

**DEPARTMENT OF THE ARMY**  
**Wilmington District, Corps of Engineers**  
**Asheville Regulatory Field Office**  
**151 Patton Avenue Room 208**  
**Asheville, North Carolina 28801-5006**  
(<http://www.saw.usace.army.mil/WETLANDS/notices.html>)

Action ID No. 200331252

October 8, 2004

**PUBLIC NOTICE**

**DUKE POWER, P.O. BOX 1006 (MAIL CODE EC 13J), CHARLOTTE, NC 28201-1006**, has applied for a Department of the Army (DA) permit to **PLACE FILL WITHIN 1.86 ACRES OF WETLANDS AND 1,297 LINEAR FEET OF STREAM CHANNEL, WHICH ARE ADJACENT TO AND INCLUDING UNNAMED TRIBUTARIES TO THE CATAWBA RIVER, IN ORDER TO CONSTRUCT A STABILITY BERM ON THE DOWNSTREAM SIDE OF THE EXISTING PADDY CREEK DAM**, located at Lake James, West of Morganton, Burke County, North Carolina.

The following description of the work is taken from data provided by the applicant. Plans submitted with the application show the proposed placement of 1 million cubic yards of fill material into uplands and wetlands. Approximately 1.86 acres of wetlands and 1,297 linear feet of stream channels will be filled due to the construction of a stability berm on the downstream side of the existing Paddy Creek Dam at Lake James. On-site borrow areas will be utilized which also require the installation of permanent and temporary haul roads. The purpose of the proposed work is to provide dam safety improvements as required by the Federal Energy Regulatory Commission (FERC). The proposed berm will increase the stability of the existing dam in the event of a large earthquake.

Proposed work includes the construction of an earthen stability berm immediately adjacent to the existing dam. The majority of impacts to jurisdictional areas will be associated with this work, which consists of the placement of fill in approximately 1.5 acres of wetlands and 737 linear feet of stream channel (Figure 15, 1 of 4 and 2 of 4). Approximately 345 linear feet of these proposed stream channel impacts will be temporary in nature and returned to pre-construction conditions. The remainder of the jurisdictional impacts will be associated with the construction of haul roads that will be utilized to transport on-site borrow material to the berm location. There are approximately 8 additional crossings of streams and wetlands associated with the construction of these haul roads that total approximately 550 linear feet of stream channel and 0.3 acre of wetlands. Approximately 127 linear feet of stream channel that will be filled as a result of the haul roads will be temporary impacts and restored to pre-construction contours.

The wetland areas near the existing dam consist of river birch (*Betula nigra*), iron wood (*Carpinus caroliniana*), tulip poplar (*Liriodendron tulipifera*), red maple (*Acer rubrum*), flowering dogwood (*Cornus florida*), jewel-weed (*Impatiens capensis*), American holly (*Ilex opaca*), Chinese privet (*Ligustrum sinense*), and poison ivy (*Toxicodendron radicans*). These

wetlands are a mixture of palustrine forested, shrub/scrub and emergent habitats. This area was previously disturbed when the Paddy Creek Dam was originally built from 1916 to 1919. A portion of Wetland 4-1 located at the base of the existing dam is a linear feature that was excavated to receive seepage from the dam and has naturalized with emergent wetland vegetation. This linear feature is approximately 0.08 acres in size and considered to be of poor quality. The remainder of Wetland 4-1 consists of scrub/shrub and forested wetlands that receive overbank flooding from a small second order perennial stream. This area is approximately 0.75 and considered to be of fair quality. Wetland 4-2 and 4-3 will also be filled as a result of the construction of the stability berm. Wetland 4-2 is approximately 0.53 acres in size and consists of scrub/shrub and emergent vegetation. Wetland 4-3 is immediately adjacent to Wetland 4-2. This wetland is predominately forested and is approximately 0.30 acres in size. Both Wetland 4-2 and 4-3 receive groundwater and precipitation as their main source of hydrology and are considered to be of fair quality. These areas may also be the remainders of relic wetlands that were adjacent to Paddy Creek prior to its relocation when the dam was built. A first order perennial stream channel will also be impacted as a result of the construction of the berm, which was also considered to be of poor-fair quality. This stream channel (Stream 4-4) is incised with very low sinuosity and minimal aquatic habitat. The remainder of stream channel impacts associated with the haul roads is typically first order perennial and intermittent stream channels considered to be of fair-good quality. The remainder of proposed wetland impacts is small riparian wetlands adjacent to these first order streams that are less than 0.10 acre in size and of fair-good quality.

The applicant proposes to mitigate for impacts to jurisdictional areas through payment to the North Carolina Ecosystem Enhancement Program (NCEEP). The applicant is proposing to make payment to NCEEP in the amount necessary to restore 3.0 acres of wetlands and 808 linear feet of stream channel to offset permanent impacts to jurisdictional areas. Approximately 489 linear feet of stream channel impacts will be temporary in nature and restored to pre-construction contours.

The State of North Carolina will review this public notice to determine the need for the applicant to obtain any required State authorization. No Department of the Army (DA) permit will be issued until the coordinated State viewpoint on the proposal has been received and reviewed by this agency, nor will a DA permit be issued until the North Carolina Division of Water Quality (NCDWQ) has determined the applicability of a Water Quality Certificate as required by PL 92-500.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein. Based on the best available evidence and recent correspondence from the North Carolina Department of Cultural Resources, it has been determined that no sites within the vicinity of the project are registered or listed as being eligible for inclusion in the

Register. Examination of the National Register of Historic Places constitutes the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of other such resources. Presently, unknown archeological, scientific, prehistorical, or historical data may be lost or destroyed by work under the requested permit.

The District Engineer, based on available information, believes that the proposed activity may affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973. By copy of this public notice, we are hereby requesting the initiation of formal consultation with the U.S. Fish and Wildlife, Asheville Regional Office, regarding the proposed project's potential impact to federally threatened species, *Hexastylis naniflora* (dwarf-flowered heartleaf) which is located within the project boundaries.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (in accordance with Executive Order 11988), land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

