



**US Army Corps
Of Engineers**
Wilmington District

PUBLIC NOTICE

Issue Date: March 26, 2008
Comment Deadline: April 28, 2008
Corps Action ID #: SAW-2007-2492-375

The Wilmington District, Corps of Engineers (Corps) has received an application from Mr. Thomas McKay of Bright's Creek Golf Club seeking After-the-Fact Department of the Army authorization for impacts to 214 linear feet of stream channel in an unnamed tributary to Harm Creek to facilitate the construction of an access road within Phase I of Bright's Creek Golf Club located north of US 26, near Saluda, Polk 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: Mr. Thomas McKay
117 Manly Street
Greenville, South Carolina 29601

AGENT (if applicable): Clement Riddle
ClearWater Environmental Consultants, Inc.
718 Oakland Street
Hendersonville, North Carolina 28791

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 (33 U.S.C. 1344).

Location

The subject work is located within Phase I of Bright's Creek Golf Club, off NCSR 1138 on Palmer Road, north-east of Saluda, Polk County, NC. The project is in north central Polk County at approximately 35.3288 degrees north latitude and -82.2850 degree west longitude and is in the Broad River Basin, Hydrologic Unit 03050105.

Existing Site Conditions

Bright's Creek Golf Club is located on an approximately 4,400 acre property. Approximately 981 acres have been developed into golf course and single-family residential area. The

remaining portions of the property are primarily forested or recently clear-cut. The higher elevations exhibit mixed deciduous hardwood forest. Oak-Hickory and montane oak habitats dominate the ridges and slopes. The riparian areas of Bright's Creek and its tributaries are dominated by hemlock. The surrounding area is a mix of forest, residential and agricultural land-use.

Applicant's Stated Purpose

The purpose of the proposed work is to develop a low density residential community with onsite amenities.

Project Description

Previously Authorized Work

On December 29, 2003, Mr. Barton Tuck of Bright's Creek Golf Club applied for verification that impacts to streams associated with the development of the 981-acre Phase I of Bright's Creek Golf Club would be authorized under nationwide permit (NWP) 39. In February 2004, Bright's Creek Golf Club was issued a NWP verification authorizing impacts to 290 linear feet of stream channel to accommodate the construction of a golf course and low density residential community. Approximately 180 linear feet of an unnamed tributary to Bright's Creek was to be relocated into newly constructed channel to facilitate construction of fairway #18 and approximately 110 linear feet of a separate unnamed tributary to Bright's Creek was to be culverted and filled to facilitate the construction of fairway #1.

The impacts associated with the 180 linear feet of stream relocation were considered adequately offset by the use of approved natural channel design methods for constructing the new channel. Four existing culverts were removed from and channel restoration was conducted on approximately 120 lf of stream channel as compensatory mitigation for the 110 lf of stream fill. The applicant requested and was granted a modification on this authorization in 2005 to accommodate changes in the relocation and mitigation plan. Bright's Creek has conducted mitigation activities as required under earlier permits. Copies of as-built and status of mitigation efforts were submitted to the USACE and DWQ on December 31, 2007. Bright's Creek recorded restrictive covenants on December 13, 2005 that prohibit the discharge of stormwater within 25 feet of surface waters.

In the Pre-construction Notification for the 2004 authorization the applicant stated that the 13-mile road network within Phase I would avoid impacts to streams and wetlands. To accomplish this, the applicant would make use of 14 existing crossings and install "new bridges and/or half pipes" at 17 new crossings. In discussing future project plans, the applicant acknowledges that permits may be required for future phases and that the applicant "understands that future permit applications to impact streams or wetlands will be considered cumulatively and the applicant may have to apply for an Individual Permit, if necessary."

Unauthorized Work

This After-the-fact (ATF) application for a 214 linear foot culvert includes placing approximately 71 cubic yards of CMP and clean fill in an unnamed tributary to Harm Creek (see attached impact plan). The purpose of the culvert is to provide road (Deep Gap Road West) access to portions of the Bright's Creek residential community (Figure 4 and 5).

