

**Attachment 6**

File No. 2009-00722

FINAL ENVIRONMENTAL ASSESSMENT  
STATEMENT OF FINDINGS  
AND  
FINDINGS OF NO SIGNIFICANT IMPACT

**ALABAMA DEPARTMENT OF TRANSPORTATION**

Application for Deposit of Fill Material Associated with Wetland and Stream Fill for Additional  
Lanes to State Route 53, (Rideout Road to Jeff Road), Madison County, AL  
Project No. STPAA-0053(509)  
File No. 2009-00722

U.S. ARMY CORPS OF ENGINEERS  
Nashville District, Regulatory Branch

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8/12/2009  
Date

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## CHAPTER 1.0 Proposed Activity

**1.1 Background and Proposed Action.** On May 15, 2009, the Alabama Department of Transportation, ALDOT, 1409 Coliseum Boulevard, Montgomery, Alabama 36130, submitted a Department of the Army (DA) permit application to the Corps of Engineers for a proposed action pursuant to Section 404 of the Clean Water Act (CWA) and to Tennessee Valley Authority (TVA) for approval pursuant to Section 26 of the TVA Act.

ALDOT proposes to widen approximately 4-miles of State Route (SR) 53, a major transportation route connecting Ardmore to Huntsville. The purpose is to provide a safe and efficient transportation facility to meet existing and future traffic demands. Two southbound lanes and a median are proposed on the west side of the existing two-lane highway. This is the middle segment of a larger construction project. The first segment (Mastin Lake road to Rideout Road) has been completed. The segment under review at this time would involve impacts to about 2.23 acres of wetlands and streambeds at seven sites. The applicant proposes to mitigate the wetland impacts of the work by purchasing 2.23 credits from the Jackson County Mitigation Bank. One credit at this bank has been previously determined to provide 2 credits (2:1) mitigation.

The proposed work and locations is described as follows and shown on the Jeff, AL Quad map, Exhibit A of Public Notice 09-45, Appendix A.

Site 1 (0.21 Acre Wetland Impact Adjacent to Unnamed Tributary of Dry Creek) for 118 linear feet (LF) of 30" diameter culvert extension and relocation of 300' ditch into 225' constructed ditch; Lat: 34.796/Lon: -86.671

Site 2 (2.02 Acre Wetland Impact Adjacent to Unnamed Tributary of Dry Creek) for 117' extension of 24" diameter pipe; Lat: 34.799/Lon: -86.674

Site 3 – a 126' seven-barrel culvert replaced with 165' six-barrel culvert; Lat: 34.801/ Lon: -86.675

Site 4 – a 105' extension to a single-barrel culvert. Lat: 34.818/Lon: -86.689

Site 5 – isolated pocket of wetlands filled with 0.75 acres of road fill. Lat: 34.822/ Lon: -86.693

Site 6 – 126' five-barrel culvert replaced with a 182' four-barrel culvert; Lat: 34.843/Lon: -86.677

Site 7 – a single-barrel culvert extended by 103' and relocation of 250' ephemeral channel into a new channel with an 18" diameter pipe for a driveway crossing. Lat: 34.844/Lon: 86.711

**1.2 Decision Required.** Section 301 of the CWA prohibits the discharge of dredged or fill material into waters of the US unless authorized by the DA pursuant to Section 404 of the same Act. Dry Creek and its adjacent wetlands are waters of the US as defined by 33 CFR Part 328. DA and TVA permits are required; therefore, the agencies must decide on either issuance of a permit for the proposal, issuance of a permit with conditions, or denial of the permit.

**1.3 Other Approvals Required.** In addition to the DA and TVA permits, other federal, state, and local approvals may be required for the proposed work. On July 13, 2009, a conditional water quality certification (Appendix C) was issued by the state of Alabama, Department of Environmental Management (ADEM), pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards would not be violated by the work. By inclusion, the certification will be made part of any permit issued for the proposed action.

**CHAPTER 2.0 Public Involvement Process.** On May 26, 2009, Public Notice 09-45 (Appendix A) was issued to advertise the proposed work. There were no requests for a public hearing. All responses are included in Appendix B. Summaries of the responses are as follows:

- In its June 25, 2009, the Alabama Historical Commission stated that they had previously concurred with the proposed project finding no effect on any known cultural resources listed on or eligible for the National Register of Historic Places and had no objections to proceeding with the project provided work ceases should any archaeological cultural resources be encountered during the project activities.
- In its June 22, 2009, email, the US Fish and Wildlife Service (USFWS) stated that no significant adverse effects on fish and wildlife resources are expected to result from this project; therefore have no objections to issuance of the permit.
- In its letter dated June 17, 2009, the Alabama Department of Conservation and Natural Resources stated that a review of available information by Wildlife and Freshwater Fisheries Division personnel has determined that this project is unlikely to impact any state protected species. Also, the Heritage Section office found in their database records, two federally listed threatened and endangered plant species (Morefield's Leather Flower, E, and Price's Potato Bean, T) are located within the 0603000205 watershed, and recommend contact with the USFWS for more information. *Applicant rebuttal: By email dated August 6, 2009, the applicant stated they previously surveyed the project for the presence of the two plants (vines) and found one stretch of highway considered a marginal habitat for one of the plants, but they did not find any plants. The applicant has previously consulted with the USFWS on this issue and it was concluded that it is highly unlikely that either of the two plants would occur in the vicinity of the project.*
- By letter dated June 30, 2009, Mr. Robert Rivers stated concerns regarding Site 7 (a single-barrel culvert extended by 103' and relocation of 250' ephemeral channel into a new channel with an 18" diameter pipe for a driveway crossing). He says that the ditch at Site 7 needs to be made wider and deeper all the way back to where it intersects with the wet weather stream because during an extended hard rain, the ditch spills over into his backyard. *Applicant rebuttal: By email dated August 6, 2009, the applicant stated that they are extending an existing culvert towards Mr. Rice's property and constructing a riprap energy basin to reduce the velocity of the water downstream of the culvert. ADOT says that additional storm water would not be added to Mr. River's property because the culvert size would remain the same and thus restrict the flow*

*to the previous design storm. The riprap energy dissipater should reduce the velocity of the water entering Mr. River's property and it includes a pool area for water to temporarily pond. By letter dated August 10, 2009, the Corps notified Mr. Rivers of ADOT's response that no additional storm water would impact his property and with an ADOT point of contact if he had additional concerns or questions.*

### **CHAPTER 3.0 Environmental and Public Interest Factors Considered**

**3.1 Introduction.** 33 CFR 320.4(a) states 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. All factors that may be relevant to the proposal must be considered. Public Notice 09-45 listed factors that may be relevant to the proposal. The following sections show which factors that are relevant in this proposal, and if relevant, provide a concise description of the impacts.

**3.2 Physical/Chemical Characteristics and Anticipated Changes.** The relevant blocks are checked with a description of the impacts.

( x ) Water quality (temperature, color, odor, nutrients). A conditional certification that the proposed work would not affect water quality standards has been issued and would be made a part of any DA permit issued for the work by inclusion. The existing creek channel(s) are generally straight and likely, in part, relocated when the existing SR 53 roadway was constructed. Trees do not exist along the bank opposite the roadway. The quality of the existing stream appears to be good even with its receipt of runoff from the highway. While the wetland areas would be removed, the proposed relocated and extended channel(s) would continue to accept runoff from the highway.

( x ) Erosion control. The plan requires riprap along the bottom of the relocated channel(s) and at the ingress and egress points of the culverts. ALDOT's erosion control plan, provided with the application, states that any disturbed areas would be fully stabilized prior to completion of the project. Best Management Practices for soil erosion prevention would be employed at the site throughout the course of construction activities.

( x ) Currents, circulation, drainage patterns, base flow. According to ALDOT, the proposed channel(s) and culverts would have a similar or more carrying capacity of base flow as the existing channel(s). According to ALDOT, the proposed culverts would allow for safe passage of flood flows while establishing a base flow zone channel. One comment was received from an adjacent property owner with concerns about impacts to his property. ALDOT responded that they were extending an existing culvert towards his property, but because of the design would not be adding additional storm water to his property (culvert size would remain the same and installation of a riprap energy basin to reduce the velocity of the water downstream.

( x ) Substrate. The proposed work would permanently fill the dirt and rock substrate of a total of 853 linear feet of stream over five locations for channel relocation and culverts. The streams are either intermittent or ephemeral and no one site is over 300 linear feet in length or over 1/10<sup>th</sup> acre of impact. These actions fall under the criteria for authorization under Nationwide Permit (NWP) #14 which does not require pre-construction notification for discharges less than 1/10<sup>th</sup> acre. In accordance with general condition #20 of the NWPs, compensatory mitigation is not required for discharge until they exceed 1/10<sup>th</sup> acre of fill, so no stream mitigation, other than channel construction with similar carrying capacities, was required.

( ) shore erosion and accretion patterns. No issues.

( x ) Suspended particulates, turbidity. The application states that the proposed work would be conducted in the dry, as possible. Water quality certification for the work requires the use of sedimentation controls, to include straw or haybales and/or silt control fences, brush barriers, berms, sediment ponds and/or other proven sediment control devices are in place along the road project and functional prior to and throughout construction. Short-term increases in turbidity may occur, but construction under these terms should minimize turbidity and the release of suspended solids. Seeding and sodding around the new roadway, and/or hard armoring at the culverts would stabilize disturbed areas and further limit turbidity from erosion.

### **3.3 Biological Characteristics and Anticipated Changes.**

( ) Special aquatic sites (wetlands, defined in 40 CFR 230.40-45). The project would fill parts of two brushy wooded wetland depressions (2.23-acre total) that are both located along the west side of the existing SR 53 right-of-way. A wetland delineation, prepared by ALDOT, was submitted with the permit application. In May 2009, a representative of our Decatur field office concurred with the delineation. For the loss of wetlands, ALDOT proposes to debit 2.23-acres credit (2:1 ratio) from the Jackson County Mitigation Bank, which is consistent with the Corps mitigation guidelines.. One credit at the Jackson County Mitigation Bank is equivalent to 2 acres of wetlands (each credit provides 2:1 mitigation). With the issuance of the public notice, the wetland Interagency Review Team (IRT) was informed of ALDOT desire to use the bank and expressed no comment.

( x ) Habitat for fish and aquatic organisms. The proposed work would remove habitat for aquatic organisms that dwell in the affected creek sections, from the filling for the relocation and culvert encapsulation.

( x ) Endangered or threatened species. According to the USFWS, no threatened or endangered species would be affected by the proposed action.

( x ) Wildlife habitat. The land use in the area of the proposed work primarily exists as businesses, farmland, wooded areas, residential, and churches. The proposal involves the removal of 2.23 acres of wooded wetlands likely used by wildlife as habitat for small mammals,

songbirds, and other wildlife users. The roadway to be widened currently carries much traffic from the city of Huntsville AL to the interstate (I-65). The temporary presence of construction workers and equipment would disturb wildlife in the vicinity of the project. However, after construction is completed, wildlife would likely return to the area.

( x ) Biological availability of possible contaminants in dredged or fill material. Only clean materials, free of possible contaminants would be used for the proposed work.

**3.4 Human Use Characteristics and Anticipated Impacts.** The relevant blocks are checked with a description of the impacts.

( x ) Aesthetics. The purpose of the proposed action is to improve the highway to allow for freer traffic flows through the area, and to some could be an aesthetic improvement. The roadway has existed in its present width and location without improvement for many years. Part of the buffer between the road and the residences and farms along the highway would be reduced, which may be an aesthetic impact to the individual properties. During construction, there would be a temporary visual effect from the work, workers, and equipment in the area.

( x ) Noise. This area would experience increases in noise levels from construction equipment. However, once construction is finished, noise levels should return to normal.

( x ) Safety. ALDOT is making the improvements to the roadway because it has been labeled as deficient, has substandard passing and sight distance, and would not likely be safe with the additional projected traffic.

( ) Navigation. No issues.

( ) Existing and potential water supplies; water conservation. No issues.

( x ) Traffic/transportation patterns. The purpose of the action is to improve the deficient roadway before it becomes unstable and/or congested and to provide safe and better traffic flows. During construction, temporary slowdowns of traffic passage through the work areas are expected to occur in a controlled manner. ALDOT submitted a traffic control plan with the application. Once the project is completed, patterns should return to normal with better ease of traffic flows due to the improvement.

( x ) Air quality. Dust, paving with asphalt, and general construction disturbance may temporarily affect air quality. However, once construction is finished, air quality levels should return to normal. See Section 5.2.

( ) Conservation or Food and fiber production and mineral needs. No issues.

( ) Energy consumption or generation. No issues.

( x ) Historic properties and cultural values. The Alabama Historic Commission has stated that the project would not affect any resources (archaeological or historical) eligible for listing in the National Register of Historic Places. They indicated that they had previously reviewed and commented on the project to ALDOT during preliminary coordination of the entire SR 53 project.

( ) Water-related recreation. No issues.

( x ) Consideration of private property. ALDOT is fully responsible for obtaining any additional public easements required for the work prior to commencing construction. As stated in the ALDOT application, all additional rights-of-way needed for the widening have been acquired.

( ) Land use classification

( x ) Economics. The proposed work may promote economic advantages to the users of the road with safer and better traffic flows. Property values may slightly increase with a safer access out of the area and with the addition of the shoulders. During construction, the economic welfare of this immediate area would be improved by the presence of workers living and spending money in the area. Temporary adverse economic impacts may occur from inconveniences occurring as a result of construction.

( x ) Floodplain values. The site does not occur within a regulated floodway.

( x ) Environmental justice. There is no disproportionate concentration of minority or low-income persons within the vicinity of the project site. The roadway improvement would occur basically on an existing alignment; however, according to ALDOT, any additional properties needed have already been acquired.

**3.5 Cumulative Impacts.** Cumulative impacts could result from the work if more sections of the stream or wetlands in the area are impacted. Improvements made to the roadway may enhance the possibility of future development in the area, which may also be a cumulative impact. This section considers what actions by others (including those actions completely unrelated to the action) have and will affect the same resources affected by the proposed action. Cumulative environmental effects for this action are assessed in accordance with USEPA 315-R-99-002, dated May 1999. *In this case, a subjective five-year focus period for reasonably foreseeable future actions on the same resources, both by the applicant and others includes:*

- Changes to land use patterns in the area from residential farmlands to subdivisions or more commercial
- Need for additional widening of the road sections or lengthening of the culverts adjacent to creeks and wetlands
- Construction of new roads off the improved roadway
- Maintenance, replacement, and/or improvement to roads, bridges, culverts that connect to the new roadway

Determining the magnitude and significance of the effects of future activities on the *same resources* affected by the proposal will be addressed on a case-by-case basis. In this case, while there would be temporary and permanent impacts on relevant resources given the relatively small area of impact, the proposal is not anticipated to have a cumulative effect on the sustainability of environmental resources affected by the action.

## **CHAPTER 4.0 Alternatives.**

**4.1 Introduction.** This section discusses alternatives given detailed consideration as required by 33 CFR 320.4(a)(2) and 40 CFR 230.10. The relevant environmental issues identified in Chapter 3.0 were used to formulate the alternatives.

### **4.2 Description of Alternatives.**

a. **No Action.** No action may be brought about by the applicant electing to only repave or widen the deficient roadway system outside of the jurisdiction of the Corps or TVA or denial of the permit.

b. **Proposed Action.** The Proposed Action is the applicant's preferred alternative as described in Section 1.1 and in Public Notice 09-45, Appendix A.

c. **Appropriate Mitigation To Proposed Action.** This alternative consists of special conditions to minimize environmental impacts from the proposed action. According to the applicant, efforts were made during the planning and design phases of the project to avoid impacts to the waters of the U.S. to the extent practicable, and to minimize impacts that were not avoidable. The applicant's plan includes a mitigation plan that is a part of the proposed action. Additional recommended special conditions for the proposed action are listed in Section 5.5.

### **4.3 Comparison of Alternatives.**

a. **No Action.** With this alternative, the applicant would not impact several hundred feet of stream channel, or fill 2.23 acres of wetlands. Minor net environmental impacts and traffic flow benefits associated with the proposed action would not occur. Not widening the roadway may cause safety conditions in the future related to traffic delays or accidents. ALDOT has expressed that alternatives on new location are limited due to the existing infrastructure and businesses, easements, and the terrain along the roadway. The no actions project condition may cause ALDOT to consider constructing roadway on new location, which may be more costly. Under no action, mitigation channels would not be constructed, nor would ALDOT apply funds to the In-Lieu fee program for this project. Other alternatives with potentially more environmental impacts, such as roadway on new alignment or leaving a deficient system in place would have to be considered, if the proposed alternative is dismissed.

b. The Proposed Action. With this alternative, the applicant would perform the proposed work. According to ALDOT, this roadway needs to be improved due to increased population heavy traffic that moves through this area traveling from Huntsville and north Alabama toward I-65 and poor sight distance for passing on the existing two-lane section. The improvements would allow for freer and safer flow of traffic. The channel that runs parallel to the existing roadway would be relocated then restored and mitigated for in a manner to promote aquatic and wildlife habitat. No properties listed in or eligible for the National Register of Historic Places would be affected. No federally-protected species would be affected. USFWS does not object to the proposal. ADEM has issued a water quality certification that contains specific conditions regarding turbidity and erosion control that would be made a part of the DA permit by inclusion. One comment was received from an adjacent property owner regarding the potential to increase storm water runoff and flooding on his property. ALDOT responded to his concerns. The proposed action causes minimal impacts on aesthetics and causes no residential relocations. Rights-of-way needed for the improvement has been acquired. The proposal would bring about overall safety and economic benefits to the community and meets the desired needs of ALDOT.

c. Applicant's Proposal with Special Conditions. The impact of this proposal would be similar to b. above. The addition of special permit conditions to the applicant's proposed plan would further minimize adverse impacts to the environment. This alternative would have the least adverse impacts of the options under consideration.

## **CHAPTER 5.0 Findings**

**5.1 Consideration of Public Comments.** One comment was received from an adjacent property owner. ALDOT responded to their concerns. Both the USFWS and the Tennessee Historical Commission stated no objections. The state fish and wildlife service state no concerns to state protected species. There were no requests for public hearings.

**5.2 Clean Air Act General Conformity Rule Review.** The proposal has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act, and it has been determined that the activities proposed under this permit will not exceed de minimus levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps continuing program responsibility, and cannot be practicably controlled by the Corps, and, for these reasons, a conformity determination is not required for a permit.

**5.3 Water Quality Certification.** In accordance with Section 401(a)(1) of the CWA, ADEM issued a conditional water quality certification dated July 13, 2009. See Appendix C. A copy of the certification would a part of any permit issued for the action by inclusion.

