Floodplain Development Permit

Doddridge County, WV Floodplain Management

This permit gives approval for the development/ project listed that impacts the FEMA-designated floodplain and/or floodway of Doddridge County, WV, pursuant to the rules and regulations established by all applicable Federal, State and local laws and ordinances, including the Doddridge County Floodplain Ordinance. This permit must be posted at the site of work as to be clearly visible, and must remain posted during entirety of development.

Permit #: 15-377

Date Approved: July 5, 2016 **Expires: July 5, 2017**

Issued to: Jay-Bee Oil & Gas, Inc **POC: Shane Dowell**

Company Address: 3570 Shields Hill Rd. Cairo, WV 26337

Project Address: WV Route 23N, Salem, WV 26426

Firm: 54017C0155C **Lat/Long: 80.576379 W, 39.336256 N**

Purpose of development: Chipps Stream Bank Stablilization

Issued by: George C. Eidel, CFM, Doddridge County FPM (*or designee*)

George C. Eidel

Date: July 5, 2016

For additional information regarding this permit, please contact Doddridge County Floodplain Manager at 304.873.2631, or via email at doddridgecountyfpm@gmail.com
118 East Court Street; West Union, WV 26456

Doddridge County Commercial/Industrial
Floodplain Development Permit Application Permit #_____

Applicant Information:

Please provide all pertinent data.

Applicant Information		
Responsible Company Name: Jay-Bee Oil & Gas, Inc.		
Corporate Mailing Address: 3570 Shields Hill Rd.		
City: Cairo	**State:** WV	**Zip:** 26337
Corporate Point of Contact (POC): Shane Dowell		
Corporate POC Title: Office Manger		
Corporate POC Primary Phone: 304-628-3111		
Corporate POC Primary Email: sdowell@jaybeeoil.com		
Corporate FEIN: 55-073-8862	**Corporate DUNS:**	
Corporate Website: www.jaybeeoil.com		
Local Mailing Address: 3570 Shields Hill Rd.		
City: Cairo	**State:** WV	**Zip:** 26337
Local Project Manager (PM): Travis Yost		
Local PM Primary Phone: 304-628-3111		
Local PM Secondary Phone: 304-904-7228		
Local PM Primary Email: tyost@jaybeeoil.com		
Person Filing Application: Shane Dowell		
Applicant Title: Chipps Stream Bank Stabilization		
Applicant Primary Phone: 304-628-3111		
Applicant Secondary Phone: 304-904-1700		
Applicant Primary Email: sdowell@jaybeeoil.com		

SHANE Dowell
304
904-1700
Cell

Doddridge County Commercial/Industrial
Floodplain Development Permit Application

Permit #_____

Project Narrative:

Describe in detail the proposed development including project name/title, type of development, estimated start and completion timeline, and its potential impact on the floodplain. Use additional copies of this page as needed.

Project Narrative:
Our project is named Chipps Stream Bank Stabilization. We plan on starting this stabilization by October 1, 2015.
We will end our project approximately one week after startup. Our objective is to stabilize a stream bank that is
eroding in order to keep it from eroding and affecting our production facilities. We will be installing three j-hook grade
control structures and will be stablizing approximately 150' of stream bank with the attached stablization method.

Doddridge County Commercial/Industrial
Floodplain Development Permit Application Permit #_____

Proposed Development:

Please check all elements of the proposed project that apply.

Project Description: (Check all that apply)
☑ New Construction
☐ Commercial Structure
☐ Industrial Structure
☐ Pipeline
☐ Drill Pad
☐ Storage Yard/Facility
☐ Roadway Construction
☐ Bridge/Culvert (Please circle)
☐ Utility placement
☐ Utility displacement
☐ Grade/Excavation/Fill
☑ Watercourse Alteration
☐ Above ground chemical or HAZMAT storage tanks
☐ Above ground storage thanks (other)
☐ Below ground storage tanks (any)
☐ Well/Septic System
☐ Other

If other, please describe:

Doddridge County Commercial/Industrial
Floodplain Development Permit Application Permit #_____

Development Site/Property Information:

Please provide physical description of the site/property, along with pertinent ownership (surface and mineral rights) data as applicable. Attach appropriate maps from sources such as Google Earth, WV Flood Tool, etc. showing location of proposed development. Use additional copies of this page if development spans multiple property boundaries. Designate each property by number (i.e. Property 1 of 1, Property 2 of 7, etc.)

Property Designation: 1 of 1

Site/Property Information:		
Legal Description: ROBINSON 60.70 AC		
Physical Address/911 Address: WV Route 23N, Salem, WV 26426		
Decimal Latitude/Longitude: 39.33599352 x -80.57620525		
DMS Latitude/Longitude:		
District: McClellan	**Map:** 29	**Parcel:** 37
Land Book Description: ROBINSON 60.70 AC		
Deed Book Reference: 169-62		
Tax Map Reference: 9-5-29-37		
Existing Buildings/Use of Property: House south of the creek.		

Floodplain Location Data: ***(to be completed by Floodplain Manager or designee)***			
Community:	**Number:**	**Panel:**	**Suffix:**
Location (Lat/Long):		**Approximate Elevation:** **Estimated BFE:**	
Is the development in the floodway? ☐ **Yes** ☐ **No**		**Is the development in the floodplain?** ☐ **Yes** ☐ **No** **Zone:** _____	
Notes:			

Doddridge County Commercial/Industrial
Floodplain Development Permit Application Permit #_____

Property Owner Data:

Please provide data on current site/property landowner(s), both surface and mineral rights (as applicable). Use additional copies of this page as needed. Designate each page in relation to each property listed above.

Property Designation: 1 of 1

Property Owner Data:		
Name of Primary Owner (PO): Roy Lee & Alberta Chipp		
PO Address: Route 2 Box 312		
City: Salem	**State:** WV	**Zip:** 26426
PO Primary Phone: Unknown		
PO Secondary Phone: Not provided		
PO Primary Email: Not provided		

Surface Rights Owner Data:		
Name of Primary Owner (PO): Roy Lee & Alberta Chipp		
PO Address: Route 2 Box 312		
City: Salem	**State:** WV	**Zip:** 26426
PO Primary Phone: Unknown		
PO Secondary Phone: Not provided		
PO Primary Email: Not provided		

Mineral Rights Owner Data: ***(As Applicable)***		
Name of Primary Owner (PO): Orma Johnson		
PO Address: 3315 Highly Road		
City: Rocky River	**State:** OH	**Zip:** 44116
PO Primary Phone: Unknown		
PO Secondary Phone: Not provided		
PO Primary Email: Not provided		

Contractor Data:

Please provide all pertinent data for contractors and sub-contractors that may be participating in this project. Use additional copies of this page as needed. Designate each page in relation to each property listed above.

Property Designation: ____ of ____

Contractor/Sub-Contractor (C/SC) Information:		
C/SC Company Name: N/A		
C/SC WV License Number:		
C/SC FEIN:	**C/SC DUNS:**	
Local C/SC Point of Contact (POC):		
Local C/SC POC Title:		
C/SC Mailing Address:		
City:	**State:**	**Zip-Code:**
Local C/SC Office Phone:		
Local C/SC POC Phone:		
Local C/SC POC E-Mail:		

Contractor/Sub-Contractor (C/SC) Information:		
C/SC Company Name: N/A		
C/SC WV License Number:		
C/SC FEIN:	**C/SC DUNS:**	
Local C/SC Point of Contact (POC):		
Local C/SC POC Title:		
C/SC Mailing Address:		
City:	**State:**	**Zip-Code:**
Local C/SC Office Phone:		
Local C/SC POC Phone:		
Local C/SC POC E-Mail:		

Engineering Firm Data:

Please provide all pertinent data for engineering firm(s) that may be participating in this project. Use additional copies of this page as needed. Designate each page in relation to each property listed above.

Property Designation: ____ of ____

Engineer Firm Information:		
Engineer Firm Name: N/A		
Engineer WV License Number:		
Engineer Firm FEIN:	**Engineer Firm DUNS:**	
Engineer Firm Primary Point of Contact (POC):		
Engineer Firm Primary POC Title:		
Engineer Firm Mailing Address:		
City:	**State:**	**Zip-Code:**
Engineer Firm Office Phone:		
Engineer Firm Primary POC Phone:		
Engineer Firm Primary POC E-Mail:		

Engineer Firm Information:		
Engineer Firm Name: N/A		
Engineer WV License Number:		
Engineer Firm FEIN:	**Engineer Firm DUNS:**	
Engineer Firm Primary Point of Contact (POC):		
Engineer Firm Primary POC Title:		
Engineer Firm Mailing Address:		
City:	**State:**	**Zip-Code:**
Engineer Firm Office Phone:		
Engineer Firm Primary POC Phone:		
Engineer Firm Primary POC E-Mail:		

Adjacent and/or Affected Landowners Data

Please provide data for all adjacent and/or affected surface owners (both up and down stream) whose property may be impacted by proposed development as demonstrated by a floodplain study or survey. Use additional copies of this page as needed.

Adjacent Property Owner Data:		
Name of Primary Owner (PO): Ronald & Rosetta Pratt		
PO Address: RT 2 Box 311		
City: Salem	**State:** WV	**Zip:** 26426
PO Primary Phone: 304-782-1610		
PO Secondary Phone: Unknown		
PO Primary Email: Unknown		

Adjacent Property Owner Data:		
Name of Primary Owner (PO): Lisa Wilt		
PO Address: RT 2 Box 312		
City: Salem	**State:** WV	**Zip:** 26426
PO Primary Phone: Unknown		
PO Secondary Phone: Unknown		
PO Primary Email: Unknown		

Adjacent Property Owner Data:		
Name of Primary Owner (PO): Charles Fain		
PO Address: RT 2 Box 316A		
City: Salem	**State:** WV	**Zip:** 26426
PO Primary Phone: Unknown		
PO Secondary Phone: Unknown		
PO Primary Email: Unknown		

Adjacent Property Owner Data:		
Name of Primary Owner (PO):		
PO Address:		
City:	**State:**	**Zip:**
PO Primary Phone:		
PO Secondary Phone:		
PO Primary Email:		

Site Plan

A Site Plan is an accurate and detailed map of the proposed development for this project. It shows the size, shape, location and special features of the project property, and the size and location of any development planned to the property, especially as that development will impact the floodplain and/or floodway. Site plans show what currently exists on the project property, and any changes or improvements you are proposing to make. **Two complete sets of plans and specifications are required** when applying for a Floodplain Permit. The Floodplain Manager will retain one set, and one set will be dated and returned to the applicant when the permit is issued. **A certified and licensed engineering firm should complete site plans.**

A SITE PLAN MUST CONTAIN THE FOLLOWING INFORMATION:

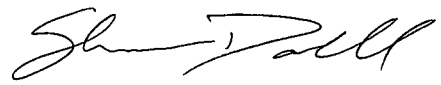
1. Legal description of the parcel, north arrow and scale
2. All property lines and their dimensions
3. Names of adjacent roads, location of driveways
4. Location of sloughs, tributaries, streams, rivers, wetlands, ponds, and lakes, with setbacks indicated, and including FEMA floodplain data based on most updated FIRM.
5. Location, size, shape of all buildings, existing and proposed, with elevation of lowest floor indicated.
6. Location and dimensions of existing or proposed on-site sewage systems.
7. Location of all propane tanks, fuel tanks or other liquid storage tanks whether above ground or below ground level.
8. Location and dimensions of any proposed pipeline placement(s) into floodplain/floodway.
9. Location and dimensions of any roadway development into floodplain/floodway. *(Includes initial development access roads)*
10. Location and dimensions of any bridge and/or culvert development into floodplain/floodway.
11. Location and dimensions of any storage yard or facility into the floodplain/floodway.
12. Location of any existing utilities and/or proposed utility placement and/or displacement.
13. Location, dimensions and depth of any existing or proposed fill on site.
14. A survey showing the **existing ground elevations** of at least location on the building site. **ELEVATION NOTE**: All vertical datum will reference either NGVD 29 or NAVD 88. Assumed datum will not be acceptable unless the property is located in an area where vertical datum has not been published. For those areas where vertical datum has not been established, a site plan with contours, elevations using assumed datum, high water marks and existing water levels of sloughs, rivers, lakes or streams and proposed lowest floor elevations is required.

Doddridge County Commercial/Industrial
Floodplain Development Permit Application Permit #_____

Applicant

Please initial beside each bullet point, print name, sign and date.

- I certify that I am authorized to submit this application for the primary project developer.
- I certify that the information included in this application is to the best of my knowledge true and complete.
- I certify that all required Federal, State, and local permits required by law and/or ordinance for the above described development of this project have been properly attained, are current and valid, and must be presented with this application before a Doddridge County Floodplain Permit may be issued.
- I understand that if in the course of the development project additional permits become required that were not needed during the initial proposal, the primary developer must notify the Doddridge County Floodplain Manager within 48 hours of such need, and that a "Stop Work" order may be issued for all project work directly impacting the floodplain or floodway, until such time the required additional permits are acquired.
- I understand that once the floodplain permit is submitted, the application will be entered into official public record at the next regularly scheduled Doddridge County Commission meeting after the date of submittal.
- I understand that from the date of submittal of the fully completed permit application, the Doddridge County Floodplain Manager has ninety (90) days to make a determination to either grant or deny said permit application. During this approval period, the Doddridge County Floodplain Manager may, at his or her discretion, conduct a review and/or additional study of provided documentation by means of an independent engineering firm. All costs associated with said review and/or study must be reimbursed to the County before issuance of approved permit.
- I understand that during the approval period, the Doddridge County Floodplain Manager of designee may at his or her discretion conduct site visits and document conditions of proposed development pursuant to the permit application.
- I understand that once the Floodplain Permit is granted, the permit will be entered into official public record at the next scheduled Doddridge County Commission meeting after the date of issuance. Appeals to the permit may be made no later than twenty (20) days after said issuance. If a valid appeal is submitted, as determined by the Doddridge County Floodplain Manager, a "Stop Work" order will be issued for all project development directly involving the floodplain or floodway. A public hearing by the Doddridge County Appeals Board will be scheduled no less than ten (10) days after the next regularly scheduled Doddridge County Commission meeting.
- I understand that all decisions of the Doddridge County Appeals Board shall be final.
- **I understand issuance of a Floodplain Permit authorizes me to proceed with construction as proposed. A Certificate of Compliance is required upon substantial completion of the project.**
- In signing this application, the primary developer hereby grants the Doddridge County Floodplain Manager or designee the right to enter onto the above-described location to inspect the development work proposed, in progress, and/or completed.
- I understand that if I do not follow exactly the site-plan submitted and approved by this permit that a "Stop Work" order may be issued by the Doddridge County Floodplain Manager and that I must stop all construction immediately until discrepancies of actual work vs. proposed work is resolved.

Applicant Signature:  Date: 8-27-2015

Applicant Printed Name: Shane Dowell

Doddridge County Commercial/Industrial
Floodplain Development Permit Application Permit #_____

Floodplain Manager Certification

I hereby certify that the applicant above has been notified of applicable compliance with the Doddridge County Floodplain Ordinance of May 21, 2013, and has provided a complete and accurate Permit Application including the following items:

- ☐ Site Plan prepared by a certified and licensed engineering firm showing the nature, location, dimensions, and elevation of the property located within the floodplain, existing or proposed structures, location of proposed fill, location of storage of materials including fuel, location of drainage facilities, and location of utilities.
- ☐ Written description, if applicable, describing the extent which the watercourse will be altered or relocated as a result of the proposed development.
- ☐ No-rise certification prepared by a certified and licensed engineering firm for all projects located in the floodway.
- ☐ E911 Addressing data, if applicable, for proper addressing of proposed development.
- ☐ Copies of all applicable Federal, State and local permits required for development before issuance of the Doddridge County Floodplain Permit.
- ☐ Permit fee received: Check #: _____ Amount: $_____

Floodplain Manager or Designee

Signature: _____ Date: _____

Notes:

Doddridge County Commercial/Industrial
Floodplain Development Permit Application Permit #_____

Permit Issuance

- I certify that I am authorized to accept this granted Doddridge County Floodplain Permit for the primary project developer.
- I certify that all required Federal, State, and local permits required by law and/or ordinance for the approved development of this project have been properly attained, and are current and valid.
- I understand that if in the course of the development project additional permits become required that were not needed during the initial proposal, the primary developer must notify the Doddridge County Floodplain Manager within 48 hours of such need, and that a "Stop Work" order may be issued for all project work directly impacting the floodplain or floodway, until such time the required additional permits are acquired.
- I understand that once the Floodplain Permit is granted, the permit will be entered into official public record at the next scheduled Doddridge County Commission meeting after the date of issuance. Appeals to the permit may be made no later than twenty (20) days after said issuance. If a valid appeal is submitted, as determined by the Doddridge County Floodplain Manager, a "Stop Work" order will be issued for all project development directly involving the floodplain or floodway. A public hearing by the Doddridge County Appeals Board will be scheduled no less than ten (10) days after the next regularly scheduled Doddridge County Commission meeting.
- I understand that all decisions of the Doddridge County Appeals Board shall be final.
- **I understand issuance of a Floodplain Permit authorizes me to proceed with construction as proposed. A Certificate of Compliance is required upon substantial completion of the project.**
- I understand that the granted Doddridge County Floodplain Permit must be visibly displayed at the development site at or near floodplain or floodway activity. *(Doddridge County Floodplain Manager will provide one (1) laminated permit for display. Additional copies are available upon request.)*
- In signing this application, the primary developer grants the Doddridge County Floodplain Manager or designee the right to enter onto the above-described location to inspect the development work proposed, in progress, and/or completed.
- I understand that if I do not follow exactly the site-plan submitted and approved by this permit that a "Stop Work" order may be issued by the Doddridge County Floodplain Manager and that I must stop all construction immediately until discrepancies of actual work vs. proposed work is resolved.

Primary Developer Permit Recipient

Signature: _____

Printed Name: Shane Dowell

Title: Office Manager

Floodplain Manager or Designee

Signature: _____ Date: _____

Chipps Stream Bank Restoration

User Notes:

Flood Hazard Zone

Flood Point of Interest

Disclaimer:
The online map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. To obtain more detailed information in areas where Base Flood Elevations have been determined, users are encouraged to consult the latest Flood Profile data contained in the official flood insurance study. These studies are available online at www.msc.fema.gov.
WV Flood Tool (http://www.MapWV.gov/flood) is supported by FEMA, WV NFIP Office, and WV GIS Technical Center.

Map created on August 25, 2015

Flood Hazard Area:
Flood Hazard Area: Location is WITHIN the FEMA 100-year floodplain.

FEMA Issued Flood Map: 54017C0155C

Watershed (HUC8): Little Musringum-Middle Island (5

Elevation: About 884 ft

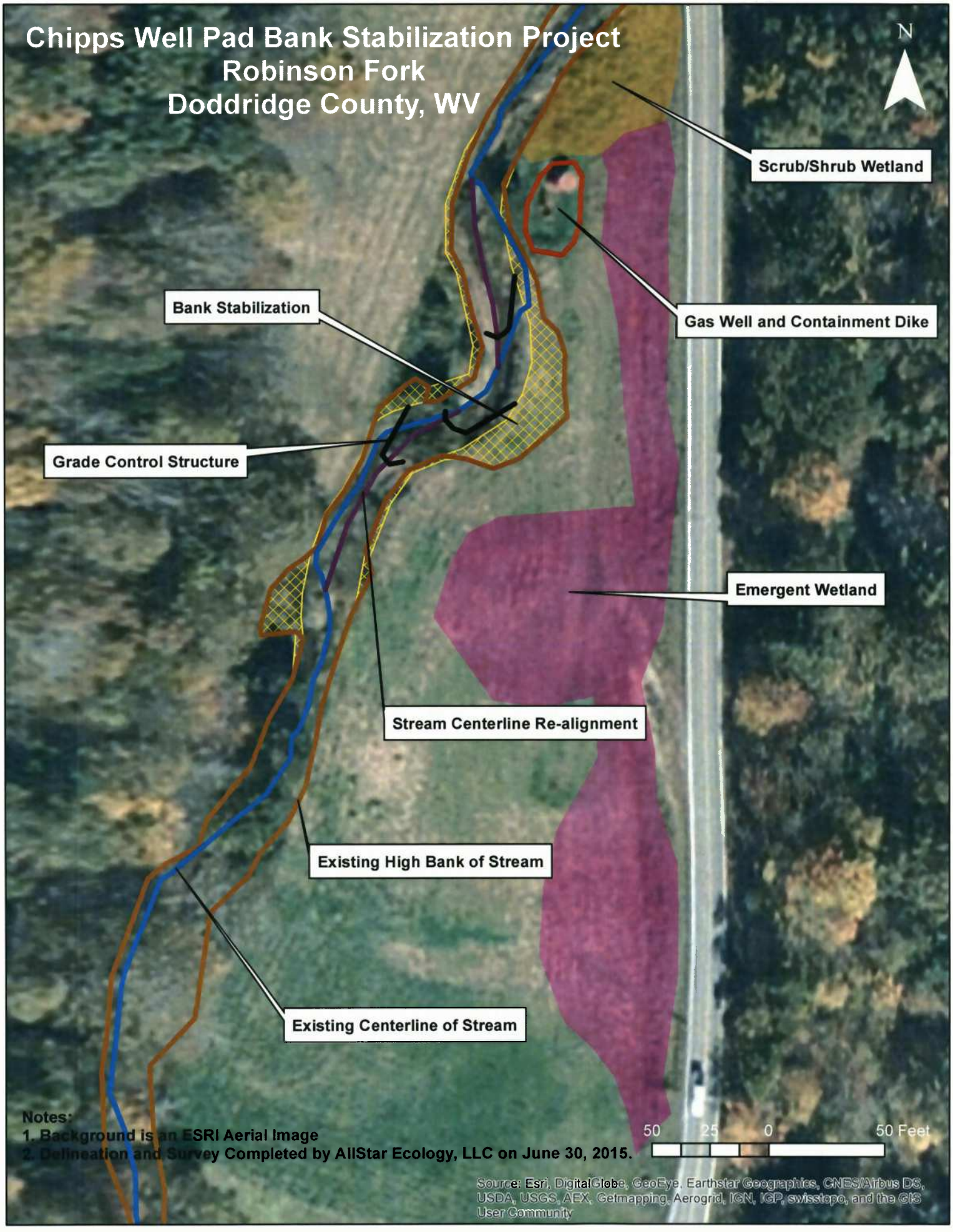
Location (long, lat): (80.576379 W,39.336256 N)

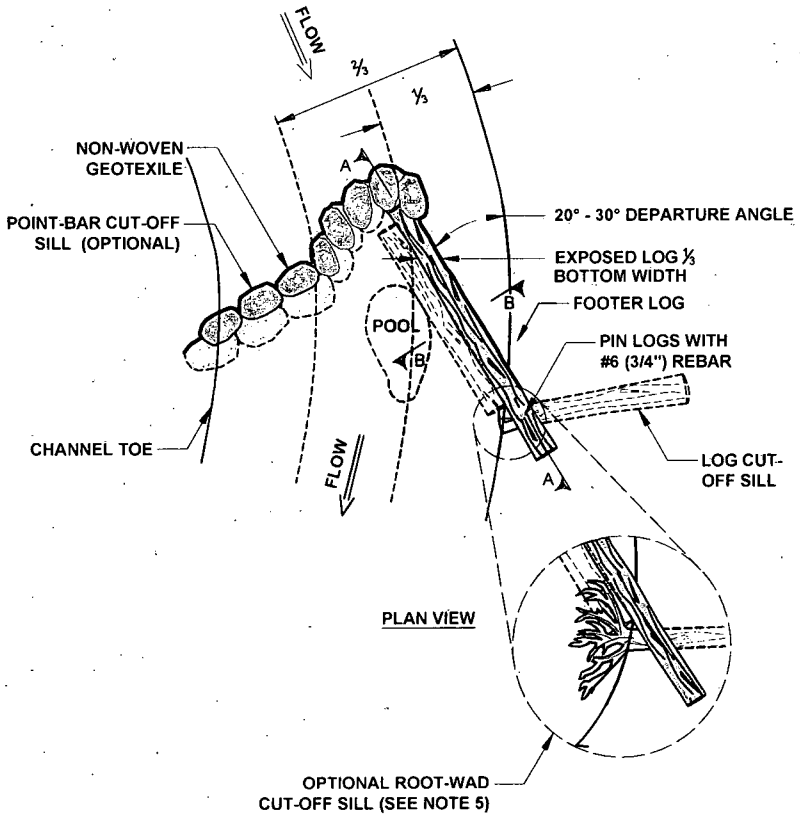
Location (UTM 17N): (536508, 4354177)

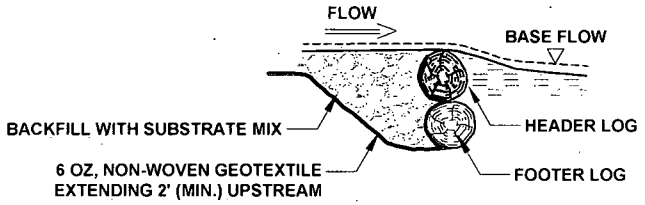
Contacts: Doddridge

CRS Information: N/A

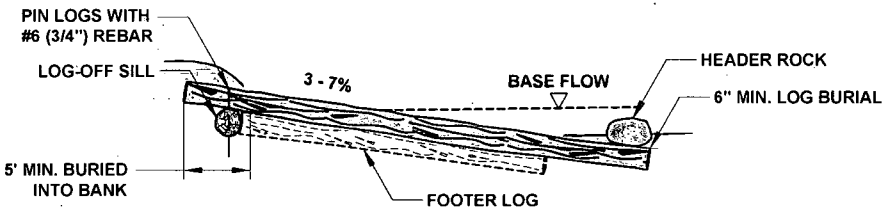
Parcel Number:


Chipps Well Pad Bank Stabilization Project
Robinson Fork
Doddridge County, WV
N
Scrub/Shrub Wetland
Gas Well and Containment Dike
Bank Stabilization
Grade Control Structure
Emergent Wetland
Stream Centerline Re-alignment
Existing High Bank of Stream
Existing Centerline of Stream
Notes:
1. Background is an ESRI Aerial Image
2. Delineation and Survey Completed by AllStar Ecology, LLC on June 30, 2015.
50 25 0 50 Feet
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community





SECTION B



SECTION A

NOTES:

1. REFER TO SUITABLE ROCK SIZE DIAGRAM FOR HEADER AND FOOTER ROCK DIMENSIONS.
2. VANE ARM MAY BE ANGLED WITHIN A RANGE OF 20° - 30° AS SHOWN IN PLAN VIEW.
3. USE LOGS THAT ARE STRAIGHT, UNIFORM DIAMETER AND FREE OF ROT, DISEASE OR INSECT INFESTATION.
4. REFER TO STRUCTURE TABLE FOR LOG DIA.
5. DEPENDING ON MATERIAL AVAILABILITY, A ROOT-WAD MAY BE USED AS THE LOG CUT-OFF SILL.

ROCK / LOG COMBO J-HOOK WITH LOG CUT-OFF SILL

NO SCALE

15-377

JAY-BEE OIL & GAS, INC.

Need Army Corp of Engineers To Look @ As well as H+H

August 27, 2015

Mr. Greg Robinson
Doddridge County Floodplain Management
118 East Court Street
West Union, WV 26456

RE: New Permit Authorization Request – Chipps Stream Bank Stabilization
McElroy Creek USFWS Authorization

Mr. Robinson:

Included in this packet is a new permit for stream bank restoration of the Robinson Fork creek along WV 23. It includes supplemental information.

Also included in this packet is the hard copy of the requested authorization from USFWS of the McElroy Creek low water crossing removal.

If you would have any questions concerning this matter, please feel free to contact our office at the numbers listed below.

Sincerely,

Shane Dowell
Office Manager

3570 Shields Hill Rd, Cairo, WV 26337 ▪ Phone 304-628-3111 ▪ Fax 304-628-3119

United States Department of the Interior

FISH AND WILDLIFE SERVICE

West Virginia Field Office
694 Beverly Pike
Elkins, West Virginia 26241

Concurrence Form for Freshwater Mussel Survey Report

Contact Name: **Sarah Veselka**

Email Address or Fax Number: **sarah@allstarecology.com**

Project: **McElroy Creek Homer Moore Crossing Removal Project – Phase 1 Mussel Survey Report, Doddridge County, West Virginia**

This responds to your letter dated **August 5, 2015** regarding the results of a mussel survey on **McElroy Creek** in conjunction with the above referenced project. These comments are provided pursuant to the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.)

A mussel survey within the project area was conducted on **July 20, 2015**. A total of **0** individuals of **0** species were located. Although **McElroy Creek** is known to support the federally endangered **snuffbox mussel (*Epioblasma triquetra*)**, no live freshwater mussels of this species were observed during the survey effort. Therefore, no federally listed endangered and threatened species are expected to be impacted by the project, and no biological assessment or further section 7 consultation under the Endangered Species Act is required with the U.S. Fish and Wildlife Service. Should project plans change, or if additional information on listed and proposed species becomes available, or new species are listed or critical habitat designated, this determination may be reconsidered. These survey results are considered valid for five years from the date of completion. If the project is not completed before that time, additional survey efforts may be required. Please note that if any federally listed species are found during any future survey or relocation efforts for native freshwater mussels, this determination will no longer be considered valid. You should immediately contact the Service and reinitiate consultation before to proceeding with any further project efforts.

If you have any questions regarding this letter, please contact **Tiernan Lennon** of my staff, at (304) 636-6586, or at the letterhead address.

Tiernan Lennon Date: 8/24/15
Biologist

John S. Schmidt Date: 8/24/15
John E. Schmidt, Field Supervisor

NOTES TO USERS

This map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. The **community map repository** should be consulted for possible updated or additional flood hazard information.

