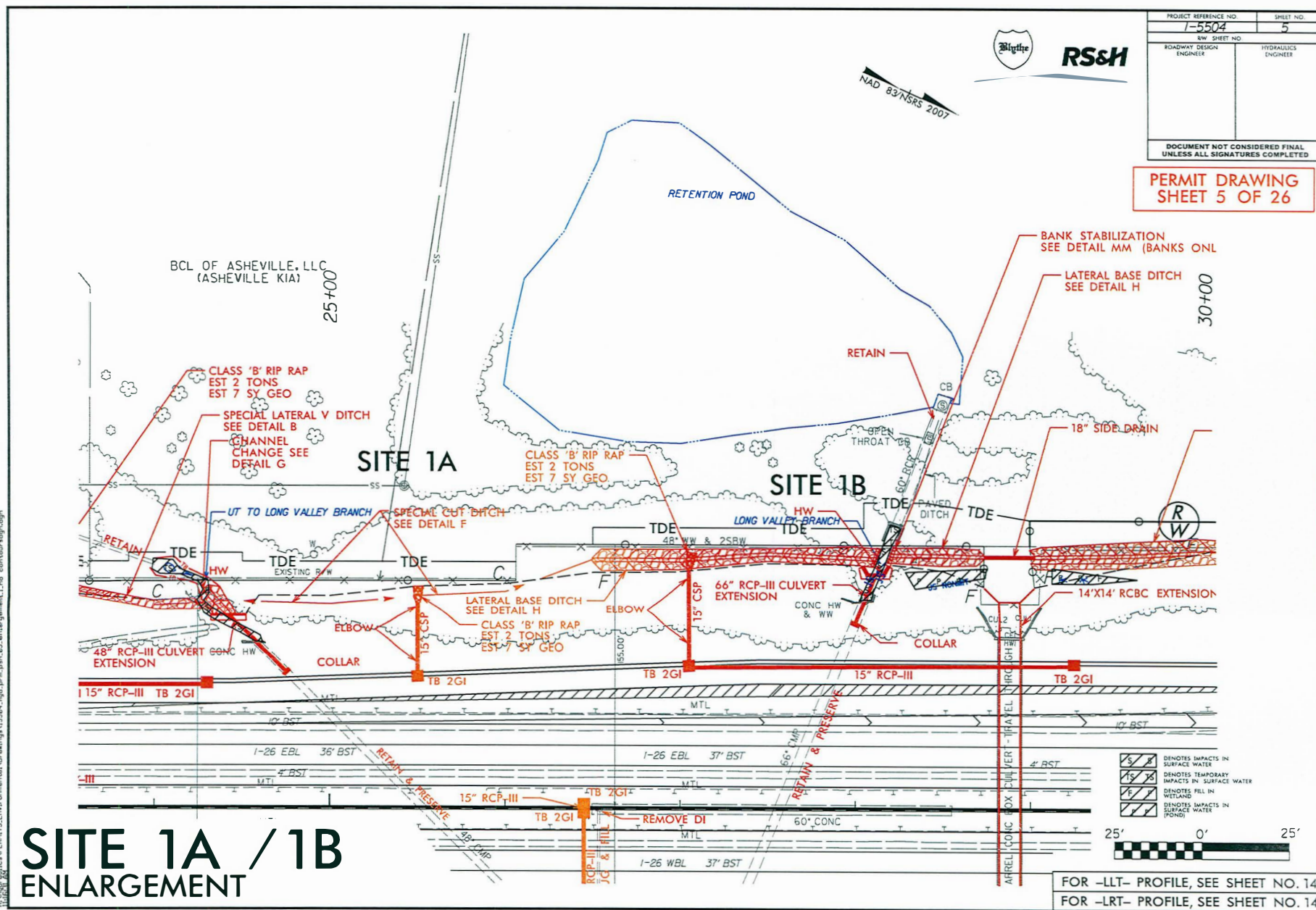


PERMIT DRAWING
SHEET 2 OF 26

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1-5504	20-1
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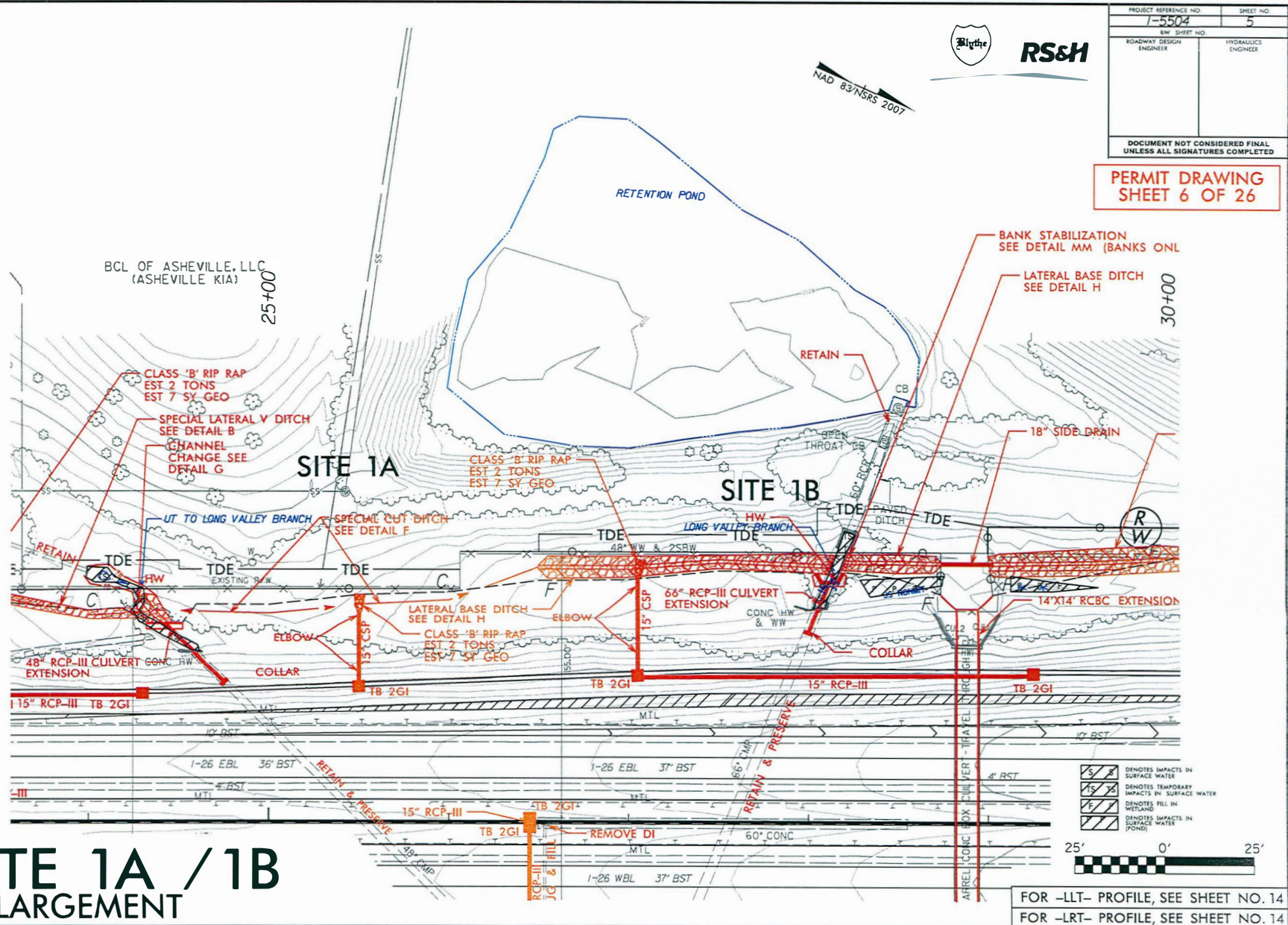




