DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PORTLAND DISTRICT
P.O. BOX 2946
PORTLAND, OR 97208-2946

December 2, 2020

Regulatory Branch
Corps No. NWP-2020-277

Mr. Jason Waters
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140
WatersJ@SherwoodOregon.gov

Dear Mr. Waters:

The U.S. Army Corps of Engineers (Corps) received City of Sherwood's request for Department of the Army authorization to discharge fill material into 0.005 acres of wetland 3 and 0.02 acres total of five tributaries to Cedar Creek for the construction of the Cedar Creek Trail corridor along a portion of Cedar Creek as part of a larger existing trail system called the West Fork of the Ice Age Tonquin Trail, a 22-mile trail in southwestern Portland. The project is located between SW Pacific Highway (OR99W) to Stella Olsen Park at SW Washington Street in Sherwood, Washington County, Oregon at Latitude/Longitude: 45.35831°N, -122.8456° W. This letter verifies your project as depicted on the enclosed drawings (Enclosure 1) is authorized by Nationwide Permit (NWP) No. 14, *Linear Transportation Projects* (*Federal Register, January 6, 2017, Vol. 82, No. 4*).

In order for this authorization to be valid, you must ensure the work is performed in accordance with the enclosed Nationwide Permit 14 Terms and Conditions (Enclosure 2); the Oregon Department of Environmental Quality (DEQ) 401 Water Quality Certification Conditions (Enclosure 3); and the following special condition:

a. This Corps permit does not authorize you to take an endangered species, in particular Columbia River chum (*Oncorhynchus keta*), southern distinct population segment green sturgeon (*Acipenser medirostris*), southern distinct population segment eulachon (*Thaleichthys pacificus*), Lower Columbia River Chinook salmon (*Oncorhynchus tshawytscha*), Lower Columbia River coho salmon (*Oncorhynchus kisutch*), Lower Columbia River steelhead (*Oncorhynchus mykiss*), Middle Columbia River steelhead (*Oncorhynchus mykiss*), Snake River Basin steelhead (*Oncorhynchus mykiss*), Snake River fall-run Chinook salmon (*Oncorhynchus tshawytscha*), Snake River sockeye salmon (*Oncorhynchus nerka*), Snake River spring/summer-run Chinook salmon (*Oncorhynchus tshawytscha*), Upper Columbia River spring-run Chinook salmon (*Oncorhynchus tshawytscha*), Upper Columbia River steelhead (*Oncorhynchus mykiss*), Upper Willamette River spring-run Chinook salmon (*Oncorhynchus*

tshawytscha), and Upper Willamette River steelhead (*Oncorhynchus mykiss*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a biological opinion under ESA Section 7, with "incidental take" provisions with which you must comply). The Federal Highway Administration (FHWA) is the lead federal agency for ESA consultation for this project. The FHWA, or its designee, has determined the proposed project meets the requirements of the programmatic opinions prepared by the National Marine Fisheries Service (NMFS), titled Endangered Species Act Programmatic Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response Federal-Aid Highway Program in the State of Oregon dated November 28, 2012 (NMFS Reference Number 2011/02095) and the U.S. Fish and Wildlife Service (USFWS), titled Endangered Species Act – Section 7 Consultation Biological and Conference Opinion for Oregon Department of Transportation's Statewide Transportation Improvement Program dated March 31, 2014 (USFWS Reference Number 01EOFW00-2012-F-0020) which contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the "incidental take" that is also specified in the opinions. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the referenced opinions, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the opinions, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with your Corps permit. It is your responsibility to obtain a copy of the terms and conditions from the lead federal agency. The USFWS & NMFS are the appropriate authorities to determine compliance with the terms and conditions its opinion, and with the ESA.

We have reviewed your project pursuant to the requirements of the Endangered Species Act, the Magnuson-Stevens Fishery Conservation and Management Act and the National Historic Preservation Act. We have determined the project complies with the requirements of these laws provided you comply with all of the permit general and special conditions.

The DEQ has issued a 401 Water Quality Certification for this project. No further coordination with DEQ is required provided the work is performed in accordance with all of the enclosed conditions.

The Corps did not prepare a jurisdictional determination for this project. The Corps has treated the aquatic resource(s) to be affected by this project as jurisdictional waters of the U.S. If you believe the Corps does not have jurisdiction over some or all of the aquatic resources at the project site, you may request an Approved Jurisdictional Determination (AJD). If one is requested, please be aware that we may require the submittal of additional information to complete the AJD and work authorized in this letter may not occur until the Corps completes the AJD.

The verification of this NWP is valid until March 18, 2022, unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date and you have commenced or are under contract to commence this activity before March 18, 2022, you will have until March 18, 2023, to complete the activity under the enclosed terms and conditions of this NWP. If the work cannot be completed by March 18, 2023, you will need to obtain a new NWP verification or authorization by another type of Department of the Army permit.

Our verification of this NWP is based on the project description and construction methods provided in your permit application. If you propose changes to the project, you must submit revised plans to this office and receive our approval of the revisions prior to performing the work. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act. You must also obtain all local, state, and other federal permits that apply to this project.

Upon completing the authorized work, you must fill out and return the enclosed *Compliance Certification* form (Enclosure 4). We would like to hear about your experience working with the Portland District, Regulatory Branch. Please complete a customer service survey form at the following address: https://corpsmapu.usace.army.mil/cm_apex/f?p=136:4.

If you have any questions regarding this NWP verification, please contact Mr. Benny A. Dean Jr. by telephone at (541) 465-6769 or email: Benny.A.Dean@usace.army.mil

FOR THE COMMANDER, MICHAEL D. HELTON, PMP, COLONEL, CORPS OF ENGINEERS, DISTRICT COMMANDER:

For: William D. Abadie
Chief, Regulatory Branch

Enclosures

cc:
Jacobs Engineering (Claudia Steinkoenig, claudia.steinkoenig@jacobs.com)
Oregon Department of Transportation (NRU-TRANS@odot.state.or.us; Kenneth Sargent, Kenneth.W.SARGENT@odot.state.or.us)
Oregon Department of State Lands (Anita Huffman, anita.huffman@dsl.state.or.us)
Oregon Department of Environmental Quality (401applications@deq.state.or.us)

Legend

Study Area

Scale

0 2,314 ft

Sherwood, OR (2014) 7.5' USGS Quad
Township 2 S Range 1 W
Sections 28, 29, 30, 32

FIGURE 1
Location of the Proposed Cedar Creek Trail Project on City of Sherwood Land
Sherwood, Washington County, OR

ENVIRONMENTAL

DSL_Legend.dgn

N

0 250 500 750

OREGON DEPARTMENT OF TRANSPORTATION

ch2m:
2020 SW 4TH AVE. - 3RD FLOOR
PORTLAND, OR 97201-4953
TEL. 503.235.5000

CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - C. Steinkoenig
Designed By - M. Little
Drafted By - M. Wainscott

AERIAL PHOTO

SHEET NO. 14

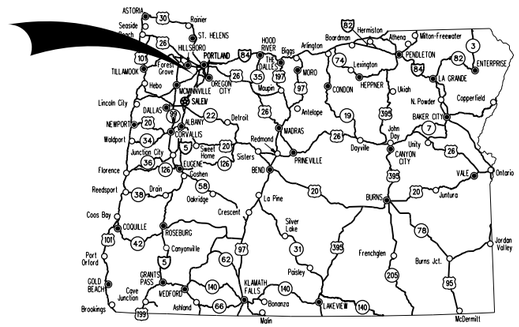
pw://projectwise.ch2m.com:DEN001/Documents/662691&space;-&space;CEDAR&space;CREEK&space;WOC5/Work&space;in&space;Progress/CEDAR-CREEK-WIP/EN/Div/DSL&space;Permit&space;(working)/662691wl14 31-JUL-2019 16:34 mwainsco

INDEX OF SHEETS	
SHEET NO.	DESCRIPTION
1	Location and Vicinity Map, Drawing Index
1A	General Notes, Abbreviations and Legend
2	Overall Plan, Sheet Layout
3	General Construction Details
3A	Profile
3B	Profile
4	General Construction Details
4A	Profile
5	General Construction Details
5A	Profile
6	General Construction Details
6A	Profile
7	General Construction Details
7A	Profile
8	General Construction Details
8A	Profile
9	General Construction Details
9A	Profile
10	General Construction Details
10A	Profile
11	General Construction Details
11A	Profile
12	Box Culvert Detail
13	Cross-Section
14	Aerial

CEDAR CREEK/TONQUIN TRAIL: OR99W - MURDOCK

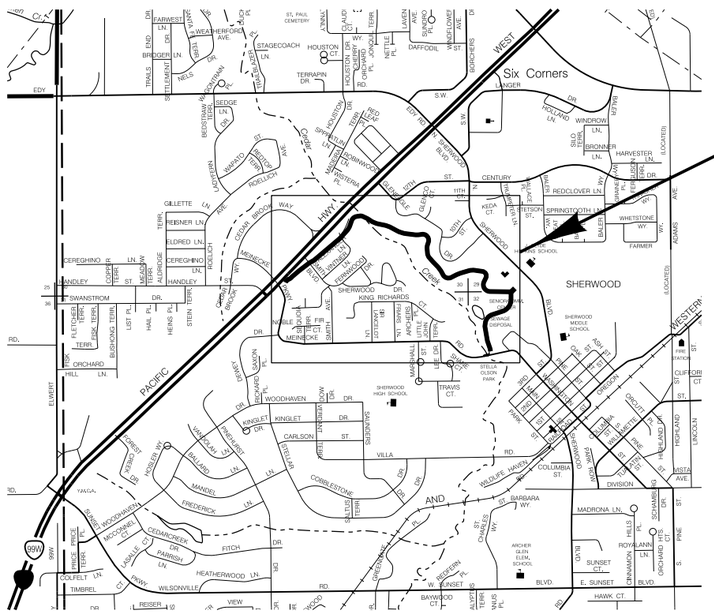
PACIFIC HIGHWAY WEST

WASHINGTON COUNTY
2019



Overall Length Of Project - 1.00 Miles

VICINITY MAP



LOCATION MAP

ENVIRONMENTAL

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CEDAR CREEK/TONQUIN TRAIL: OR99W - MURDOCK RD
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WASHINGTON COUNTY

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Designed By - M. Little
Drafted By - M. Wainscott

LOCATION, VICINITY MAP, INDEX

SHEET NO. 1

ENVIRONMENTAL

DSL_Legend_1B.dgn

GENERAL SITE NOTES:

1. SOURCE OF INFORMATION SHOWN ON THE CIVIL PLANS ARE BASE MAPS PROVIDED BY CITY OF CORVALLIS, AS-BUILT DRAWINGS FROM NW NATURAL, AND TOPOGRAPHIC SURVEY PERFORMED BY K&D ENGINEERING. EXISTING CONDITIONS MAY VARY FROM THOSE SHOWN ON THESE PLANS. THE CONTRACTOR SHALL VERIFY EXISTING CONDITIONS AND ADJUST WORK PLAN ACCORDINGLY PRIOR TO BEGINNING CONSTRUCTION.
2. EXISTING TOPOGRAPHY, STRUCTURES, AND SITE FEATURES ARE SHOWN SCREENED. NEW FINISH GRADE, STRUCTURES, AND SITE FEATURES ARE SHOWN HEAVY-LINED.
3. HORIZONTAL DATUM: OREGON STATE PLANE, NAD83/2011, INTERNATIONAL FEET.
4. VERTICAL DATUM: NAVD88
5. MAINTAIN, RELOCATE, OR REPLACE EXISTING SURVEY MONUMENTS, CONTROL POINTS, AND STAKES WHICH ARE DISTURBED OR DESTROYED. PERFORM THE WORK TO PRODUCE THE SAME LEVEL OF ACCURACY AS THE ORIGINAL MONUMENT(S) IN A TIMELY MANNER, AND AT THE CONTRACTOR'S EXPENSE.
6. COORDINATES AND DIMENSIONS SHOWN FOR ROADWAY IMPROVEMENTS ARE TO FACE OF CURB OR EDGE OF PAVEMENT.
7. STAGING AREA SHALL BE FOR CONTRACTOR'S EMPLOYEE PARKING, CONTRACTOR'S TRAILERS AND ON-SITE STORAGE OF MATERIALS.
8. ELEVATIONS GIVEN ARE TO FINISH GRADE UNLESS OTHERWISE SHOWN.
9. SLOPE UNIFORMLY BETWEEN CONTOURS AND SPOT ELEVATIONS SHOWN.
10. UNLESS SHOWN OTHERWISE, ALL DISTURBED AREAS NOT RECEIVING A HARD SURFACE SHALL BE COVERED WITH GRASS.
11. CONTRACTOR SHALL BE RESPONSIBLE FOR IMPLEMENTING AND MAINTAINING EROSION CONTROL DEVICES DURING CONSTRUCTION. REFER TO 4TH STREET AND 15TH STREET EROSION AND SEDIMENT CONTROL PLAN DRAWINGS.
12. CONTRACTOR SHALL WORK WITHIN DEFINED LIMITS OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS, WORK LIMITS, AND STAGING AREAS.
13. HOT MIX ASPHALT SURFACING SHALL BE REPLACED WHERE SHOWN ON THE DRAWINGS TO LEVEL NOTED ON THE DRAWINGS. CONTRACTOR SHALL POTHOLE EXISTING SURFACING AT EACH RESTORATION LOCATION AND REPLACE THE SURFACING TO AT LEAST THE EXISTING THICKNESS, OR GREATER IF DIRECTED BY THE CITY.
14. CONTRACTOR SHALL INSTALL CONSTRUCTION STAKING FOR PIPE ALIGNMENT AND EASEMENTS ON MAXIMUM 100' INTERVALS.
15. TREES PERMITTED FOR REMOVAL ARE SHOWN ON THE DRAWINGS. CONTRACTOR SHALL ABIDE BY ALL CONDITIONS OF THE TREE PROTECTION PLAN INCLUDED IN THE ESCP DRAWINGS, INCLUDING TREE PROTECTION FENCING.

GENERAL YARD PIPING AND UTILITIES NOTES:

1. EXISTING UNDERGROUND UTILITIES OBTAINED FROM AS-BUILTS AND FROM FIELD SURVEY. CONTRACTOR SHALL FIELD VERIFY DEPTH AND LOCATION PRIOR TO EXCAVATION. PROTECT ALL EXISTING UTILITIES DURING CONSTRUCTION.
2. CONTRACTOR SHALL EXCAVATE AND EXPOSE EXISTING PIPES AT CONNECTION LOCATIONS AND CONFIRM PIPE MATERIAL, SIZE, AND OUTER DIAMETER. SUBMIT DATA TO ENGINEER FOR REVIEW PRIOR TO ORDERING CONNECTIONS MATERIALS OR BEGINNING WORK.
3. UNLESS OTHERWISE SHOWN ALL PIPING SHALL HAVE A MINIMUM OF 4' COVER.
4. ALL PIPES SHALL HAVE A CONSTANT SLOPE BETWEEN INVERT ELEVATIONS UNLESS A FITTING IS SHOWN.

ABBREVIATIONS

AB	ABOVE GRADE, AGGREGATE BASE	IE	INVERT ELEVATION	SD	STORM DRAIN
APPROX	APPROXIMATE	IPS	IRON PIPE SIZE	SPCG	SPACING
		IRR	IRRIGATION	SPT	STANDARD PENETRATION TEST
BLDG	BUILDING			SST	STAINLESS STEEL
BFV	BUTTERFLY VALVE	L	LEFT, LENGTH	STA	STATION
		LF	LINEAL FEET	STL	STEEL
C	CURVE				
CARV	COMBINATION AIR RELEASE VALVE	MAX	MAXIMUM	T	TANGENT, TELEPHONE
CI	CAST IRON	MIN	MINIMUM	T&B	TOP AND BOTTOM
CL	CENTERLINE	MJ	MECHANICAL JOINT	TC	THICKNESS CLASS
CLSM	CONTROLED LOW STRENGTH MATERIAL			THK	THICK
		N	NORTH	TOC	TOP OF CURB
CONC	CONCRETE	NW	NORTHWEST	TOG	TOP OF GRADE
CONT	CONTINUOUS			TYP	TYPICAL
CPI	COMBINED POINT OF INFLECTION	OC	ON CENTER		
		OD	OUTER DIAMETER		
CTR	CENTER	OH	OVERHEAD	UG	UNDERGROUND
		OHW	ORDINARY HIGH WATER	UNGD	UNDERGROUND
DI	DUCTILE IRON			USCS	UNIFIED SOIL CLASSIFICATION SYSTEM
DIPS	DUCTILE IRON PIPE SIZE	PC	POINT OF CURVATURE		
DN	DOWN	PI	POINT OF INTERSECTION		
DR	DIAMETER RATIO	POB	POINT OF BEGINNING	VERT	VERTICAL
		PT	POINT OF TANGENCY		
E	ELECTRICAL	PVC	POINT OF VERTICAL CURVATURE	W	WATER, WEST
EL	ELEVATION			WRG	WEDGE RESTRAINT GLAND
ELB	ELBOW	PVI	POINT OF VERTICAL INTERSECTION		
ELEC	ELECTRICAL				
EXST	EXISTING	PVT	POINT OF VERTICAL TANGENCY		
FLG	FLANGE	R	RIGHT, RADIUS		
GND	GROUND	RDCR	REDUCER		
GV	GATE VALVE	REINF	REINFORCE, REINFORCMENT, REINFORCED		
HDD	HORIZONTAL DIRECTIONAL DRILL	RJ	RESTRAINED JOINT		
		ROW	RIGHT OF WAY		
HDPE	HIGH DENSITY POLYETHYLENE				
HORIZ	HORIZONTAL				

CIVIL LEGEND

THIS CONTRACT

- Wetland Boundary
- Culvert
- Ordinary High Water (OHW) Line
- Existing Contour (1 Foot)
- Proposed Contour (1 Foot)
- Impact
- Freshwater Wetland
- Estimated Construction Work Limit
- Wetland Extends Offsite
- Storm Water Facility
- Trib Extends Offsite
- Property Line
- Retaining Wall
- Cut Line
- Fill Line
- Anchor Mesh Wall
- Mat Stone Embankment
- Aggregate Shoulder
- Study Area

