

# **PUBLIC NOTICE**

Issue Date: September 19, 2014 Comment Deadline: October 17, 2014 Corps Action ID Number: SAW-2010-01219

The Wilmington District, Corps of Engineers (Corps) received an application from the North Carolina Department of Transportation (NCDOT), in consultation with the Federal Highway Administration (FHWA), seeking Department of the Army (DA) authorization to permanently impact 2.9 acres of riparian riverine wetlands and 567 feet of warm water stream associated with safety improvements to the existing US 70 corridor including construction of new grade separated interchanges with associated approachs in place of existing at-grade interchanges in Johnson County, North Carolina. (NCDOT TIP No.W-5107)

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:

http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram.aspx

**Applicant:** North Carolina Department of Transportation (NCDOT)

Attn: Mr. Tim M. Little P.E.

NCDOT / Division 4 Post Office Box 3165

Wilson, North Carolina 27895

## **Authority**

The Corps evaluates this application and decides whether to issue, conditionally issue, or deny the proposed work pursuant to applicable procedures of the following Statutory Authorities:

Section 404 of the Clean Water Act (33 U.S.C. 1344)
Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)
 Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

#### Location

Directions to Site: The site location is within the US 70 corridor east of I-95, from Firetower Road (SR 2305) to east of Davis Mill - Stevens Chapel Road (SR 2310) near the Town of Smithfield, Johnston County, North Carolina (Figure 1).

Project Area (acres): 2.7 miles Nearest Town: Smithfield Nearest Waterway: Neuse River River Basin: Neuse River Latitude and Longitude: Approximate center at 35.57389 N, -78.58389 W



Figure 1

# **Existing Site Conditions**

The study area lies in the coastal plain physiographic region of North Carolina. Topography in the project vicinity is comprised of gently rolling hills with narrow, level floodplains and moderately steep slopes along streams. Elevations in the study area range from 140 to 165 feet above mean sea level. Land use in the project vicinity consists of primarily residential, commercial, and agricultural uses along roadways and in uplands and forested lands occupying stream corridors and other undeveloped areas.

Water resources in the study area are part of the Neuse River Basin (United States Geological Survey [USGS] Hydrologic Unit Code (HUC) 03020201). Three jurisdictional streams were identified in the study area; Bawdy Creek, Quincosin Swamp and an unnamed tributary of Quincosin Swamp. There are no trout waters, designated anadromous fish spawning areas or Primary Nursery Areas present in the study area.

Based on the North Carolina 2006 Final 303(d) list of impaired waters, there are no impaired waters located within one mile of the study area. No High Quality Waters (HQW), Outstanding Resource Waters (ORW), or WS-I or WS-II waters occur within one mile of the study area.

Five terrestrial communities were identified in the study area: maintained/disturbed areas, mesic mixed hardwood forest (coastal plain subtype), mesic pine flatwoods, coastal plain small stream swamp (blackwater subtype), and coastal plain bottomland hardwoods (blackwater subtype).

A wetland identification and preliminary assessment analysis for the study area was performed and wetlands were delineated based on the 1987 U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual. Wetland delineations were completed in May 2009. The wetlands located in the western portion of the study area are part of the coastal plain bottomland hardwoods community, while wetlands in the eastern portion of the study area are comprised of coastal plain small stream swamp community.

# **Applicant's Stated Purpose**

The purpose of the project is to improve the mobility of vehicular travel along US 70. The proposed improvements are needed to safely accommodate future traffic volumes along this section of the Strategic Highway Corridor. The proposed project would implement safe access management measures within the freeway concept consistent with the US 70 Access Management Study (NCDOT July 2005) and the US 70 Master Plan map for Johnston County (US 70 Corridor Commission July 2009). Secondary benefits from the proposed project include a reduction in the number of potential vehicular conflicts inherent with at-grade intersections.