To obtain more detailed information in areas where **Base Flood Elevations** (BFEs) and/or **floodways** have been determined, users are encouraged to consult the Flood Profiles and Floodway Data and/or Summary of Stillwater Elevations tables contained within the Flood Insurance Study (FIS) Report that accompanies this FIRM. Users should be aware that BFEs shown on the FIRM represent rounded whole-foot elevations. These BFEs are intended for flood insurance rating purposes only and should not be used as the sole source of flood elevation information. Accordingly, flood elevation data presented in the FIS Report should be utilized in conjunction with the FIRM for purposes of construction and/or floodplain management.

Coastal Base Flood Elevations shown on this map apply only landward of 0.0' North American Vertical Datum of 1988 (NAVD 88). Users of this FIRM should be aware that coastal flood elevations are also provided in the Summary of Stillwater Elevations table in the Flood Insurance Study Report for this jurisdiction. Elevations shown in the Summary of Stillwater Elevations table should be used for construction and/or floodplain management purposes when they are higher than the elevations shown on this FIRM.

Certain areas not in Special Flood Hazard Areas may be protected by **flood control structures**. Refer to Section 2.4 "Flood Protection Measures" of the Flood Insurance Study Report for information on flood control structures for this jurisdiction.

The **projection** used in the preparation of this map was Universal Transverse Mercator (UTM) zone 17. The **horizontal datum** was NAD 83, GRS 1980 spheroid. Differences in datum, spheroid, projection or UTM zones used in the production of FIRMs for adjacent jurisdictions may result in slight positional differences in map features across jurisdiction boundaries. These differences do not affect the accuracy of this FIRM.

Flood elevations on this map are referenced to the North American Vertical Datum of 1988. These flood elevations must be compared to structure and ground elevations referenced to the same **vertical datum**. For information regarding conversion between the National Geodetic Vertical Datum of 1929 and the North American Vertical Datum of 1988, visit the National Geodetic Survey website at http://www.ngs.noaa.gov or contact the National Geodetic Survey at the following address:

NGS Information Services
NOAA, N/NGS12
National Geodetic Survey
SSMC-3, #9202
1315 East-West Highway
Silver Spring, Maryland 20910-3282
(301) 713-3242

To obtain current elevation, description, and/or location information for **bench marks** shown on this map, please contact the Information Services Branch of the National Geodetic Survey at (301) 713- 3242, or visit its website at http://www.ngs.noaa.gov.

Base map created by the WV Statewide Addressing and Mapping Board (SAMB). Imagery was captured at a scale of 1:24000 in the spring of 2003 for the purpose of producing natural color digital orthophotos at a 2' pixel resolution.

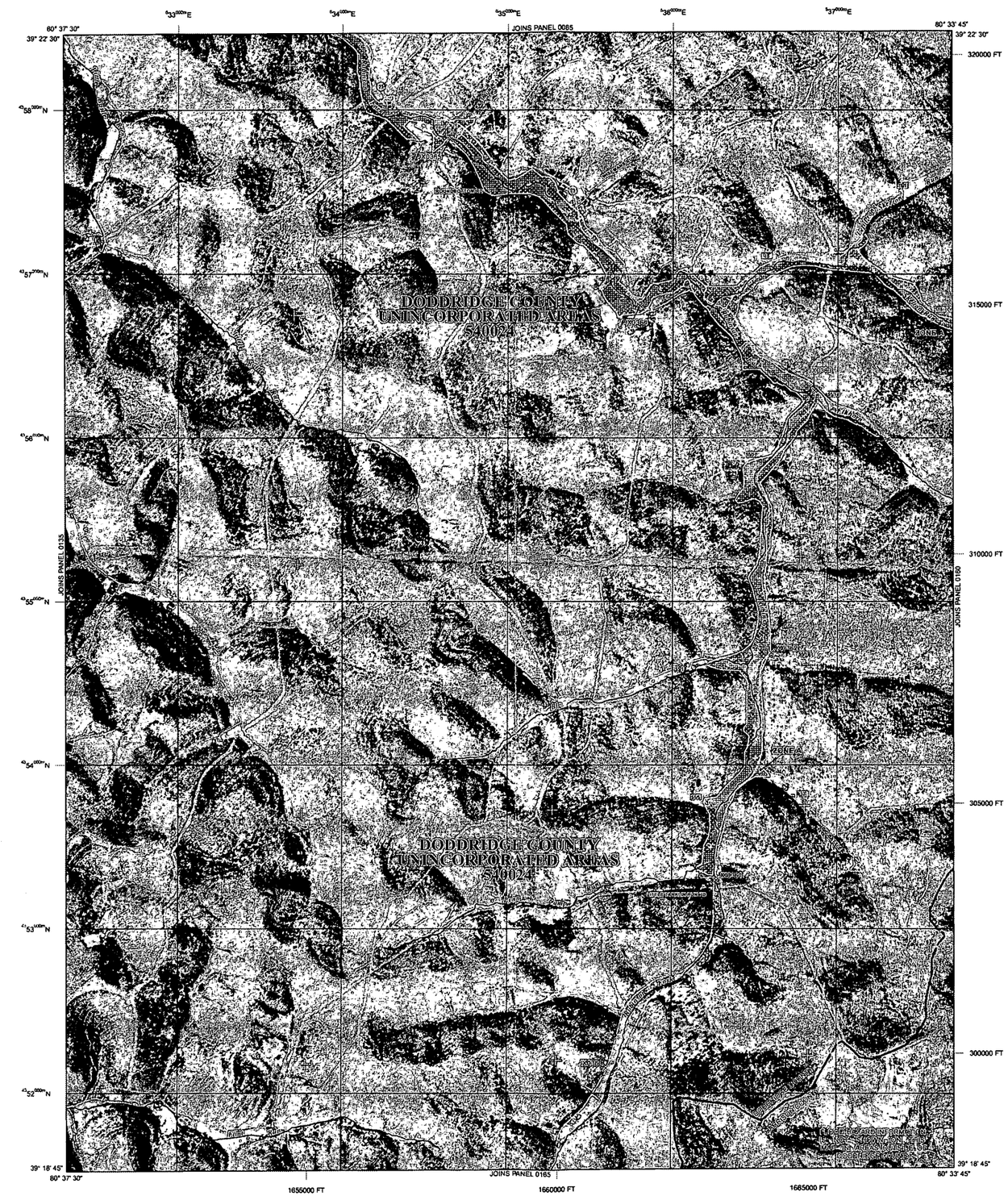
This map reflects more detailed and up-to-date **stream channel configurations** than those shown on the previous FIRM for this jurisdiction. The floodplains and floodways that were transferred from the previous FIRM may have been adjusted to conform to these new stream channel configurations. As a result, the Flood Profiles and Floodway Data tables for multiple streams in the Flood Insurance Study Report (which contains authoritative hydraulic data) may reflect stream channel distances that differ from what is shown on this map.

Corporate limits shown on this map are based on the best data available at the time of publication. Because changes due to annexations or de-annexations may have occurred after this map was published, map users should contact appropriate community officials to verify current corporate limit locations.

Please refer to the separately printed **Map Index** for an overview map of the county showing the layout of map panels; community map repository addresses; and a Listing of Communities table containing National Flood Insurance Program dates for each community as well as a listing of the panels on which each community is located.

For information on available products associated with this FIRM visit the **Map Service Center (MSC)** website at http://msc.fema.gov. Available products may include previously issued Letters of Map Change, a Flood Insurance Study Report, and/or digital versions of this map. Many of these products can be ordered or obtained directly from the MSC website.

If you have **questions about this map**, how to order products, or the National Flood Insurance Program in general, please call the **FEMA Map Information eXchange (FMIX)** at **1-877-FEMA-MAP** (1-877-336-2627) or visit the FEMA website at http://www.fema.gov/business/nfip.



LEGEND

SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD

The 1% annual chance flood (100-year flood), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. The Special Flood Hazard Area is the area subject to flooding by the 1% annual chance flood. Areas of Special Flood Hazard include Zones A, AE, AH, AO, AR, A99, V, and VE. The Base Flood Elevation is the water-surface elevation of the 1% annual chance flood.

ZONE A	No Base Flood Elevations determined.
ZONE AE	Base Flood Elevations determined.
ZONE AH	Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.
ZONE AO	Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.
ZONE AR	Special Flood Hazard Areas formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.
ZONE A99	Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.
ZONE V	Coastal flood zone with velocity hazard (wave action); no Base Flood Elevations determined.
ZONE VE	Coastal flood zone with velocity hazard (wave action); Base Flood Elevations determined.

FLOODWAY AREAS IN ZONE AE

The floodway is the channel of a stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights.

OTHER FLOOD AREAS

ZONE X	Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.

OTHER AREAS

ZONE X	Areas determined to be outside the 0.2% annual chance floodplain.
ZONE D	Areas in which flood hazards are undetermined, but possible.

COASTAL BARRIER RESOURCES SYSTEM (CBRS) AREAS

OTHERWISE PROTECTED AREAS (OPAs)

CBRS areas and OPAs are normally located within or adjacent to Special Flood Hazard Areas.

- 1% Annual Chance Floodplain Boundary
- 0.2% Annual Chance Floodplain Boundary
- Floodway boundary
- Zone D boundary
- CBRS and OPA boundary
- Boundary dividing Special Flood Hazard Area Zones and boundary dividing Special Flood Hazard Areas of different Base Flood Elevations, flood depths, or flood velocities.
- 513 — Base Flood Elevation line and value; elevation in feet*
- (EL 987) — Base Flood Elevation value where uniform within zone; elevation in feet*

*Referenced to the North American Vertical Datum of 1988

- A — A — Cross section line
- 23 — 23 — Transect line
- 45° 02' 08", 93° 02' 12" — Geographic coordinates referenced to the North American Datum of 1983 (NAD 83) Western Hemisphere
- 3100000 FT — 5000-foot ticks: West Virginia State Plane North Zone (FIPS Zone 4701), Lambert Conformal Conic projection
- 4390000 N — 1000-meter Universal Transverse Mercator grid values, zone 17
- DX5510 × — Bench mark (see explanation in Notes to Users section of this FIRM panel)
- M1.5 — River Mile

MAP REPOSITORIES
Refer to Map Repositories list on Map Index

EFFECTIVE DATE OF COUNTYWIDE FLOOD INSURANCE RATE MAP
March 18, 1991

EFFECTIVE DATE(S) OF REVISION(S) TO THIS PANEL
October 4, 2011 - to update corporate limits, to decrease Base Flood Elevations, to change Special Flood Hazard Areas, to update map format and to add streets and road names.

For community map revision history prior to countywide mapping, refer to the Community Map History table located in the Flood Insurance Study report for this jurisdiction.

To determine if flood insurance is available in this community, contact your insurance agent or call the National Flood Insurance Program at 1-800-638-6620.

MAP SCALE 1" = 1000'

500 0 1000 2000 FEET
300 0 300 600 METERS

NFIP
NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0155C

FIRM

FLOOD INSURANCE RATE MAP

DODDRIDGE COUNTY, WEST VIRGINIA AND INCORPORATED AREAS

PANEL 155 OF 325
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
DODDRIDGE COUNTY	540024	0155	C

Notice to User: The **Map Number** shown below should be used when placing map orders; the **Community Number** shown above should be used on insurance applications for the subject community.

MAP NUMBER
54017C0155C
MAP REVISED
OCTOBER 4, 2011

Federal Emergency Management Agency

HYDRAULIC INVESTIGATION
for Proposed Stream Stabilization at Robinson Fork Vicinity of Salem Doddridge County, West Virginia

Prepared for:

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November 9, 2015

HYDRAULIC INVESTIGATION
for Proposed Stream Stabilization
at Robinson Fork
Vicinity of Salem
Doddridge County, West Virginia

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HYDRAULIC INVESTIGATION
for Proposed Stream Stabilization at Robinson Fork Vicinity of Salem Doddridge County, West Virginia

1 PURPOSE

Engineering Perfection was requested by Jay Bee Oil and Gas to determine the potential flood impacts for stream bank stabilization proposed on Robinson Fork. The proposed project is in the vicinity of an existing natural gas well. The overall project purpose is the protection of the existing well and appurtenant equipment from potential damage resulting from streambank erosion along Robinson Fork. The project location is on Robinson Fork, a tributary to McElroy Creek, in the vicinity of Cascara Church in an unincorporated area of Doddridge County, West Virginia. Jay Bee Oil and Gas has obtained the conceptual design for this project from AllStar Ecology, LLC. Jay Bee plans to perform the construction with their internal personnel. The project scope includes the construction of three J-hooks in the stream and about 215 lineal feet of stream bank stabilization. A determination of the water stage increase for the Base Flood event was requested by Jay Bee from Engineering Perfection, to be part of the Doddridge County application for a building permit.

The term Base Flood is the predicted flood event with a one percent probability of being equaled or exceeded in any given year and is used extensively in the Federal Emergency Management Agency program for flood insurance. The Base Flood event term has also been incorporated in local ordinances, including the floodplain ordinance for Doddridge County.

This investigation was conducted using HEC-RAS to determine the flood stages of Robinson Fork under the existing and proposed conditions, for the Base Flood event and the 10-year recurrence interval flood. The HEC-RAS model was compiled using survey data provided by Jackson Surveying Inc.

2 SITE DATA AND PROJECT SCOPE

The site is located in Doddridge County, WV along Robinson Fork at longitude 80.577 degrees W and latitude 39.336 degrees N. The closest highway is West Virginia Route 23. The FEMA Community Number is 540095 with the site shown on panel 00155C, revised October 4, 2011. On the Flood Insurance Rate Map the site is shown to be an A Zone; no FEMA flood study has been conducted in this reach of Robinson Fork.

Site data used in this project included the following:

1. Topographic cross sections, elevations, and photographs provided by Jackson Surveying. The data forms included textfile, CAD and portable document format files. A detailed list of the data provided is listed in Appendix A.
2. The Base Flood and 10 year flow rates for Robinson Fork were calculated using a method developed by the US Geological Survey.
3. Aerial photography and topographic map data obtained from the West Virginia Geographic Information System Technical Center, at West Virginia University in Morgantown.
4. High resolution National Hydrography Dataset files obtained from the US Geological Survey.

The project scope was provided by Jay Bee Oil and Gas as a PDF document. This document, prepared by AllStar Ecology, LLC, includes a plan view showing the locations of the J-hooks and stream bank stabilization, and a typical detail for construction of J-hooks. The document is reproduced in Appendix D. AllStar also provided an AutoCAD file with their survey information and an EXCEL file with one cross section shown.

3 HYDRAULIC ANALYSIS

The hydraulic analysis was comprised of five elements. They were:

- ⊛ determination of contributing drainage area and stream flows,
- ⊛ preparation of cross section data for the HEC-RAS model,
- ⊛ execution of the Existing and Proposed Condition models, and
- ⊛ summary of the results.

Determination of Drainage Area

The area draining to Robinson Fork at the site was determined by first selecting the subwatershed boundary in the National Hydrography Dataset encompassing this location. The drainage area of Robinson Fork at the project site was determined to be approximately 3.39 square miles.

Determination of Flows

The discharges were computed using the regional regression equation developed by the US Geological Survey.[1] Doddridge County is located in the Western Plateaus Region of West Virginia according to the USGS report. The desired discharges used for this investigation were the 10% and 1% probability return storm event. The equations for estimating flood-frequency discharge for the desired probability storm events are:

PK10(10%AOP) = 292*DRNAREA ^ 0.699
PK100(1%AOP) = 557*DRNAREA ^ 0.674

where DRNAREA is the drainage area in square miles and the term starting with PK

[1] *Estimation of Flood-Frequency Discharges for Rural, Unregulated Streams in West Virginia*, Scientific Investigations Report 2010-5033, U. S. Geological Survey

represents the peak discharge for that particular return storm event for the point of interest. Table 1 lists the discharge used for this study. Additional information is provided in Appendix B.

Table 1 Regional Discharge Values

Frequency	Equation Constant	Drainage Area (sq. mi.)	Equation Exponent	Peak Flow (cfs)
10%	292	3.39	0.699	**685**
1%	557	3.39	0.674	**1268**

Preparation of Cross Sections for HEC-RAS Model

Eight cross sections were surveyed for use in the HEC-RAS model. Their locations are shown in Figure 1 below and are designated by the letters A-H. These cross sections were prepared using the field data provided by Jackson Surveying. Several cross sections were interpolated or copied from the field data, a usual practice in HEC-RAS modeling. Several cross sections were extended in overbank areas using elevation data provided by the West Virginia Geographic Information Center. Three cross sections, designated 1, 2, and 3 are also shown; these sections are copied from cross section A and are needed to calibrate and stabilize the hydraulic model. In Figure 1 the locations of the proposed J-hooks are shown in yellow and the stream bank stabilization locations are shown in blue. The location of the gas well and appurtenances to be protected are near cross section B.

The elevation data for the cross sections were obtained by field surveying collected by Jackson Surveying in September 2015. Jackson Surveying used real time kinetic surveying methods to establish site control. The datum used in the Jackson Surveying data was in NAVD 88 and all elevations presented in this report are referenced to this datum.

The cross section information includes estimates of the Manning's stream roughness coefficient. Location photographs were used to confirm these values and to determine placement of these values along the modeled cross section geometry. For Robinson Fork the stream channel roughness in the model was 0.045 and for the overbank areas 0.06 was used.

Figure 1 Location of Surveyed Cross Sections

Execution of the Existing Condition Models

The U.S. Army Corps of Engineers Hydrologic Engineering Center developed the River Analysis System, or HEC-RAS computer program. Version 4.1.0, issued January 2010, was used to compute stream profiles in this study. The study employed the steady state model analysis.

A typical Existing Condition profile includes the stream at the point of interest and sufficient distances up- and downstream to quantify the hydraulic effects. For this project, the modeled stream reach included about 200 feet downstream to about 430 feet upstream of the stream stabilization area.

Summary of the Results

The basic objective of the stream modification is the protection of the existing well and appurtenant equipment from potential damage resulting from the meandering of Robinson Fork. The proposed stabilization design (by AllStar Ecology, LLC) includes three J-hooks placed in the stream and about 215 lineal feet of stream bank stabilization.

To perform the hydraulic study, detailed information is necessary that describes the existing and proposed conditions. The existing conditions have been defined through a land survey performed by Jackson Surveying, at the request of Engineering Perfection. Proposed condition design criteria specific to this project were not provided to Engineering Perfection. In order to define the proposed conditions, Engineering Perfection revised the existing condition survey data, using the conceptual design prepared by AllStar, typical values for stream restoration construction and considering the existing stream geometry. This provides a reasonable approximation of the proposed condition for floodplain analysis. However, these typical values must not be considered design criteria for the field construction of this project. Engineering Perfection has not developed the detailed design, and is not responsible for the structural, ecological, hydraulic, or stabilization performance of the proposed improvement.

The typical values employed in the preparation of the geometry for modeling of the proposed condition are:

- Minimum stream channel width is 20 feet
- Maximum stream bank slope at locations of stabilization is 20% (1 vertical to 5 horizontal)
- J-Hook cross section is18 inches in height, crossing the entire stream bed. Additional required thicknesses of rock or stumps would be buried in the streambed or bank.

Provided below are:

- the project plan view showing the locations of improvements and the HECRAS cross sections (Figure 2)
- the stream profile for the existing and proposed conditions during the Base Flood event (Figure 3)
- the calculated stream velocities for the existing and proposed conditions during the 10 year event (Figure 4)

Figure 2 Location of Surveyed, Interpolated and Copied Cross Sections

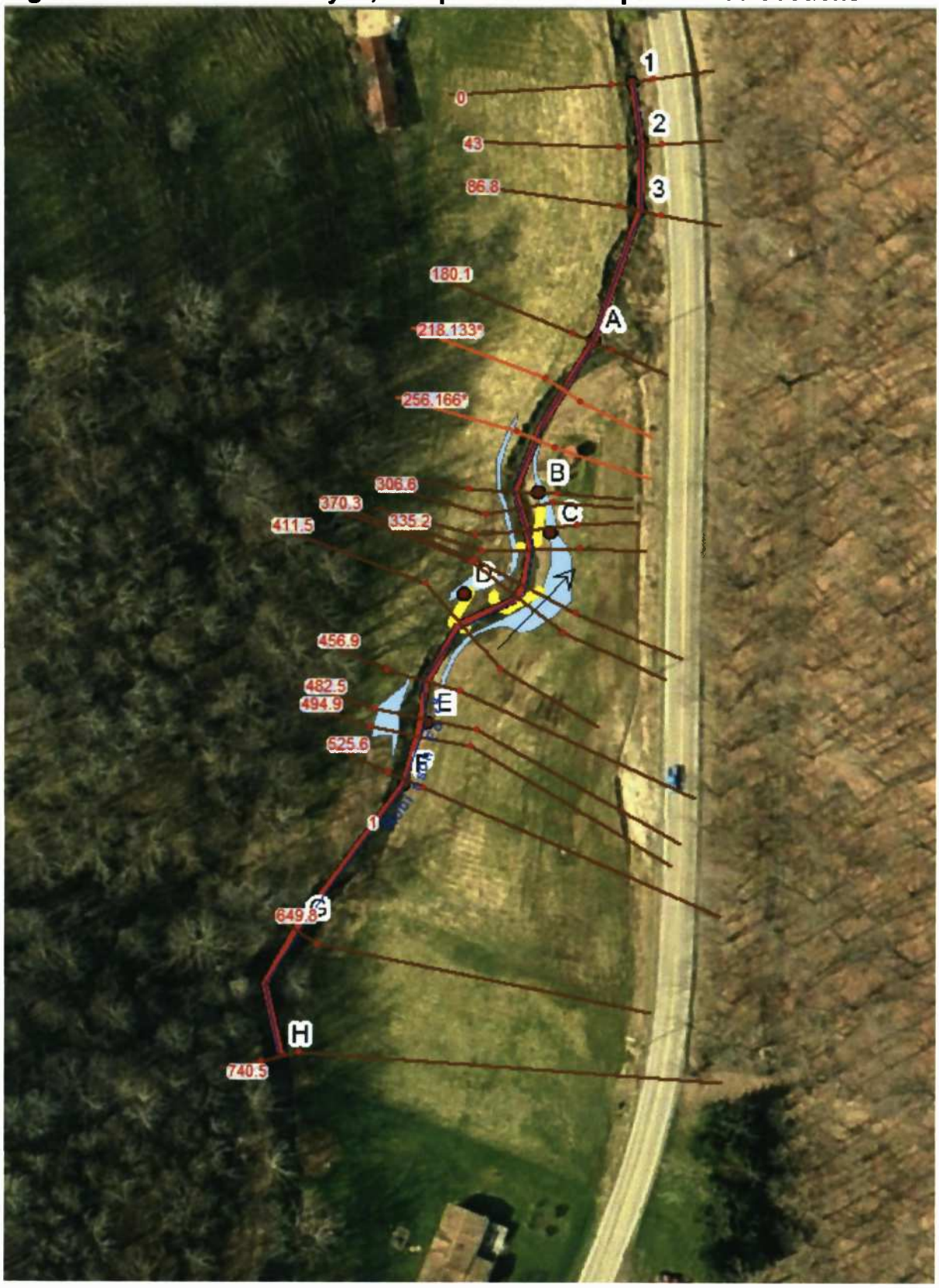


Figure 3 Stream Profiles for Base Flood - Existing and Proposed Conditions

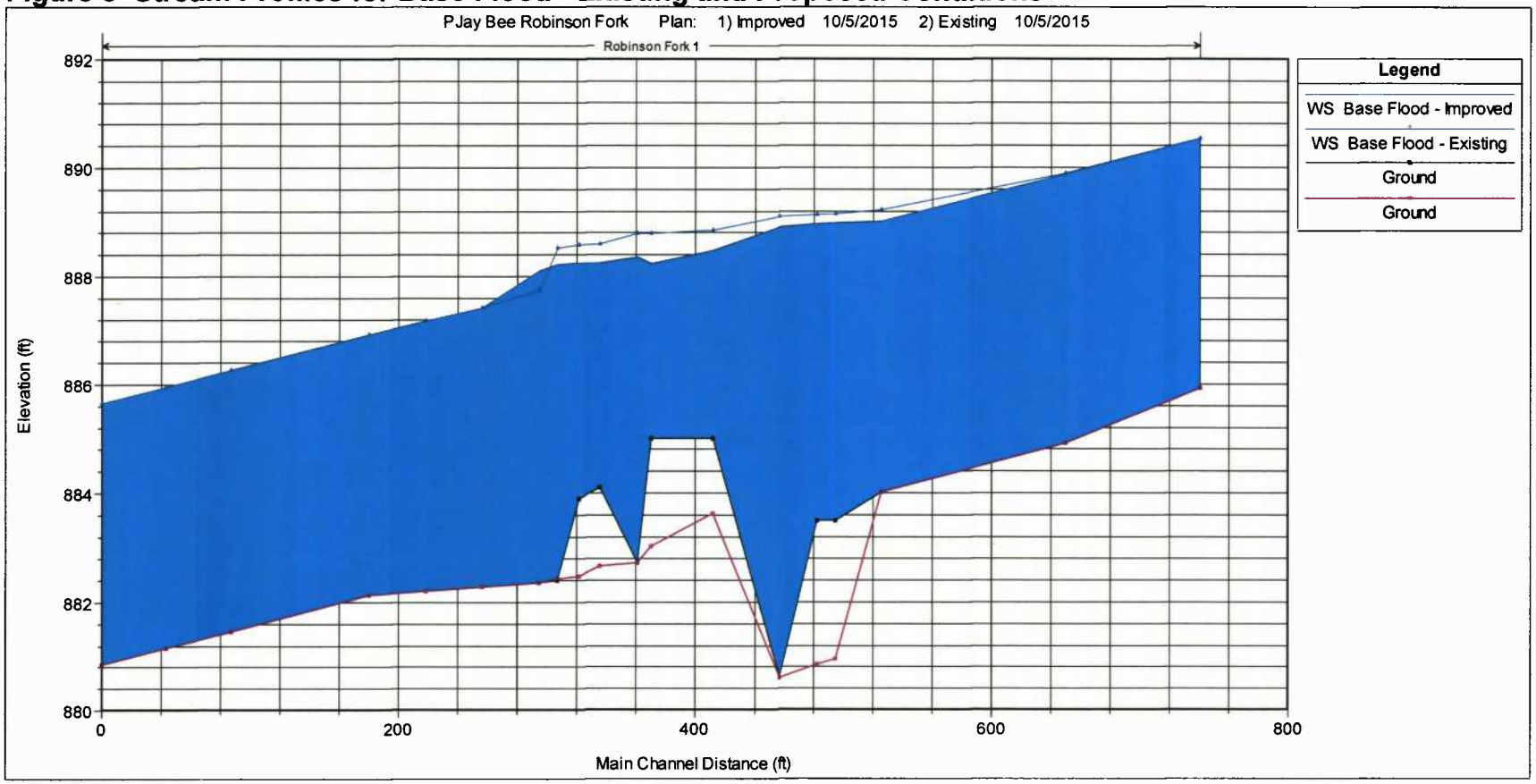
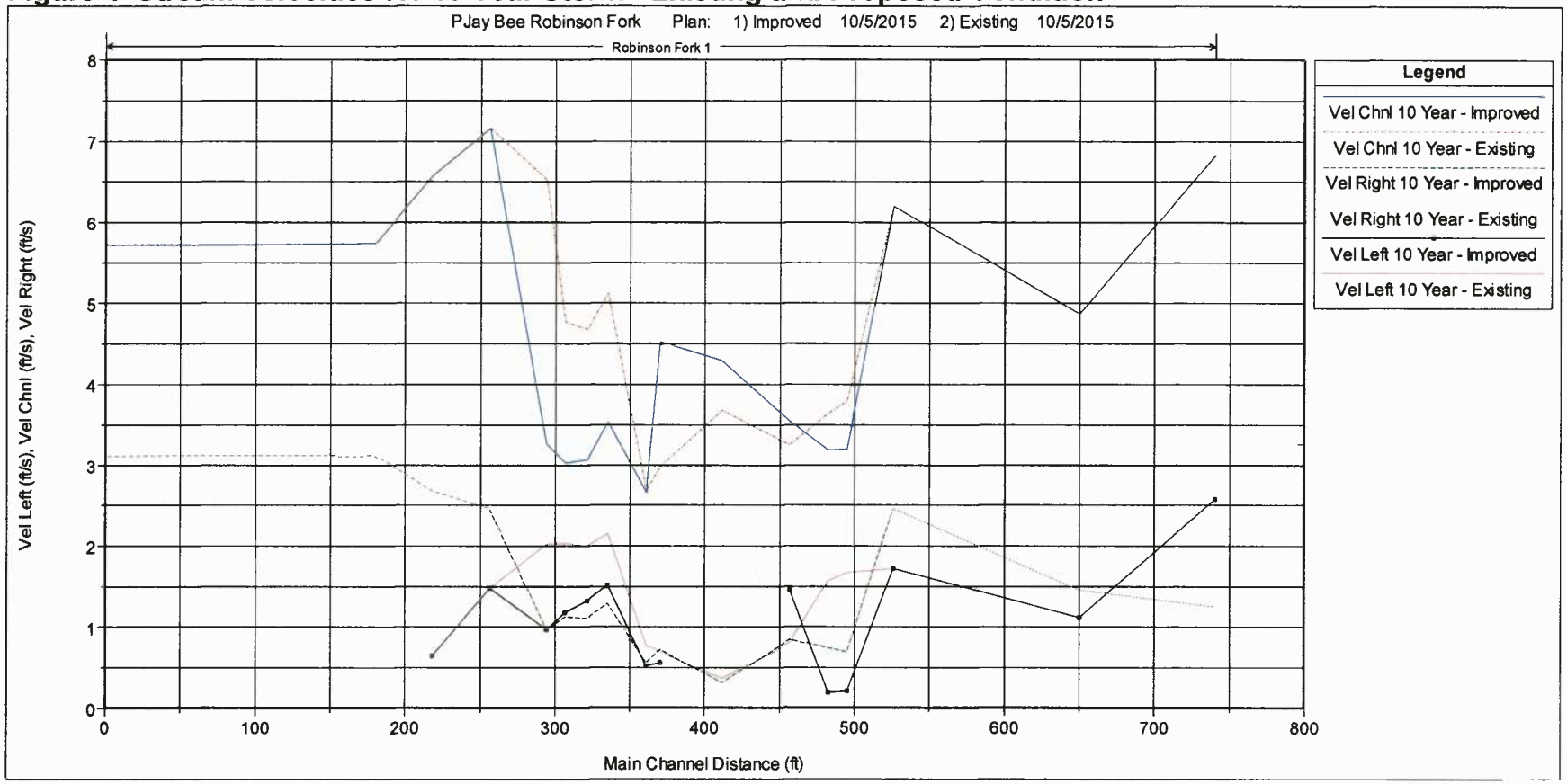


Figure 4 Stream Velocities for 10 Year Storm - Existing and Proposed Condition



The hydraulic modeling demonstrates that the maximum rise in the water surface for the Base Flood event is 0.37 feet, at Station 294.5. At all other cross sections, the proposed condition water surface is less than or equal to the existing condition.