The original land development plan was prepared by LandDesign, Inc. for all of Phase 1 at Bright's Creek. This plan had an alignment for Deep Gap West Road that differs from the final as-built alignment. The revision to this alignment was made for the following reason. The original road layout showed a portion of Deep Gap West Road built within the existing PSNC natural gas right of way for a distance of approximately 400 linear feet. Bright's Creek and William G. Lapsley (WGL) Consulting Engineers discussed this plan directly with PSNC, but it was learned that, PSNC does not allow construction of roads and heavy traffic on top of their high pressure gas main due to their internal company policy. However, PSNC has allowed Bright's Creek roads to cross the existing high pressure gas line right-of-way at perpendicular angles. These road crossings are considered minimal disturbance by PSNC.

WGL did evaluate an alternative to cross the gas line and construct Deep Gap West Road on the north side of the gas line. Based on the topographic information available, the average cross slope is 55 percent or greater (or greater than 2:1) and there is a stream at the bottom of this slope. Construction on this type of cross slope is practically impossible and was not considered to be a feasible alternative. The steep slopes on the south side of the right-of-way exceed 70 percent and were also considered to be impractical.

The installed unauthorized culvert is oversized but slightly perched. It was not imbedded into the stream due to the presence of bedrock. However, the applicant has agreed to construct a step pool structure at the outlet to connect the natural stream bed to the end of the culvert.

Avoidance and Minimization

The applicant avoided approximately 69,130 linear feet of stream during construction of Phase I. The applicant minimized impacts to streams by constructing 36 bridges on-site.

Conceptual Mitigation Plan

To offset impacts from the 214 linear feet of culvert, the applicant proposes restoration activities on 428 linear feet of Bright's Creek (Figure 6). The mitigation site, Bright's Creek, is located adjacent to Bright's Creek Golf Club property. This stream originates on the applicant's property and flows eastward into the Green River. The site is located in the Broad River watershed hydrologic unit 03050105. The stream flows through a private residence and the riparian area is in pasture for horses. The stream is highly degraded due to past activities including grazing for horses, removal of riparian zone, and severe flooding from hurricanes in 2004.

The primary goal of the restoration effort will be to restore channel dimensions, pattern, and profile yielding 428 stream mitigation credits. Currently, the stream exhibits impacts from horses, including actively eroding banks (photo 1), and over wide sections incapable of transporting sediment load (photo 2). Vertical eroding banks within this section of the reach will be graded to a stable slope that will support deep rooted woody vegetation. In-stream boulder and log structures will be installed to provide grade control and to redirect the current away from eroding banks. Bank grading will include channel dimension adjustments to address sediment transport. In-stream structures, bioengineering, and vegetation will be used to protect newly constructed channels.

A 30-foot wide riparian buffer of herbaceous and woody vegetation, native to the area, will be installed on each side of the stream to provide wildlife habitat and stability to the restored stream. Large woody debris beneficial to channel stability and habitat will be incorporated into the restoration plan, using trees removed for construction access and bank grading. Horses will be fenced out of the stream and riparian areas and the stream and buffer will be protected by restrictive covenants.

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 combined with appropriate application fee at the North Carolina Division of Water Quality central office in Raleigh will constitute initial receipt of an application for a 401 Water Quality 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 April 28, 2008.

