



**US Army Corps
of Engineers** ®
Fort Worth District

Public Notice

Applicant: City of Tyler

Project No.: SWF-2013-00247

Date: July 24, 2013

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Mr. Frederick Land

Phone Number: 817-886-1729

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the Cumberland Road Extension located in the City of Tyler, Smith County, Texas.

APPLICANT: Mr. Carter Delleney
City of Tyler
423 West Ferguson
Tyler, Texas 75702

APPLICATION NUMBER: SWF-2013-00247

DATE ISSUED: July 24, 2013

LOCATION: The proposed Cumberland Road Extension would cross the West Mud Creek floodplain between Old Jacksonville Highway and South Broadway Avenue (US 69), located in the City of Tyler, Smith County Texas (Sheet 1 of 5). The proposed project would be located approximately at North Latitude 32.25724 and West Longitude -95.32302 on the South Tyler and Bullard 7.5-minute USGS quadrangle maps (Sheet 2 of 5) in the USGS Hydrologic Unit 12020004.

OTHER AGENCY AUTHORIZATIONS: State Water Quality Certification

PROJECT DESCRIPTION: The applicant proposed to discharge approximately 70,000 cubic yards of dredged and fill material into 4.03 acres of waters of the United States, including 125 linear feet of perennial stream impacts, in conjunction with the construction of the Cumberland Road Extension.

INTRODUCTION: The purpose of the project is to provide an east-west transportation connection in southwest Tyler. Cumberland Road is an existing road which extends westward from South Broadway Avenue and eastward from Old Jacksonville Highway. Both sections currently dead end on each side of the West Mud Creek bottomlands and the intention of the current project is to connect the existing roadways to improve transportation. The project would include a divided road with landscaped raised medians and a bridge over West Mud Creek. The project would provide better access in the area, ease traffic congestion, and provide for better emergency response times. Water lines and sanitary sewer would also be installed alongside the new road.

EXISTING CONDITIONS: The majority of the street route is characterized as uplands but the central area has two perennial stream crossings with associated forested wetlands. West Mud Creek and its tributary eventually drain to the Angelina and Neches rivers, Clean Water Act, Section 10 Navigable Waters. Both streams are perennial, exhibiting flow during drought conditions. The smaller unnamed tributary may have been intermittent prior to the backing up of water from a beaver dam located immediately downstream. Sharp changes in topography were observed at the wetland boundary. The wetlands are riverine wetlands with overbank flooding being a primary source of hydrology with a seasonally high water table.

The wetlands at both stream crossings are characterized as forested, riverine wetlands. The wetlands are located in the nearly level soils of the floodplains and exhibit a dominance of hydrophytic vegetation. Vegetation within the wetlands was dominated by hydrophytes including: water oak (*Quercus nigra*), ironwood (*Carpinus caroliniana*), river birch (*Betula nigra*), elms (*Ulmus spp.*), box elder (*Acer negundo*), sweetgum (*Liquidambar styraciflua*), red maple (*Acer rubrum*), persimmon (*Diospyros virginiana*), black gum (*Nyssa sylvatica*), hackberry (*Celtis laevigata*), Chinese privet (*Ligustrum sinense*), greenbrier (*Smilax spp.*), grapevine (*Vitis spp.*), and Alabama supplejack (*Berchemia scandens*).

The floodplain along the two stream crossings is mapped in the Mantachie loam, frequently flooded soil series. Mantachie soils are located on nearly level floodplains along the meander of streams. This soil is somewhat poorly drained and the seasonal high water table is at a depth of 12 to 18 inches during the winter. The Mantachie soil series is listed on the National Hydric Soil list. The soils observed in test pits throughout the wetland were generally representative of the Mantachie series. A relatively drastic change in soil characteristics occurs across the wetland boundary. This change coincides with an easily observable change in surface topography as the nearly level floodplain transitions to moderately sloping upland hill slopes. Soil conditions throughout the wetlands appeared to be relatively undisturbed. Evidence of sedimentation was observed throughout the eastern side of the creek bottom.

The wetlands are characterized as a riverine wetlands and overbank flooding is a primary source of hydrology. This type of system exhibits observable primary hydrologic indicators during droughts. Water marks on trees, sediment deposits, and drift deposits characterized wetland hydrology throughout the floodplain.

ADVERSE IMPACTS: The proposed roadway would cross two perennial streams and their associated forested wetlands, West Mud Creek and a tributary to West Mud Creek. The crossing at West Mud Creek would permanently fill 2.6 acres of forested wetland for bridge approaches. The bridge construction would utilize piers at 100 foot intervals to support the bridge and minimize adverse impacts to West Mud Creek; however, the permanent conversion of 1.6 acres of forested wetlands to emergent wetlands would occur due to temporary clearing and bridge shading. The crossing at an unnamed tributary to West Mud Creek would utilize an arch structure. Approach fills on each side of the arch would permanently fill 0.8 acre of forested wetlands and a bend in the tributary would be straightened to flow through the arch, resulting in the impacts to 125 linear feet (0.03 acre) of the tributary (Sheet 5a of 5d). Adverse impacts to waters of the U.S. would total

approximately 4.03 acres of waters of the United States, including 125 linear feet of perennial stream impacts, in conjunction with the construction of the Cumberland Road Extension.

ALTERNATIVES: The applicant has taken practical steps to avoid and minimize adverse impacts to the environment that may result from the construction of the proposed roadway. The applicant evaluated the possibility of completely avoiding impacts to the jurisdictional waters by constructing longer bridges; however, this alternative would be cost prohibitive. In addition, trees and vegetation below the bridges would still require removal. The applicant states that the location of the project is geographically fixed at both ends by preexisting infrastructure. Northward and southward routes were considered, but wetlands extend in both directions, upstream and downstream, and impacts would be similar or greater than the applicants preferred route. The applicant also contemplated crossing the low areas using culverts. The installation of culverts would have resulted in a greater loss of forested wetlands. The culverts would have also affected floodplain elevations and caused stormwater flows to discharge at erosive and destructive velocities. The applicant chose a bridge design that minimizes impacts to the aquatic system and allows the natural passage of floodwaters. The installation of the bridge would completely avoid impacts to the West Mud Creek channel. The western crossing could still be accomplished using culverts; however, the applicant has chosen to install a bottomless arch structure that would allow the stream to flow with a natural bottom. This design would minimize adverse impacts to stream functions.