The hydraulic model provides estimates of stream velocities during the 10 year flood event. The maximum increase in stream velocity is 1.55 feet per second, at Station 370.3. The maximum stream velocity under both the existing and proposed condition is 7.2 feet per second.

4 CONCLUSIONS

The maximum increase in water stage for the proposed design for the Base Flood condition is 0.37 feet. The maximum stream velocity under both the existing and proposed condition is 7.2 feet per second. The nearest existing structure, located more than 500 feet upstream, will remain unaffected from flooding by this proposed stream stabilization project.

5 LIMITATIONS

The analysis of the proposed design considers only the floodplain effects on the Base Flood. Consideration of other elements, such as structural and stream bank stabilization design, have not been performed by Engineering Perfection, PLLC. The conclusions submitted in this report apply to the proposed project only. They are not applicable to on-site subsequent construction, or adjacent or nearby projects. In the event that conclusions or recommendations based on this report and relating to any other projects are made by others, such conclusions and recommendations are not the responsibility of Engineering Perfection, PLLC. In performing our professional services, we used the degree of care and skill ordinarily exercised under similar circumstances by members of the engineering profession. No other warranty, expressed or implied, is made.

Appendix A
Data Provided by Jackson Surveying

Maps in PDF provided on February 11, 2015
Maps in PDF, site photos, AutoCAD files, and survey data provided on March 6, 2015

Appendix B:
Regional Regression Analysis

Regression Equation Regions

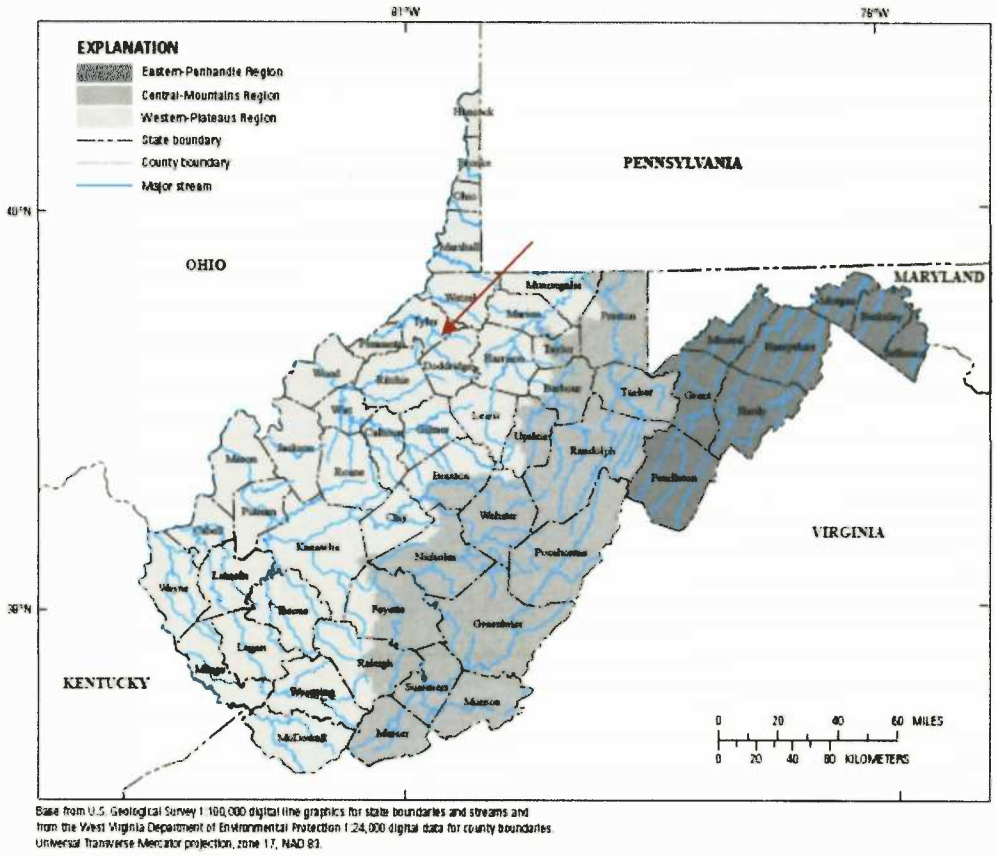


Figure 4. The Eastern Panhandle, Central Mountains, and Western Plateaus Regions of West Virginia for which equations for estimation of flood frequency discharges were developed in this study.

Regression Equation

Table 4. Equations used to estimate selected flood-frequency discharges for streams in the Eastern Panhandle, Central Mountains, and Western Plateaus Regions of West Virginia.

[PK(n_n), peak discharge in cubic feet per second for the (n.n)-year recurrence interval; PK(n), peak discharge in cubic feet per second for the (n)-year recurrence interval; %, percent; AOP, annual-occurrence probability; DRNAREA, drainage area in square miles]

Equation	Standard error of the model, in percent	Average standard error of sampling, in percent	Average prediction error, in percent	Equivalent years of record, unitless
Eastern Panhandle Region (Range in DRNAREA from 0.21 to 1,461 for 57 streamgage stations)				
PK1_1(90%AOP) = 29.6 DRNAREA$^{0.818}$	43.4	10.3	44.8	3.4
PK1_5(67%AOP) = 46.4 DRNAREA$^{0.828}$	35.7	8.9	36.9	3.3
PK2(50%AOP) = 59.8 DRNAREA$^{0.832}$	32.1	8.6	33.4	4.1
PK5(20%AOP) = 105 DRNAREA$^{0.838}$	25.6	8.9	27.2	10.6
PK10(10%AOP) = 145 DRNAREA$^{0.842}$	22.5	9.5	24.5	19.1
PK25(4%AOP) = 204 DRNAREA$^{0.848}$	19.7	10.3	22.4	34.1
PK50(2%AOP) = 254 DRNAREA$^{0.852}$	18.6	11.1	21.7	46.1
PK100(1%AOP) = 307 DRNAREA$^{0.855}$	18.3	11.6	21.7	56.7
PK200(0.5%AOP) = 365 DRNAREA$^{0.859}$	18.4	12.4	22.4	64.7
PK500(0.2%AOP) = 447 DRNAREA$^{0.864}$	19.4	13.5	23.8	70.9
Central Mountains Region (Range in DRNAREA from 0.10 to 1,619 for 83 streamgage stations)				
PK1_1(90%AOP) = 33.4 DRNAREA$^{0.814}$	40.0	8.3	41.0	2.4
PK1_5(67%AOP) = 53.8 DRNAREA$^{0.827}$	34.6	7.3	35.4	2.0
PK2(50%AOP) = 69.4 DRNAREA$^{0.833}$	33.4	7.3	34.2	2.1
PK5(20%AOP) = 116 DRNAREA$^{0.845}$	34.1	8.0	35.1	3.2
PK10(10%AOP) = 153 DRNAREA$^{0.853}$	36.3	8.6	37.4	4.0
PK25(4%AOP) = 206 DRNAREA$^{0.866}$	39.9	9.8	41.2	4.8
PK50(2%AOP) = 250 DRNAREA$^{0.877}$	42.9	10.6	44.4	5.3
PK100(1%AOP) = 297 DRNAREA$^{0.888}$	46.2	11.3	47.9	5.6
PK200(0.5%AOP) = 347 DRNAREA$^{0.899}$	49.7	12.0	51.5	5.9
PK500(0.2%AOP) = 420 DRNAREA$^{0.915}$	54.3	13.1	56.3	6.1
Western Plateaus Region (Range in DRNAREA from 0.13 to 1,516 for 106 streamgage stations)				
PK1_1(90%AOP) = 56.9 DRNAREA$^{0.763}$	38.2	7.6	39.1	3.8
PK1_5(67%AOP) = 97.8 DRNAREA$^{0.741}$	33.4	6.5	34.1	2.8
PK2(50%AOP) = 129 DRNAREA$^{0.730}$	31.6	6.1	32.2	2.8
PK5(20%AOP) = 221 DRNAREA$^{0.716}$	29.3	6.5	30.0	4.4
PK10(10%AOP) = 292 DRNAREA$^{0.709}$	28.9	6.5	29.7	5.9
PK25(4%AOP) = 391 DRNAREA$^{0.698}$	29.4	7.3	30.3	7.9
PK50(2%AOP) = 472 DRNAREA$^{0.692}$	30.2	7.6	31.3	9.1
PK100(1%AOP) = 557 DRNAREA$^{0.674}$	31.4	8.0	32.5	10.1
PK200(0.5%AOP) = 647 DRNAREA$^{0.666}$	32.7	8.3	33.9	10.8
PK500(0.2%AOP) = 775 DRNAREA$^{0.661}$	34.8	8.9	36.1	11.4

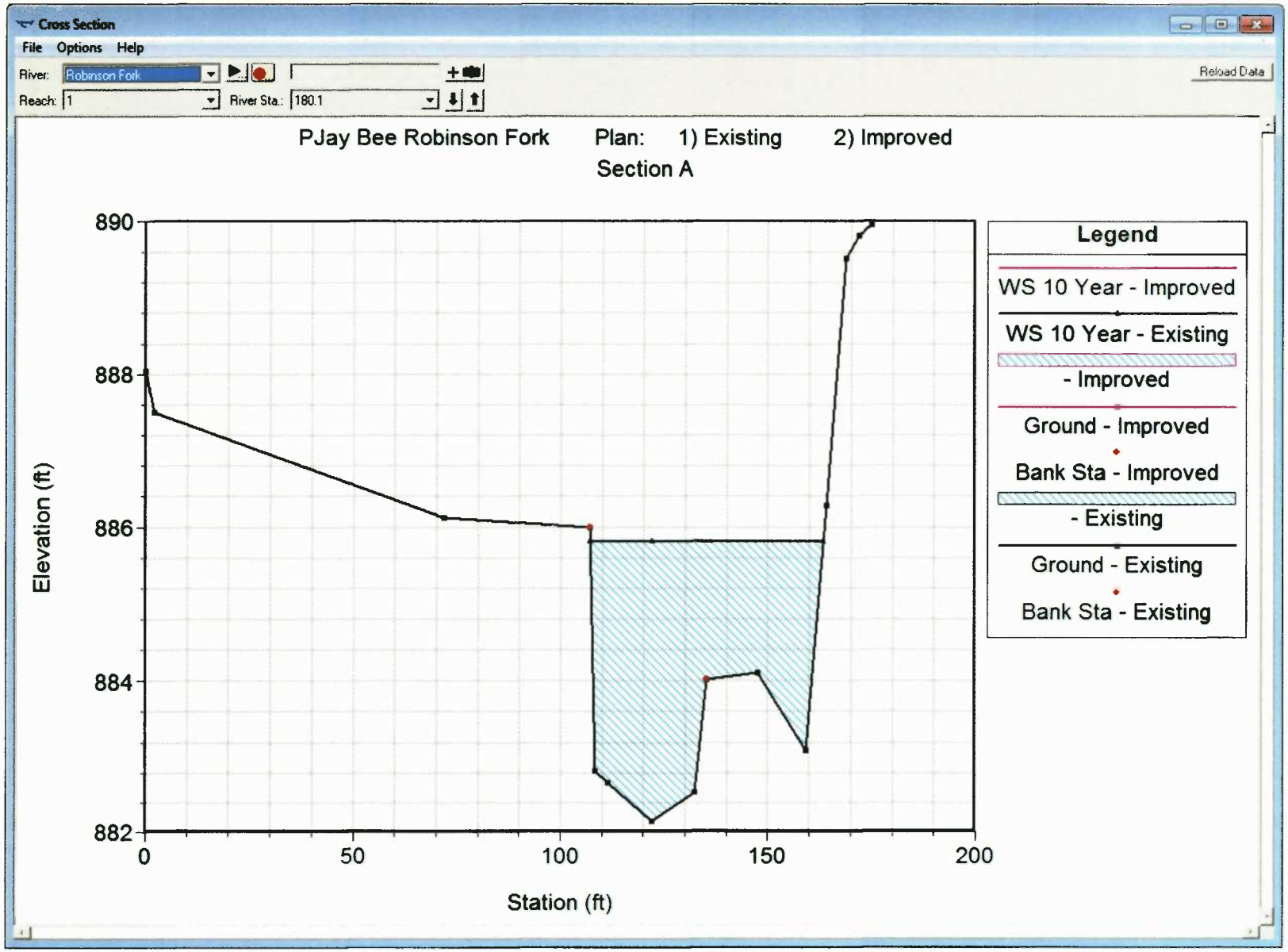
Appendix C
HEC RAS Model Outputs

River Station	Plan	Minimum Channel Elevation (ft)	Water Surface Elevation (ft)	Velocity Channel (ft/s)	Flow Area (sq ft)	Top Width (ft)
0	Existing	880.86	884.55	5.72	144.17	56.27
0	Improved	880.86	884.55	5.72	144.17	56.27
43	Existing	881.16	884.85	5.73	143.97	56.26
43	Improved	881.16	884.85	5.73	144.01	56.26
86.8	Existing	881.47	885.16	5.73	144.01	56.25
86.8	Improved	881.47	885.16	5.73	144.04	56.25
180.1	Existing	882.14	885.81	5.75	143.49	56.24
180.1	Improved	882.14	885.81	5.75	143.49	56.24
218.133	Existing	882.21	886.03	6.57	132.12	72.13
218.133	Improved	882.21	886.03	6.57	132.13	72.13
256.166	Existing	882.29	886.34	7.16	119.95	73.67
256.166	Improved	882.29	886.34	7.16	119.96	73.68
294.2	Existing	882.37	886.88	6.52	134.88	75.46
294.2	Improved	882.36	887.08	3.26	226.25	85.74
306.6	Existing	882.43	887.32	4.77	216.7	136.8
306.6	Improved	882.4	887.15	3.03	291.92	117.09
321.4	Existing	882.48	887.4	4.68	221.29	138.31
321.4	Improved	883.9	887.16	3.06	257.8	116.91
335.2	Existing	882.68	887.44	5.13	199.08	130.81
335.2	Improved	884.1	887.17	3.54	224.07	113.8
360.7	Existing	882.73	887.72	2.69	311.54	109.52
360.7	Improved	882.73	887.29	2.66	266.27	99.16
370.3	Existing	883.03	887.72	2.98	278.94	107.5
370.3	Improved	885	887.17	4.53	152.83	89.2
411.5	Existing	883.63	887.78	3.68	222.02	98.53
411.5	Improved	885	887.49	4.3	159.17	76.85
456.9	Existing	880.59	887.93	3.25	295.06	211.39
456.9	Improved	880.59	887.8	3.56	251.47	192.73
482.5	Existing	880.85	887.97	3.64	249.28	197.24
482.5	Improved	883.5	887.89	3.2	258.89	183.83
494.9	Existing	880.95	887.99	3.79	234.66	193.88
494.9	Improved	883.5	887.92	3.21	255.04	183.85
525.6	Existing	884.01	888.29	6.2	195.23	208.97
525.6	Improved	884.01	888.29	6.2	195.23	208.97
649.8	Existing	884.91	889.34	4.87	253.2	237
649.8	Improved	884.91	889.34	4.87	253.2	237
740.5	Existing	885.92	889.79	6.84	149.18	169.59
740.5	Improved	885.92	889.79	6.84	149.18	169.59

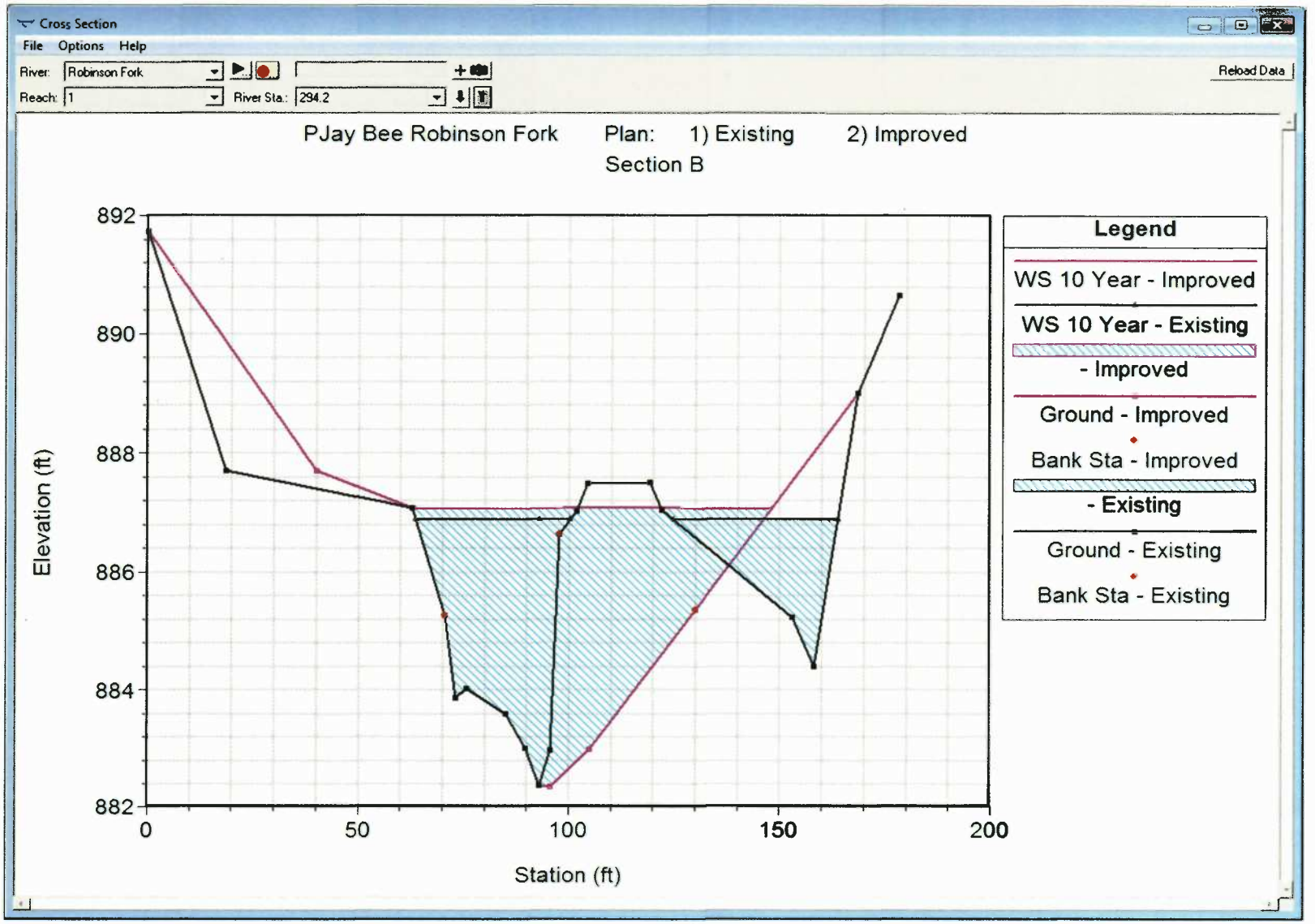
Ten Year Event Stages and Velocities

River Station	Plan	Minimum Channel Elevation	Water Surface Elevation	Velocity Channel	Flow Area	Top Width	Water Surface Increase
		(ft)	(ft)	(ft/s)	(sq ft)	(ft)	(ft)
0	Existing	880.86	885.66	6.94	255.36	134.34	
0	Improved	880.86	885.66	6.94	255.36	134.34	0
43	Existing	881.16	885.96	6.95	254.8	134.12	
43	Improved	881.16	885.96	6.95	254.8	134.12	0
86.8	Existing	881.47	886.27	6.95	255.03	134.26	
86.8	Improved	881.47	886.27	6.95	255.03	134.26	0
180.1	Existing	882.14	886.92	6.98	253.46	133.6	
180.1	Improved	882.14	886.92	6.98	253.46	133.6	0
218.133	Existing	882.21	887.17	7.36	248.86	136.99	
218.133	Improved	882.21	887.17	7.36	248.86	136.99	0
256.166	Existing	882.29	887.42	7.98	236.15	140.22	
256.166	Improved	882.29	887.42	7.98	236.15	140.22	0
294.2	Existing	882.37	887.74	8.54	225.89	147.07	
294.2	Improved	882.36	888.11	4.43	336.23	123.01	0.37
306.6	Existing	882.43	888.53	4.92	395.68	152.83	
306.6	Improved	882.4	888.23	4.01	427.73	134.26	-0.3
321.4	Existing	882.48	888.58	4.92	395.82	152.84	
321.4	Improved	883.9	888.25	3.87	394.59	134.22	-0.33
335.2	Existing	882.68	888.6	5.3	369.15	151.63	
335.2	Improved	884.1	888.25	4.31	357.31	131.09	-0.35
360.7	Existing	882.73	888.79	3.65	433.09	119.41	
360.7	Improved	882.73	888.37	3.62	379.01	110.71	-0.42
370.3	Existing	883.03	888.79	3.95	397.67	115.72	
370.3	Improved	885	888.24	5.23	260.43	105.97	-0.55
411.5	Existing	883.63	888.85	4.62	337.06	111.08	
411.5	Improved	885	888.47	5.32	250.78	102.11	-0.38
456.9	Existing	880.59	889.1	3.41	547.64	220.3	
456.9	Improved	880.59	888.91	3.84	480.69	211.37	-0.19
482.5	Existing	880.85	889.13	3.76	495.99	218.51	
482.5	Improved	883.5	888.97	3.65	461.83	194.25	-0.16
494.9	Existing	880.95	889.14	3.9	478.04	217.88	
494.9	Improved	883.5	888.99	3.68	456.9	194.2	-0.15
525.6	Existing	884.01	889.22	5.28	391.77	213.21	
525.6	Improved	884.01	889.01	6.04	348.27	212.51	-0.21
649.8	Existing	884.91	889.9	5.9	385.72	239.58	
649.8	Improved	884.91	889.89	5.95	382.87	239.52	-0.01
740.5	Existing	885.92	890.53	7.69	302.84	228.61	
740.5	Improved	885.92	890.53	7.69	302.84	228.61	0

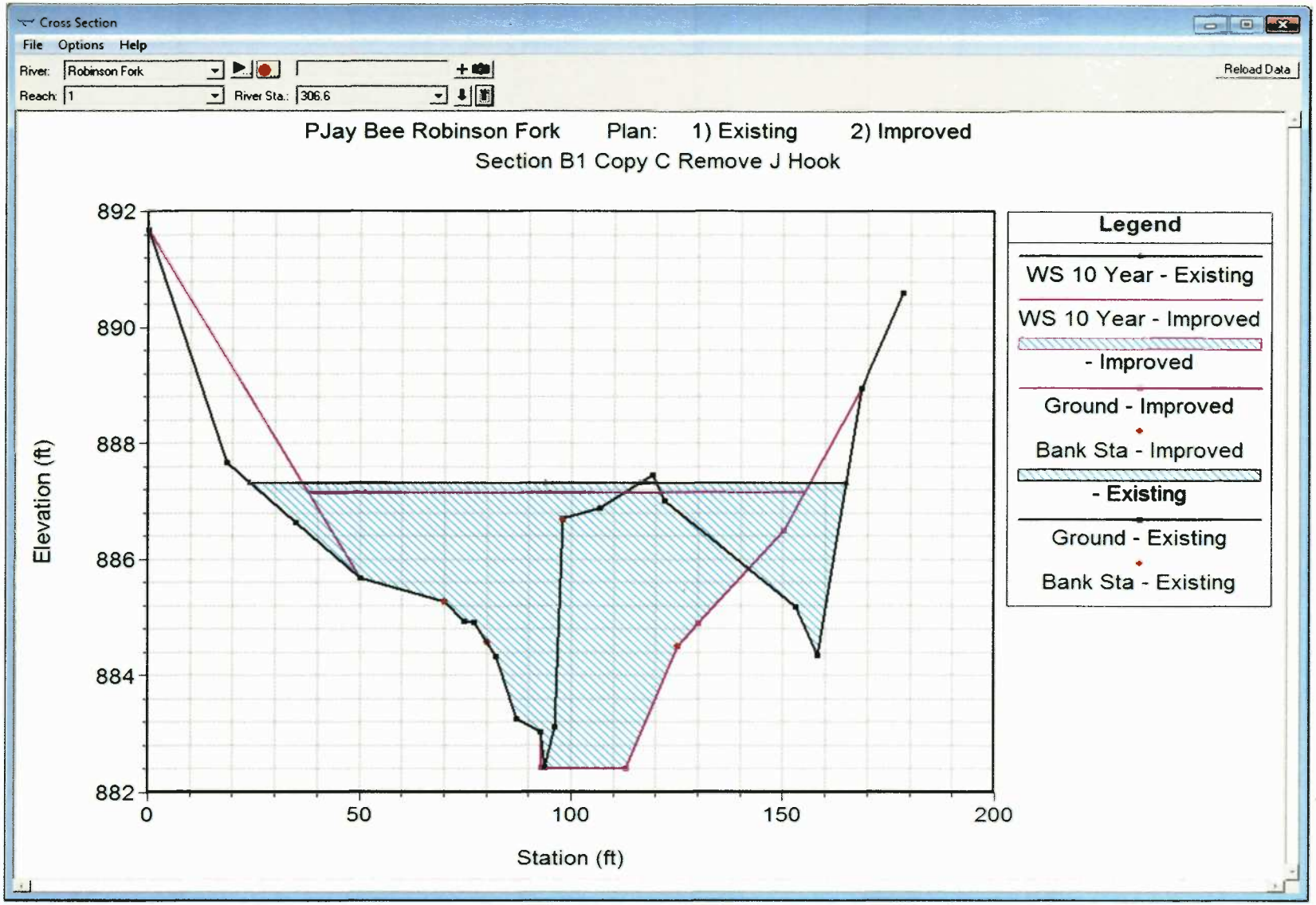
Base Flood Event Stages, Velocities and Stage Increase