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

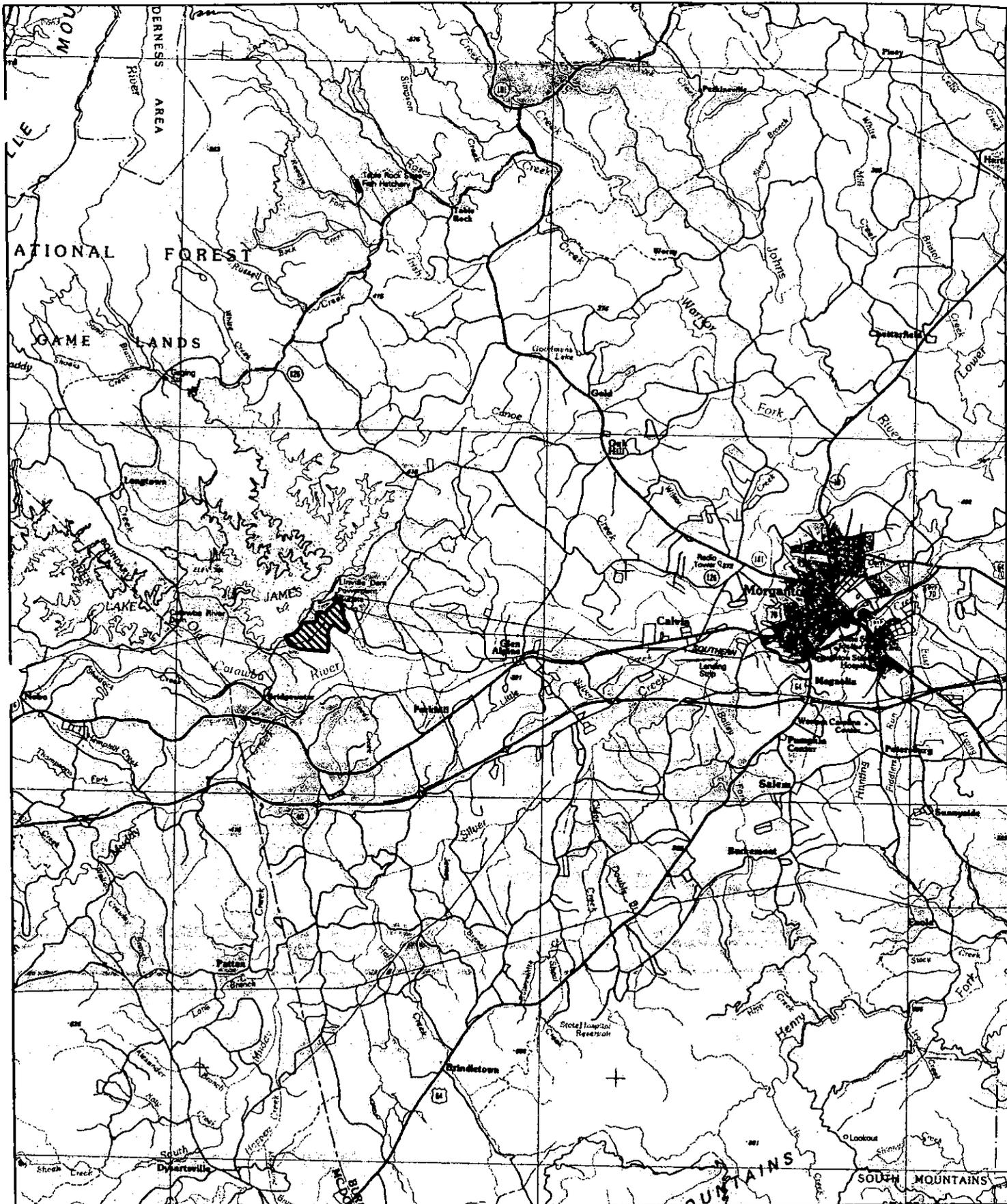
Generally, the decision whether to issue this Department of the Army (DA) permit modification will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or

waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether or not the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Wetlands /401 Unit, North Carolina DENR, Division of Water Quality, 2321 Crabtree Boulevard, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

All persons desiring to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), Wetlands/401 Unit, 1650 Mail Service Center, Raleigh, North Carolina, 27699-1650, on or before Friday, November 5, 2004, Attention: Ms. Cyndi Karoly.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, attention: Ms. Amanda Jones, until 4:15 p.m., November 7, 2004, or telephone (828) 271-7980 extension 231.