Further minimization of impacts to aquatic resources would be achieved by the implementation of a storm water pollution prevention plan (SW3P). A major goal of the SW3P is to prescribe pollution prevention guidelines for project construction that should help to control soil and pollutants that originate on the site and to prevent them from being washed into surface waters by storm water runoff. There are many components of the SW3P that would result in the minimization of impacts to downstream aquatic resources. One of these components is the implementation of Best Management Practices (BMPs), which includes the installation of silt fence and other control devices and structures as well as other scheduling and management activities that would minimize adverse impacts to downstream aquatic areas. The SW3P would be implemented in accordance with the requirements of the Texas Pollutant Discharge Elimination System (TPDES) permit requirements.

COMPENSATORY MITIGATION: As described in the alternatives section above, the applicant believes they have avoided and minimized impacts to waters of the U.S. to the maximum extent practicable. The applicant plans to provide compensatory mitigation for unavoidable impacts to waters of the U.S. by the acquisition of in-kind credits from a mitigation bank with a service area that includes the project. Credits would be purchased in accordance with the mitigation bank's Mitigation Banking Instrument (MBI). At the time of submittal, there are several banks with credits available. Prior to the issuance of the permit, the applicant would evaluate the availability and cost of credits at mitigation banks and secure the required amount of credit.

SHEETS

1. Vicinity Map
2. USGS Topographic Map
3. Waters of the U.S.
4. FEMA Floodplain Map
5. Engineering Drawings
 - a. Unnamed Tributary to West Mud Creek Crossing, Plan and Profile (STA 63+50 to 69+00)
 - b. West Mud Creek Crossing, Plan and Profile (STA 82+00 to 87+00)
 - c. West Mud Creek Crossing, Plan and Profile (STA 87+00 to 92+00)
 - d. Bridge Detail and Cross Section A-A

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The USACE is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE in determining whether to issue, issue with modifications, or conditions, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

STATE WATER QUALITY CERTIFICATION: This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with USACE processing of this Department of the Army application, the TCEQ is reviewing this application under Section 401 of the Clean Water Act, and Title 30, Texas Administrative Code

Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the USACE and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. **Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087.** The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin Office. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requestor, or of persons represented by the requestor; and a brief description of how the application, if granted, would adversely affect such interest.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's latest published version of threatened and endangered species to determine if any such species may occur in the project area. The proposed project would be located in Smith County where no federally listed Threatened or Endangered Species are expected to occur. Our initial review indicates that the proposed work would have no effect on federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES: The proposed right-of-way for the Cumberland Road Extension has been surveyed for the presence of cultural resources. The survey recorded a single historic site, 41SM451. This historic home was built in 1950 and is associated with a second, smaller, residential structure and a barn. While the complex is not eligible for the National Register of Historic Places, the right-of-way has been altered to avoid the buildings. The State Historic Preservation Officer concurred with the survey conclusions and avoidance plan in a letter dated February 8, 2012.

FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

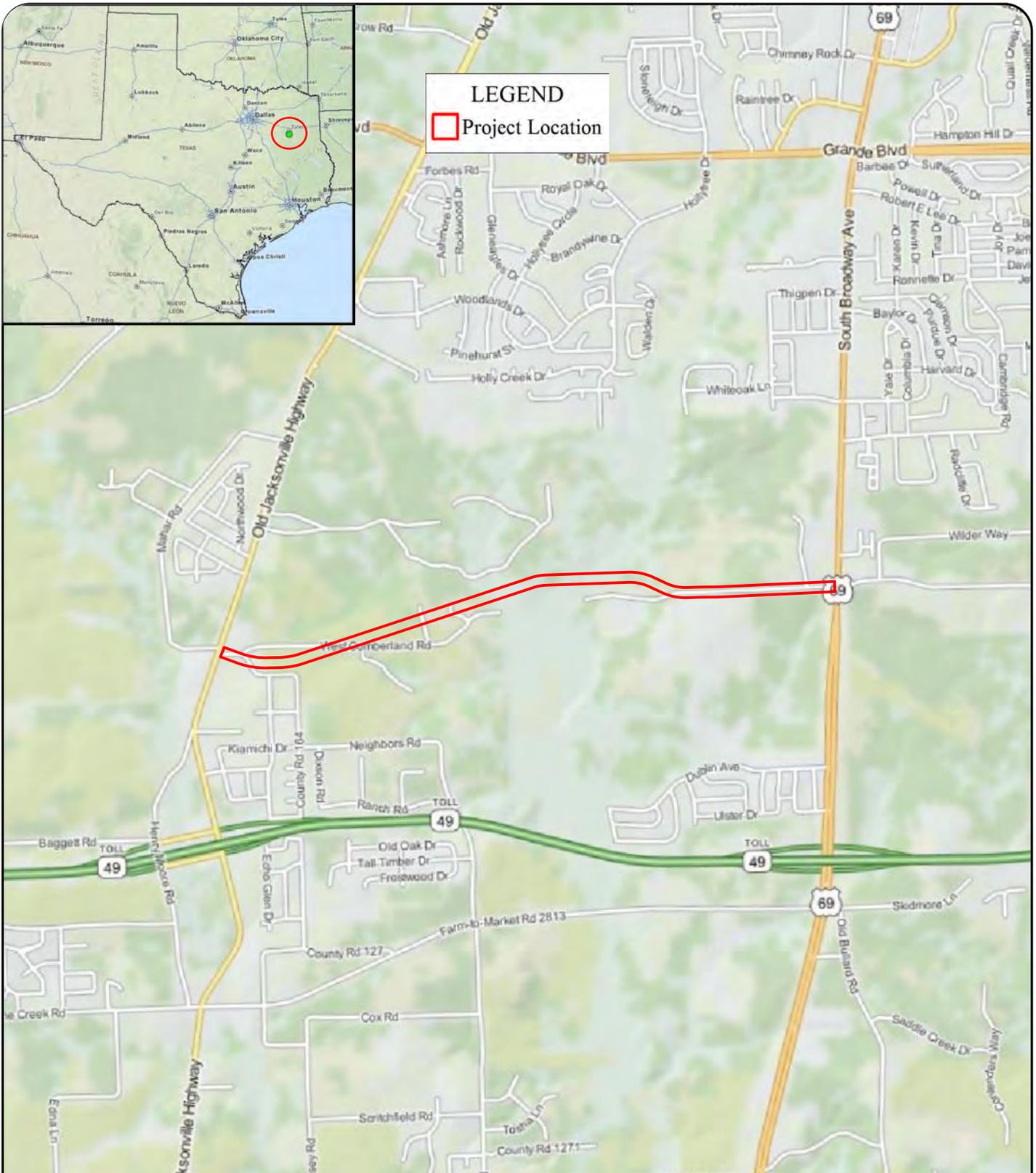
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit