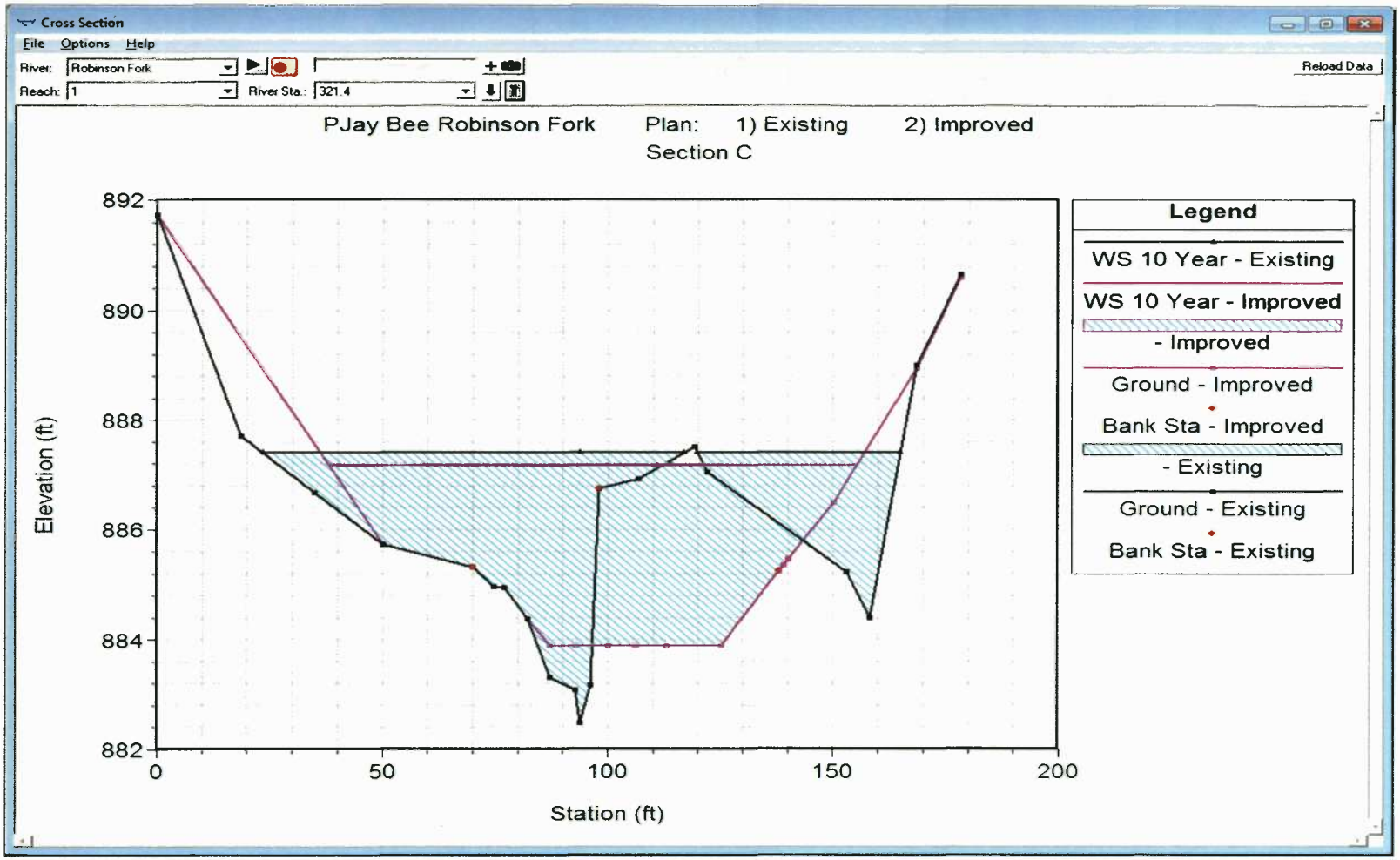
Cross Section A



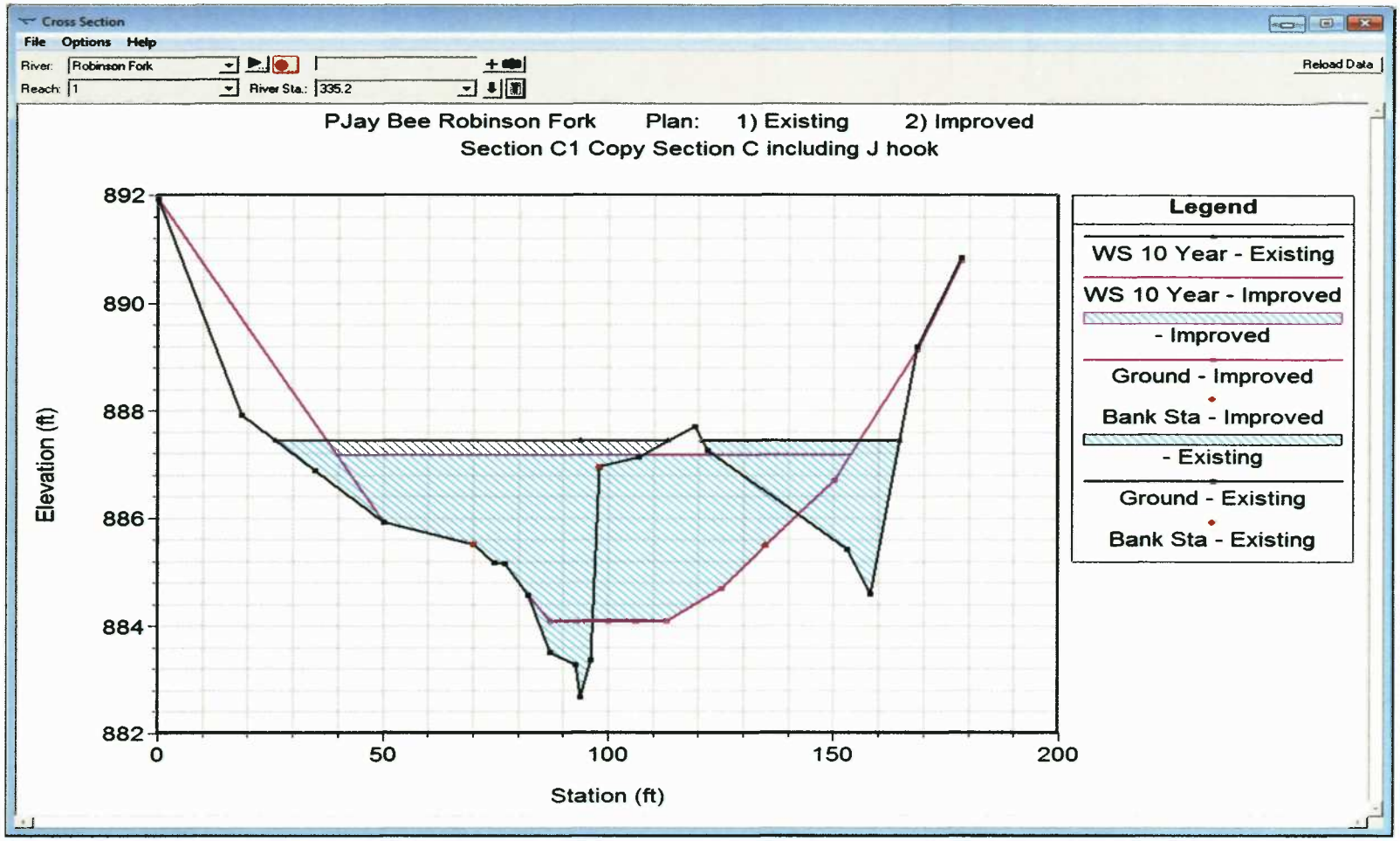
Cross Section B



Cross Section B1



Cross Section C



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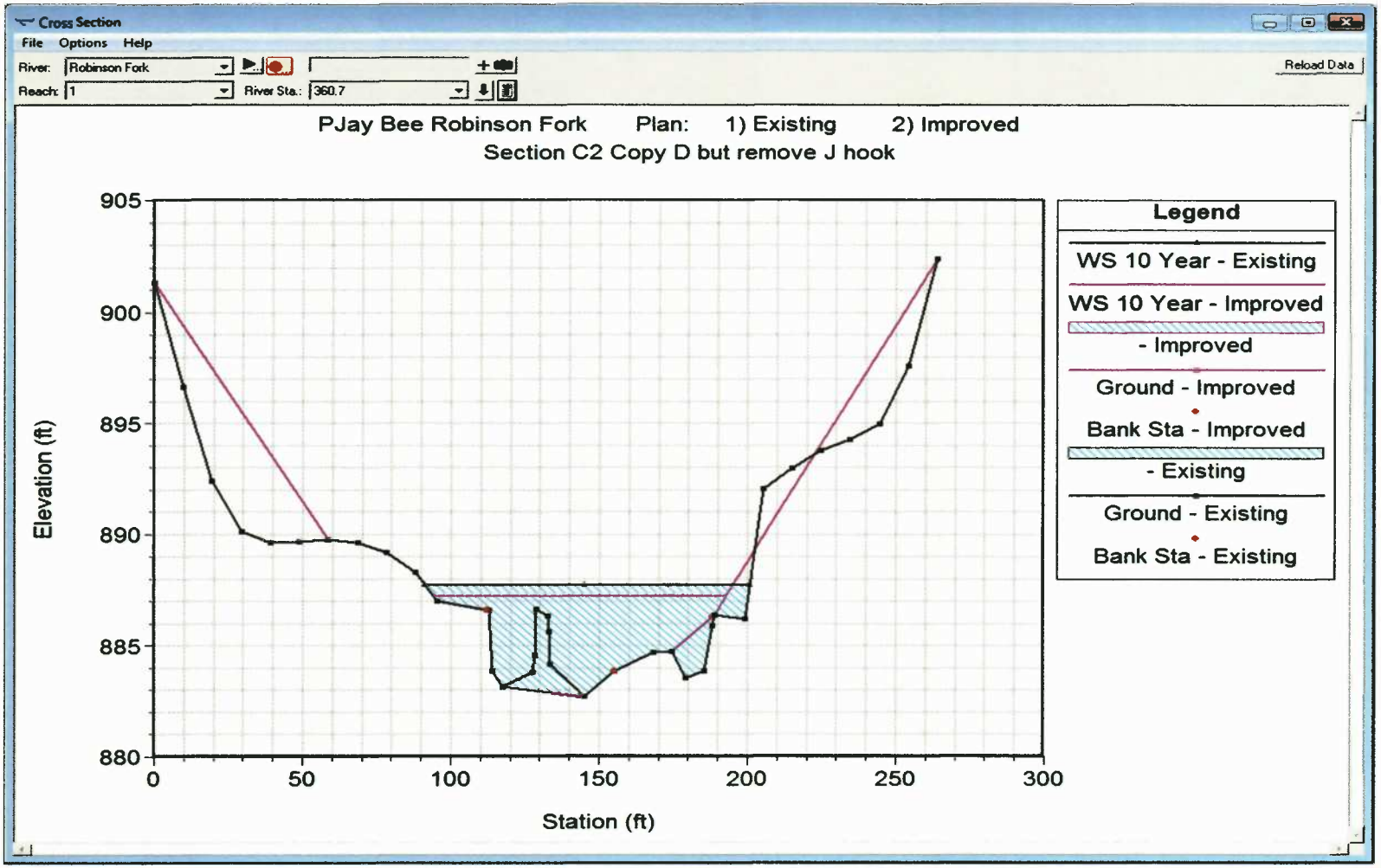

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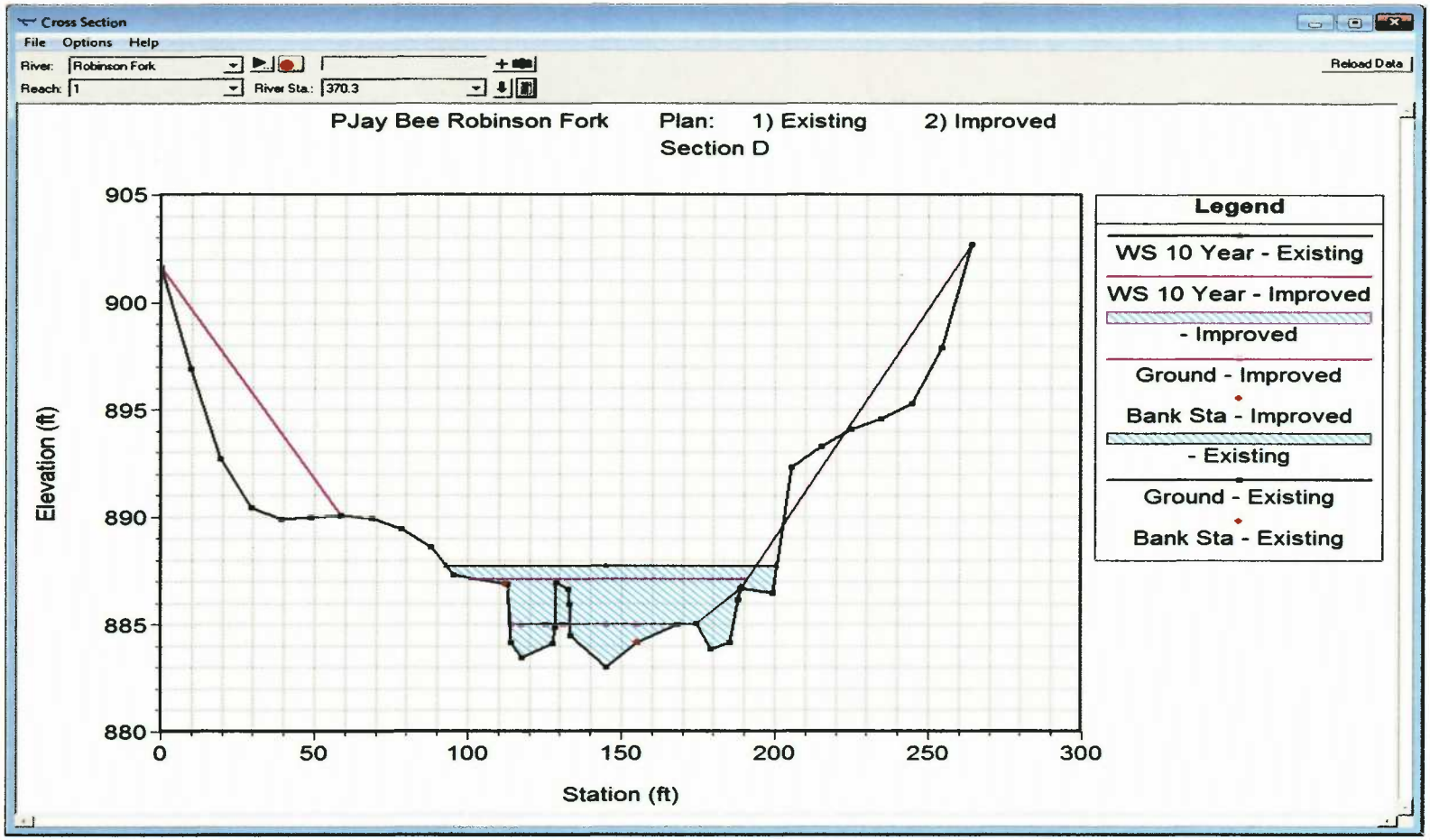

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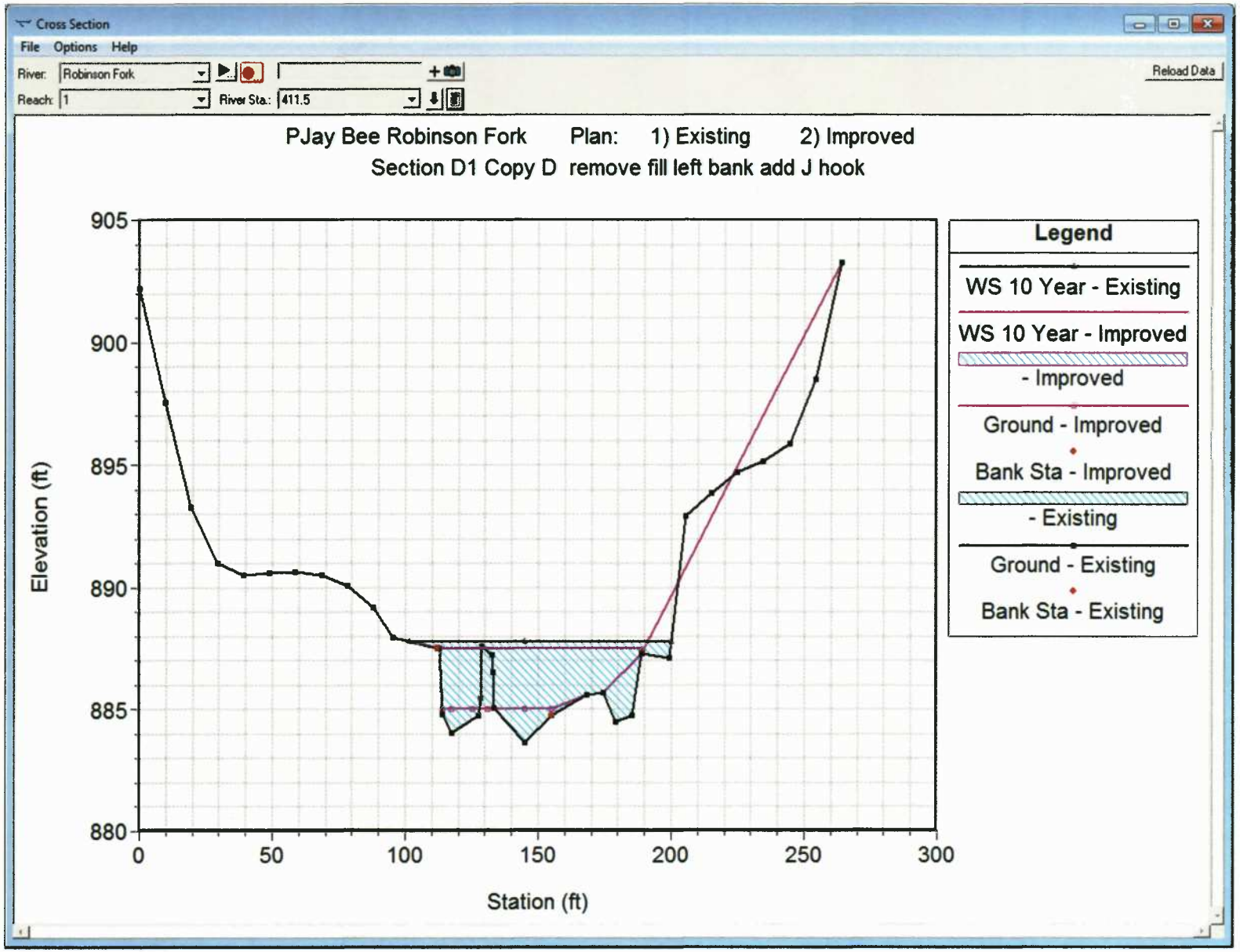

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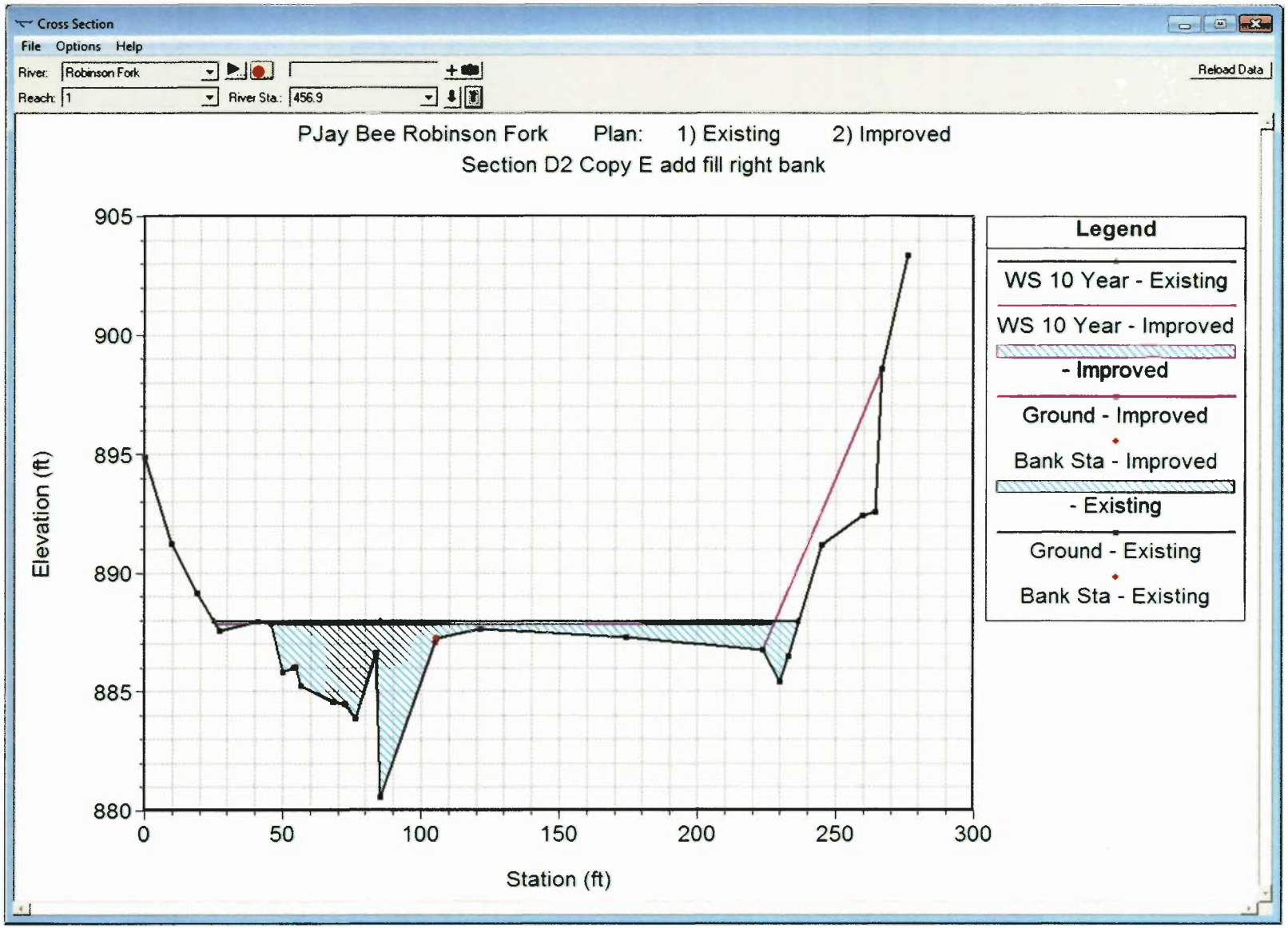

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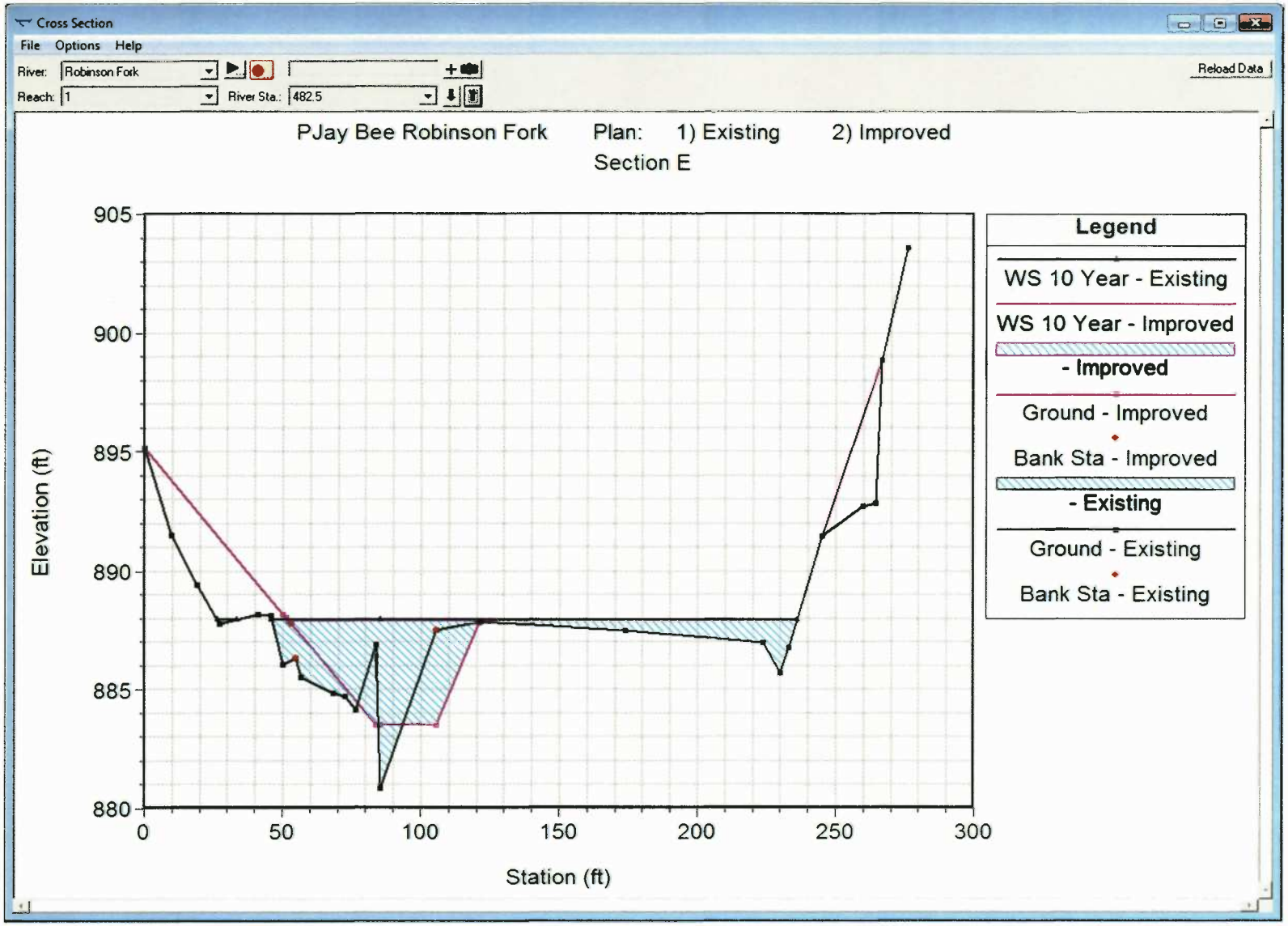
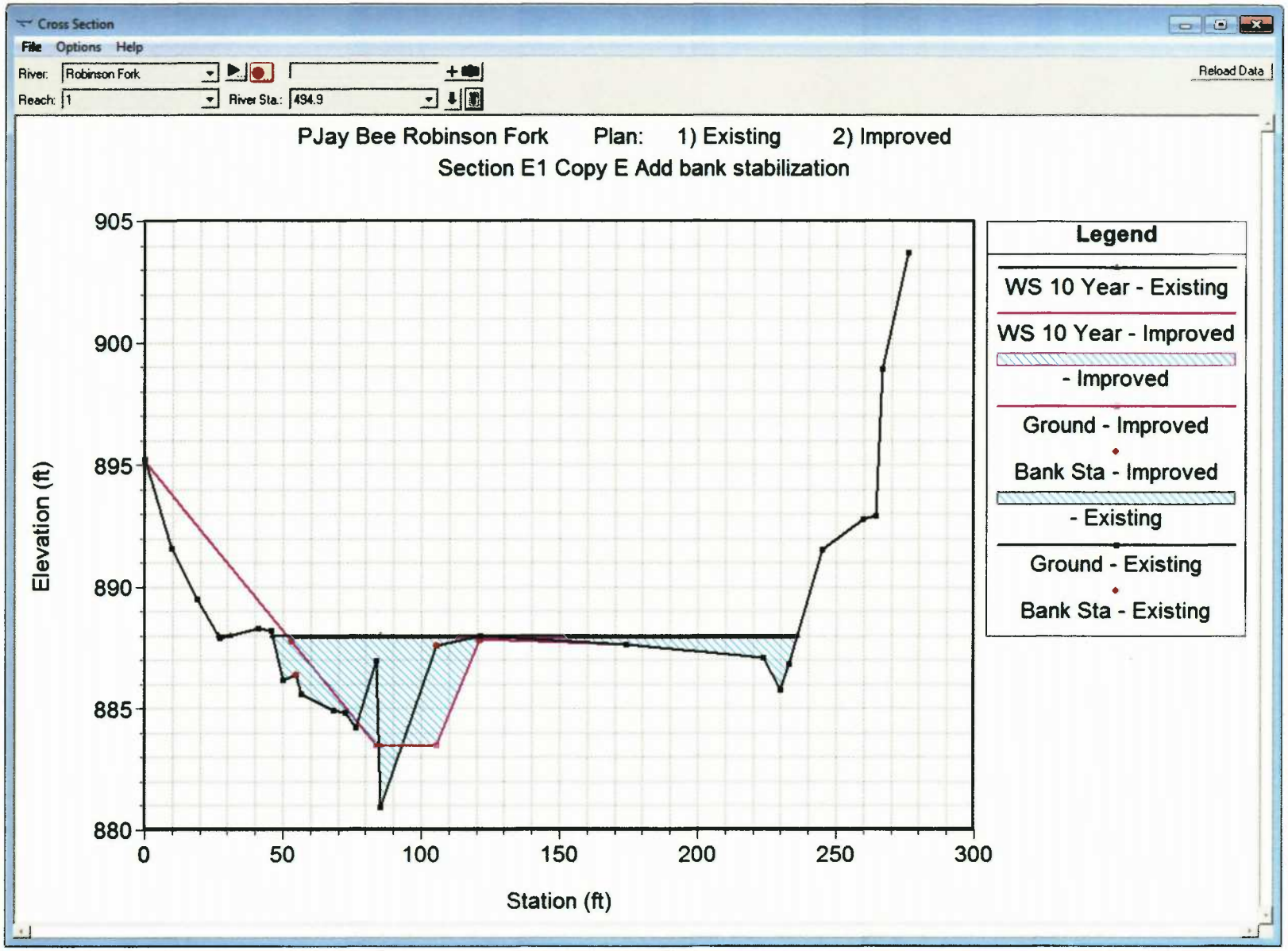
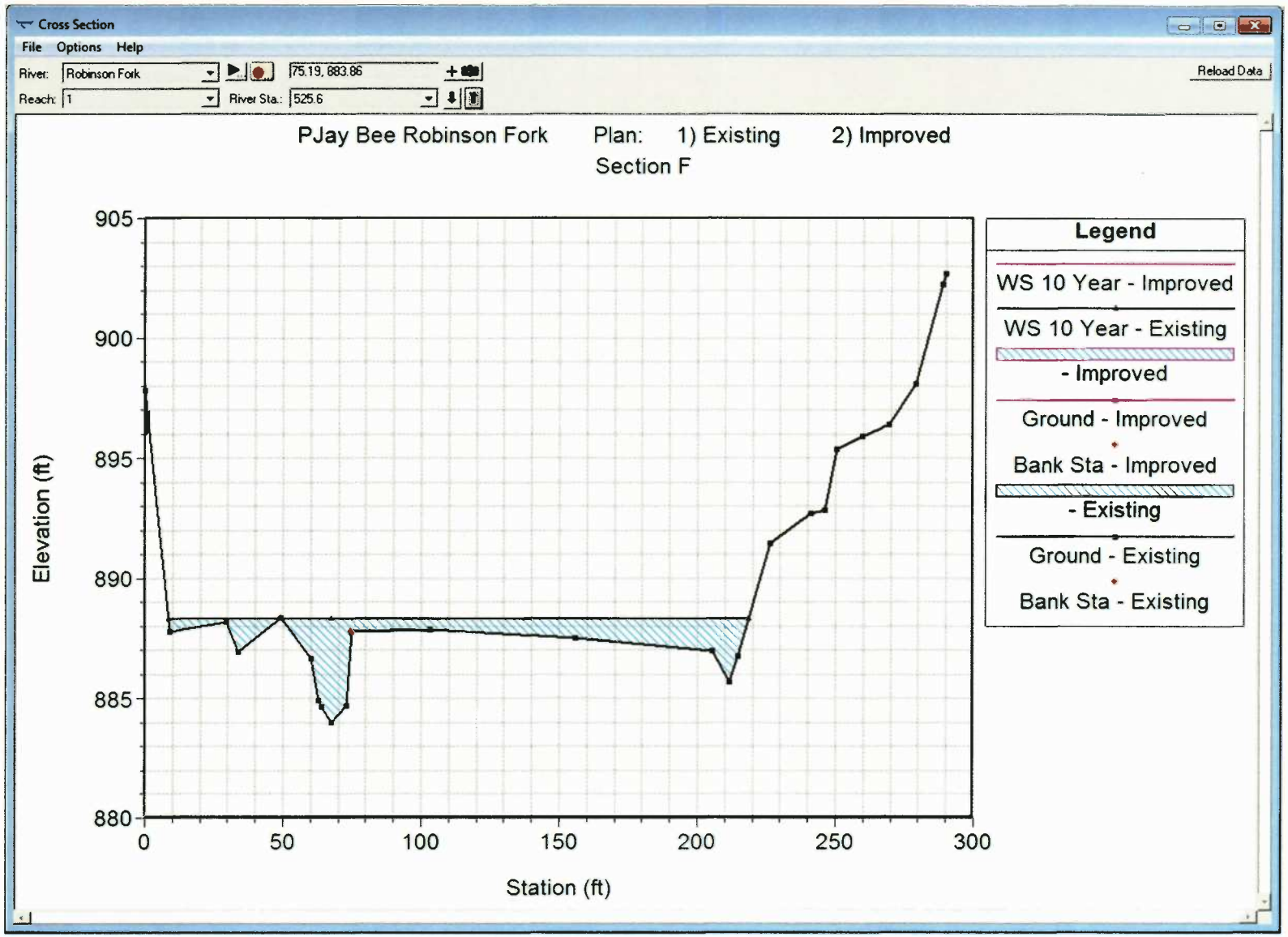