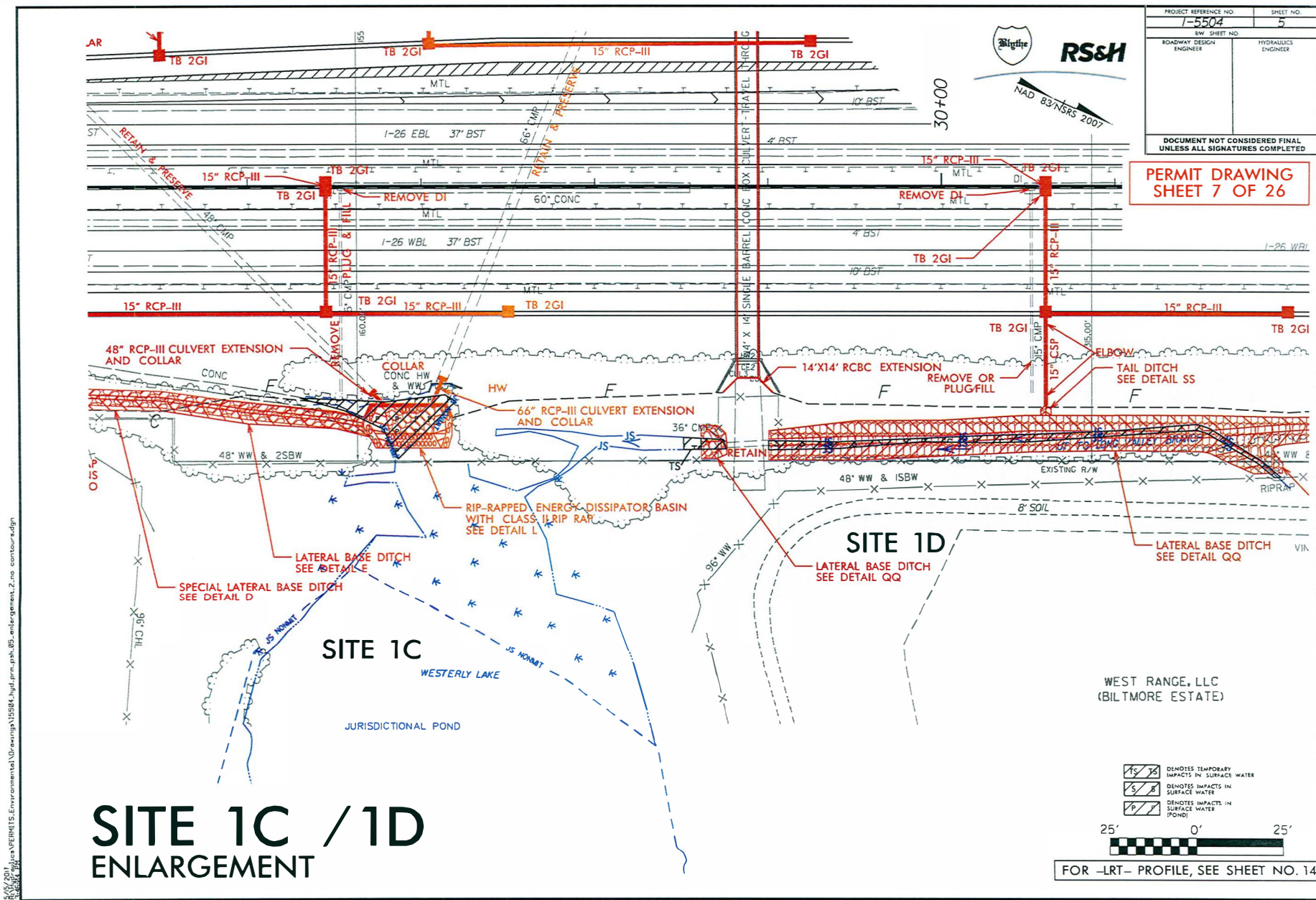


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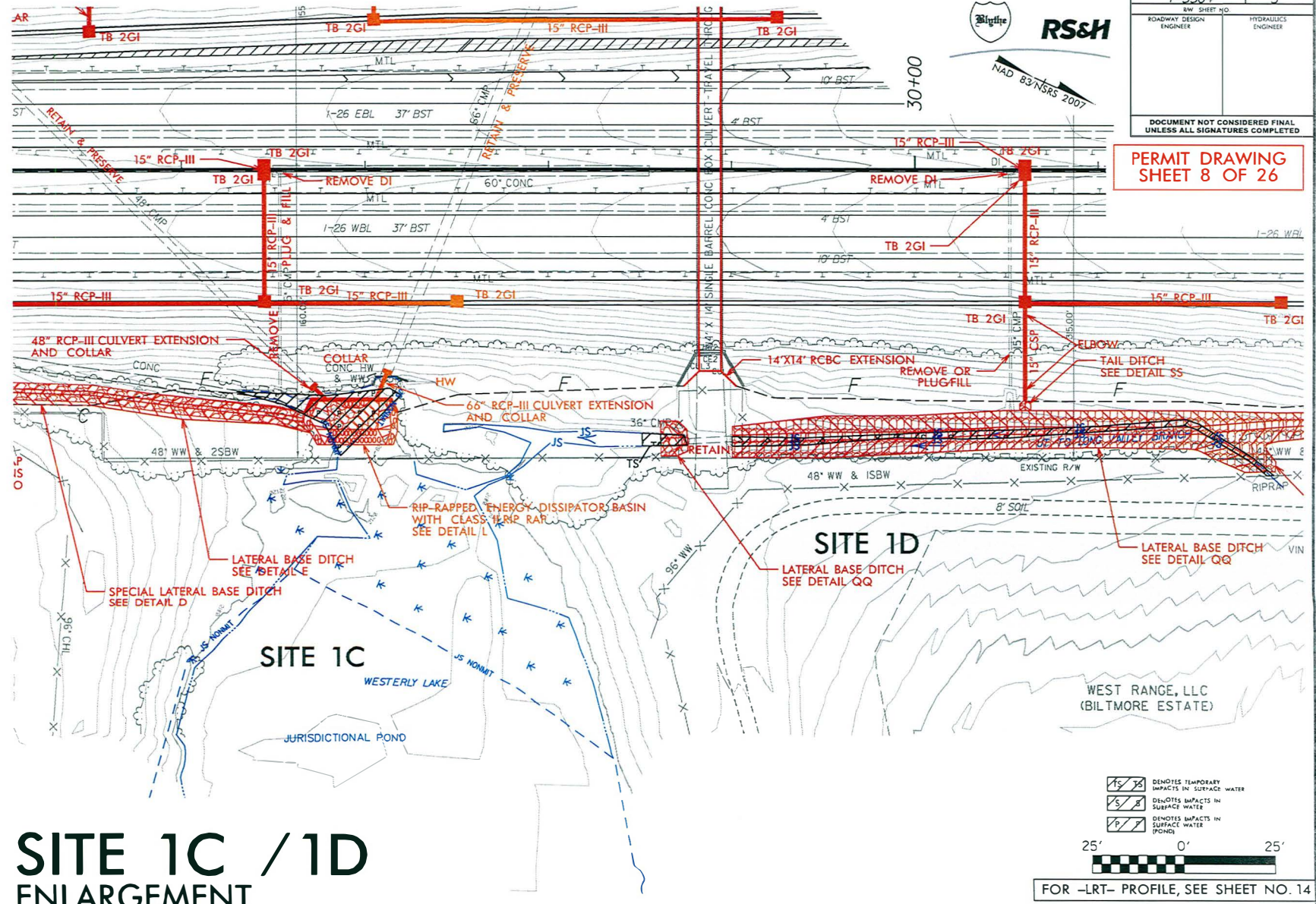
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FOR -LLT- PROFILE, SEE SHEET NO. 14
FOR -LRT- PROFILE, SEE SHEET NO. 14



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SITE 1C / 1D ENLARGEMENT

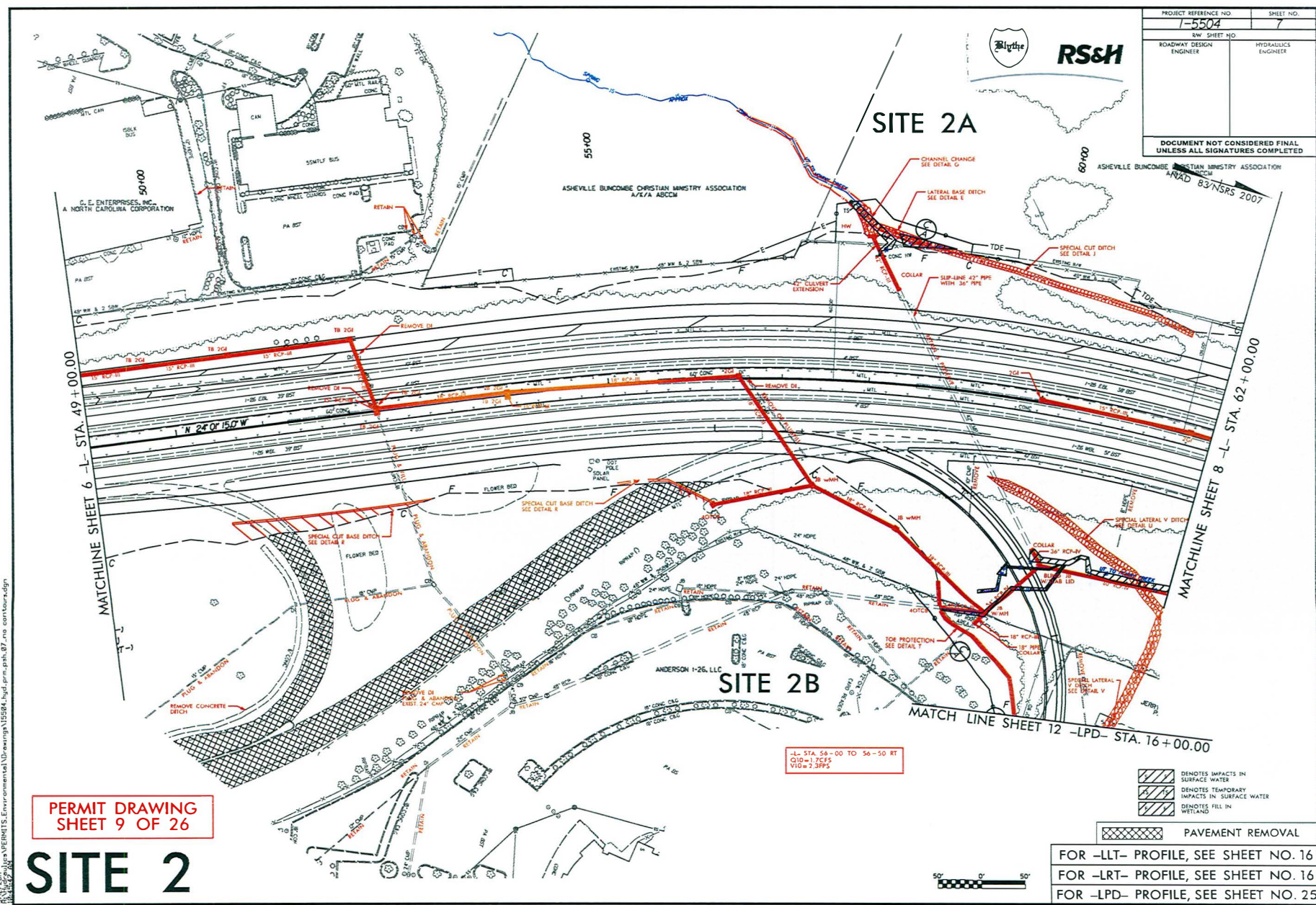
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1-5504	5
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER
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PERMIT DRAWING
SHEET 8 OF 26