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 Project area

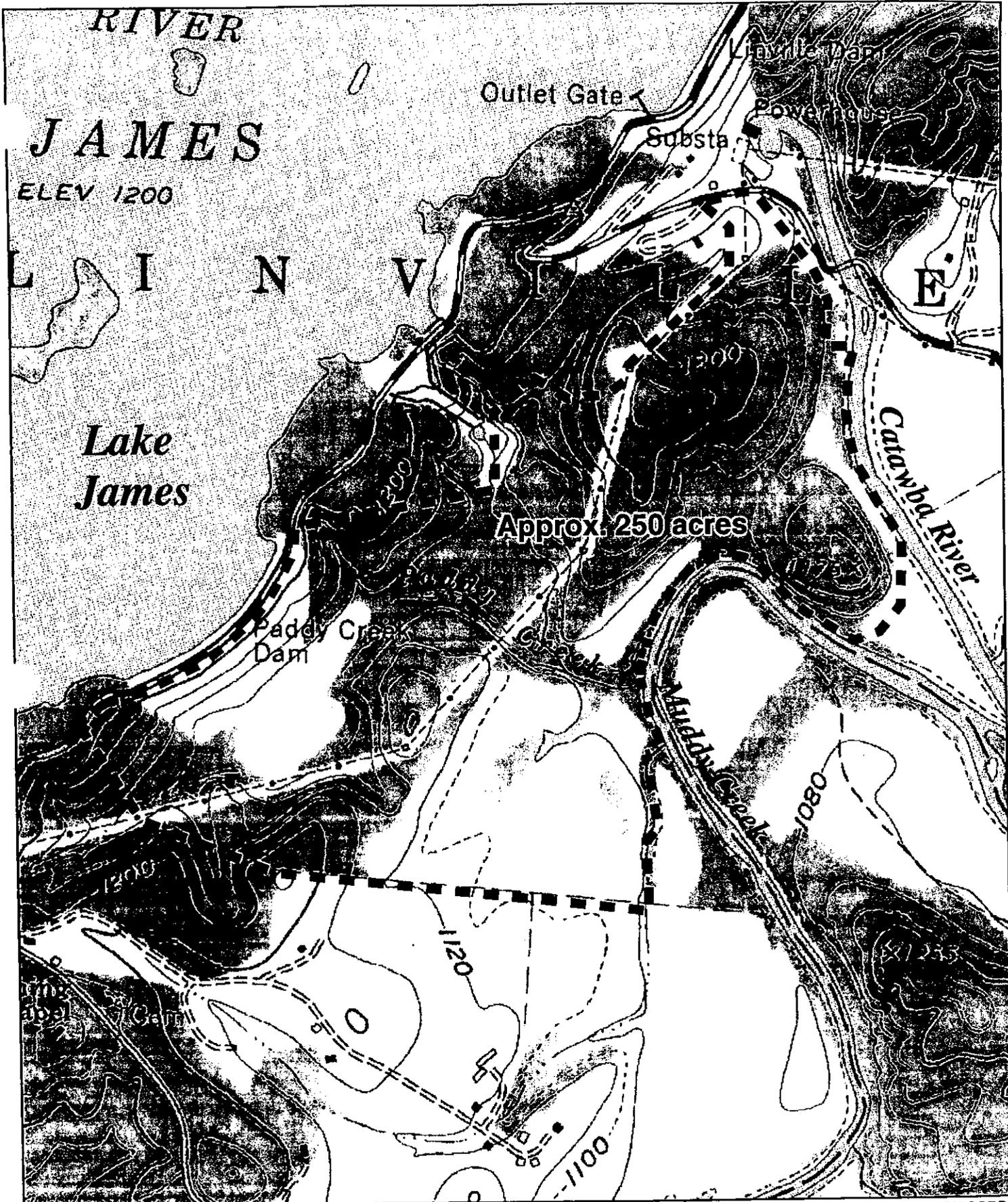
5,000 0 5,000 10,000  
 Feet

Source data:  
 Hickory, NC 1:100,000-scale USGS planimetric map, 1986

DUKE POWER A DIV. OF DUKE ENERGY CORP.  
 BRIDGEWATER HYDRO STATION

Figure 1. Vicinity Location Map

SHEET NO.	DATE	REV.
SHEET 1 OF 1	08-30-04	



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----- Project boundary

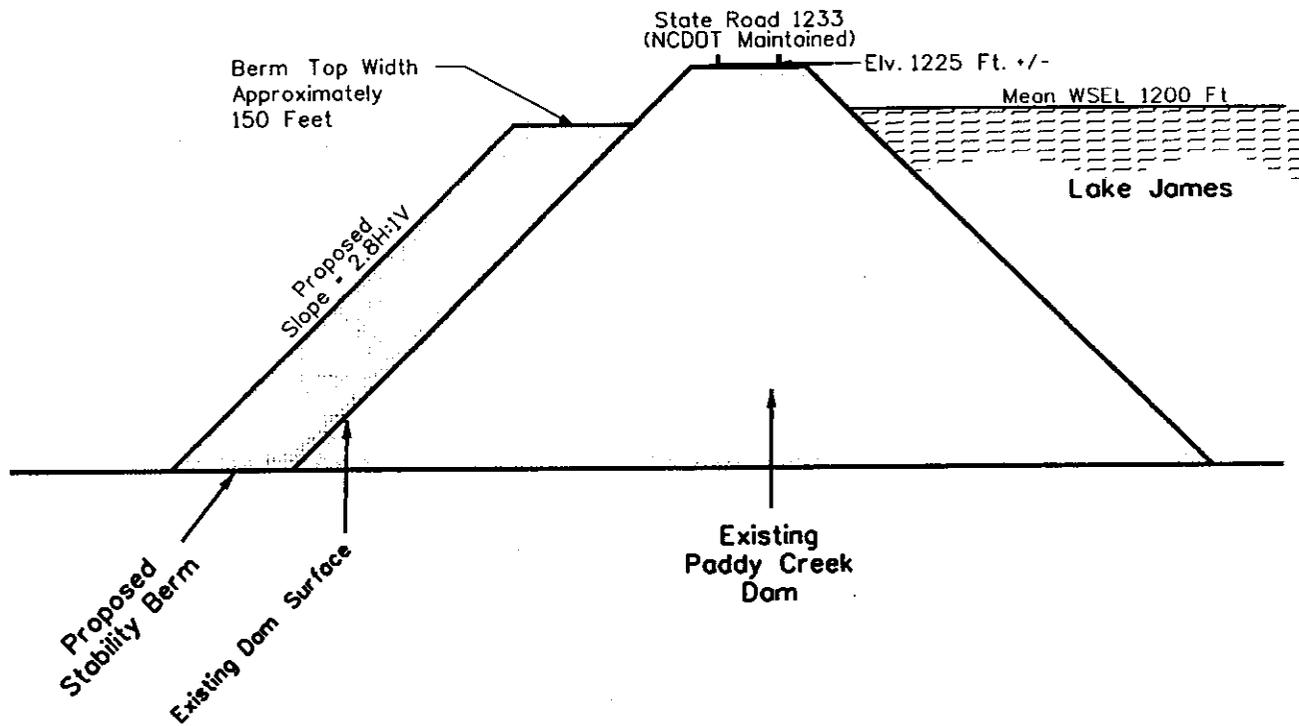


Source data: Oak Hill and Glen Alpine, NC, 1:24,000-scale USGS topographic maps

DUKE POWER A DIV. OF DUKE ENERGY CORP.  
 BRIDGEWATER HYDRO STATION

Figure 3. Project Boundary Map

SHEET NO. SHEET 1 OF 1	DATE 08-30-04	REV
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Not To Scale