**5.4 Section 404 (b)(1) Determination.** The purpose of Section 404(b)(1) of the CWA is to restore and maintain the chemical, physical, and biological integrity of the waters of the US through the control of discharges of fill material, as published in 40 CFR 230. Section 230.10 requires that the discharge of fill material into waters of the US associated with the proposed work meet certain restrictions in order to be authorized. Based on the probable minimal impacts addressed in this document, compliance with the restrictions, and information concerning the fill materials to be used, the proposed work complies with the Guidelines and the intent of Section 404(b)(1) of the CWA. An evaluation of the guidelines is attached in Appendix E.

**5.5 Recommended Special Permit Conditions.** The following recommended special permit conditions, when applicable, are necessary to comply with federal law, while affording appropriate and practicable environmental protection.

- The work must be in accordance with the plans attached to the permit. The permittee must have a copy of this permit available on the site and ensure that all contractors are aware of its conditions and abide by them. *Justification: Recommended at 33 CFR 325, Appendix A.*
- The discharge will consist of suitable material free from toxic pollutants in toxic amounts. All excess dredged or fill material shall be removed to an upland site and placed such that it will not re-enter waters of the US. *Justification: Base flow protection and the discharge shall be carried out in conformity with the goals and objectives of the EPA Guidelines pursuant to Section 404(b) of the CWA.*
- The fill created by the discharge will be properly maintained in accordance with the water quality certification to prevent erosion and other non-point sources of pollution. The disturbance to riparian vegetation shall be kept to a minimum during construction. *Justification: To minimize water quality impacts.*
- No later than 30-days from the date of this permit, the permittee shall provide a debit sheet showing 2.23-acres of available credits were transferred from ALDOT's reserve at the Jackson County Wetland Mitigation Bank. *Justification: Mitigation for the loss of wetland (2:1 ratio).*

**5.6 Findings of No Significant Impact (FONSI).** Based on a full consideration of the EA, information obtained from cooperating federal/state agencies, and comments received from the interested public, I have concluded that issuance or denial of the requested permit would not constitute a major federal action that would significantly affect the quality of the human environment. This constitutes a FONSI; therefore, the preparation of an Environmental Impact Statement is not required. This FONSI was prepared in accordance with paragraph 7a, Appendix B, 33 CFR 325, February 3, 1988.

**5.7 Public Interest Determination.** The proposed action would benefit the public with the construction of a wider and more efficient roadway, with safer passing lanes for users. The wetland impacts associated with this road improvement project would be mitigated through a 2.23 debit of available credits from the permittee's reserve at the Jackson County Mitigation Bank, which is consistent with the Corps mitigation guidelines. Each credit at this bank is equivalent to 2 mitigation credits; thus 2:1 ratio. ADEM issued a conditional water quality certification for the work on July 13, 2009.

The proposed project would not affect properties eligible for or listed in the National Register of Historic Places. The Alabama Historical Commission stated that they had previously concurred with the proposed project. The proposed project would not affect federally-protected species. The USFWS stated that no significant adverse effects on fish and wildlife resources are expected to result from this project; therefore have no objections to issuance of the permit. The Alabama Department of Conservation and Natural Resources determined that this project is unlikely to impact any state protected species.

A comment was received from an adjacent property owner with concerns regarding possible increased storm water impacts to his property. ALDOT responded that they were extending an existing culvert towards the owner's property, but that the project would not add storm water to the ditch in the back of his property, since they were constructing a riprap energy basin design to reduce the velocity of the water downstream of the culvert and the culvert size would remain the same to restrict the flow to the previous design storm. No other comments were received and there were no requests for a public hearing. No residential relocations would be required. The general public that uses this section of roadway would benefit with safer roadway conditions, saved time, and easier traffic flow. Inconveniences during construction would be temporary.

I have weighed the potential benefits that may be accrued as a result of the proposed action against its reasonably foreseeable detrimental effects and conclude that permit issuance would not be contrary to the public interest. The general conditions contained within the DA permit together with incorporating the recommended special conditions adequately address the environmental concerns identified in this document.

FOR THE COMMANDER:

8/12/09  
Date

  
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Bradley N. Bishop  
Chief, Western Regulatory Section  
Operations Division

# Appendix A

Public Notice 09-45

May 26, 2009

## ALABAMA DEPARTMENT OF TRANSPORTATION

Application for Deposit of Fill Material Associated with Wetland  
and Stream Fill for Additional Lanes to State Route 53,  
(Rideout Road to Jeff Road), Madison County, AL  
Project No. STPAA-0053(509)

File No. 2009-00722



**US Army Corps  
of Engineers.**

Nashville District

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# Public Notice

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Public Notice No. 09-45

Date: May 26, 2009

Application No. 2009-00722

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All comments should be received no later than 30 days from the date of this notice. Please address all comments to:  
Nashville District Corps of Engineers, Regulatory Branch  
(Attn: Lisa R. Morris) 3701 Bell Road, Nashville, TN 37214

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## JOINT PUBLIC NOTICE

US ARMY CORPS OF ENGINEERS  
TENNESSEE VALLEY AUTHORITY  
STATE OF ALABAMA

SUBJECT: Proposed Wetland and Stream Fill for Additional Lanes to State Route 53, (Rideout Road to Jeff Road), Madison County, AL - Project No. STPAA-0053(509)

TO ALL CONCERNED: The project described below has been submitted for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (CWA), a Tennessee Valley Authority (TVA) permit pursuant to Section 26a of the TVA Act, and a state of Alabama water quality certification pursuant to Section 401 of the CWA. Before any federal permit can be issued, the state must certify that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification.

APPLICANT: Alabama Department of Transportation  
1409 Coliseum Boulevard  
Montgomery, Alabama 36130

DESCRIPTION and LOCATION: The proposed work is approximately 4-miles long and is the middle construction segment of the overall State Route (SR) 53 improvement project, a major transportation route connecting Ardmore to Huntsville. The purpose of this project is to provide a safe and efficient transportation facility to meet existing and future traffic demands. Two southbound lanes and a median are proposed on the west side of the existing two-lane highway. The first segment (Mastin Lake road to Rideout Road) has been completed. The project would involve impacts to about 2.23 acres of wetlands and streambeds at seven sites. The applicant proposes to mitigate the wetland impacts of the work by purchasing 2.23 credits from a local Mitigation Bank.

**Public Notice 09-45**  
**Application No. 2009-00722**

The proposed work is described as follows and shown on the map (Jeff, AL Quad) and plans attached.

Site 1 (0.21 Acre Wetland Impact Adjacent to Unnamed Tributary of Dry Creek) for 118 linear feet (LF) of 30" diameter culvert extension and relocation of 300' ditch into 225' constructed ditch; Lat: 34.796/Long: -86.671

Site 2 (2.02 Acre Wetland Impact Adjacent to Unnamed Tributary of Dry Creek) for 117' extension of 24" diameter pipe; Lat: 34.799/Long: -86.674

Site 3 - a 126' seven-barrel culvert would be replaced with a 165' six-barrel culvert; Lat: 34.801/Long: -86.675

Site 4 - a 105' extension to a single-barrel culvert. Lat: 34.818/Long: -86.689

Site 5 - isolated pocket of wetlands to be impacted by about 0.75 acres of road fill. Lat: 34.822/Long: -86.693

Site 6 - a 126' five-barrel culvert to be replaced with a 182' four-barrel culvert; Lat: 34.843/Long: -86.677

Site 7 - a single-barrel culvert would be extended by 103' and about 250' of an ephemeral channel would be relocated into a new channel with an 18" diameter pipe for a driveway crossing. Lat: 34.844/Long: 86.711

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the 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 work, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the work, will 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, floodplain values, 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, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines it contrary to the public interest.

**Public Notice 09-45**  
**Application No. 2009-00722**

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, historical 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 pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and determine the overall public interest of the proposed activity.

On August 1, 2003, the Federal Highway Administration (FHWA) reevaluated and signed a 1999 EA/FONSI (finding no significant impacts) for the three segment SR 53 project, of which this proposal is a part. A copy of that EA/FONSI and finding is available for review by contacting Lisa Morris at (615) 369-7504. In accordance with the National Environmental Policy Act that document will be adopted provided no new information is brought to our attention during this comment period.

Previous agency coordination with the FHWA includes the following:

- By letter dated June 5, 2008, the Alabama Historic Commission provided a conditional letter of concurrence for the project. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

- Correspondence dated November 7, 2006, with the US Fish and Wildlife Service stated the proposed work would not destroy or endanger any federally listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and, therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

In addition to a DA permit, a TVA permit, and a state water quality certification, other federal, state, and/or local approvals may be required for the proposed work.

**Public Notice 09-45**  
**Application No. 2009-00722**

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for hearings shall state, with particularity, the reasons for holding a hearing.

Written statements received in this office within 30 days from the date of this notice will become a part of the record and considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attn: Lisa Morris, at the above address, or telephone (615) 369-7504.

It is not necessary to comment separately to TVA or ADEM since copies of all comments will be sent to those agencies to become part of their record on the proposal. However, if comments are sent to TVA, they should be mailed to Samantha Strickland, PO Box 1010, Muscle Shoals, AL 35662, telephone (256) 386-2643. Comments to ADEM can be sent to Brandy Bowen, PO Box 301463, Montgomery, AL 36130, telephone (334) 394-4310.

If you received this notice by mail and wish to view all of the Exhibits, please contact Ms. Morris at (615) 369-7504. or visit our web site at:  
<http://www.lrn.usace.army.mil/cof/notices.htm>

Exhibit A  
File No. 2009-00722  
PN 09-45

Alabama Department of Transportation SR 53

①

Jeff  
Quad

SITES

SITE 4

SITE 3

SITE 2

SITE 1

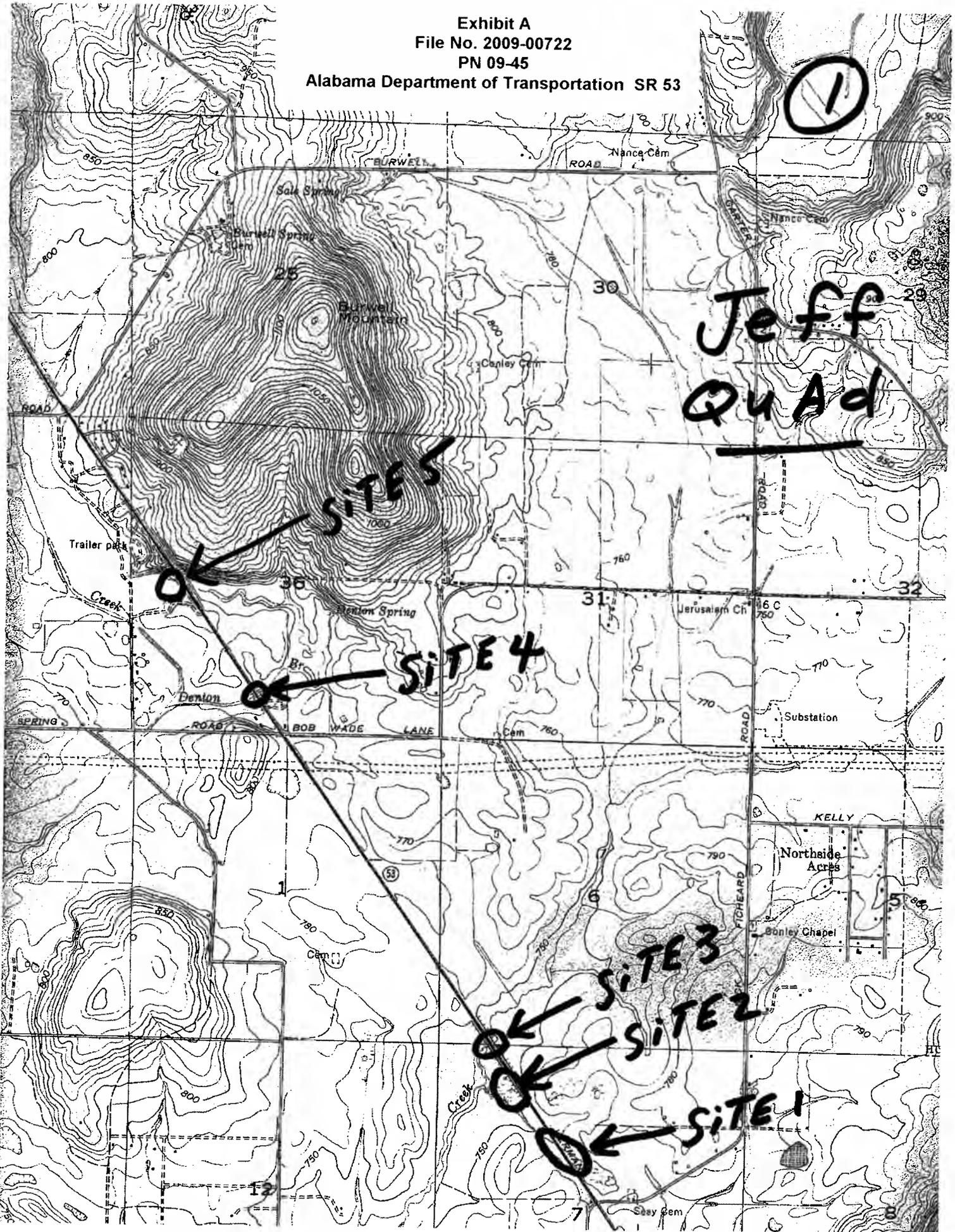


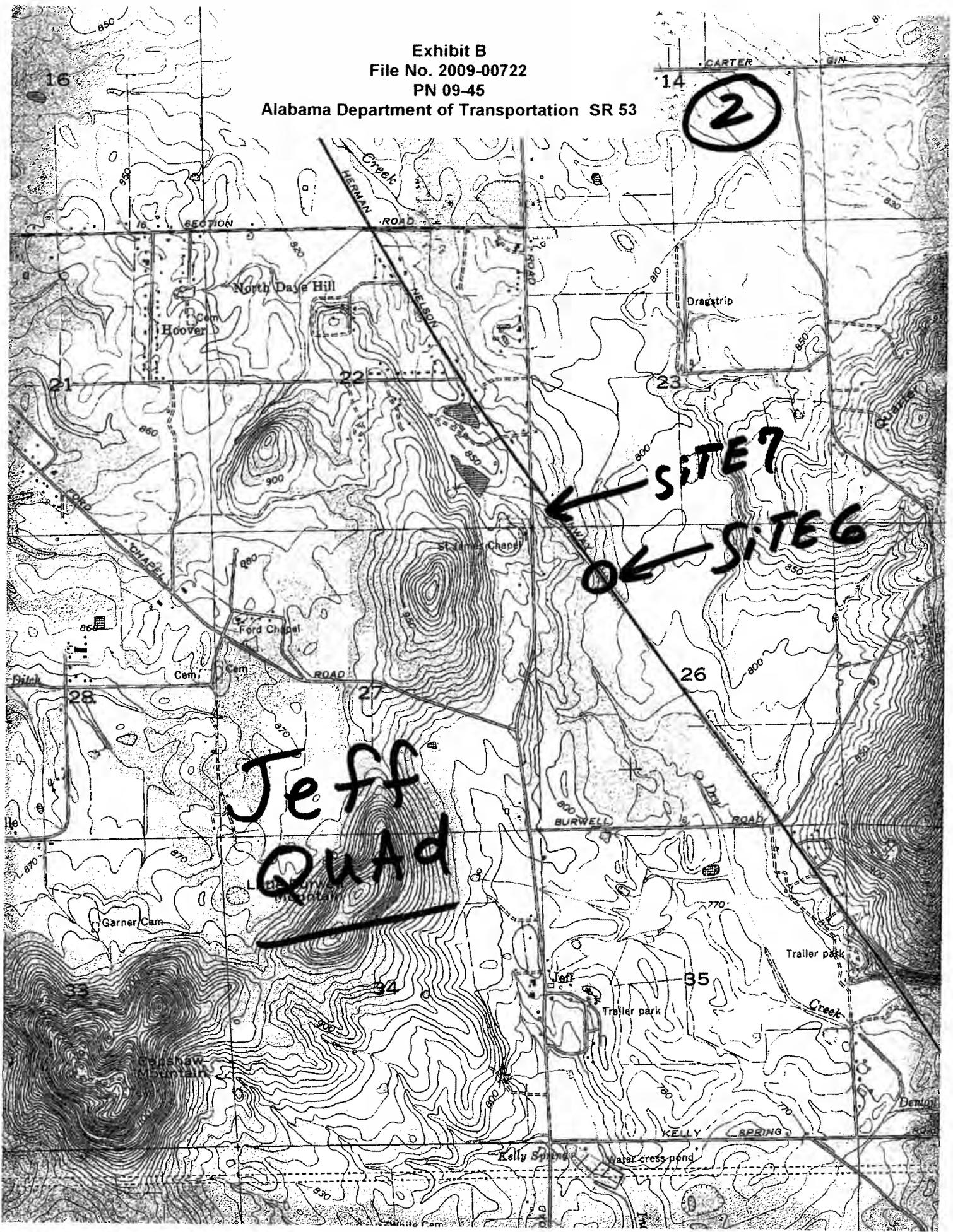
Exhibit B  
File No. 2009-00722  
PN 09-45

Alabama Department of Transportation SR 53

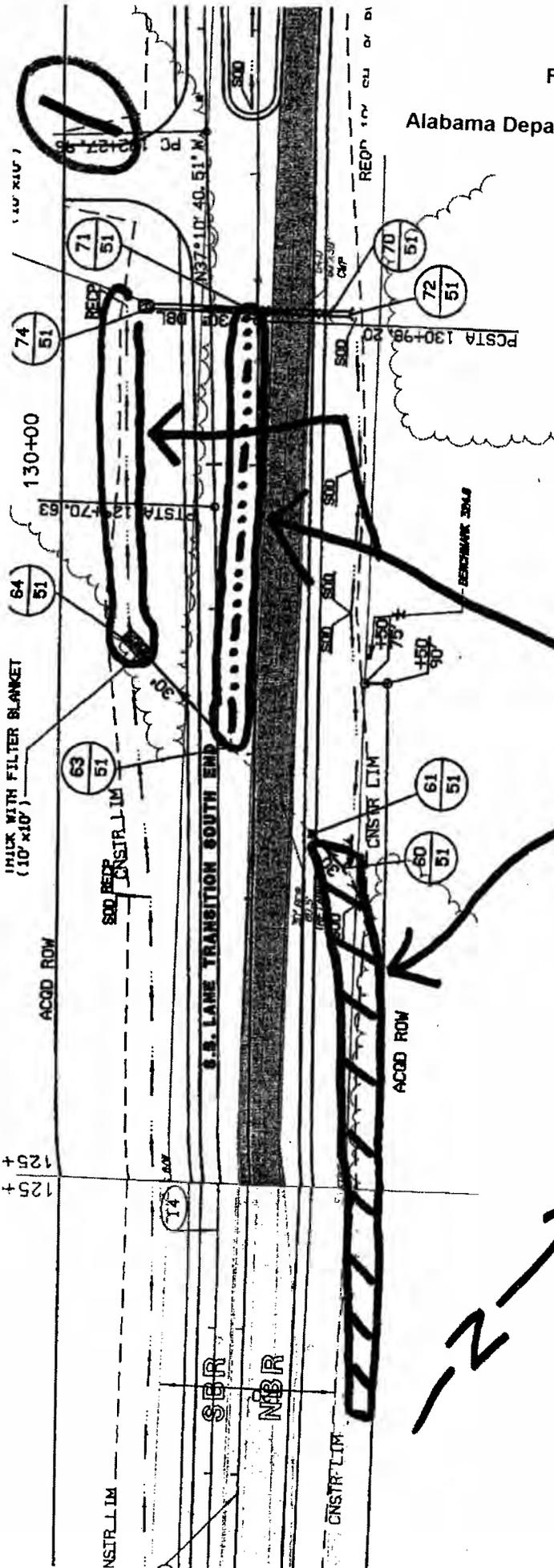
2

← SITE 7  
← SITE 6

Jeff  
QUAD



Alabama Department of Transportation SR 53



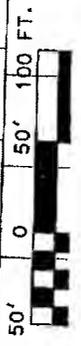
Site 1- Approx. 0.21 acre of wetlands to be impacted- 118' Ext. to a 30" pipe at Station 128- On the west side, the project will require fill to the Approx. 300' existing ditch (bottom) in order to construct an Approx. 225' new ditch (top) unnamed trib