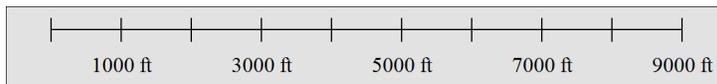
decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before August 26, 2013, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to ; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at 819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

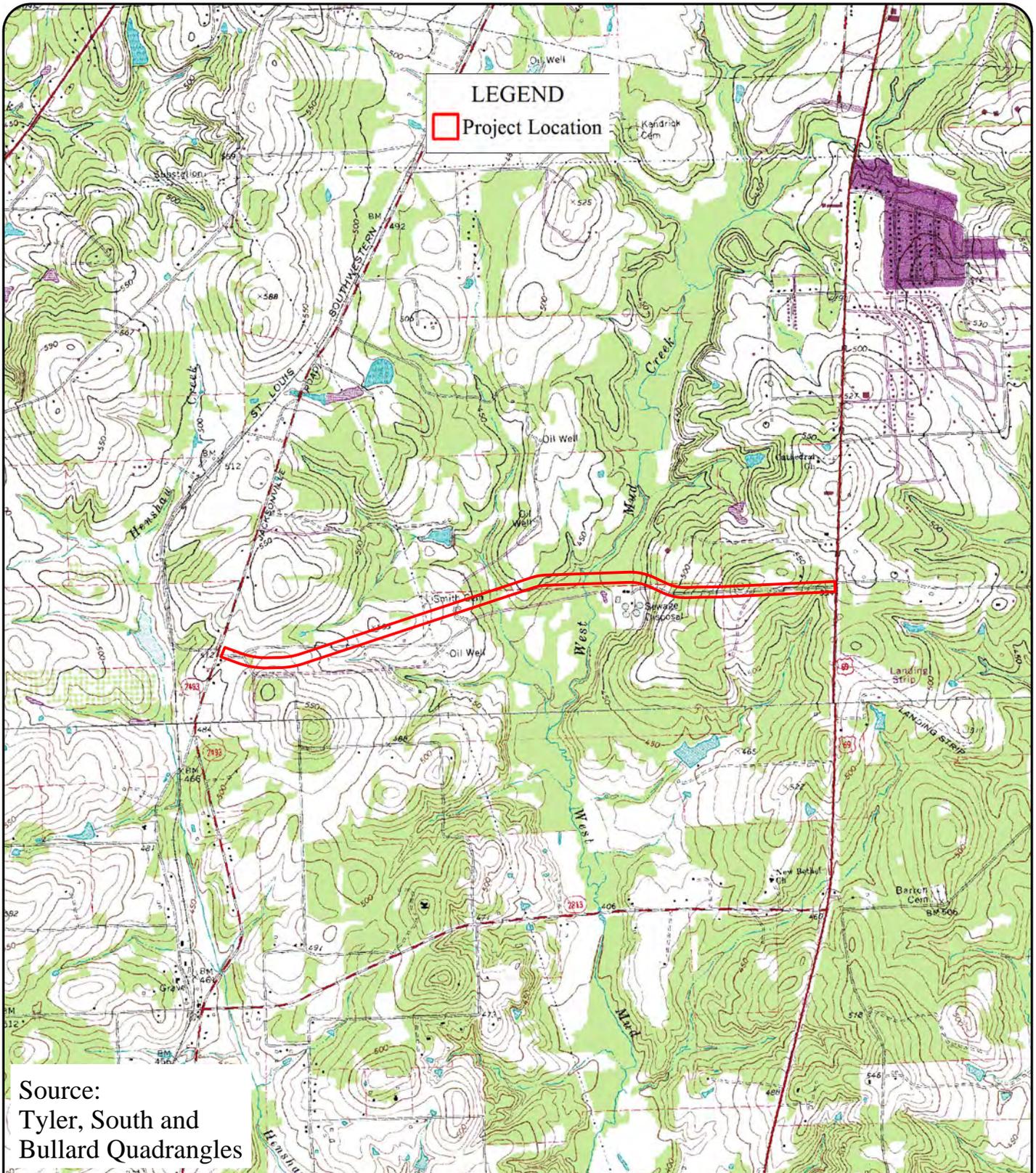
DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



Sheet 1 of 5 - Vicinity Map
 SWF-2013-00247 - Cumberland Road Extension
 June 10, 2013