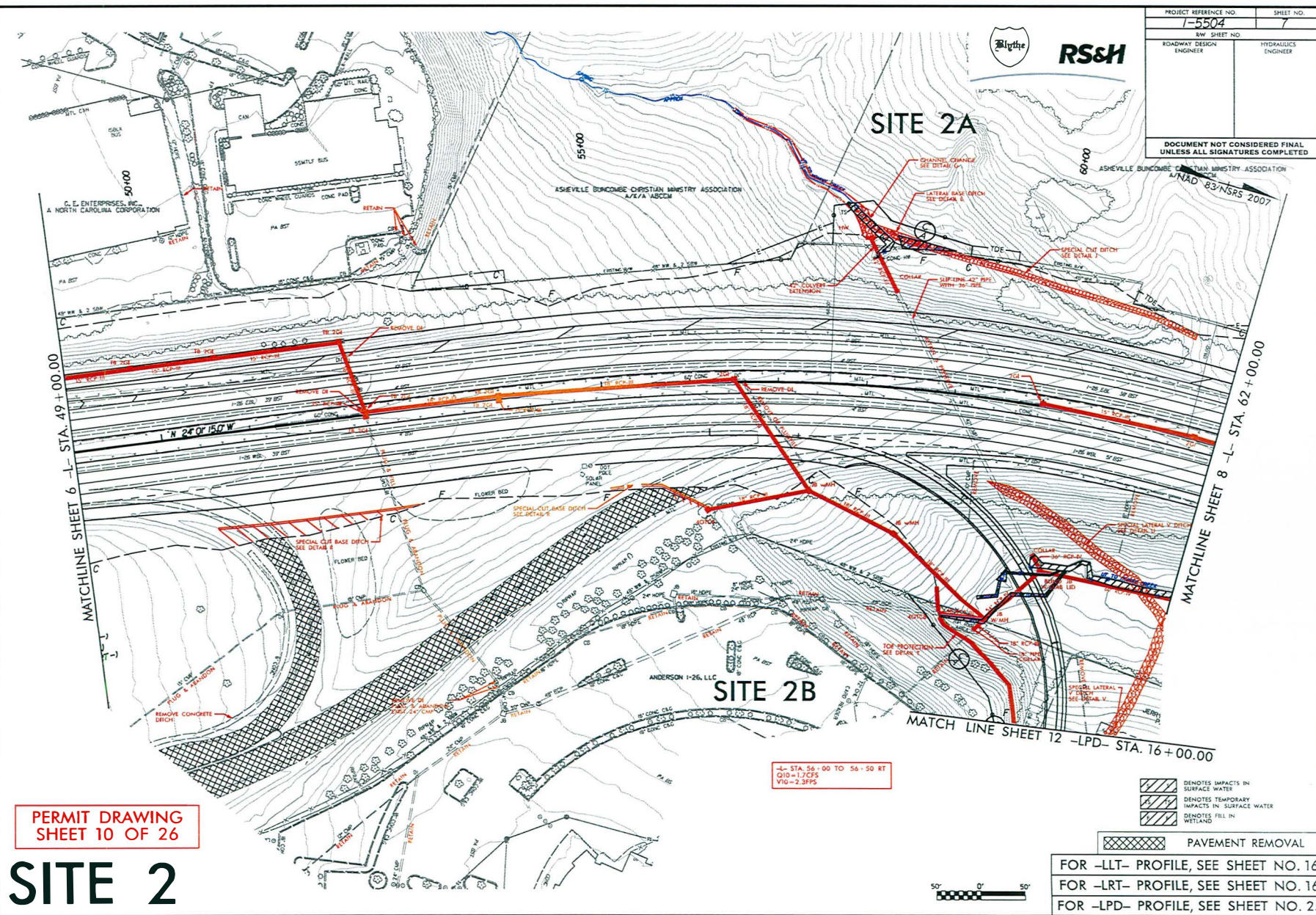
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- DENOTES IMPACTS IN SURFACE WATER
- DENOTES IMPACTS IN SURFACE WATER (POND)

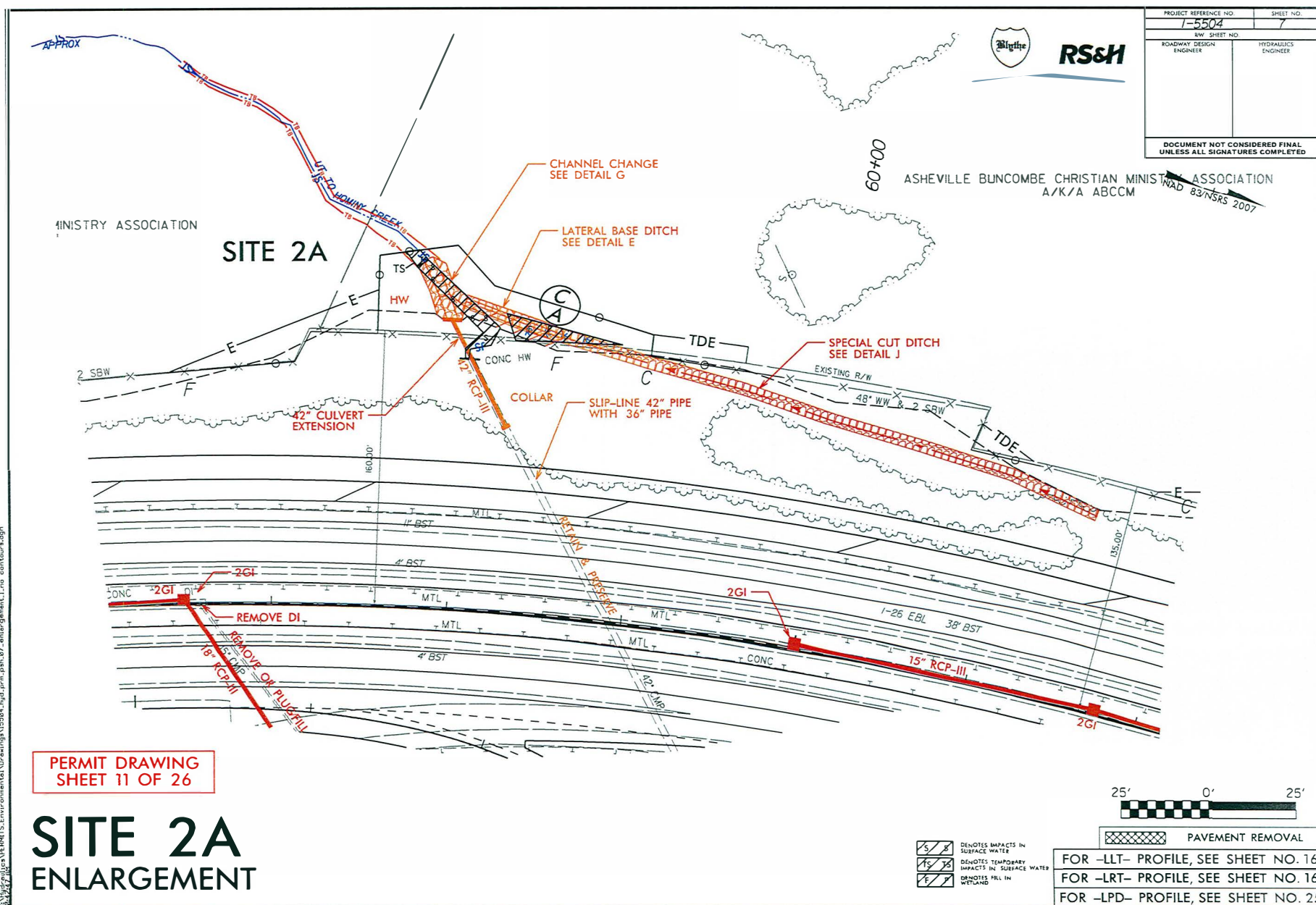


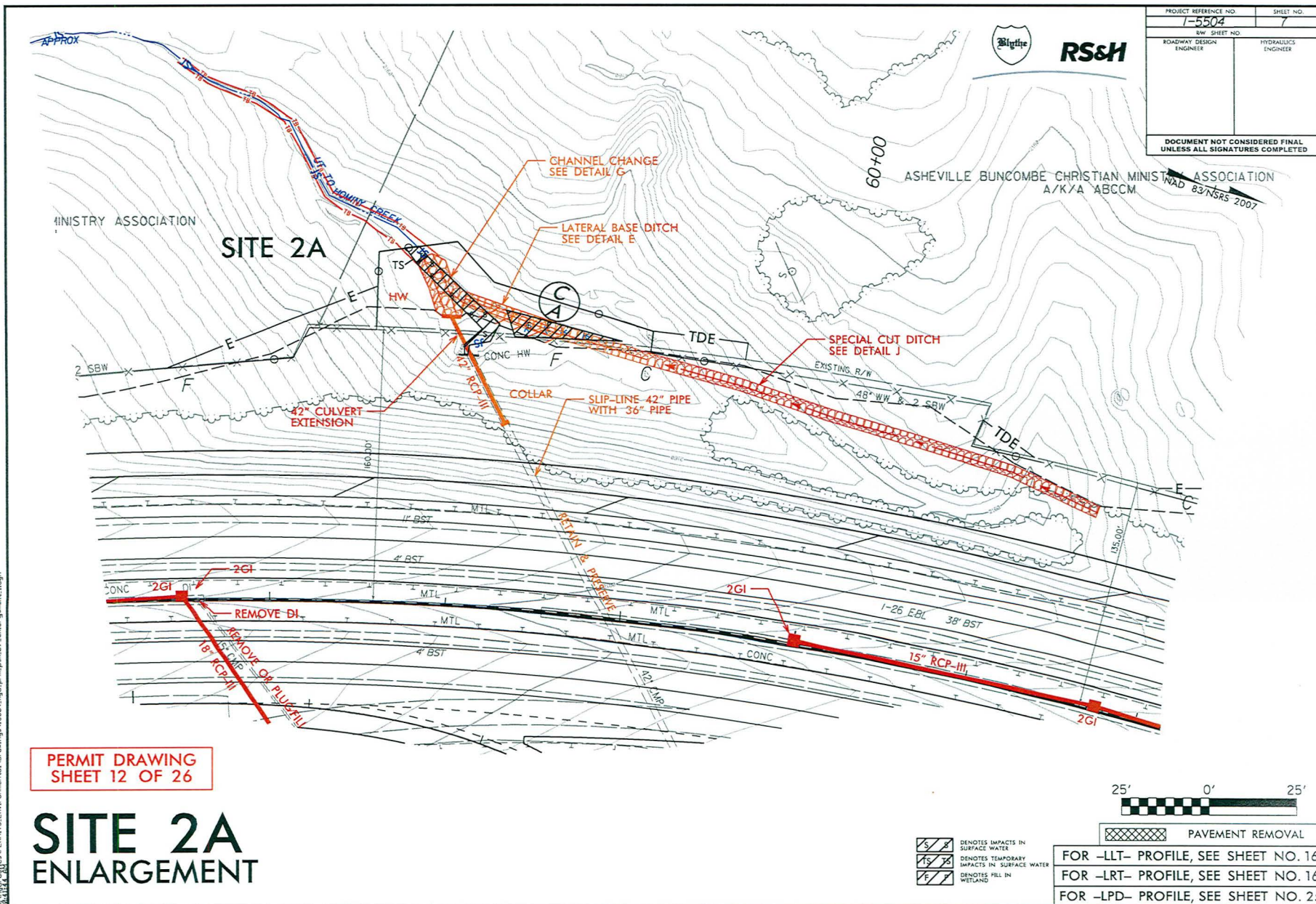
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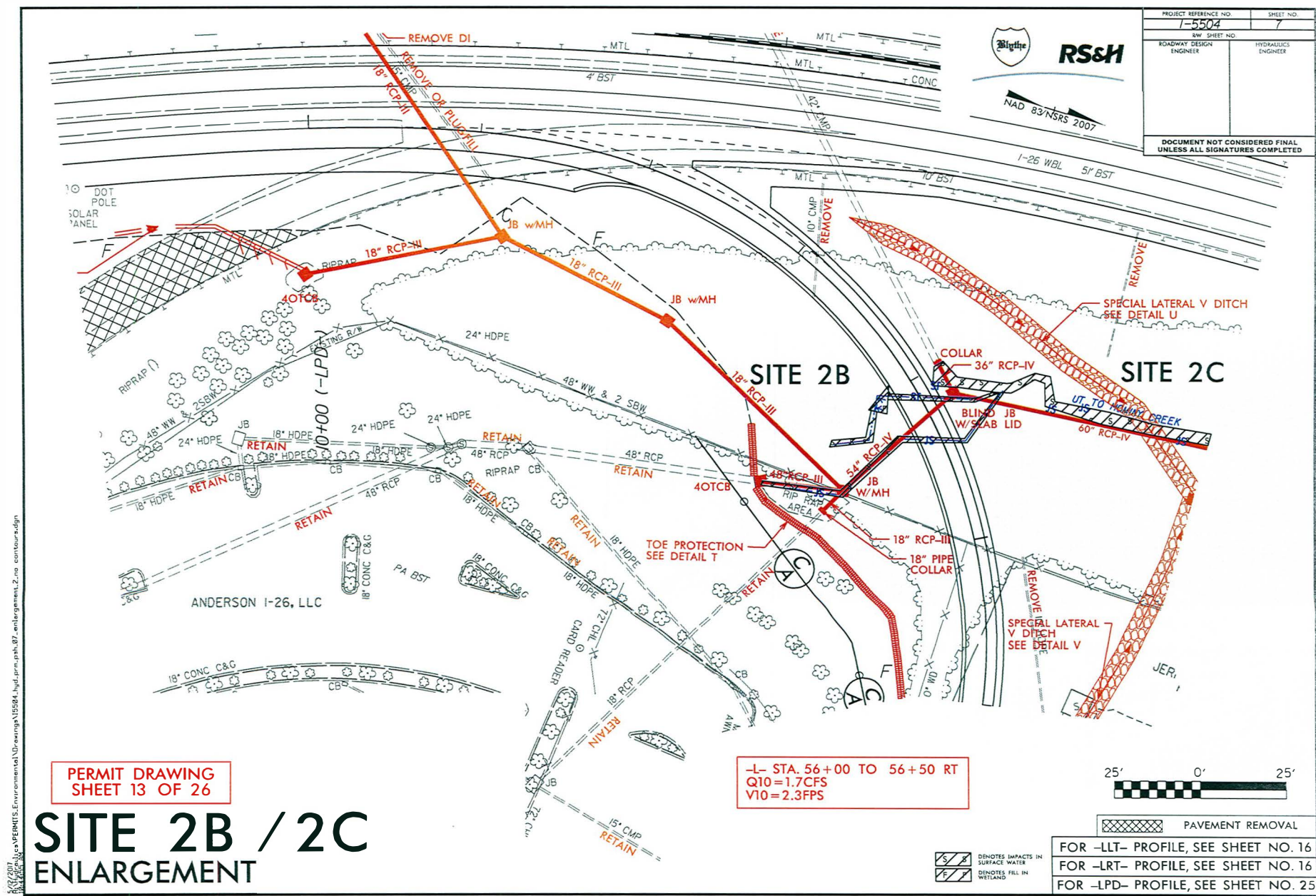


