



US Army Corps
Of Engineers
Wilmington District

PUBLIC NOTICE

Issue Date: September 17, 2008
Comment Deadline: October 17, 2008
Corps Action ID #: 200802598

The Wilmington District, Corps of Engineers (Corps) has received an application from Mr. Carlton Midyette, seeking Department of the Army authorization for permanent impacts to 0.322 acre of jurisdictional bottomland hardwood forested wetlands, and 2,165 linear feet of perennial stream channel. The impacts listed above are associated with the construction of a dam and subsequent stream flooding to construct a lake, and one road crossing on Mr. Midyette's 400 acre private cattle farm, in Franklin 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. Carlton Midyette
8310 Bandford Way
Raleigh, NC 27615

Agent: Soil & Environmental Consultants, PA
Attn: Nicole Thomson
11010 Raven Ridge Rd.
Raleigh, NC 27614

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 proposed project location is located on an existing 400 acre private cattle farm, located between Gooseberry Lane and N. Pastures Trail, off Cedar Creek Rd. near Franklinton, Franklin County, North Carolina. Coordinates, in decimal degrees, for the project site are 36.0586° N, -78.4291° W. The project site contains several wetlands and unnamed stream channels which drain to Cedar Creek in the Tar-Pamlico River Basin (8-Digit Cataloging Unit of 03020101).

Existing Site Conditions

The proposed project would result in the creation of a 10+ acre recreational lake within the existing 400 acre farm. Overall, the project study area is bordered to the east by SR 1105 (Mays Crossroads Rd.), to the west by SR 1116 (Cedar Creek Rd.), and to the south by Hill Rd. The existing conditions within this project segment include portions of active cattle pasture, uplands, several wetlands, and several unnamed streams draining to Cedar Creek in the Tar-Pamlico River Basin. A Corps jurisdictional delineation field review for verification of the limits of waters of the U.S. on the property subject to our regulatory authority is pending.

Applicant's Stated Purpose

The project purpose for the proposed activity is to construct a dam on an unnamed tributary (UT) to Cedar Creek and create a 10+ acre recreational lake on the property.

Project Description

This proposal is to construct a dam and on road crossing on a UT to Cedar Creek. The design would call for some excavation within the proposed pond footprint to form the banks of the pond and confine it within the proposed impact area. Total permanent impacts from this proposal are 0.322 acre of jurisdictional wetlands, and 2,165 linear feet of perennial stream channel.

To mitigate for permanent impacts to jurisdictional wetlands and streams, the applicant has proposed a 13:1 mitigation ratio for wetland preservation and a 3:1 mitigation ratio for stream preservation by the preservation of 4.32 acres of contiguous bottomland hardwood forested wetlands, approximately 6,200 linear feet of channel, and approximately 20 acres of protected Tar-Pamlico riparian buffer, through the installation of fences to permanently restrict cattle use in these areas. No other forms of mitigation have been proposed for this project.

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 October 10, 2008.

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 one federally endangered species, the Dwarf Wedge Mussel (*Alasmidonta heterodon*), has been documented within 5,765 feet (1.1 mile) upstream of the 400 acre property boundaries in Cedar Creek upstream of the tributary that the proposed pond will be impacting. Based on the available information, the Corps has not determined whether the proposed project will have an effect on federally listed endangered or threatened species or their formally designated critical habitat, pursuant to the Endangered Species Act of 1973.

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.