# **Project Description**

The applicant proposes to construct grade-separated interchanges at the intersection of US 70 with US 70 Business-Peedin Street Extension (SR 2308) and with Stevens Chapel Road-Davis Mill Road (SR 2310) and to close median openings at the intersections of US 70 with Firetower Road (SR 2305), Creech's Mill Road-Peedin Road (SR 2309), Pine Street-Pine Valley Road, Linden Street, and a private driveway east of Stevens Chapel Road-Davis Mill Road. Project construction includes several culvert extensions as well as several new location culverts. The length of the project is approximately 2.7 miles.

#### **Avoidance and Minimization**

The applicant provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: All jurisdictional features were delineated and surveyed within the corridor for W-5107. Using these surveyed features, preliminary designs were adjusted to avoid and/or minimize impacts to jurisdictional areas. NCDOT employs many strategies to avoid and minimize impacts to jurisdictional areas in all of its designs. Many of these strategies have been incorporated into BMP documents that have

been reviewed and approved by the resource agencies and which will be followed throughout construction. All wetland areas not affected by the project will be protected from unnecessary encroachment. Individual avoidance and minimization items are as follows:

- No staging of construction equipment or storage of construction supplies will be allowed in wetlands or near surface waters.
- The project was designed to avoid or minimize disturbance to aquatic life movements.
- NCDOT and its contractors will not excavate, fill, or perform land clearing activities within Waters of the U.S. or any areas under the jurisdiction of the USACE, except as authorized by the USACE. To ensure that all borrow and waste activities occur on high ground, except as authorized by permit, the NCDOT shall require its contractors to identify all areas to be used to borrow material, or to dispose of dredged, fill or waste material. Documentation of the location and characteristics of all borrow and disposal sites associated with the project will be available to the USACE on request.
- Storm water will be treated using grass swales
- Sediment and erosion control measures shall adhere to the Design Standards in Sensitive Watersheds during construction of the project.
- The use of hand clearing rather than mechanized clearing where possible.

# **Compensatory Mitigation**

The applicant offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment: The proposed impacts to jurisdictional areas within the project limits will require compensatory mitigation. Impacts to 567 linear feet of stream and 2.9 acres of wetlands will be mitigated through the in-lieu fee program administered by the North Carolina Ecosystem Enhancement Program (NCEEP)..

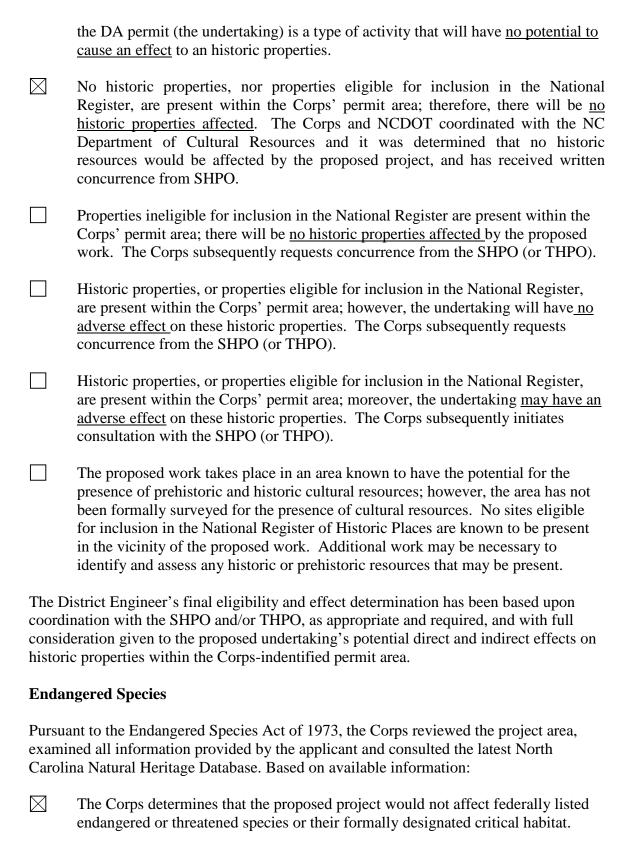
### **Essential Fish Habitat**

Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, this Public Notice initiates the Essential Fish Habitat (EFH) consultation requirements. The Corps' determination is that the proposed project will not affect EFH or associated fisheries managed by the South Atlantic or Mid Atlantic Fishery Management Councils or the National Marine Fisheries Service.