OREGON DEPARTMENT OF TRANSPORTATION

ch2m:
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TEL. 503.235.5000

CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

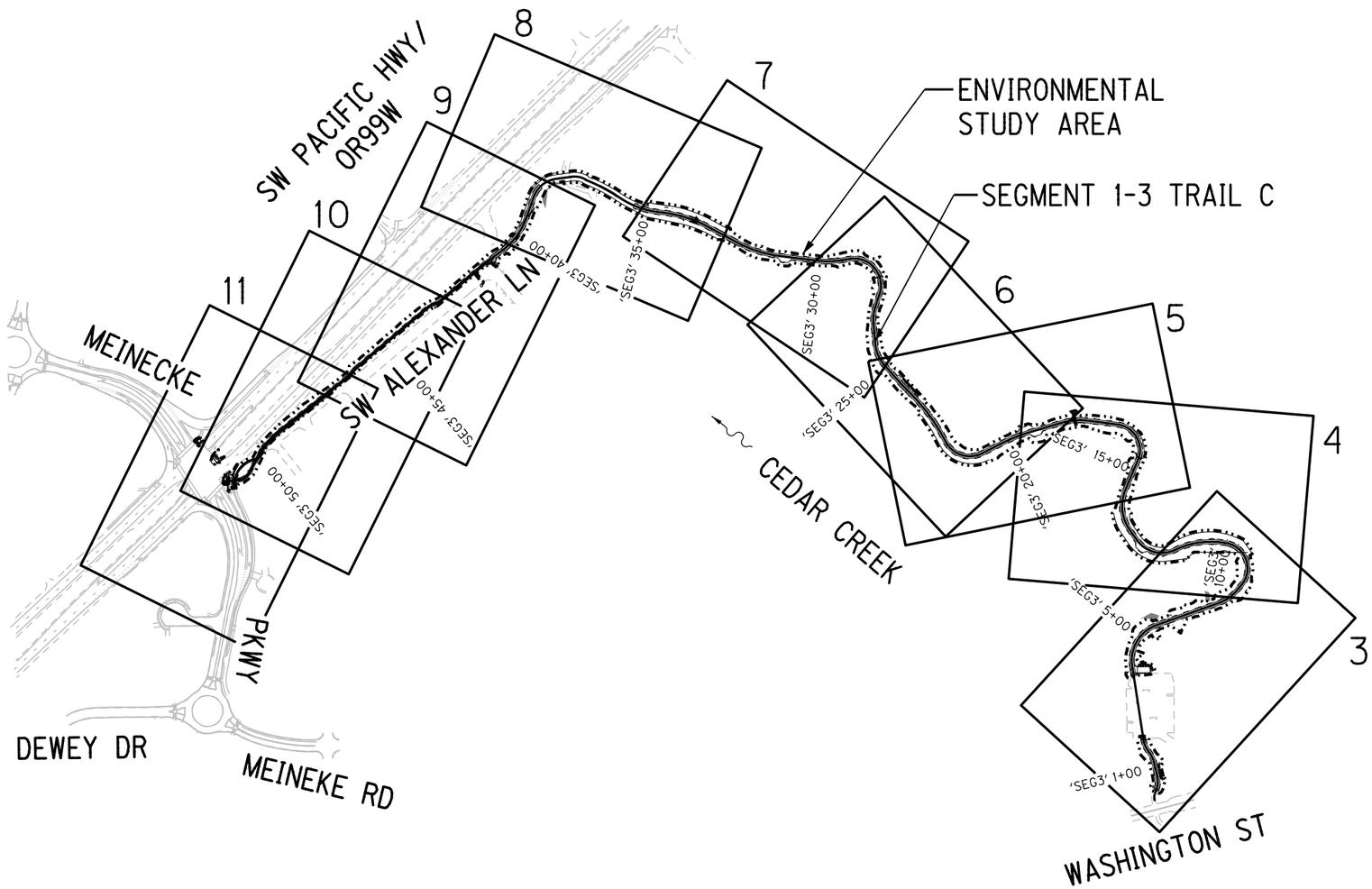
Reviewed By - C. Steinkoenig
Designed By - M. Little
Drafted By - M. Wainscott

GENERAL NOTES, ABBREVIATIONS AND LEGEND

SHEET NO. 1B

LEGEND:

3 *Sheet Number and Limits*



N

0 200 400 800

Scale In Feet

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WASHINGTON COUNTY

Reviewed By - C. Steinkoenig
Designed By - M. Little
Drafted By - M. Wainscott

OVERALL PLAN, SHEET LAYOUT

SHEET NO. 2

ENVIRONMENTAL

662691km_DSL.dgn

Bid Package 2

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ENVIRONMENTAL

662691dr03.dgn

Sec. 32, T. 2S, R. 1W, W.M.

"SEG3" 5+00

"SEG3" 6+00

"SEG3" 7+00

"SEG3" 8+00

"SEG3" 9+00

"SEG3" 4+00

"SEG3" 3+00

"SEG3" 2+00

"SEG3" 1+00

Wetland 7
Pss/Slope
0.014 Acre

Trib 2 ℄
1.5' Max
Ohw Width

Trib 1 ℄
1.5' Max
Ohw Width

CEDAR CREEK

Extg. Channel ℄

Wetland 6
Pem/Slope
0.009 Acre

STA. "SEG3" 3+77.82, 6.00' Lt
Begin ACP Shared-Use Path
Match Existing

Construction
Entrance

100-Year Floodplain

Construction
Entrance

STA. "SEG3" 1+94.44
End ACP Shared-Use Path
Match Existing

2S132BB-00302
City of Sherwood

"SEG3" Line

BEGINNING OF PROJECT
STA. "SEG3" 0+32.71
Match Existing
N 112404.86
E 303498.58

Extg. Property Line

2S132BB-00301

STA. 9+00 SEE SHEET 4B
MATCH LINE

(10) STA. "SEG3" 1+57.63, 19.37' Lt
Const. 6.5'x8'x1.5' Riprap Pad (CL.50)
– 2.89 Cu.Yd.
(See City of Sherwood Std. Drg. No. SS-87)

(1) STA. "SEG3" 3+83.49, 17.36' Lt
Inst. 12" Dia. Storm Sew. Pipe with
Sloped End – 38'
5' Depth
I.E. (12" Outfall) 163.00
(See Std. Drg. No. RD318)

(2) STA. "SEG3" 4+10.09, 11.89' Rt
Const. Area Drain Type II
Grate Elev: 167.40
I.E. (Out): 164.00 (SW)
(See City of Sherwood Std. Drg. No. SS-48)

(3) STA. "SEG3" 3+77.86, 23.05' Lt
Const. 6.5'x8'x1.5' Riprap Pad (CL. 50)
– 2.89 Cu.Yd.
(See City of Sherwood Std. Drg. No. SS-87)

(4) STA. "SEG3" 3+79.93, 54.08' Rt
Const. Area Drain Type II
Grate Elev: 167.50
I.E. (Out): 164.50 (SW)
(See City of Sherwood Std. Drg. No. SS-48)

(5) STA. "SEG3" 3+89.35, 11.09' Lt
Inst. 12" Dia. Storm Sew. Pipe – 64'
5' Depth
I.E. (12" Wye) 163.19

(6) STA. "SEG3" 1+44.37, 9.91' Rt
Inst. 8" Dia. Culvert with Projecting
End – 32'
5' Depth
I.E. (8" Inlet) 162.81,
"SEG3" 1+57.63, 19.37' Lt
I.E. (8" Outfall) 158.06

N

0 25 50 75
Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

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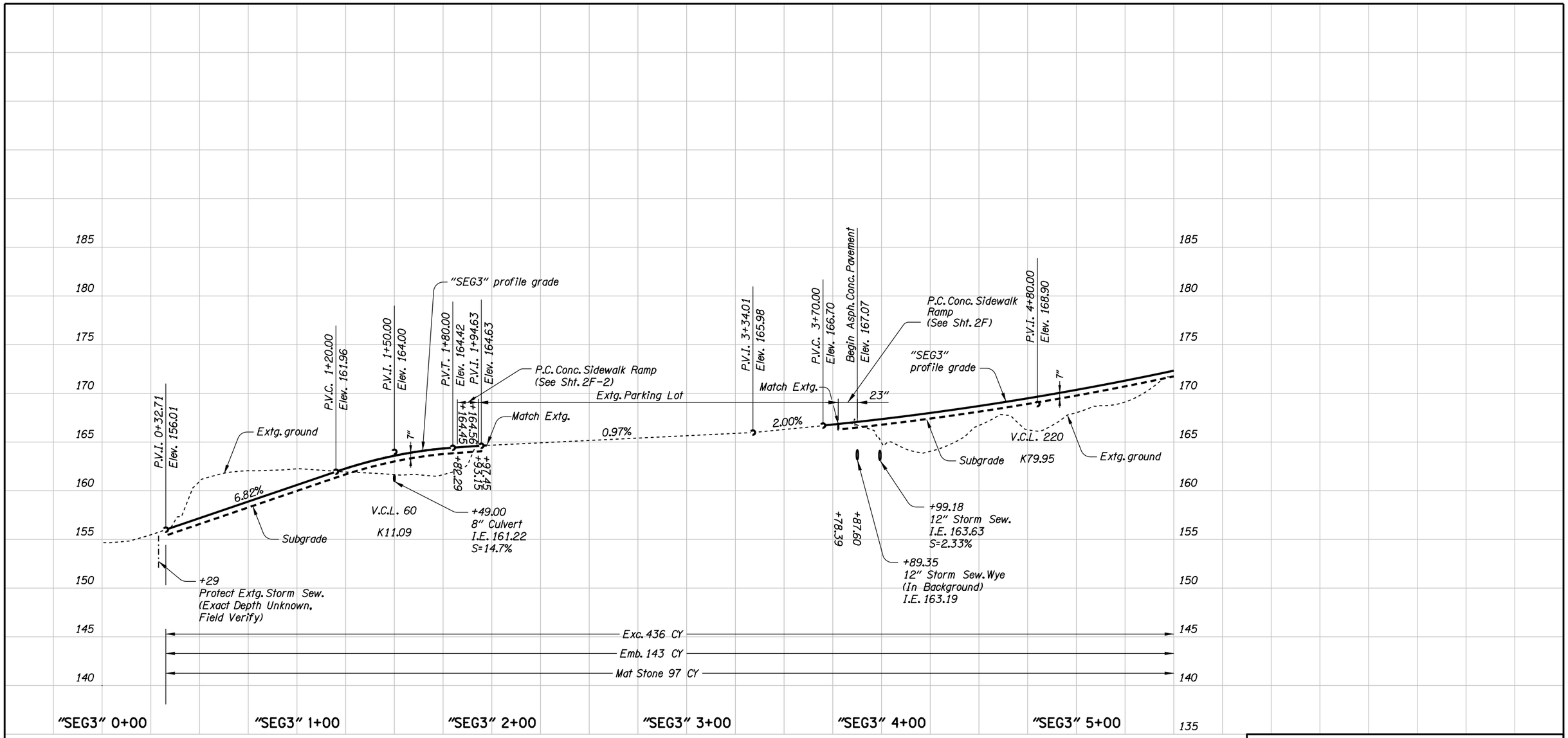
CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - R. Attanasio
Designed By - T. Ring/M. Little
Drafted By - M. Wainscott

JOINT PERMIT APPLICATION
GENERAL CONSTRUCTION DETAILS

SHEET NO. 3



0 25 50 75
Horizontal Scale In Feet

0 5 10 15
Vertical Scale In Feet

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CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - M. Bittancourt
Designed By - M. Little
Drafted By - M. Wainscott

PROFILE

SHEET NO. 3A

662691pr03.dgn

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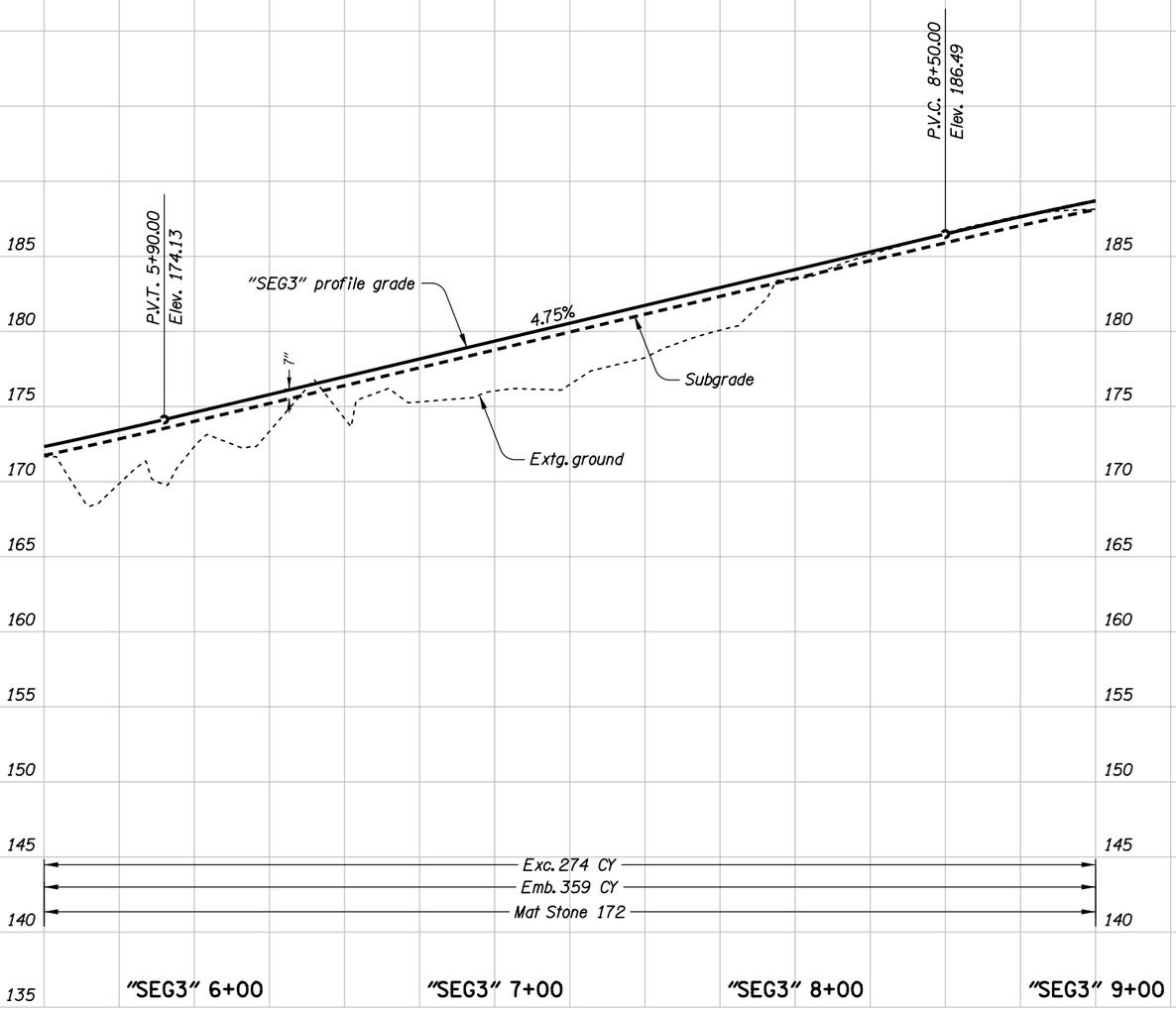

0 25 50 75
Horizontal Scale In Feet

0 5 10 15
Vertical Scale In Feet

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PROFILE

SHEET NO. 3B

ENVIRONMENTAL

662691pr03a.dgn

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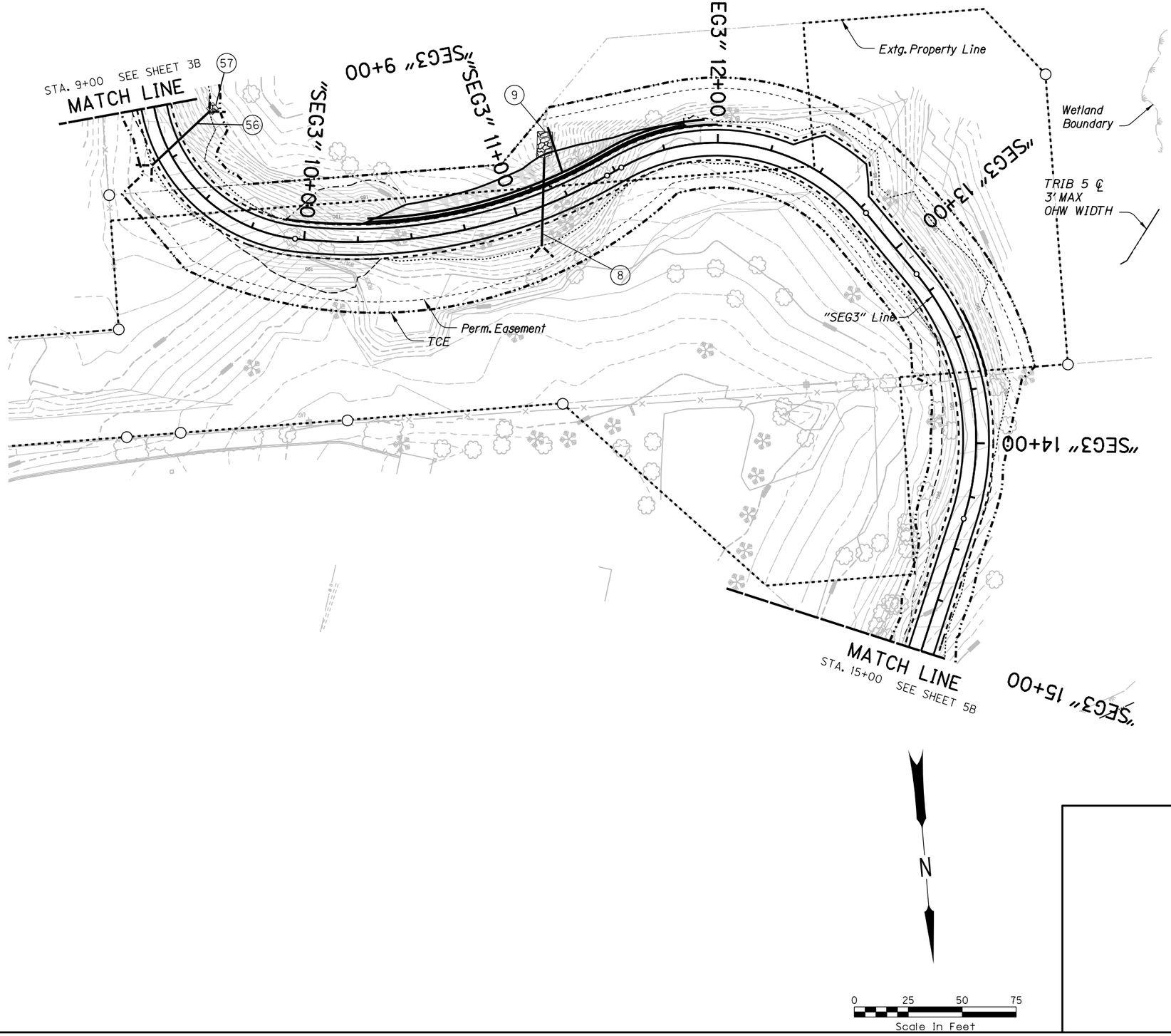
pwsvc

Sec. 32, T. 2S, R. 1W, W.M.