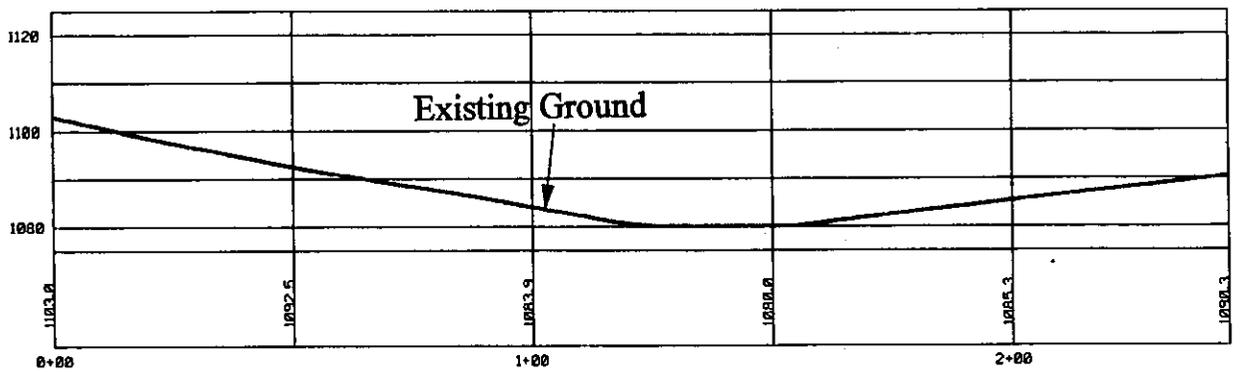
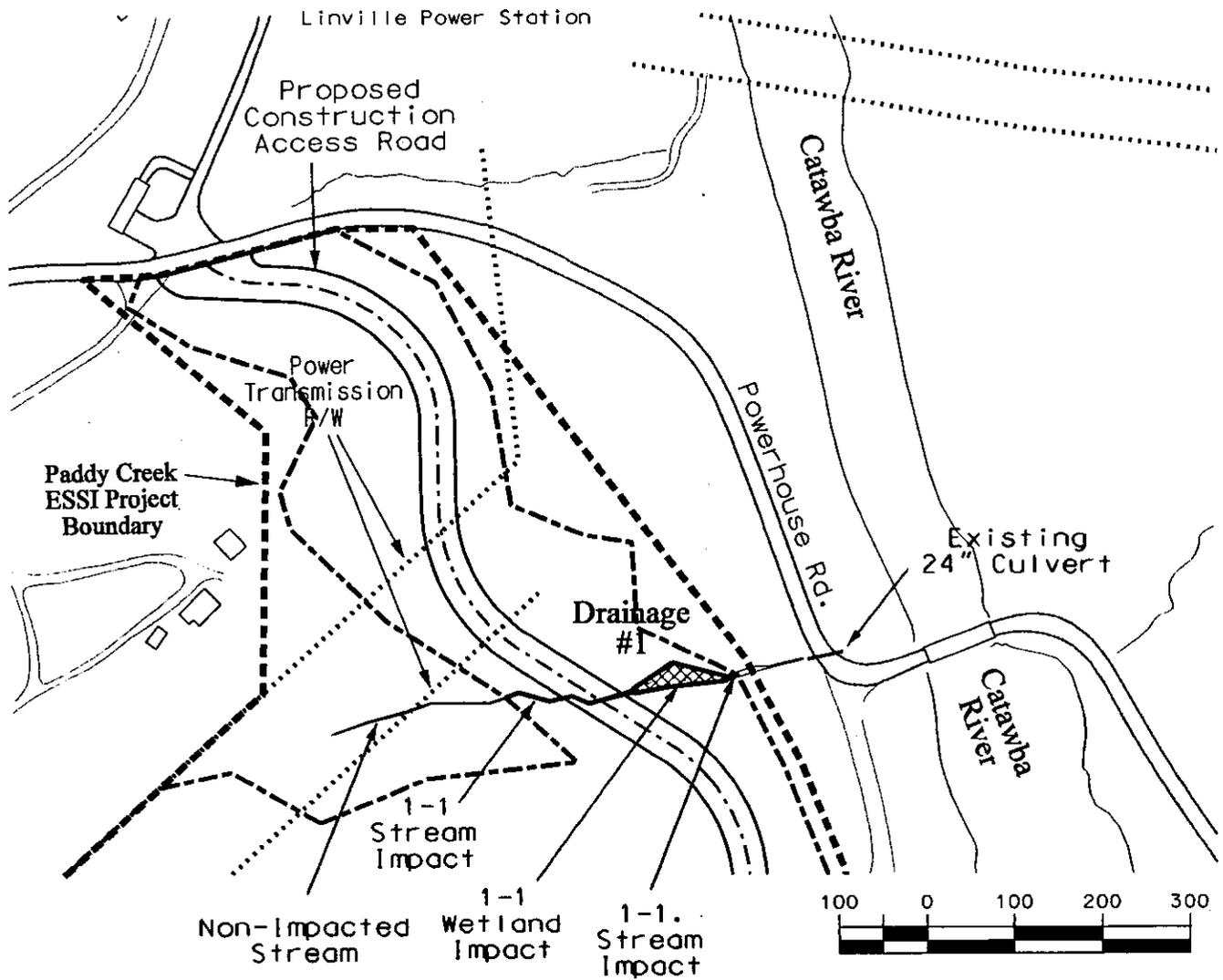
DUKE POWER A DIV. OF DUKE ENERGY CORP.  
 BRIDGEWATER HYDRO STATION

Figure 4  
 Paddy Creek  
 Stability Berm Section

FILE NAME  
 USACE-PC-04.DGN

DATE  
 08-19-04

REV



Stream Crossing 1-1

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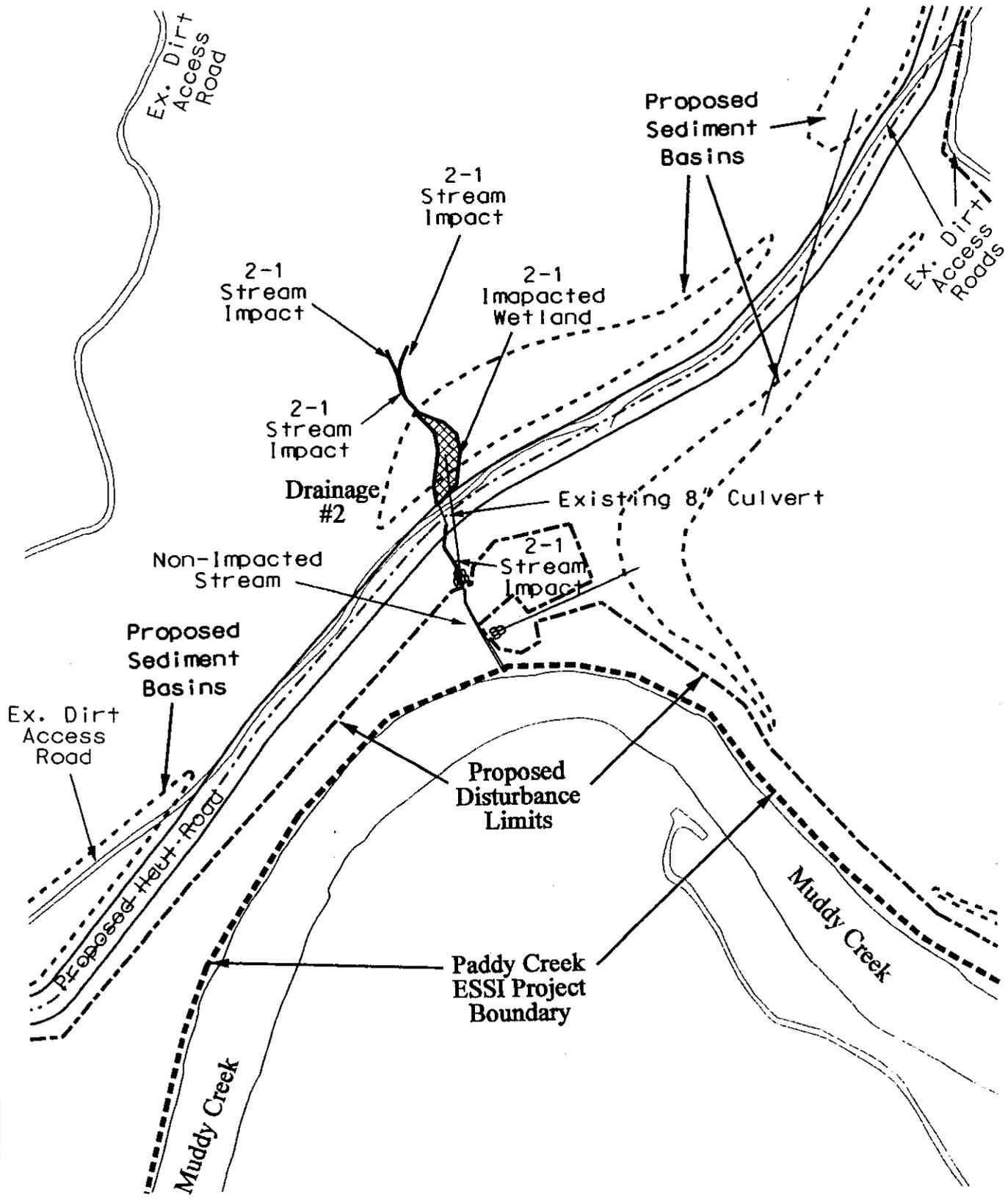


