



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: April 13, 2006
Comment Deadline: May 15, 2006
Corps Action ID #: 200401002

The Wilmington District, Corps of Engineers (Corps) has received an application from Mr. Kerry Willis seeking Department of the Army After-the-Fact (ATF) authorization to directly impact approximately 0.37 acres of jurisdictional wetlands associated with the excavation of an 800 linear foot ditch and the discharge of excavated material on an approximate 60-acre tract located on the east side of Old Hwy 70 (SR 1247), just south of intersection with US 70 Bypass, at the headwaters of an unnamed tributary to Deep Canal/Creek, in Newport, Carteret County, North Carolina.

Specific plans and location information are described below and shown on the attached plans. This Public Notice and all attached plans are also available on the Wilmington District Web Site at www.saw.usace.army.mil/wetlands

Applicant: Name: Kerry Willis
Post Office Box 340
Morehead City, North Carolina 28557

Authority

The Corps will evaluate this application and decide whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of Section 404 of the Clean Water Act.

Location

The project site is located at 34-49.49, 76-52.28, off White Tail Road (dirt road), on the east side of Old Hwy 70 (SR 1247), approximately 0.1 mile south of intersection with US 70 Bypass, at the headwaters of an unnamed tributary to Deep Canal/Creek, which connects to the Newport River, just north of Newport, Carteret County, North Carolina.

Existing Site Conditions

The 60+ acre tract is predominantly forested, but has been selectively timbered in the past. A major power line, running north to south, severs the tract. A cleared 60 to 100-foot R/W is maintained along this power line. The front part of the property along Old Hwy 70 contains ditches that were constructed about 15 to 20 years ago. Whitetail Road is a dirt path that runs through the tract, traversing west to east, and continues onto the

adjacent property where it terminates. The requested ATF ditch begins on the south side of Whitetail Road, about 1500 linear feet from Old Hwy 70, and runs along the eastern property boundary for approximately 600 linear feet. The ditch then has a 90 degree turn and traverses approximately 200 linear feet into the remnants of an older ditch which outlets into a wetland drain. Soil types listed within, or in the vicinity of, the project site include Croatan muck and Pantego fine sandy loam; which both are hydric.

The Wilmington Corps office has had previous regulatory actions on this property and the eastern adjacent property. In 1992/1993, the main access road, or Whitetail Road, was constructed by the east adjacent property owner within an access easement in order to harvest timber. At the time, it was determined that the road had met our logging road exemption requirements since the roadside borrow ditches did not connect to any outside drainage features. In 1998, our office opened an enforcement action on a previous owner of the 60+ acre tract for the construction of a ditch within the alignment of the current requested ditch. Final actions resulted in restoring wetlands by refilling the ditch for approximately 800 linear feet. The current proposal is within that 800 linear foot stretch of previously restored wetlands.

Applicant's Stated Purpose

The applicant's stated purpose of the ditch is to mitigate for run-off coming from Highway 70, and to prevent flooding of timber for silviculture purposes. Current uses of the property are hunting and silviculture.

Project Description

The proposed project includes keeping the 800 linear foot ditch and sidecast material in approximately 0.37 acres of jurisdictional wetlands. The excavated material has been placed along the ditch and leveled. The dimensions of the ditch are approximately 6.0 feet wide by 3 to 4.0 feet in depth. The ditch was excavated and completed sometime in early 2004. Indirect drainage effects on adjacent wetlands have not been determined.

It should be noted that the logging road, Whitetail Road, will not be exempted if the ditch is authorized, and will require additional authorization.

Other Required Authorizations

This notice and all applicable application materials are being forwarded to the appropriate State agencies for review. The Corps will generally not make a final permit decision until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice in the NCDWQ Central Office in Raleigh serves as application to the NCDWQ for certification. A waiver will be deemed to occur if the NCDWQ fails to act on this request for certification within sixty days of the date of the receipt of this notice in the NCDWQ Central Office. Additional information regarding the Clean Water Act certification may be reviewed at the NCDWQ Central

Office, 401 Oversight and Express Permits Unit, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for certification under Section 401 of the Clean Water Act should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1650 Mail Service Center, Raleigh, North Carolina 27699-1650 Attention Ms Cyndi Karoly by May 6, 2006.

The applicant has not provided to the Corps, a certification statement that his/her proposed activity complies with and will be conducted in a manner that is consistent with the approved North Carolina Coastal Zone Management Program. Pursuant to 33 CFR 325.2(b)(2), the Corps can not issue a permit for the proposed work until the applicant submits such a certification to the Corps and the North Carolina Division of Coastal Management (NCDCM), and the NCDCM notifies the Corps that it concurs with the applicant's consistency certification.