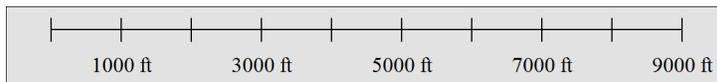


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 Environmental Services

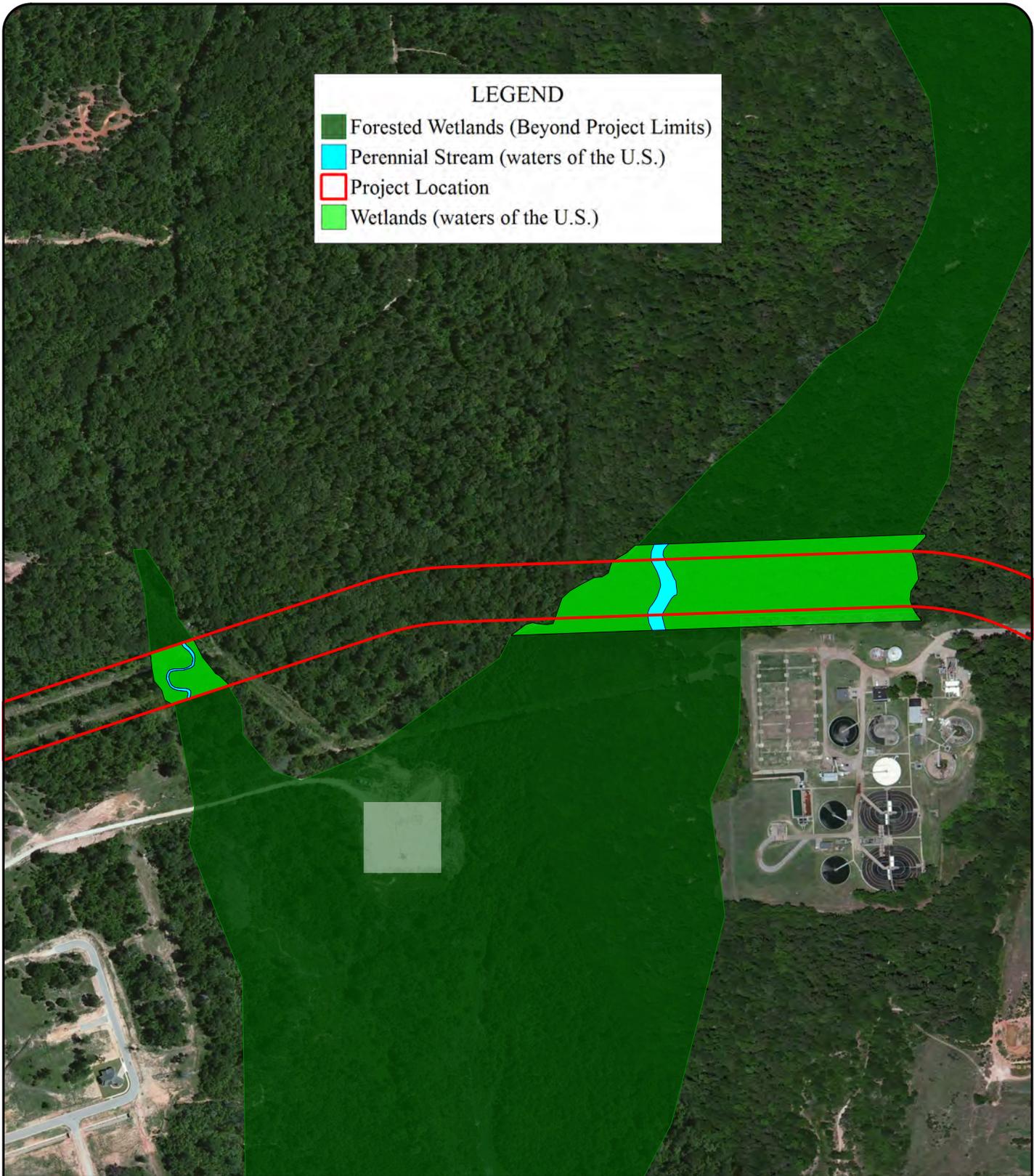


Source:
Tyler, South and
Bullard Quadrangles

Sheet 2 of 5 - USGS Topo Map
SWF-2013-00247 - Cumberland Road Extension
June 10, 2013



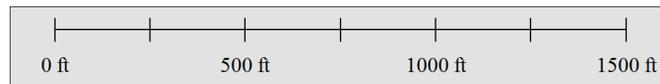
Rowden Consulting, LLC
Environmental Services



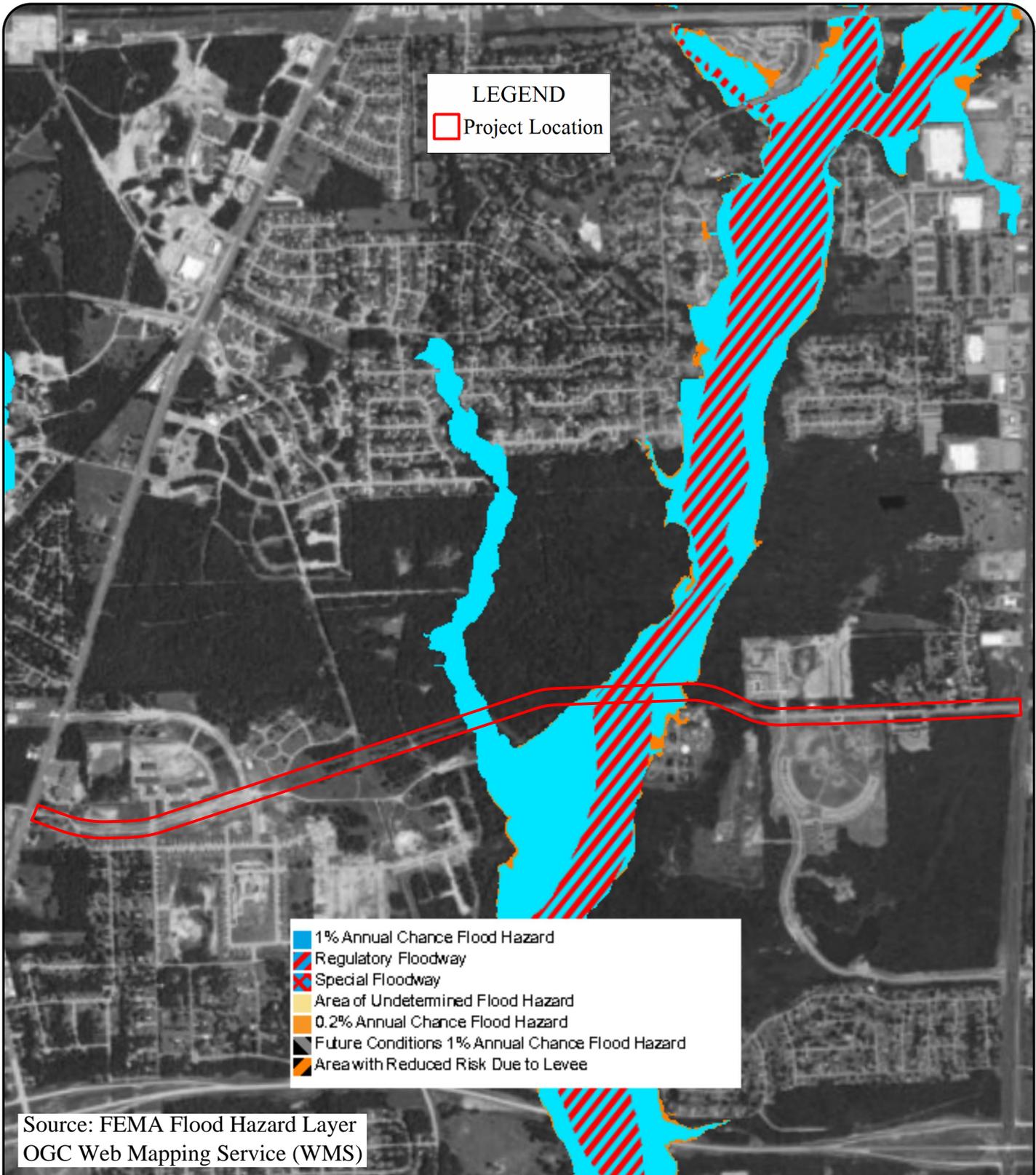
LEGEND

- Forested Wetlands (Beyond Project Limits)
- Perennial Stream (waters of the U.S.)
- Project Location
- Wetlands (waters of the U.S.)