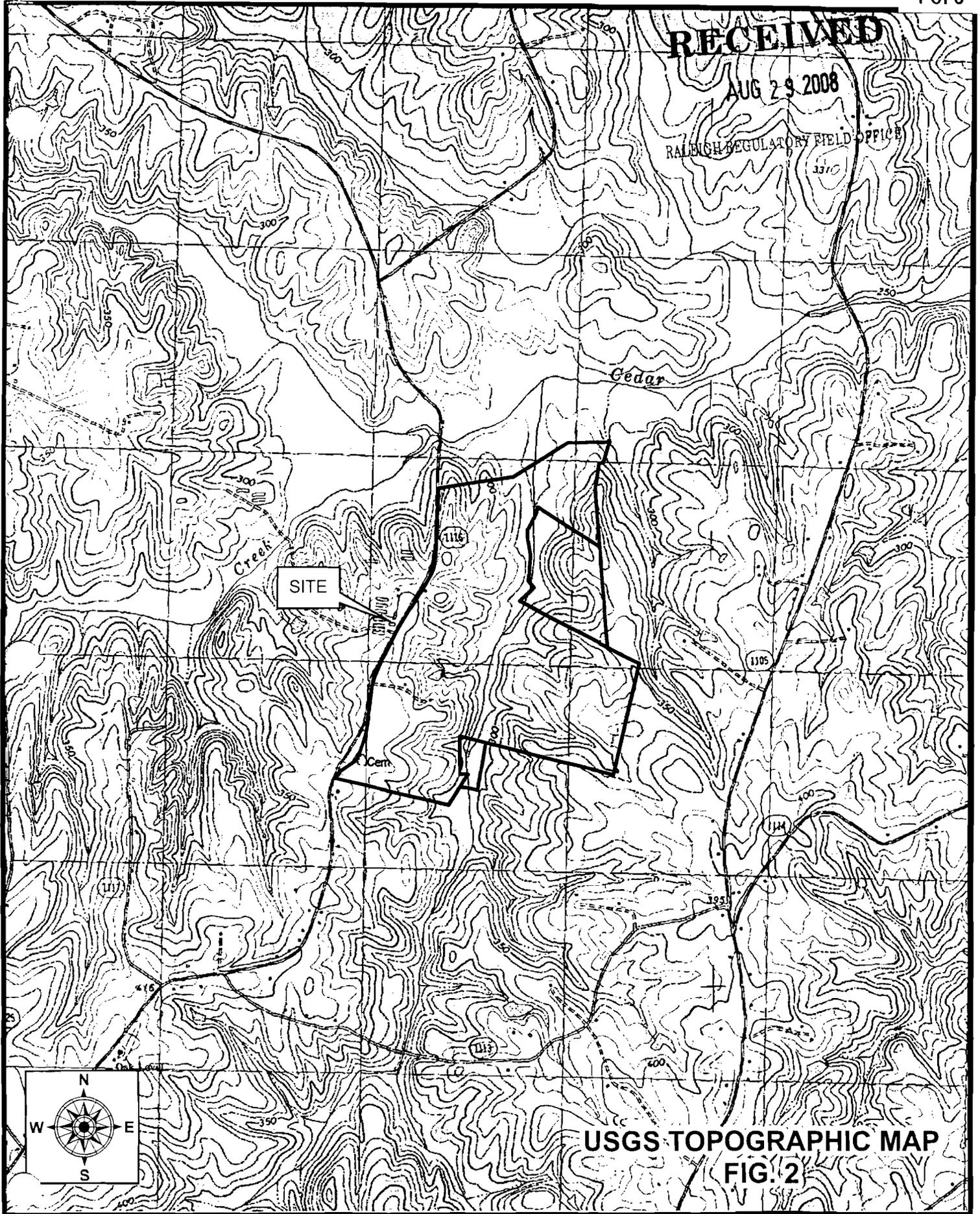
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless 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, October 17, 2008. Comments should be submitted to Mr. James Lastinger, (919) 554-4884, Ext. 32, Raleigh Regulatory Field Office, 3331 Heritage Trade Drive, Suite 105, Wake Forest, North Carolina 27587.

RECEIVED

AUG 29 2008

RALEIGH REGULATORY FIELD OFFICE



Project No. 5931.W4	Scale: 1" = 2000'
Project Mgr. NT	Drawn By: MM
Date: 8/28/08	

**MIDYETTE FARM
FRANKLIN CO. POND
FRANKLIN COUNTY, NC**

SOURCE:
FRANKLINTON
USGS QUADRANGLE
DATED: 1999



11010 Raven Ridge Rd.
Raleigh, NC 27614
919-846-5900

MIDYETTE FARM
FRANKLIN CO. POND
FRANKLIN COUNTY, NC

LEGEND

-  IMPACTED PERENNIAL STREAM
-  JURISDICTIONAL WETLAND
-  LINEAR WETLAND
-  PROPOSED POND FOOTPRINT
-  PROPOSED POND DAM
-  PROPERTY LINE