Essential Fish Habitat

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The Corps' initial determination is that the proposed project will not adversely impact EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

Cultural Resources

The Corps has consulted the latest published version of the National Register of Historic Places and is not aware that any registered properties, or properties listed as being eligible for inclusion therein are located within the project area or will be affected by the proposed work. Presently, unknown archeological, scientific, prehistoric, or historical data may be located within the project area and/or could be affected by the proposed work.

Endangered Species

The Corps has reviewed the project area, examined all information provided by the applicant and consulted the latest North Carolina Natural Heritage Database. Based on available information, the Corps has determined pursuant to the Endangered Species Act of 1973, that the proposed project will have no effect on federally listed endangered or threatened species or their formally designated critical habitat.

Evaluation

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the

proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline 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 discharge of dredged or fill materials in waters of the United States, the evaluation of the impact of the activity on the public interest will include application of the Environmental Protection Agency's 404(b)(1) guidelines.

Commenting Information

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidate State Viewpoint or written position of the Governor; 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.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

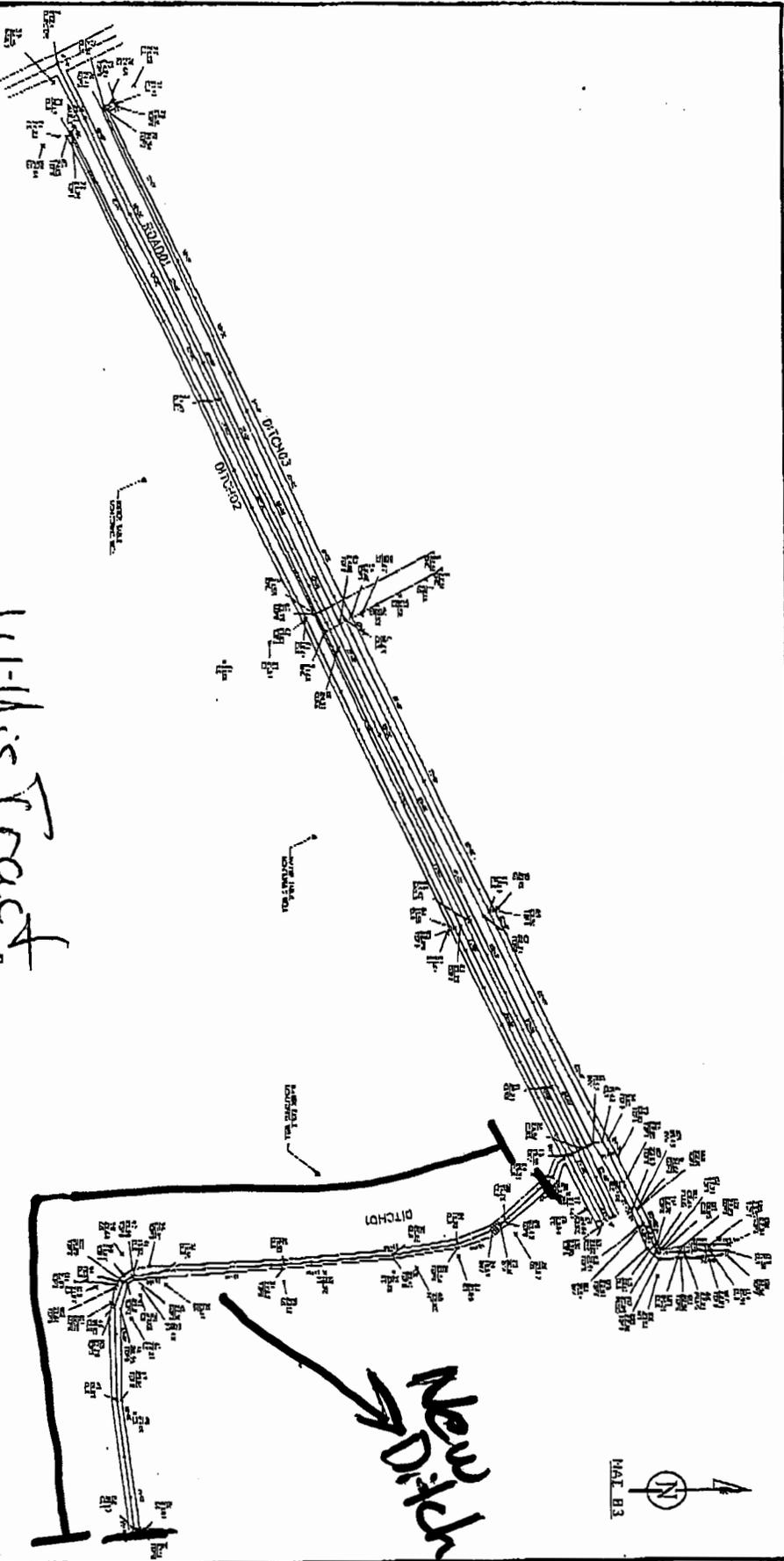
Written comments pertinent to the proposed work, as outlined above, will be received by the Corps of Engineers, Wilmington District, until 5pm, May 15, 2006. Comments should be submitted to Mr. Mickey Sugg, Post Office Box 1890, Wilmington, North Carolina 28402-1890. If you have questions, please contact Mr. Sugg at (910) 251-4811.