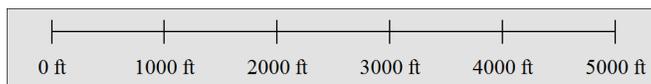
Sheet 3 of 5 - Waters of the U.S.
 SWF-2013-00247 - Cumberland Road Extension
 June 10, 2013



Rowden Consulting, LLC
 Environmental Services

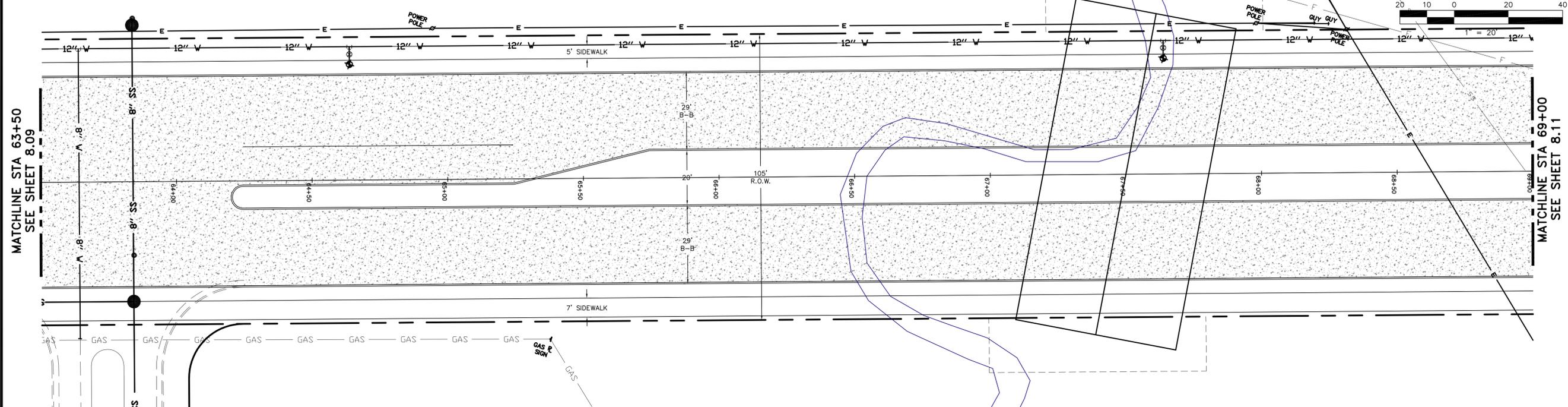


Sheet 4 of 5 - FEMA Floodplain Map
 SWF-2013-00247 - Cumberland Road Extension
 June 10, 2013

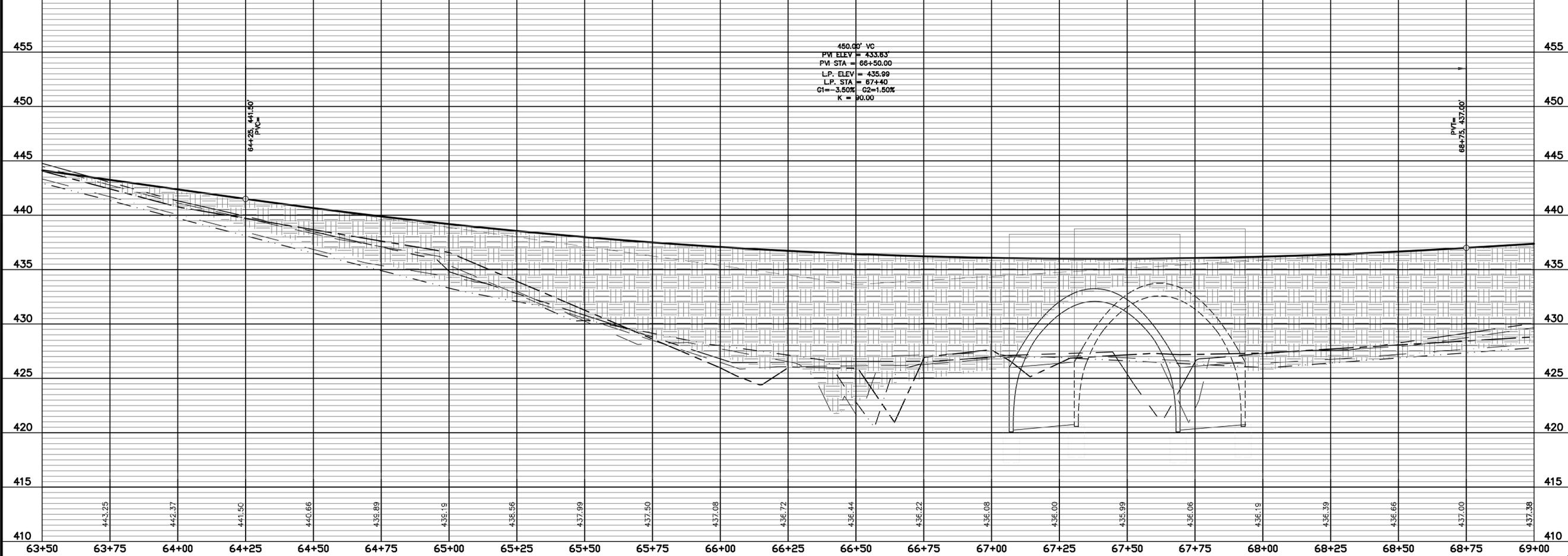


Rowden Consulting, LLC
 Environmental Services

Sheet 5a of 5 - Engineering Drawings (by The Brannon Corporation)
 SWF-2013-00247 - Cumberland Road Extension
 June 10, 2013



CUMBERLAND RD. (STA 63+50 TO 69+00)