IMPACT TOTALS:

INSET 1: DAM-FILL IMPACTS

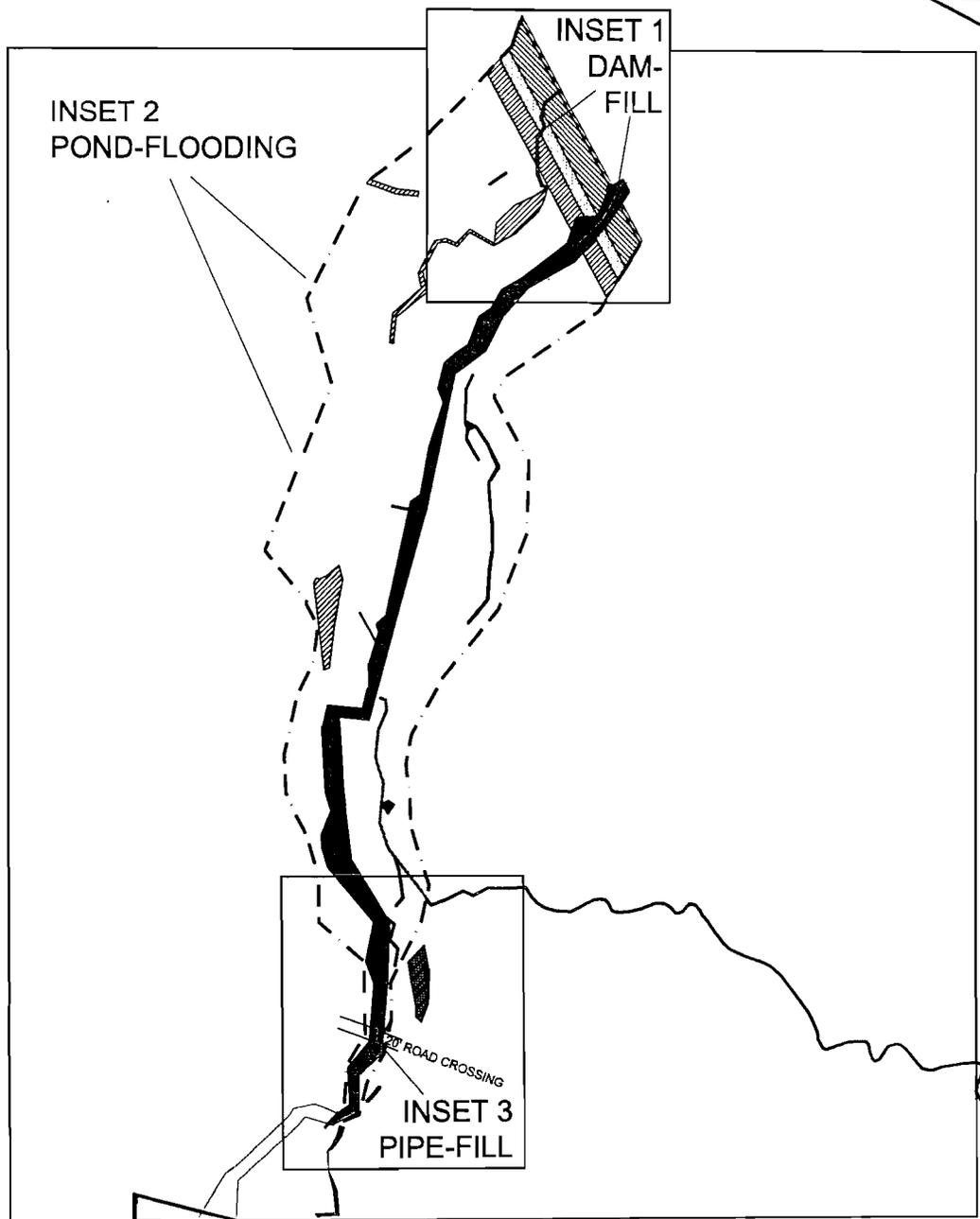
STREAM: 128 LF
3902 SF / 0.089 AC
WETLAND: 530 SF / 0.012 AC