ALABAMA DEPARTMENT OF TRANSPORTATION

PLAN S.R. 53 STA 110+00.00 TO STA 125+00.00

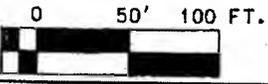
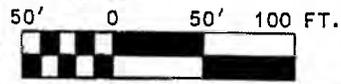
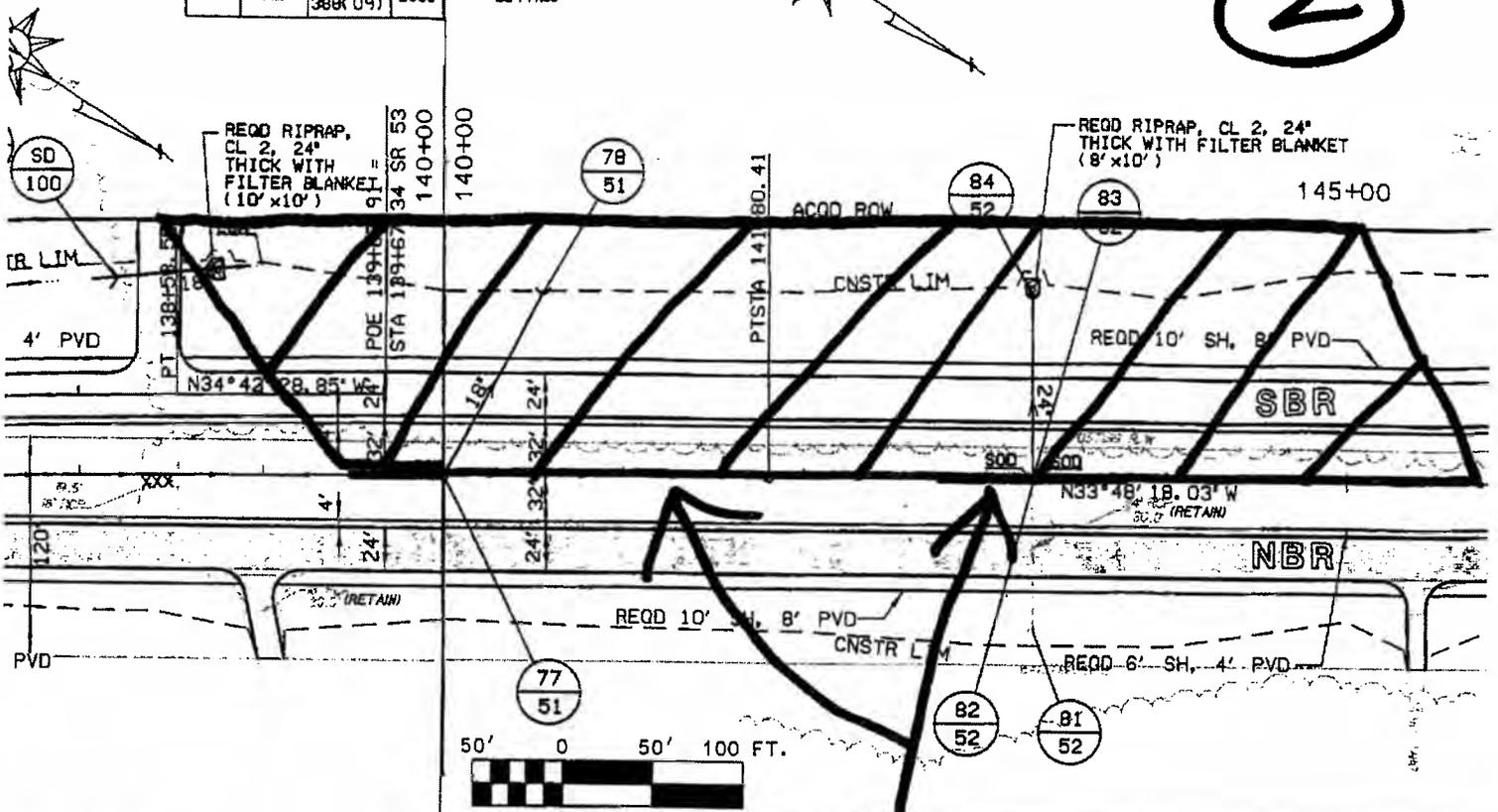
VOLKERT & ASSOCIATES, INC. CONSULTING ENGINEERS

DESIGNED	DATE
CHECKED	CHECKED
QUANTIFIED	QUANTIFIED
CHECKED	CHECKED



2

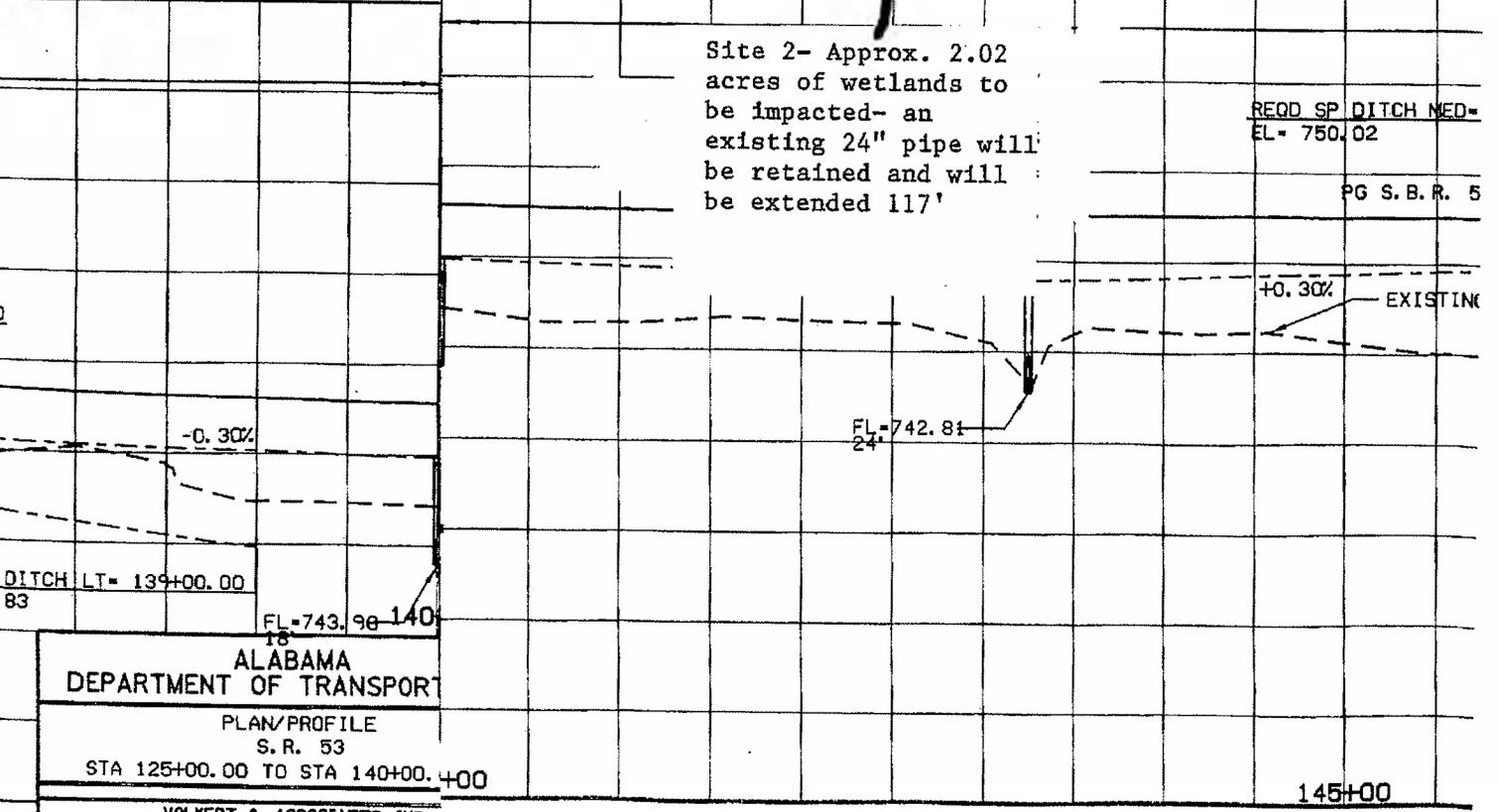
FED. REG. NO.	STATE	PROJECT NO.	FISCAL YEAR
4	AL	STPAA-388K (09)	2008



Site 2- Approx. 2.02 acres of wetlands to be impacted- an existing 24" pipe will be retained and will be extended 117'

REQD SP DITCH MED- EL= 750.02

PG S.B.R. 5



ALABAMA DEPARTMENT OF TRANSPORTATION

PLAN/PROFILE S. R. 53

STA 125+00.00 TO STA 140+00.00

VOLKERT & ASSOCIATES, INC. CONSULTING ENGINEERS

DESIGNED | DETAILED | QUANTITY

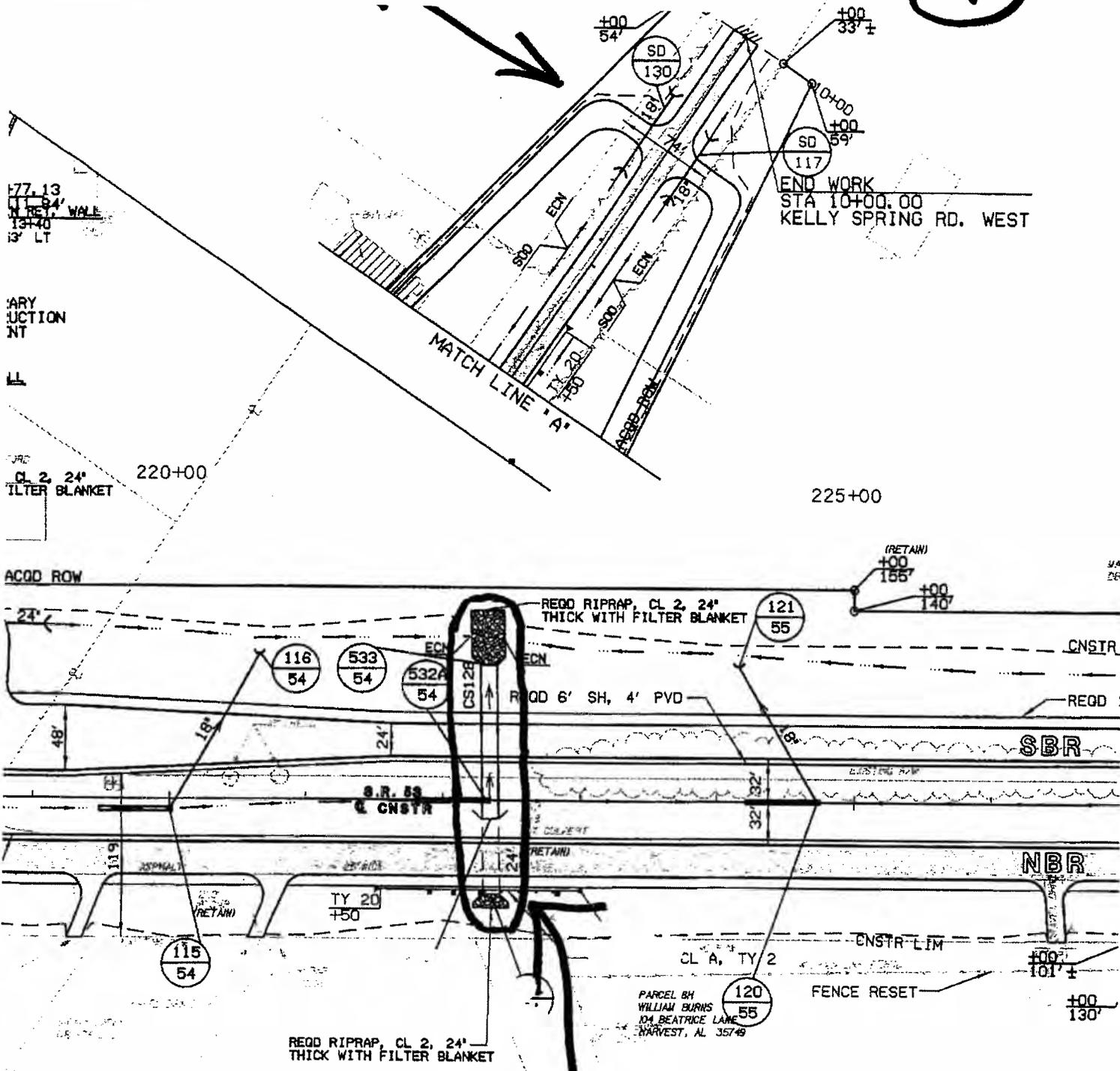


BENCHMARK 326.8  
 E 33807.74  
 S 22847.75  
 R 85.20  
 CMS W/ AL CAP  
 EL 761.53

PAVEME

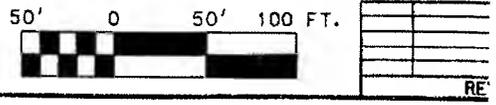
Exhibit F  
 File No. 2009-00722  
 PN 09-45  
 Alabama Department of Transportation SR 53

4

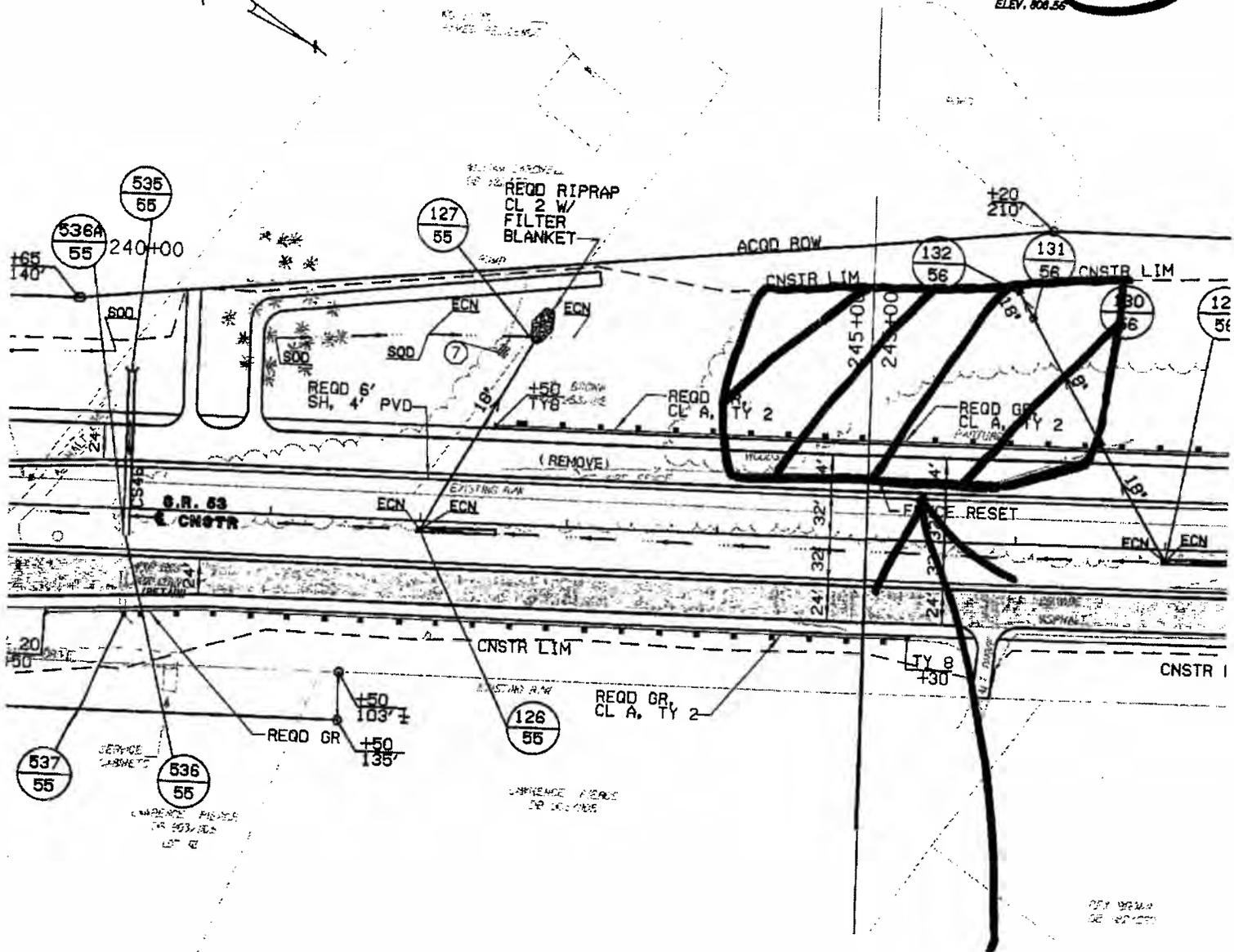
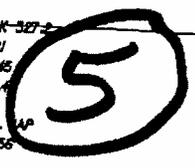


Site 4- A 105' extension  
 to a single-barrel  
 culvert at Denton Br.-

NOTE:  
 SEE SHEET 28 FOR  
 KELLY SPRING RD. WEST



BENCHMARK 527-2  
 N 157.434.21  
 E 397780.45  
 Sta 25+31.4  
 R 74.43  
 CMS W/ AL AP  
 ELEV. 908.55



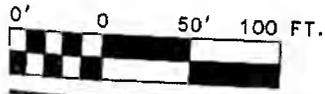
Site 5- is an isolated pocket of wetlands not connected to any drainage channel- Approx. 0.75 acre to be impacted