### **Cultural Resources**

Pursuant to Section 106 of the National Historic Preservation Act of 1966, Appendix C of 33 CFR Part 325, and the 2005 Revised Interim Guidance for Implementing Appendix C, the District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

Should historic properties, or properties eligible for inclusion in the National
Register, be present within the Corps' permit area; the proposed activity requiring



	The Corps determines that the proposed project may affect federally listed endangered or threatened species or their formally designated critical habitat.  The Corps initiates consultation under Section 7 of the ESA and will not make a permit decision until the consultation process is complete.
	The Corps is not aware of the presence of species listed as threatened or endangered or their critical habitat formally designated pursuant to the Endangered Species Act of 1973 (ESA) within the project area. The Corps will make a final determination on the effects of the proposed project upon additional review of the project and completion of any necessary biological assessment and/or consultation with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.
Other	Required Authorizations

The Corps forwards this notice and all applicable application materials to the appropriate State agencies for review.

North Carolina Division of Water Resources (NCDWR): The Corps will generally not make a final permit decision until the NCDWR issues, denies, or waives the state Certification as required by Section 401 of the Clean Water Act (PL 92-500). The receipt of the application and this public notice, combined with the appropriate application fee, at the NCDWR Central Office in Raleigh constitutes initial receipt of an application for a 401 Certification. A waiver will be deemed to occur if the NCDWR fails to act on this request for certification within sixty days of receipt of a complete application. Additional information regarding the 401 Certification may be reviewed at the NCDWR Central Office, Transportation Permitting Unit, 512 North Salisbury Street, Raleigh, North Carolina 27604-2260. All persons desiring to make comments regarding the application for a 401 Certification should do so, in writing, by October 17, 2104 to:

NCDWR Central Office
Attention: Ms. Amy Chapman, Transportation Permitting Unit
(USPS mailing address): 1617 Mail Service Center, Raleigh, NC 27699-1617
Or,
(physical address): 512 North Salisbury Street, Raleigh, North Carolina 27604

### North Carolina Division of Coastal Management (NCDCM):

The application did not include a certification that the proposed work complies
with and would 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 cannot issue a Department of Army (DA) permit for the
proposed work until the applicant submits such a certification to the Corps and
the NCDCM, and the NCDCM notifies the Corps that it concurs with the

applicant's consistency certification. As the application did not include the consistency certification, the Corps will request, upon receipt,, concurrence or objection from the NCDCM.

Based upon all available information, the Corps determines that this application for a Department of Army (DA) permit does not involve an activity which would affect the coastal zone, which is defined by the Coastal Zone Management (CZM) Act (16 U.S.C. § 1453).