INSET 2:
POND-FLOODING IMPACTS

STREAMS: 2017 LF
41579 SF / 0.954 AC
WETLANDS:
13500 SF / 0.310 AC

INSET 3: PIPE-FILL IMPACT

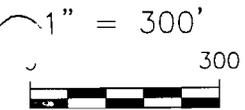
STREAM: 20 LF
470 SF / 0.011 AC



NON-IMPACTED PERENNIAL STREAM

NON-IMPACTED WETLANDS

GRAPHIC SCALE



IMPACT MAP
FIG. 5

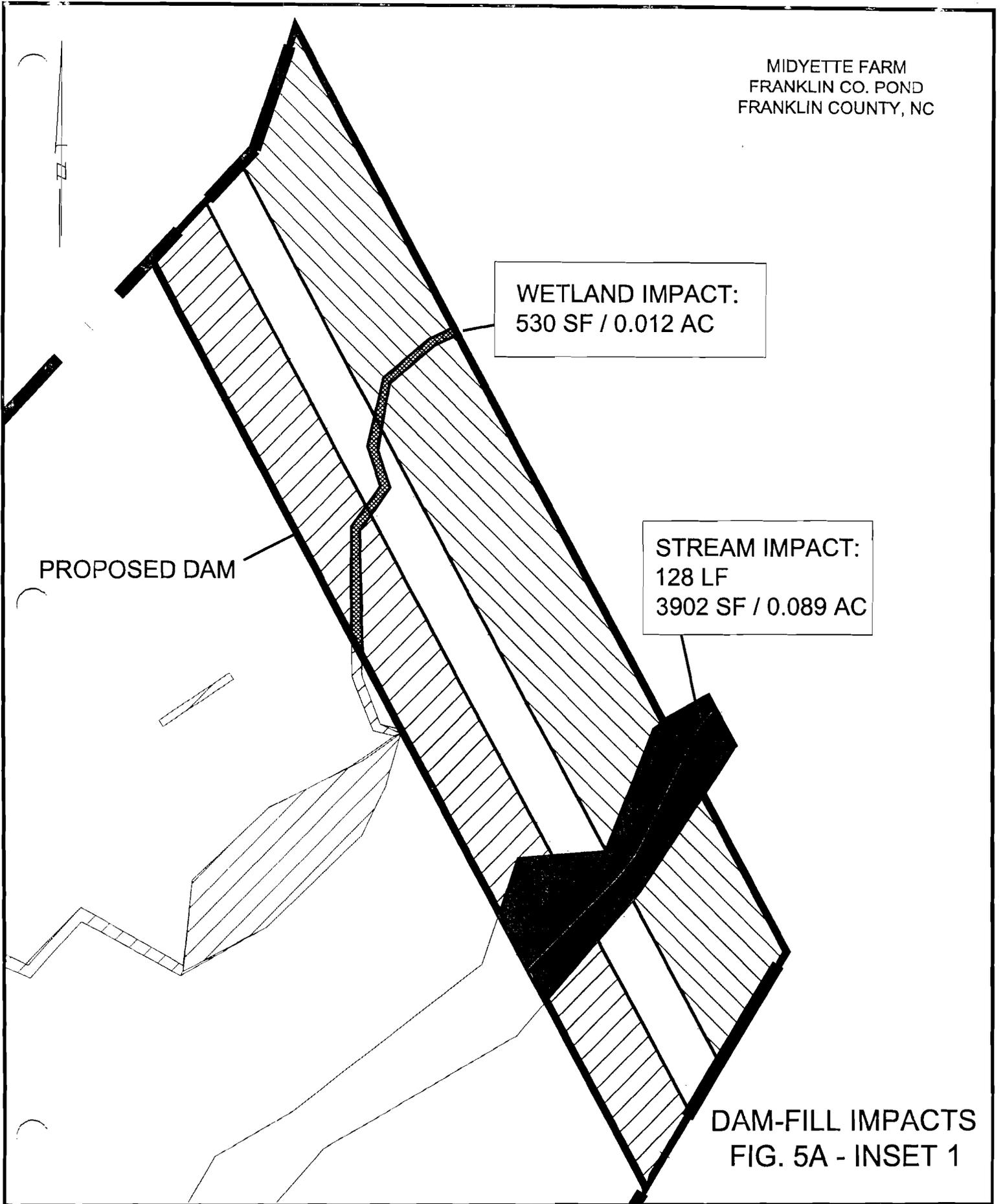
MIDYETTE FARM
FRANKLIN CO. POND
FRANKLIN COUNTY, NC