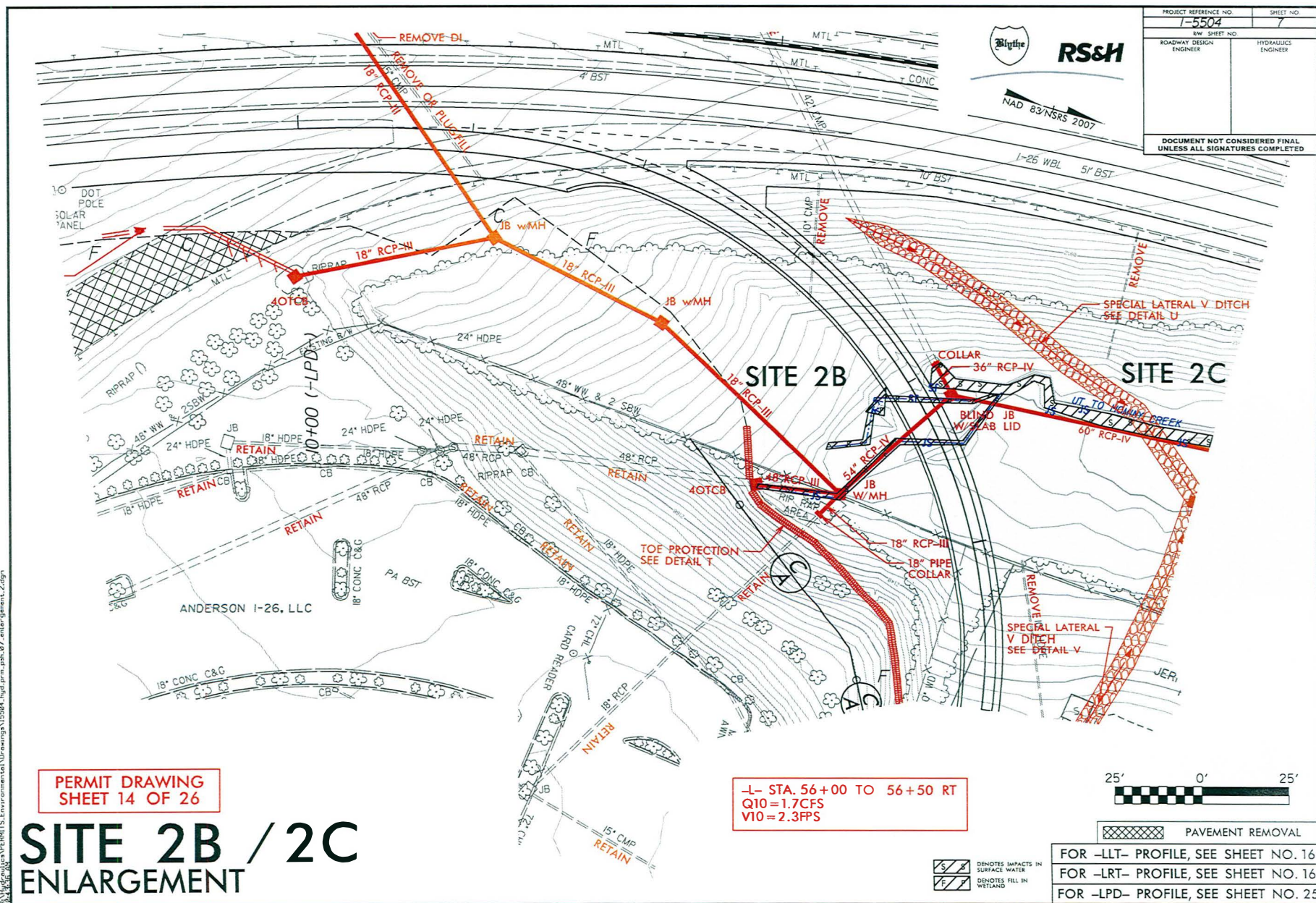
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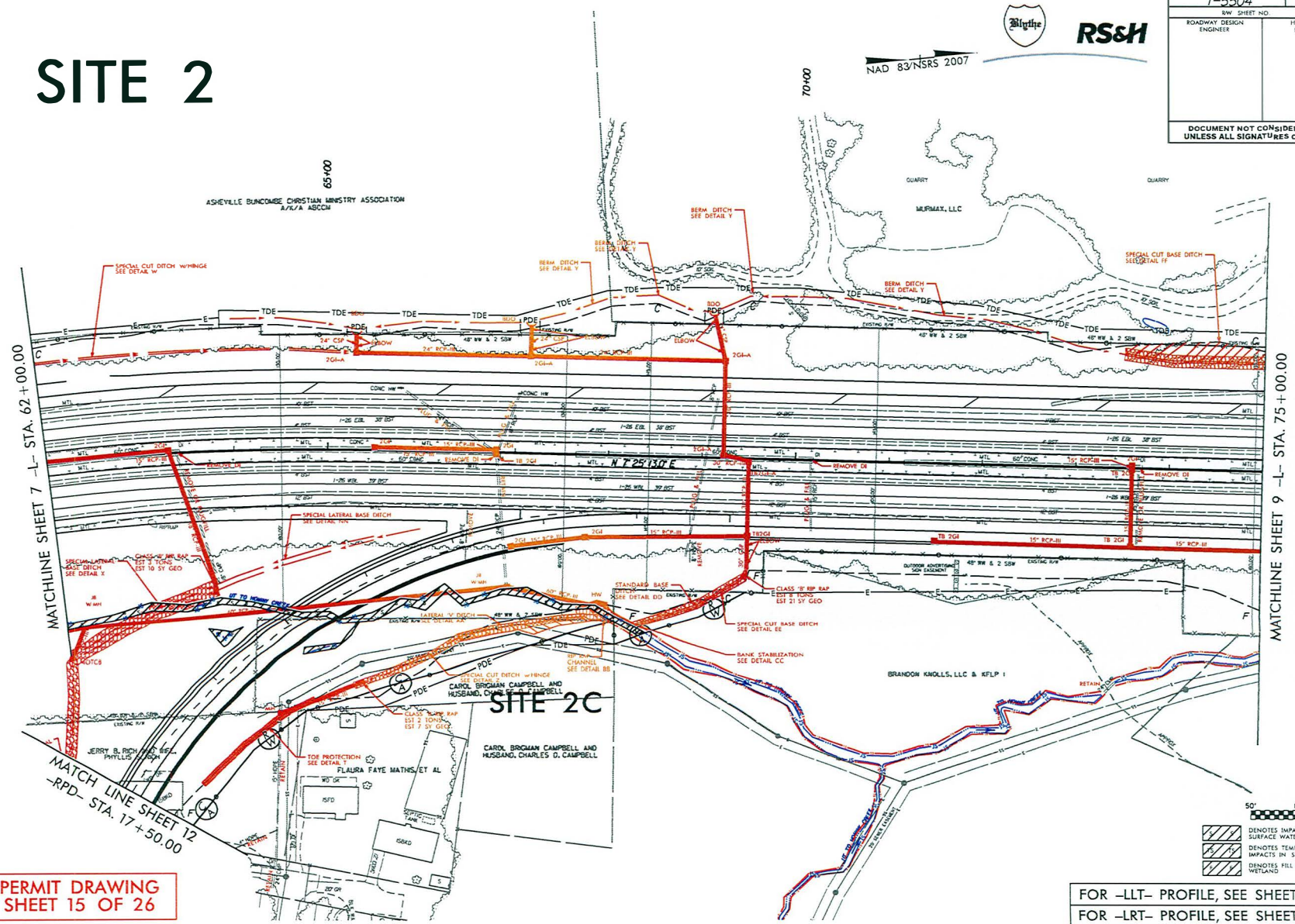
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RSH

NAD 83/NSRS 2007

PROJECT REFERENCE NO.	SHEET NO.
1-5504	B
ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER
DOCUMENT NOT CONSIDERED FINAL UNLESS ALL SIGNATURES COMPLETED	