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DUKE POWER A DIV. OF DUKE ENERGY CORP.  
BRIDGEWATER HYDRO STATION

Figure 11  
Drainage #1  
Impact Map

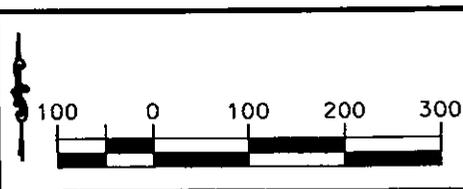
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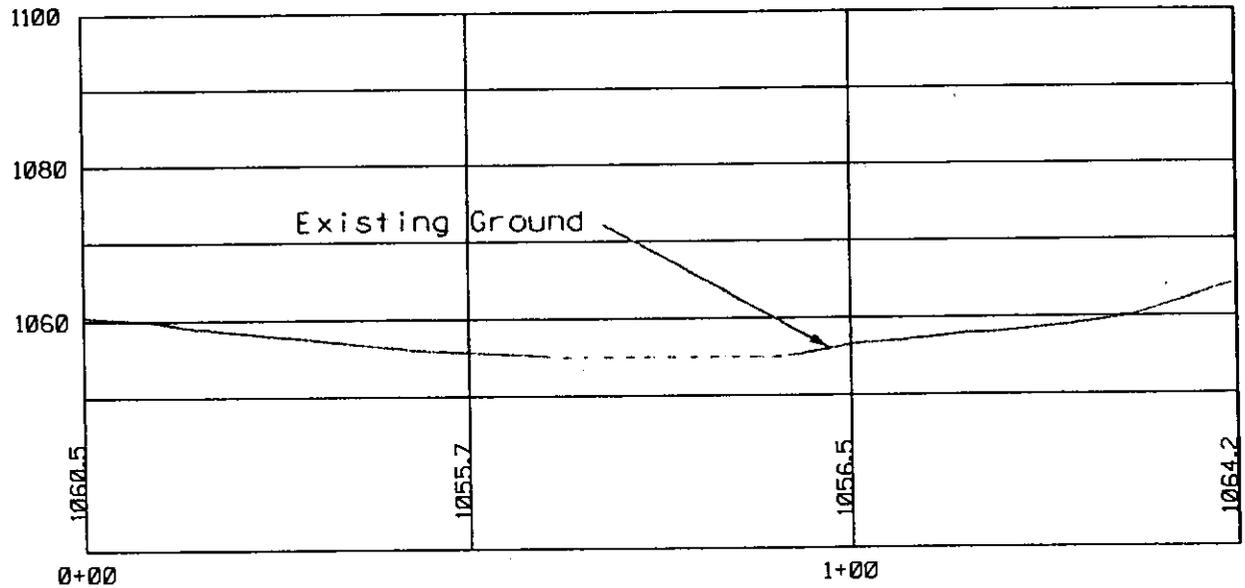
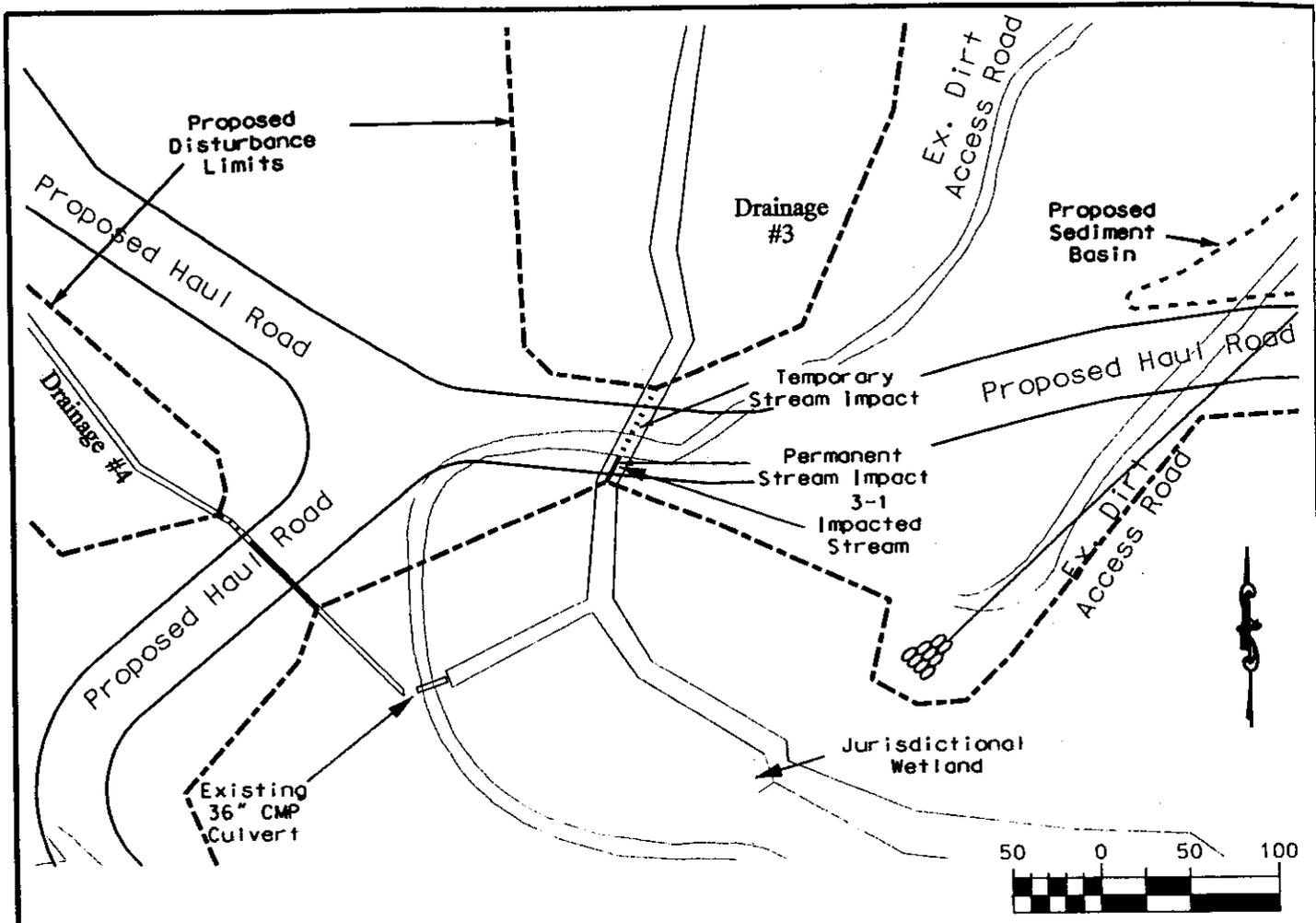
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**DUKE POWER A DIV. OF DUKE ENERGY CORP.**  
**BRIDGEWATER HYDRO STATION**