#### Evaluation

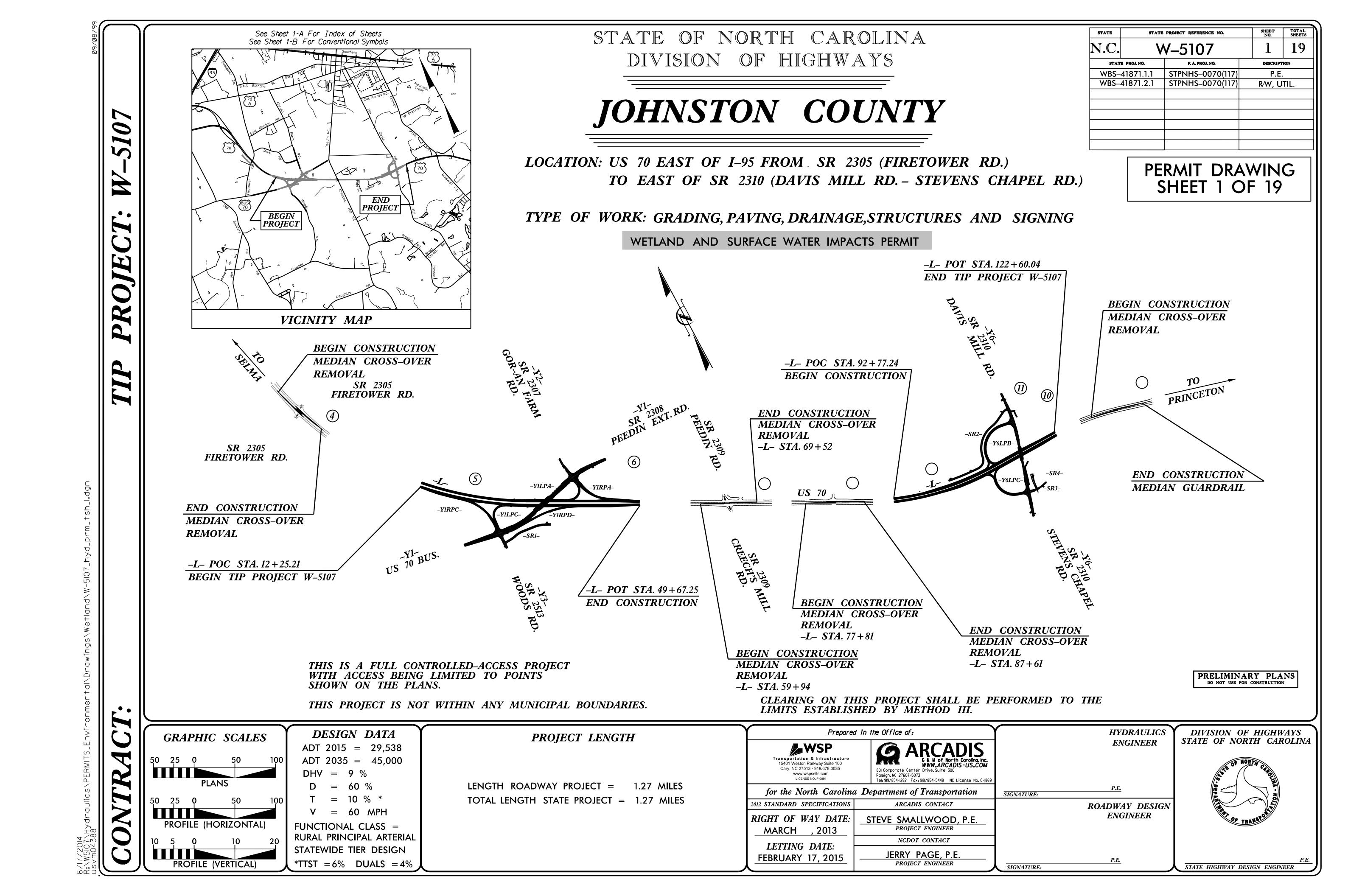
The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably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