WETLAND IMPACT:
530 SF / 0.012 AC

STREAM IMPACT:
128 LF
3902 SF / 0.089 AC

PROPOSED DAM

DAM-FILL IMPACTS
FIG. 5A - INSET 1



MIDYETTE FARM
FRANKLIN CO. POND
FRANKLIN COUNTY, NC

WETLAND IMPACTS:
13500 SF / 0.310 AC

STREAM IMPACTS:
2017 LF
41,579 SF / 0.954 AC

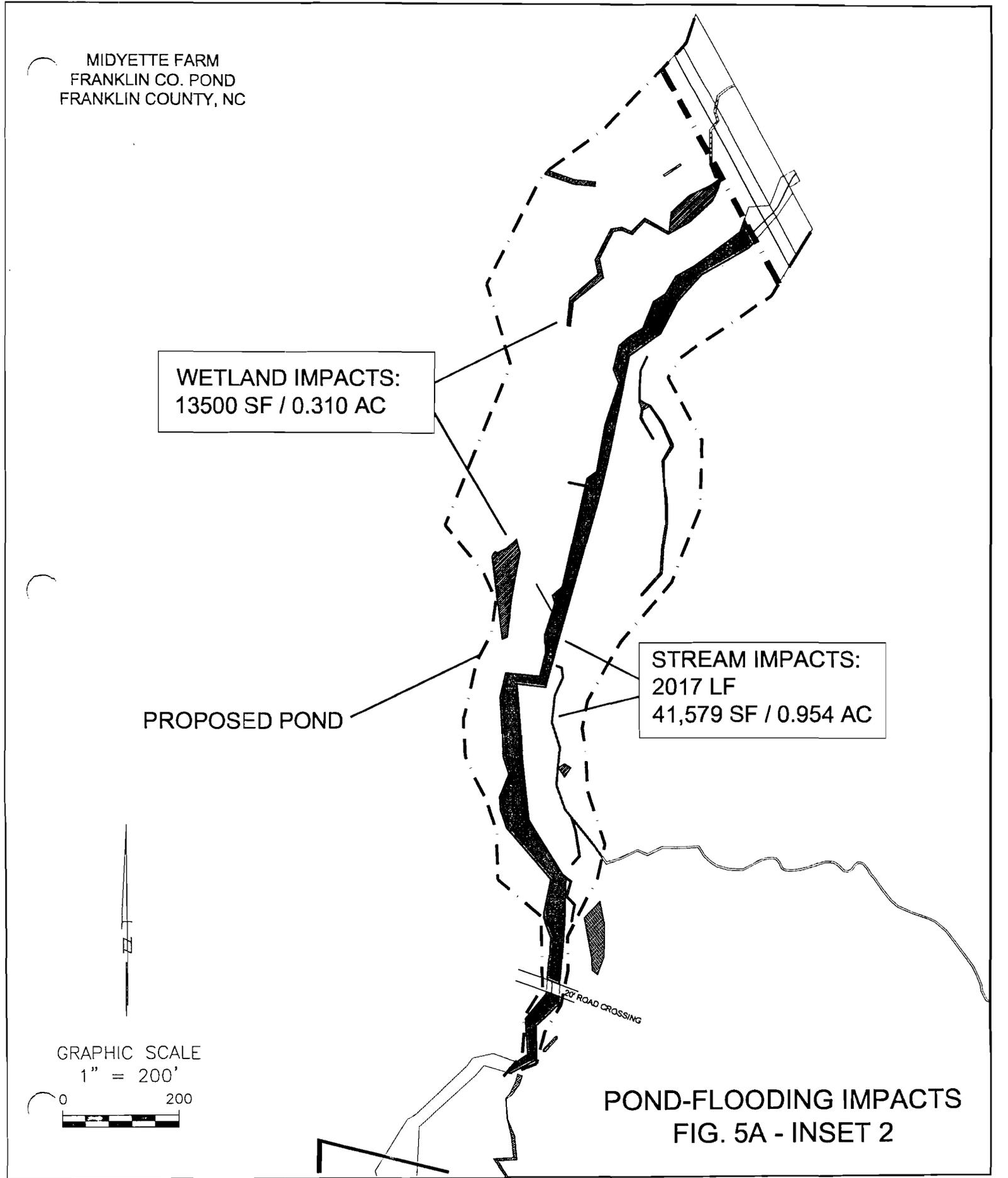
PROPOSED POND

20' ROAD CROSSING

GRAPHIC SCALE
1" = 200'