(8) STA. "SEG3" 11+06.04, 17.07' Rt
Inst. 12" Dia. Culvert with Sloped Inlet and Projected Outfall - 42'
20' Depth
I.E. (12" Inlet) 190.10,
11+22.42, 20.46' Lt
I.E. (12" Outfall) 169.25
(See Std. Drg. No. RD318)

(9) STA. "SEG3" 11+28.34, 31.24' Lt
Inst. 7'x12'x2.5' (CL. 200) Riprap Pad - 7.78 Cu.Yd.
For Details, See City of Sherwood Std. Drg. No. SS-87

(56) STA. "SEG3" 9+23.77, 10.11' Rt
Inst. 8" Dia. Culvert with Projecting Ends - 37'
5' Depth
I.E. (8" Inlet) 188.63
9+10.00, 24.41' Lt
I.E. (8" Outfall) 180.78

(57) STA. "SEG3" 9+07.29, 28.00' Lt
Inst. 4'x4'x1.5' (CL. 50) Rip Rap Pad - 0.89 Cu.Yd.
For Details, See City of Sherwood Std. Drg. No. SS-87

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JOINT PERMIT APPLICATION GENERAL CONSTRUCTION DETAILS

SHEET NO. 4

ENVIRONMENTAL

662691dr04.dgn

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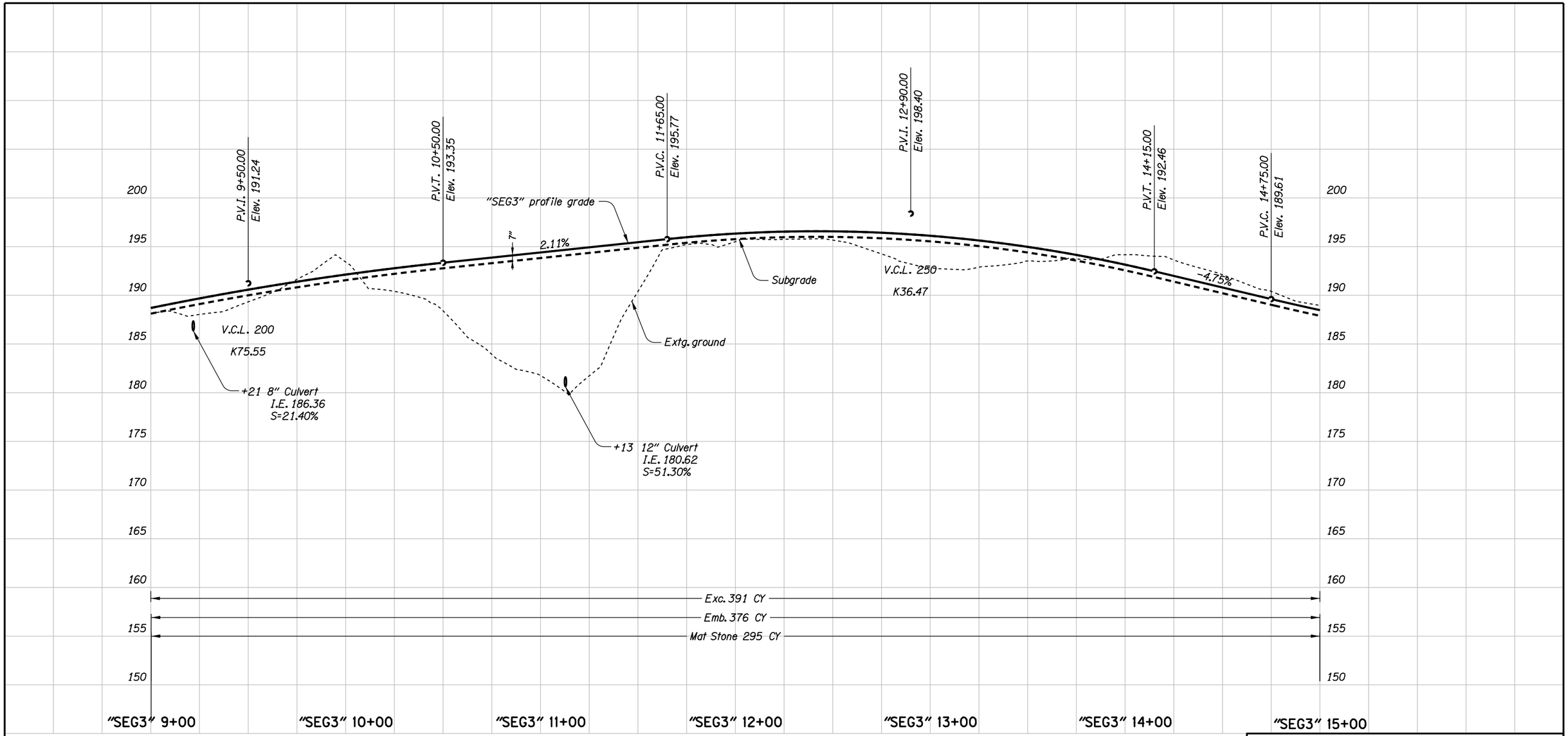

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Horizontal Scale In Feet

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Vertical Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

ch2m:
2020 SW 4TH AVE. - 3RD FLOOR
PORTLAND, OR 97201-4953
TEL. 503.235.5000

CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - M. Bittancourt
Designed By - M. Little
Drafted By - M. Wainscott

PROFILE

SHEET NO. 4A

ENVIRONMENTAL

662691pr04.dgn

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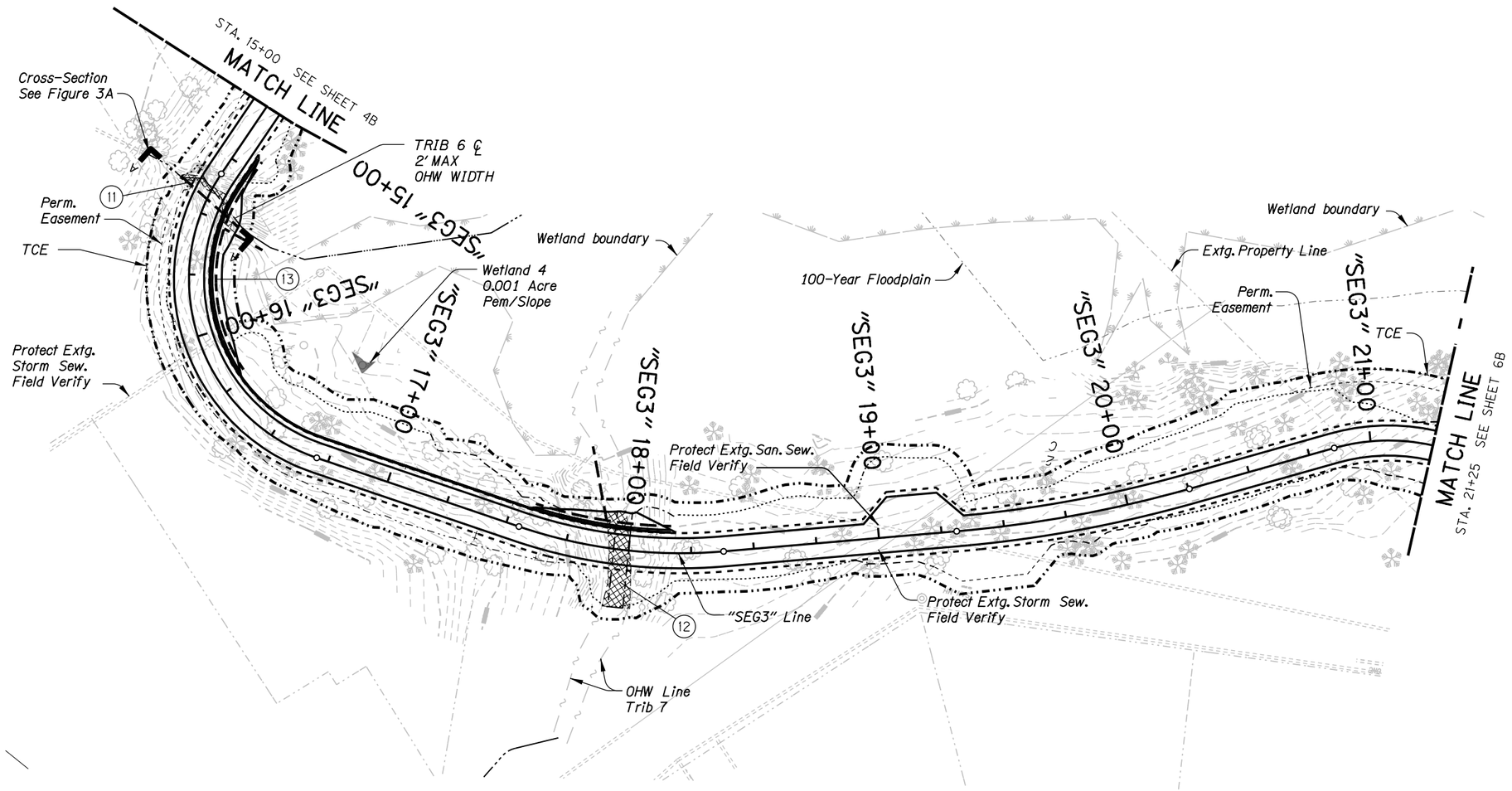

(11) STA. "SEG3" 15+40.63, 13.19' Rt
Inst. 24" Dia. Culvert with Sloped Inlet and Projected Outfall – 31'
10' Depth
I.E. (24" Inlet) 186.00
"SEG3" 15+49.97, 15.90' Lt
I.E. (24" Outfall) 174.00
12" Embedded
(See Std. Drg. RD318)

(12) STA. "SEG3" 17+97.40, 23.05' Rt
Inst. 6'x4' Precast Concrete Box Culvert – 39'
10' Depth
I.E. = (Inlet)169.35,
"SEG3" 17+96.75, 15.19' Lt
I.E. = (Outfall)165.15
24" Embedded
For Details, See ODOT Std. Drg. No. BR820. If a Precast Box Culvert is Desired in Lieu of the Cast-in Place Culvert Shown in BR820, Provide Drawings and Calculations Sealed by an Engineer Licensed in the State of Oregon to Demonstrate that the Box Culvert has been Designed for the Conditions at this Location

(13) Remove Extg. 12" CMP – 28'

N

0 25 50 75
Scale In Feet

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CEDAR CREEK/TONQUIN TRAIL: OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - R. Attanasio
Designed By - T. Ring/M. Little
Drafted By - M. Wainscott

JOINT PERMIT APPLICATION GENERAL CONSTRUCTION DETAILS

SHEET NO. 5

ENVIRONMENTAL

662691dr05.dgn

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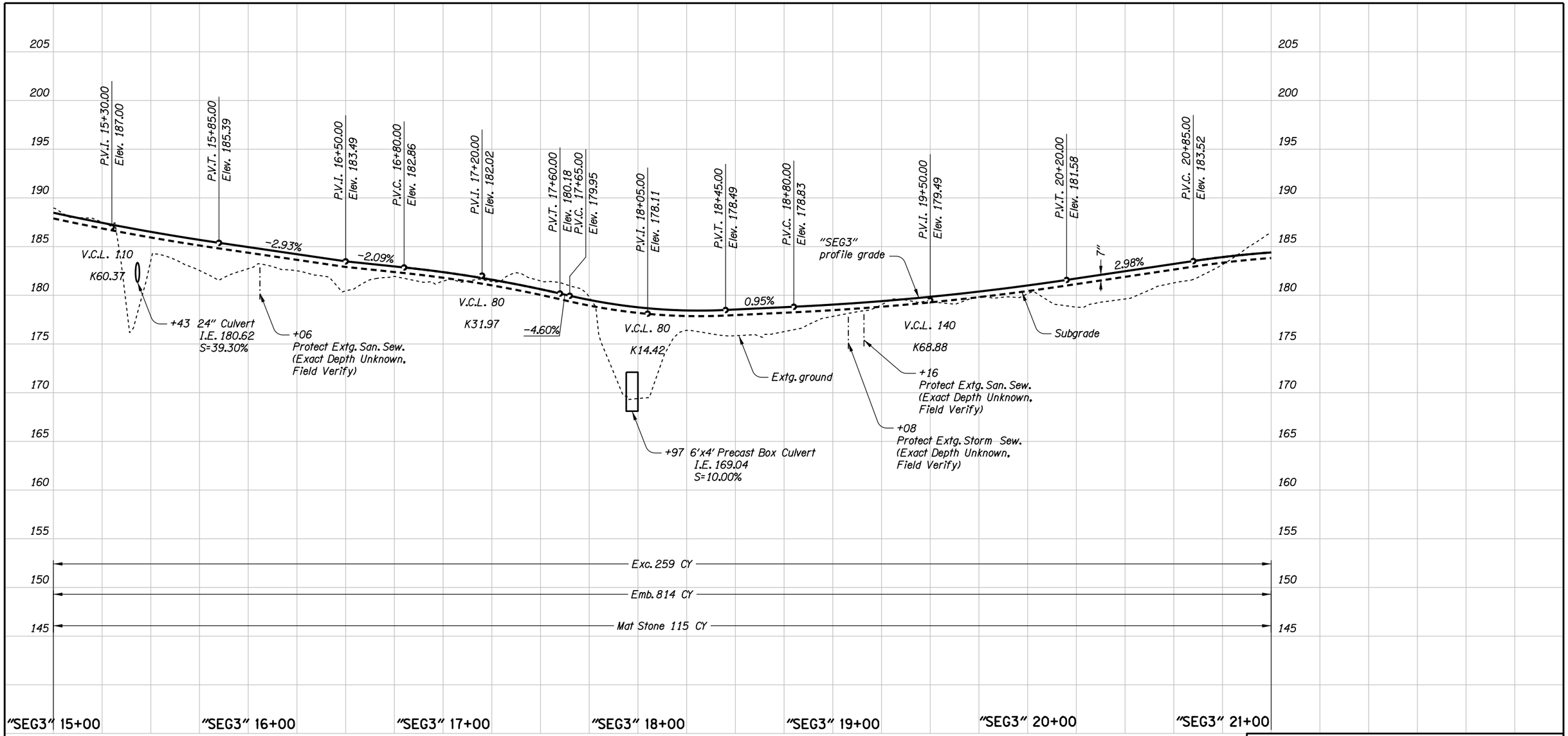

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Horizontal Scale In Feet

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Vertical Scale In Feet

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CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - M. Bittancourt
Designed By - M. Little
Drafted By - M. Wainscott

PROFILE

SHEET NO. 5A

ENVIRONMENTAL

662691pr05.dgn

pw://projectwise.ch2m.com:DEN001/Documents/662691&space;-&space;CEDAR&space;CREEK&space;WOC5/Work&space;in&space;Progress/CEDAR-CREEK-WIP/EN/Div/DSL&space;Joint&space;Permit&space;Application/662691pr05

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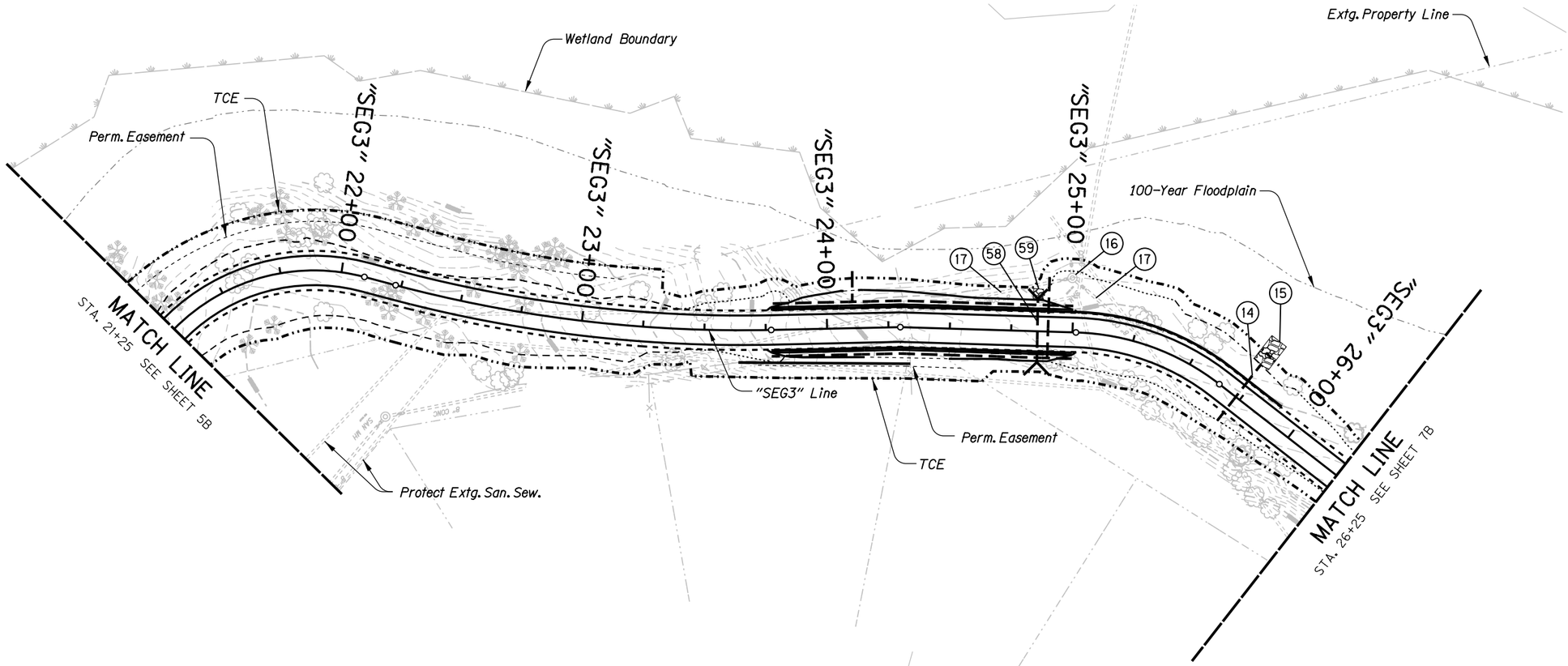

(14) STA. "SEG3" 25+73.00, 12.20' Rt
Inst. 12" Dia. Culvert with Sloped Inlet and Sloped Outfall – 29'
5' Depth
I.E. (12" Inlet) = 167.10,
"SEG3" 25+73.00, 16.80' Lt
I.E. (12" Outfall) = 163.25
(See Std. Drg. No. RD318)

(15) STA. "SEG3" 25+73.00, 28.80' Lt
Inst. 7'x12'x2.5' (CL. 200) Riprap Pad – 7.78 Cu.Yd.
(See City of Sherwood Std. Drg. No. SS-87)

(16) STA. "SEG3" 24+99.30, 22.13' Rt
Major Adjust Manhole to Rim 165.50)
(See Std. Drg. No. RD360)

(17) Protect Extg. 8" Conc. Pipe

(58) STA. "SEG3" 24+85.84, 12.60' Rt
Inst. 12" Dia. Culvert with Projecting Ends – 26'
5' Depth
I.E. (12" Inlet) = 166.50
"SEG3" 24+85.50, 13.28' Lt
I.E. (12" Outfall) = 165.00

(59) STA. "SEG3" 24+85.45, 17.28' Lt
Inst. 4'x4'x1.5' (CL. 50) Riprap Pad – 0.89 Cu.Yd.
(See City of Sherwood Std. Drg. No. SS-87)

N

0 25 50 75
Scale In Feet

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CEDAR CREEK/TONQUIN TRAIL: OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - R. Attanasio
Designed By - T. Ring/M. Little
Drafted By - M. Wainscott