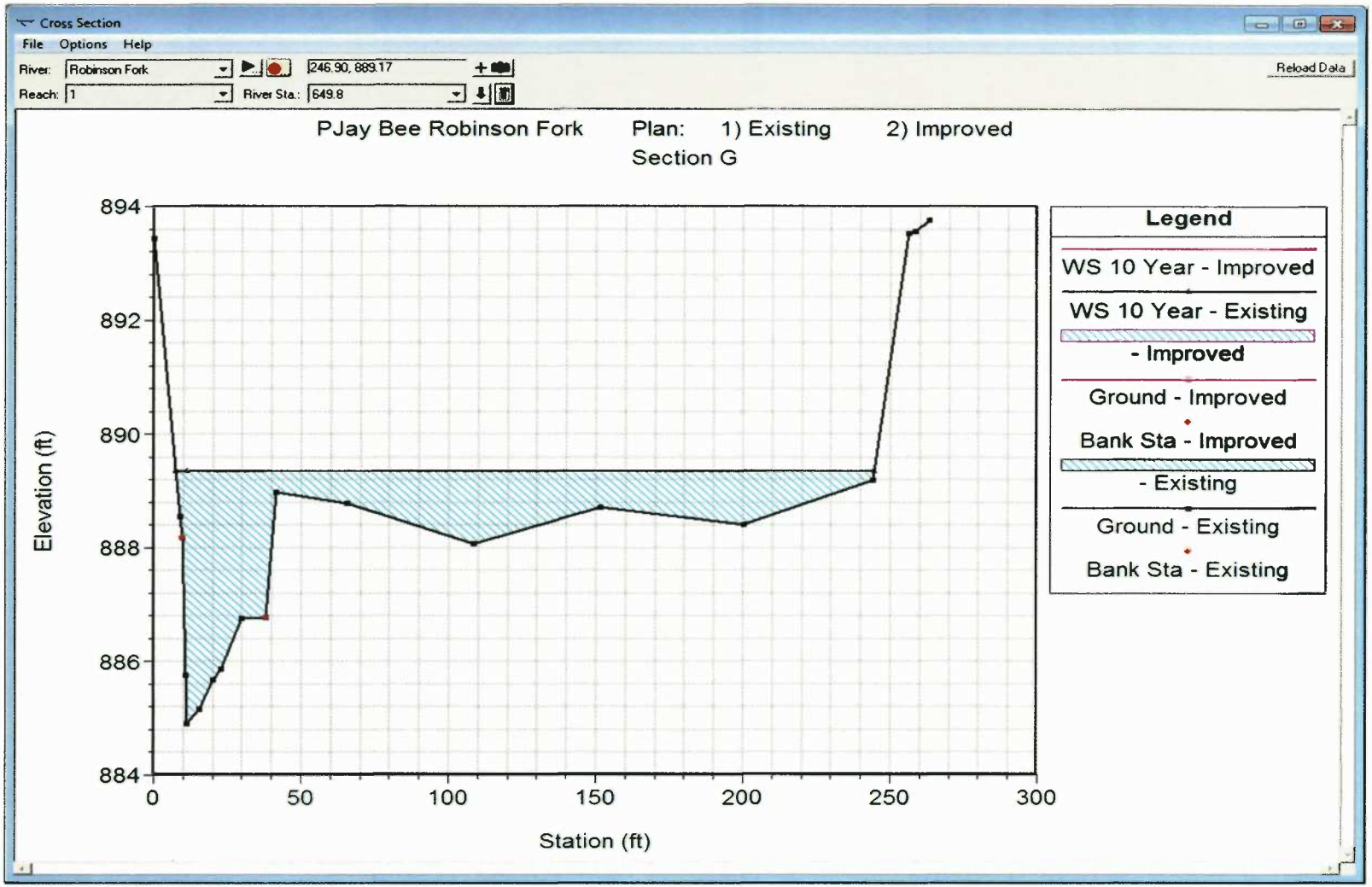
Cross Section E



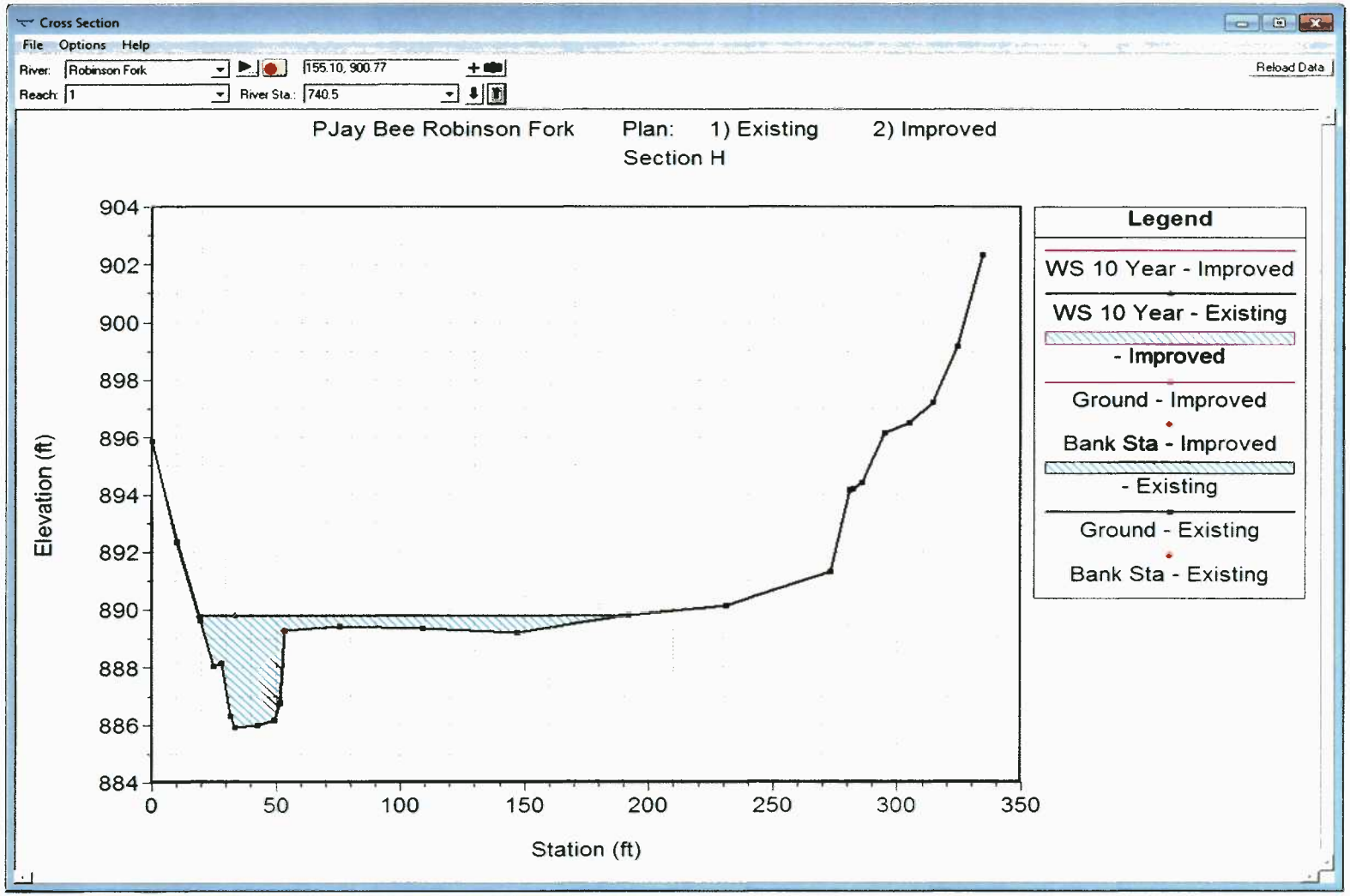
Cross Section E1



Cross Section F (no change in geometry)

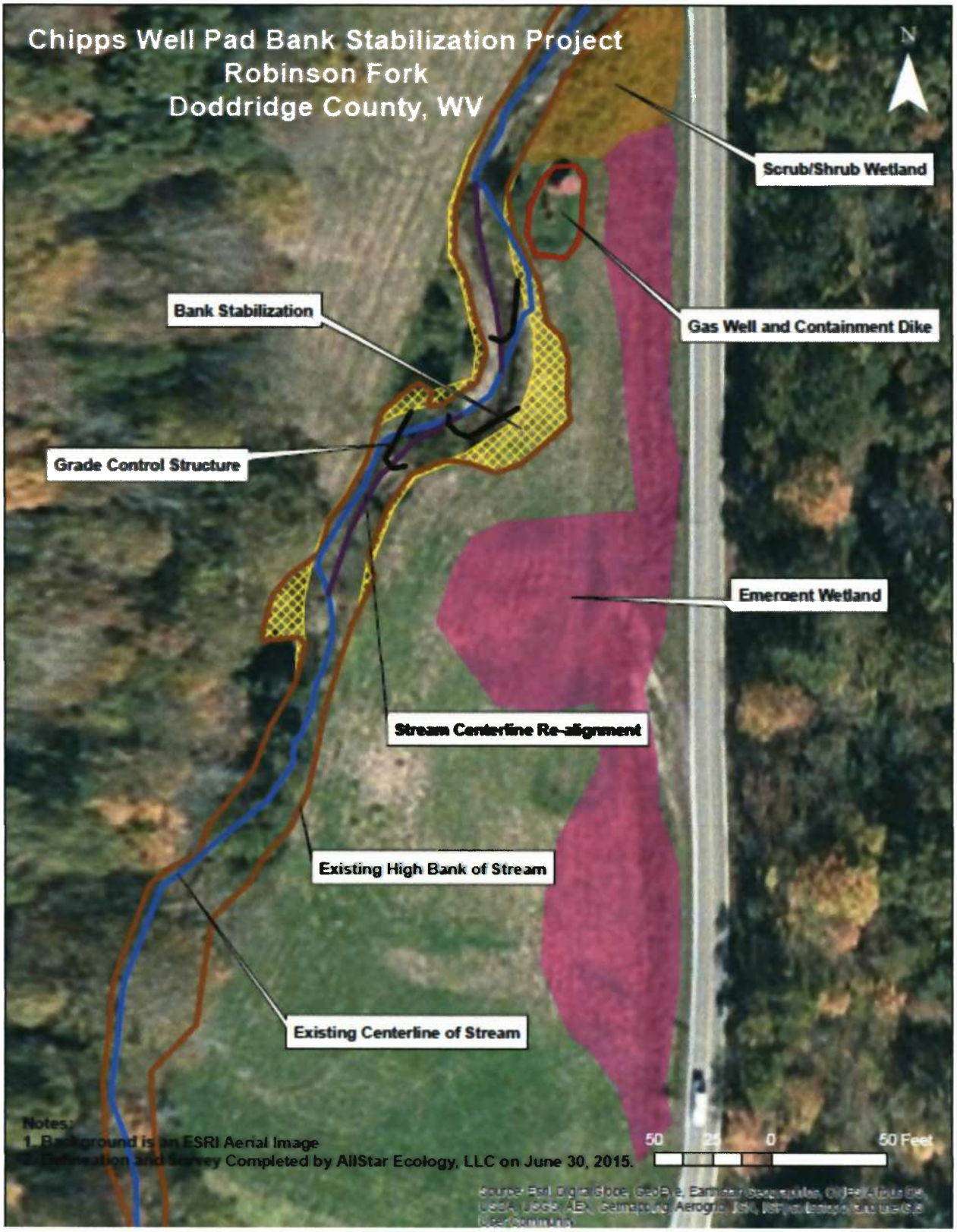


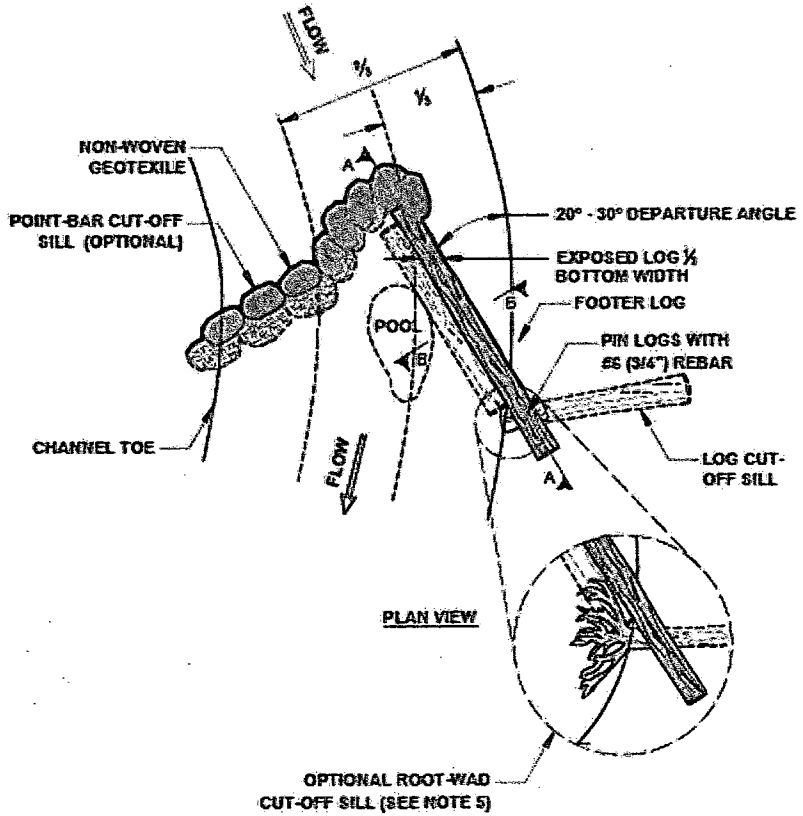
Cross Section G (no change in stream geometry)

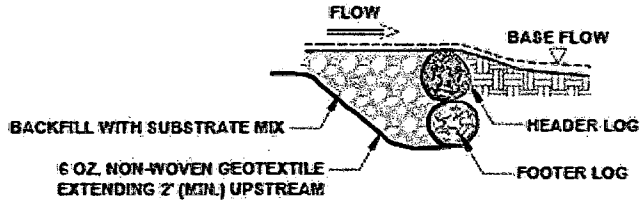


Cross Section H (no change in stream geometry)

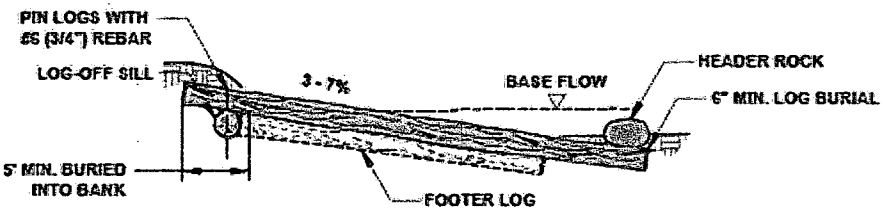
Appendix D
AllStar Ecology LLC Documents


Chipps Well Pad Bank Stabilization Project
Robinson Fork
Doddridge County, WV
N
Scrub/Shrub Wetland
Gas Well and Containment Dike
Bank Stabilization
Grade Control Structure
Emergent Wetland
Stream Centerline Re-alignment
Existing High Bank of Stream
Existing Centerline of Stream
Notes:
1. Background is an ESRI Aerial Image
2. Delineation and Survey Completed by AllStar Ecology, LLC on June 30, 2015.
50
25
0
50 Feet





SECTION B



SECTION A

NOTES:

1. REFER TO SUITABLE ROCK SIZE DIAGRAM FOR HEADER AND FOOTER ROCK DIMENSIONS.
2. VANE ARM MAY BE ANGLED WITHIN A RANGE OF 20° - 30° AS SHOWN IN PLAN VIEW.
3. USE LOGS THAT ARE STRAIGHT, UNIFORM DIAMETER AND FREE OF ROT, DISEASE OR INSECT INFESTATION.
4. REFER TO STRUCTURE TABLE FOR LOG DIA.
5. DEPENDING ON MATERIAL AVAILABILITY, A ROOT-WAD MAY BE USED AS THE LOG CUT-OFF SILL.

ROCK / LOG COMBO J-HOOK WITH LOG CUT-OFF SILL

NO SCALE

DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

MAR 18 2016

REPLY TO
ATTENTION OF

Regulatory Division
Energy Resource Branch
LRH-2015-00719-OHR-Robinson Fork

Mr. Shane Dowell
JayBee Oil and Gas
3570 Shields Hill Road
Cairo, West Virginia 26337

Dear Mr. Dowell:

I refer to your request for a Department of the Army (DA) authorization to discharge dredged and/or fill material into waters of the United States in association with the Chipps Well Pad Bank JUL 5 16 2:25PM Stabilization Project. The proposed project will be located west of WV-23, approximately 3.6 miles north of the town of Salem, in Doddridge County, West Virginia. Robinson Fork is an indirect tributary to the Ohio River, a traditional navigable water of the United States. This pre-construction notification (PCN) has been assigned the following file number: LRH-2015-00719-OHR- Robinson Fork. Please reference this file number on all future correspondence related to this project.

The United States Army Corps of Engineers (Corps) authority to regulate waters of the United States is based, in part, on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Section 404 of the Clean Water Act (CWA) requires that a DA permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 requires that a DA permit be obtained for any work in, on, over or under a navigable water.

Based on a review of the aquatic resources in the PCN, one (1) stream (Stream 1), totaling 653 linear feet (lf), and one (1) Wetland (Wetland 1), totaling 0.494 acre, are located within the preliminary jurisdictional delineation (JD) boundary, as described in the enclosed preliminary JD Form. These on-site aquatic resources **may** be waters of the United States in accordance with the Regulatory Guidance Letter for JDs issued by the Corps on June 26, 2008 (Regulatory Guidance Letter No. 08-02). As indicated in the guidance, this preliminary JD is non-binding and cannot be appealed (33 CFR 331.2) and only provides a written indication that waters of the United States may be present on-site.

You have declined to exercise the option to obtain an approved JD in this instance and at this time. However, for the purposes of the determination of impacts, compensatory mitigation, and other resource protection measures for activities that require authorization from this office, the stream and wetland referenced above will be evaluated as if they are waters of the United States.

Enclosed please find two (2) copies of the preliminary JD form. If you agree with the findings of this preliminary JD and understand your options regarding the same, please sign and date one copy of the preliminary JD form and return it to this office within 30 days of receipt of this letter. You should submit the signed copy to via email to Audrey.M.Richter@usace.army.mil or to the following address:

United States Army Corps of Engineers
Huntington District, Regulatory Division
Attn: Ms. Audrey Richter (LRH-2015-00719)
502 8th Street
Huntington, West Virginia 25701

The proposed project, as described in the submitted information, has been reviewed in accordance with Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Based on your description of the proposed work, and other information available to us, it has been determined that this project will not involve activities subject to the requirements of Section 10. However, this project will include the discharge of dredged or fill material into waters of the United States subject to the requirements of Section 404.

As described in the PCN, the proposed project will include bank stabilization activities along 313 linear feet of Robinson Fork in order to grade and re-slope the stream banks and install three (3) J-hooks. The stream banks will be graded on a 2:1 slope and natural fiber coir matting will be installed along the re-graded stream banks to allow for riparian vegetation to re-establish. The proposed J-hooks will be spaced every 50 feet along Robinson Fork within the propose project area. Implementation of the bank stabilization project will result in the discharge of 13 cubic yards of fill material placed below the ordinary high water mark of Robinson Fork. A temporary sandbag coffer dam will be utilized to temporarily dewater the site to allow for construction of the stream bank stabilization activities. Downstream flow will be maintained through the use of a pump around system. Upon completion of bank stabilization activity, the temporarily affected waters will be returned to pre-construction contours.

In addition, in order to provide temporary site access, Wetland 1 will be crossed using timber matting. The use of timber matting will not involve a temporary or permanent discharge of dredged and/or fill material into Wetland 1, and, therefore, is not subject to regulation under Section 404 of the Clean Water Act.

Based on your description of the proposed work, it has been determined the proposed discharge of dredged and/or fill material into waters of the United States for the construction of the Chipps Well Pad Bank Stabilization Project, meets the criteria for authorization under Nationwide Permit (NWP) #13 (enclosed) under the February 21, 2012 Federal Register, Notice of Reissuance of NWPs (77 FR 10184) provided you comply with all terms and conditions of the enclosed material, the enclosed special conditions, and the 401 Water Quality Certification

(WQC) issued by the West Virginia Department of Environmental Protection (WVDEP). A copy of this NWP can be found on our website at http://www.lrh.usace.army.mil/Missions/Regulatory.aspx.

In view of the above, your bank stabilization project is authorized subject to the terms and conditions of the enclosed material and the enclosed special conditions. It is your responsibility to ensure that your work conforms to all of the environmental management conditions listed within the enclosed material. **Please be aware this NWP verification does not obviate the requirement to obtain any state or local assent required by law for the activities.**

This verification is valid until the expiration date of the NWPs, unless the NWP authorization is modified, suspended, or revoked. The verification will remain valid if the NWP authorization is reissued without modification or the activity complies with any subsequent modification of the NWP authorization. All of the existing NWPs are scheduled to be modified, reissued, or revoked on March 18, 2017. Prior to this date, it is not necessary to contact this office for re-verification of your project unless the plans for the proposed activity are modified. Furthermore, if you commence or under contract to commence this activity before March 18, 2017, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this NWP.

A copy of this NWP verification letter and the NWP must be supplied to your project engineer responsible for construction activities and kept at the site during construction. Upon completion of the work, the enclosed certification must be signed and returned to this office. If you have any questions concerning the above, please contact Ms. Audrey Richter at (304) 399-5257 or by email at Audrey.M.Richter@usace.army.mil.

Sincerely,

Kimberly Courts-Brown
Regulatory Project Manager
Energy Resource Branch

Enclosures

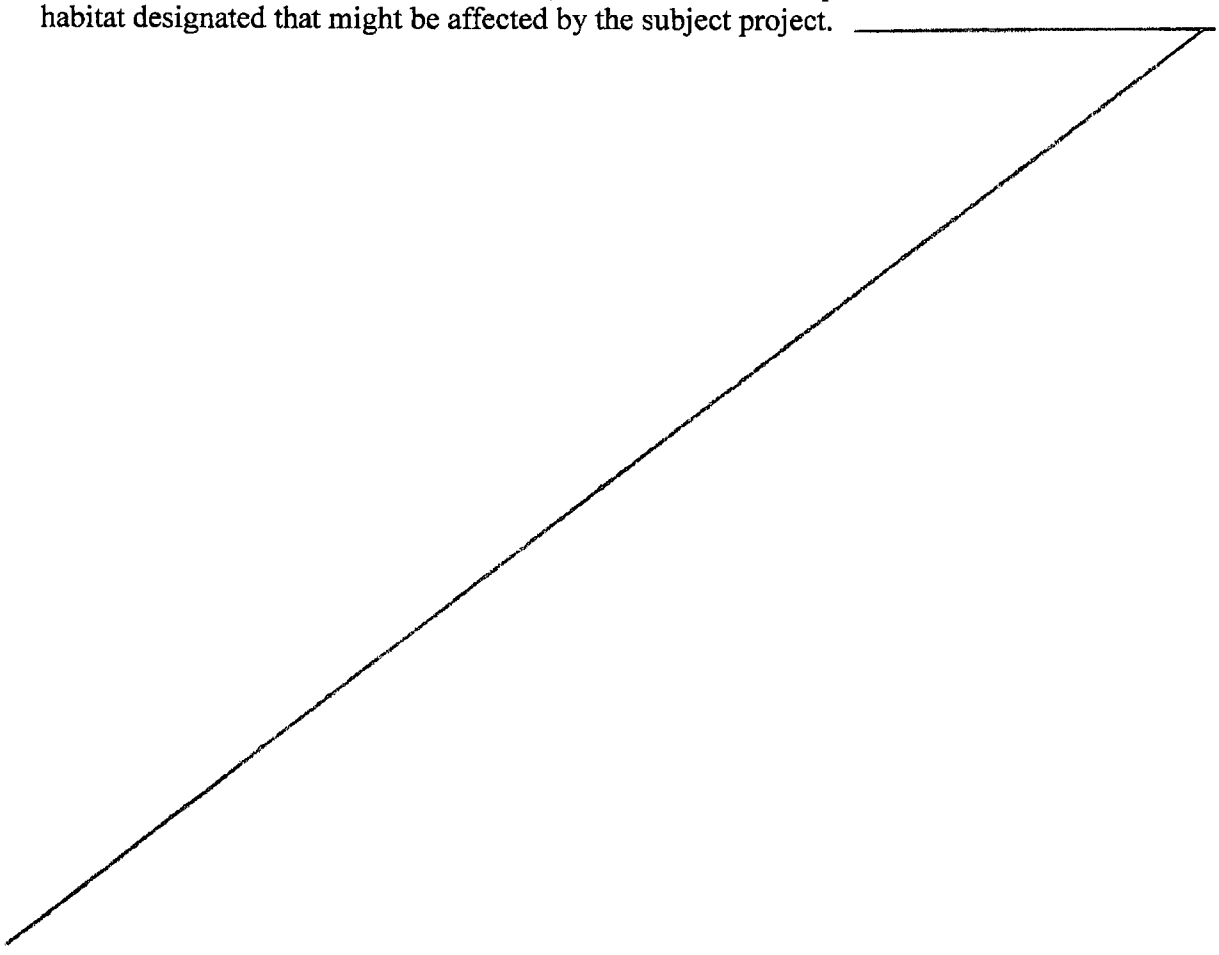
Nationwide Permit 13 Verification Special Conditions
Jay Bee Oil and Gas
Chipps Well Pad Bank Stabilization Project
LRH-2015-00719-OHR-Robinson Fork

1. All work shall be conducted in accordance with the final plans provided by Allstar Ecology, LLC., and dated January 2016.

2. Construction activities will be performed during low flow conditions to the greatest extent practicable. Appropriately sized materials will be utilized to prevent erosion. Additionally, appropriate site specific best management practices for sediment and erosion control will be fully implemented during construction activities at the site.

3. Should new information regarding the scope and/or impacts of the project become available that was not submitted to this office during our review of the proposal, the permittee must submit written information concerning proposed modification(s) to this office for review and evaluation, as soon as practicable.

4. Section 7 obligations under Endangered Species Act must be reconsidered if new information reveals impacts of the project that may affect federally listed species or critical habitat in a manner not previously considered or new species are listed or critical habitat designated that might be affected by the subject project.



Permit Number: LRH-2015-00719-OHR-Robinson Fork
Chipps Well Pad Bank Stabilization Project

Name of Permittee: JayBee Oil and Gas

Date of Issuance: March 18, 2016

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

Huntington District
U. S. Army Corps of Engineers
502 8th Street
Huntington, West Virginia 25701-2070
Attn: CELRH-RD-E

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

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

_____

Signature of Permittee Date

PM: A. Richter

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): March 18, 2016

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
Mr. Shane Dowell
JayBee Oil and Gas
3570 Shields Hill Road
Cairo, West Virginia 26337

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Huntington District, JayBee Oil and Gas-Chipps Well Pad Bank Stabilization Project- LRH-2015-00719-OHR-Robinson Fork

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
State: West Virginia County: Doddridge City: Salem
Center coordinates of site: Lat. 39.336026°N, Long. 80.576320°W
Universal Transverse Mercator: 17
Name of nearest waterbody: Robinson Fork

Identify (estimate) amount of waters in the review area:
Non-wetland waters: 653 linear feet: 0.33 acre.
Cowardin Class: Riverine
Stream Flow: Perennial
Wetlands: 0.494 acre
Cowardin Class: palustrine emergent (PEM); palustrine scrub-shrub (PSS)

Name of any water bodies on the site that have been identified as Section 10 waters:
Tidal: None
Non-Tidal: Stream 1 and Wetland 1

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: March 15, 2016
☒ Field Determination. Date(s): November 18, 2015

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site.

SUPPORTING DATA. Data reviewed for preliminary JD:

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Maps and design plans submitted in the pre-construction notification titled *Chipps Well Pad Bank Stabilization, Wetland Delineation and Stream Identification Report, Doddridge County, West Virginia*, dated January 11, 2016.
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  ☒ Office concurs with data sheets/delineation report.
  ☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps:
☐ Corps navigable waters' study:
☒ U.S. Geological Survey Hydrologic Atlas:
  ☒ USGS NHD data. USACE ORM NHD dataset.
  ☐ USGS 8 and 12 digit HUC maps
☒ U.S. Geological Survey map(s): Salem-WV 24K Quadrangle
☐ USDA Natural Resources Conservation Service Soil Survey:
☒ National wetlands inventory map(s): USACE ORM NWI dataset.
☐ State/Local wetland inventory map(s):
☐ FEMA/FIRM maps: In the report referenced above.
☐ 100-year Floodplain Elevation is:
☒ Photographs: ☒ Aerial: Google Maps
☒ Other: Photographs submitted in the PCN and photographs taken during the November 18, 2015 site visit.
☐ Previous determination(s).
☐ Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

18 March 2016
Signature and date of
Regulatory Project Manager

Signature and date of
person requesting preliminary JD

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): March 18, 2016

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
Mr. Shane Dowell
JayBee Oil and Gas
3570 Shields Hill Road
Cairo, West Virginia 26337

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: Huntington District, JayBee Oil and Gas-Chipps Well Pad Bank Stabilization Project- LRH-2015-00719-OHR-Robinson Fork

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State: West Virginia County: Doddridge City: Salem
Center coordinates of site: Lat. 39.336026°N, Long. 80.576320°W
Universal Transverse Mercator: 17
Name of nearest waterbody: Robinson Fork

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Non-wetland waters: 653 linear feet: 0.33 acre.
Cowardin Class: Riverine
Stream Flow: Perennial
Wetlands: 0.494 acre
Cowardin Class: palustrine emergent (PEM); palustrine scrub-shrub (PSS)

Name of any water bodies on the site that have been identified as Section 10 waters:
Tidal: None
Non-Tidal: Stream 1 and Wetland 1

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: March 15, 2016
☒ Field Determination. Date(s): November 18, 2015

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site.

Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable.

This preliminary JD finds that there *"may be"* waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD:

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Maps and design plans submitted in the pre-construction notification titled *Chipps Well Pad Bank Stabilization, Wetland Delineation and Stream Identification Report, Doddridge County, West Virginia*, dated January 11, 2016.
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  ☒ Office concurs with data sheets/delineation report.
  ☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps:
☐ Corps navigable waters' study:
☒ U.S. Geological Survey Hydrologic Atlas:
  ☒ USGS NHD data. USACE ORM NHD dataset.
  ☐ USGS 8 and 12 digit HUC maps
☒ U.S. Geological Survey map(s): Salem-WV 24K Quadrangle
☐ USDA Natural Resources Conservation Service Soil Survey:
☒ National wetlands inventory map(s): USACE ORM NWI dataset.
☐ State/Local wetland inventory map(s):
☐ FEMA/FIRM maps: In the report referenced above.
☐ 100-year Floodplain Elevation is:
☒ Photographs: ☒ Aerial: Google Maps
☒ Other: Photographs submitted in the PCN and photographs taken during the November 18, 2015 site visit.
☐ Previous determination(s).
☐ Other information (please specify):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

18 March 2016
Signature and date of
Regulatory Project Manager

Signature and date of
person requesting preliminary JD

Table 1 – On-site Aquatic Resources associated with the JayBee Oil and Gas- Chipps Well Pad Bank Stabilization Project. LRH-2015-00719-OHR-Robinson Fork

Waters ID	Latitude (°N)	Longitude (°W)	Flow Regime	Linear Feet (lf) and Area (ac) of Waters	Class of Aquatic Resource
Stream 1 (Robinson Fork)	39.335834	80.576613	Perennial	653 lf; 0.33 ac	Non-Section 10, non-wetland
Wetland 1	39.336661	80.576075	PEM	0.427 ac	Non-Section 10, wetland
			PSS	0.067 ac	

Issuance Date: March 19, 2012
Expiration Date: March 18, 2017

NWP # 13

NATIONWIDE PERMITS FOR THE STATE OF WEST VIRGINIA

CORPS OF ENGINEERS REGULATORY PROGRAM
ISSUANCE OF NATIONWIDE PERMITS

On February 21, 2012, the Corps of Engineers published, in the Federal Register, the final rule for the administration of its nationwide permit program regulations under the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and the Marine Protection, Research and Sanctuaries Act. The rule became effective on March 19, 2012.

An integral part of the Corps' regulatory program is the concept of nationwide permits (NWPs) for minor activities. NWPs are activity specific, and are designed to relieve some of the administrative burdens associated with permit processing for both the applicant and the Federal government. The NWPs, published in the February 21, 2012, Federal Register, Issuance of Nationwide Permits (77 FR 10184), are issued by the Chief of Engineers, and are intended to apply throughout the entire United States and its territories. The Corps Districts representing West Virginia have imposed regional conditions on the NWPs that are applicable throughout the entire state. For convenience, all NWPs with the appropriate regional, general and special conditions are attached.

In response to the Federal Register Notice (77 FR 10184), the West Virginia Department of Environmental Protection (WVDEP) has issued 401 water quality certification, pending compliance with certain conditions and/or limitations, for the following NWPs: 3, 4, 5, 6, 7, 12, 13, 14, 16, 18, 19, 20, 21, 22, 25, 27, 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 45, 46, 48, 49, 50 and 51.

An individual State Water Quality Certification is required for the following NWPs: 15, 17, 23, 34 and 43. Certification response is not applicable to NWPs: 1, 2, 8, 9, 10, 11, 24, 26, 28, 35, 44, 47, and 52.

Authorization for discharges covered by NWPs is denied without prejudice if: (1) the State Certification has been denied; or (2) the discharge is not in compliance with conditions imposed in the State Certification. Applicants wishing to conduct such discharges must first obtain either an individual water quality certificate or waiver from:

Director
West Virginia Department of Environmental Protection
601 57th Street
Charleston, West Virginia 25304

Some NWPs require advance notification. The notification must be made in writing as early as possible prior to commencing the proposed activity. The notification procedures are located under General Condition 31. The notification to the Corps can be made concurrently with the request for individual state certification, if required. The District Engineer may require an individual permit for any activity determined to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest.

The NWPs provide a simplified, expeditious means of project authorization under various authorities of the Corps. We encourage prospective permit applicants to consider the advantages of nationwide permit authorization during the preliminary design of their projects. Assistance and further information regarding all aspects of the Corps regulatory program may be obtained by contacting:

HUNTINGTON DISTRICT

Name: Ginger Mullins, Chief, Regulatory Division
Address: U.S. Army Corps of Engineers, Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070
Phone: 304-399-5710

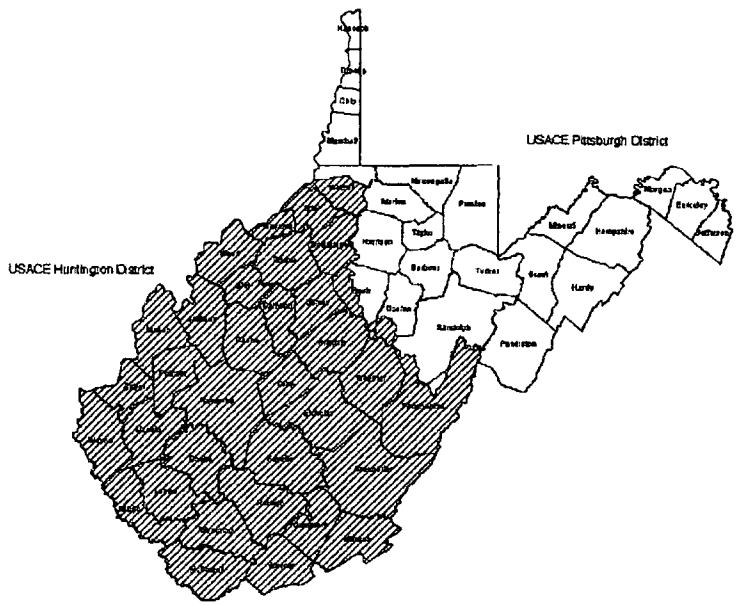
PITTSBURGH DISTRICT

Name: Scott Hans, Chief Regulatory Branch
Address: U.S. Army Corps of Engineers, Pittsburgh District
William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222-4186
Phone: 412-395-7154

Attached is a map showing the district boundaries for the State of West Virginia.

Ginger Mullins, Chief
Regulatory Division

Corps Districts and Navigable Streams in The State of West Virginia



Huntington District

1. Ohio River.....Total Length in State
2. Kanawha River.....Total Length
3. New River.....Total Length in State
4. Big Sandy River.....Total Length
5. Tug Fork.....58 Miles
6. Elk River.....139 Miles
7. Gauley River.....75 Miles
8. Guyandot River.....122 Miles
9. Little Kanawha River.....130.75 Miles
10. Greenbrier River.....150.50 Miles
11. Coal River.....57.90 Miles

Pittsburgh District

1. Ohio River.....Total Length in State
12. Monongahela River.....Total Length in State
13. Tygart River.....7 Miles
14. West Fork.....74 Miles
15. Shenandoah River.....Total Length in State
16. Potomac River.....Total Length in State

A. U.S. Army Corps of Engineers Nationwide Permit #13 for Bank Stabilization Projects in West Virginia

This nationwide permit authorizes bank stabilization activities necessary for erosion prevention, provided the activity meets all of the following criteria:

(a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(c) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,

(g) The activity is not a stream channelization activity.

This NWP also authorizes temporary structures, fills, and work necessary to construct the bank stabilization activity. 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.

Invasive plant species shall not be used for bioengineering or vegetative bank stabilization.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of greater than an average of one cubic yard per running foot along the bank below the plane of the ordinary high water mark or the high tide line. (See general condition 31.) **(Sections 10 and 404)**

B. Specific Regional Conditions for Nationwide Permit #13:

- Notification is required for all discharges involving the use of any vertical bulkhead. A vertical bulkhead is defined as any structure, or fill, with a vertical face. It may be constructed of timber, steel, concrete, etc.
- Wherever practicable, bank stabilization work shall be accomplished using natural channel design and/or stabilization methodologies (e.g. bioengineered techniques).
- All activities shall be constructed in a manner to withstand expected bankfull

events and shall consist of clean and coarse non-erodable materials with 15% or less of like fines.

C. West Virginia 401 Water Quality Certification Special Conditions for Nationwide Permit #13:

For activities involving a discharge, the West Virginia 401 Water Quality Certification Standard Conditions apply.

- Individual State Water Quality Certification is required for bank stabilization activities located in an embayment, island back channel, stream mouth on Section 10 Rivers.
- Individual State Water Quality Certification is required for perennial and intermittent stream bank stabilization activities greater than 500 linear feet authorized by the Corps of Engineers.
- Stabilized streambanks, where possible and practicable, should be sloped and revegetated for erosion control purposes.
- The use of unconsolidated river gravel (river jack) for streambank stabilization is not certified. Unconsolidated river material may be used to reconstruct streambanks or form bankfull benches provided they are stabilized by material and/or methods which prevent further erosion under normal or expected high flows. Acceptable material and/or methods are; quarried or shot rock, clean concrete rubble, gabions, cribbing, woody vegetation, and flow diversion structures such as rock vanes. All of the foregoing are to be used in combination with appropriate sloping and engineering specifications.
- Individual State Water Quality Certification is required for an activity impacting greater than 200 linear feet on one or more of the streams listed in West Virginia State Certification, Standard Condition 15.

D. U.S. Army Corps of Engineers Nationwide Permit General Conditions Applicable to ALL NWPs

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

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

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

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

(a) Discharges of dredged or fill material into waters of the United States are not authorized by 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, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

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

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

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

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

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

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

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

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

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

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

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to

ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

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

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

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

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

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

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal

zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

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

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

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

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

_____

(Transferee)

_____

(Date)

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

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

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must

include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

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

31. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

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

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

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

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

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to

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

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

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

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

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

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

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

(2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or

water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

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

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

E. Regional General Conditions

Regional General Condition 1

Full Agency Pre-construction Notification: In an effort to expedite full agency permit review it is requested that all pre-construction notifications (PCNs) submitted for activities requesting a waiver and for those activities resulting in the loss of greater than ½ acre of waters of the United States (U.S.), include one original hard copy and five (5) additional copies of the PCN package. Applicants are encouraged to submit the five agency copies in electronic format as CDs, in order to minimize the use of paper and postage resources.

Regional General Condition 2

Pre-Construction Notification Submittals: In addition to the PCN requirements listed in NWP General Condition 31, all PCNs should include the following information:

- Graphic illustrations on 8 1/2" x 11" paper. The illustrations must clearly depict the project boundaries, including all elements and phases of the proposed project. Three types of illustrations are needed to properly depict the work to be undertaken. These

illustrations or drawings are identified as a Vicinity Map {a location map such as the U.S. Geological Survey (USGS) 7.5 Minute Series topographical map is highly encouraged}, a Plan View and a Typical Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross-section). In addition, each illustration should be identified with a figure or attachment number and the project Latitude and Longitude.

- A written description of the proposed project including acreage(s) of waters of the U.S. (according to aquatic resource type) proposed to be directly or indirectly affected as a result of the proposed project, the linear footage of proposed direct and indirect stream impacts associated with the project, and cubic yards of fill proposed to be discharged.

- A description of the ways in which the project has been designed to avoid and minimize adverse impacts to waters of the U.S.

- Information concerning whether the proposed activity would affect any historic properties listed, determined to be eligible, or which they have reason to believe may be eligible, for listing on the National Register of Historic Places.

- Basic information about the general project area (encompassing a search radius of 2 miles centered on the project area) including USGS 7.5' series topographic maps, National Register of Historic Places (NRHP) files including Historic Districts, and county atlases, histories and/or any historic USGS 15' series topographic map(s), brief description of the terrain and topography of the project area, acreage of the project area, proximity of the project area to major waterways, past land uses in the project area, and any past cultural resources studies or coordination for the project area, if available, along with photographs, keyed to mapping, showing the project area and any buildings or structures on adjacent parcels.

- The submittal of ground photographs to illustrate current conditions of the overall project site and impact site is highly encouraged.

Regional General Condition 3

Compensatory Mitigation: Compensatory mitigation will typically be required as indicated in accordance the terms and conditions of the NWPs in addition to all General and Regional conditions for projects with impacts that result in the conversion of a water of the U.S. to uplands or the conversion of one aquatic resource type to another.

Regional General Condition 4

Passage of Aquatic Life: Culverted crossings should be sized in a manner that allow the passage of aquatic life and freely pass bankfull flows. The only exception to this requirement would involve culvert placement in bedrock and/or extremely high gradient streams, in which

countersinking of culverts is determined not to be practicable. In the event proposed crossings do not meet these criteria, compensatory mitigation may be required.

Regional General Condition 5

Endangered Species: Federally listed endangered species, subject to Section 7 of the Endangered Species Act, are located in nearly every county within West Virginia. As part of the PCN process, the district engineer (DE) will assume responsibility for determining project-related effects to endangered species. For projects that do not require a PCN, it is the applicant's responsibility to ensure that all elements of a proposed single and complete project comply with Section 7 of the Endangered Species Act.

Regional General Condition 6

Endangered Species Habitat: Due to the potential presence of endangered species or their habitats applicants are required to provide notification to the U.S. Fish and Wildlife Service Elkins Field Office, 694 Beverly Pike, Elkins, West Virginia 26241, for any work in the waterways listed in Appendix A. This appendix will be update as new species are listed by the U.S. Fish and Wildlife Service.

Regional General Condition 7

All PCNs involving work in the below listed waters require notification to the National Park Service and/or the Forest Service.

- New River;
- Bluestone River from the upstream boundary of Pipestem Park to Bluestone Reservoir;
- Meadow River from an area near the US 19 Bridge to its junction with the Gauley River;
- All streams within the Monongahela National Forest designated as National Wild and Scenic Study Rivers;
- All streams and other bodies of water in State and National Forests and Recreation Areas (included are streams and bodies of water located within the Spruce Knob, Seneca Rocks and Gauley River National Recreation Areas); and
- Streams and their tributaries as contained within the boundaries of the designated National Wilderness Areas or the headwaters of such rivers and their tributaries; Cranberry River, Red Creek, Laurel Fork and Otter Creek.

Regional General Condition 8

West Virginia Natural Stream Preservation Act: In accordance with the West Virginia Natural Stream Preservation Act, the following streams or rivers are protected from activities that would impound, divert or flood the body of water:

West Virginia Natural Stream Preservation Act

- Greenbrier River from its confluence with Knapps Creek to its confluence with the New River;
- Anthony Creek from its headwaters to its confluence with the Greenbrier River;
- Cranberry River from its headwaters to its confluence with the Gauley River;
- Birch River from Cora Brown Bridge in Nicholas County to its confluence with the Elk River; and
- New River from its confluence with the Greenbrier River to its confluence with the Gauley River.

Regional General Condition 9

Tier 3 Protected Waters: All PCNs involving work in Tier 3 Protected Waters (West Virginia Code of State Regulations, Requirements Governing Water Quality Standards, Title 47, Series 2) shall include prior written notification to the West Virginia Department of Environmental Protection, Division of Water and Waste Management. Tier 3 Protected Waters include, but are not limited to, all streams and rivers within the boundaries of Wilderness Areas designated by The Wilderness Act (16 U.S.C. §1131 et seq.) within the State, all Federally designated rivers under the "Wild and Scenic Rivers Act", 16 U.S.C. §1271 et seq.; all streams and other bodies of water in state parks which are high quality waters or naturally reproducing trout streams; waters in national parks and forests which are high quality waters or naturally reproducing trout streams; waters designated under the "National Parks and Recreation Act of 1978", as amended; and pursuant to subsection 7.1 of 60CSR5, those waters whose unique character, ecological or recreational value, or pristine nature constitutes a valuable national or state resource.

Regional General Condition 10

Archeological Sites and Human Remains: In the event any archeological sites or human remains are uncovered during construction, the permittee shall cease all work immediately and contact the appropriate Corps District office, the West Virginia Division of Culture and History at 304-558-0240 and the appropriate county Sheriff's Office.

F. West Virginia Department of Environmental Protection 401 Water Quality Certification Standard Conditions Applicable to ALL NWPs

The following are West Virginia's Section 401 Water Quality Certification standard and special conditions that apply to the Nationwide Permits 1-52 as published on February 21, 2012 in Part III of the *Federal Register* (77 FR 10184), by the U.S. Army Corps of Engineers. These conditions must be implemented into any activity authorized by a U.S. Army Corps of Engineers Nationwide Permit(s). The State's certification of these Nationwide Permit activities does not replace the need for the applicant proposing an activity under the Nationwide Permit Program from obtaining other applicable permits/authorizations from the West Virginia Department of

Environmental Protection and/or the Division of Natural Resources. Each permittee shall, if they do not understand or are not aware of applicable Nationwide Permit conditions, contact the Corps of Engineers prior to conducting any activity authorized by a Nationwide Permit in order to be advised of applicable conditions. These 401 Water Quality Certifications, with all attendant standard conditions and special conditions, are applicable to Corps of Engineers Civil Works Projects in West Virginia.

1. The permittee will investigate for the presence of water supply intakes or other activities within 1/2 mile downstream, which may be affected by suspended solids and turbidity increases caused by work in the watercourse. The permittee will give notice to operators of any such water supply intakes and such other water quality dependent activities as necessary before beginning work in the watercourse in sufficient time to allow preparation for any change in water quality.

2. Excavation, dredging or filling in the watercourse will be done only to the extent necessary to achieve the project's purpose.

3. Spoil materials from the watercourse or onshore operations, including sludge deposits, will not be dumped in the watercourse, or deposited in wetlands or other areas where the deposit may adversely affect the surface or ground waters of the state.

4. The permittee will employ measures to prevent or control spills from fuels, lubricants or any other materials used in connection with construction and restrict them from entering the watercourse. Storage areas for chemicals, explosives, lubricants, equipment fuels, etc., as well as equipment refueling areas, must include containment measures (e.g., liner systems, dikes, etc.) to ensure that spillage of any material will not contact surface or ground waters. Storage areas and refueling areas shall be a minimum distance of 100 feet from any surface water body. All spills shall be promptly reported to the State Center for Pollution, Toxic Chemical and Oil Spills, 1-800-642-3074.

5. Upon completion of in-stream operations all disturbances below the ordinary high water mark will be properly stabilized within 24 hours to prevent soil erosion. Where possible, stabilization shall incorporate revegetation using bioengineering as an alternative to rip rap. If rip rap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created due to its placement. Fill is to be clean, nonhazardous and of such composition that it will not adversely affect the biological, chemical or physical properties of the receiving waters. Unsuitable materials include but are not limited to : Cadmium chromium arsenate (CCA) and creosote treated lumber, car bodies, tires, large household appliances, construction debris, and asphalt. To reduce potential slope failure and/or erosion behind the material, fill containing concrete must be of such weight and size that promotes stability during expected high flows. Loose large slab placement of concrete sections from demolition projects greater than thirty-six inches in its longest dimension and tires are prohibited. Rebar or wire in concrete should not extend further than one (1) inch. All activities require the use of clean and coarse non erodible materials with 15% or less of like fines that is properly sized to withstand expected high flows.

6. Runoff from any storage areas or spills will not be allowed to enter storm sewers without acceptable removal of solids, oils and toxic compounds. Discharges from retention/detention ponds must comply with permit requirements of the National Pollutant Discharge Elimination System permit program of the West Virginia Department of Environmental Protection, Division of Water and Waste Management.

7. Land disturbances, which are integral to the completion of the permitted activity and are one (1) acre or greater in total area, must comply with the National Pollutant Discharge Elimination System or other state stormwater permit requirements as established by the West Virginia Department of Environmental Protection, Division of Water and Waste Management, if applicable. Best Management Practices for Sediment and Erosion Control, as described in the West Virginia Department of Environmental Protection's Erosion and Sediment Control Best Management Practice Manual, 2006, or similar documents prepared by the West Virginia Division of Highways may be used. These handbooks are available from the respective agency offices.

8. Concrete will not be permitted to enter the watercourse unless contained by tightly sealed forms or cells. Concrete handling equipment shall not discharge waste washwater into wetlands or watercourses at any time without adequate wastewater treatment as approved by the West Virginia Department of Environmental Protection, Division of Water and Waste Management.

9. In stream work in designated warm water streams and their adjacent tributaries during the fish spawning season, April - June and trout waters and their adjacent tributaries during the trout water fish spawning season September 15-March 31st requires a spawning season waiver from the West Virginia Division of Natural Resources, Wildlife Resources Section. For information about specific stream designations contact DEP's Water Quality Standards Section at 304-926-0495. The Wildlife Resources Section, Trout Fisheries Program at 304-637-0245 or Warm Water fisheries Program 304-558-2771 should be contacted if a waiver is needed. In stream work may occur during the respective spawning season in ephemeral waters without a waiver if all reasonable measures are taken to minimize turbidity and sedimentation downstream associated with the proposed project.

10. Removal of well-established riparian vegetation not directly associated with the project construction is prohibited. Disturbance and removal of vegetation from project construction area is to be avoided, where possible, and minimized when necessary. Removal of vegetation shall not be allowed where stream bank stability under normal flow conditions would be compromised.

11. Operation of equipment instream is to be minimized and accomplished during low flow periods when practical. Ingress and egress for equipment shall be within the work site. Location of ingress and egress outside the immediate work area requires prior approval of the West Virginia Department of Environmental Protection, Division of Water and Waste Management in concurrence with the West Virginia Division of Natural Resources.

12. The permittee will comply with water quality standards as contained in the West Virginia Code of State Regulations, Requirements Governing Water Quality Standards, Title 47, Series 2.

13. Stream activities permitted under the Nationwide Permit Program require that a West Virginia Public Lands Corporation Right of Entry be obtained. Application for this authorization should be made to the West Virginia Division of Natural Resources, Office of Lands and Streams, Building 74, Room 200, 324 Fourth Avenue, South Charleston, West Virginia 25303, or by contacting them at 304-558-3225. Any activity within the 100-year floodplain requires approval from the appropriate Floodplain Manager. The following website provides a statewide listing of Floodplain Managers in West Virginia: www.dhsem.wv.gov/mitigation/floodplain/Pages/default.aspx

14. The deposit of dredged or fill materials in island back channels, embayments or stream mouths on Section 10 Rivers is not certified for any of the Nationwide Permits. Stream mouth is defined as the area extending 100 feet upstream and 100 feet downstream on receiving streams that are classified as a Section 10 stream.

15. This Standard Condition requires prior written authorization from the West Virginia Department of Environmental Protection, Division of Water and Waste Management for use of any of the Nationwide Permits for all work in Outstanding National Resource Waters listed within Section A below. Prior written notification to the West Virginia Department of Environmental Protection, Division of Water and Waste Management, is required for use of Nationwide Permits 3, 6, 7, 12, 13, 14, 16, 17, 18, 19, 27, 29, 33, 39, 40, 41, 42, 45, and 48 in any of the streams listed in Sections B and C as follows, except as may be provided for in the individual nationwide permit:

    A. Tier 3 Protection– West Virginia Code of State Regulations, Requirements Governing Water Quality Standards, Title 47, Series 2. **Outstanding National Resource Waters:** Outstanding National Resource Waters include, but are not limited to, all streams and rivers within the boundaries of Wilderness Areas designated by The Wilderness Act (16 U.S.C. §1131 et seq.) within the State, all Federally designated rivers under the "Wild and Scenic Rivers Act", 16 U.S.C. §1271 et seq.; all streams and other bodies of water in state parks which are high quality waters or naturally reproducing trout streams; waters in national parks and forests which are high quality waters or naturally reproducing trout streams; waters designated under the "National Parks and Recreation Act of 1978", as amended; and pursuant to subsection 7.1 of 60CSR5, those waters whose unique character, ecological or recreational value, or pristine nature constitutes a valuable national or state resource. The listing of Tier 3 streams is located at: http://www.dep.wv.gov/WWE/Programs/wqs/Documents/Tier%203%20Info/WV_Tier_3_Maps_20101006.pdf

    B. All naturally reproducing trout streams in the following counties; Barbour, Fayette, Grant, Greenbrier, Hampshire, Hardy, Mercer, Mineral, Monroe,

Nicholas, Pendleton, Pocahontas, Preston, Raleigh, Randolph, Summers, Tucker, Upshur and Webster. For information about specific streams contact Wildlife Resource Section, Trout Fisheries Program at 304-637-0245;

C. 'West Virginia Natural Stream Preservation Act' - The following streams or rivers are protected from activities that would impound, divert or flood the body of water: Greenbrier River from its confluence with Knapps Creek to its confluence with the New River, Anthony Creek from its headwaters to its confluence with the Greenbrier River, Cranberry River from its headwaters to its confluence with the Gauley River, Birch River from Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River, and New River from its confluence with the Greenbrier River to its confluence with the Gauley River.

16. Wetland and Stream Mitigation guidelines – The discharge of fill material into a stream or wetland is authorized based upon the following criteria:

1. One-tenth to ½ acre of wetland impact requires a Pre-Construction Notice (PCN) and plan for mitigation to be submitted to the Corps of Engineers along with the proposed plan for mitigation provided to the state for approval.

2. The amount of fill in a wetland, wetland complex or wetland system without mitigation is not to cumulatively exceed 1/10 acre.

3. "West Virginia Stream Wetland Valuation Metric" (SWVM) will be used to assist with the determination of required mitigation. The metric is available at the Huntington and Pittsburgh Army Corps of Engineers web sites:

In all instances, mitigation for all impacts incurred through use of these Nationwide Permits must first be directed to elimination of the impacts, then minimization of the impacts and lastly through compensatory mitigation. In many cases, the environmentally preferable compensatory mitigation may be provided through approved mitigation banks or the West Virginia in-lieu fee program. Permittee responsible compensatory mitigation may be performed using the methods of: restoration, enhancement, establishment and in certain circumstances preservation. In general, the required compensatory mitigation should be located in the same watershed as the impact site, and located where it is most likely to successfully replace lost functions and services as the impacted site. However, the use of mitigation banks or in-lieu fee for in-kind replacement is not restricted to the major watershed in which the impact has occurred until such time as mitigation banks or in-lieu projects are developed in each major watershed.

When permittee responsible in-kind replacement mitigation is used it is to be accomplished at the following ratios until such time an approved functional assessment methodology is established for the state of West Virginia:

Impacts to open water wetlands are to be one (1) acre replaced for one (1) acre impacted.

Impacts to wet meadow/emergent wetlands are to be two (2) acres replaced for one (1) acre impacted.

Impacts to shrub-shrub and forested wetlands are to be three (3) acres replaced for one (1) acre impacted.

In instances where compensatory in-kind mitigation is completed 12 months prior to the impact of the resource, the replacement ratio may be reduced to as low as one (1) acre created/restored to every one (1) acre impacted.

NOTE: The ratio of created/restored wetlands to impacted wetlands not only insure no net loss, but assure the adequate replacement of the impacted wetlands functions and values at the level existing prior to the impact. For many of the more complicated type wetlands, such as scrub-scrub and forested, the values and functions cannot readily be replaced through creation. Furthermore, not all wetland creation is successful.

In certain instances, the West Virginia Department of Environmental Protection, Division of Water and Waste Management may consider the acquisition of existing wetlands. Acquisition ratios are the following:

5 to 1 for open water wetlands;
10 to 1 for wet meadow/emergent wetlands and
15 to 1 for scrub-scrub and forested wetlands

Under extenuating circumstances the director may accept lower ratios for high quality wetlands under significant threat of development.

All wetlands acquired, using the acquisition method of mitigation, will either be deeded to the West Virginia Division of Natural Resources' Public Land Corporation for management by the Wildlife Resources Section or placed under a conservation easement and be protected from disturbance by the permittee or their designee. Third party oversight of the conservation easement by a non-profit conservation organization is preferred.

Streams. Compensatory mitigation projects for stream impacts should attempt to replace lost functions. Mitigation will be determined on a case-by-case basis based on the pre and post condition stream quality and complexity of the mitigation project utilizing the SWVM worksheets. Compensatory mitigation may require protection through deed restrictions or conservation easements by the permittee or their designee.

17. Streams with Mussel populations.

A. Should native freshwater mussels be encountered during the use of any Nationwide Permit, all activity is to cease immediately and the Wildlife Resources

Section, Wildlife Diversity Program is to be contacted (304-637-0245) to determine significance of the mussel population and the action to be taken.

B. The following list of streams are known to have mussel populations which are established as a protected "no take" species by the state or contain protected habitat of mussels on the Federal Endangered Species list. Applicants wishing to conduct projects in these streams are strongly encouraged to contact the Wildlife Resources Section, Wildlife Diversity Program with a detailed project description and an accurate project location. For further information please contact the Wildlife Resources Section, Wildlife Diversity program at 304-637-0245.

Applicants should also give consideration to utilizing WVDNR's Wildlife Data Base Inquiry process. This resource is designed for the applicant as an informative preplanning tool. It allows the applicant to know, in advance, if they will be encountering any federally listed endangered species (ES), state species of concern and high quality fish and wildlife habitats such as trout streams, warm water fisheries, wetlands, karst and cave habitats. This inquiry can be obtained from the: Wildlife Data Base Coordinator, PO Box 67, Elkins West Virginia 26241. Information on what to submit to receive an inquiry should be directed to data base coordinator at 304-637-0245.