DESIGNED BY: JJV
 DATE: SEPTEMBER 2011

THE FIRM REGISTRATION #FC-543
 WWW.BRANNONCORP.COM
 (903) 597-2122

BRANNON CORP
 CIVIL ENGINEERS

THE C.T. BRANNON CORPORATION
 1321 SOUTH BROADWAY
 TYLER, TEXAS 75701

CONSTRUCTION PLANS
 FOR
 W. CUMBERLAND ROAD
 OLD JACKSONVILLE HWY TO S. BROADWAY
 TYLER, TEXAS

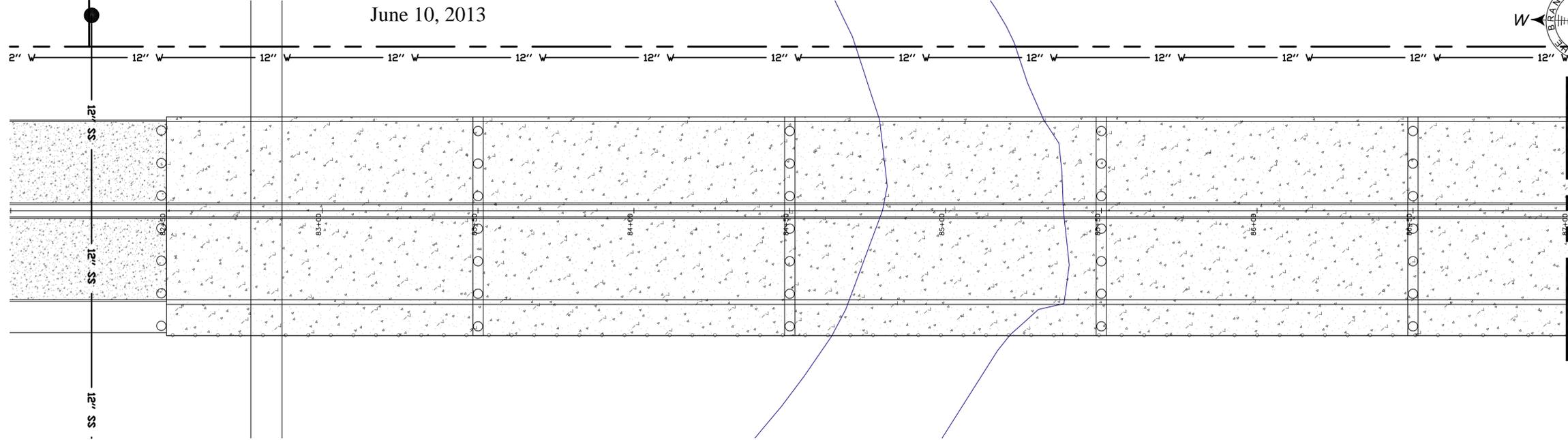
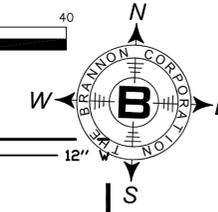
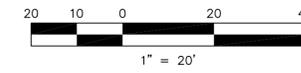
NO.	DATE	REVISIONS	REMARKS

ISSUED FOR:
 REVIEW ONLY
 60%
 PLANS

PROJECT NO.
 11045
 SHEET NO.
8.10

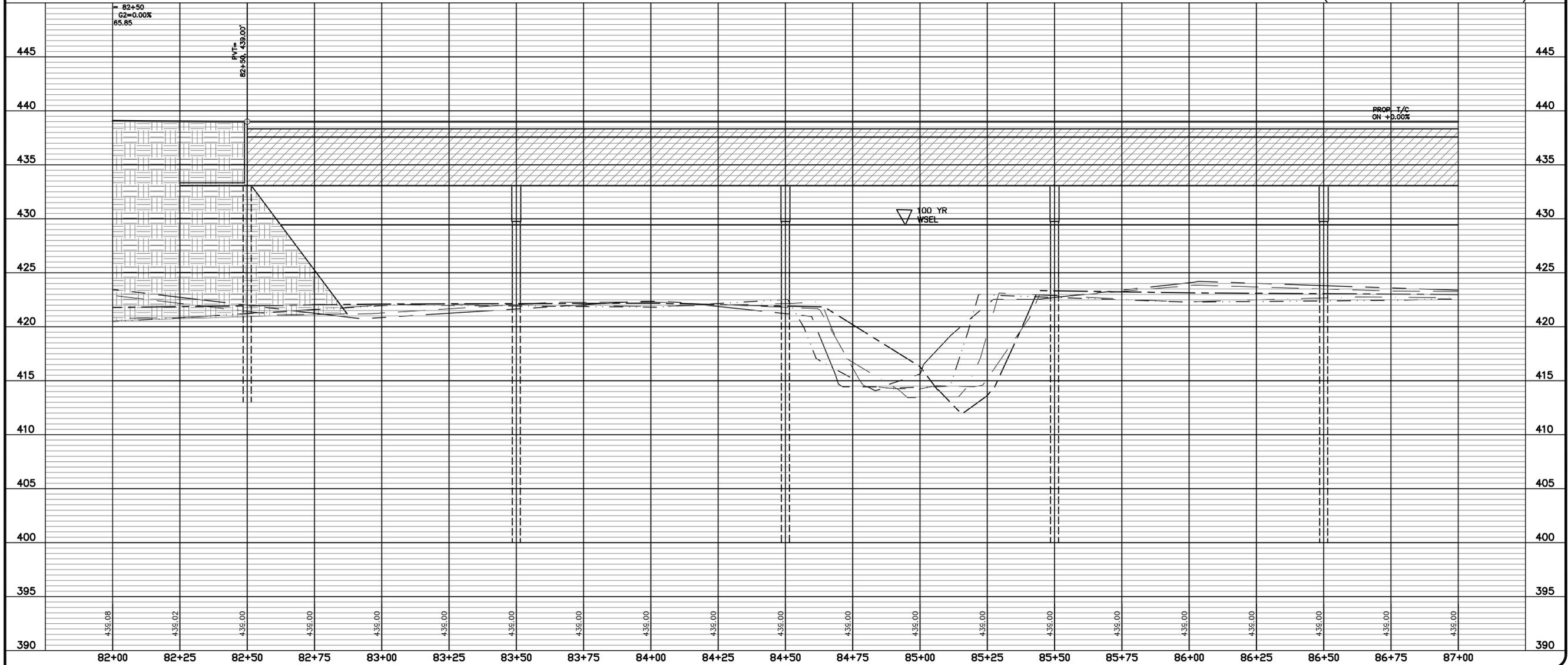
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Sheet 5b of 5 - Engineering Drawings (by The Brannon Corporation)
 SWF-2013-00247 - Cumberland Road Extension
 June 10, 2013



MATCHLINE STA 87+00
 SEE SHEET 11.1

BRIDGE PP (STA 82+00 TO 87+00)