JOINT PERMIT APPLICATION GENERAL CONSTRUCTION DETAILS

SHEET NO. 6

ENVIRONMENTAL

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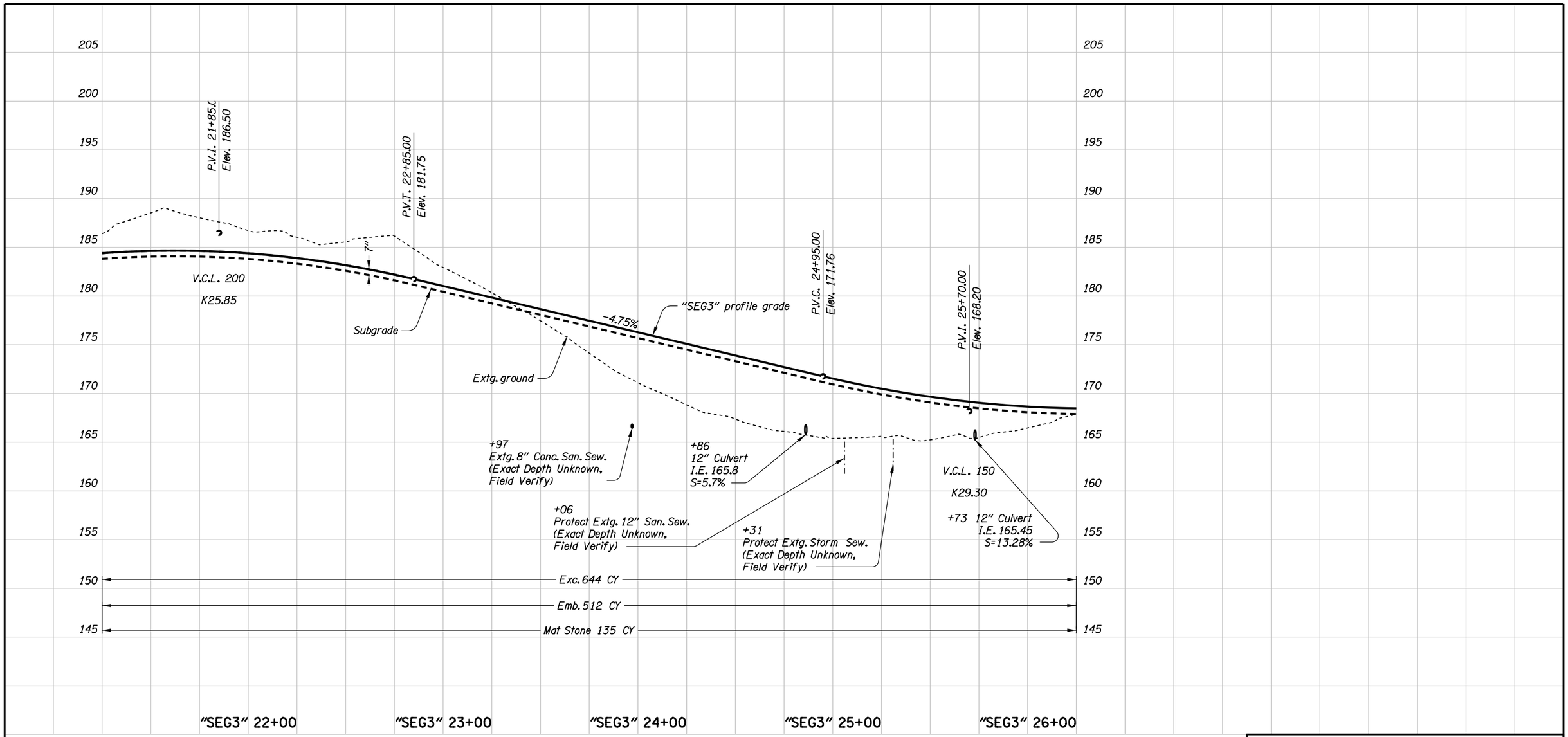

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Horizontal Scale In Feet

0 5 10 15
Vertical Scale In Feet

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CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - M. Bittancourt
Designed By - M. Little
Drafted By - M. Wainscott

PROFILE

SHEET NO. 6A

ENVIRONMENTAL

662691pr06.dgn

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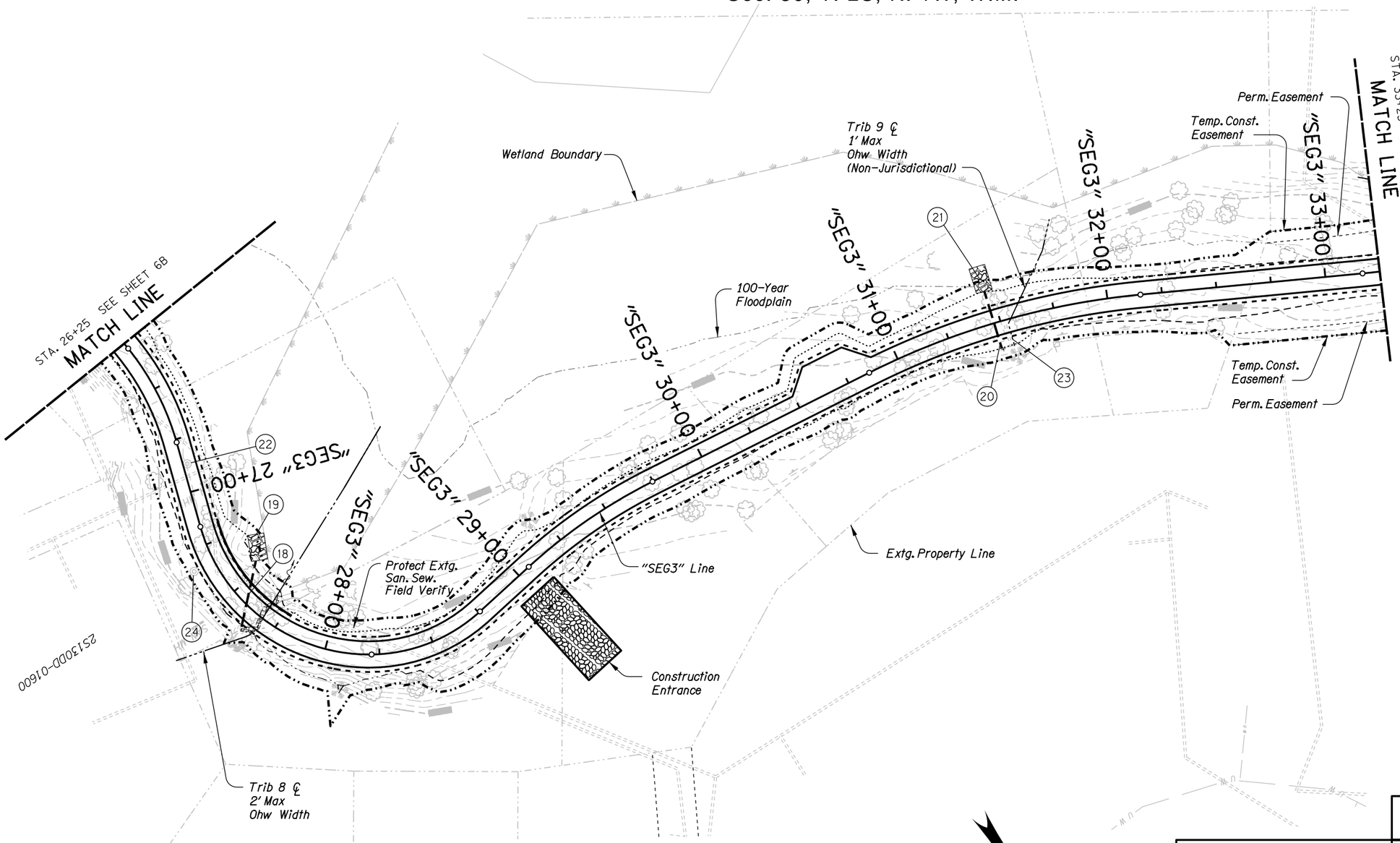

(18) STA. "SEG3" 27+64.04, 10.86' Rt
Inst. 18" Dia. Culvert with Sloped Inlet and Sloped Outfall - 33'
5' Depth
I.E. (Inlet) 166.37,
"SEG3" 27+44.48, 16.32' Lt
I.E. (Outfall) 163.30
(See Std. Drg. No. RD318)

(19) STA. "SEG3" 27+30.66, 22.48' Lt
Inst. 7.5'x12'x2.5' (CL. 200) Riprap Pad - 8.33 Cu.Yd.
(See City of Sherwood Std. Drg. No. SS-87)
Contour to Slope

(20) STA. "SEG3" 31+47.10, 12.04' Rt
Inst. 18" Dia. Culvert with Sloped Inlet and Sloped Outfall - 27'
5' Depth
I.E. (Inlet) 158.00,
"SEG3" 31+46.89, 14.96' Lt
I.E. (Outfall) 156.30
(See Std. Drg. No. RD318)

(21) STA. "SEG3" 31+46.85, 26.96' Lt
Inst. 7.5'x12'x2.5' (CL. 200) Riprap Pad - 8.33 Cu.Yd.
(See City of Sherwood Std. Drg. No. SS-87)

(22) STA. "SEG3" 26+87.21, 1.96' Rt
Minor Adjust Manhole to Rim 168.46
Replace Lid with Manhole Cover
(See Std. Drg. No. RD360)

(23) Abandon Extg. 8" Concrete Culvert

(24) Protect Extg. Manhole

N

0 25 50 75
Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

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CEDAR CREEK/TONQUIN TRAIL: OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - R. Attanasio
Designed By - T. Ring/M. Little
Drafted By - M. Wainscott

JOINT PERMIT APPLICATION GENERAL CONSTRUCTION DETAILS

SHEET NO. 7

662691dr07.dgn

ENVIRONMENTAL

205
200
195
190
185
180
175
170
165
160
155
150
145

P.V.R.C. 26+45.00
Elev. 168.47

P.V.I. 27+20.00
Elev. 168.75

P.V.T. 27+95.00
Elev. 167.19

V.C.L. 150
K61.26

+80
Protect Extg. 8" San. Sew.
(Exact Depth Unknown,
Field Verify)

+88
Protect Extg. 8" San. Sew.
(Exact Depth Unknown,
Field Verify)

+96
Protect Extg. 8" San. Sew.
(Exact Depth Unknown,
Field Verify)

+41
Protect Extg. 8" San. Sew.
(Exact Depth Unknown,
Field Verify)

+58.16
18" Culvert
I.E. 165.20
S=9.30%

+37
Protect Extg. 8" San. Sew.
(Exact Depth Unknown,
Field Verify)

-2.08%

"SEG3" profile grade

P.V.C. 31+90.00
Elev. 158.97

+47.56
18" Culvert
I.E. 156.97
S=8.50%

Extg. ground

P.V.I. 32+70.00
Elev. 157.30

V.C.L. 160
K155.07

7"

P.V.C. 33+50.00
Elev. 156.46

Subgrade

Exc. 409 CY

Emb. 163 CY

Mat Stone 93 CY

"SEG3" 27+00 "SEG3" 28+00 "SEG3" 29+00 "SEG3" 30+00 "SEG3" 31+00 "SEG3" 32+00 "SEG3" 33+00

0 25 50 75
Horizontal Scale In Feet

0 5 10 15
Vertical Scale In Feet

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CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - M. Bittancourt
Designed By - M. Little
Drafted By - M. Wainscott

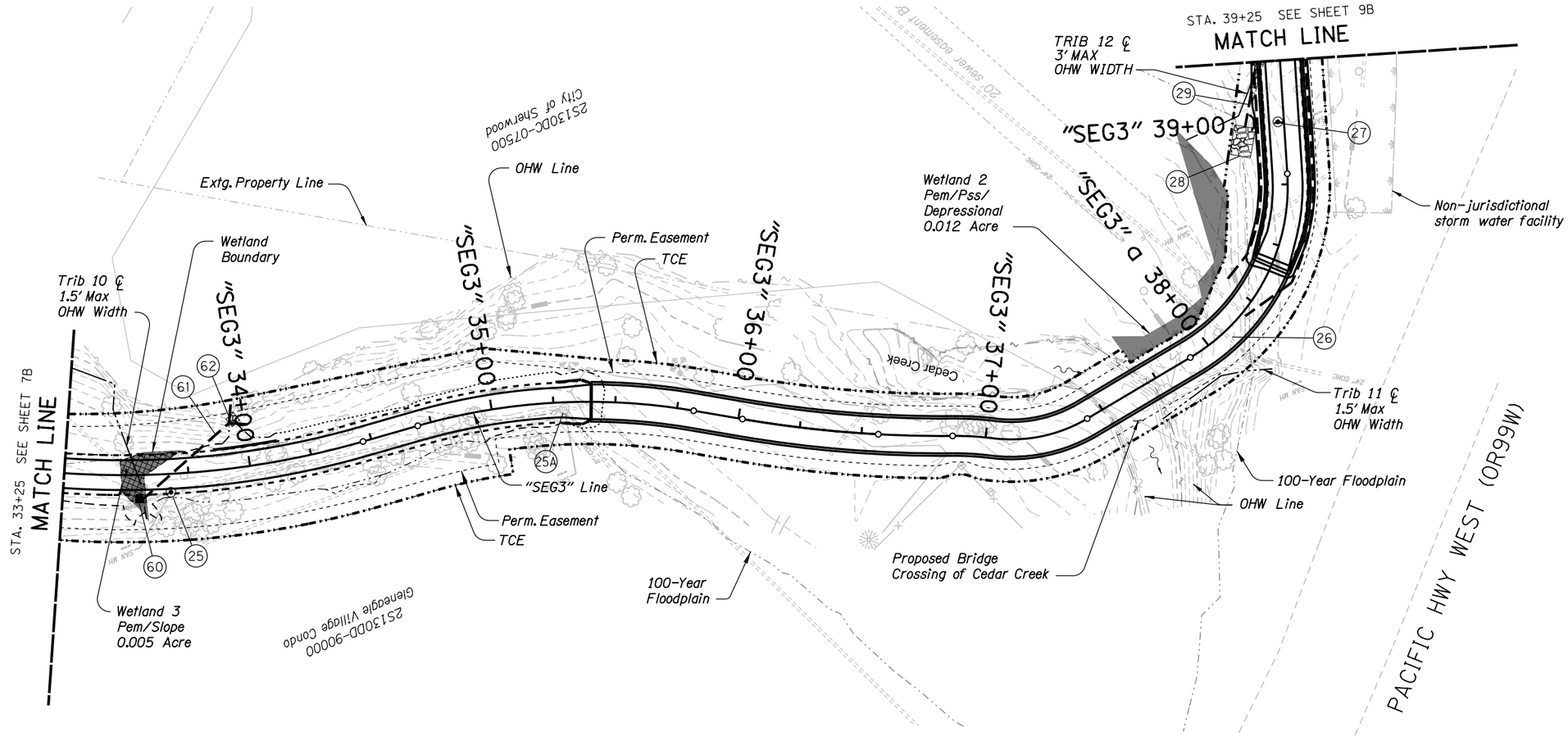
PROFILE

SHEET NO. 7A

ENVIRONMENTAL

662691dr08.dgn

Sec. 30, T. 2S, R. 1W, W.M.



(25) *Minor Adjust Manhole to Rim 156.39*
Replace Lid with Manhole Cover
(See Std. Drg. Nos. RD360 and RD356)

(25A) *Minor Adjust Manhole to Rim 156.79*
Replace Lid with Manhole Cover
(See Std. Drg. Nos. RD360 and RD356)

(26) *STA. "SEG3" 38+11.11*
Protect Extg. 24" CWS Sanitary Sewer Mainline In-Place
Field-Verify Location and Depth of Extg. CWS Sanitary Sewer Mainline Prior to Construction. Protect and Monitor During Construction.

(27) *STA. "SEG3" 39+00.39, 2.44' Lt*
Major Adjust Manhole to Rim 166.12
Replace Lid with Manhole Cover
(See Std. Drg. Nos. RD360 and RD356)

(28) *STA. "SEG3" 38+87.61, 18.57' Lt*
Inst. 8.5'x12'x2.5' (CL. 200) Riprap Pad - 9.44 Cu. Yd.
(See City of Sherwood Std. Drg. No. SS-87)

(29) *STA "SEG3" 38+99.27, 15.71' Lt*
Inst. 24" Storm Sew. Sloped End Section
I.E. (24" Outfall) 158.00
(See Std. Drg. No. RD318)

(60) *STA "SEG3" 33+55.01, 9.67' Rt*
Const. Area Drain Type II
Grate Elev 156.40
I.E. (Out) 152.40(W)
(See City of Sherwood Std. Drg. No. SS-48)

(61) *STA "SEG3" 33+93.85, 18.30' Lt*
Inst. 12" Dia. Culvert with Sloped End - 46'
5' Depth
I.E. (12" Outfall) 149.00
(See Std. Drg. No. RD318)

(62) *STA "SEG3" 33+93.67, 22.30' Lt*
Inst. 4'x4'x1.5' (CL. 50) Riprap Pad - 0.89 Cu. Yd.
(See City of Sherwood Std. Drg. No. SS-87)

N

0 25 50 75
Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

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TEL. 503.235.5000

CEDAR CREEK/TONQUIN TRAIL: OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - R. Attanasio
Designed By - T. Ring/M. Little
Drafted By - M. Wainscott