HUNTINGTON DISTRICT

James River Drainage
- J-1 Potts Creek
- J-1-E South Fork Potts Creek
- J-3 Cove Creek

Big Sandy River Drainage
- BS Big Sandy River
- BST Tug Fork River

Kanawha River Drainage
- K Kanawha River
- K-1 Crooked Creek
- K-12 Thirteenmile Creek
- K-14 Sixteenmile Creek
- K-21 Buffalo Creek
- K-22 Hurricane Creek
- K-22-F Mill Creek (Tackett Branch ?)
- K-24 Little Hurricane Creek
- K-26 Guano Creek
- KC Coal River
- KC-10 Little Coal River
- KE Elk River
- KE-23 Big Sandy Creek
- KE-23-N Granny Creek
- KE-23-Q-.5 Hollywood Trace Fork

- KE-31 King Shoals Run
- KE-37 Laurel Creek
- KE-74 Strange Creek
- KE-76 Birch River
- KE-9 Little Sandy Creek
- KN New River
- KN-51 Indian Creek
- KNB Bluestone River
- KNG Greenbrier River
- KNG-18 Wolf Creek
- KNG-22 Muddy Creek
- KNG-22-B Mill Creek
- KNG-23 Second Creek
- KNG-53 Knapp Creek
- KNG-61 Clover Creek (Cloverlick Creek)
- KNG-66 Sitlington Creek
- KNG-68 Deer Creek
- KNG-79 West Fork Greenbrier River
- KP Pocatalico River
- KP-17 Pocatalico Creek (Left Fork)
- KP-17-B Middle Fork Pocatalico Creek
- KP-33-E Cox Fork
- KP-39 Big Lick
- KP-41 Rush Creek
- KP-45 Cranes Nest Run

Little Kanawha River Drainage
- LK Little Kanawha River
- LK- 86 Sand Fork
- LK-11 Slate Creek
- LK-23 Tucker Creek
- LK-25 Reedy Creek
- LK-25-? Left Fork Reedy Creek
- LK-25-R Middle Fork Reedy Creek
- LK-31 Spring Creek
- LK-31-AA Right Fork Spring Creek
- LK-31-Z Left Fork Spring Creek
- LK-39 Straight Creek
- LK-40 Leading Creek
- LK-45 Yellow Creek
- LK-53 Pine Creek
- LK-66 Tanner Creek
- LK-72 Cedar Creek
- LK-75 Leading Creek
- LK-75-K Cove Creek
- LK-75-N Fink Creek

LK-86	Sand Fork
LK-94	Oil Creek
LK-95	Saltlick Creek
LKH	Hughes River
LKH-10	North Fork Hughes River
LKH-10-C	Gillespie Run
LKH-10-G	Devilhole Creek
LKH-10-J	Addis Run
LKH-10-R	Bonds Creek
LKH-4	Goose Creek
LKH-9	South Fork Hughes River
LKH-9-AA	Middle Fork South Fork Hughes River
LKH-9-J	Indian Creek
LKH-9-M	Leatherbark Creek
LKH-9-R	Spruce Creek
LKH-9-W	Slab Creek
LKH-9-X	Bone Creek
LKH-9-Y	Otterslide Creek
LKS	Steer Creek
LKS-10	Left Fork Steer Creek
LKS-9	Right Fork Steer Creek
LKW	West Fork Little Kanawha River
LKW-15	Henry's Fork
LKW-15-F	Laurel Run
LKW-15-J	Beech Fork
LKW-31	Left Fork West Fork Little Kanawha River
	Guyandotte River Drainage
OG	Guyandotte River
OG	Barboursville Lake
OG-14	Charley's Creek
OG-24	TwOMile Creek
OGM	Mud River
OGM-12-A	Kilgore Creek
OGM-20	Trace Fork
OGM-22	Buffalo Creek
OGM-25	Middle Fork Mud River
OGM-33	Big Laurel Creek
	Middle Island Creek Drainage
OMI	Middle Island Creek
OMI-4	McKim Creek
OMI-9	Sugar Creek
OMI-21	Sancho Creek
OMI-23	Point Pleasant Creek
OMI-23-A	Pursley Creek
OMI-23-B	Elk Fork

OMI-29	Indian Creek
OMI-30	McElroy Creek
OMI-40	Arnold Creek
OMI-43	Bluestone Creek
OMI-46	Meathouse Fork
OMI-46-E	Toms Fork
OMI-46-J	Indian Fork
OMI-47	Buckeye Creek
OMI-46-E	Toms Fork
OMI-46-J	Indian Fork
OMI-47	Buckeye Creek
	Ohio River Direct Drainage
O	Ohio River
O-2	Twelvepole Creek
O-2-H	Beech Fork
O-2-P	West Fork Twelvepole Creek
O-2-Q	East Fork Twelvepole Creek
O-9	Guyan Creek
O-30-A	Tombleson Run embayment
O-31	Little Mill Creek
O-32	Mill Creek
O-32-D	Cow run
O-32-H	Parchment Creek
O-32-L-7	Grasslick Creek
O-32-L-8	Bear Fork
O-32-M	Elk Fork
O-32-N	Little Mill Creek
O-36	Sandy Creek
O-36-D	Crooked Fork
O-36-J	Left Fork Sandy Creek
O-36-J-5	Nesselroad Run
O-38	Little Sandy Creek
O-43-D	Little Pond Creek
O-44	Lee Creek
O-44-A	South Fork Lee Creek
O-44-B	North Fork Lee Creek

PITTSBURGH DISTRICT

	Ohio River Direct Drainage
	Ohio River
O-57	French Creek
O-69	Fishing Creek
O-69-N	South Fork Fishing Creek
O-69-O	North Fork Fishing Creek

O-77	Fish Creek
O-77-J	Valley Run
O-77-O	WV Fork Fish Creek
O-77-O-8	Long Drain Creek
O-88	Wheeling Creek
O-88-D-2	Middle Wheeling Creek
O-88-L	Turkey Run
O-88-O	Enlow Fork
O-88-O-?	Dunkard Fork
O-92	Buffalo Creek
	Cheat River Drainage
M	Monongahela River
M-1	Dunkard Creek
M-1-?	Blacks Run
M-1-C	Days Run
M-1-E	Miracle Run
M-1-E-?	Right Branch Miracle Run
M-1-F	WV Fk Dunkard
M-1-F-6	North Fork WV Fork Dunkard Creek
M-1-F-6-A	Camp Run
M-1-F-7	South Fork WV Fork Dunkard Creek
MT	Tygart Valley River
MW	West Fork River
MW-13	Tenmile Creek upstream of Little Tenmile
MW-13-I-4	Jacob's Fork
MW-13-I-4	Salem Fork
MW-2	Booths Creek
MW-21	Elk Creek
MW-21-G	Brushy Fork of Elk Creek
MW-21-M	Gnatty Creek
MW-29	Isaacs Creek
MW-31	Hackers Creek
MW-31-C	Jesse Run
MW-32	Kincheloe Creek
MW-36	Freemans Creek
MW-36-D	Right Fork Freemans Creek
MW-38	Stonecoal Creek
MW-55	Right Fork West Fork River
MC-60-D	Blackwater River
MC-60-D-10	Sand Run
MC-60-D-8-A ?	Glade Run
MC-60-K-16	West Fork Glady
P	Potomac River Drainage
P-4-M	Mill Creek

P-6	Back Creek
P-9	Sleepy Creek
PC	Cacapon River
PC-24	Lost River
PC-7	North River
PNB-4	Patterson Creek
PNB-4-EE	North Fork Patterson Creek (below dam near mouth)
PSB	South Branch Potomac River
PSB-21	South Fork South Branch

18. Isolated Wetlands.

In some cases, the Corps of Engineers may determine that an activity will not impact waters of the United States because the water is an isolated wetland, and therefore does not require a 404 permit. However, under West Virginia State code (§§22-11-3(23)) isolated wetlands are designated waters of the State. Accordingly, any applicant proposing to impact an isolated wetland must contact the West Virginia Department of Environmental Protection, Division of Water and Waste Management to obtain all necessary approvals for activities impacting any isolated wetlands.

APPENDIX A

Streams with potential presence of Federally listed threatened and endangered species or their habitat

HUNTINGTON DISTRICT:

1. Big Sandy Creek; Kanawha County: Snuffbox.
2. Bluestone River; Mercer and Summers counties (Bluestone Gorge to slackwater of Bluestone Reservoir): Virginia spiraea.
3. Cedar Creek; Braxton and Gilmer counties: Snuffbox.
4. Cove Creek; Monroe County: James spinymussel.
5. Elk River; Braxton, Clay, and Kanawha counties (Sutton Dam to slackwater below Coonskin Park), including the lower one-half mile reaches of its tributaries Birch River, Blue Creek, and Laurel Creek: Clubshell, Pink mucket pearlymussel, Northern rifffleshell, Rayed bean, and Snuffbox. The Elk River also contains the Diamond darter (candidate).
6. Fishing Creek; Wetzel County: Snuffbox.
7. Gauley River; Fayette and Nicholas counties (Summersville Dam to Swiss): Virginia spiraea.
8. Greenbrier River; Greenbrier and Pocahontas counties: Virginia spiraea.
9. Henry Fork; Calhoun and Roane counties: Snuffbox.
10. Hughes River; Ritchie and Wirt counties, including the lower one-half mile reach of its tributary Goose Creek: Snuffbox.
11. Kanawha River; Fayette, Kanawha, Mason, and Putnam counties: Fanshell, Pink mucket pearlymussel, Sheepnose, Spectaclecase, and Tubercled-blossum pearlymussel.
12. Leading Creek; Gilmer and Lewis counties, including the lower one-half mile reach of its tributary Fink Creek: Snuffbox.
13. Little Kanawha River; Braxton, Calhoun, Gilmer, Wirt, and Wood counties, including the lower one-half mile reaches of its tributaries Leading Creek (Calhoun Co., different stream than 5.d. above), Pine Creek, Sand Fork, Slate Creek, Straight Creek, Tanner Creek, Tucker Creek, and Walker Creek: Snuffbox.

14. Marsh Fork River including Dingess Branch and Millers Camp Branch and associated palustrine emergent and scrub-shrub wetlands; Raleigh County: Virginia spiraea.
15. McElroy Creek; Doddridge and Tyler counties: Snuffbox.
16. Meadow River; Fayette, Greenbrier, and Nicholas counties: Virginia spiraea.
17. Meathouse Fork of Middle Island Creek; Doddridge County, including the lower one-half mile reaches of it tributary Toms Fork: Clubshell and Snuffbox.
18. Middle Island Creek; Doddridge, Pleasants, and Tyler counties, including the lower one-half mile reaches of its tributaries Arnold Creek, Bluestone Creek, Buckeye Creek, Indian Creek, McKim Creek, Point Pleasant Creek, and Sancho Creek: Clubshell, Rayed bean, and Snuffbox.
19. New River (Lower); Fayette County (Route 19 to Gauley Bridge): Virginia spiraea.
20. North Fork Hughes River; Ritchie and Wirt counties, including the lower one-half mile reaches of its tributaries Addis Run, Bonds Creek, Devilhole Creek, and Gillespie Run: Snuffbox.
21. Ohio River; Cabell, Jackson, Mason Pleasants, Tyler, Wetzel, and Wood counties: Fanshell, Pink mucket pearlymussel, Sheepnose, and Snuffbox.
22. Potts Creek and South Fork of Potts Creek; Monroe County: James spinymussel.
23. Reedy Creek; Roane and Wirt counties: Snuffbox.
24. South Fork Hughes River; Doddridge, Ritchie, and Wirt counties, including the lower one-half mile reaches of its tributaries Bone Creek, Indian Creek, Leatherbark Creek, Otterslide Creek, Slab Creek, and Spruce Creek: Clubshell and Snuffbox.
25. Spring Creek; Roane and Wirt counties: Snuffbox.
26. Steer Creek; Calhoun and Gilmer counties: Snuffbox.
27. Sugar Creek; Pleasants County: Snuffbox.
28. West Fork Little Kanawha River; Calhoun, Roane, and Wirt counties: Snuffbox.

PITTSBURGH DISTRICT

29. Back Creek; Berkeley County: Harperella.
30. Cacapon River; Morgan County: Harperella.

31. Dunkard Creek; Monongalia County: Snuffbox.

32. Fish Creek; Marshall County: Snuffbox.

33. Hackers Creek (of the West Fork River); Harrison and Lewis counties: Clubshell and Snuffbox.

34. Potomac River, Morgan County (from the mouth of the Cacapon River to the mouth of Sleepy Creek): Harperella.

35. Sleepy Creek; Morgan County: Harperella.

36. West Fork River; Harrison, Lewis, and Marion counties: Snuffbox.

37. Streams, springs, and wetlands connected to the groundwater system including caves, areas near sinkholes, and other groundwater/surface interfaces, from the Potomac River west to Opequon Creek, especially in the Rippon and Leetown Areas, and the Evitts Run Watershed; Jefferson and Berkeley counties: Madison Cave isopod.

38. Wetlands; Berkeley and Hardy counties: Northeastern bulrush.

Issuance Date: March 19, 2012
Expiration Date: March 18, 2017

NWP # 13

NATIONWIDE PERMITS FOR THE STATE OF WEST VIRGINIA

CORPS OF ENGINEERS REGULATORY PROGRAM
ISSUANCE OF NATIONWIDE PERMITS

On February 21, 2012, the Corps of Engineers published, in the Federal Register, the final rule for the administration of its nationwide permit program regulations under the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, and the Marine Protection, Research and Sanctuaries Act. The rule became effective on March 19, 2012.

An integral part of the Corps' regulatory program is the concept of nationwide permits (NWPs) for minor activities. NWPs are activity specific, and are designed to relieve some of the administrative burdens associated with permit processing for both the applicant and the Federal government. The NWPs, published in the February 21, 2012, Federal Register, Issuance of Nationwide Permits (77 FR 10184), are issued by the Chief of Engineers, and are intended to apply throughout the entire United States and its territories. The Corps Districts representing West Virginia have imposed regional conditions on the NWPs that are applicable throughout the entire state. For convenience, all NWPs with the appropriate regional, general and special conditions are attached.

In response to the Federal Register Notice (77 FR 10184), the West Virginia Department of Environmental Protection (WVDEP) has issued 401 water quality certification, pending compliance with certain conditions and/or limitations, for the following NWPs: 3, 4, 5, 6, 7, 12, 13, 14, 16, 18, 19, 20, 21, 22, 25, 27, 29, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 42, 45, 46, 48, 49, 50 and 51.

An individual State Water Quality Certification is required for the following NWPs: 15, 17, 23, 34 and 43. Certification response is not applicable to NWPs: 1, 2, 8, 9, 10, 11, 24, 26, 28, 35, 44, 47, and 52.

Authorization for discharges covered by NWPs is denied without prejudice if: (1) the State Certification has been denied; or (2) the discharge is not in compliance with conditions imposed in the State Certification. Applicants wishing to conduct such discharges must first obtain either an individual water quality certificate or waiver from:

Director
West Virginia Department of Environmental Protection
601 57th Street
Charleston, West Virginia 25304

Some NWPs require advance notification. The notification must be made in writing as early as possible prior to commencing the proposed activity. The notification procedures are located under General Condition 31. The notification to the Corps can be made concurrently with the request for individual state certification, if required. The District Engineer may require an individual permit for any activity determined to have more than minimal adverse environmental effects, individually or cumulatively, or would be contrary to the public interest.

The NWPs provide a simplified, expeditious means of project authorization under various authorities of the Corps. We encourage prospective permit applicants to consider the advantages of nationwide permit authorization during the preliminary design of their projects. Assistance and further information regarding all aspects of the Corps regulatory program may be obtained by contacting:

HUNTINGTON DISTRICT

Name: Ginger Mullins, Chief, Regulatory Division
Address: U.S. Army Corps of Engineers, Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070
Phone: 304-399-5710

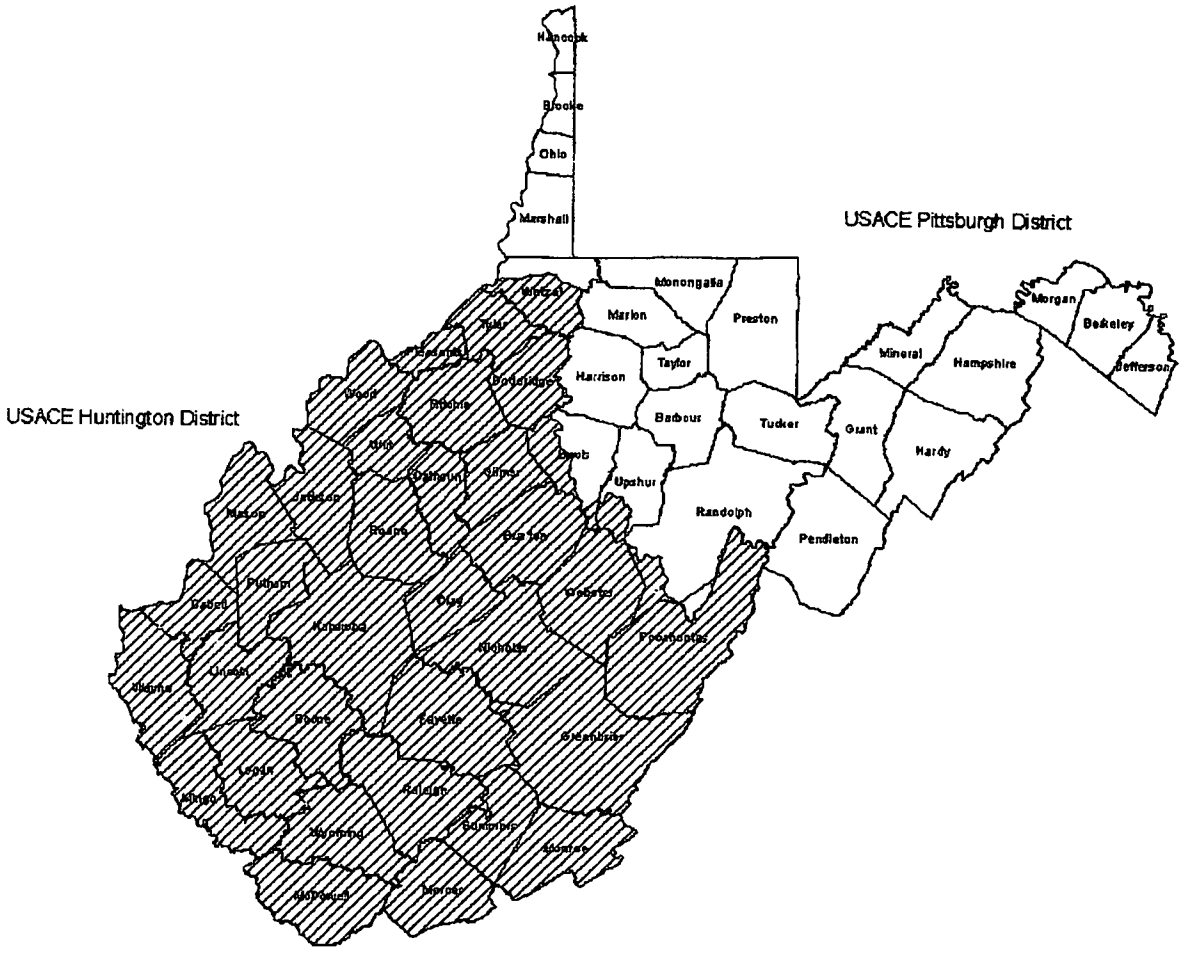
PITTSBURGH DISTRICT

Name: Scott Hans, Chief Regulatory Branch
Address: U.S. Army Corps of Engineers, Pittsburgh District
William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222-4186
Phone: 412-395-7154

Attached is a map showing the district boundaries for the State of West Virginia.

Ginger Mullins, Chief
Regulatory Division

Corps Districts and Navigable Streams in The State of West Virginia



Huntington District

1. Ohio River.....Total Length in State
2. Kanawha River.....Total Length
3. New River.....Total Length in State
4. Big Sandy River.....Total Length
5. Tug Fork.....58 Miles
6. Elk River.....139 Miles
7. Gauley River.....75 Miles
8. Guyandot River.....122 Miles
9. Little Kanawha River.....130.75 Miles
10. Greenbrier River.....150.50 Miles
11. Coal River.....57.90 Miles

Pittsburgh District

1. Ohio River.....Total Length in State
12. Monongahela River.....Total Length in State
13. Tygart River.....7 Miles
14. West Fork.....74 Miles
15. Shenandoah River.....Total Length in State
16. Potomac River.....Total Length in State

A. U.S. Army Corps of Engineers Nationwide Permit #13 for Bank Stabilization Projects in West Virginia

This nationwide permit authorizes bank stabilization activities necessary for erosion prevention, provided the activity meets all of the following criteria:

(a) No material is placed in excess of the minimum needed for erosion protection;

(b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(c) The activity will not exceed an average of one cubic yard per running foot placed along the bank below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge will result in minimal adverse effects;

(e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;

(f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored trees and treetops may be used in low energy areas); and,

(g) The activity is not a stream channelization activity.

This NWP also authorizes temporary structures, fills, and work necessary to construct the bank stabilization activity. 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.

Invasive plant species shall not be used for bioengineering or vegetative bank stabilization.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity: (1) involves discharges into special aquatic sites; or (2) is in excess of 500 feet in length; or (3) will involve the discharge of greater than an average of one cubic yard per running foot along the bank below the plane of the ordinary high water mark or the high tide line. (See general condition 31.) **(Sections 10 and 404)**

B. Specific Regional Conditions for Nationwide Permit #13:

- Notification is required for all discharges involving the use of any vertical bulkhead. A vertical bulkhead is defined as any structure, or fill, with a vertical face. It may be constructed of timber, steel, concrete, etc.
- Wherever practicable, bank stabilization work shall be accomplished using natural channel design and/or stabilization methodologies (e.g. bioengineered techniques).
- All activities shall be constructed in a manner to withstand expected bankfull

events and shall consist of clean and coarse non-erodable materials with 15% or less of like fines.

C. West Virginia 401 Water Quality Certification Special Conditions for Nationwide Permit #13:

For activities involving a discharge, the West Virginia 401 Water Quality Certification Standard Conditions apply.

- Individual State Water Quality Certification is required for bank stabilization activities located in an embayment, island back channel, stream mouth on Section 10 Rivers.

- Individual State Water Quality Certification is required for perennial and intermittent stream bank stabilization activities greater than 500 linear feet authorized by the Corps of Engineers.

- Stabilized streambanks, where possible and practicable, should be sloped and revegetated for erosion control purposes.

- The use of unconsolidated river gravel (river jack) for streambank stabilization is not certified. Unconsolidated river material may be used to reconstruct streambanks or form bankfull benches provided they are stabilized by material and/or methods which prevent further erosion under normal or expected high flows. Acceptable material and/or methods are; quarried or shot rock, clean concrete rubble, gabions, cribbing, woody vegetation, and flow diversion structures such as rock vanes. All of the foregoing are to be used in combination with appropriate sloping and engineering specifications.

- Individual State Water Quality Certification is required for an activity impacting greater than 200 linear feet on one or more of the streams listed in West Virginia State Certification, Standard Condition 15.

D. U.S. Army Corps of Engineers Nationwide Permit General Conditions Applicable to ALL NWPs

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

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

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

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

(a) Discharges of dredged or fill material into waters of the United States are not authorized by 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, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

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

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

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

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

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

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

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

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

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

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

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to

ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

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

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

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

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

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

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal

zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

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

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

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

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

_____

(Transferee)

_____

(Date)

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

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

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must

include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

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

31. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

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

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

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

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

(2) Location of the proposed project;

(3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to

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

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

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

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

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

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

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

(2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or

water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

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

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

E. Regional General Conditions

Regional General Condition 1

Full Agency Pre-construction Notification: In an effort to expedite full agency permit review it is requested that all pre-construction notifications (PCNs) submitted for activities requesting a waiver and for those activities resulting in the loss of greater than ½ acre of waters of the United States (U.S.), include one original hard copy and five (5) additional copies of the PCN package. Applicants are encouraged to submit the five agency copies in electronic format as CDs, in order to minimize the use of paper and postage resources.

Regional General Condition 2

Pre-Construction Notification Submittals: In addition to the PCN requirements listed in NWP General Condition 31, all PCNs should include the following information:

- Graphic illustrations on 8 1/2" x 11" paper. The illustrations must clearly depict the project boundaries, including all elements and phases of the proposed project. Three types of illustrations are needed to properly depict the work to be undertaken. These

illustrations or drawings are identified as a Vicinity Map {a location map such as the U.S. Geological Survey (USGS) 7.5 Minute Series topographical map is highly encouraged}, a Plan View and a Typical Cross-Section Map. Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross-section). In addition, each illustration should be identified with a figure or attachment number and the project Latitude and Longitude.

- A written description of the proposed project including acreage(s) of waters of the U.S. (according to aquatic resource type) proposed to be directly or indirectly affected as a result of the proposed project, the linear footage of proposed direct and indirect stream impacts associated with the project, and cubic yards of fill proposed to be discharged.

- A description of the ways in which the project has been designed to avoid and minimize adverse impacts to waters of the U.S.

- Information concerning whether the proposed activity would affect any historic properties listed, determined to be eligible, or which they have reason to believe may be eligible, for listing on the National Register of Historic Places.

- Basic information about the general project area (encompassing a search radius of 2 miles centered on the project area) including USGS 7.5' series topographic maps, National Register of Historic Places (NRHP) files including Historic Districts, and county atlases, histories and/or any historic USGS 15' series topographic map(s), brief description of the terrain and topography of the project area, acreage of the project area, proximity of the project area to major waterways, past land uses in the project area, and any past cultural resources studies or coordination for the project area, if available, along with photographs, keyed to mapping, showing the project area and any buildings or structures on adjacent parcels.

- The submittal of ground photographs to illustrate current conditions of the overall project site and impact site is highly encouraged.

Regional General Condition 3

Compensatory Mitigation: Compensatory mitigation will typically be required as indicated in accordance the terms and conditions of the NWPs in addition to all General and Regional conditions for projects with impacts that result in the conversion of a water of the U.S. to uplands or the conversion of one aquatic resource type to another.

Regional General Condition 4

Passage of Aquatic Life: Culverted crossings should be sized in a manner that allow the passage of aquatic life and freely pass bankfull flows. The only exception to this requirement would involve culvert placement in bedrock and/or extremely high gradient streams, in which

countersinking of culverts is determined not to be practicable. In the event proposed crossings do not meet these criteria, compensatory mitigation may be required.

Regional General Condition 5

Endangered Species: Federally listed endangered species, subject to Section 7 of the Endangered Species Act, are located in nearly every county within West Virginia. As part of the PCN process, the district engineer (DE) will assume responsibility for determining project-related effects to endangered species. For projects that do not require a PCN, it is the applicant's responsibility to ensure that all elements of a proposed single and complete project comply with Section 7 of the Endangered Species Act.

Regional General Condition 6

***Endangered Species Habitat*:** Due to the potential presence of endangered species or their habitats applicants are required to provide notification to the U.S. Fish and Wildlife Service Elkins Field Office, 694 Beverly Pike, Elkins, West Virginia 26241, for any work in the waterways listed in Appendix A. This appendix will be update as new species are listed by the U.S. Fish and Wildlife Service.

Regional General Condition 7

All PCNs involving work in the below listed waters require notification to the National Park Service and/or the Forest Service.

- New River;
- Bluestone River from the upstream boundary of Pipestem Park to Bluestone Reservoir;
- Meadow River from an area near the US 19 Bridge to its junction with the Gauley River;
- All streams within the Monongahela National Forest designated as National Wild and Scenic Study Rivers;
- All streams and other bodies of water in State and National Forests and Recreation Areas (included are streams and bodies of water located within the Spruce Knob, Seneca Rocks and Gauley River National Recreation Areas); and
- Streams and their tributaries as contained within the boundaries of the designated National Wilderness Areas or the headwaters of such rivers and their tributaries; Cranberry River, Red Creek, Laurel Fork and Otter Creek.

Regional General Condition 8

West Virginia Natural Stream Preservation Act: In accordance with the West Virginia Natural Stream Preservation Act, the following streams or rivers are protected from activities that would impound, divert or flood the body of water:

West Virginia Natural Stream Preservation Act

- Greenbrier River from its confluence with Knapps Creek to its confluence with the New River;
- Anthony Creek from its headwaters to its confluence with the Greenbrier River;
- Cranberry River from its headwaters to its confluence with the Gauley River;
- Birch River from Cora Brown Bridge in Nicholas County to its confluence with the Elk River; and
- New River from its confluence with the Greenbrier River to its confluence with the Gauley River.

Regional General Condition 9

***Tier 3 Protected Waters*:** All PCNs involving work in Tier 3 Protected Waters (West Virginia Code of State Regulations, Requirements Governing Water Quality Standards, Title 47, Series 2) shall include prior written notification to the West Virginia Department of Environmental Protection, Division of Water and Waste Management. Tier 3 Protected Waters include, but are not limited to, all streams and rivers within the boundaries of Wilderness Areas designated by The Wilderness Act (16 U.S.C. §1131 et seq.) within the State, all Federally designated rivers under the "Wild and Scenic Rivers Act", 16 U.S.C. §1271 et seq.; all streams and other bodies of water in state parks which are high quality waters or naturally reproducing trout streams; waters in national parks and forests which are high quality waters or naturally reproducing trout streams; waters designated under the "National Parks and Recreation Act of 1978", as amended; and pursuant to subsection 7.1 of 60CSR5, those waters whose unique character, ecological or recreational value, or pristine nature constitutes a valuable national or state resource.

Regional General Condition 10

Archeological Sites and Human Remains: In the event any archeological sites or human remains are uncovered during construction, the permittee shall cease all work immediately and contact the appropriate Corps District office, the West Virginia Division of Culture and History at 304-558-0240 and the appropriate county Sheriff's Office.