**PERMIT DRAWING
SHEET 15 OF 26**

FOR -LLT- PROFILE, SEE SHEET NO. 17
FOR -LRT- PROFILE, SEE SHEET NO. 17
FOR -RPD- PROFILE, SEE SHEET NO. 24

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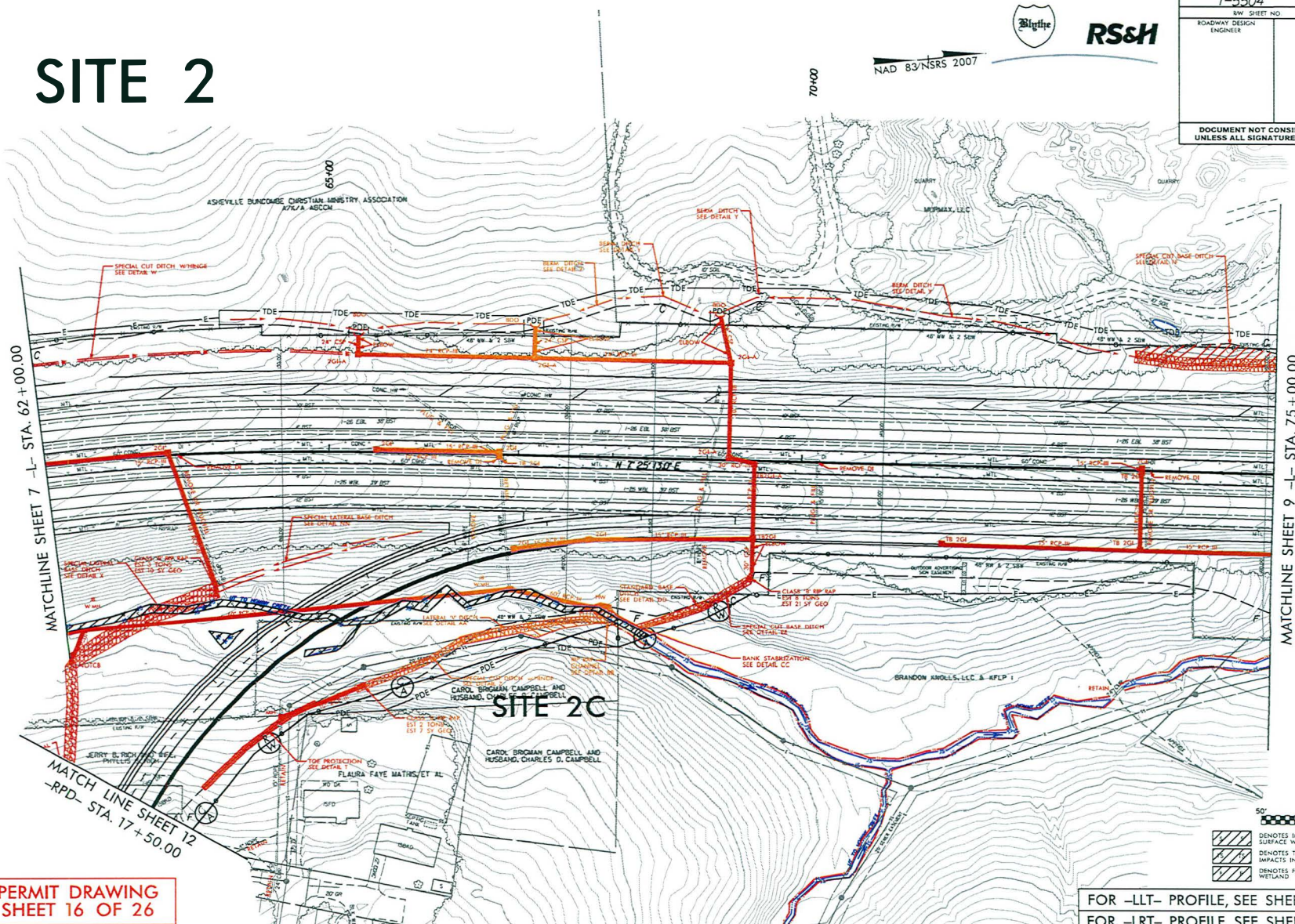
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RS&H

NAD 83/NSRS 2007

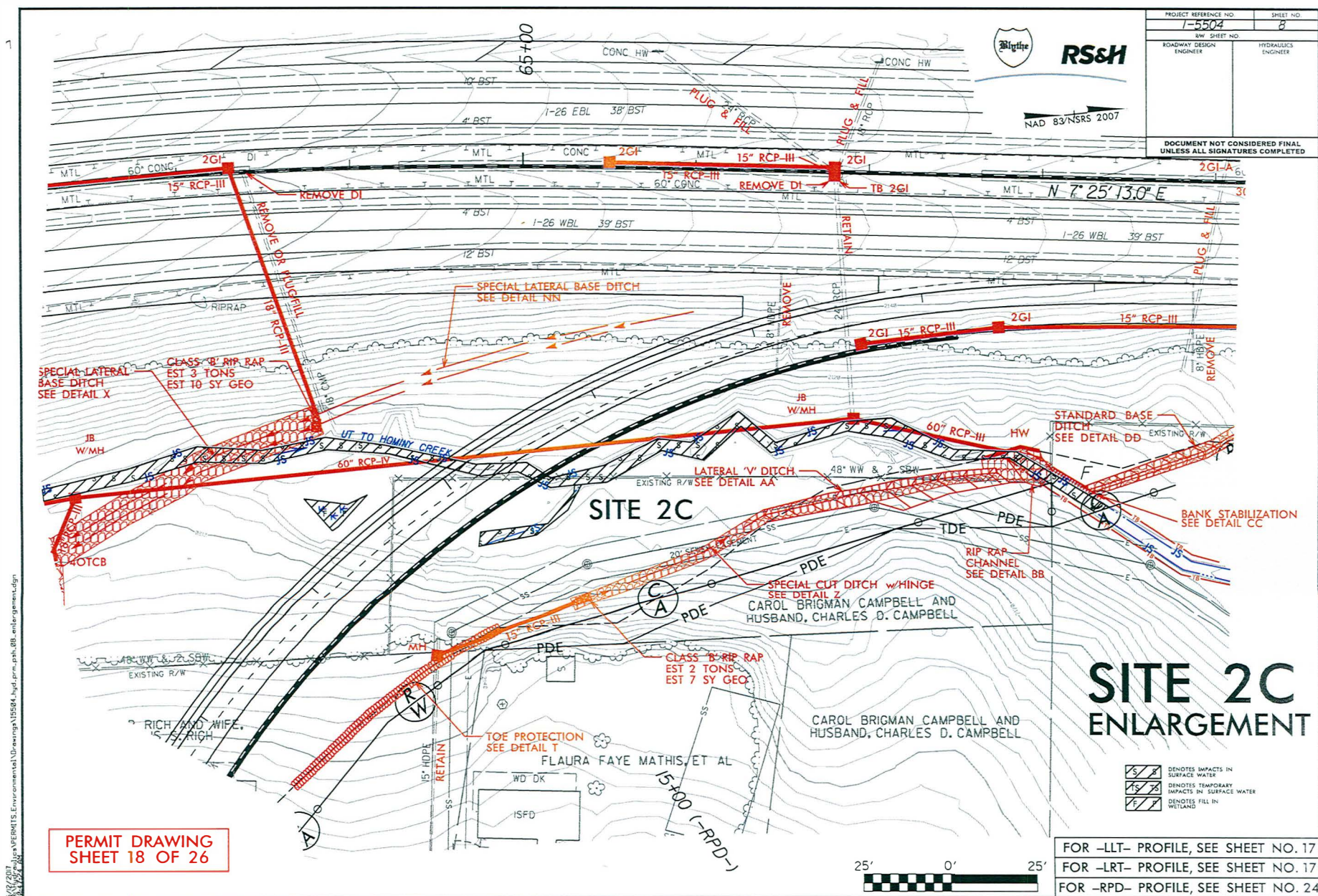
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ROADWAY DESIGN ENGINEER	HYDRAULICS ENGINEER
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PERMIT DRAWING
SHEET 16 OF 26

FOR -LLT- PROFILE, SEE SHEET NO. 17
FOR -LRT- PROFILE, SEE SHEET NO. 17
FOR -RPD- PROFILE, SEE SHEET NO. 24

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5/12/2017
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NAD 83/NSRS 2007

PERMIT DRAWING
SHEET 19 OF 26

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FOR -LLT- PROFILE, SEE SHEET NO. 18
FOR -LRT- PROFILE, SEE SHEET NO. 18