JOINT PERMIT APPLICATION GENERAL CONSTRUCTION DETAILS

SHEET NO. 8

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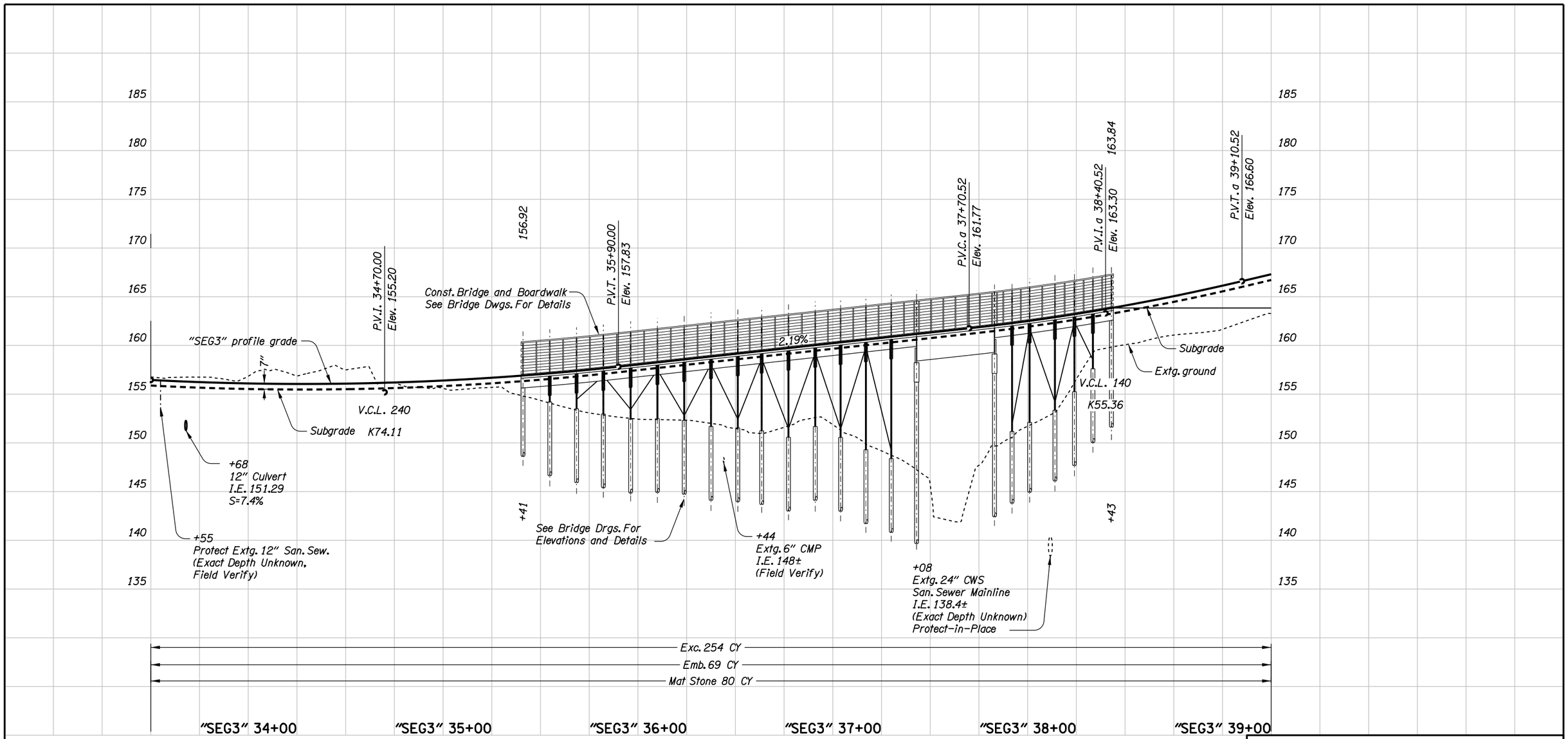

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Horizontal Scale In Feet

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Vertical Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

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PORTLAND, OR 97201-4953
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CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - M. Bittancourt
Designed By - M. Little
Drafted By - M. Wainscott

PROFILE

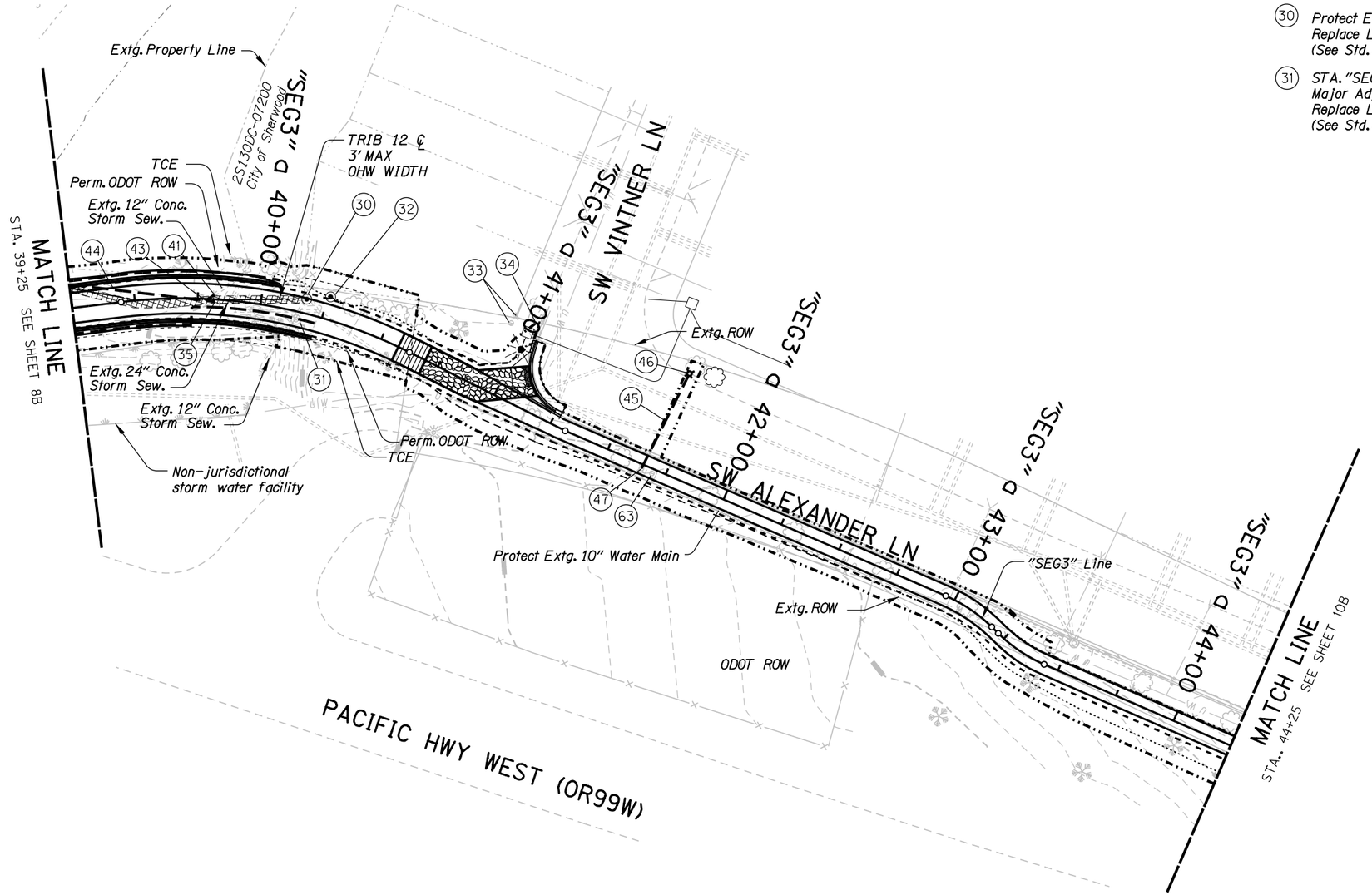
SHEET NO. 8A

ENVIRONMENTAL

662691pr08.dgn

pw://pwise.ch2m.com:DEN001/Documents/662691&space;-&space;CEDAR&space;CREEK&space;W0C5/Work&space;in&space;Progress/CEDAR-CREEK-WIP/EN/Div/DSL&space;Joint&space;Permit&space;Application/662691pr08 31-JUL-2019 13:27 pwsvc

Sec. 30, T. 2S, R. 1W, W.M.



(30) *Protect Extg. Manhole Replace Lid with Manhole Cover (See Std. Drg. Nos. RD360 and RD356)*

(31) *STA. "SEG3" 40+15.13, 3.24'Rt Major Adjust Manhole to Rim 171.60 Replace Lid with Manhole Cover (See Std. Drg. Nos. RD360 and RD356)*

(32) *STA. "SEG3" a40+25.96, 9.01'Lt Minor Adjust Manhole to Rim 171.83 Replace Lid with Manhole Cover. (See Std. Drg. Nos. RD360 and RD356)*

(33) *Protect Extg. Valve Boxes*

(34) *Protect Extg. Hydrant*

(35) *STA. "SEG3" a39+81.88, 0.97' Rt Connect to Extg. 24" Outfall I.E. (24" Tie-in) 165.29, Field Verify*

(41) *STA. "SEG3" a39+81.52, 1.84'Lt Connect to Extg. 12" Culvert I.E. (12" Tie-in) 165.08*

(42) *Inst. 12" Storm Sew. to Connect to New Wye - 4' 5' Depth*

(43) *STA. "SEG3" a39+78.25, 0.75'Rt Inst. New 24"x12" Wye - 4' I.E. 164.97*

(44) *STA. "SEG3" a39+81.88, 0.97'Rt Inst. 24" Storm Sew. - 81' 5' Depth*

(45) *Inst. 6" Water Line - 41' 5' Depth Pipe Shall be Ductile Iron with Restrained Joints Meeting City of Sherwood Engineering Std. Section 520. (See City of Sherwood Std. Drg. No. RD-47)*

(46) *STA. "SEG3" a41+67.76, 40.45'Lt Inst. Fire Hydrant - 1 (See City of Sherwood Std. Drg. No. W-21) Provide Fire Hydrant Meeting City of Sherwood Engineering Std. Section 510. Field Verify Extg. Curb Location and Locate Fire Hydrant Behind Curb per Std. Drg. No. W-21.*

(47) *STA. "SEG3" a41+65.25, 1.67'Rt Inst. 6" Dia. 90° Bend and Connect to Extg. Water Line with Restrained Joint in Accordance with City of Sherwood Engineering Std. Section 520*

(63) *Extg. Utility Pedestal to be Relocated by Utility Owner Prior to Construction*

N

0 25 50 75
Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

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CEDAR CREEK/TONQUIN TRAIL: OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - R. Attanasio
Designed By - T. Ring/M. Little
Drafted By - M. Wainscott

JOINT PERMIT APPLICATION GENERAL CONSTRUCTION DETAILS

SHEET NO. 9

ENVIRONMENTAL

662691dr09.dgn

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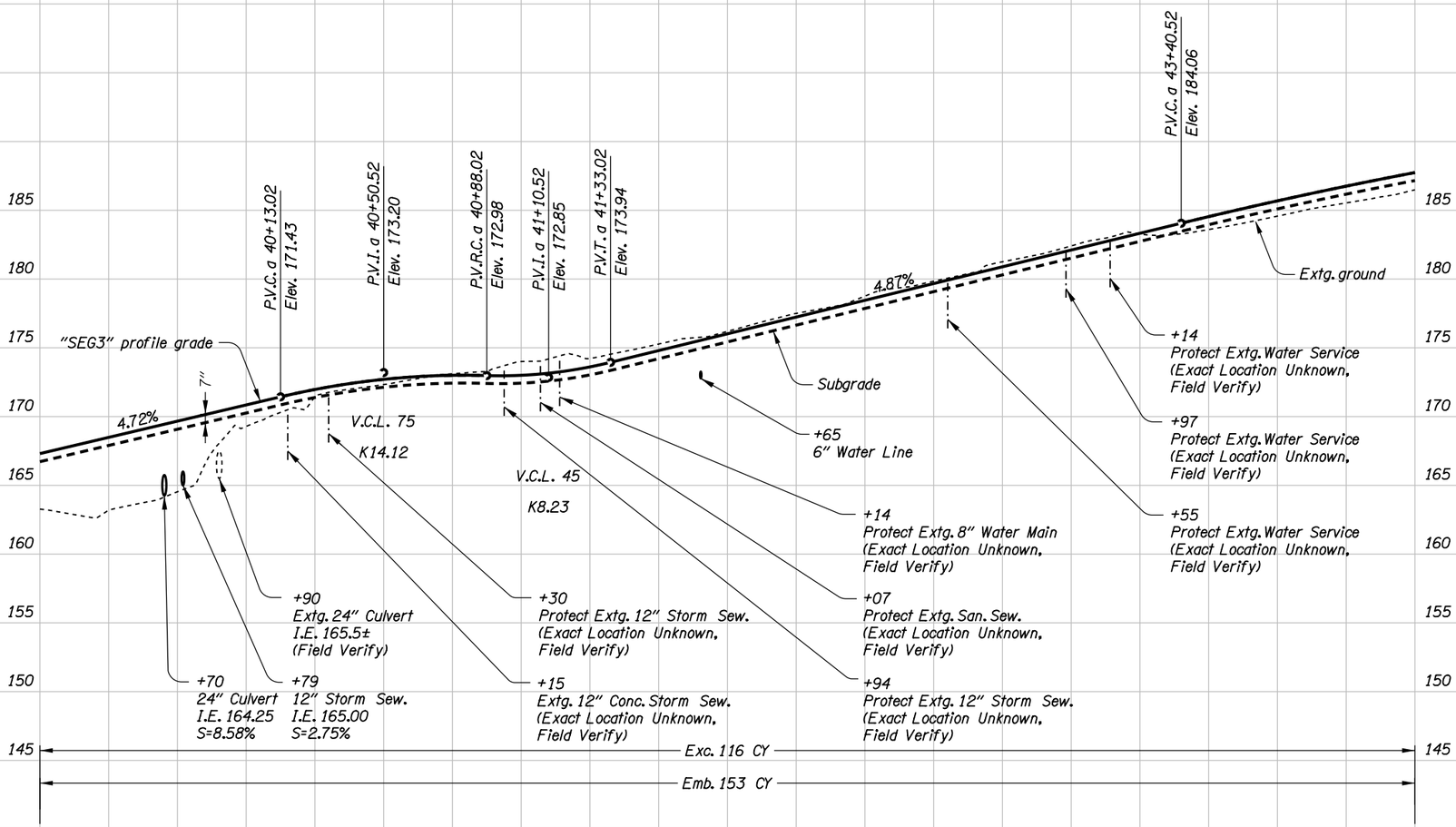

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Horizontal Scale In Feet

0 5 10 15
Vertical Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

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CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - M. Bittancourt
Designed By - M. Little
Drafted By - M. Wainscott

PROFILE

SHEET NO. 9A

662691pr09.dgn

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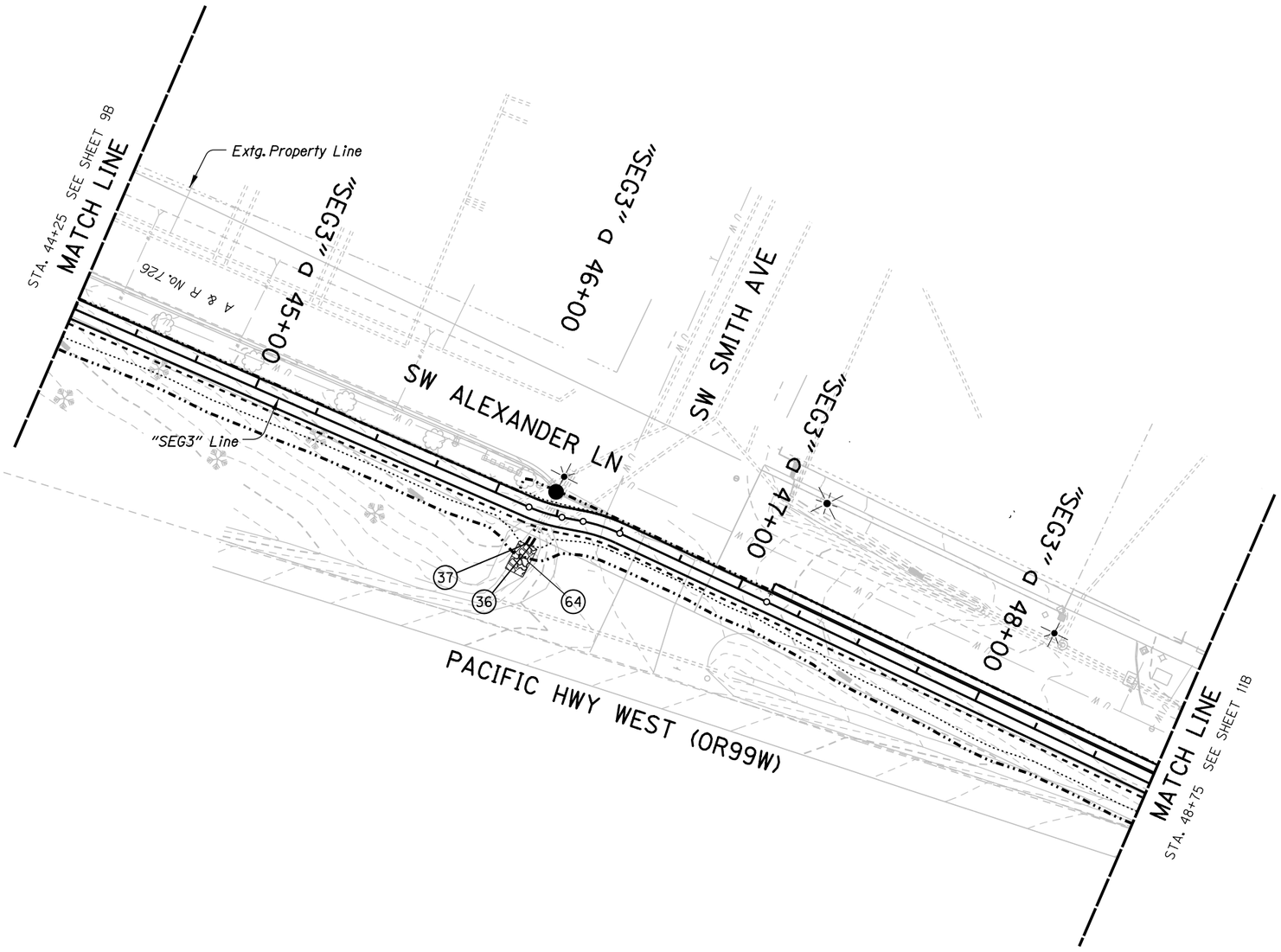

(36) STA. "SEG3" 46+01.78, 4' Lt
Extend Extg. 12" Concrete Culvert - 7' 5' Depth
I.E. (Tie-in) 189.25,
I.E. (Outfall) 189.00
Connect with Fernco Coupling or Approved Equal.
Provied Sloped End.
(See Std. Drg. No. RD318)

(37) STA. "SEG3" 45+98.05, 4.00' Lt
Extend Extg. 12" Concrete Culvert - 7' 5' Depth
I.E. (Tie-in) 189.08,
I.E. (Outfall) 189.00
Connect with Fernco Coupling or Approved Equal.
Provide Sloped End
(See Std. Drg. No. RD318)

(64) STA. "SEG3" 46+17.26, 25.41' Rt
Inst. 7'x12'x2.5' (CL. 200) Riprap Pad - 8.33 Cu.Yd.
For Details, See City of Sherwood Std. Drg. No. SS-87

OREGON DEPARTMENT OF TRANSPORTATION

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CEDAR CREEK/TONQUIN TRAIL:
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PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