DESIGNED BY: JJV
 DATE: SEPTEMBER 2011

TX FIRM REGISTRATION #FC-648
 WWW.BRANNONCORP.COM
 (903) 597-2122

BRANNON CORP
 CIVIL ENGINEERS

THE C.T. BRANNON CORPORATION
 1321 SOUTH BROADWAY
 TYLER, TEXAS 75701

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 FOR
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OLD JACKSONVILLE HWY TO S. BROADWAY
 TYLER, TEXAS

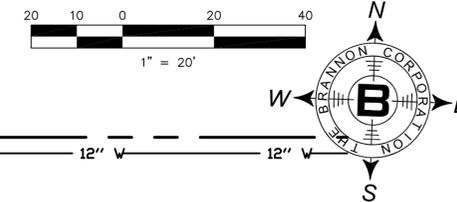
NO.	DATE	REVISIONS	REMARKS

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PROJECT NO.
 11045
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Sheet 5c of 5 - Engineering Drawings (by The Brannon Corporation)
 SWF-2013-00247 - Cumberland Road Extension
 June 10, 2013



DESIGNED BY: JJV
 DATE: SEPTEMBER 2011

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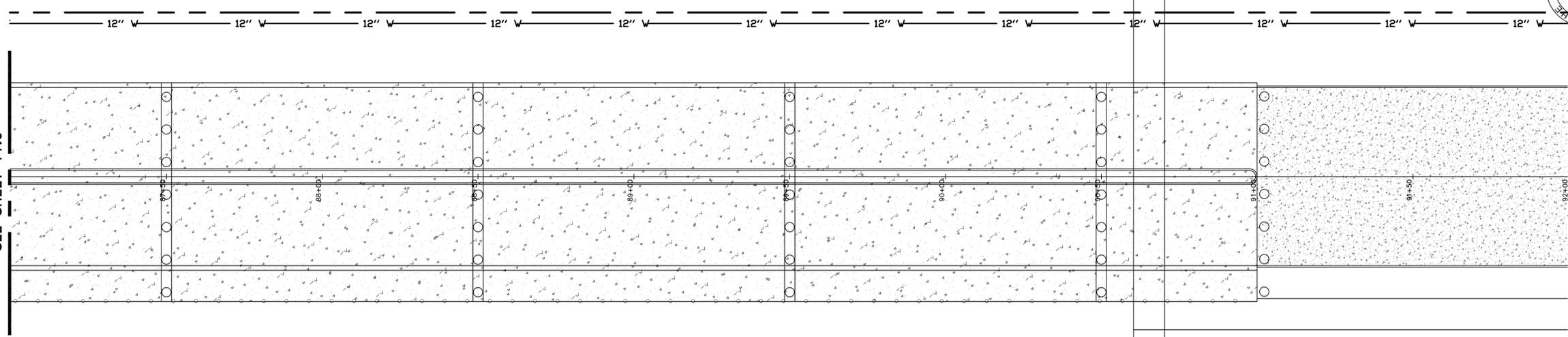
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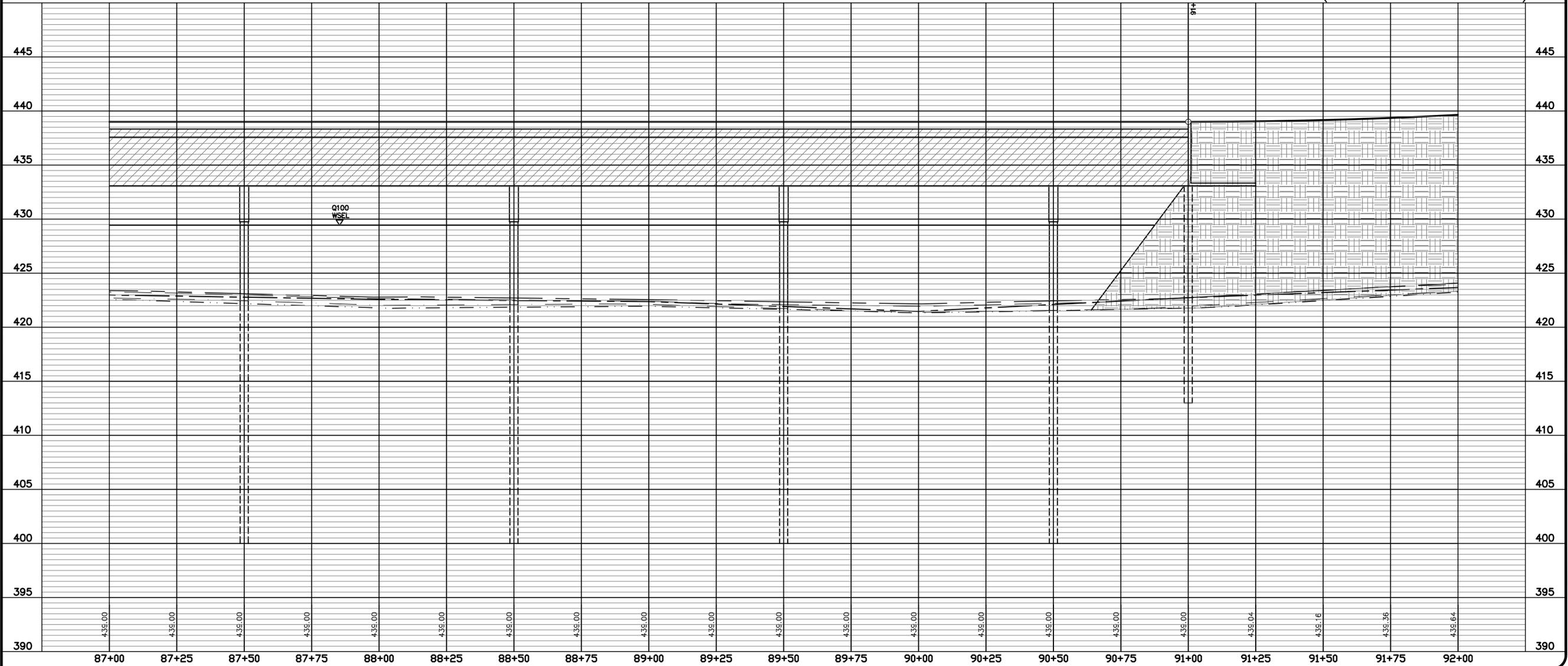
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MATCHLINE STA 87+00
 SEE SHEET 11.0