ALABAMA  
 DEPARTMENT OF TRANSPOR

PLAN SHEET  
 S. R. 53  
 STA 230+00.00 TO STA 245+00.00

VOLKERT & ASSOCIATES, INC  
 CONSULTING ENGINEERS

DESIGNED	DETAILED	QUANT
CHECKED	CHECKED	CHECK
DATE		



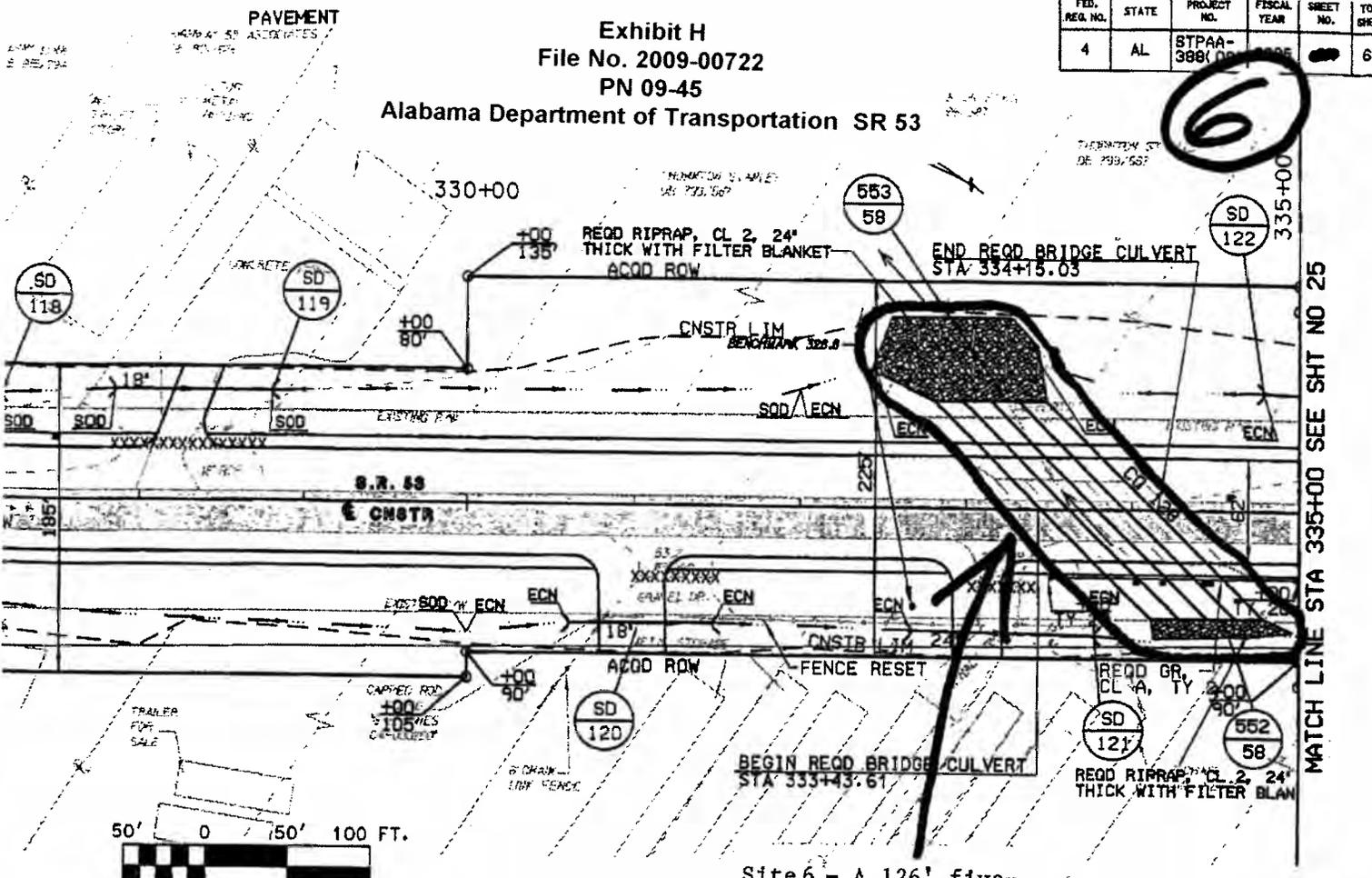
NO.	DATE	REVISIONS

Exhibit H  
File No. 2009-00722  
PN 09-45

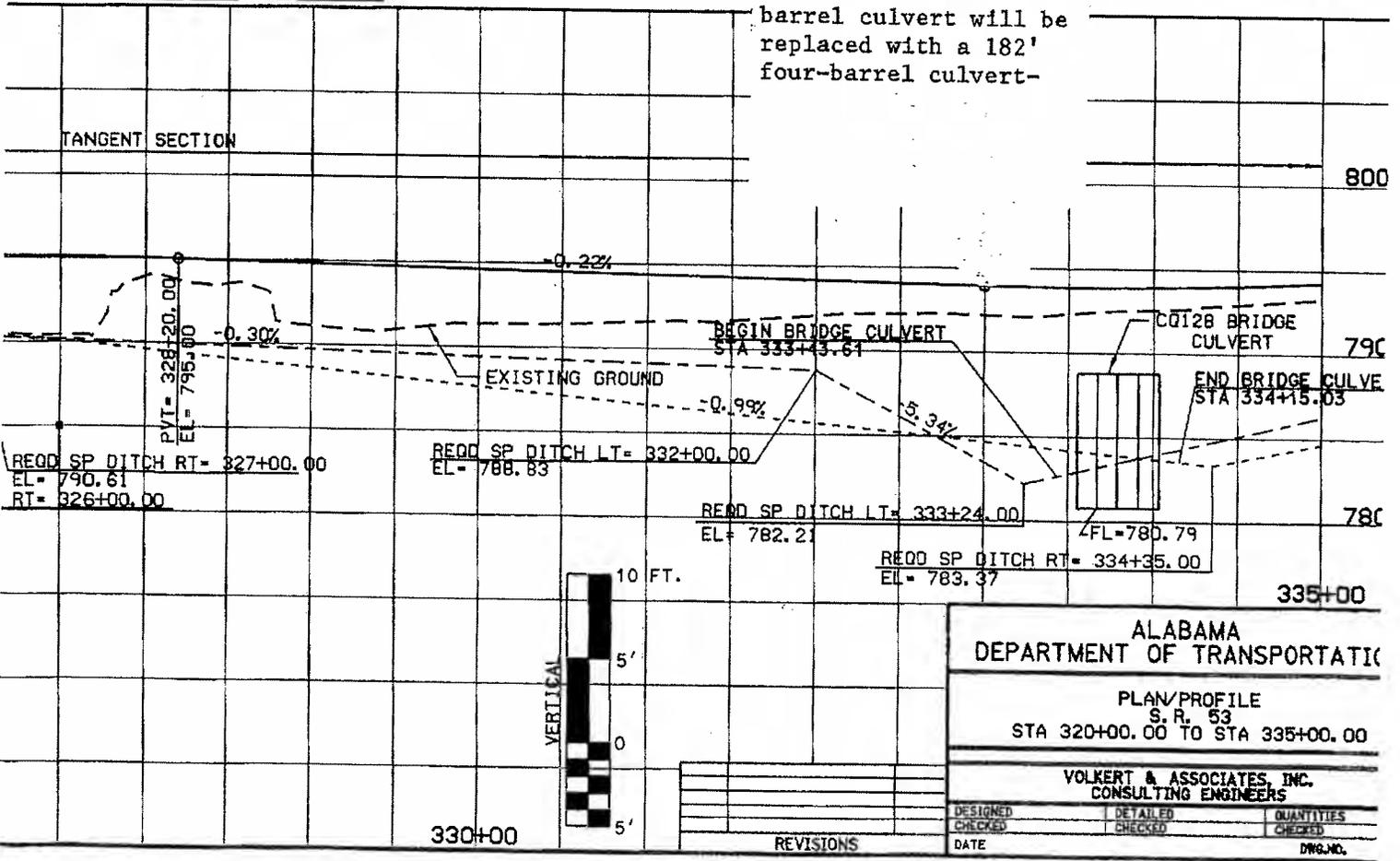
Alabama Department of Transportation SR 53

FED. REG. NO.	STATE	PROJECT NO.	FISCAL YEAR	SHEET NO.	TOTAL SHEETS
4	AL	BTAA-388(09)	2009	6	6

6



Site 6 - A 126' five-barrel culvert will be replaced with a 182' four-barrel culvert-



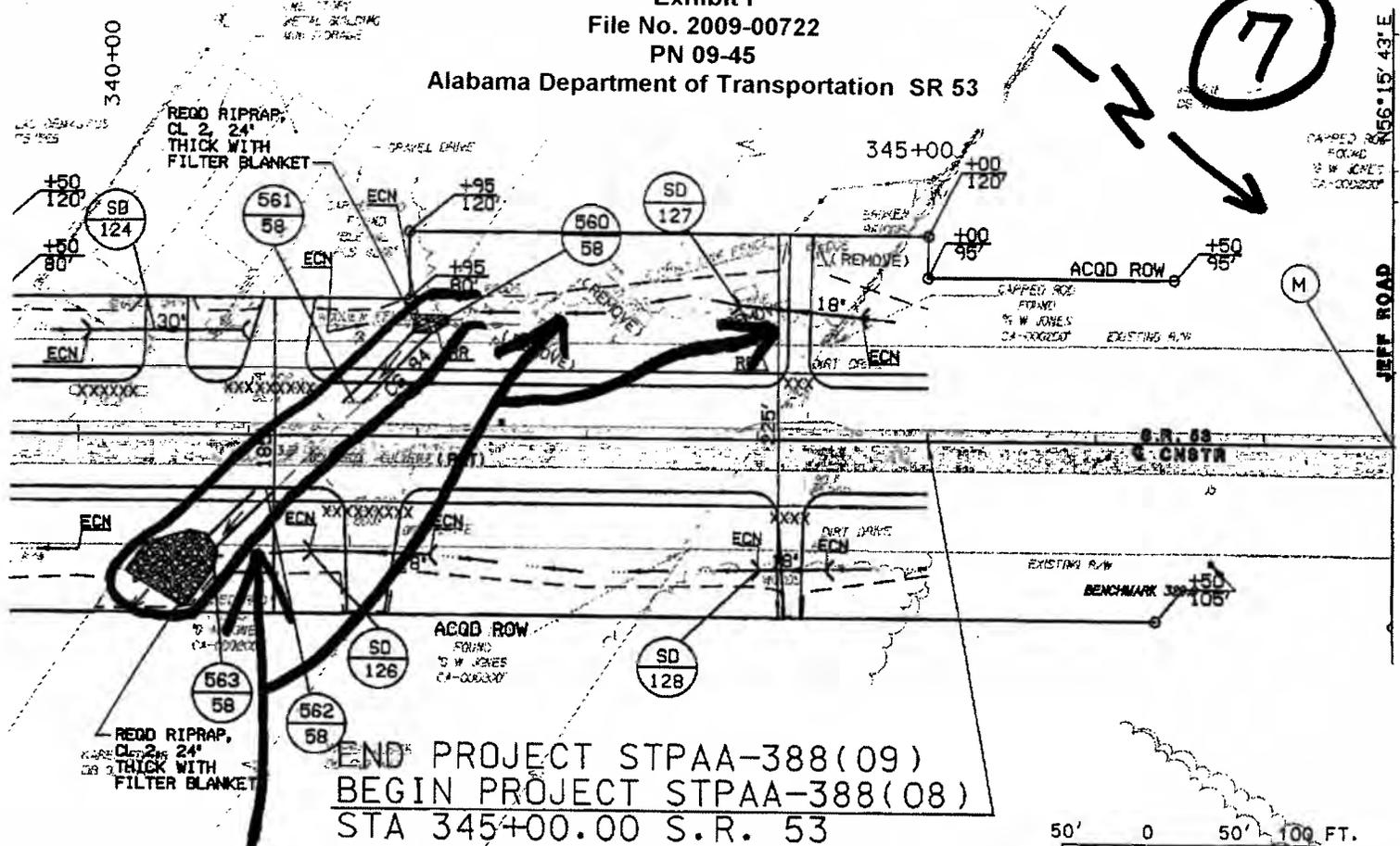
ALABAMA DEPARTMENT OF TRANSPORTATION  
PLAN/PROFILE  
S. R. 53  
STA 320+00.00 TO STA 335+00.00

VOLKERT & ASSOCIATES, INC.  
CONSULTING ENGINEERS

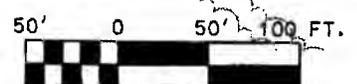
DESIGNED	DETAILED	QUANTITIES
CHECKED	CHECKED	CHECKED
DATE		DWG. NO.

Alabama Department of Transportation SR 53

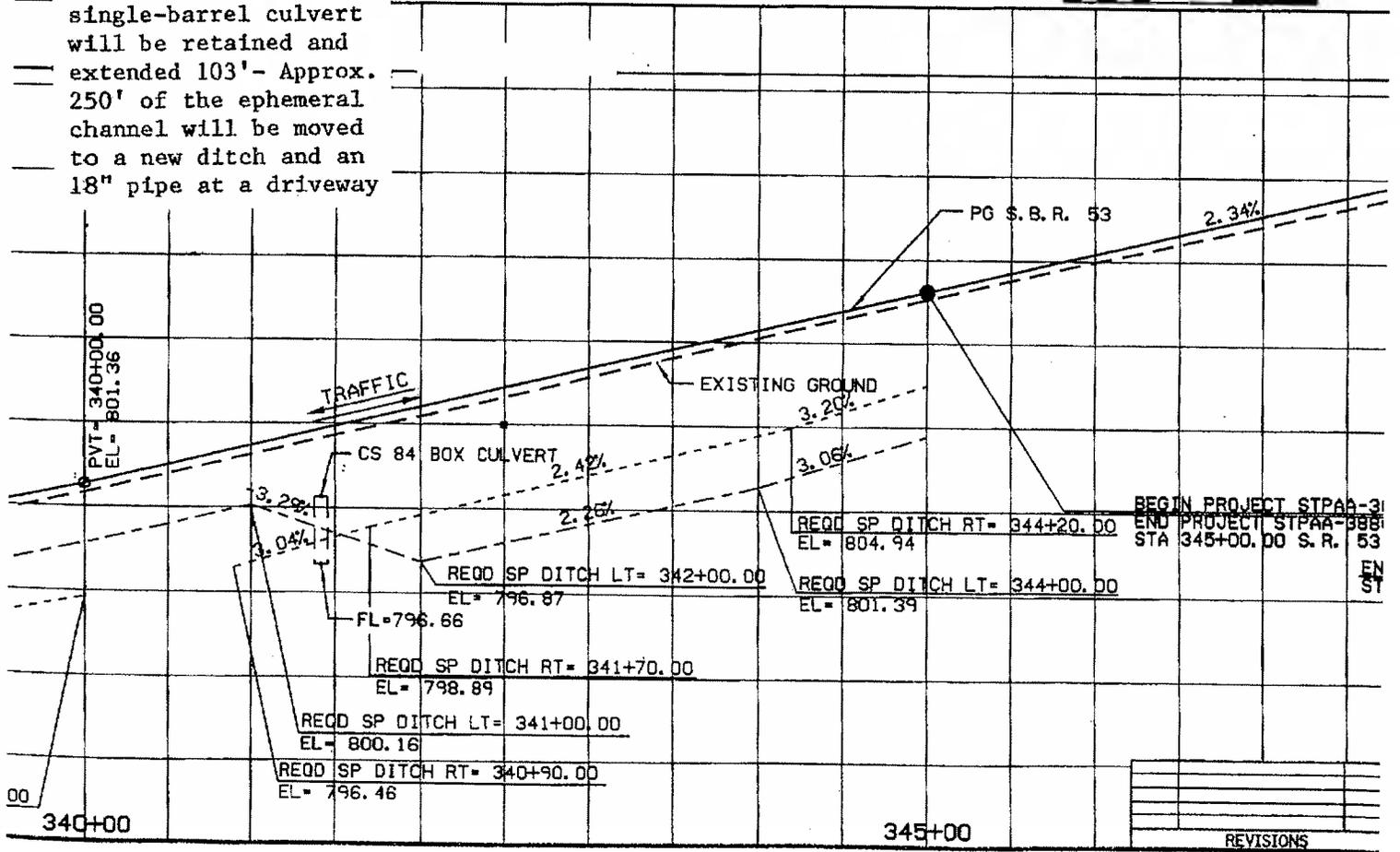
7



END PROJECT STPAA-388(09)  
BEGIN PROJECT STPAA-388(08)  
STA 345+00.00 S.R. 53



Site 7 - An existing single-barrel culvert will be retained and extended 103'- Approx. 250' of the ephemeral channel will be moved to a new ditch and an 18" pipe at a driveway



NO.	DATE	REVISIONS

# Appendix B

## Comments Received to Public Notice 09-45

### ALABAMA DEPARTMENT OF TRANSPORTATION

Application for Deposit of Fill Material Associated with Wetland  
and Stream Fill for Additional Lanes to State Route 53,  
(Rideout Road to Jeff Road), Madison County, AL  
Project No. STPAA-0053(509)

File No. 2009-00722

SHPO-CONCUR



STATE OF ALABAMA  
ALABAMA HISTORICAL COMMISSION  
468 SOUTH PERRY STREET  
MONTGOMERY, ALABAMA 36130-0900

FRANK W. WHITE  
EXECUTIVE DIRECTOR

June 25, 2009

TEL: 334-242-3184  
FAX: 334-240-3477

Lisa Morris  
USACE Nashville District  
3701 Bell Road  
Nashville, Tennessee 37214

Re: AHC 09-0720  
COE-T 09-45  
Wetlands Fill for Lane Additions on SR 53  
Madison County, Alabama

Dear Ms. Morris:

Upon review of the above referenced project, we have determined that we previously concurred with this project. We continue to concur with project activities provided the scope of work remains the same. However, if the scope of work changes, further consultation with our office will be necessary.

Should artifacts or archaeological features be encountered during project activities, work shall cease and our office shall be consulted immediately. Artifacts are objects made, used or modified by humans. These include but are not limited to arrowheads, broken pieces of pottery or glass, stone implements, metal fasteners or tools, etc. Archaeological features are stains in the soil that indicate disturbance by human activity. Some examples are postholes, building foundations, trash pits and even human burials. This stipulation shall be placed on the construction plans to insure contractors are aware of it.