**Figure 12**  
**Drainage #2**  
**Impact Map**

FILE NAME	DATE	REV
USACE-PC-12.DGN	09-16-04	



STREAM CROSSING 3-1

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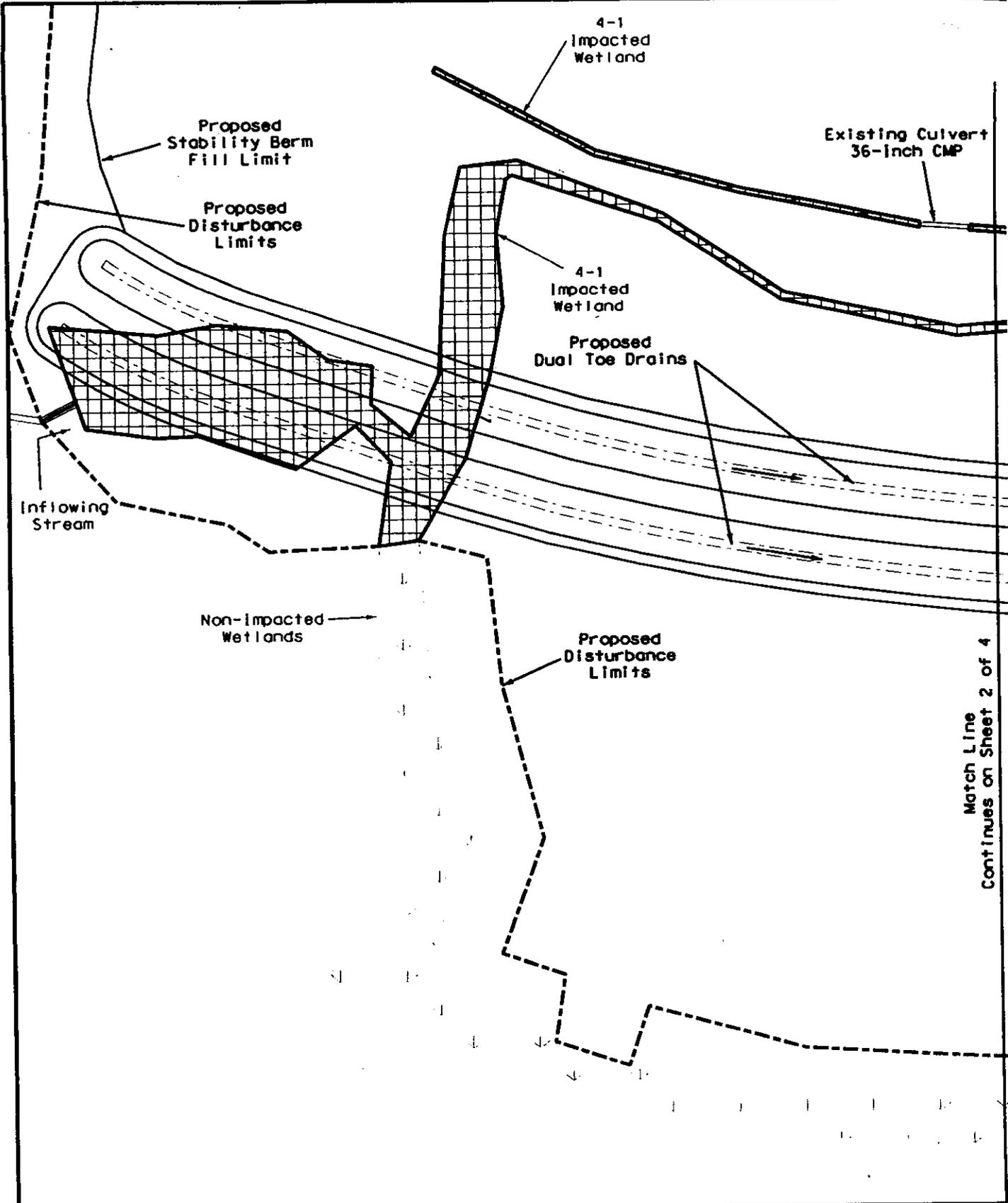
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**DUKE POWER A DIV. OF DUKE ENERGY CORP.**  
**BRIDGEWATER HYDRO STATION**

**Figure 13**  
**Drainage #3**  
**Impact Map**

FILE NAME: USACE-PC-13.DGN      DATE: 09-16-04      REV:

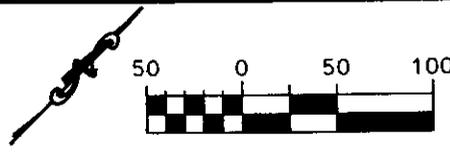


Match Line  
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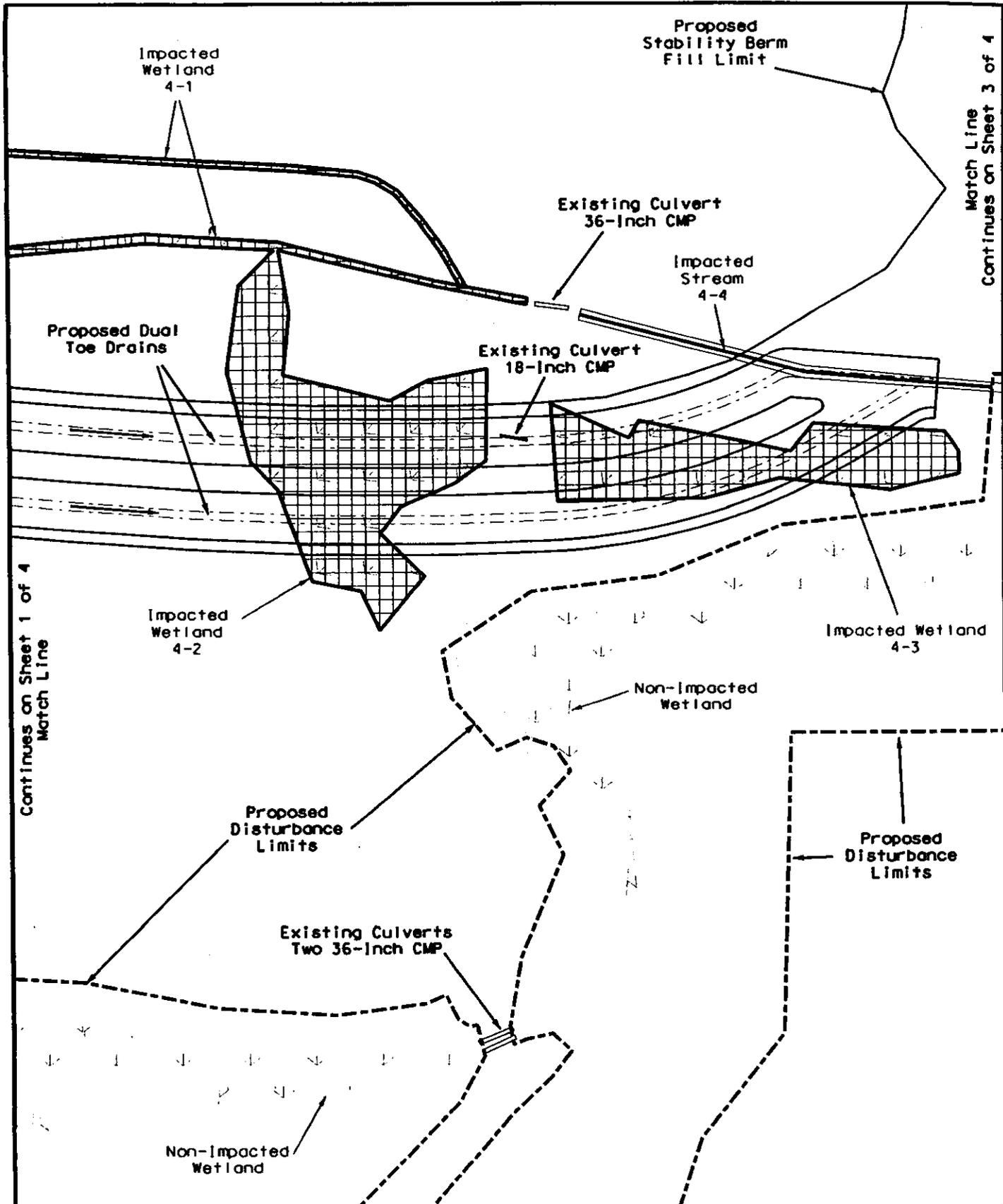
**DUKE POWER A DIV. OF DUKE ENERGY CORP.**  
**BRIDGEWATER HYDRO STATION**