POND-FLOODING IMPACTS
FIG. 5A - INSET 2



MIDYETTE FARM
FRANKLIN CO. POND
FRANKLIN COUNTY, NC

20' ROAD CROSSING

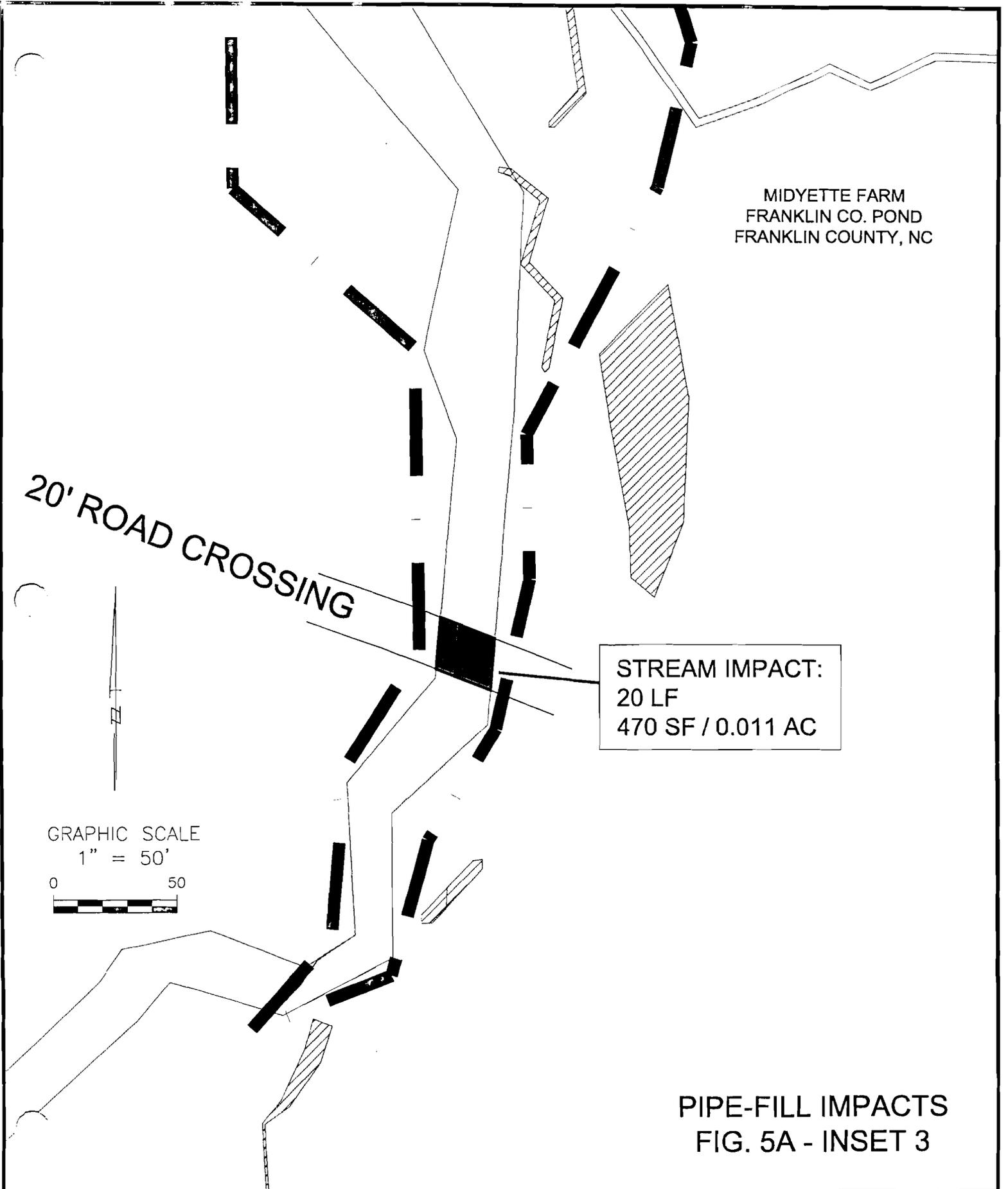
STREAM IMPACT:
20 LF
470 SF / 0.011 AC

GRAPHIC SCALE

1" = 50'