F. West Virginia Department of Environmental Protection 401 Water Quality Certification Standard Conditions Applicable to ALL NWPs

The following are West Virginia's Section 401 Water Quality Certification standard and special conditions that apply to the Nationwide Permits 1-52 as published on February 21, 2012 in Part III of the *Federal Register* (77 FR 10184), by the U.S. Army Corps of Engineers. These conditions must be implemented into any activity authorized by a U.S. Army Corps of Engineers Nationwide Permit(s). The State's certification of these Nationwide Permit activities does not replace the need for the applicant proposing an activity under the Nationwide Permit Program from obtaining other applicable permits/authorizations from the West Virginia Department of

Environmental Protection and/or the Division of Natural Resources. Each permittee shall, if they do not understand or are not aware of applicable Nationwide Permit conditions, contact the Corps of Engineers prior to conducting any activity authorized by a Nationwide Permit in order to be advised of applicable conditions. These 401 Water Quality Certifications, with all attendant standard conditions and special conditions, are applicable to Corps of Engineers Civil Works Projects in West Virginia.

1. The permittee will investigate for the presence of water supply intakes or other activities within 1/2 mile downstream, which may be affected by suspended solids and turbidity increases caused by work in the watercourse. The permittee will give notice to operators of any such water supply intakes and such other water quality dependent activities as necessary before beginning work in the watercourse in sufficient time to allow preparation for any change in water quality.

2. Excavation, dredging or filling in the watercourse will be done only to the extent necessary to achieve the project's purpose.

3. Spoil materials from the watercourse or onshore operations, including sludge deposits, will not be dumped in the watercourse, or deposited in wetlands or other areas where the deposit may adversely affect the surface or ground waters of the state.

4. The permittee will employ measures to prevent or control spills from fuels, lubricants or any other materials used in connection with construction and restrict them from entering the watercourse. Storage areas for chemicals, explosives, lubricants, equipment fuels, etc., as well as equipment refueling areas, must include containment measures (e.g., liner systems, dikes, etc.) to ensure that spillage of any material will not contact surface or ground waters. Storage areas and refueling areas shall be a minimum distance of 100 feet from any surface water body. All spills shall be promptly reported to the State Center for Pollution, Toxic Chemical and Oil Spills, 1-800-642-3074.

5. Upon completion of in-stream operations all disturbances below the ordinary high water mark will be properly stabilized within 24 hours to prevent soil erosion. Where possible, stabilization shall incorporate revegetation using bioengineering as an alternative to rip rap. If rip rap is utilized, it is to be of such weight and size that bank stress or slump conditions will not be created due to its placement. Fill is to be clean, nonhazardous and of such composition that it will not adversely affect the biological, chemical or physical properties of the receiving waters. Unsuitable materials include but are not limited to : Cadmium chromium arsenate (CCA) and creosote treated lumber, car bodies, tires, large household appliances, construction debris, and asphalt. To reduce potential slope failure and/or erosion behind the material, fill containing concrete must be of such weight and size that promotes stability during expected high flows. Loose large slab placement of concrete sections from demolition projects greater than thirty-six inches in its longest dimension and tires are prohibited. Rebar or wire in concrete should not extend further than one (1) inch. All activities require the use of clean and coarse non erodible materials with 15% or less of like fines that is properly sized to withstand expected high flows.

6. Runoff from any storage areas or spills will not be allowed to enter storm sewers without acceptable removal of solids, oils and toxic compounds. Discharges from retention/detention ponds must comply with permit requirements of the National Pollutant Discharge Elimination System permit program of the West Virginia Department of Environmental Protection, Division of Water and Waste Management.

7. Land disturbances, which are integral to the completion of the permitted activity and are one (1) acre or greater in total area, must comply with the National Pollutant Discharge Elimination System or other state stormwater permit requirements as established by the West Virginia Department of Environmental Protection, Division of Water and Waste Management, if applicable. Best Management Practices for Sediment and Erosion Control, as described in the West Virginia Department of Environmental Protection's Erosion and Sediment Control Best Management Practice Manual, 2006, or similar documents prepared by the West Virginia Division of Highways may be used. These handbooks are available from the respective agency offices.

8. Concrete will not be permitted to enter the watercourse unless contained by tightly sealed forms or cells. Concrete handling equipment shall not discharge waste washwater into wetlands or watercourses at any time without adequate wastewater treatment as approved by the West Virginia Department of Environmental Protection, Division of Water and Waste Management.

9. In stream work in designated warm water streams and their adjacent tributaries during the fish spawning season, April - June and trout waters and their adjacent tributaries during the trout water fish spawning season September 15-March 31st requires a spawning season waiver from the West Virginia Division of Natural Resources, Wildlife Resources Section. For information about specific stream designations contact DEP's Water Quality Standards Section at 304-926-0495. The Wildlife Resources Section, Trout Fisheries Program at 304-637-0245 or Warm Water fisheries Program 304-558-2771 should be contacted if a waiver is needed. In stream work may occur during the respective spawning season in ephemeral waters without a waiver if all reasonable measures are taken to minimize turbidity and sedimentation downstream associated with the proposed project.

10. Removal of well-established riparian vegetation not directly associated with the project construction is prohibited. Disturbance and removal of vegetation from project construction area is to be avoided, where possible, and minimized when necessary. Removal of vegetation shall not be allowed where stream bank stability under normal flow conditions would be compromised.

11. Operation of equipment instream is to be minimized and accomplished during low flow periods when practical. Ingress and egress for equipment shall be within the work site. Location of ingress and egress outside the immediate work area requires prior approval of the West Virginia Department of Environmental Protection, Division of Water and Waste Management in concurrence with the West Virginia Division of Natural Resources.

12. The permittee will comply with water quality standards as contained in the West Virginia Code of State Regulations, Requirements Governing Water Quality Standards, Title 47, Series 2.

13. Stream activities permitted under the Nationwide Permit Program require that a West Virginia Public Lands Corporation Right of Entry be obtained. Application for this authorization should be made to the West Virginia Division of Natural Resources, Office of Lands and Streams, Building 74, Room 200, 324 Fourth Avenue, South Charleston, West Virginia 25303, or by contacting them at 304-558-3225. Any activity within the 100-year floodplain requires approval from the appropriate Floodplain Manager. The following website provides a statewide listing of Floodplain Managers in West Virginia: www.dhsem.wv.gov/mitigation/floodplain/Pages/default.aspx

14. The deposit of dredged or fill materials in island back channels, embayments or stream mouths on Section 10 Rivers is not certified for any of the Nationwide Permits. Stream mouth is defined as the area extending 100 feet upstream and 100 feet downstream on receiving streams that are classified as a Section 10 stream.

15. This Standard Condition requires prior written authorization from the West Virginia Department of Environmental Protection, Division of Water and Waste Management for use of any of the Nationwide Permits for all work in Outstanding National Resource Waters listed within Section A below. Prior written notification to the West Virginia Department of Environmental Protection, Division of Water and Waste Management, is required for use of Nationwide Permits 3, 6, 7, 12, 13, 14, 16, 17, 18, 19, 27, 29, 33, 39, 40, 41, 42, 45, and 48 in any of the streams listed in Sections B and C as follows, except as may be provided for in the individual nationwide permit:

    A. Tier 3 Protection-- West Virginia Code of State Regulations, Requirements Governing Water Quality Standards, Title 47, Series 2. **Outstanding National Resource Waters:** Outstanding National Resource Waters include, but are not limited to, all streams and rivers within the boundaries of Wilderness Areas designated by The Wilderness Act (16 U.S.C. §1131 et seq.) within the State, all Federally designated rivers under the "Wild and Scenic Rivers Act", 16 U.S.C. §1271 et seq.; all streams and other bodies of water in state parks which are high quality waters or naturally reproducing trout streams; waters in national parks and forests which are high quality waters or naturally reproducing trout streams; waters designated under the "National Parks and Recreation Act of 1978", as amended; and pursuant to subsection 7.1 of 60CSR5, those waters whose unique character, ecological or recreational value, or pristine nature constitutes a valuable national or state resource. The listing of Tier 3 streams is located at: http://www.dep.wv.gov/WWE/Programs/wqs/Documents/Tier%203%20Info/WV_Tier_3_Maps_20101006.pdf

    B. All naturally reproducing trout streams in the following counties; Barbour, Fayette, Grant, Greenbrier, Hampshire, Hardy, Mercer, Mineral, Monroe,

Nicholas, Pendleton, Pocahontas, Preston, Raleigh, Randolph, Summers, Tucker, Upshur and Webster. For information about specific streams contact Wildlife Resource Section, Trout Fisheries Program at 304-637-0245;

C. 'West Virginia Natural Stream Preservation Act' - The following streams or rivers are protected from activities that would impound, divert or flood the body of water: Greenbrier River from its confluence with Knapps Creek to its confluence with the New River, Anthony Creek from its headwaters to its confluence with the Greenbrier River, Cranberry River from its headwaters to its confluence with the Gauley River, Birch River from Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River, and New River from its confluence with the Greenbrier River to its confluence with the Gauley River.

16. Wetland and Stream Mitigation guidelines – The discharge of fill material into a stream or wetland is authorized based upon the following criteria:

1. One-tenth to ½ acre of wetland impact requires a Pre-Construction Notice (PCN) and plan for mitigation to be submitted to the Corps of Engineers along with the proposed plan for mitigation provided to the state for approval.

2. The amount of fill in a wetland, wetland complex or wetland system without mitigation is not to cumulatively exceed 1/10 acre.

3. "West Virginia Stream Wetland Valuation Metric" (SWVM) will be used to assist with the determination of required mitigation. The metric is available at the Huntington and Pittsburgh Army Corps of Engineers web sites:

In all instances, mitigation for all impacts incurred through use of these Nationwide Permits must first be directed to elimination of the impacts, then minimization of the impacts and lastly through compensatory mitigation. In many cases, the environmentally preferable compensatory mitigation may be provided through approved mitigation banks or the West Virginia in-lieu fee program. Permittee responsible compensatory mitigation may be performed using the methods of: restoration, enhancement, establishment and in certain circumstances preservation. In general, the required compensatory mitigation should be located in the same watershed as the impact site, and located where it is most likely to successfully replace lost functions and services as the impacted site. However, the use of mitigation banks or in-lieu fee for in-kind replacement is not restricted to the major watershed in which the impact has occurred until such time as mitigation banks or in-lieu projects are developed in each major watershed.

When permittee responsible in-kind replacement mitigation is used it is to be accomplished at the following ratios until such time an approved functional assessment methodology is established for the state of West Virginia:

Impacts to open water wetlands are to be one (1) acre replaced for one (1) acre impacted.

Impacts to wet meadow/emergent wetlands are to be two (2) acres replaced for one (1) acre impacted.

Impacts to shrub-shrub and forested wetlands are to be three (3) acres replaced for one (1) acre impacted.

In instances where compensatory in-kind mitigation is completed 12 months prior to the impact of the resource, the replacement ratio may be reduced to as low as one (1) acre created/restored to every one (1) acre impacted.

NOTE: The ratio of created/restored wetlands to impacted wetlands not only insure no net loss, but assure the adequate replacement of the impacted wetlands functions and values at the level existing prior to the impact. For many of the more complicated type wetlands, such as scrub-scrub and forested, the values and functions cannot readily be replaced through creation. Furthermore, not all wetland creation is successful.

In certain instances, the West Virginia Department of Environmental Protection, Division of Water and Waste Management may consider the acquisition of existing wetlands. Acquisition ratios are the following:

5 to 1 for open water wetlands;
10 to 1 for wet meadow/emergent wetlands and
15 to 1 for scrub-scrub and forested wetlands

Under extenuating circumstances the director may accept lower ratios for high quality wetlands under significant threat of development.

All wetlands acquired, using the acquisition method of mitigation, will either be deeded to the West Virginia Division of Natural Resources' Public Land Corporation for management by the Wildlife Resources Section or placed under a conservation easement and be protected from disturbance by the permittee or their designee. Third party oversight of the conservation easement by a non-profit conservation organization is preferred.

Streams. Compensatory mitigation projects for stream impacts should attempt to replace lost functions. Mitigation will be determined on a case-by-case basis based on the pre and post condition stream quality and complexity of the mitigation project utilizing the SWVM worksheets. Compensatory mitigation may require protection through deed restrictions or conservation easements by the permittee or their designee.

17. Streams with Mussel populations.

A. Should native freshwater mussels be encountered during the use of any Nationwide Permit, all activity is to cease immediately and the Wildlife Resources

Section, Wildlife Diversity Program is to be contacted (304-637-0245) to determine significance of the mussel population and the action to be taken.

B. The following list of streams are known to have mussel populations which are established as a protected "no take" species by the state or contain protected habitat of mussels on the Federal Endangered Species list. Applicants wishing to conduct projects in these streams are strongly encouraged to contact the Wildlife Resources Section, Wildlife Diversity Program with a detailed project description and an accurate project location. For further information please contact the Wildlife Resources Section, Wildlife Diversity program at 304-637-0245.

Applicants should also give consideration to utilizing WVDNR's Wildlife Data Base Inquiry process. This resource is designed for the applicant as an informative preplanning tool. It allows the applicant to know, in advance, if they will be encountering any federally listed endangered species (ES), state species of concern and high quality fish and wildlife habitats such as trout streams, warm water fisheries, wetlands, karst and cave habitats. This inquiry can be obtained from the: Wildlife Data Base Coordinator, PO Box 67, Elkins West Virginia 26241. Information on what to submit to receive an inquiry should be directed to data base coordinator at 304-637-0245.

HUNTINGTON DISTRICT

	James River Drainage
J-1	Potts Creek
J-1-E	South Fork Potts Creek
J-3	Cove Creek
	Big Sandy River Drainage
BS	Big Sandy River
BST	Tug Fork River
	Kanawha River Drainage
K	Kanawha River
K-1	Crooked Creek
K-12	Thirteenmile Creek
K-14	Sixteenmile Creek
K-21	Buffalo Creek
K-22	Hurricane Creek
K-22-F	Mill Creek (Tackett Branch ?)
K-24	Little Hurricane Creek
K-26	Guano Creek
KC	Coal River
KC-10	Little Coal River
KE	Elk River
KE-23	Big Sandy Creek
KE-23-N	Granny Creek
KE-23-Q-.5	Hollywood Trace Fork

KE-31	King Shoals Run
KE-37	Laurel Creek
KE-74	Strange Creek
KE-76	Birch River
KE-9	Little Sandy Creek
KN	New River
KN-51	Indian Creek
KNB	Bluestone River
KNG	Greenbrier River
KNG-18	Wolf Creek
KNG-22	Muddy Creek
KNG-22-B	Mill Creek
KNG-23	Second Creek
KNG-53	Knapp Creek
KNG-61	Clover Creek (Cloverlick Creek)
KNG-66	Sitlington Creek
KNG-68	Deer Creek
KNG-79	West Fork Greenbrier River
KP	Pocatalico River
KP-17	Pocatalico Creek (Left Fork)
KP-17-B	Middle Fork Pocatalico Creek
KP-33-E	Cox Fork
KP-39	Big Lick
KP-41	Rush Creek
KP-45	Cranes Nest Run
	Little Kanawha River Drainage
LK	Little Kanawha River
LK- 86	Sand Fork
LK-11	Slate Creek
LK-23	Tucker Creek
LK-25	Reedy Creek
LK-25-?	Left Fork Reedy Creek
LK-25-R	Middle Fork Reedy Creek
LK-31	Spring Creek
LK-31-AA	Right Fork Spring Creek
LK-31-Z	Left Fork Spring Creek
LK-39	Straight Creek
LK-40	Leading Creek
LK-45	Yellow Creek
LK-53	Pine Creek
LK-66	Tanner Creek
LK-72	Cedar Creek
LK-75	Leading Creek
LK-75-K	Cove Creek
LK-75-N	Fink Creek

LK-86	Sand Fork
LK-94	Oil Creek
LK-95	Saltlick Creek
LKH	Hughes River
LKH-10	North Fork Hughes River
LKH-10-C	Gillespie Run
LKH-10-G	Devilhole Creek
LKH-10-J	Addis Run
LKH-10-R	Bonds Creek
LKH-4	Goose Creek
LKH-9	South Fork Hughes River
LKH-9-AA	Middle Fork South Fork Hughes River
LKH-9-J	Indian Creek
LKH-9-M	Leatherbark Creek
LKH-9-R	Spruce Creek
LKH-9-W	Slab Creek
LKH-9-X	Bone Creek
LKH-9-Y	Otterslide Creek
LKS	Steer Creek
LKS-10	Left Fork Steer Creek
LKS-9	Right Fork Steer Creek
LKW	West Fork Little Kanawha River
LKW-15	Henry's Fork
LKW-15-F	Laurel Run
LKW-15-J	Beech Fork
LKW-31	Left Fork West Fork Little Kanawha River
	Guyandotte River Drainage
OG	Guyandotte River
OG	Barboursville Lake
OG-14	Charley's Creek
OG-24	TwOMIle Creek
OGM	Mud River
OGM-12-A	Kilgore Creek
OGM-20	Trace Fork
OGM-22	Buffalo Creek
OGM-25	Middle Fork Mud River
OGM-33	Big Laurel Creek
	Middle Island Creek Drainage
OMI	Middle Island Creek
OMI-4	McKim Creek
OMI-9	Sugar Creek
OMI-21	Sancho Creek
OMI-23	Point Pleasant Creek
OMI-23-A	Pursley Creek
OMI-23-B	Elk Fork

OMI-29	Indian Creek
OMI-30	McElroy Creek
OMI-40	Arnold Creek
OMI-43	Bluestone Creek
OMI-46	Meathouse Fork
OMI-46-E	Toms Fork
OMI-46-J	Indian Fork
OMI-47	Buckeye Creek
OMI-46-E	Toms Fork
OMI-46-J	Indian Fork
OMI-47	Buckeye Creek
	Ohio River Direct Drainage
O	Ohio River
O-2	Twelvepole Creek
O-2-H	Beech Fork
O-2-P	West Fork Twelvepole Creek
O-2-Q	East Fork Twelvepole Creek
O-9	Guyan Creek
O-30-A	Tombleson Run embayment
O-31	Little Mill Creek
O-32	Mill Creek
O-32-D	Cow run
O-32-H	Parchment Creek
O-32-L-7	Grasslick Creek
O-32-L-8	Bear Fork
O-32-M	Elk Fork
O-32-N	Little Mill Creek
O-36	Sandy Creek
O-36-D	Crooked Fork
O-36-J	Left Fork Sandy Creek
O-36-J-5	Nesselroad Run
O-38	Little Sandy Creek
O-43-D	Little Pond Creek
O-44	Lee Creek
O-44-A	South Fork Lee Creek
O-44-B	North Fork Lee Creek

PITTSBURGH DISTRICT

	Ohio River Direct Drainage
	Ohio River
O-57	French Creek
O-69	Fishing Creek
O-69-N	South Fork Fishing Creek
O-69-O	North Fork Fishing Creek

O-77	Fish Creek
O-77-J	Valley Run
O-77-O	WV Fork Fish Creek
O-77-O-8	Long Drain Creek
O-88	Wheeling Creek
O-88-D-2	Middle Wheeling Creek
O-88-L	Turkey Run
O-88-O	Enlow Fork
O-88-O-?	Dunkard Fork
O-92	Buffalo Creek
	Cheat River Drainage
M	Monongahela River
M-1	Dunkard Creek
M-1-?	Blacks Run
M-1-C	Days Run
M-1-E	Miracle Run
M-1-E-?	Right Branch Miracle Run
M-1-F	WV Fk Dunkard
M-1-F-6	North Fork WV Fork Dunkard Creek
M-1-F-6-A	Camp Run
M-1-F-7	South Fork WV Fork Dunkard Creek
MT	Tygart Valley River
MW	West Fork River
MW-13	Tenmile Creek upstream of Little Tenmile
MW-13-I-4	Jacob's Fork
MW-13-I-4	Salem Fork
MW-2	Booths Creek
MW-21	Elk Creek
MW-21-G	Brushy Fork of Elk Creek
MW-21-M	Gnatty Creek
MW-29	Isaacs Creek
MW-31	Hackers Creek
MW-31-C	Jesse Run
MW-32	Kincheloe Creek
MW-36	Freemans Creek
MW-36-D	Right Fork Freemans Creek
MW-38	Stonecoal Creek
MW-55	Right Fork West Fork River
MC-60-D	Blackwater River
MC-60-D-10	Sand Run
MC-60-D-8-A ?	Glade Run
MC-60-K-16	West Fork Glady
P	Potomac River Drainage
P-4-M	Mill Creek

P-6	Back Creek
P-9	Sleepy Creek
PC	Cacapon River
PC-24	Lost River
PC-7	North River
PNB-4	Patterson Creek
PNB-4-EE	North Fork Patterson Creek (below dam near mouth)
PSB	South Branch Potomac River
PSB-21	South Fork South Branch

18. Isolated Wetlands.

In some cases, the Corps of Engineers may determine that an activity will not impact waters of the United States because the water is an isolated wetland, and therefore does not require a 404 permit. However, under West Virginia State code (§§22-11-3(23)) isolated wetlands are designated waters of the State. Accordingly, any applicant proposing to impact an isolated wetland must contact the West Virginia Department of Environmental Protection, Division of Water and Waste Management to obtain all necessary approvals for activities impacting any isolated wetlands.

APPENDIX A

Streams with potential presence of Federally listed threatened and endangered species or their habitat

HUNTINGTON DISTRICT:

1. Big Sandy Creek; Kanawha County: Snuffbox.

2. Bluestone River; Mercer and Summers counties (Bluestone Gorge to slackwater of Bluestone Reservoir): Virginia spiraea.

3. Cedar Creek; Braxton and Gilmer counties: Snuffbox.

4. Cove Creek; Monroe County: James spinymussel.

5. Elk River; Braxton, Clay, and Kanawha counties (Sutton Dam to slackwater below Coonskin Park), including the lower one-half mile reaches of its tributaries Birch River, Blue Creek, and Laurel Creek: Clubshell, Pink mucket pearlymussel, Northern riffleshell, Rayed bean, and Snuffbox. The Elk River also contains the Diamond darter (candidate).

6. Fishing Creek; Wetzel County: Snuffbox.

7. Gauley River; Fayette and Nicholas counties (Summersville Dam to Swiss): Virginia spiraea.

8. Greenbrier River; Greenbrier and Pocahontas counties: Virginia spiraea.

9. Henry Fork; Calhoun and Roane counties: Snuffbox.

10. Hughes River; Ritchie and Wirt counties, including the lower one-half mile reach of its tributary Goose Creek: Snuffbox.

11. Kanawha River; Fayette, Kanawha, Mason, and Putnam counties: Fanshell, Pink mucket pearlymussel, Sheepnose, Spectaclecase, and Tubercled-blossum pearlymussel.

12. Leading Creek; Gilmer and Lewis counties, including the lower one-half mile reach of its tributary Fink Creek: Snuffbox.

13. Little Kanawha River; Braxton, Calhoun, Gilmer, Wirt, and Wood counties, including the lower one-half mile reaches of its tributaries Leading Creek (Calhoun Co., different stream than 5.d. above), Pine Creek, Sand Fork, Slate Creek, Straight Creek, Tanner Creek, Tucker Creek, and Walker Creek: Snuffbox.

14. Marsh Fork River including Dingess Branch and Millers Camp Branch and associated palustrine emergent and scrub-shrub wetlands; Raleigh County: Virginia spiraea.

15. McElroy Creek; Doddridge and Tyler counties: Snuffbox.

16. Meadow River; Fayette, Greenbrier, and Nicholas counties: Virginia spiraea.

17. Meathouse Fork of Middle Island Creek; Doddridge County, including the lower one-half mile reaches of it tributary Toms Fork: Clubshell and Snuffbox.

18. Middle Island Creek; Doddridge, Pleasants, and Tyler counties, including the lower one-half mile reaches of its tributaries Arnold Creek, Bluestone Creek, Buckeye Creek, Indian Creek, McKim Creek, Point Pleasant Creek, and Sancho Creek: Clubshell, Rayed bean, and Snuffbox.

19. New River (Lower); Fayette County (Route 19 to Gauley Bridge): Virginia spiraea.

20. North Fork Hughes River; Ritchie and Wirt counties, including the lower one-half mile reaches of its tributaries Addis Run, Bonds Creek, Devilhole Creek, and Gillespie Run: Snuffbox.

21. Ohio River; Cabell, Jackson, Mason Pleasants, Tyler, Wetzel, and Wood counties: Fanshell, Pink mucket pearlymussel, Sheepnose, and Snuffbox.

22. Potts Creek and South Fork of Potts Creek; Monroe County: James spinymussel.

23. Reedy Creek; Roane and Wirt counties: Snuffbox.

24. South Fork Hughes River; Doddridge, Ritchie, and Wirt counties, including the lower one-half mile reaches of its tributaries Bone Creek, Indian Creek, Leatherbark Creek, Otterslide Creek, Slab Creek, and Spruce Creek: Clubshell and Snuffbox.

25. Spring Creek; Roane and Wirt counties: Snuffbox.

26. Steer Creek; Calhoun and Gilmer counties: Snuffbox.

27. Sugar Creek; Pleasants County: Snuffbox.

28. West Fork Little Kanawha River; Calhoun, Roane, and Wirt counties: Snuffbox.

PITTSBURGH DISTRICT

29. Back Creek; Berkeley County: Harperella.

30. Cacapon River; Morgan County: Harperella.

31. Dunkard Creek; Monongalia County: Snuffbox.

32. Fish Creek; Marshall County: Snuffbox.

33. Hackers Creek (of the West Fork River); Harrison and Lewis counties: Clubshell and Snuffbox.

34. Potomac River; Morgan County (from the mouth of the Cacapon River to the mouth of Sleepy Creek): Harperella.

35. Sleepy Creek; Morgan County: Harperella.

36. West Fork River; Harrison, Lewis, and Marion counties: Snuffbox.

37. Streams, springs, and wetlands connected to the groundwater system including caves, areas near sinkholes, and other groundwater/surface interfaces, from the Potomac River west to Opequon Creek, especially in the Rippon and Leetown Areas, and the Evitts Run Watershed; Jefferson and Berkeley counties: Madison Cave isopod.

38. Wetlands; Berkeley and Hardy counties: Northeastern bulrush.

Updated 7/13/12

Doddridge County Floodplain Permit Application (New)

Permits applications received September 1, 2015 through September 15, 2015

Announced September 15 , 2015

Permit Application # 15-377
Jay-Bee Oil & Gas, Inc.
Chipps Stream Bank Stabilization
Location: WV Rt. 23N, Salem, District McClellan
39.33599352 x -80.57620525
Received: 9/1/2015
Announced: 9/15/15
Publication Date: Week of 9/14/15
20-Day Comment Period Window (from Commission Meeting) 10/05/2015
90-Day Approval Window (from date of receipt) N/A
Project Description: Stream Bank Restoration

Permit Application # 15-378
EQT Production Company
EQT OXF 122 Well Line Extension
Location: Elklick Run, Coxs Mills, Cove District
80.806504W, 39.135937N/ FEMA Map 225C
Received: 9/1/2015
Announced: 9/15/15
Publication Date: Week of 9/14/15
Not In FloodPlain

Permit Application # 15-379
EQM Gathering OPCO, LLC
F-1153 Pipeline Replacement Project
Location: Clay Lick Rd of Sunnysid Rd
39.275445, -80.826178/ FEMA Map 115C
Received: 9/1/2015
Announced: 9/15/15
Publication Date: Week of 9/14/15
Not In FloodPlain

Permit Application # 15-380
Rover Pipeline
Location: Morgans Run & Morgansville
39.281038 -80.694720
39.283848 -80.693936
Received: 9/10/2015
Announced: 9/15/15
Publication Date: Week of 9/14/15
20-Day Comment Period Window (from Commission Meeting) 10/05/2015
90-Day Approval Window (from date of receipt) N/A
Project Description: Installation of natural gas transmission pipeline and related facilities.

The Doddridge Independent

The Doddridge Independent
PUBLISHER'S CERTIFICATE

I, Michael D. Zorn, Publisher of The Doddridge Independent, A newspaper of general circulation published in the town of West Union, Doddridge County, West Virginia, do hereby certify that:

Floodplain Permit Application # 15-377
Please take notice that on the 17th day of August, 2015
Jay-Bee Oil & Gas, Inc. / Chipps Stream Bank Stabilization
filed an application for a Floodplain Permit to develop land located at or about:
Location: WV Rt. 23N, Salem, District McClellan
39.33599352 x -80.57620525

was published in The Doddridge Independent
2 times commencing on Friday, September 18, 2015 and
Ending on Friday, September 25, 2015 at the request of:

George Eidel, Doddridge County Floodplain Manager & Doddridge County Commission

Given under my hand this Friday, September 25, 2015

The publisher's fee for said publication is:
$ 25.27 1st Run/$ 18.95 Subsequent Runs
This Legal Ad Total: $ 44.22

Michael D. Zorn
Publisher of The Doddridge Independent

Subscribed to and sworn to before me on
this date: 9/28/15

Notary Public in and for Doddridge County
My Commission expires on
The 17th day of MAY 2019

Public Notice • Legal Notice

Doddridge County
Floodplain Permit Application # 15-377
Please take notice that on the 17th day of August, 2015
Jay-Bee Oil & Gas, Inc. / Chipps Stream Bank Stabilization
filed an application for a Floodplain Permit to develop land located at or about:
Permit Application # 15-377
Location: WV Rt. 23N, Salem, District McClellan
39.33599352 x -80.57620525
Received: 9/1/2015 / Announced: 9/15/15
Publication Date: Week of 9/14/15
20-Day Comment Period Window (from Commission Meeting)
10/05/2015
90-Day Approval Window (from date of receipt) N/A
Project Description: Stream Bank Restoration
The Application is on file with the Clerk of the County Court and may be inspected or copied during regular business hours. As this project is outside the FEMA identified floodplain of Doddridge County, Doddridge County Floodplain Management has no regulatory authority. Any interested persons who desire to comment shall present the same in writing by August 28, 2015, delivered to:
Clerk of the County Court
118 E. Court Street, West Union, WV 26456
Beth A Rogers, Doddridge County Clerk
George Eidel, Doddridge County Flood Plain Manager
9/18 - 9/25

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
PAMELA R. STINESPRING
P. O. BOX 81
WEST UNION, WV 26456
My commission expires May 17