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

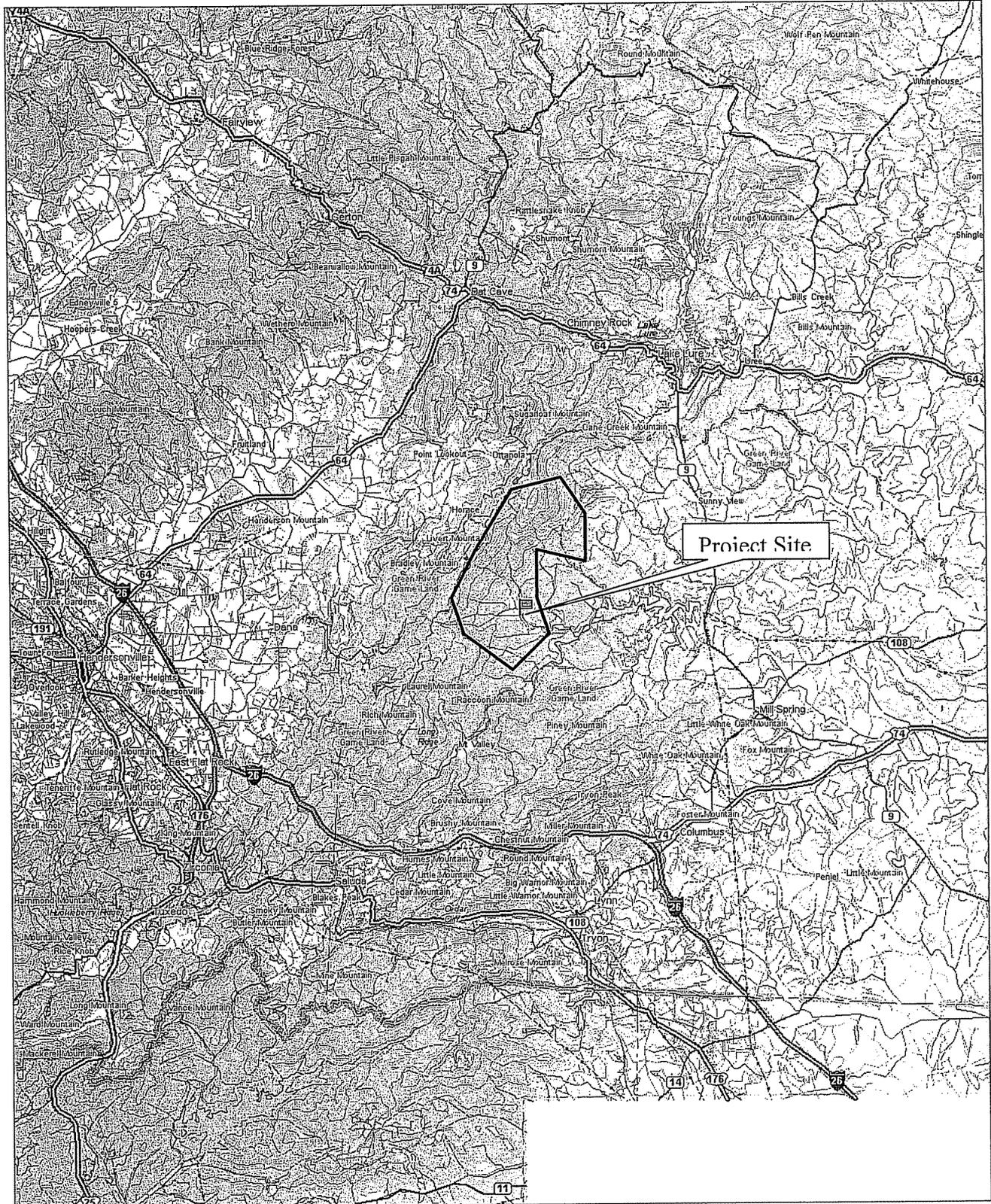
The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably 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, April 28, 2008. Comments should be submitted to Mr. Tom Walker, US Army Corps of Engineers, Asheville Regulatory Field Office, 151 Patton Avenue, Room 208, Asheville, NC 28801-5006, telephone 828-271-7980.



3-D TopoQuads Copyright © 1999 DeLorme Yarmouth, ME 04096 1 mi Scale: 1: 400,000 Detail: 9-0 Datum: WGS84

Bright's Creek
Polk County
North Carolina

CLEARWATER
 Environmental Consultants, Inc.
 718 Oakland Street
 Hendersonville, 28791
 828-698-9800