**Figure 15**  
**Drainage #4**  
**Impact Map**  
**1 of 4**

FILE NAME  
USACE-PC-15.DGN

DATE  
09-16-04

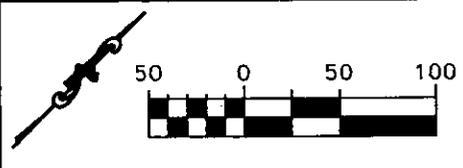
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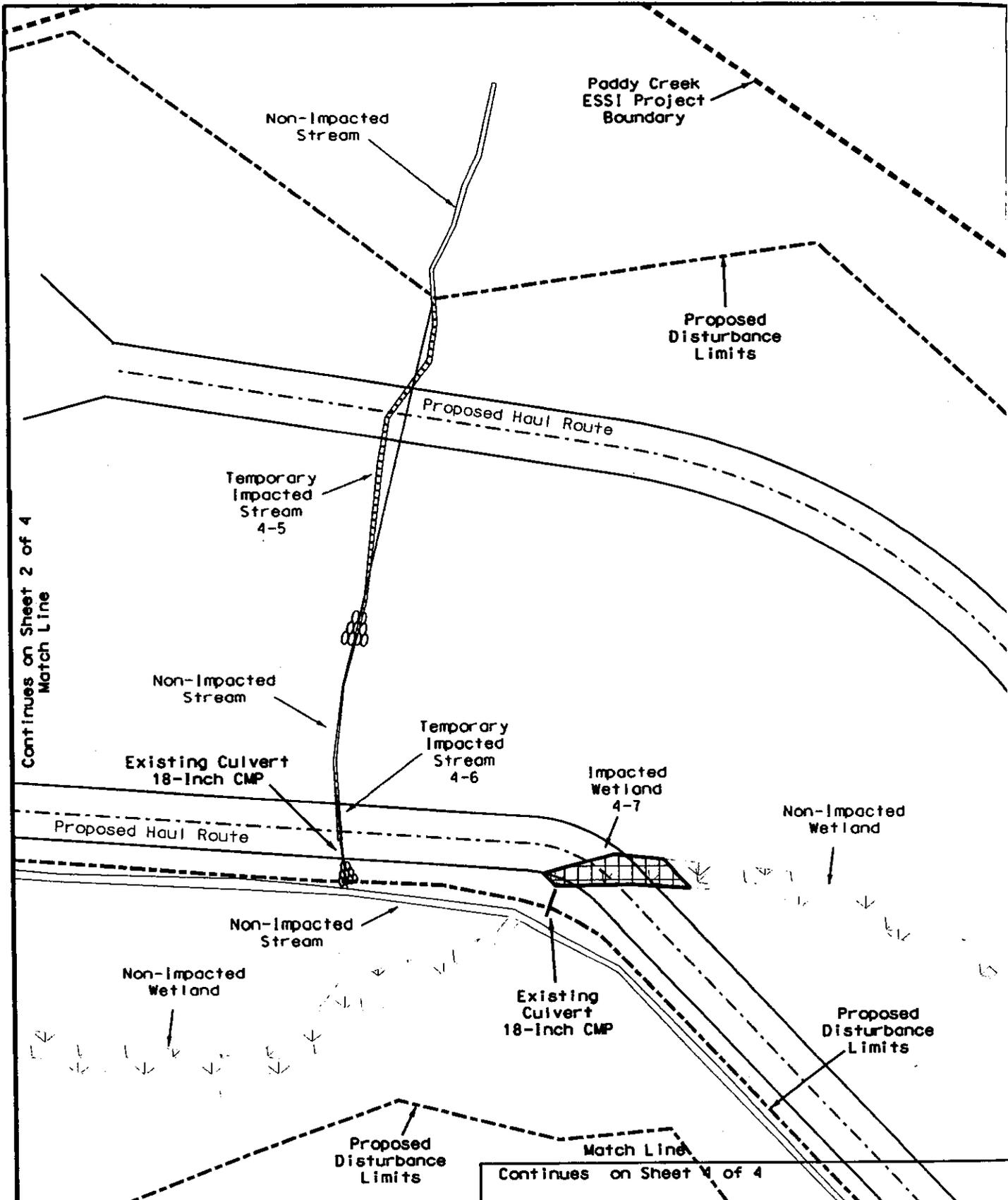
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DUKE POWER A DIV. OF DUKE ENERGY CORP.  
 BRIDGEWATER HYDRO STATION

Figure 15  
 Drainage #4  
 Impact Map  
 2 of 4

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**DUKE POWER A DIV. OF DUKE ENERGY CORP.**  
**BRIDGEWATER HYDRO STATION**