- NOTES:
- 1) TICKS (REGISTRATION) OBTAINED BY GPS POSITION
 - 2) VERTICAL DATUMS USED ARE
 - 3) HORIZONTAL DATUMS USED ARE
 - 4) NORTH ARROW BASED ON NAD 83
 - 5) SHOTS TAKEN BY TOPCON THEOPHET L1 AND L2 LOCK
 - 6) THE SAID OF PRECISION AS CALCULATED IS 1:100000

*Willis Tract
Flood Abatement
Ditch*



- LEGEND
- IRS - Iron Rod/Prn Set
 - CLINTER - Center Line of Intersection
 - DHE - Overhead Electric
 - GS - Ground Spot
 - TV - Top of Water
 - TCR - Top of Bank
 - INV - Invert
 - LD - Centerline of Ditch
 - LRD - Centerline of Road
 - HT - Hole 270 Sock

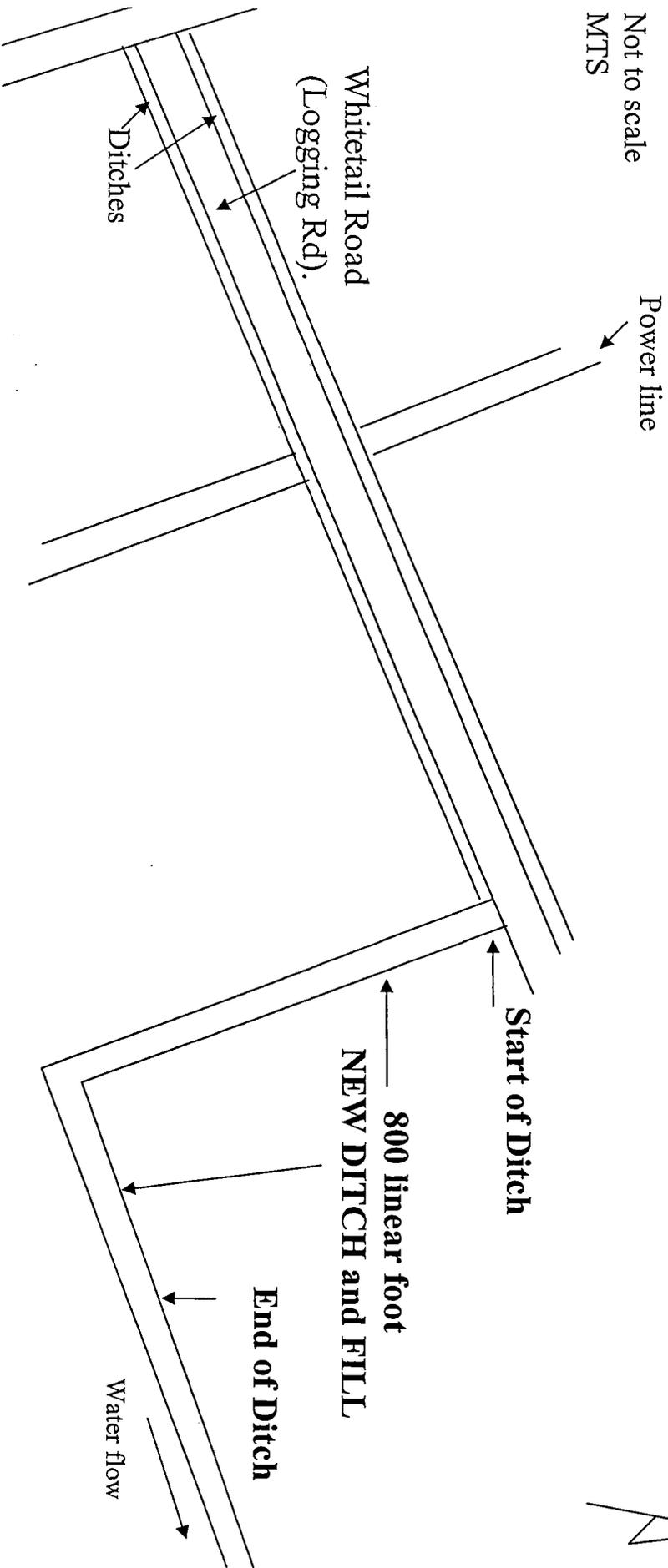


001 SCALE: 1" = 10' DATE: 02/28/06 DRAWN BY: J. BARNES CHECKED BY: J. BARNES PROJECT NO.: 001 SHEET NO.: 001	SITE ELEVATION WILLIS PROPERTY ROAD & DITCH POINTS	CAROLINA ENGINEERS P.O. DRAWER 157B NEW BERN, NC 28563 252.833.2424	REVISIONS <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	DESCRIPTION			
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Owner: Kerry Willis
ID: 200401002