We appreciate your efforts on this project. Should you have any questions, please contact Greg Rhinehart at (334) 230-2662. Please have the AHC tracking number referenced above available and include it with any correspondence.

Truly Yours,

Elizabeth Ann Brown  
Deputy State Historic Preservation Officer

EAB/GCR/gcr

cc: Alfredo Acoff ALDOT

**Morris, Lisa R LRN**

---

**From:** Karen\_Marlowe@fws.gov  
**Sent:** Monday, June 22, 2009 4:00 PM  
**To:** Morris, Lisa R LRN  
**Cc:** Sandra\_Mashner@fws.gov; h2omail@adem.state.al.us  
**Subject:** Public Notice No. 09-45, App No. 2009-00722

Hi Lisa,

The U. S. Fish and Wildlife Service has reviewed the public notice concerning the proposed wetland and stream fill for additional lanes to State Route 53 (Rideout Road to Jeff Road), Madison County, AL, Project No. STPAA-0053 (509) (Public Notice No. 09-45). No significant adverse effects on fish and wildlife resources are expected to result from this project. Therefore, we have no objections to the issuance of this permit. Our comments are provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

FWS Log # 2009-FA-0162.

Karen Marlowe  
U.S. Fish and Wildlife Service  
Alabama Ecological Services Field Office c/o Samford University Propst Hall Room 229 800  
Lakeshore Drive Birmingham, AL 35229-2234  
Ph: (205) 726-2667  
Fax: (205) 726-2479  
Cell: (251) 424-0569



STATE OF ALABAMA  
 DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES  
 64 NORTH UNION STREET  
 MONTGOMERY, AL 36130

BOB RILEY  
 GOVERNOR

PATRICIA J. POWELL, DIRECTOR  
 GREGORY M. LEIN, ASSISTANT DIRECTOR  
 STATE LANDS DIVISION

M. BARNETT LAWLEY  
 COMMISSIONER

June 17, 2009

TELEPHONE (334) 242-3484  
 FAX NO (334) 242-0999

HOBBIE SEALY  
 ASSISTANT COMMISSIONER

Nashville District Corps of Engineers  
 Regulatory Branch,  
 Ms. Lisa R. Morris  
 3701 Bell Road  
 Nashville, TN 37214

Re: Public Notice No. 09-45

JUN 25 2009

Dear Ms. Morris:

The Department of Conservation and Natural Resources has reviewed the above referenced public notice. We respectfully submit the following comments:

- A review of available information by Wildlife and Freshwater Fisheries Division personnel has determined that this project is unlikely to impact any state-protected species. Federally-protected species are under the jurisdiction of the U. S. Fish and Wildlife Service. Please contact that agency regarding potential impacts to federally-protected species (251-441-5181). We concur with the mitigation of unavoidable stream and wetland impacts by debiting credits from an approved mitigation bank. We encourage the proper installation and implementation of best management practices as outlined in the Alabama Handbook for Erosion Control in order to minimize erosion and migration of sediments into wetland and stream areas. Appropriate siltation barriers include: green zones, sod strips, silt fences, erosion eels or other superior means of erosion control that will minimize siltation area authorized in the finalize permit.

X

- The Natural Heritage Section office has developed the following information pertaining to federally listed plant species and federally listed invertebrate species not covered by state game regulations. Based on database records, two federally listed candidate, threatened or endangered species are located within the 0603000205 watershed. The first recently described federally listed endangered species (Morefield's Leather Flower) is known only from the Huntsville Mountains of Alabama - the southernmost extreme of the Cumberland Plateau escarpment. Three of the 9 known populations have already been destroyed by road building, site clearing, and herbicide use associated with residential



development. A sprawling perennial vine with stems up to 5 m long, flowers (mid-May to early July) are leathery and greenish, tinged with pink. It occurs on limestone bluffs within open Juniper-hardwood forests. The vines root in clay-loam soils among massive limestone boulders. The second federally listed threatened species (Price's Potato-bean) depends on a slight amount of disturbance, excessive habitat degradation is threatening the populations that exist. Threats to this species include cattle grazing and trampling, canopy closure, highway maintenance, and heavy logging. In Alabama, this species is an inhabitant of open, mixed-oak forests, forest edges and clearings on river bottoms and ravines, being unable to tolerate deep shade. This information does not suggest that protected species do not occur at the project location. A survey conducted by trained professionals is the most accurate way to ensure that no sensitive species are jeopardized by the development activities. This does not constitute any form of Section 7 consultation. We recommend that the USFWS Field Office in Daphne be contacted for Section 7 consultations.

\*  
already  
conducted

Sincerely,

  
M. Barnett Lawley  
Commissioner  
MBL/jdd  


Cc: Wildlife and Freshwater Fisheries,  
ADEM

Rivers

June 30, 2009

Nashville District Corps of Engineers  
Regulatory Branch  
3701 Bell Road  
Nashville, TN 37214

Dear Ms. Morris,

Site 7 has a direct impact on my property. Presently when there is an extended hard rain, the ditch that service Site 7 spills water over into my backyard. The modification that you are planning to Site 7 will make the water come even faster based on my limited knowledge of you plans. This ditch needs to be made deeper or wider in my opinion, all the way back to where it intersects the wet weather stream. Please let me know of your findings.

Sincerely,



Robert Rivers

Public Notice No. 09-45  
Application No. 2009-00722

5804 Hwy 53  
Harvest, AL 35749

? (256) 851-9047 - mailbox full  
responded to applicant on 8/10/09

JUL 06 2009

JUL 06 2009

# Applicant Rebuttal

**Morris, Lisa R LRN**

---

**From:** Shaddix, Tony [shaddixt@dot.state.al.us]  
**Sent:** Thursday, August 06, 2009 8:23 AM  
**To:** Morris, Lisa R LRN  
**Subject:** FW: RE: SR-53

**Attachments:** MX-M850\_20090803\_144648.pdf



MX-M850\_20090803\_144648.pdf (9...

Lisa, attached is the response from our designers addressing the Rivers' property. I went and surveyed the project for any presence of the two vines (plants) mentioned by State Lands. There is one stretch along the project that I would consider marginal habitat for one of the plants, but I did not find any plants. It is my opinion that it is highly unlikely that either of the plants occur in the vicinity of the project. I can provide more detail of what I found if you need it. Thanks.

**From:** Daughtry, Lee  
**Sent:** Tuesday, August 04, 2009 10:44 AM  
**To:** Shaddix, Tony  
**Cc:** Naranjo, Freddy; Biddick, Stan  
**Subject:** RE: SR-53

Tony,

Attached is a copy of the letter that you left in my chair.

We are extending an existing culvert towards Mr. Rice's property and are constructing a riprap energy basin to reduce the velocity of the water downstream of the culvert. The drainage area leading to the culvert will not be changed by the project; however, the peak flow will increase due to the addition of impervious area for the widened pavement. Additional water will not be added to Mr. River's property because the culvert size will remain the same and thus restrict the flow to the previous design storm. The riprap energy dissipater should reduce the velocity of the water entering Mr. River's property and it includes a pool area for water to temporarily pond. The ditch on the Mr. River's property is off of the project ROW and does not affect the roadway drainage.

If you need any further clarification, let me know.



**DEPARTMENT OF THE ARMY**  
NASHVILLE DISTRICT, CORPS OF ENGINEERS  
3701 Bell Road  
NASHVILLE, TENNESSEE 37214

REPLY TO  
ATTENTION OF:

August 10, 2009

Regulatory Branch

SUBJECT: File No. 2009-00722; Proposed Widening State Route 53,  
(Rideout Road to Jeff Road), Madison County, AL - ADOT Project  
No. STPAA-0053(509)

Mr. Robert Rivers  
5804 Highway 53  
Harvest, AL 35749

Dear Mr. Rivers:

This is in response to your letter for dated June 30, 2009,  
commenting on the subject application for a Department of the  
Army permit.

A copy of your letter was forwarded to the Alabama  
Department of Transportation (ADOT) and they responded as  
follows. ADOT proposes to extend an existing culvert towards  
your property and construct a rock (riprap) energy basin, and  
pool area for water to temporarily pond, downstream of the  
culvert to reduce the velocity of the storm water runoff out of  
the culvert (during peak flow rain events due to the addition of  
impervious area for the widened pavement). According to ADOT,  
the project would also restrict additional storm water from being  
added to the ditch on your property, because the culvert size  
would remain the same and thus restrict the flow to the current  
design storm event. ADOT said that if you have questions about  
their proposed design at Site 7, please contact either Mr. Tony  
Shaddix or Mr. Lee Daughtry at (334)242-6145.

If you have further questions or comments for the Corps  
regarding this matter, please contact me at the above address or  
telephone (615) 369-7504.

Sincerely,

*Lisa R. Morris*

Lisa R. Morris  
Project Manager  
Operations Division

# Appendix C

## Water Quality Certification, July 13, 2009

### ALABAMA DEPARTMENT OF TRANSPORTATION

Application for Deposit of Fill Material Associated with Wetland  
and Stream Fill for Additional Lanes to State Route 53,  
(Rideout Road to Jeff Road), Madison County, AL  
Project No. STPAA-0053(509)

File No. 2009-00722

ONIS "TREY" GLENN, III  
DIRECTOR



Alabama Department of Environmental Management  
adem.alabama.gov

1400 Coliseum Blvd. 36110-2059 ♦ Post Office Box 301463  
Montgomery, Alabama 36130-1463  
(334) 271-7700  
FAX (334) 271-7950

BOB RILEY  
GOVERNOR

July 13, 2009

ALFEDO ACOFF  
ALABAMA DEPARTMENT OF TRANSPORTATION  
1409 COLISEUM BOULEVARD  
MONTGOMERY AL 36130

RE: Certification with Special Conditions  
Clean Water Act (CWA) Section 401 Water Quality Certification Issued July 13, 2009  
Water Quality Certification Expires July 12, 2014  
Corps of Engineers (COE) JPN# AL09-45 Issued May 26, 2009  
Madison County (089)  
To fill 2.23 acres of wetland and streambeds in order to provide a safe and efficient transportation facility to meet existing and future traffic demands.

Dear Ms. Acoff:

This office has completed a review of the above-referenced joint public notice and all associated materials submitted related to the proposed project. Any comments made during the public notice period have also been forwarded to us for review.

From our review, it is understood that the applicant proposes to fill 2.23 acres of wetlands and streambeds at seven different sites along SR 53 in Madison County. This is a major transportation route connecting Ardmore to Huntsville and the purpose of this project is to provide a safe and efficient transportation facility to meet existing and future traffic demands. The applicant proposes to mitigate the wetland impacts of the work by purchasing 2.23 credits from a local Mitigation Bank.

Because action pertinent to water quality certification (WQC) is required by Section 401(a)(1) of the Clean Water Act (CWA), 33 U.S.C. Section 1251, et seq., we hereby issue certification, for a period **not to exceed five (5) years** from the date of issuance, that there is reasonable assurance that the discharge resulting from the proposed activities as submitted will not violate applicable water quality standards established under Section 303 of the CWA and Title 22, Section 22-22-9(g), Code of Alabama, 1975, provided the applicant acts in accordance with the following conditions as specified. We further certify that there are no applicable effluent limitations under Section 301 and 302 nor applicable standards under Section 306 and 307 of the CWA in regard to the activities specified.

Please be advised that this certification shall expire **eighteen (18) months** after issuance if initial construction or implementation of the proposed project has not begun, unless an extension is approved by ADEM.

To minimize adverse impacts to State waters, by copy of this letter we are requesting the Nashville District Corps of Engineers to incorporate the following as special conditions of the Corps Permit:

1. Please be advised that ADEM permit coverage may be required for certain activities/operations relating to or resulting from this project. If you have any questions regarding regulated activity or the need for air permit coverage, please contact ADEM's Air Division at (334) 271-7869. If you have any questions regarding regulated activity or the need for hazardous, toxic, and/or solid waste permit coverage, please contact ADEM's Land Division at (334) 271-7730. If you have any questions regarding regulated activity or the need for National Pollutant Discharge Elimination System (NPDES) permit coverage, please contact ADEM's Water Division at (334) 271-7823.

JUL 30 2009

Birmingham Branch  
110 Vulcan Road  
Birmingham, AL 35209-4702  
(205) 942-6168  
(205) 941-1603 (Fax)

Decatur Branch  
2715 Sandlin Road, S.W.  
Decatur, AL 35603-1333  
(256) 353-1713  
(256) 340-9359 (Fax)



Mobile Branch  
2204 Perimeter Road  
Mobile, AL 36615-1131  
(251) 450-3400  
(251) 479-2593 (Fax)

Mobile - Coastal  
4171 Commanders Drive  
Mobile, AL 36615-1421  
(251) 432-6533  
(251) 432-6598 (Fax)

2. Upon the loss or failure of any treatment facility, best management practice (BMP), or other control, the applicant shall, where necessary to maintain compliance with this certification, suspend, cease, reduce or otherwise control work/activity and all discharges until effective treatment is restored. It shall not be a defense for the applicant in a compliance action that it would have been necessary to halt or reduce work or other activities in order to maintain compliance with the conditions of this certification.
3. The applicant shall retain records adequate to document activities authorized by this certification including but not limited to, inspection reports, monitoring information, copies of any reports and all data used to complete the above reports or the application for this certification, for a period of at least three years after completion of work/activity authorized by the certification. Upon written request, the applicant shall provide ADEM with a copy of any record/information required to be retained by this paragraph. The applicant shall notify ADEM in writing upon completion of the proposed project that the pollution control measures specified in the Corps permit and any special conditions specified by ADEM have been properly implemented.
4. The applicant shall prepare a detailed Best Management Practices (BMP) Plan. Effective BMPs shall be implemented and continually maintained for the prevention and control of nonpoint and other sources of pollutants, including measures to ensure permanent revegetation or cover of all disturbed areas, during and after project implementation.
5. The applicant shall implement a Spill Prevention Control and Countermeasures (SPCC) Plan for all temporary and permanent onsite fuel or chemical storage tanks or facilities consistent with the requirements of ADEM Admin. Code R. 335-6-6-.12(r), Section 311 of the Federal Water Pollution Control Act, and 40 CFR Part 112. The applicant shall maintain onsite or have readily available sufficient oil & grease absorbing material and flotation booms to contain and clean-up fuel or chemical spills and leaks. The applicant shall immediately notify ADEM after becoming aware of a significant visible oil sheen in the vicinity of the proposed activity. In the event of a spill with the potential to impact groundwater or other waters of the State, the applicant should immediately call the National Response Center at 1-800-424-8802 and the Alabama Emergency Management Agency at 1-800-843-0699. The caller should be prepared to report the name, address and telephone number of person reporting spill, the exact location of the spill, the company name and location, the material spilled, the estimated quantity, the source of spill, the cause of the spill, the nearest downstream water with the potential to receive the spill, and the actions taken for containment and cleanup.
6. The applicant shall conduct, at a minimum, weekly comprehensive site inspections to ensure that effective Best Management Practices (BMPs) are properly designed, implemented, and regularly maintained (i.e. repair, replace, add to, improve, implement more effective practice, etc.) utilizing good engineering practices to prevent/minimize to the maximum extent practicable discharges of pollutants in order to provide for the protection of water quality. The inspections shall be conducted by a qualified credentialed professional (QCP), qualified personnel under the direct supervision of a QCP, or an ADEM recognized qualified credentialed inspector (QCI), until completion of the proposed activity.
7. Additional, effective BMPs shall be fully implemented and maintained on a daily basis as needed to prevent to the maximum extent possible potential discharges of pollutants from activities authorized by this certification, directly to or to a tributary or other stream segment, that have the potential to impact a State water currently considered impaired [waterbody is identified on the Alabama 303(d) list, a total maximum daily load (TMDL) has been finalized for the waterbody, and/or the waterbody is otherwise considered a Tier 1 water pursuant to ADEM Admin. Code Ch. 335-6-10]. The applicant shall inspect all BMPs as often as is necessary (daily if needed) for effectiveness, need for maintenance, and the need to implement additional, effective BMPs. Additional effective BMPs shall immediately be implemented as needed and may include but are not limited to sediment retention basins, greater capacity in sediment retention structures, hydroseeding with application of non-toxic tackifiers, grass sodding, non-toxic chemical treatment, erosion control blankets, other effective innovative/alternative technologies, etc. to ensure full compliance with ADEM requirements and the protection of water quality in the impaired waterbody.

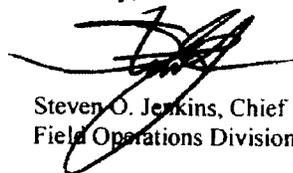
8. All construction and worker debris (e.g. trash, garbage, etc.) must be immediately removed and disposed in an approved manner. If acceptable offsite options are unavailable, effective onsite provisions for collection and control of onsite worker toilet wastes or gray waste waters (i.e. port-o-let, shower washdown, etc.) must be implemented and maintained. Soil contaminated by paint or chemical spills, oil spills, etc. must be immediately cleaned up or be removed and disposed in an approved manner. Also, the applicant shall manage and dispose of any trash, debris, and solid waste according to applicable state and federal requirements.
9. All materials used as fill, or materials used for construction of structures in a waterbody, must be non-toxic, non-leaching, non-acid forming, and free of solid waste or other debris.

In recognition that projects are site specific in nature and conditions can change during project implementation, ADEM reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case by case basis, in order to ensure the protection of water quality. Liability and responsibility for compliance with this certification are not delegable by contract or otherwise. The applicant shall ensure that any agent, contractor, subcontractor, or other person employed by, under contract, or paid a salary by the applicant complies with this certification. Any violations resulting from the actions of such person shall be considered violations of this certification and may subject the applicant to enforcement action.

Issuance of a certification by ADEM neither precludes nor negates an operator/owner's responsibility or liability to apply for, obtain, or comply with other ADEM, federal, state, or local government permits, certifications, licenses, or other approvals. This certification does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, and in no way purports to vest in the applicant title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State of Alabama that may be in the applicant's possession.