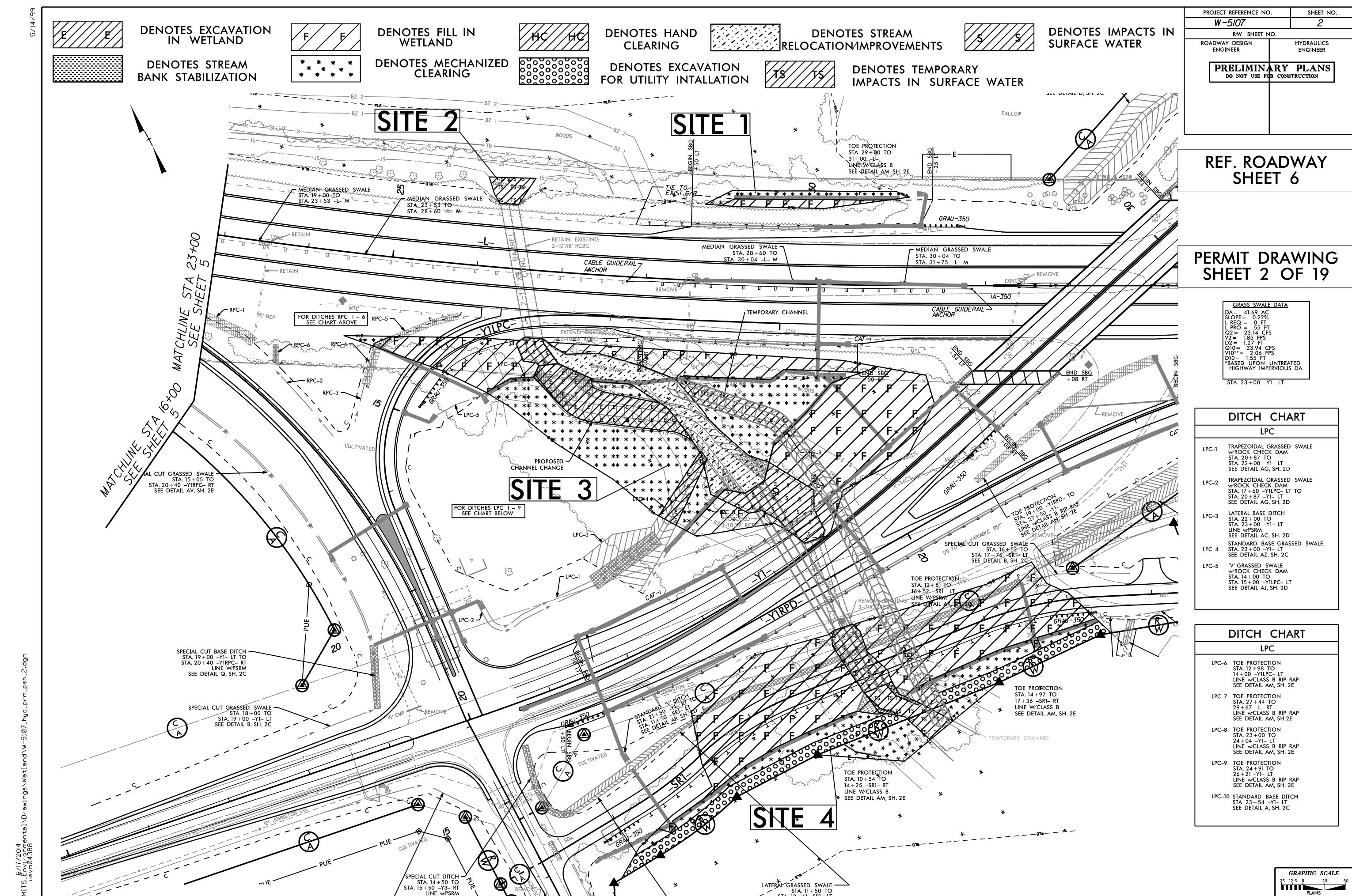
### **Commenting Information**

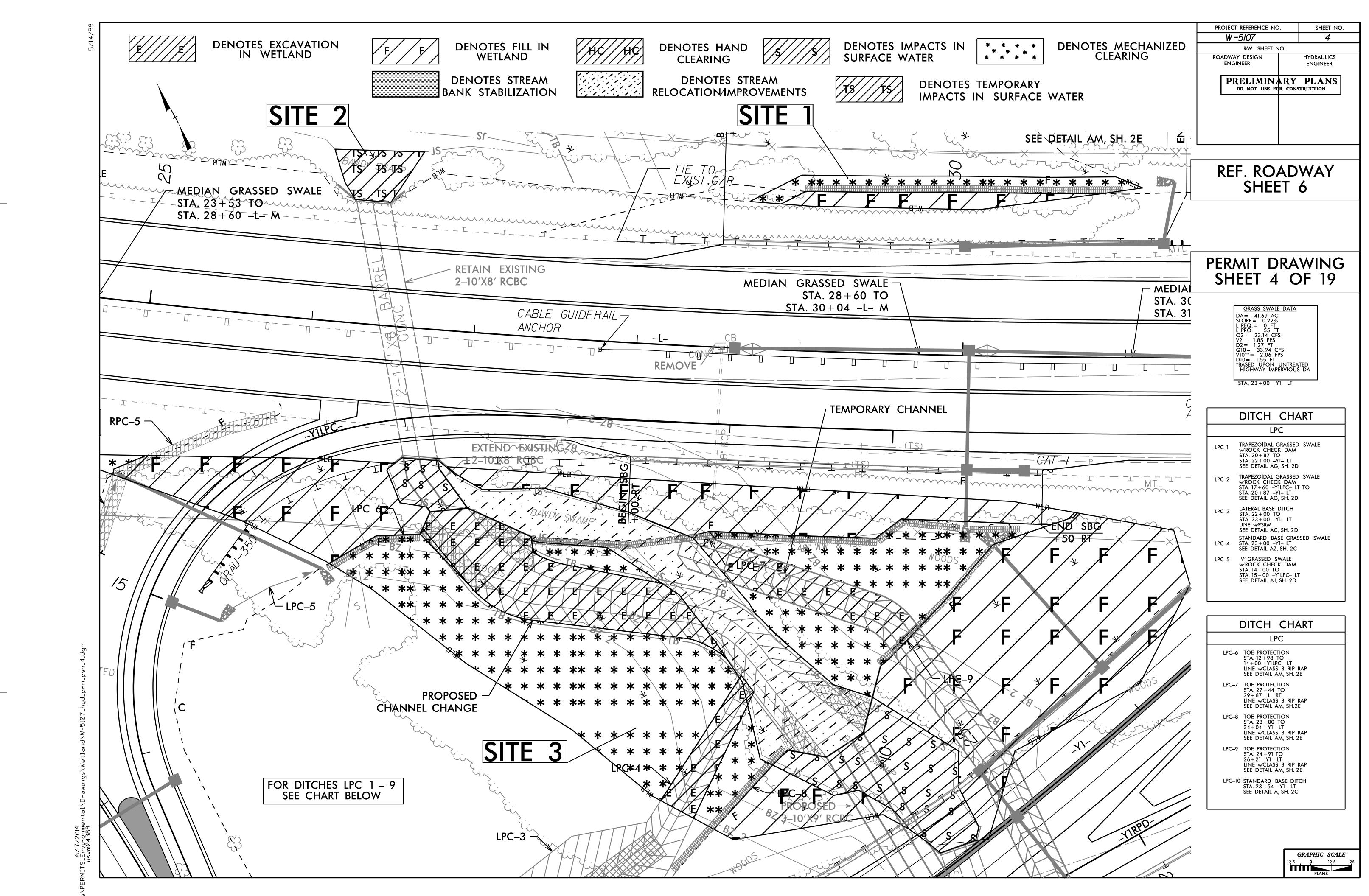
The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials, including any consolidated State Viewpoint or written position of the Governor; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. 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.