SITE 3

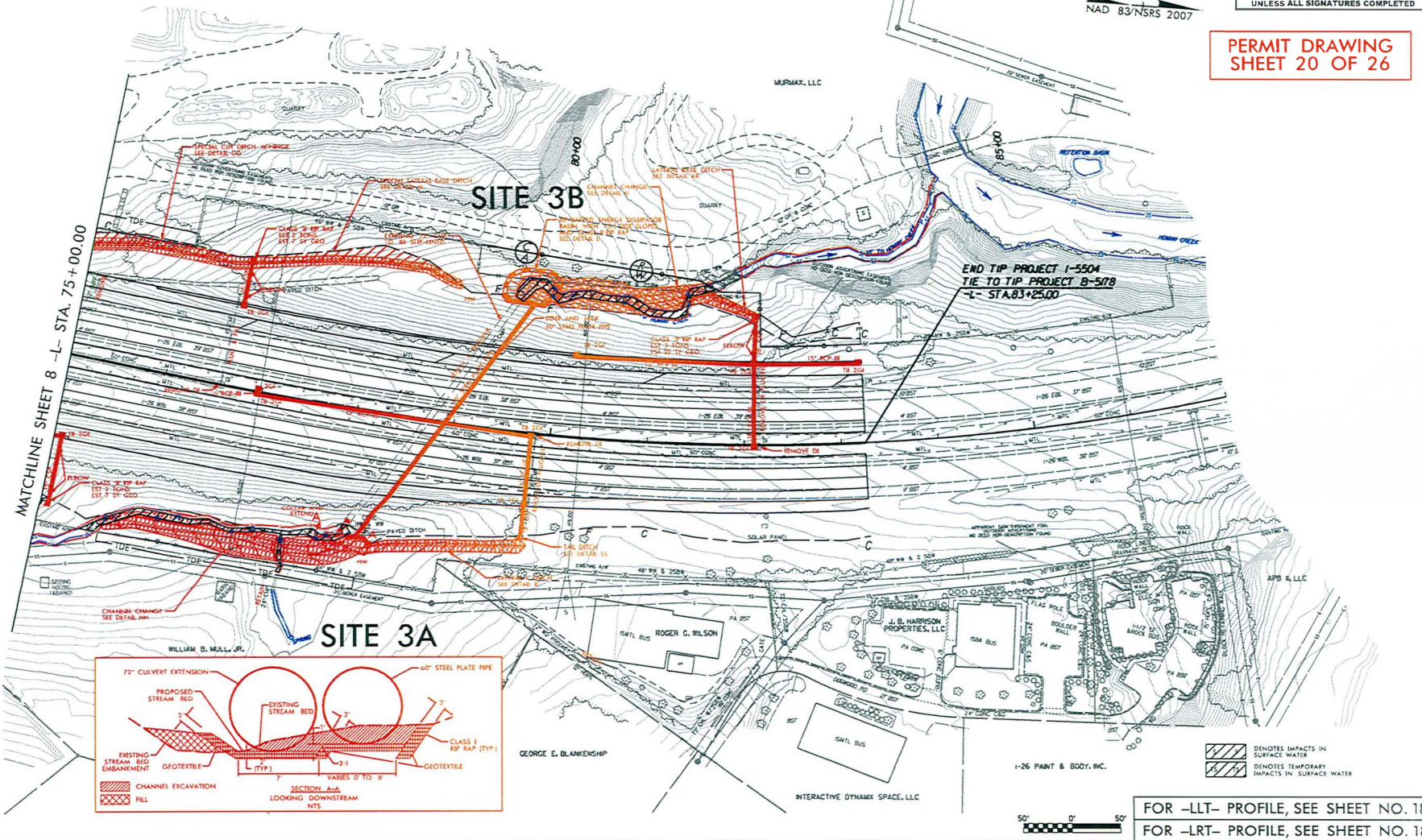


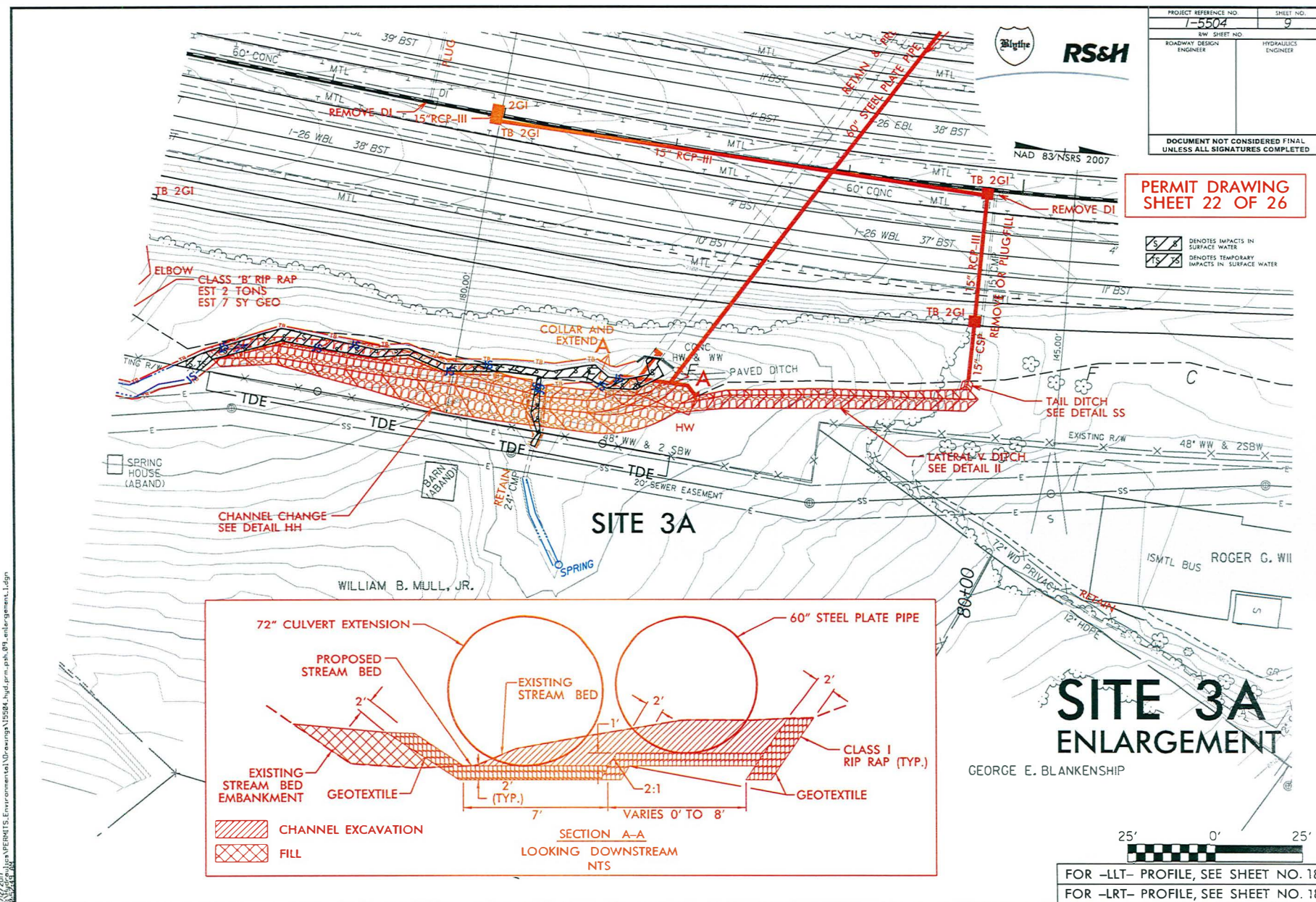
RS&H

NAD 83/NSRS 2007

PROJECT REFERENCE NO. 1-5504	SHEET NO. 9
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PERMIT DRAWING
SHEET 20 OF 26



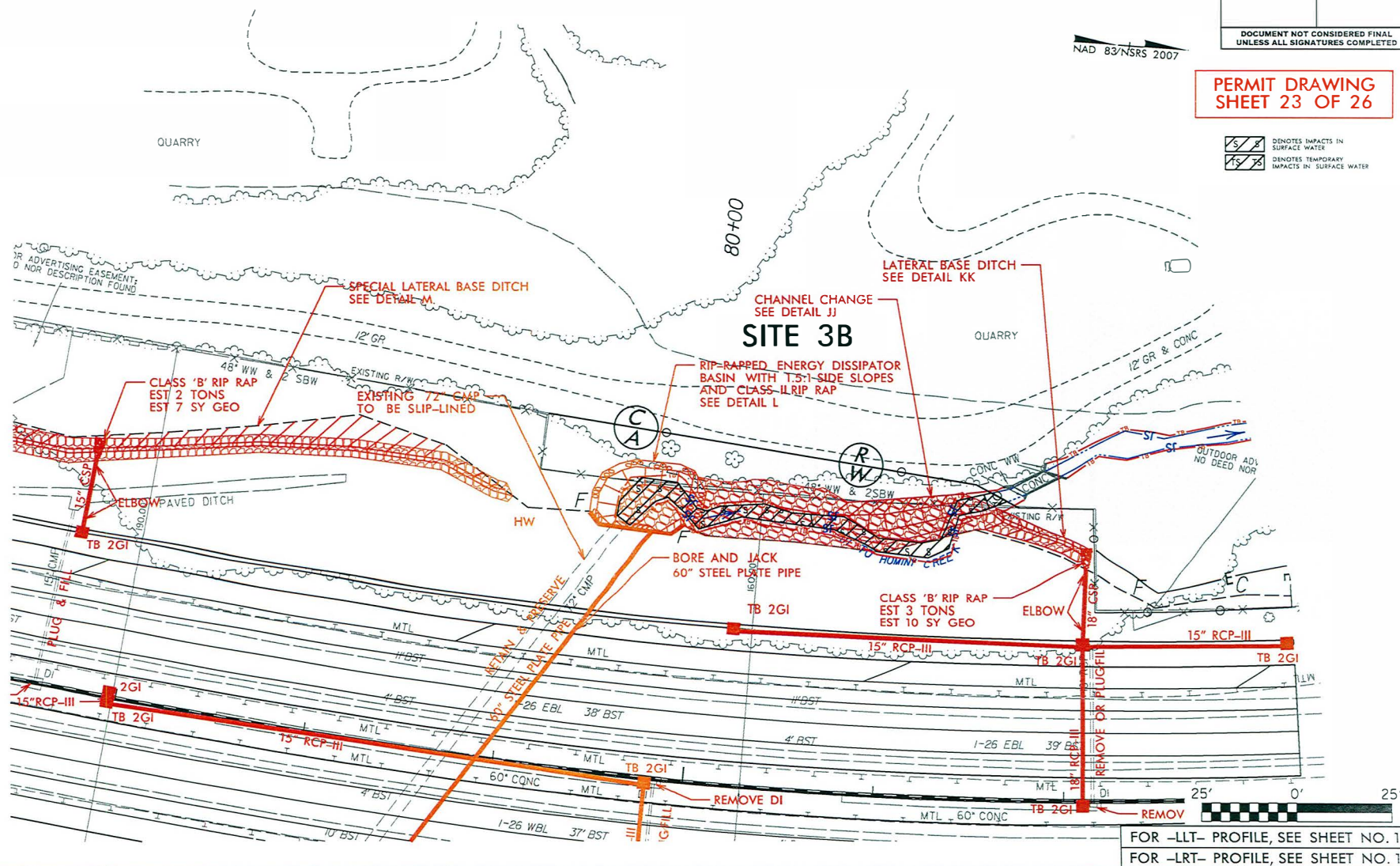


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1-5504		9	
RW SHEET NO.			
ROADWAY DESIGN ENGINEER		HYDRAULICS ENGINEER	
DOCUMENT NOT CONSIDERED FINAL UNLESS ALL SIGNATURES COMPLETED			