Should you have any questions on this or related matters, please do not hesitate to contact **Brandy Bowen, Office of Field Services, by email at [b Bowen@adem.state.al.us](mailto:b Bowen@adem.state.al.us) or by phone at (334) 394-4322.**

Sincerely,



Steven O. Jenkins, Chief  
Field Operations Division

SOJ/bmb

File: WQ401/0000000298

c: Nashville COE  
Permits & Services Division, ADEM  
Wetlands Section, EPA Region IV

# Appendix D

## Wetland Delineation, JDs, and Photographs

### ALABAMA DEPARTMENT OF TRANSPORTATION

Application for Deposit of Fill Material Associated with Wetland  
and Stream Fill for Additional Lanes to State Route 53,  
(Rideout Road to Jeff Road), Madison County, AL  
Project No. STPAA-0053(509)

File No. 2009-00722



Photograph Taken May 8, 2009, Looking West at site 7 ADOT SR 53  
File No. 2009-00722



Photograph Taken May 8, 2009, Looking NW at sites 1-3

SAMPLE

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
1	34 47 42.86 N	86 40 13.39 W	Palustrine Forested/Emergent	330 linear feet stream & 0.21 acre wetlands	non- Section 10 non- wetland & non- Section 10 wetland
2	34 47 55.99 N	86 40 26.89 W	Palustrine Forested	2.02 acres wetlands	non- Section 10 wetland
3	34 48 02.31 N	86 40 31.24 W		165 linear feet stream	non- Section 10 non- wetland
4	34 49 02.51 N	86 41 20.26 W		105 linear feet stream	non- section 10 non- wetland
5	34 49 20.47 N	86 41 36.31 W	Palustrine Forested/Emergent	0.75 acres wetlands	non- section 10 wetland
6	34 50 33.55 N	86 42 35.25 W		182 linear feet stream	non- section 10 non- wetland
7	34 50 42.84 N	86 42 43.50 W		295 linear feet stream	non- section 10 non- wetland

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>S.R. 53</u>	Date: <u>5-18-09</u>
Applicant/Owner: <u>AL DOT</u>	County: <u>Madison</u>
Investigator: <u>Shaddix</u>	State: <u>AL</u>
Do Normal Circumstances exist on the site? Is the site significantly disturbed (Atypical Situation)? Is the area a potential Problem Area? (If needed, explain on reverse.)	Yes <input checked="" type="radio"/> No <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/>
	Community ID: _____ Transect ID: _____ Plot ID: _____

**VEGETATION**

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Red maple	T	FAC	9.		
2. Boxelder	T	FACW	10.		
3. Water oak	T	FAC	11.		
4. Sweet gum	T	FAC+	12.		
5. Rattan-vine		FACW	13.		
6. Scirpus sp.			14.		
7. Sedge spp.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): 100%

Remarks:

**HYDROLOGY**

Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available	Wetland Hydrology Indicators: Primary Indicators: <input checked="" type="checkbox"/> Inundated <input checked="" type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands Secondary Indicators (2 or more required): <input checked="" type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input checked="" type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Field Observations: Depth of Surface Water: <u>pockets 1</u> (in.) Depth to Free Water in Pit: <u>12</u> (in.) Depth to Saturated Soil: <u>11</u> (in.)	
Remarks:	

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>S.R. 53</u>	Date: <u>5-19-09</u>						
Applicant/Owner: <u>AL DOT</u>	County: <u>Madison</u>						
Investigator: <u>Shaddix</u>	State: <u>AL</u>						
Do Normal Circumstances exist on the site? Is the site significantly disturbed (Atypical Situation)? Is the area a potential Problem Area? (If needed, explain on reverse.)	<table> <tr> <td><input checked="" type="radio"/> Yes</td> <td><input type="radio"/> No</td> </tr> <tr> <td><input type="radio"/> Yes</td> <td><input checked="" type="radio"/> No</td> </tr> <tr> <td><input type="radio"/> Yes</td> <td><input checked="" type="radio"/> No</td> </tr> </table>	<input checked="" type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> Yes	<input checked="" type="radio"/> No	<input type="radio"/> Yes	<input checked="" type="radio"/> No
<input checked="" type="radio"/> Yes	<input type="radio"/> No						
<input type="radio"/> Yes	<input checked="" type="radio"/> No						
<input type="radio"/> Yes	<input checked="" type="radio"/> No						
	Community ID: _____ Transect ID: _____ Plot ID: _____						

**VEGETATION**

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Willow oak	T	FACW-	9.		
2. Overcup oak	T	OBL	10.		
3. Elm	T		11.		
4. Red maple	T	FAC	12.		
5.			13.		
6.			14.		
7.			15.		
8.			16.		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): 100%

Remarks:

**HYDROLOGY**

<input checked="" type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available	<b>Wetland Hydrology Indicators:</b> <b>Primary Indicators:</b> <input checked="" type="checkbox"/> Inundated <input checked="" type="checkbox"/> Saturated in Upper 12 Inches <input checked="" type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands <b>Secondary Indicators (2 or more required):</b> <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input checked="" type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
Field Observations: Depth of Surface Water: <u>2 to 8</u> (in.) Depth to Free Water in Pit: _____ (in.) Depth to Saturated Soil: _____ (in.)	
Remarks:	

S.R. 53 Isolated Wetland Site 5

**DATA FORM**  
**ROUTINE WETLAND DETERMINATION**  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>S.R. 53</u>		Date: <u>5-19-09</u>
Applicant/Owner: <u>AL DOT</u>		County: <u>Madison</u>
Investigator: <u>Shaddix</u>		State: <u>AL</u>
Do Normal Circumstances exist on the site?	<input checked="" type="radio"/> Yes <input type="radio"/> No	Community ID: _____
Is the site significantly disturbed (Atypical Situation)?	<input type="radio"/> Yes <input checked="" type="radio"/> No	Transect ID: _____
Is the area a potential Problem Area? (If needed, explain on reverse.)	<input type="radio"/> Yes <input checked="" type="radio"/> No	Plot ID: _____

**VEGETATION**

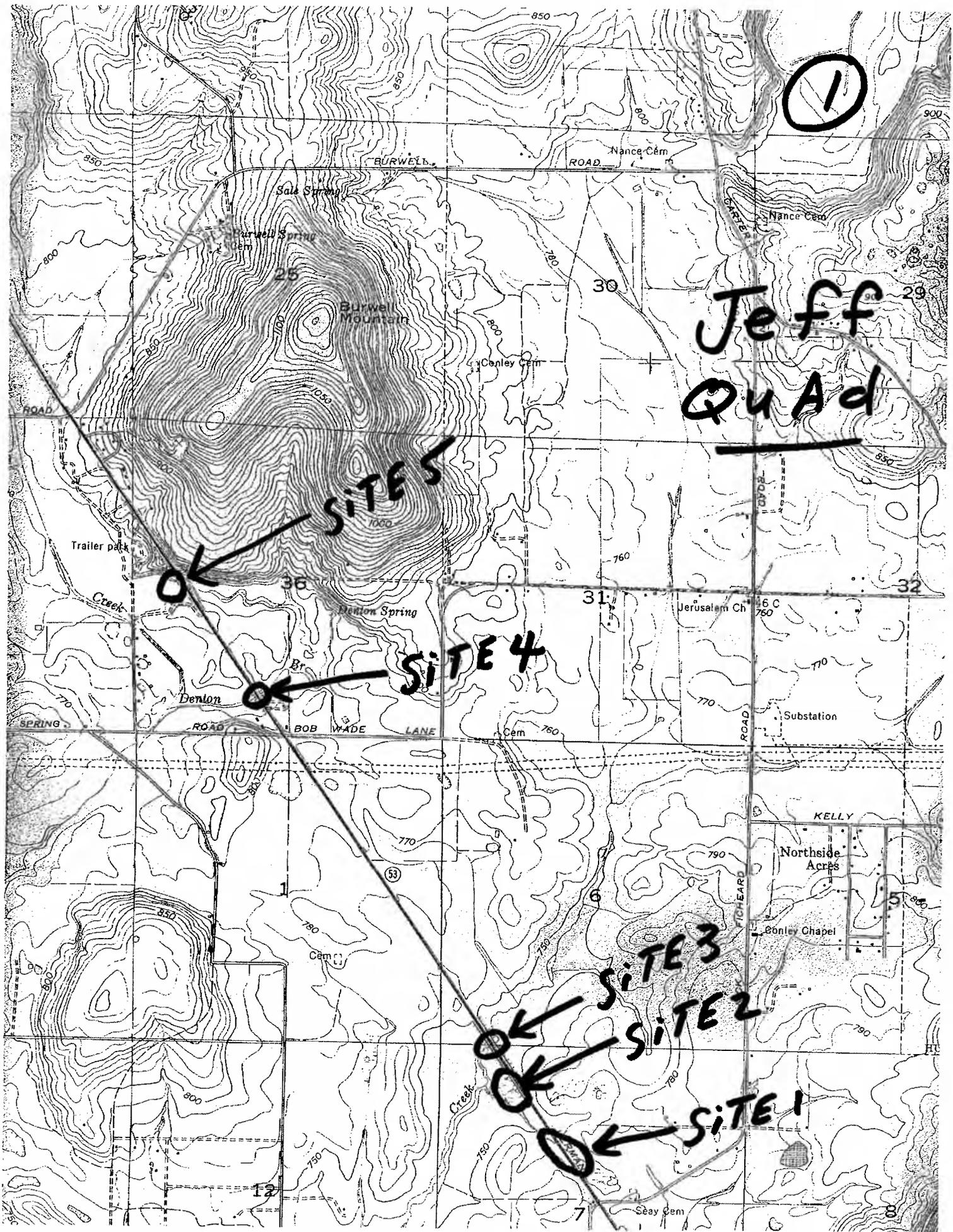
Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. Lizard's tail		OBL	9. _____		
2. Scirpus sp.			10. _____		
3. Red maple	T	FAC	11. _____		
4. Elm	T		12. _____		
5. Sweet gum	T	FAC	13. _____		
6. Sycamore	T	FACW-	14. _____		
7. Black willow	S	OBL	15. _____		
8. Sedge spp.			16. _____		

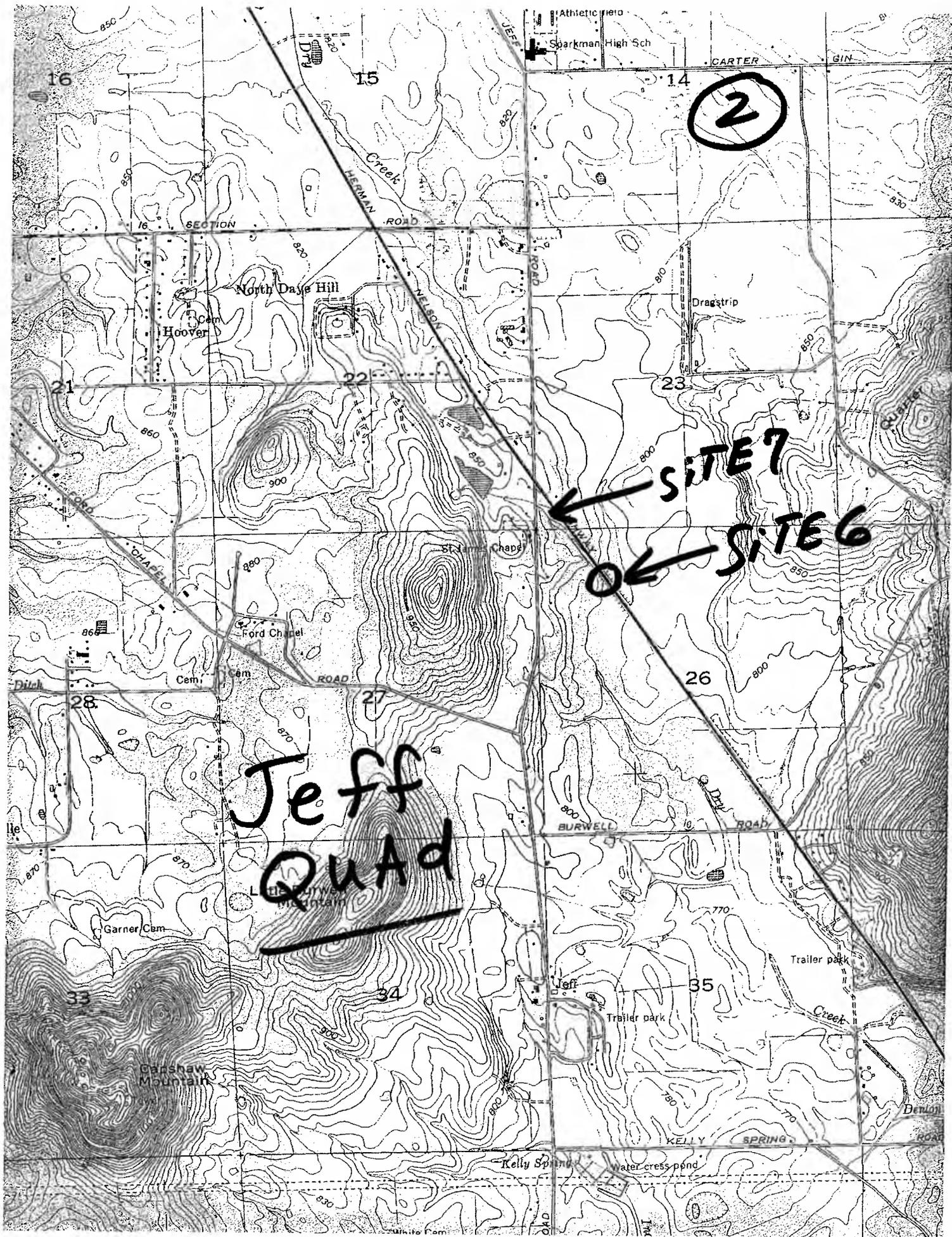
Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): 100%

Remarks:

**HYDROLOGY**

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available	<b>Wetland Hydrology Indicators:</b> <b>Primary Indicators:</b> <input checked="" type="checkbox"/> Inundated <input checked="" type="checkbox"/> Saturated in Upper 12 Inches <input checked="" type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands <b>Secondary Indicators (2 or more required):</b> <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input checked="" type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
<b>Field Observations:</b> Depth of Surface Water: <u>2 to 8</u> (in.) Depth to Free Water in Pit: _____ (in.) Depth to Saturated Soil: _____ (in.)	Remarks:

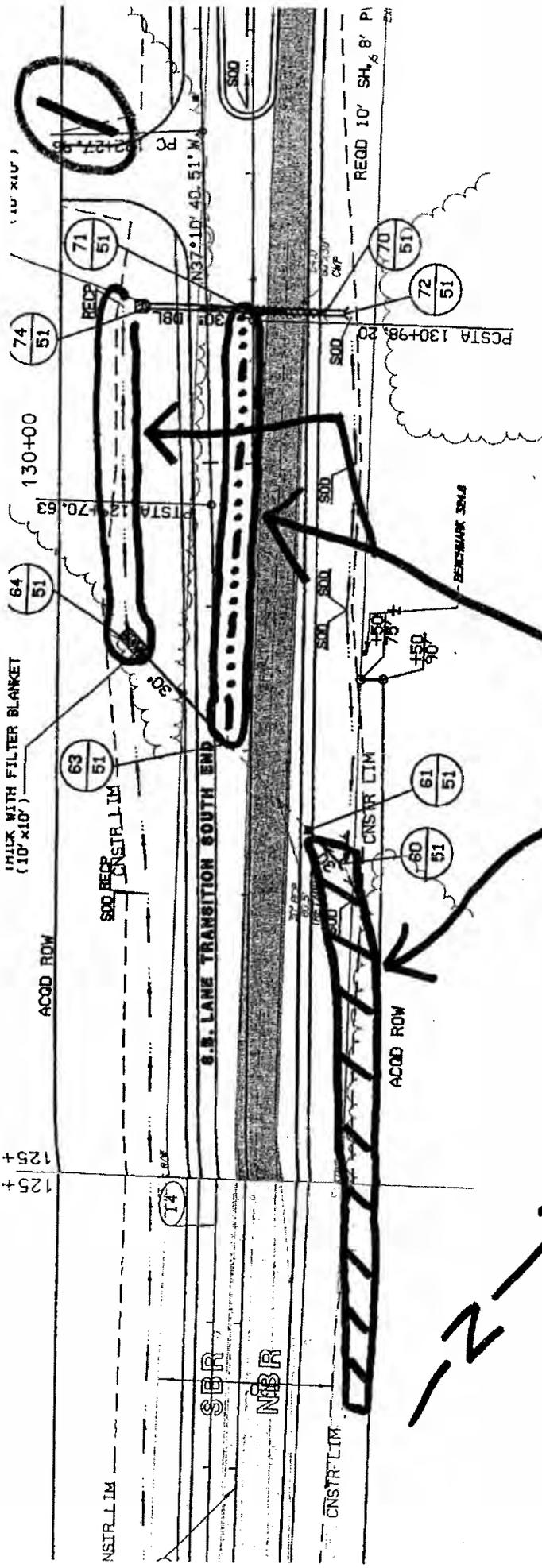




2

← SITE 7  
← SITE 6

Jeff  
QUAD



REGD SP DITCH	RT= 129+00.00	EL= 755.40	TANGENT SI
REGD SP DITCH	RT= 130+00.00	EL= 753.85	
REGD SP DITCH	LT= 130+00.00	EL= 751.50	
REGD SP DITCH	RT= 129+00.00	EL= 754.63	
REGD SP DITCH	LT= 130+00.00	EL= 755.79	

Site 1- Approx. 0.21 acre of wetlands to be impacted- 118' Ext. to a 30" pipe at Station 128- On the west side, the project will require fill to the Approx. 300' existing ditch (bottom) in order to construct an Approx. 225' new ditch (top) unnamed trib