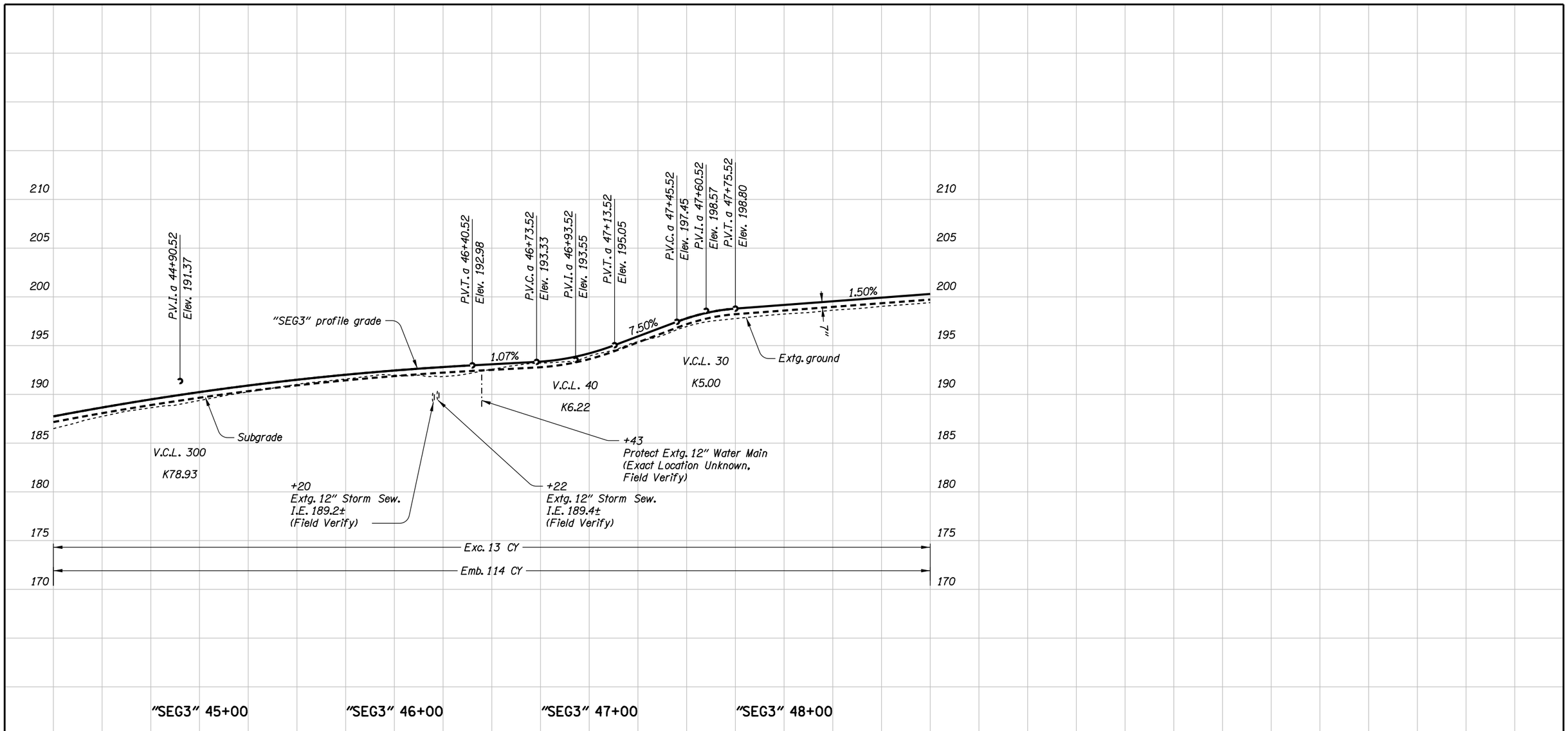
Reviewed By - R. Attanasio
Designed By - T. Ring/M. Little
Drafted By - M. Wainscott

JOINT PERMIT APPLICATION
GENERAL CONSTRUCTION DETAILS

SHEET NO. 10

ENVIRONMENTAL

662691dr10.dgn



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Horizontal Scale In Feet

0 5 10 15
Vertical Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

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CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

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Designed By - M. Little
Drafted By - M. Wainscott

PROFILE

SHEET NO. 10A

662691pr10.dgn

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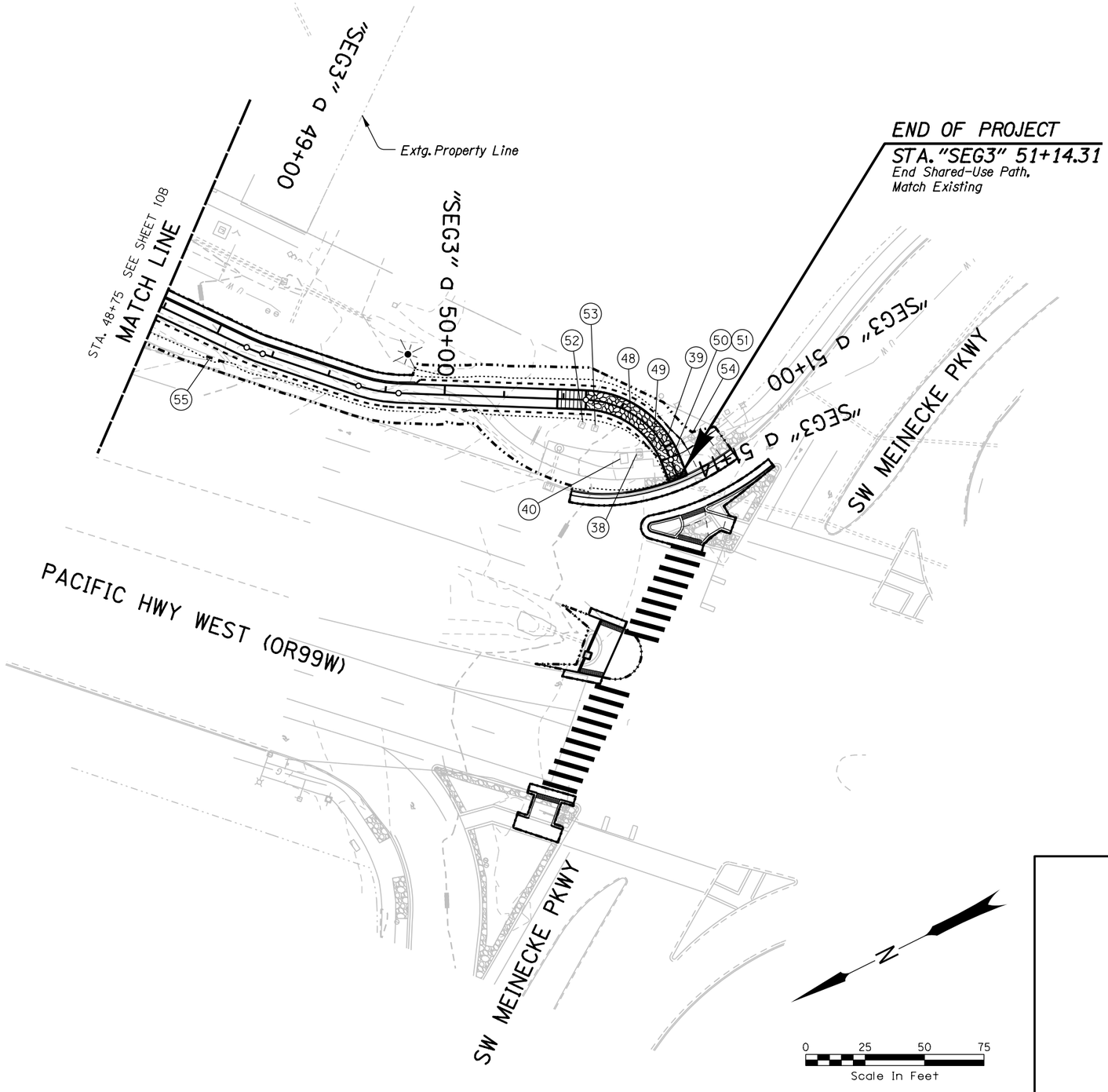
pwsvc

Sec. 30, T. 2S, R. 1W, W.M.



(38) *Protect Extg. Elec. Junction Box and Traffic Signal Box*

(39) *For Relocation of Extg. ODOT Traffic Signal Meter Base. See Sht. MB01*

(40) *Protect Extg. Elec. Transformer*

(48) *Extg. Comcast/Frontier Pedestal to be Relocated by Utility Prior to Construction*

(49) *For Relocation of Signal Junction Box. See Sht. MB01*

(50) *Remove Extg. Junction Box*

(51) *Inst. New Junction Box to Match Finish Grade TOC 206.56. (See Std. Drg. Nos. TM471 & TM472)*

(52) *Protect Extg. Electrical Box*

(53) *Protect Extg. Communication Box*

(54) *Protect Extg. Traffic Signal Cabinet*

(55) *STA. "SEG3" a xx+xx, xx' Rt*
Connect to and Extend Extg. Culvert - 8'
5' Depth
I.E. (Tie-in) 198.21
I.E. (Outfall) 198.03
Field Veryfy and Match Extg. Pipe Dia.
Connect with Fernco Coupling or Approved Equal
Provide Sloped End
(See Std. Drg. No. RD318)

Notes:
1. *For Signal Plan, See sht. MB01.*
2. *Field Verify Depth and Location of all Utilities and Associated Structures to be Protected In-Place.*

OREGON DEPARTMENT OF TRANSPORTATION

ch2m.
2020 SW 4TH AVE. - 3RD FLOOR
PORTLAND, OR 97201-4953
TEL. 503.235.5000

CEDAR CREEK/TONQUIN TRAIL: OR99W - MURDOCK RD
PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - R. Attanasio
Designed By - T. Ring/M. Little
Drafted By - M. Wainscott

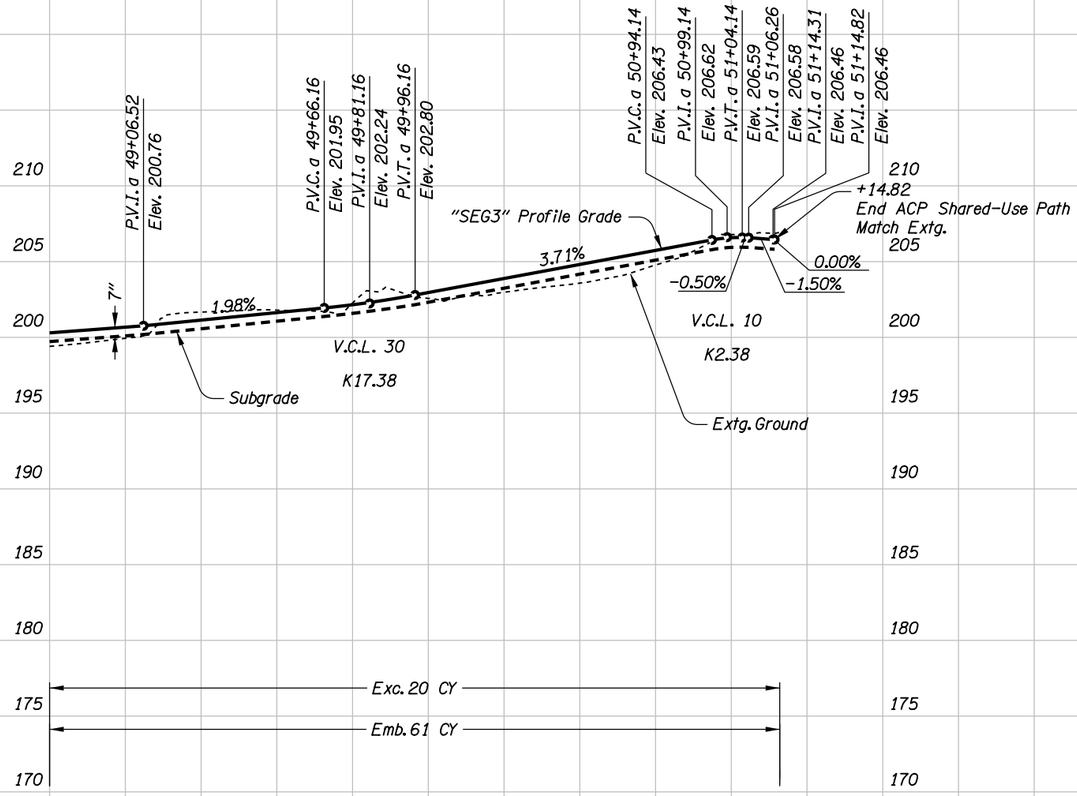
JOINT PERMIT APPLICATION GENERAL CONSTRUCTION DETAILS

SHEET NO. 11

ENVIRONMENTAL

662691dr11.dgn

ROADWAY



0 25 50 75
Horizontal Scale In Feet

0 5 10 15
Vertical Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

ch2m:
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CEDAR CREEK/TONQUIN TRAIL:
OR99W - MURDOCK RD

PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

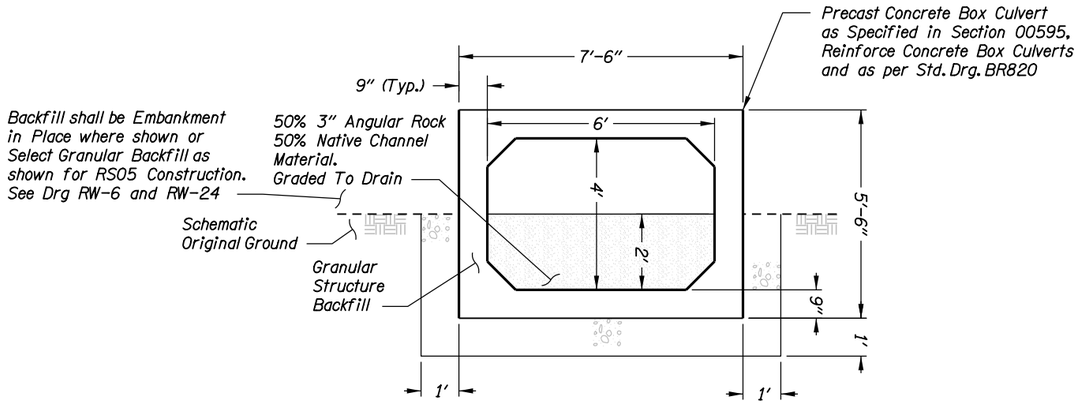
Reviewed By - M. Bittancourt
Designed By - M. Little
Drafted By - M. Wainscott

PROFILE

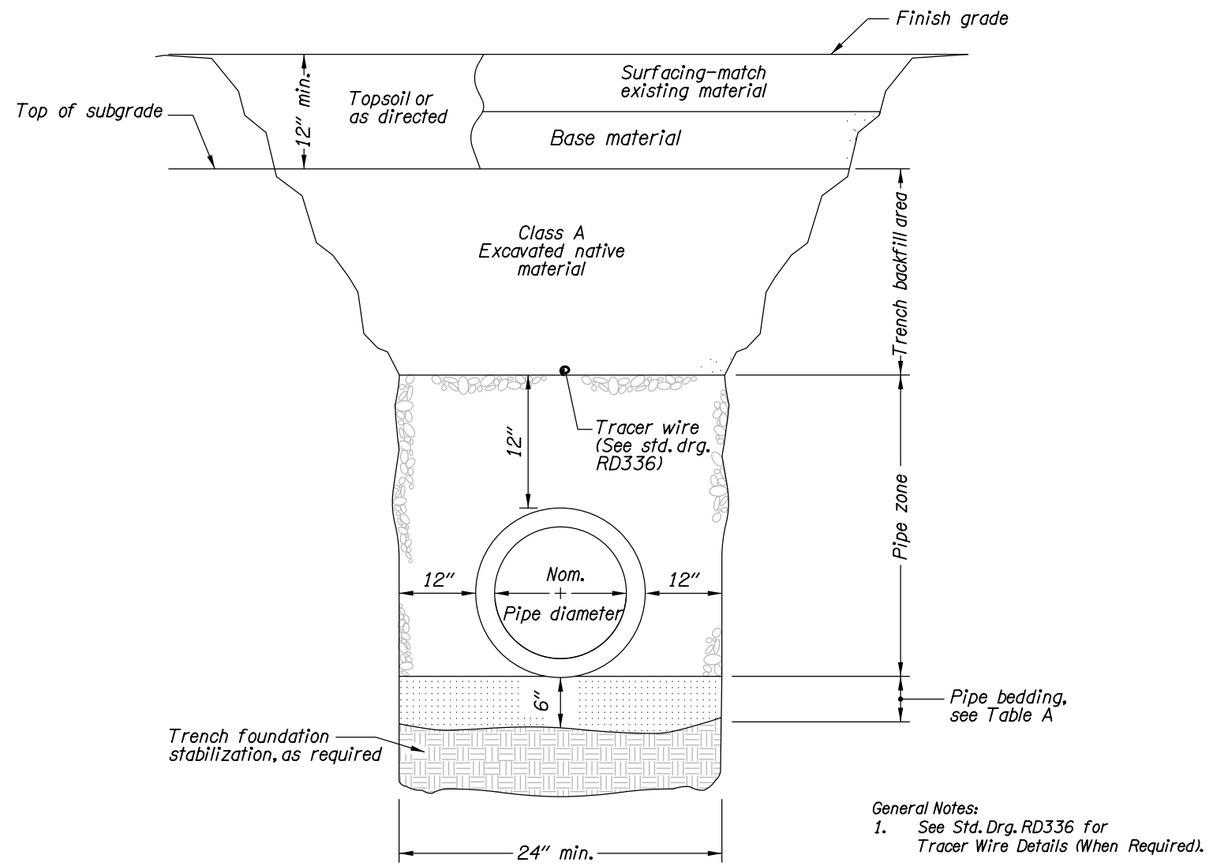
SHEET NO. 11A

662691pr11.dgn

pw://projectwise.ch2m.com:DEN001/Documents/662691&space;-&space;CEDAR&space;CREEK&space;WOC5/Work&space;in&space;Progress/CEDAR-CREEK-WIP/EN/Div/DSL&space;Joint&space;Permit&space;Application/662691pr11 31-JUL-2019 13:59 mwainsco



BOX CULVERT TYPICAL SECTION



General Notes:
1. See Std. Drg. RD336 for Tracer Wire Details (When Required).