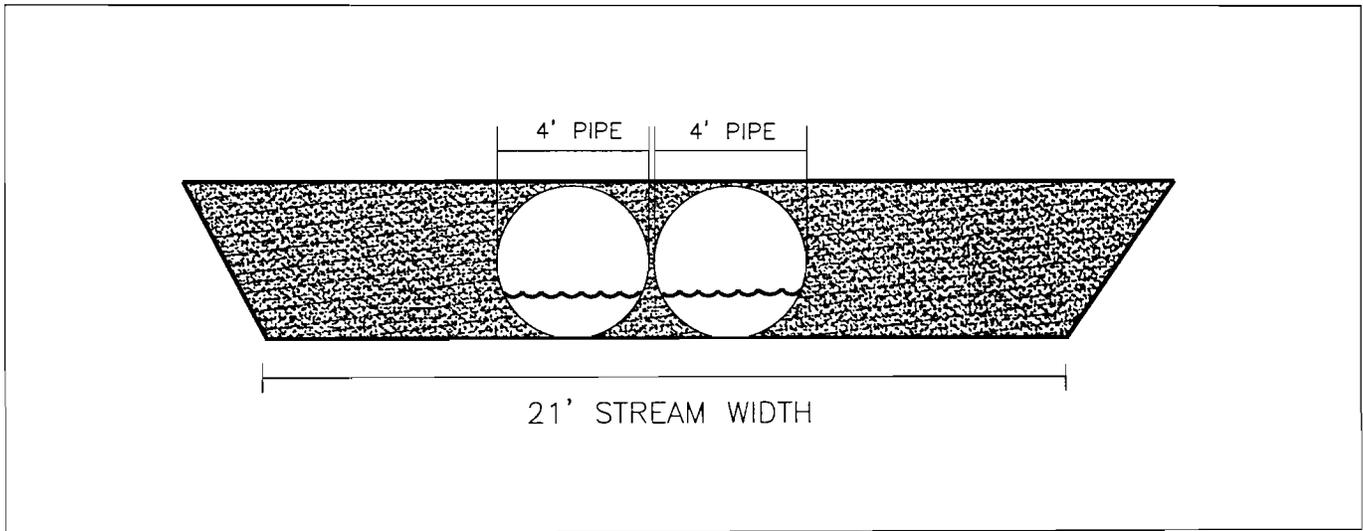


PIPE-FILL IMPACTS
FIG. 5A - INSET 3



MIDYETTE FARM
FRANKLIN CO. POND
FRANKLIN COUNTY, NC

PIPE-FILL IMPACT
STREAM: 20 LF
470 SF
0.011 AC



GRAPHIC SCALE
1" = 5'



PIPE-FILL X-SECTION
(SEE FIG. 5A INSET 3)
FIG. 6