PERMIT DRAWING
SHEET 23 OF 26

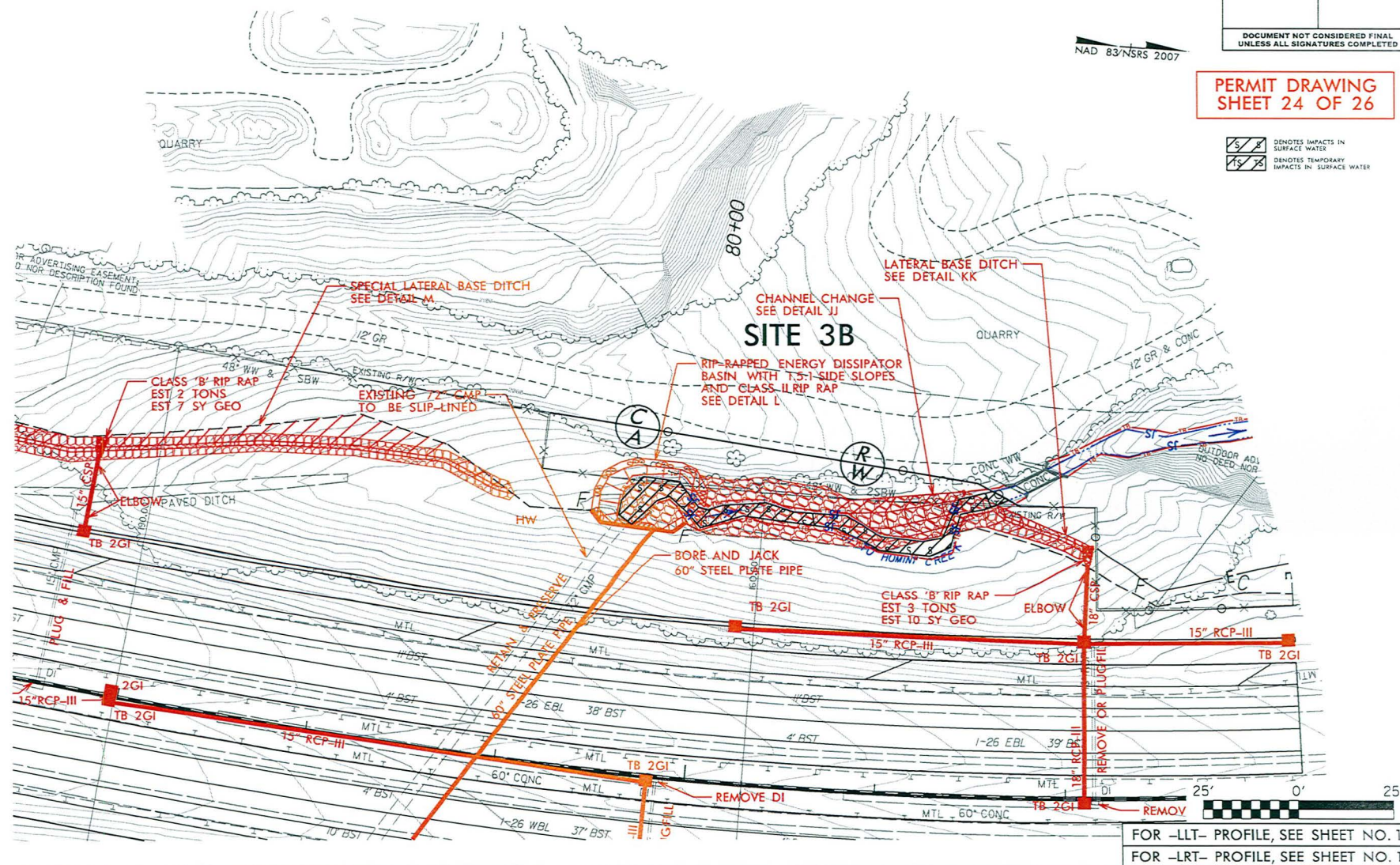


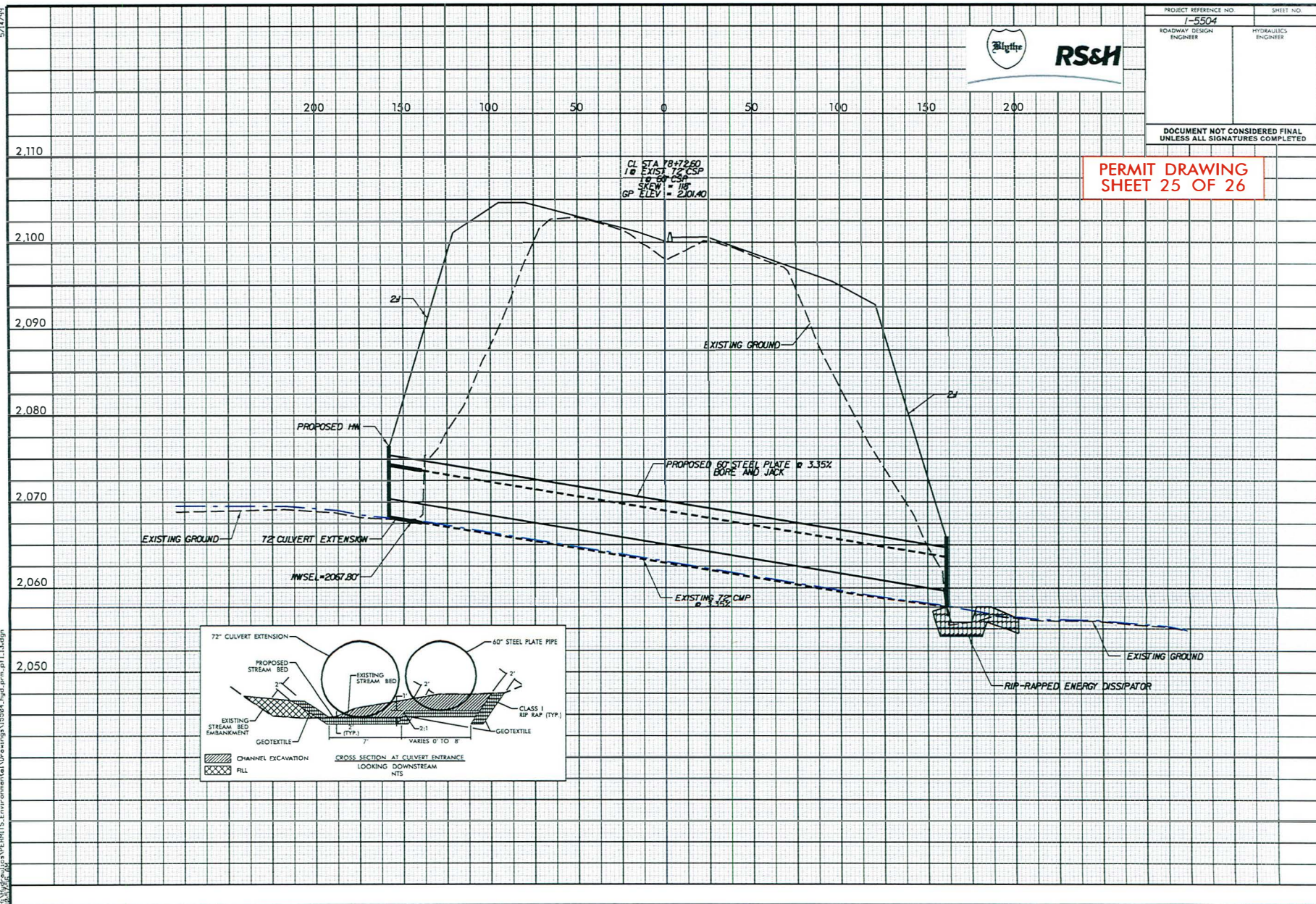
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PROJECT REFERENCE NO.		SHEET NO.	
1-5504		9	
RW SHEET NO.			
ROADWAY DESIGN ENGINEER		HYDRAULICS ENGINEER	
DOCUMENT NOT CONSIDERED FINAL UNLESS ALL SIGNATURES COMPLETED			

 DENOTES IMPACTS IN SURFACE WATER
 DENOTES TEMPORARY IMPACTS IN SURFACE WATER





WETLAND PERMIT IMPACT SUMMARY												
Site No.	Station (From/To)	Structure Size / Type	WETLAND IMPACTS					SURFACE WATER IMPACTS				
			Permanent Fill In Wetlands (ac)	Temp. Fill In Wetlands (ac)	Excavation in Wetlands (ac)	Mechanized Clearing in Wetlands (ac)	Hand Clearing in Wetlands (ac)	Permanent SW impacts (ac)	Temp. SW impacts (ac)	Existing Channel Impacts Permanent (ft)	Existing Channel Impacts Temp. (ft)	Natural Stream Design (ft)
1A	L 24+00 TO 24+30 (LT)	Stream Realignment						< 0.01	< 0.01	20	28	
1A	L 24+30 TO 24+62 (LT)	48" CMP Culvert Extension						< 0.01		38		
1B	L 28+02 TO 28+12 (LT)	66" CMP Culvert Extension						< 0.01		17		
1B	L 28+10 TO 28+20 (LT)	Bank stabilization						< 0.01	< 0.01	23	13	
1B	L 28+29 TO 29+62 (LT)	14' X 14' RCBC Extension	< 0.01					< 0.01				
1C	L 26+30 TO 27+19 (RT)	48", 66" CMP Culverts Ext.						0.03				
1D	L 28+54 TO 31+94 (RT)	Stream Realignment						0.02	< 0.01	313	10	
2A	L 57+72 TO 58+05 (LT)	Stream Realignment						< 0.01	< 0.01	48	10	
2A	L 58+05 TO 58+84 (LT)	42" CMP Culvert Extension	0.01					< 0.01		31		
2B	L 59+15 TO 60+65 (RT)	48",54",60" RCP/Fill						0.01		169		
2B	L 59+59 TO 60+59 (RT)	48",54",60" RCP/Fill	< 0.01					< 0.01		103		
2C	L 60+19 TO 68+91 (RT)	60" RCP/Fill	< 0.01					0.11		742		
2C	L 64+73 TO 65+35 (RT)	60"RCP/Fill						< 0.01		71		
2C	L 67+80 TO 68+07 (RT)	Rip Rap in Channel						< 0.01		33		
2C	L 68+07 TO 68+34 (RT)	Bank stabilization						< 0.01	< 0.01	32	5	
3A	L 75+45 TO 78+04 (RT)	Stream Realignment						0.03	< 0.01	256	13	
3A	L 78+04 TO 78+15 (RT)	72" CMP Culvert Extension						< 0.01		18		
3A	L 77+46 TO 77+48 (RT)	Rip Rap in Channel						< 0.01	< 0.01	33	10	
3B	L 79+50 TO 81+78 (LT)	Stream Realignment						0.04	< 0.01	223	8	
TOTALS*:			0.02					0.30	0.01	2170	97	

*Rounded totals are sum of actual impacts

NOTES:

NC DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS
12 May 2017
Buncombe County
I-5504
45552.3.1



ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

S. JAY ZIMMERMAN
Director

August 16, 2017
Buncombe County
NCDWR Project No. 2016-1157v.2
I26 interchange Improvements at NC191
TIP Project No. I-5504

APPROVAL of 401 WATER QUALITY CERTIFICATION with ADDITIONAL CONDITIONS

Mr. William A. Barrett
NCDOT, PDEA
1598 Mail Services Center
Raleigh, North Carolina 27699-1598

Dear Mr. Barrett:

Attached hereto is a copy of Certification No. 004080 (this is the Individual Certification No.) issued to The North Carolina Department of Transportation (NCDOT) dated August 16, 2017. This approval replaces the approval previously issued to you dated August 9, 2017.

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

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Jay Zimmerman', written over a horizontal line.