CIRCULAR CULVERT
TRENCH BACKFILL AND BEDDING

OREGON DEPARTMENT OF TRANSPORTATION

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CEDAR CREEK/TONQUIN TRAIL:
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PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

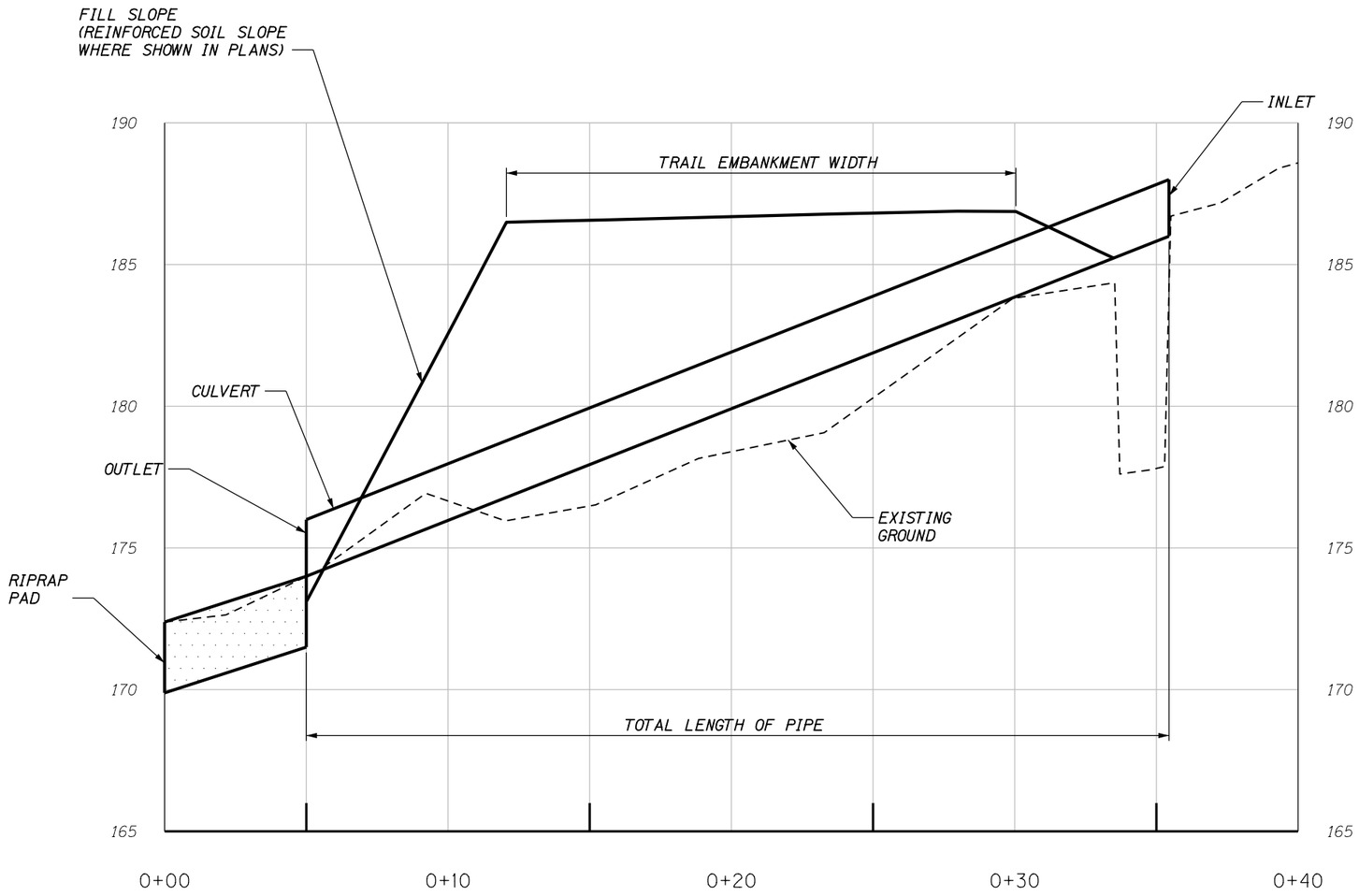
Reviewed By - C. Steinkoenig
Designed By - M. Little
Drafted By - M. Wainscott

JOINT PERMIT APPLICATION
CULVERT DETAILS

SHEET NO. X

ENVIRONMENTAL

662691-BoxCulvertDetail.dgn



ROADWAY

662691pr11.dgn

0 5 10 15
Vertical Scale In Feet

OREGON DEPARTMENT OF TRANSPORTATION

ch2m:
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CEDAR CREEK/TONQUIN TRAIL:
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PACIFIC HIGHWAY WEST
WASHINGTON COUNTY

Reviewed By - C. Steinkoenig
Designed By - M. Little
Drafted By - M. Wainscott

CROSS-SECTION

SHEET NO. 13A

pw://projectwise.ch2m.com:DEN001/Documents/662691&space;-&space;CEDAR&space;CREEK&space;WOC5/Work&space;in&space;Progress/CEDAR-CREEK-WIP/EN/Div/DSL&space;Permit&space;(working)/662691wl3A

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US Army Corps of Engineers ®
Portland District

Nationwide Permit 14
Terms and Conditions

Effective Date: March 19, 2017

In addition to any special conditions that may be required on a case-by-case basis by the District Engineer, the following terms and conditions must be met, as applicable, for a Nationwide Permit authorization to be valid in Oregon.

A. Description of Activities Authorized by Nationwide Permit (NWP) 14

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

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

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

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) The loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 32.)

(Authorities: Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act)

Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d).

Note 2: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under section 404(f) of the Clean Water Act (see 33 CFR 323.4).

Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, ''District Engineer's Decision.'' The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

B. NWP General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/ or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. *Navigation*.

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

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

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

2. *Aquatic Life Movements*. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

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

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

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

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

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

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

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

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

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

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

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

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

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

16. *Wild and Scenic Rivers*.

(a) No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/.

17. *Tribal Rights*. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. *Endangered Species*.

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which ''may affect'' a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre- construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

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

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

(e) Authorization of an activity by an NWP does not authorize the ''take'' of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with ''incidental take'' provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any

person subject to the jurisdiction of the United States to take a listed species, where ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word ''harm'' in the definition of ''take'' means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide Web pages at http://www.fws.gov/ or http:// www.fws.gov/ipac and http:// and www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. *Migratory Birds and Bald and Golden Eagles.* The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether ''incidental take'' permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. *Historic Properties*.

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

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional

consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre- construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance

despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/ THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

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

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

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

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. *Mitigation*. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

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

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1⁄10-acre and require pre-construction notification, unless the

district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by- case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

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

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

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

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

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

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

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

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

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

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

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

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

associated with compliance with its terms and conditions, have the transferee sign and date below.

_____
(Transferee)

_____
(Date)

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

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. *Activities Affecting Structures or Works Built by the United States*. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a ''USACE project''), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. *Pre-Construction Notification*.

(a) *Timing*. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will

notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is ''no effect'' on listed species or ''no potential to cause effects'' on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification*: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other

waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

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

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a ''study river'' for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the ''study river'' (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification*: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly

indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) *Agency Coordination*:

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

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

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

C. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the individual crossings of waters of the United States to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51, 52, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects. For those NWPs that have a waivable 300 linear foot limit for losses of intermittent and ephemeral stream bed and a 1/2-acre limit (i.e., NWPs 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52), the loss of intermittent and ephemeral stream bed, plus any other losses of jurisdictional waters and wetlands, cannot exceed 1/2- acre.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters (e.g., streams). The district engineer will consider any proposed compensatory mitigation or other mitigation

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

4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) That the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31, or to evaluate PCNs for activities authorized by NWPs 21, 49, and 50), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

D. Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.

2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.

3. NWPs do not grant any property rights or exclusive privileges.

4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

E. Portland District Regional Conditions

Note: The following Nationwide Permit (NWP) regional conditions are for the State of Oregon. Regional conditions are placed on NWPs to ensure projects result in no more than minimal adverse impacts to the aquatic environment and to address local resource concerns.

1. *Notification:* For permittees that received written NWP approval, upon starting the authorized activities, you shall notify the U.S. Army Corps of Engineers, Portland District, Regulatory Branch that the work has started. Notification shall be provided by e-mail to cenwp.notify@usace.army.mil and the email subject line shall include: Corps project number and the project location by county.

2. *Aquatic Resources of Special Concern:* Pre-construction notification to the District Engineer is required for all activities proposed in waters of the U.S. within an aquatic resource of special concern. Aquatic resources of special concern are resources that are difficult to replace, unique, and/or have high ecological function. For the purpose of this regional condition, aquatic resources of special concern are native eel grass (*Zostera marina)* beds, mature forested wetlands, bogs, fens, vernal pools, alkali wetlands, wetlands in dunal systems along the Oregon coast, estuarine wetlands, Willamette Valley wet prairie wetlands, marine gardens, marine reserves, kelp beds, and rocky substrate in tidal waters.

In addition to the content requirements of NWP General Condition (GC) 32, the pre-construction notification must include a statement explaining why the effects of the proposed activity are no more than minimal. Written approval from the District Engineer must be obtained prior to commencing work.

Note: If the District Engineer determines that the adverse effects of the proposed activity are more than minimal, then the District Engineer will notify the applicant that either:

(a) the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) the activity is authorized under the NWP subject to submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) the activity is authorized under the NWP with specific modifications or conditions.

3. *Cultural Resources and Human Burials-Inadvertent Discovery Plan:* In addition to the requirements in NWP GCs 20 and 21, the permittee shall immediately notify the District Engineer if, at any time during the course of the work authorized, human burials, cultural items, or historic properties, as defined by the National Historic Preservation Act

and Native American Graves Protection and Repatriation Act, are discovered. The permittee shall implement the following procedures:

a. Immediately cease all ground disturbing activities.

b. Notify the Portland District Engineer as soon as possible following discovery but in no case later than 24 hours. Notification may be sent by fax (503-808-4375) or electronically (cenwp.notify@usace.army.mil) and shall identify the Corps project number and clearly specify the purpose is to report a cultural resource discovery. The permittee shall also notify the Corps representative (by email and telephone) identified in the verification letter.

c. Notify the Oregon State Historic Preservation Office by telephone at (503) 986-0690.

Failure to stop work immediately and until such time as the District Engineer has coordinated with all appropriate agencies and Native American tribes, and complied with the provisions of 33 CFR 325 (Appendix C), the National Historic Preservation Act, Native American Graves Protection and Repatriation Act, and other pertinent regulations could result in violation of state and federal laws. Violators may be subject to civil and criminal penalties.

4. *In-water Work:* To minimize potential impacts to aquatic species and habitat, in-water work will be limited by the following timing considerations:

a. Permittee shall complete all in-water work, to the maximum extent practicable, within the preferred time period (i.e., work window) specified in Oregon Department of Fish and Wildlife's (ODFW) "Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources," June 2008, or most current version, available at: http://www.dfw.state.or.us/lands/inwater/.

b. If work cannot be completed within the preferred timing window, despite every attempt to do so, permittee shall submit a written request to work outside of the preferred window to the District Engineer. The request can be made by means of the joint-agency In-water Work Period Variance Request for Previously Permitted Authorizations form which can be found at http://www.oregon.gov/dsl/WW/Pages/WWforms.aspx. Permittee shall not begin any in-water work outside of the preferred window until they have received written approval from the District Engineer.

Note: The final specified in-water work period will be based on a project-specific evaluation and may supersede these guidelines through special conditions of the permit verification.

5. *Essential Fish Habitat:* Activities which may adversely affect essential fish habitat, as defined under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), are not authorized by NWP until essential fish habitat requirements have been met by the applicant and the Corps. Non-federal permittees must submit a pre-

construction notification to the District Engineer if essential fish habitat may be affected by, or is in the vicinity of, a proposed activity and shall not begin work until notified by the District Engineer that the requirements of the essential fish habitat provisions of the MSA have been satisfied and the activity is authorized. The notification must identify the type(s) of essential fish habitat (e.g., Pacific coast salmon, Pacific coast groundfish, and/or Coastal-pelagic species) managed by a Fishery Management Plan that may be affected. Information about essential fish habitat is available at NOAA's website: http://www.westcoast.fisheries.noaa.gov/.

6. *Bank Stabilization:* Permittee shall include the use of bioengineering techniques and natural materials in the project design to the maximum extent practicable and shall minimize the use of rock. Bioengineering bank stabilization techniques are those that increase the strength and structure of soils with a combination of biological and mechanical elements (e.g., vegetation, root wads and woody debris, rock structures). Riparian plantings shall be included in all project designs unless the permittee can demonstrate that such plantings are not practicable.

7. *Fish Screening:* To prevent injury or mortality to fish due to entrainment, the permittee shall ensure that all intake pipes include adequately sized screens.

Note: Fish passage and screening criteria can be obtained from the National Marine Fisheries Service (NMFS) at http://www.westcoast.fisheries.noaa.gov/fish_passage/solutions/index.html. Information regarding Oregon's fish passage laws can be obtained from ODFW at http://www.dfw.state.or.us/fish/passage/links.asp.

8. *Work Area Isolation and Dewatering:* Appropriate best management practices shall be implemented to prevent erosion and to prevent sediments from entering waters of the U.S.

a. All in-water work shall be isolated from the active channel or conducted during low seasonal stream flows to the maximum extent practicable.

b. Cofferdams shall be constructed of non-erosive material, such as concrete jersey barriers, sand and gravel bag dams, or water bladders. Constructing a cofferdam by pushing material from the streambed or sloughing material from the streambanks is not authorized.

c. Sand and gravel bag dams shall be lined with a plastic liner or geotextile fabric to reduce permeability and prevent sediments and/or construction materials from entering waters of the U.S.

d. Upstream and downstream flows shall be maintained by routing flows around the construction site.

e. When dewatering is necessary for construction, a sediment basin, or other applicable method, shall be used to settle sediments prior to releasing the water back

into the waterbody. Settled water shall be returned to the waterbody in such a manner as to avoid erosion. Sediment basins shall be placed in uplands.

f. Fish and other aquatic species must be salvaged (i.e., safely captured and relocated away from the project or development site) prior to dewatering.

Note: The ODFW requires a Scientific Take Permit be obtained to salvage fish and wildlife. Further information from ODFW is available at http://www.dfw.state.or.us/fish/license_permits_apps/scientific_taking_permit.asp.

9. *Dredging:* For NWP-authorized activities that involve removal of sediment from waters of the U.S., the permittee shall ensure that any necessary sediment characterization regarding size, composition, and potential contaminants is conducted prior to dredging. Sediment characterization must be conducted per the Sediment Evaluation Framework for the Pacific Northwest (available at: http://www.nwp.usace.army.mil/Missions/Environment/DMM.aspx).

Note 1: The return water from a contained disposal area is defined as a discharge of dredged material by 33 CFR Part 323.2(d) and requires separate authorization from the District Engineer (e.g., by NWP 16).

Note 2: The Oregon Department of Environmental Quality (DEQ) requires removed material placed in an upland site to meet the definitions of clean fill as provided in OAR 340-093-0030 or the use must be specifically allowed by DEQ by rule, permit, or other authorization.

10. *Mechanized Equipment:* In addition to the requirements in NWP GC 11, permittee shall implement the following practices to prevent or minimize impacts to the aquatic environment from mechanized equipment:

a. Use existing roads, paths, and construction pads where available. Temporary mats or pads, when required to provide access onto wetlands or tidal flats, shall be removed within 30 days of completing the authorized work.

b. Operate equipment from the top of a streambank and conduct work outside of the active stream channel, unless specifically authorized by the District Engineer.

c. Equipment shall not be staged, fueled, or maintained within waters of the U.S.

d. Spill prevention and containment materials shall be maintained and be readily accessible at vehicle staging areas. The amount of spill response materials (such as straw matting/bales, geotextiles, booms, diapers, and other absorbent materials, shovels, brooms, and containment bags) maintained on-site must be appropriate for the size of the authorized activity.

11. *Stormwater Management:* Pre-construction notification to the District Engineer is required for all activities resulting in the creation of new impervious surfaces if any species or designated critical habitat listed under the Endangered Species Act (ESA)

might be affected or are in the vicinity of the activity. The Corps may require a post-construction stormwater management plan (SWMP) and completion of a supplemental Stormwater Information Form to assist in the determination of the activity's affects to listed species or designated critical habitat and to be used in ESA consultation as necessary.

Note 1: The Corps considers impervious surfaces to include roof tops, walkways, patios, driveways, parking or storage areas, concrete or asphalt paving, gravel roads, packed earthen material, and oiled surfaces.

Note 2: Under the DEQ 401 Water Quality Certification Program, the DEQ evaluates post-construction stormwater pollution for any project resulting in new, an increase in, or redevelopment of impervious surfaces. DEQ may require the applicant to submit a post-construction SWMP for review and approval prior to the start of construction. DEQ provides information on preparing a SWMP at http://www.deq.state.or.us/wq/sec401cert/docs/stormwaterGuidelines.pdf. DEQ requires applicants to first consider low impact development options. If these options can't be implemented, a narrative must be provided explaining why.

12. *Erosion Control:* During construction and until the site is stabilized, the permittee shall ensure all practicable measures are implemented and maintained to prevent erosion and runoff. Temporary stockpiles of excavated or dredged material shall be stabilized to prevent erosion. Once soils or slopes have been stabilized, permittee shall completely remove and properly dispose of or re-use all non-biodegradable components of installed control measures.

Note: DEQ provides information on erosion and sediment control measures at http://www.deq.state.or.us/wq/wqpermit/docs/general/npdes1200c/ErosionSedimentControl.pdf. Details on best management practices are found at http://www.deq.state.or.us/wq/wqpermit/docs/general/npdes1200c/BMPManual.pdf.

13. *Temporary Fills and Impacts:* To ensure no more than minimal adverse environmental effects from temporary fills and impacts to waters of the U.S:

a. Temporary fills and/or impacts to waters of the U.S. shall not exceed six months unless otherwise approved by the District Engineer.

b. No more than one-half (½) acre of waters of the U.S. may be temporarily filled or impacted unless otherwise approved by the District Engineer (temporary fills and impacts do not affect specified limits for loss of waters associated with specific nationwide permits).

c. Native soils and/or sediments removed from waters of the U.S. for project construction shall be stockpiled and used for site restoration to the maximum extent practicable.

d. Site restoration of temporarily filled or impacted areas shall include returning the area to pre-project ground surface contours. The permittee shall appropriately

revegetate temporarily filled or impacted areas with native, noninvasive herbs, shrubs, and/or tree species sufficient in number, spacing, and diversity to replace affected aquatic functions.

Note: The Corps will determine compensatory mitigation requirements for temporary fills and impacts on a case-by-case basis depending on the duration and nature of the temporary fill or impact and the type of aquatic resource affected.

14. *Contractor Notification of Permit Requirements:* The permittee must provide a copy of the nationwide permit verification letter, conditions, and permit drawings to all contractors and any other parties performing the authorized work, prior to the commencement of any work in waters of the U.S.

15. *Inspection of the Project Site:* The permittee shall allow representatives of the District Engineer to inspect the authorized activity to confirm compliance with nationwide permit terms and conditions. A request for access to the site will normally be made sufficiently in advance to allow a property owner or representative the option to be on site during the inspection.

Oregon
Kate Brown, Governor

Department of Environmental Quality
Northwest Region Portland Office/Water Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5263
FAX (503) 229-6957
TTY 711

September 2, 2020

Jason Waters
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

RE: Nationwide 401 Water Quality Certification Approval for 2020-277, Cedar Creek/Tonquin Trail: OR99W-SW Washington St

The US Army Corps of Engineers (USACE) has determined that your project will be authorized under Nationwide Permit (NWP) category #14. As described in the application package received and reviewed by the Oregon Department of Environmental Quality (DEQ), the project qualifies for the Nationwide Section 401 Water Quality Certification (WQC), subject to the conditions outlined below. If you cannot meet all conditions of this 401 WQC, you may apply for a standard individual certification. A standard individual certification will require additional information and higher fees will apply.

Certification Decision: Based on information provided by USACE and the Applicant, DEQ is reasonably assured that implementation-eligible activities under the proposed NWP will be consistent with applicable provisions of Sections 301, 302, 303, 306, and 307 of the federal Clean Water Act, state water-quality standards set forth in Oregon Administrative Rules Chapter 340 Division 41, and other appropriate requirements of state law, provided the following conditions are incorporated into the federal permit and strictly adhered to by the Applicant.

In addition to all USACE national and regional permit conditions, the following 401 WQC conditions apply to all NWP categories that qualify for the Nationwide 401 WQC.

401 GENERAL CERTIFICATION CONDITIONS

1) **Responsible parties:** This 401 WQC applies to the Applicant. The Applicant is responsible for the work of its contractors and sub-contractors, as well as any other entity that performs work related to this WQC.