ALABAMA  
DEPARTMENT OF TRANSPORTATION

PLAN  
S.R. 53  
STA 110+00.00 TO STA 125+00.00

VOLKERT & ASSOCIATES, INC.  
CONSULTING ENGINEERS

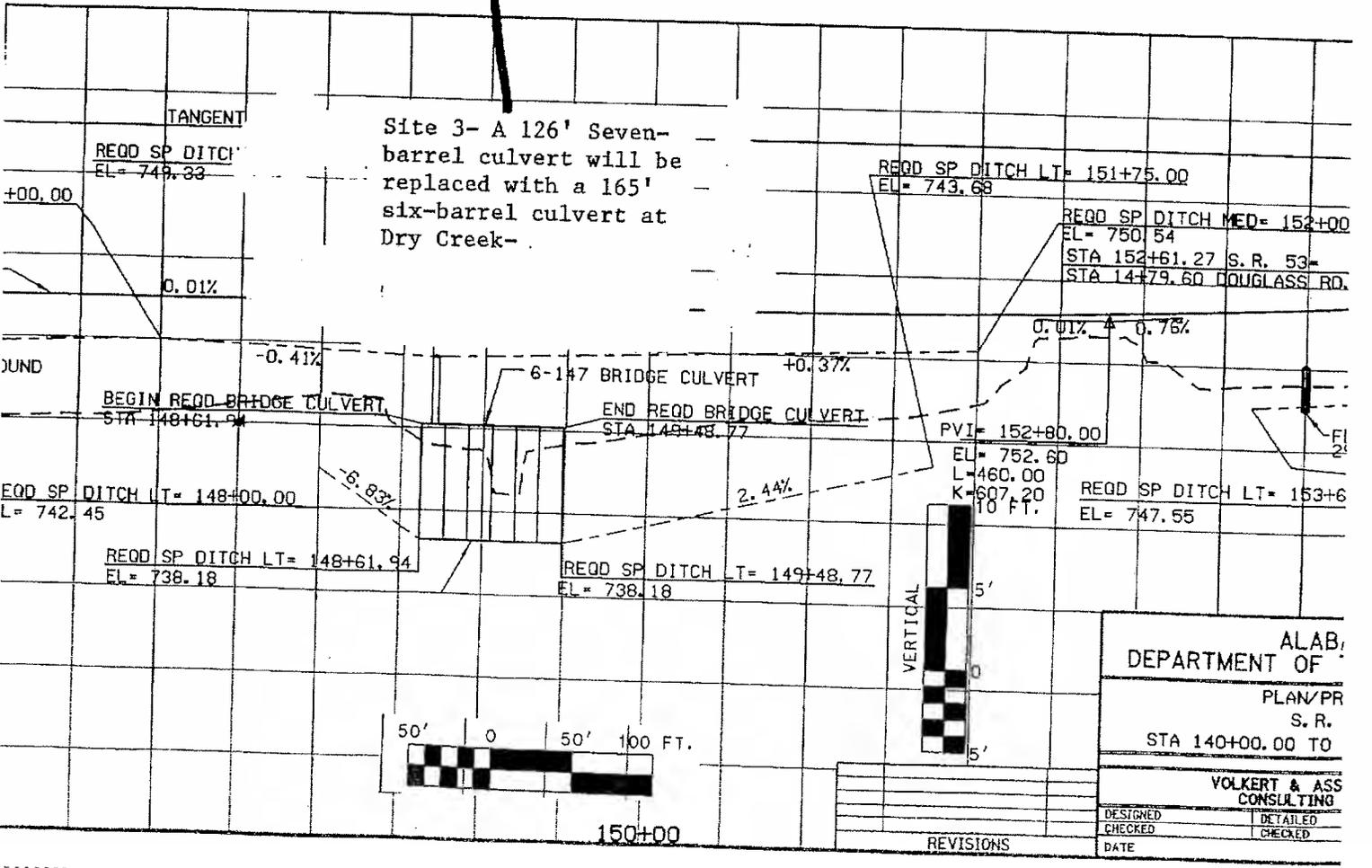
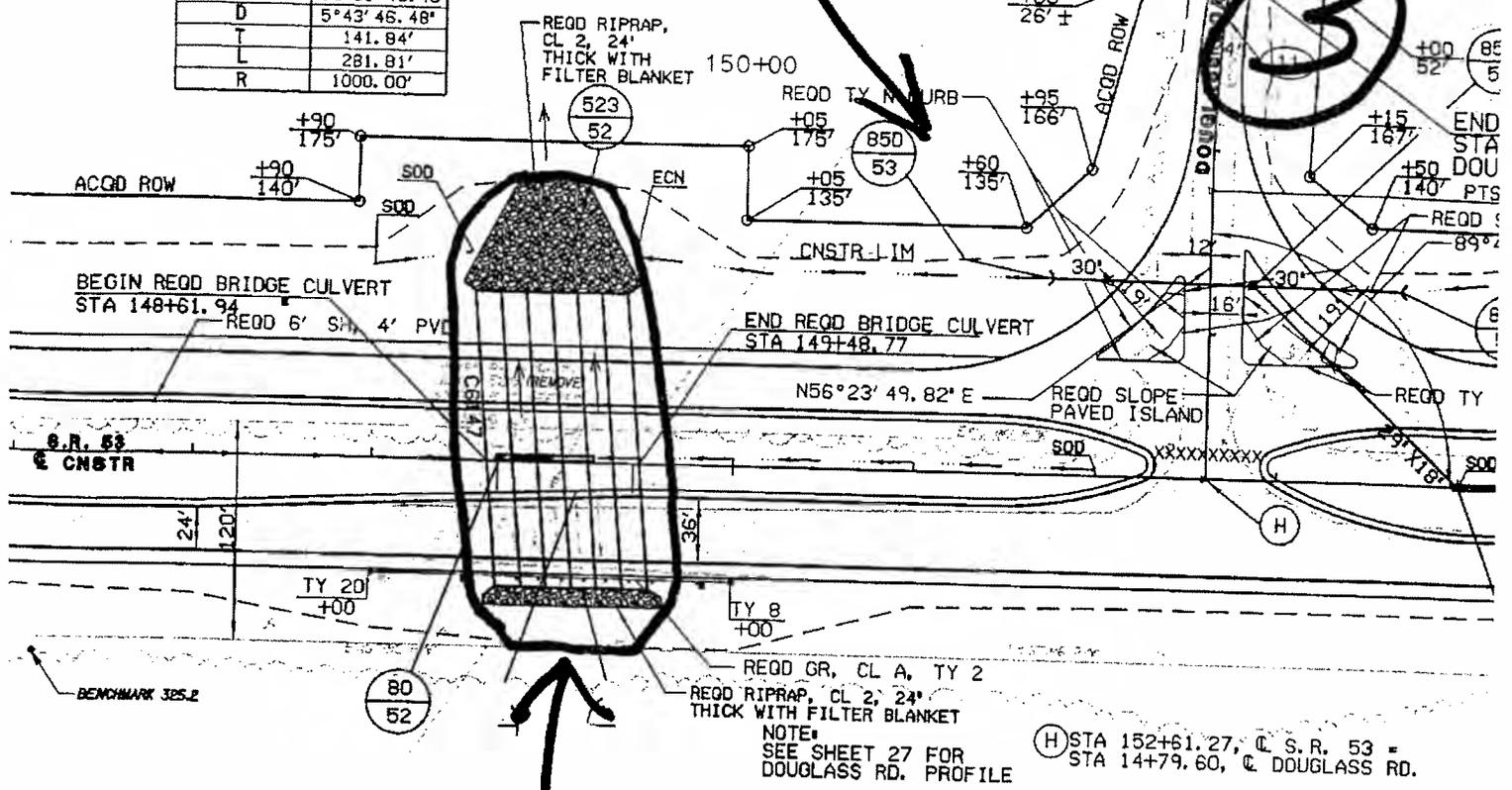
DESIGNED	CHECKED	DATE	QUANTITY	CHECKED

DN





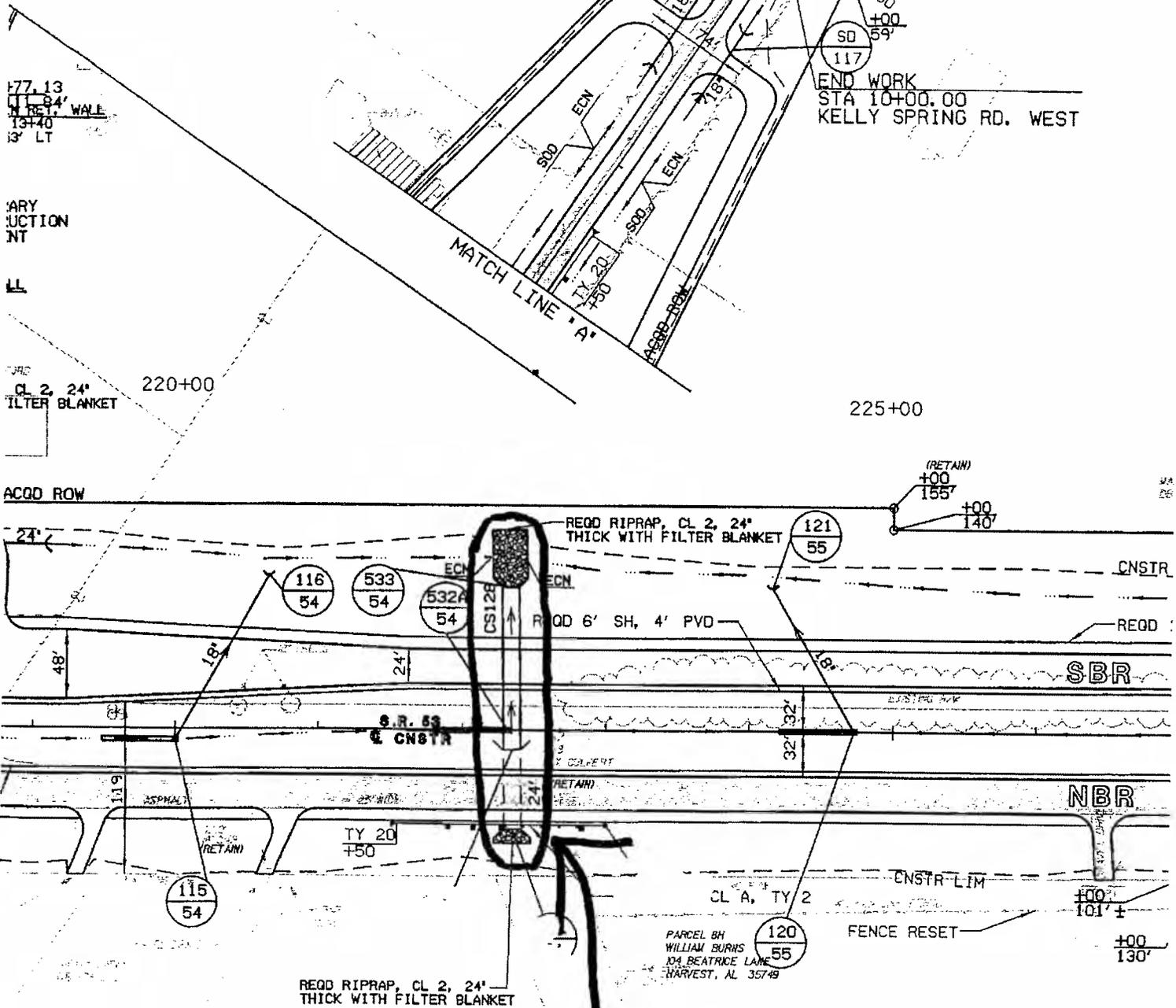
CURVE NO.	11
PI STA	11+81.87
PC STA	10+40.02
PT STA	13+21.83
Δ	16°08' 46.43"
D	5°43' 46.48"
T	141.84'
L	281.81'
R	1000.00'



BENCHMARK 326.8  
 N 257.8452.81  
 E 39907.74  
 S/A 228+87.75  
 R 85.80  
 C/S W/ AL CAP  
 EL 761.53'

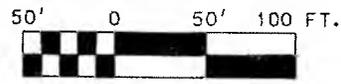
PAVEMENT TO BE RETAINED

4



Site 4- A 105' extension  
 to a single-barrel  
 culvert at Denton Br.-

NOTE:  
 SEE SHEET 28 FOR  
 KELLY SPRING RD. WEST

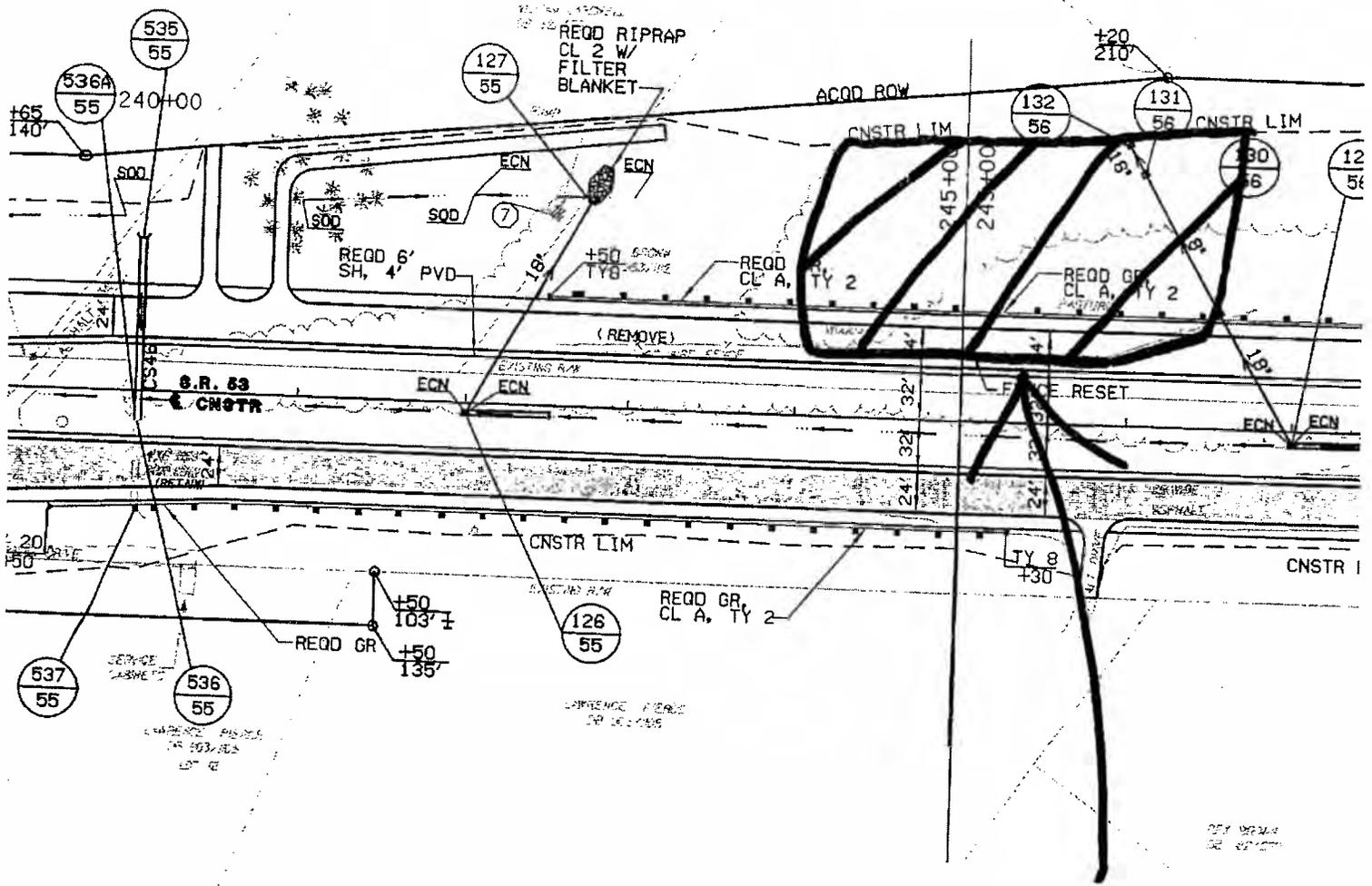
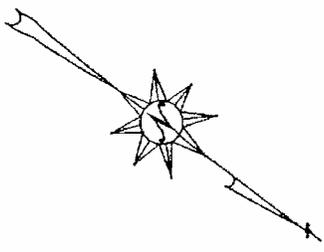



RE

FED. REG. NO.	STATE	PROJECT NO.	FISCAL YEAR
4	AL	STPAA-388(09)	2006

BENCHMARK 327-2  
 N 87438.21  
 E 397760.45  
 Sta 254+31.4  
 R 74.43  
 CMS W/ AL MAP  
 ELEV. 808.56

**5**



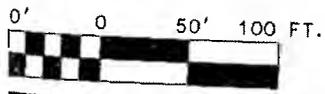
Site 5- is an isolated pocket of wetlands not connected to any drainage channel-  
 Approx. 0.75 acre to be impacted