Vicinity Map
Figure 1

BRIGHT'S CREEK

Total project area 4,284 acres

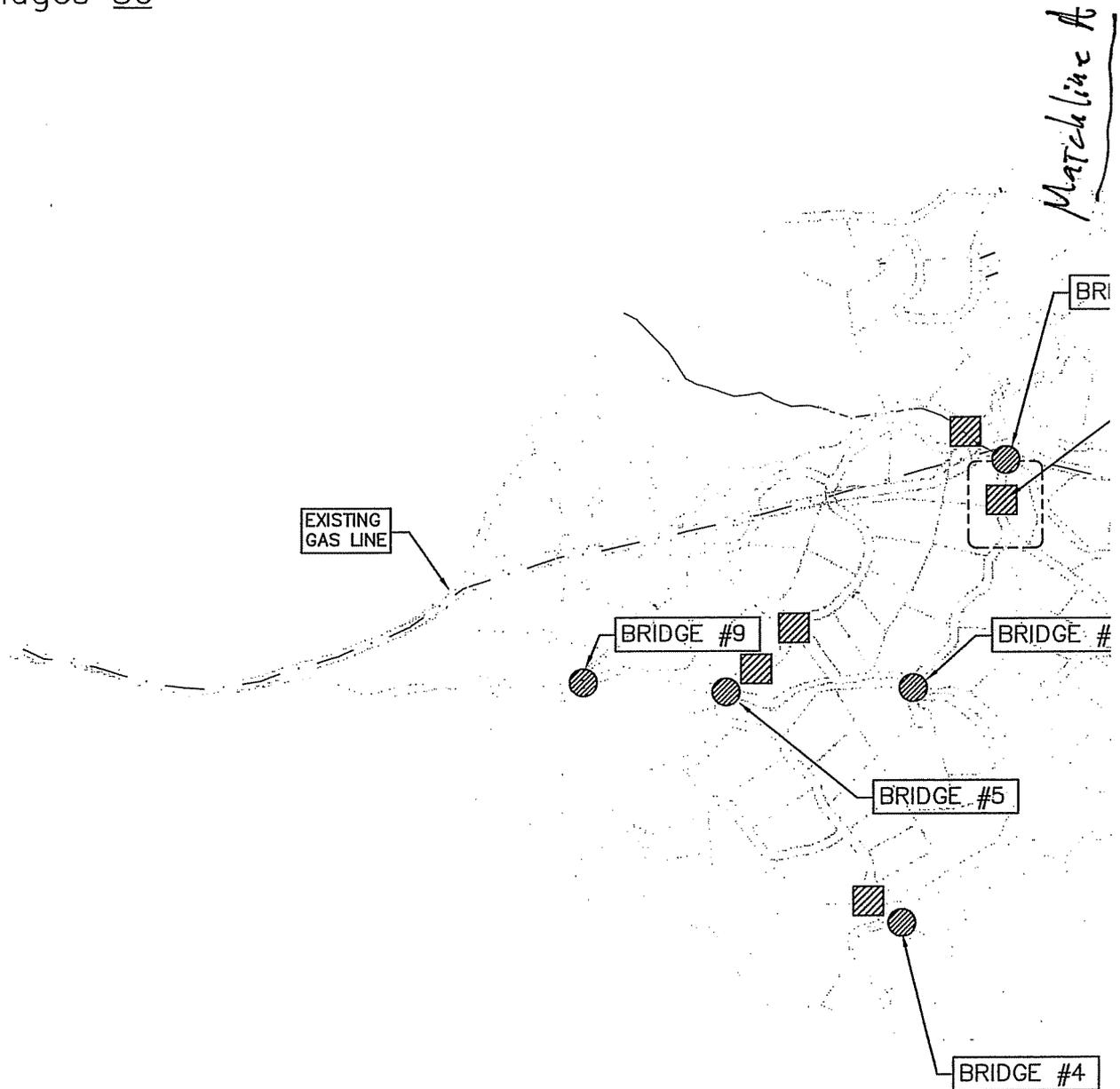
Phase 1 981 acres

After-the-fact 214 LF

Previously authorized impacts 290 LF (USACE Action Id. 2004.