2) **Work Authorized:** Work authorized by this 401 WQC is limited to the work described in the Application or Pre-Construction Notification submitted to the USACE and additional application materials (hereafter "the permit application materials"), unless otherwise authorized by DEQ. If the project is operated in a manner not consistent with the project description contained in the permit application materials, the Applicant is not in compliance with this 401 WQC and may be subject to enforcement.

3) A copy of this 401 WQC must be kept on the job site and readily available for reference by Applicant and its contractors, as well as by DEQ, USACE, National Marine Fisheries Service

(NMFS), Oregon Department of Fish and Wildlife (ODFW), and other appropriate state and local government officials.

4) In accordance with OAR 340-048-0050, DEQ may modify or revoke this 401 WQC if project activities are having an adverse impact on state water quality or beneficial uses, or if the Applicant is otherwise in violation of the conditions of this certification.

5) The Applicant and its contractors must allow DEQ access to the project site, staging areas, and mitigation sites to monitor compliance with these 401 WQC conditions, including:
   a. Access to any records, logs, and reports that must be kept under the conditions of this 401 WQC;
   b. To inspect best management practices (BMPs), monitoring or operational equipment or methods; and
   c. To collect samples or monitor any discharge of pollutants.

6) Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

7) **Land Use Compatibility Statement:** In accordance with OAR 340-048-0020(2) (i), each Applicant must submit findings prepared by the local land use jurisdiction that demonstrates the activity's compliance with the local comprehensive plan. Such findings can be submitted using the appropriate section of the USACE & DSL Joint Permit Application, signed by the appropriate local official and indicating:

   a. "This project is consistent with the comprehensive plan and land use regulations;" or,

   b. "This project will be consistent with the comprehensive plan and land use regulations when the following local approvals are obtained," accompanied by the obtained local approvals.

   c. Rarely, such as for federal projects on federal land, "this project is not regulated by the comprehensive plan" will be acceptable.

   In lieu of submitting the appropriate section of the USACE & DSL Joint Permit Application, the Applicant may use DEQ's Land Use Compatibility Statement form found at: http://www.oregon.gov/deq/FilterDocs/lucs.pdf

FOR PROJECTS THAT PROPOSE CONSTRUCTION, THE FOLLOWING GENERAL CONDITIONS APPLY

8) **Erosion and Sediment Control**: During construction, erosion and sediment control measures must be implemented to prevent or control movement of sediment, soil or pollutants into waters of the state. The Applicant is required to develop and implement an effective erosion and sediment control plan. **Any project that disturbs more than one acre is required to obtain an NPDES 1200-C construction stormwater permit from DEQ.** In addition, the Applicant (or responsible party) must:
   a. Where practicable, use removable pads or mats to prevent soil compaction at all construction access points through, and staging areas in, riparian or wetland areas to prevent soil compaction.

b. Demarcate wetlands not specifically authorized to be impacted to protect from disturbance and/or erosion.

c. Place dredged or other excavated material on upland areas with stable slopes to prevent materials from eroding back into waterways or wetlands. Place BMPs as necessary to stabilize and prevent erosion.

9) **Spill Prevention:** The Applicant must fuel, operate, maintain and store vehicles, and must store construction materials, in areas that will not impact water quality either directly or due to potential discharges.

10) **Spill & Incident Reporting:**
   a. In the event that petroleum products, chemicals, or any other deleterious materials are discharged into state waters, the discharge must be promptly reported to the Oregon Emergency Response Service (OERS, 1-800-452-0311). Containment and cleanup must begin immediately and be completed as soon as practicable.

   b. If the project operations result in distressed or dying fish, the operator must immediately: cease operations; take appropriate corrective measures to prevent further environmental damage; and immediately notify DEQ and ODFW.

11) **Vegetation Protection and Site Restoration:**
   a. The Applicant must protect riparian, wetland, and shoreline vegetation in the authorized project area from disturbance through one or more of the following:
      i. Minimization of project and impact footprint;
      ii. Designation of staging areas and access points in open, upland areas;
      iii. Fencing and other barriers demarking construction areas; and
      iv. Use of alternative equipment (e.g., spider hoe or crane).

   b. If authorized work results in any vegetative disturbance and the disturbance has not been accounted for in planned mitigation actions, the Applicant must successfully reestablish vegetation to a degree of function equivalent or better than before the disturbance.

12) The Applicant shall avoid and protect from harm, **all wetlands and riparian areas located within 50 feet of USACE jurisdictional waters**, unless proposed, necessary, and approved as part of the project. If a local jurisdiction has a more stringent buffer requirement, that requirement will override this certification requirement.

FOR PROJECTS THAT PROPOSE IN-STREAM WORK IN JURISDICTIONAL WATERS

13) **Fish protection/Oregon Department of Fish and Wildlife timing:** The Applicant must perform in-water work only within the Oregon Department of Fish and Wildlife preferred time window as specified in the *Oregon Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources*, or as authorized otherwise under a USACE permit and/or Department of State Lands removal/fill permit. Exceptions to the timing window must be recommended by Oregon Department of Fish and Wildlife, the National Marine Fisheries Services and/or the US Fish and Wildlife as appropriate.

14) **Aquatic life movements:** Any activity that may disrupt the movement of aquatic life living in the water body, including those species that normally migrate through the area, is prohibited.

The Applicant must provide unobstructed fish passage at all times during any authorized activity, unless otherwise approved in the approved application.

15) **Turbidity**: The Applicant must implement appropriate Best Management Practices (BMPs) to minimize turbidity during in-water work. Any activity that causes turbidity to exceed 10% above natural stream turbidity is prohibited except as specifically provided below:

a. **Monitoring**: Turbidity monitoring must be conducted and recorded as described below. Monitoring must occur at two hour intervals each day during daylight hours when in-water work is being conducted. A properly calibrated turbidimeter is required **unless another monitoring method is proposed and authorized by DEQ**.

i. Representative Background Point: The Applicant must take and record a turbidity measurement every two hours during in-water work at an undisturbed area. A background location shall be established at a representative location approximately 100 feet upcurrent of the in water activity unless otherwise authorized by DEQ. The background turbidity, location, date, tidal stage (if applicable) and time must be recorded immediately prior to monitoring downcurrent at the compliance point described below.

ii. Compliance Point: The Applicant must monitor every two hours. A compliance location shall be established at a representative location approximately 100 feet downcurrent from the disturbance at approximately mid-depth of the waterbody and within any visible plume. The turbidity, location, date, tidal stage (if applicable) and time must be recorded for each measurement.

b. **Compliance**: The Applicant must compare turbidity monitoring results from the compliance points to the representative background levels taken during each two – hour monitoring interval. Pursuant to OAR 340-041-0036, short term exceedances of the turbidity water quality standard are allowed as follows:

MONITORING WITH A TURBIDIMETER *EVERY 2 HOURS*	
TURBIDITY LEVEL	***Restrictions to Duration of Activity***
0 to 4 NTU above background	No Restrictions
5 to 29 NTU above background	Work may continue maximum of 4 hours. If turbidity remains 5-29 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
30 to 49 NTU above background	Work may continue maximum of 2 hours. If turbidity remains 30-49 NTU above background, stop work and modify BMPs. Work may resume when NTU is 0-4 above background.
50 NTU or more above background	Stop work immediately and inform DEQ

c. **Reporting**: The Applicant must record all turbidity monitoring required by subsections (a) and (b) above in daily logs. The daily logs must include calibration documentation; background NTUs; compliance point NTUs; comparison of the points in NTUs; location; date; time; and tidal stage (if applicable) for each reading. Additionally, a narrative must be prepared discussing all exceedances with subsequent monitoring, actions taken, and the effectiveness of the actions. Applicant must make available copies of daily logs for turbidity monitoring to DEQ, USACE, NMFS, USFWS, and ODFW upon request.

d. **BMPs to Minimize In-stream Turbidity:** The Applicant must implement the following BMPs, unless otherwise accepted by DEQ:

i. Sequence/Phasing of Work – The Applicant must schedule work activities so as to minimize in-water disturbance and duration of in-water disturbances;
ii. Bucket control - All in-stream digging passes by excavation machinery and placement of fill in-stream using a bucket must be completed so as to minimize turbidity. All practicable techniques such as employing an experienced equipment operator, not dumping partial or full buckets of material back into the wetted stream, adjusting the volume, speed, or both of the load, or using a closed-lipped environmental bucket must be implemented;
iii. The Applicant must limit the number and location of stream-crossing events. Establish temporary crossing sites as necessary in the least sensitive areas and amend these crossing sites with clean gravel or other temporary methods as appropriate;
iv. Machinery may not be driven into the flowing channel, unless authorized by DEQ; and
v. Excavated material must be placed so that it is isolated from the water edge or wetlands, and not placed where it could re-enter waters of the state uncontrolled.

FOR PROJECTS THAT INCLUDE NEW IMPERVIOUS SURFACES OR REDEVELOPMENT OF EXISTING SURFACES, THE FOLLOWING CONDITIONS APPLY

16) **Post-Construction Stormwater Management:** For projects which propose new impervious surfaces or the redevelopment of existing surfaces, the Applicant must submit a post-construction stormwater management plan to DEQ for review and approval prior to construction, in order to ensure compliance with water quality standards. The Applicant must implement BMPs as proposed in the stormwater management plan, including operation and maintenance. If proposed stormwater facilities change due to site conditions, the Applicant must notify DEQ.

In lieu of a complete stormwater management plan, the Applicant may submit documentation of acceptance of the stormwater into a DEQ permitted National Pollutant Discharge Elimination System (NPDES) Phase I Municipal Separate Storm Sewer System (MS4).

17) **Stormwater Management & System Maintenance:** The Applicant is required to implement effective operation and maintenance practices for the lifetime of the proposed facility.

CATEGORY-SPECIFIC CONDITIONS

In addition to all national and regional conditions of the USACE permit and the 401 Water Quality Certification general conditions above, the following conditions apply to the noted specific categories of authorized activities.

NWP 7 – Outfall Structures and Associated Intake Structures:

7.1) The following actions are denied certification:

a. Discharge outfalls that are not subject to an NPDES permit; and

b. Outfalls that discharge stormwater without pollutant removal demonstrated to meet water-quality standards prior to discharge to waters of the state.

7.2) If an Applicant cannot obtain an NPDES permit or submit an approvable stormwater management plan per DEQ's Guidelines found at: http://www.oregon.gov/deq/FilterDocs/401wqcertPostCon.pdf the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.

NWP 12 – Utility Lines:

12.1) For proposals that include directionally-bored stream or wetland crossings:

a. All drilling equipment, drill recovery and recycling pits, and any waste or spoil produced, must be completely isolated, recovered, then recycled or disposed of to prevent entry into waters of the state.

b. In the event that drilling fluids enter a water of the state, the equipment operator must stop work, immediately initiate containment measures and report the spill to the Oregon Emergency Response System (OERS) at 800-452-0311.

c. An adequate supply of materials needed to control erosion and to contain drilling fluids must be maintained at the project construction site and deployed as necessary.

d. The Applicant must have a contingency plan in place prior to construction for the inadvertent return of drilling lubricant.

12.2) For proposals that include utility lines through wetlands, include anti-seep collars or equivalent technology to prevent draining the wetlands.

NWP 13 – Bank Stabilization:

13.1) Projects that do not include bioengineering are denied certification, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means of protection.

13.2) To apply for certification for a project without bioengineering, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.

NWP 14 – Linear Transportation:

14.1) For projects that include bank stabilization, bioengineering must be a component of the project, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means to protect an existing structure.

14.2) To apply for certification for a project without bioengineering, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.

NWP 16 - Return Water from Contained Upland Disposal Areas: Water-quality criteria and guidance values for toxics, per OAR 340-041-0033, are available in Tables 30, 31, and 40 at: http://www.oregon.gov/deq/Rulemaking%20Docs/tables303140.pdf.

16.1) Discharge of return water from contaminated dredged material that exceeds a chronic or acute toxicity water quality standard is prohibited.

16.2) Water removed with contaminated dredged material that could or does exceed chronic water-quality criteria must be contained and disposed of at an appropriately sized and sealed upland facility by evaporation or infiltration.

16.3) If a Modified Elutriate Test (MET) is performed for the known contaminants of concern (CoCs) and CoC concentrations are below DEQ chronic water-quality criteria, return water discharge is not limited.

a. The MET must be performed before dredging.
b. DEQ must approve the list of CoCs and analytical method prior to the Applicant performing the MET.
c. DEQ must review the results and provide approval of discharge from return water, in writing, prior to dredging.

NWP 20 – Response Operations for Oil and Hazardous Waste:

20.1) Coordination with DEQ's Emergency Response program is required. See: http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Emergency-Response.aspx.

NWP 22 – Removal of Vessels:

22.1) Coordination with DEQ's Emergency Response program is required. See: http://www.oregon.gov/deq/Hazards-and-Cleanup/env-cleanup/Pages/Emergency-Response.aspx.

NWP 31 – Maintenance of Existing Flood Control Facilities:

31.1) Projects in streams with temperature TMDLs which result in a net reduction of riparian shade are prohibited.

NWP 38 – Cleanup of Hazardous and Toxic Waste:

38.1) For removal of contaminated material from waters, dredging method is limited to diver assisted hydraulic suction, hydraulic suction, closed-lipped environmental bucket, or excavation in the dry, unless otherwise authorized by DEQ.

a. For in-water isolation measures, the Applicant is referred to Appendix D of DEQ's Oregon Erosion and Sediment Control Manual, April 2005 (or most current version), at: https://www.oregon.gov/deq/FilterPermitsDocs/ErosionSedimentControl.pdf.

38.2) Discharge to waters of the state resulting from dewatering during dredging or release of return water from an upland facility is prohibited except as provided below.

a. All water removed with sediment must be contained and disposed of at an appropriately sized and sealed upland facility by evaporation or infiltration; or,

b. A Modified Elutriate Test (MET) may be performed for the known Contaminants of Concern (CoCs) and if CoC concentrations are below DEQ chronic water-quality criteria; return water discharge is not limited.

i. The MET must be performed before dredging.
ii. DEQ must approve the list of CoCs and analytical method prior to the Applicant performing the MET.
iii. DEQ must review the results and provide approval of discharge from dewatering and return water in writing prior to dredging.

38.3) Dredged material must be disposed of in compliance with DEQ Rules governing Hazardous Waste (see: http://www.oregon.gov/deq/Hazards-and-Cleanup/hw/Pages/default.aspx) or Solid Waste (see: http://www.oregon.gov/deq/mm/swpermits/Pages/Solid-Waste-Disposal-Sites-and-Landfill.aspx).

38.4) The new in-water surface must be managed to prevent exposure or mobilization of contaminants.

NWP 41 - Reshaping Existing Drainage Ditches:

41.1) To the extent practicable, the Applicant must work from only one bank in order to minimize disturbance to existing vegetation, preferably the bank with the least existing vegetation;

41.2) Following authorized work, the Applicant must establish in-stream and riparian vegetation on reshaped channels and side-channels using native plant species wherever practicable. Plantings must be targeted to address water-quality improvement (e.g., provide shade to water to reduce temperature or provide bank stability through root systems to limit sediment inputs). Planting options may include clustering or vegetating only one side of a channel, preferably the side which provides maximum shade.

NWP 42 – Recreational Facilities:

42.1) For facilities that include turf maintenance actions, the Applicant must develop and implement an Integrated Pest Management Plan (IPM) that describes pest prevention, monitoring and control techniques with a focus on prevention of chemical and nutrient inputs to waters of the state, including maintenance of adequate buffers for pesticide application near salmonid streams, or coverage under an NPDES permit, if required (information is available at: http://www.oregon.gov/deq/wq/wqpermits/Pages/Pesticide.aspx).

NWP 43 – Stormwater Management Facilities:

43.1) Projects that propose the following elements are denied certification:
a. In-stream or wetland stormwater facilities;
b. Discharge outfalls not subject to an NPDES permit; and,
c. Proposals that do not demonstrate pollutant removal to meet water-quality standards prior to discharge to waters of the state.

43.2) To apply for certification for a project with in-stream stormwater facilities, without an NPDES permit, or without submittal of an approvable stormwater management plan per DEQ's Guidelines (at: http://www.oregon.gov/deq/FilterDocs/401wqcertPostCon.pdf), the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.

NWP 44 – Mining Activities:

44.1) Projects that do not obtain an NPDES 700-PM or Individual permit are denied certification.

44.2) To apply for certification for a project without an NPDES permit, the Applicant must submit complete project information and water quality impacts analysis directly to DEQ in order to undergo individual 401 WQC evaluation and fulfill public participation requirements.

NWP 51 – Land-Based Renewable Energy Generation Facilities:

51.1) For associated utility lines with directionally-bored stream or wetland crossings proposed, condition 12.1 must be applied.

NWP 54 – Living Shorelines

54.1) Projects that do not include bioengineering are denied certification, unless a registered professional engineer provides a written statement that non-bioengineered solutions are the only means of protection.

If the Applicant is dissatisfied with the conditions contained in this certification, a hearing may be requested. Such request must be made in writing to DEQ's Office of Compliance and Enforcement at 700 NE Multnomah St, Suite 600, Portland Oregon 97232, within 20 days of the mailing of this certification.

The DEQ hereby certifies that this project complies with the Clean Water Act and state rules, with the above conditions. If you have any questions, please contact Anne Kim at 503-229-5623, by email at Kim.Anne@deq.state.or.us, or at the address on this letterhead.

Sincerely,

Steve Mrazik,
Water Quality Manager
Northwest Region

ec: Carrie Bond, USACE
Anita Huffman, DSL
Claudia Steinkoenig, Jacobs

US Army Corps of Engineers®
Portland District

Compliance Certification

1. **Permit Number:** NWP-2020-277
2. **Permittee Name:** City of Sherwood
3. **County Location:** Washington

Upon completing the activity authorized by the permit, please complete the sections below, sign and date this certification, and return it to the U.S. Army Corps of Engineers, Portland District, Regulatory Branch. The certification can be submitted by email at cenwp.notify@usace.army.mil or by regular mail at the following address:

U.S. Army Corps of Engineers
CENWP-OD-GL
P.O. Box 2946
Portland, OR 97208-2946

4. **Corps-required Compensatory Mitigation (see permit special conditions):**
   a. Mitigation Bank / In-lieu Fee Credit Transaction Documents:
      ☑ Not Applicable ☐ Submitted ☐ Enclosed

   b. Permittee-responsible mitigation (e.g., construction and plantings) has been constructed (not including future monitoring). As-built report:
      ☑ Not Applicable ☐ Submitted ☐ Enclosed

5. **Endangered Species Act – Standard Local Operating Procedures (SLOPES)** (see permit special conditions):
   a. SLOPES Action Completion Report:
      ☑ Not Applicable ☐ Submitted ☐ Enclosed

   b. SLOPES Fish Salvage Report:
      ☑ Not Applicable ☐ Submitted ☐ Enclosed

   c. SLOPES Site Restoration / Compensatory Mitigation Report:
      ☑ Not Applicable ☐ Submitted ☐ Enclosed

I hereby certify the work authorized by the above-referenced permit has been completed in accordance with all of the permit terms and conditions.

Signature of Permittee **Date**