Figure 15  
 Drainage #4  
 Impact Map  
 3 of 4

FILE NAME	DATE	REV
USACE-PC-17.DGN	08-19-04	

Continues on Sheet 3 of 4  
Match Line

Drainage #4

Proposed  
Disturbance  
Limits

Drainage #4

Non-Impacted  
Stream

Proposed Heat Road

Temporary  
Stream Impact 4-8

Permanent  
Stream Impact 4-8

Impacted  
Stream  
4-8

Proposed  
Disturbance  
Limits

Non-Impacted  
Stream

Drainage #3

Non-Impacted  
Stream

Existing  
Culvert  
36-Inch CMP

Impacted  
Stream  
3-1

Proposed  
Disturbance  
Limits

Drainage  
#3

Non-Impacted  
Wetland

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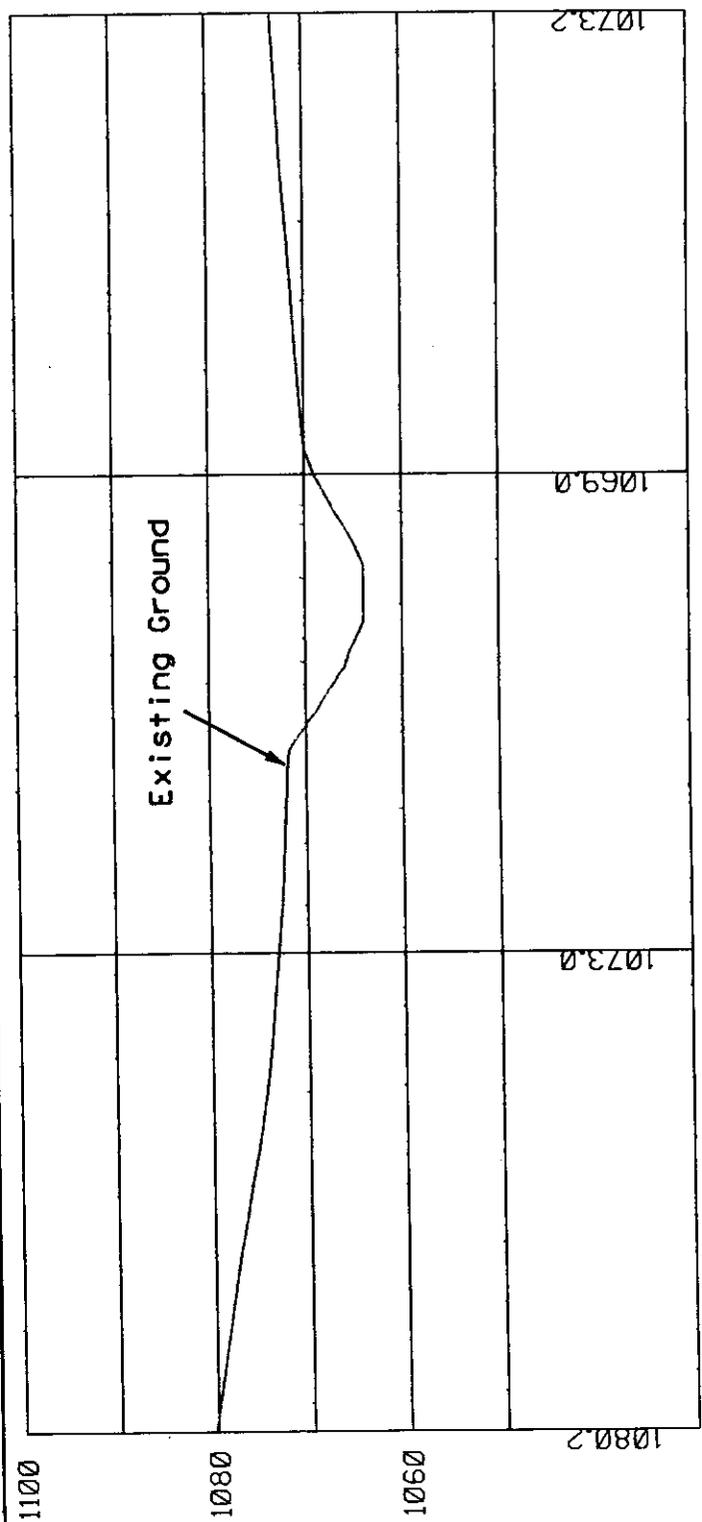
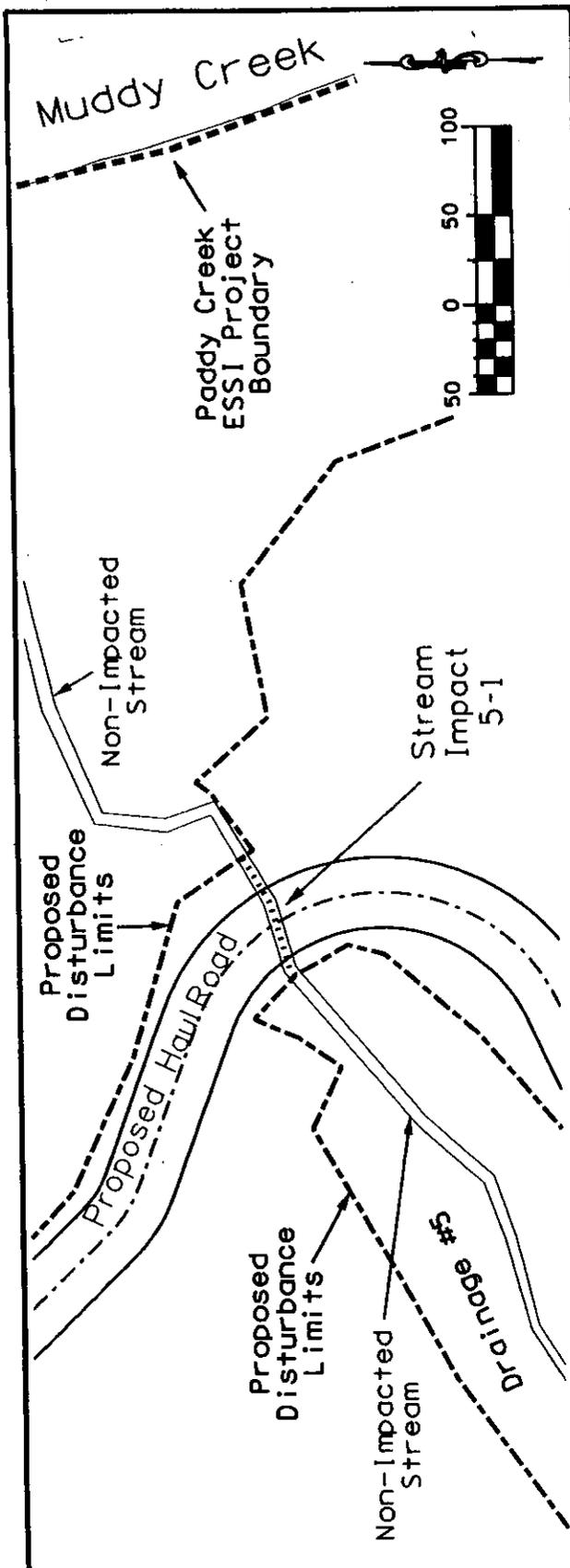
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BRIDGEWATER HYDRO STATION

Figure 15  
Drainage #4  
Impact Map  
4 of 4

FILE NAME: USACE-PC-18.DGN DATE: 09-16-04 REV:



Stream Crossing 5-1

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**DUKE POWER A DIV. OF DUKE ENERGY CORP.**  
**BRIDGEWATER HYDRO STATION**

**Figure 16**  
**Drainage #5**  
**Road Crossing Location Map**

FILE NAME	DATE	REV
USACE-PC-19.DGN	08-19-04	