S. Jay Zimmerman, Director
Division of Water Resources

Attachments

Electronic copy only distribution:

Lori Beckwith US Army Corps of Engineers, Asheville Field Office
Roger Bryan, Division 13 Environmental Officer
Carla Dagnino, NC Department of Transportation
Dr. Cynthia Van Der Wiele, US Environmental Protection Agency
Marella Bunnick, US Fish and Wildlife Service
Marla Chambers, NC Wildlife Resources Commission
Beth Harmon, Division of Mitigation Services
Kevin Barnett, NC Division of Water Resources Asheville Regional Office
File Copy

**401 Water Quality Certification Pursuant to Section 401 of the Federal Clean Water Act with
ADDITIONAL CONDITIONS**

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Water Resources (NCDWR) Regulations in 15 NCAC 2H .0500. This certification authorizes the NCDOT to impact 0.04 acres of jurisdictional wetlands, 2,271 linear feet of jurisdictional streams in Buncombe County. The project shall be constructed

Stream Impacts in the French Broad River Basin

1A			38		38	0
1B			17		17	0
1B			23	13	40	0
1D			313	10	323	313
2A			48	10	58	0
2A			31		31	0
2B			169		169	0
2B			103		103	0
2C			742		742	742
2C			71		71	0
2C			33		33	33
2C			32	5	37	0
3A			256	13	269	256
3A			18		18	18
3A			33	10	43	0
3B			223	8	231	223
TOTAL	0	0	2170	97	2271	1585

Total Stream Impact for Project: 2271linear feet.

Wetland Impacts in the French Broad River Basin

Site	Fill (ac)	Total Wetland Impact (ac)
1B	0.01	0.01
2A	0.01	0.01
2B	0.01	0.01
2C	0.01	0.01
Total	0.04	0.04

Total Wetland Impact for Project: 0.04 acres.

The project shall be constructed in accordance with your application dated received July 5, 2017 After reviewing your application, we have decided that these impacts are covered by Water Quality Certification Number 004080. This certification corresponds to the individual permit issued by the Corps of EngineersIn addition, you should acquire any other federal, state or local permits before you proceed with your project including (but not limited to) Sediment and Erosion Control, Non-Discharge and Water Supply Watershed regulations. This approval will expire with the accompanying 404 permit.

This approval is valid solely for the purpose and design described in your application (unless modified below). Should your project change, you must notify the NCDWR and submit a new application. If the

property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If total wetland fills for this project (now or in the future) exceed one acre, or of total impacts to streams (now or in the future) exceed 150 linear feet, compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you must adhere to the conditions listed in the attached certification(s) and any additional conditions listed below.

Condition(s) of Certification:

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

This approval is only valid for the purpose and design that you submitted in your application dated received July 5, 2017. Should your project change, you are required to notify the NCDWR and submit a new application. If the property is sold, the new owner must be given a copy of this Certification and approval letter, and is thereby responsible for complying with all the conditions. If any additional wetland impacts, or stream impacts, for this project (now or in the future) exceed one acre or 150 linear feet, respectively, additional compensatory mitigation may be required as described in 15A NCAC 2H .0506 (h) (6) and (7). For this approval to remain valid, you are required to comply with all the conditions listed below. In addition, you should obtain all other federal, state or local permits before proceeding with your project including (but not limited to) Sediment and Erosion control, Coastal Stormwater, Non-discharge and Water Supply watershed regulations. This Certification shall expire on the same day as the expiration date of the corresponding Corps of Engineers Permit.

Condition(s) of Certification:

1. Compensatory mitigation for 1,585 linear feet of impact to streams is required. We understand that you have chosen to perform compensatory mitigation for impacts to streams through the North Carolina Division of Mitigation Service (DMS) (formerly NCEEP), and that the DMS has agreed to implement the mitigation for the project. The DMS has indicated in a letter dated July 3, 2017 that they will assume responsibility for satisfying the federal Clean Water Act compensatory mitigation requirements for the above-referenced project, in accordance with the DMS Mitigation Banking Instrument signed July 28, 2010.
2. Unless otherwise approved in this certification, placement of culverts and other structures in open waters and streams shall be placed below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20 percent of the culvert diameter for culverts having a diameter less than 48 inches, to allow low flow passage of water and aquatic life. Design and placement of culverts and other structures including temporary erosion control measures shall not be conducted in a manner that may result in dis-equilibrium of wetlands or streambeds or banks, adjacent to or upstream and down stream of the above structures. The applicant is required to provide evidence that the equilibrium is being maintained if requested in writing by NCDWR. If this condition is unable to be met due to bedrock or other limiting features encountered during construction, please contact NCDWR for guidance on how to proceed and to determine whether or not a permit modification will be required. [15A NCAC 02H.0506(b)(2)]
3. If concrete is used during construction, a dry work area shall be maintained to prevent direct contact between curing concrete and stream water. Water that inadvertently contacts uncured concrete shall not be discharged to surface waters due to the potential for elevated pH and possible aquatic life and fish kills. [15A NCAC 02B.0200]

4. During the construction of the project, no staging of equipment of any kind is permitted in waters of the U.S., or protected riparian buffers. [15A NCAC 02H.0506(b)(2)]
5. The dimension, pattern and profile of the stream above and below the crossing shall not be modified. Disturbed floodplains and streams shall be restored to natural geomorphic conditions. [15A NCAC 02H.0506(b)(2)]
6. The use of rip-rap above the Normal High Water Mark shall be minimized. Any rip-rap placed for stream stabilization shall be placed in stream channels in such a manner that it does not impede aquatic life passage. [15A NCAC 02H.0506(b)(2)]
7. The Permittee shall ensure that the final design drawings adhere to the permit and to the permit drawings submitted for approval. [15A NCAC 02H .0507 (c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]
8. All work in or adjacent to stream waters shall be conducted in a dry work area. Approved BMP measures from the most current version of NCDOT Construction and Maintenance Activities manual such as sandbags, rock berms, cofferdams and other diversion structures shall be used to prevent excavation in flowing water. [15A NCAC 02H.0506(b)(3) and (c)(3)]
9. Heavy equipment shall be operated from the banks rather than in the stream channel in order to minimize sedimentation and reduce the introduction of other pollutants into the stream. [15A NCAC 02H.0506(b)(3)]
10. All mechanized equipment operated near surface waters must be regularly inspected and maintained to prevent contamination of stream waters from fuels, lubricants, hydraulic fluids, or other toxic materials. [15A NCAC 02H.0506(b)(3)]
11. No rock, sand or other materials shall be dredged from the stream channel except where authorized by this certification. [15A NCAC 02H.0506(b)(3)]
12. Discharging hydroseed mixtures and washing out hydroseeders and other equipment in or adjacent to surface waters is prohibited. [15A NCAC 02H.0506(b)(3)]
13. The permittee and its authorized agents shall conduct its activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with §303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. If the NCDWR determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, the NCDWR may reevaluate and modify this certification. [15A NCAC 02B.0200]
14. All fill slopes located in jurisdictional wetlands shall be placed at slopes no flatter than 3:1, unless otherwise authorized by this certification. [15A NCAC 02H.0506(b)(2)]
15. A copy of this Water Quality Certification shall be maintained on the construction site at all times. In addition, the Water Quality Certification and all subsequent modifications, if any, shall be maintained with the Division Engineer and the on-site project manager. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]
16. The outside buffer, wetland or water boundary located within the construction corridor approved by this authorization, including all non-commercial borrow and waste sites associated with the project, shall be clearly marked by highly visible fencing prior to any land disturbing activities. Impacts to

areas within the fencing are prohibited unless otherwise authorized by this certification. [15A NCAC 02H.0501 and .0502]

17. The issuance of this certification does not exempt the Permittee from complying with any and all statutes, rules, regulations, or ordinances that may be imposed by other government agencies (i.e. local, state, and federal) having jurisdiction, including but not limited to applicable buffer rules, stormwater management rules, soil erosion and sedimentation control requirements, etc.
18. The Permittee shall report any violations of this certification to the Division of Water Resources within 24 hours of discovery. [15A NCAC 02B.0506(b)(2)]
19. Upon completion of the project (including any impacts at associated borrow or waste sites), the NCDOT Division Engineer shall complete and return the enclosed "Certification of Completion Form" to notify the NCDWR when all work included in the 401 Certification has been completed. [15A NCAC 02H.0502(f)]
20. Native riparian vegetation (**ex. list herbaceous, trees, and shrubs native to your geographic region**) must be reestablished in the riparian areas within the construction limits of the project by the end of the growing season following completion of construction. [15A NCAC 02B.0506(b)(2)]
21. There shall be no excavation from, or waste disposal into, jurisdictional wetlands or waters associated with this permit without appropriate modification. Should waste or borrow sites, or access roads to waste or borrow sites, be located in wetlands or streams, compensatory mitigation will be required since that is a direct impact from road construction activities. [15A NCAC 02H.0506(b)(3) and (c)(3)]
22. Erosion and sediment control practices must be in full compliance with all specifications governing the proper design, installation and operation and maintenance of such Best Management Practices in order to protect surface waters standards [15A NCAC 02H.0506(b)(3) and (c)(3):
23. The erosion and sediment control measures for the project must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Sediment and Erosion Control Planning and Design Manual*.
24. The design, installation, operation, and maintenance of the sediment and erosion control measures must be such that they equal, or exceed, the requirements specified in the most recent version of the *North Carolina Sediment and Erosion Control Manual*. The devices shall be maintained on all construction sites, borrow sites, and waste pile (spoil) projects, including contractor-owned or leased borrow pits associated with the project.
25. For borrow pit sites, the erosion and sediment control measures must be designed, installed, operated, and maintained in accordance with the most recent version of the *North Carolina Surface Mining Manual*.
26. The reclamation measures and implementation must comply with the reclamation in accordance with the requirements of the Sedimentation Pollution Control Act.
27. Sediment and erosion control measures shall not be placed in wetlands or waters unless otherwise approved by this Certification. [15A NCAC 02H.0506(b)(3) and (c)(3)]

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

If you wish to contest any statement in the attached Certification you must file a petition for an administrative hearing. You may obtain the petition form from the office of Administrative hearings. You must file the petition with the office of Administrative Hearings within sixty (60) days of receipt of

this notice. A petition is considered filed when it is received in the office of Administrative Hearings during normal office hours. The Office of Administrative Hearings accepts filings Monday through Friday between the hours of 8:00am and 5:00pm, except for official state holidays. The original and one (1) copy of the petition must be filed with the Office of Administrative Hearings.

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

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

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

Mr. Bill F. Lane, General Counsel
Department of Environmental Quality
1601 Mail Service Center

This the 16th day of August, 2017

DIVISION OF WATER RESOURCES

A handwritten signature in blue ink, appearing to read "S. Jay Zimmerman".

S. Jay Zimmerman, Director

WQC No. 004080