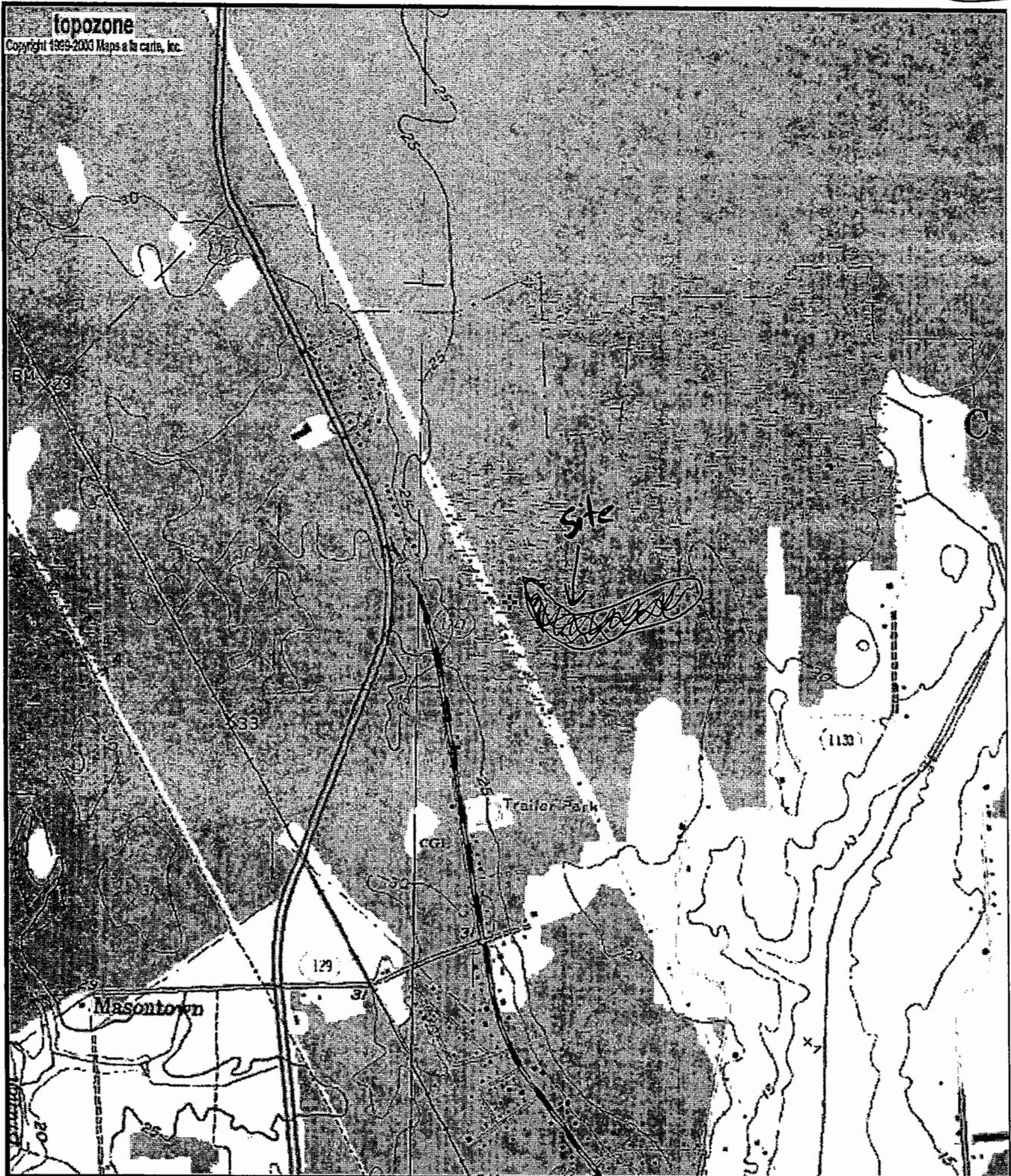
**AFTER-THE-FACT DITCH AND
FILL PROPOSAL**

Not to scale
MTS



Old Hwy 70
or Chatham Street

04-1002



0 0.3 0.6 0.9 1.2 1.5 km
 0 0.2 0.4 0.6 0.8 1 mi

Map center is UTM 18 328868E 3855114N (WGS84/NAD83)
Newport quadrangle
 Projection is UTM Zone 18 NAD83 Datum

M*
 G*
 M=-9.809
 G=-1.069