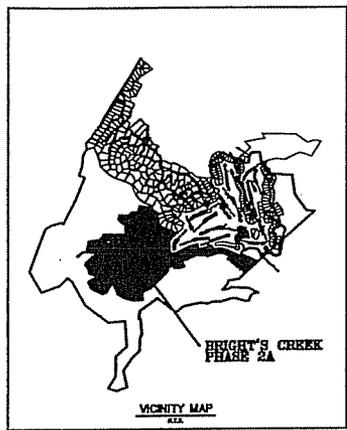
Streams avoided 69,130 LF

Bridges 36

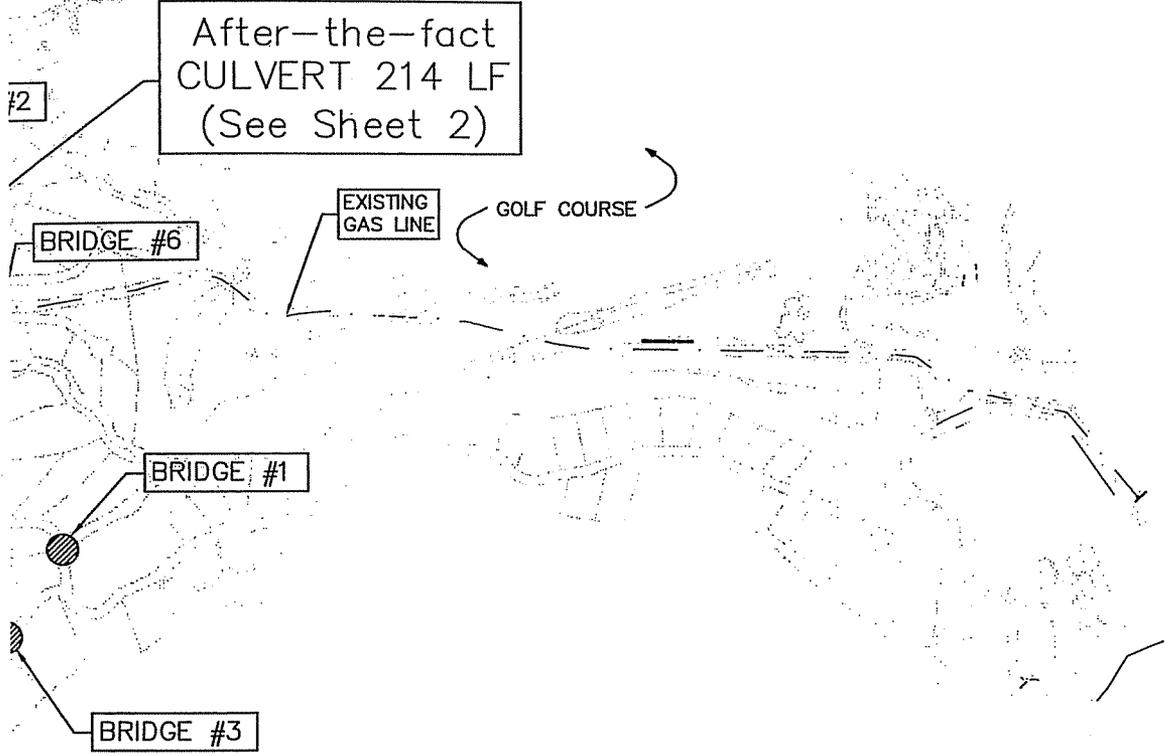


37)
 Mainline A

BRIGHT'S CREEK
 PHASE 1



WILLIAM G. LAPSLEY & ASSOCIATES P.A.
 CONSULTING ENGINEERS & LAND PLANNERS
 HENDERSONVILLE, NORTH CAROLINA



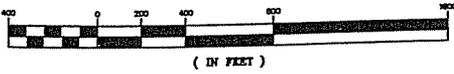
BRIGHT'S CREEK
 MILL SPRING
 FOLK COUNTY
 NORTH CAROLINA

LEGEND

-  BRIDGE