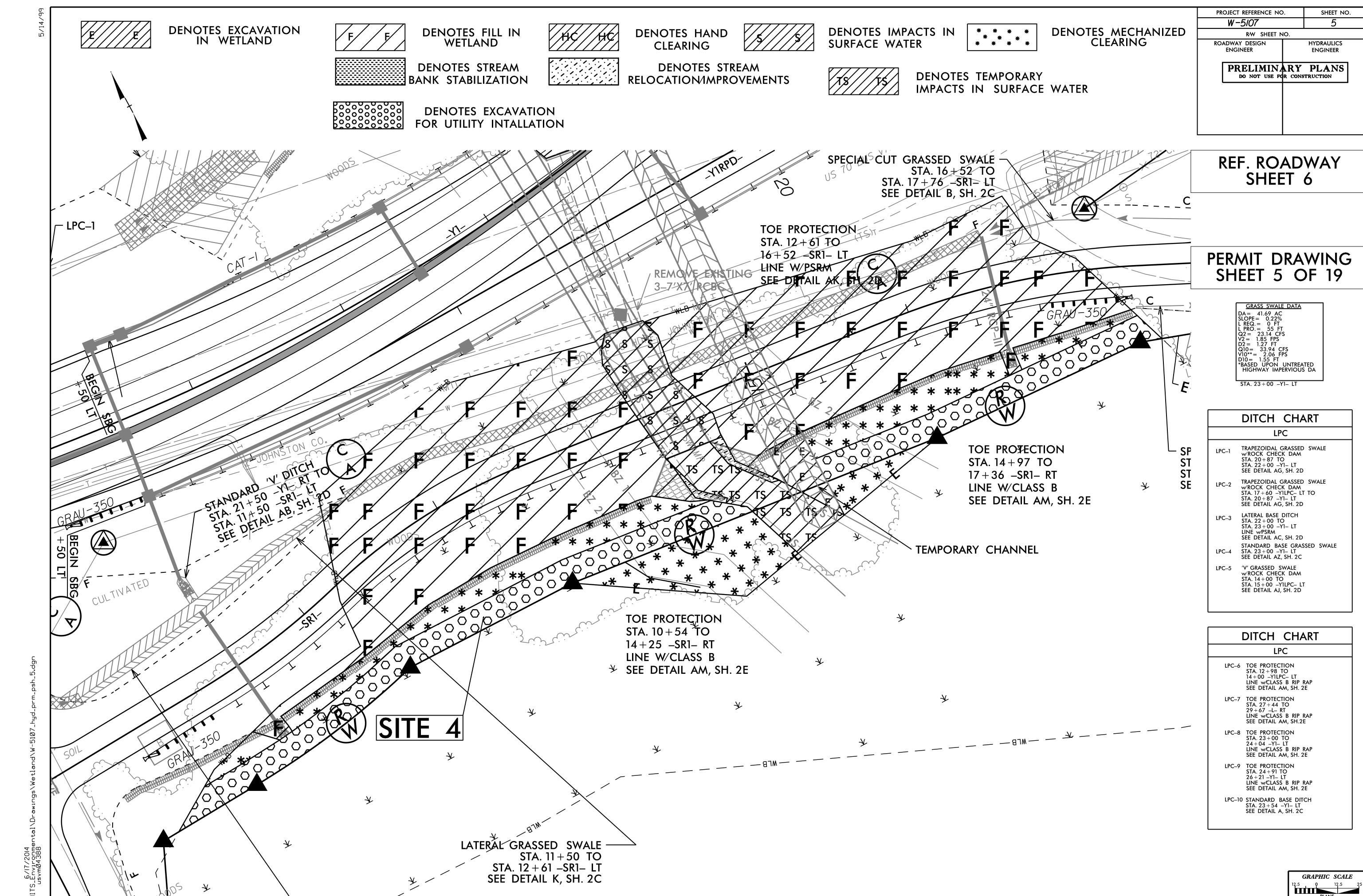
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing shall be granted, unless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

The Corps of Engineers, Wilmington District will receive written comments pertinent to the proposed work, as outlined above, until 5pm, October 17, 2014. Comments should be submitted to Mr. Thomas Steffens, Washington Regulatory Field Office, 2407 West Fifth Street, Washington, North Carolina 27889, at (910) 251-4615.









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