**ALABAMA  
 DEPARTMENT OF TRANSPORTATION**

PLAN SHEET  
 S. R. 53  
 STA 230+00.00 TO STA 245+00.00

**VOLKERT & ASSOCIATES, INC  
 CONSULTING ENGINEERS**

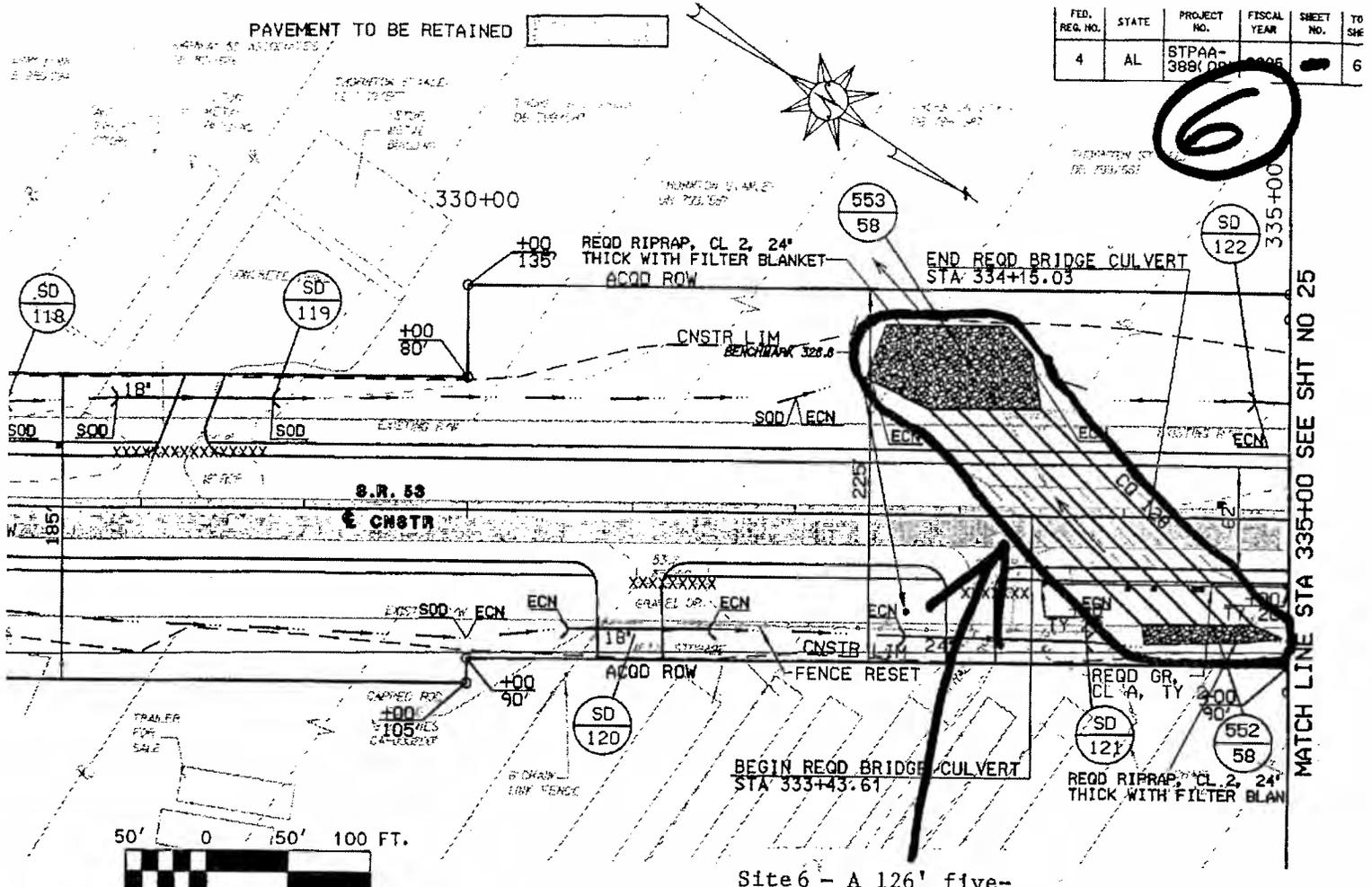
DESIGNED	DETAIL D	QUANT
CHECKED	CHECKED	CHECK
DATE		D



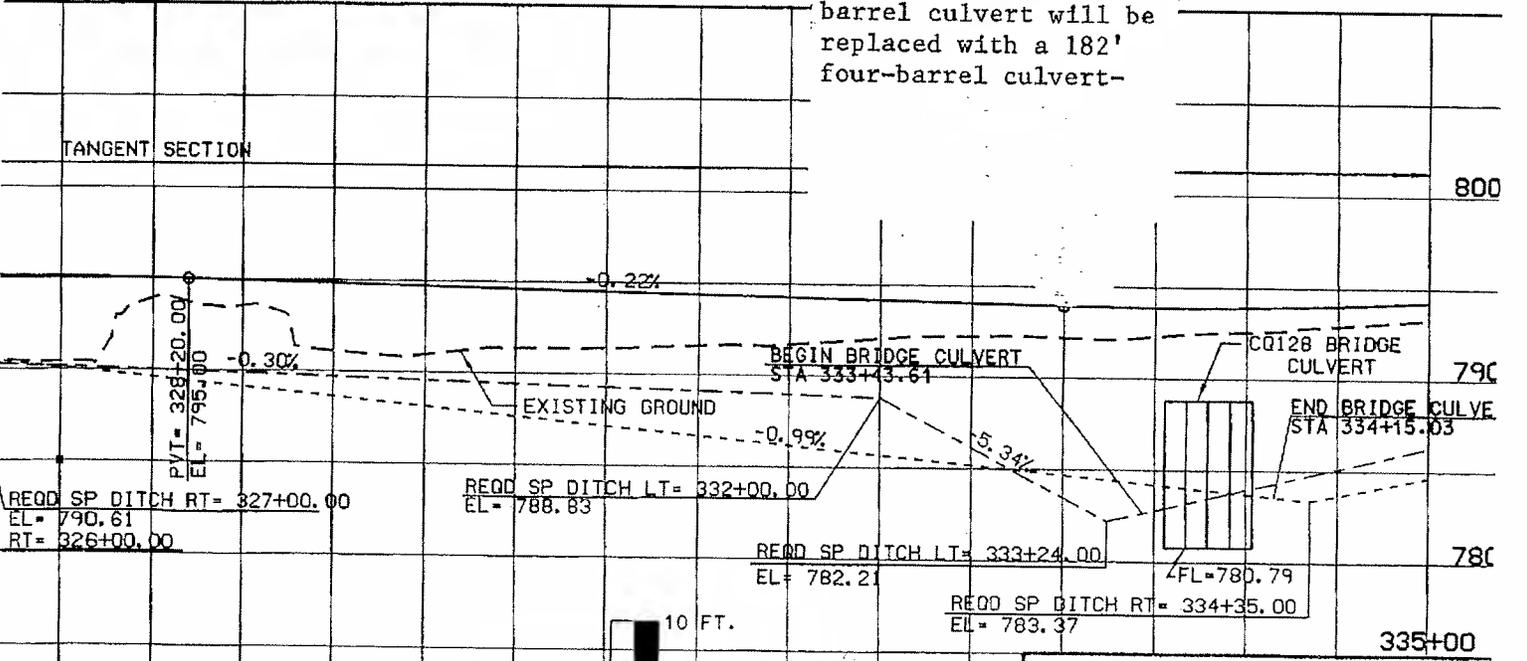
REVISIONS	

FED. REG. NO.	STATE	PROJECT NO.	FISCAL YEAR	SHEET NO.	TOT. SHE.
4	AL	STPAA-388(00)	2006	6	6

6



Site 6 - A 126' five-barrel culvert will be replaced with a 182' four-barrel culvert-



**ALABAMA**  
DEPARTMENT OF TRANSPORTATION

PLAN/PROFILE  
S. R. 53  
STA 320+00.00 TO STA 335+00.00

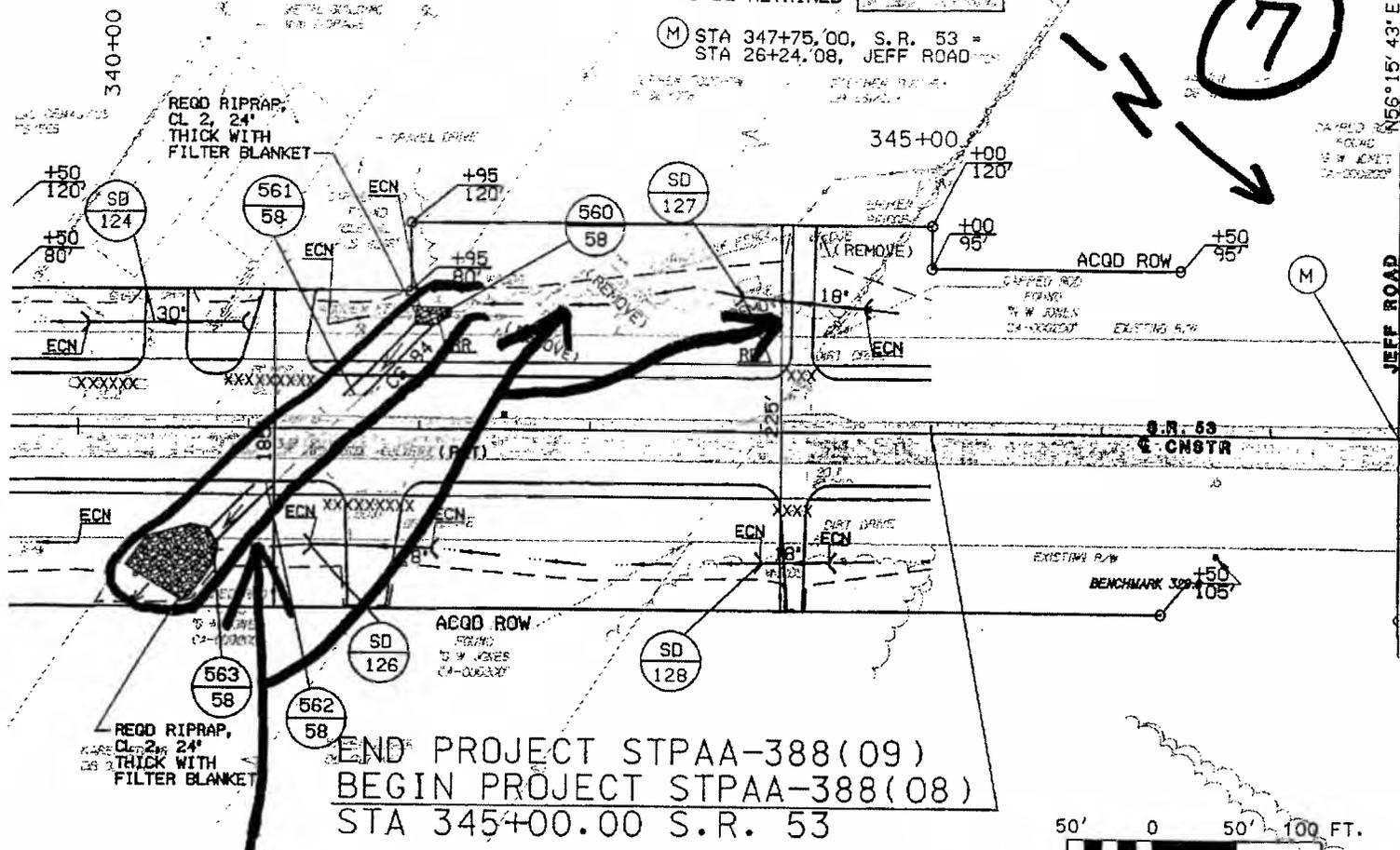
VOLKERT & ASSOCIATES, INC.  
CONSULTING ENGINEERS

DESIGNED	DETAILED	QUANTITIES
CHECKED	CHECKED	CHECKED
DATE		DWG. NO.

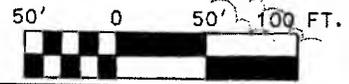
NO.	DATE	REVISIONS

PAVEMENT TO BE RETAINED

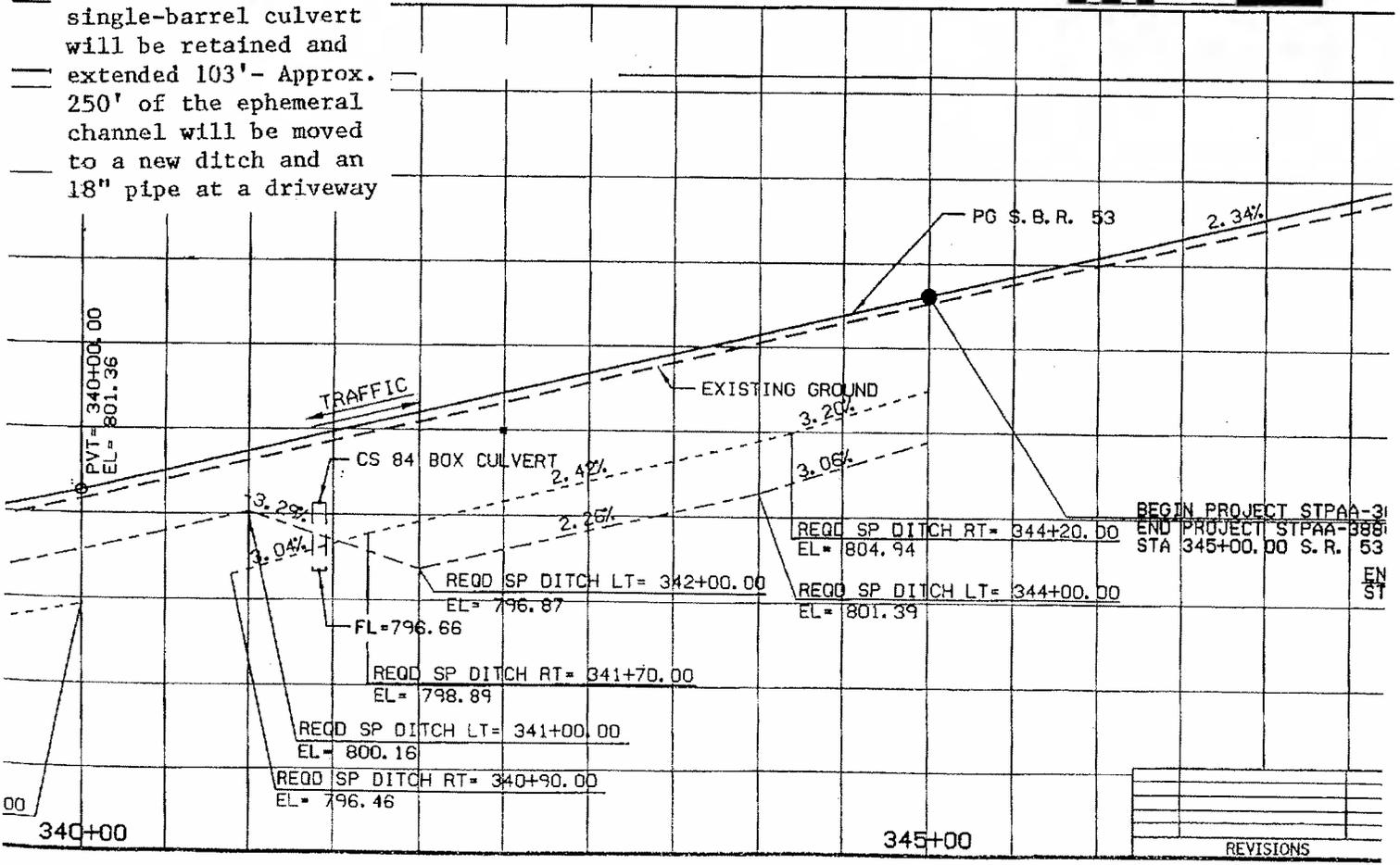
(M) STA 347+75.00, S.R. 53 =  
STA 26+24.08, JEFF ROAD



END PROJECT STPAA-388(09)  
BEGIN PROJECT STPAA-388(08)  
STA 345+00.00 S.R. 53



Site 7 - An existing single-barrel culvert will be retained and extended 103'- Approx. 250' of the ephemeral channel will be moved to a new ditch and an 18" pipe at a driveway



BEGIN PROJECT STPAA-388(09)  
END PROJECT STPAA-388(08)  
STA 345+00.00 S.R. 53

NO.	DATE	REVISIONS

RECEIVED

AUG 11 2009

**PRELIMINARY JURISDICTIONAL DETERMINATION FORM**

**BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): 5-AUG-2009**

**B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:**  
Alabama Department of Transportation, Mr. Tony Shaddix, 1409 Coliseum Blvd, Montgomery, AL 36130

**C. DISTRICT OFFICE, FILE NAME, AND NUMBER:**  
Nashville District, LRN-2009-00722, ALDOT, Highway 53

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:** Multiple streams and wetlands in the Indian Creek watershed, Tennessee River Mile 321.0, Right Bank, Along Highway 53(Rideout Road to Jeff Road)

State:Alabama County/parish/borough: Madison City: Huntsville  
Center coordinates of site (lat/long in degree decimal format):  
Lat. 34.818, Long. -86.686.

Name of nearest waterbody: Multiple waters in the Indian Creek watershed.

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 1,500 linear feet: 10 width (ft).

Cowardin Class: Riverine

Stream Flow: Various

Wetlands: 2.23 acres.

Cowardin Class: Forested and Emergent

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal:

Non-Tidal:

**E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

Office (Desk) Determination. Date: 5-AUG-2009

Field Determination. Date(s): 8-MAY-2009

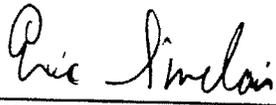
1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.
  
2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "may be" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

**SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply**

- checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: Nashville District Public Notice #86-23, dated 8 May 1986.
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000, Jeff, AL.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Madison County, AL.
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):  
or  Other (Name & Date): 8-May-2009.
- Previous determination(s). File no. and date of response letter: .
- Other information (please specify): .

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

  
Signature and date of  
Regulatory Project Manager  
(REQUIRED)

 for  
Signature and date of  
person requesting preliminary JD  
(REQUIRED, unless obtaining  
the signature is impracticable) AL  
DOT

8-11-09

<b>Site number</b>	<b>Latitude</b>	<b>Longitude</b>	<b>Cowardin Class</b>	<b>Estimated amount of aquatic resource in review area</b>	<b>Class of aquatic resource</b>
1	34.796	-86.671	Palustrine	0.21 acre	Section 404-wetland
1	34.796	-86.671	Riverine	418 linear feet	Section 404-RPW-seasonal
2	34.799	-86.674	Palustrine	2.02 acres	Section 404-wetland
3	34.801	-86.675	Riverine	165 linear feet	Section 404-RPW
4	34.818	-86.689	Riverine	105 linear feet	Section 404-RPW-seasonal
6	34.843	-86.677	Riverine	182 linear feet	Section 404-RPW
7	34.844	-86.711	Riverine	353 linear feet	Section 404-RPW-seasonal

# Appendix E

## Section 404(b)(1) Determination

### ALABAMA DEPARTMENT OF TRANSPORTATION

Application for Deposit of Fill Material Associated with Wetland  
and Stream Fill for Additional Lanes to State Route 53,  
(Rideout Road to Jeff Road), Madison County, AL  
Project No. STPAA-0053(509)

File No. 2009-00722

August 5, 2009

404(B)(1) GUIDELINES COMPLIANCE EVALUATION  
(40 CFR 230.10)

Application for Deposit of Fill Material Associated with Wetland and Stream Fill for  
Additional Lanes to State Route 53, (Rideout Road to Jeff Road), Madison County, AL  
Project No. STPAA-0053(509)

File No. 2009-00722

**RESTRICTIONS ON DISCHARGE(\*):** An asterisk in a block indicates that the proposal does not comply with the guidelines.

I. **Alternatives test.**

A. Are there available, practicable alternatives having less adverse impact on the aquatic ecosystem and without other significant adverse environmental consequences that do not involve discharges into "waters of the United States" or at other locations within these waters? [Yes(\*)\_\_ No X]

B. If the project is in a special aquatic site and is not water-dependent, has applicant clearly demonstrated that there are no practicable alternative sites available? [Yes X No(\*)\_\_N/A\_\_]

II. Special restrictions. Will the discharge:

- violate state water quality standards? [Yes(\*)\_\_ No x]. *The State of Alabama Department of Environmental Management issued conditional a water quality certification for the work on July 13, 2009. The permit is valid for five years. See copy of the water quality certification in Appendix C.*

- violate toxic effluent standards (under Section 307 of the Act)? [Yes(\*)\_\_ No x]  
*Permit conditions require that all fill material be free from toxic pollutants.*

- jeopardize endangered or threatened species or critical habitat? [Yes(\*)\_\_ No x]  
*USFWS has stated that the site does contain federally protected species. See letter in Appendix B.*

- violate standards set by the Department of Commerce to protect marine sanctuaries? [Yes(\*)\_\_ No\_\_N/A X]

August 5, 2009

Evaluation of the physical/chemical and biological characteristics and anticipated changes indicates that the proposed discharge material meets testing exclusion criteria for the following reason(s). [Yes x No   ]

- ( x ) based on available information, the material is not a carrier of contaminants
- (    ) the levels of contaminants are substantially similar at the extraction and disposal sites and the discharge is not likely to result in degradation of the disposal site and pollutants will not be transported to less contaminated areas
- (    ) acceptable constraints are available and will be implemented to reduce contamination to acceptable levels within the disposal site and prevent contaminants from being transported beyond the boundaries of the disposal site

III. **Other restrictions.** Will the discharge contribute to significant degradation of "waters of the US." through adverse impacts to: (For detailed evaluations, see EA)

- human health or welfare, through pollution of municipal water supplies, fish, shell fish, wildlife, and special aquatic sites? [Yes    No x]
- life stages of aquatic life and wildlife? [Yes    No x]
- diversity, productivity, and stability of the aquatic ecosystem, such as loss of fish or wildlife habitat, or loss of the capacity of wetland to assimilate nutrients, purify water, or reduce wave energy? [Yes    No x]
- recreational, aesthetic and economic values? [Yes    No x]

IV. **Actions to minimize potential adverse impacts (mitigation).** Will all appropriate and practicable steps (40 CFR 230.70-77) be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem? [Yes x No   ]

Mitigation measures included in the proposed plan together with the standard and recommended conditions included in the Department of the Army permit would adequately minimize pollution or adverse effects to the affected ecosystem.