-  EXISTING CULVERT - REPLACEMENT



GRAPHIC SCALE



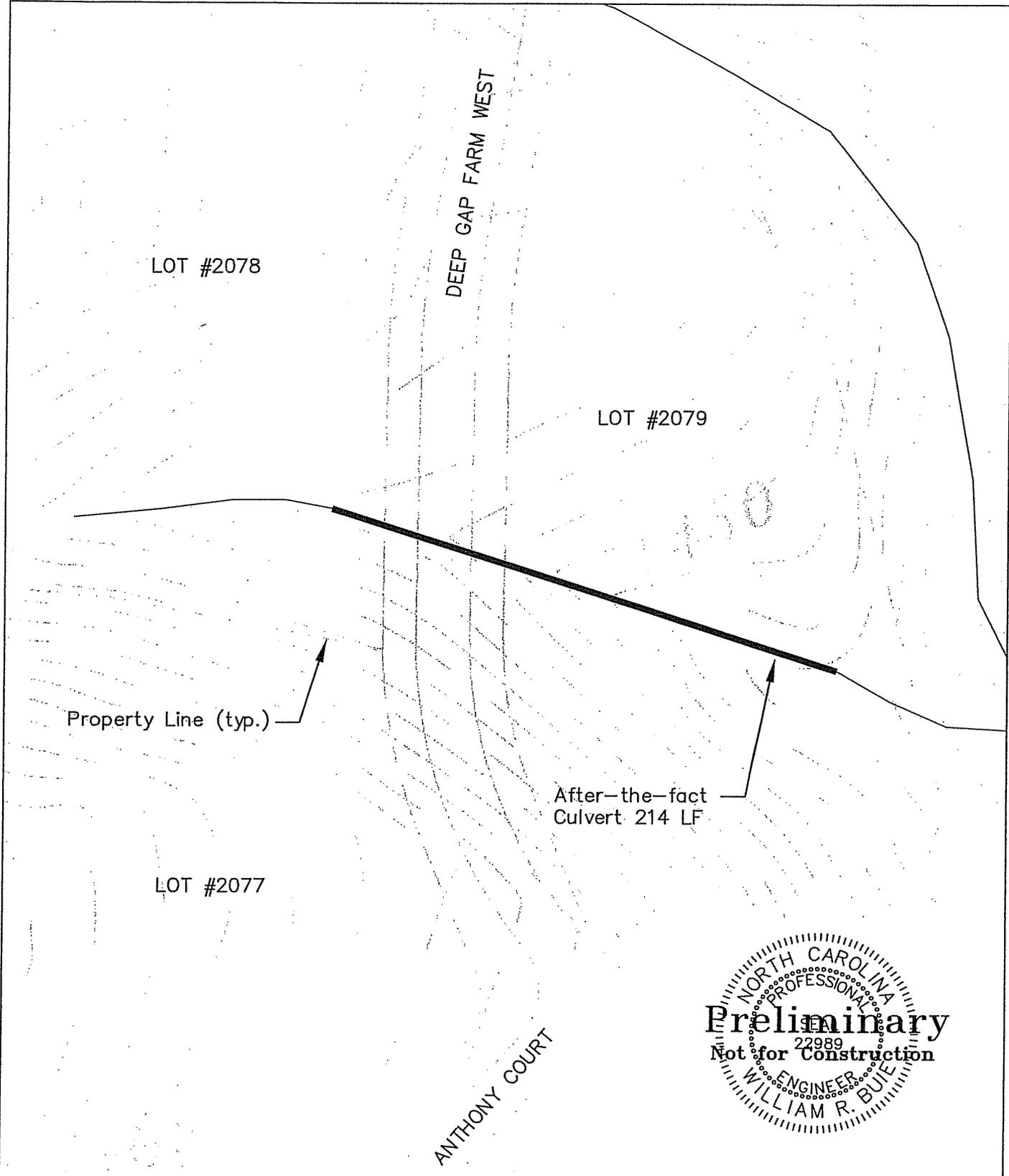
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Revisions

date:10/05
 job: 05148
 drawn: WSC

PHASE 1
 SITE PLAN

Figure
 4



WILLIAM G. LAPSLEY & ASSOCIATES, P.A.
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BRIGHT'S CREEK
 MILL SPRING
 POLK COUNTY
 NORTH CAROLINA

Phase I
 ATF
 Culvert

Figure 5
 SCALE: 1"= 50'