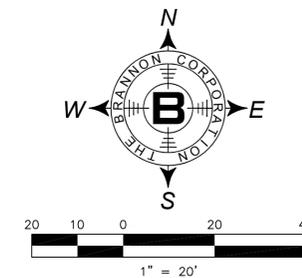
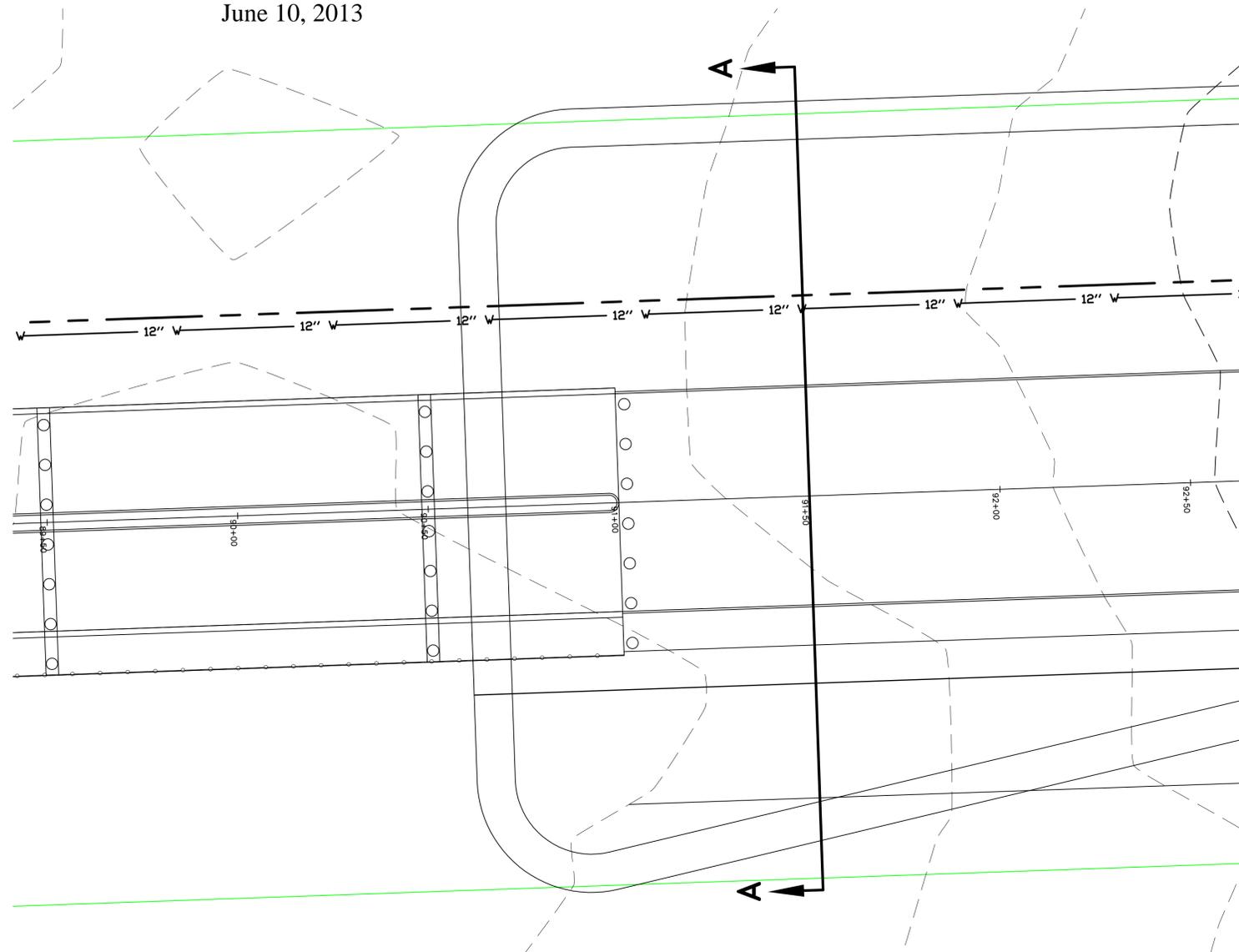


BRIDGE PP (STA 87+00 TO 92+00)



11045-11.0-Bridge PP

Sheet 5d of 5 - Engineering Drawings (by The Brannon Corporation)
 SWF-2013-00247 - Cumberland Road Extension
 June 10, 2013



DESIGNED BY: JJV
 DATE: SEPTEMBER 2011

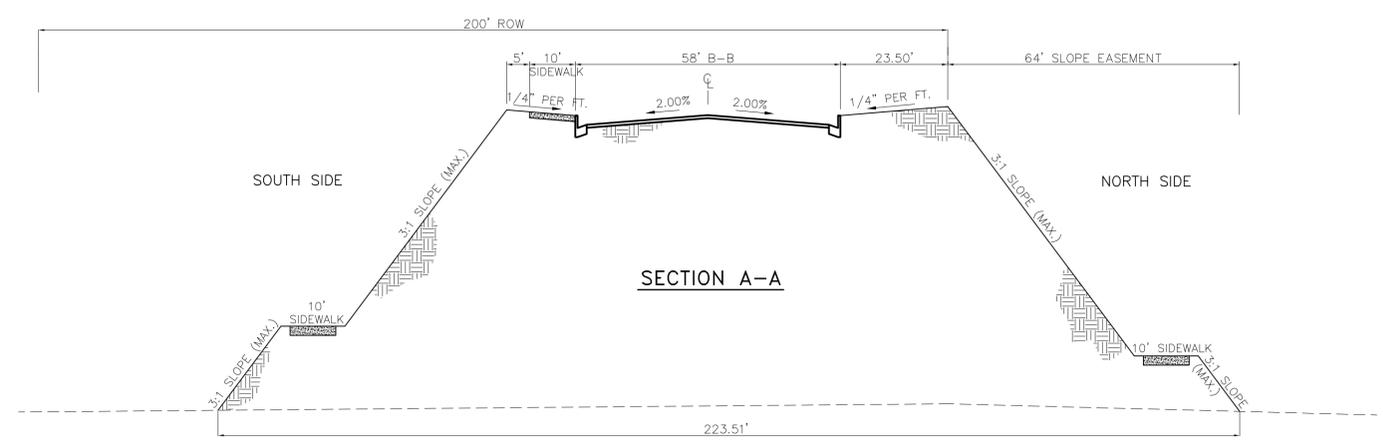
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CONSTRUCTION PLANS
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TYLER, TEXAS



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PROJECT NO.
11045
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12.0

BRIDGE DETAILS (1)

11045-12.0-Bridge Details