

SECTION 00025

ADDENDA FORM

**Addendum No. 2
to the Specifications/Bid Package for
Kingston Wetland Restoration Project**

For: **Clearwater River Watershed District**
75 Elm Street East, Box 481
Annandale, MN 55302
Office: (320) 274-3935
Fax: (320) 274-3975

Prepared By: Wenck Associates, Inc.
1800 Pioneer Creek Center
Box 249
Maple Plain, Minnesota 55359
763-479-4200

Any revisions to any of the Contract Documents made by this Addendum shall be considered as the same revision to any and all related areas of the Contract Documents not specifically called out in the Addendum.

The Bidder shall acknowledge receipt of this Addendum by signing behind the addendum number in the space provided on the BID FORM.

Date: January 23, 2013

The following clarifications and are hereby made to the Specifications/Bid Package for Kingston Wetland Restoration Project, Meeker County, Minnesota.



Rebecca Kluckhohn, PE

MN Registration No. 42013

Addendum No.2
To the Contract Documents for
Kingston Wetland Restoration Project

Wenck File #0002-174

Date: January 23, 2013
Bids Close: January 25, 2013 at 1:00 P.M. CST

TO ALL BIDDERS BIDDING ON THE ABOVE PROJECT:

All bidders submitting a bid on the above Contract shall carefully read this Addendum and give it consideration in the preparation of their bid. The following are clarifying statements and modifications to the Contract Documents:

- I. The Pre-Bid meeting minutes (Attachment #1), the Pre-Bid meeting attendees list (Attachment #2), the names and addresses of adjacent property owners (Attachment #3), and the US Army Corps of Engineer Permit (Attachment #4) shall be incorporated into the bid documents.
- II. The following are revisions to the Specifications:
 - a. Section 01010 Bid Item 11: Clear and Grub: Delete Paragraph 1, Basis of Measurement, in its entirety and replace it with: *The basis of measurement is the satisfactory clearing, removal and disposal of bushes, woody plants, tree stumps, cut branches and woody debris in within the area staked by Engineer and only to the extent required to construct channel. Removal includes removal of stumps by extraction only as needed to construct channel. Work shall be done to minimize disturbance.*
 - b. Section 01010 Bid Item 12: Excavation and Disposal of Excess Material: add the following sentence in its entirety to paragraph 2, Basis of Payment: *The warranty with respect to channel dimension is 1 year.*
 - c. Section 01010 Bid Item 19: Owner Supplied Fish Barrier Installation: add the following sentence in its entirety to paragraph 2. Basis of Payment; *Materials may include but are not limited to approximately 12 cubic yards of riprap, filter material, and geotextile required by Engineer.*
 - d. Section 01010 Bid Item 20: Site Restoration: delete the third bullet under 2. Basis of Payment and replace it with; *Furnish and installation of seed, mulch,*

and other site restoration items as required in the DNR Permit, the MPCA NPDES Permit and the Storm Water Pollution Prevention Plan. All disturbed surfaces shall be seeded and mulched, including the channel slopes and bottom.

- e. Section 02080 EROSION CONTROL, Part 2.02 EROSION CONTROL BLANKET: Add the following sentence in its entirety to item: *A. Erosion control blanket will not be required along the entire alignment of the new channel.*
 - f. Section 02080 EROSION CONTROL, Part 2.02 EROSION CONTROL BLANKET: Item B. *Delete the word “greater” and replace it with “flatter”.*
 - g. Section 02170 SITE RESTORATION, Part 3.04: delete the following item: *B. Do not seed on saturated or frozen soil.* Replace it with the following: ***B. Dormant seed and cover with mulch in accordance with DNR and MPCA permit requirements within 72 hours of project completion.***
 - h. Section 02170 SITE RESTORATION, Part 3.04 C.: delete the word “riparian”, the section shall read: ***C. Seed all areas disturbed by construction.***
 - i. Section 02170 SITE RESTORATION, Add Part 3.09 ***MULCH: CONTRACTOR shall install mulch in accordance with DNR permit requirements and MNDOT standard specifications.***
- III. The following are revisions to the Appendix A, the Drawings:
- a. Sheet C-107(Addendum #2): delete notes 5 and 9 in the General Erosion Control Notes.
- IV. The following are clarifications based on questions asked by Bidders:
- a. Q: The brush piles shown in the photos at the pre-bid meeting are still on site, is the removal of these brush piles covered in the project and if so, under what bid item? A: Removal and disposal of the brush piles is required in the project and is paid under Bid Item 11 Clear and Grub.
 - b. Q: Can you provide details on the access to the site from the west? A: Owner has rights to access the site through the property owned by Paul Heid. Contractor must coordinate access with landowner to minimize disturbance. Mr. Heid can be contacted at 35972 704th Avenue, Kimball, MN 55353 phone: (320) 398-8110
 - c. Q: Can you provide details on the access to the site to remove downstream channel obstruction? A: Meeker County as ditch authority has right to access

County Ditch 46 for maintenance. Removal of the obstruction is considered maintenance. Contractor must coordinate site access with landowner to minimize disturbance.

END OF SECTION

Attachment 1

PRE-BID MEETING MINUTES

Kingston Wetland Restoration Clearwater River Watershed District

January 17, 2013

1.0. Met at Wenck Associates, Inc. at 1:00 PM

2.0. Introduction

A. Owner - Clearwater River Watershed District

Dennis Loewen, Project Manager (not present)
Cole Loewen, Field Representative (not present)

B. Engineer - Wenck Associates, Inc.

Rebecca Kluckhohn, Project Manager
Bryce Cruey, Project Engineer
Wes Boll/Bryce Cruey, Construction Observation

3.0. Project Overview

- A. Background
- B. Site Preparation Staging and Erosion Control
 - 1. Construction Limits
 - 2. Temporary Erosion Control
 - 3. Permanent Monument/Benchmark Information
- C. Removals
- D. Excavation and Grading
- E. Rock Riffle
- F. Site Restoration

4.0 Permit Requirements

- A. NPDES—SWPPP included in Addendum 1. Mulch at rate required in DNR permit. Mulch and dormant seed all disturbed area (not just top of bank).
- B. DNR—See permit in Addendum 1, seeding must be completed within 72 hours of project completion.

5.0 SCHEDULING/CONSTRUCTION SEQUENCING

- 1. Bid Opening date – January 25, 2013 at 1:00 pm
- 2. Anticipated Notice to Proceed Date – approximately January 28, 2013
- 3. Substantial Completion – March 15, 2013

4. Final Completion – June 30, 2013

Contractor responsible for scheduling/sequencing to meet project requirements

6.0 ADDENDA ITEMS

- A. Addendum #1 – SWPPP and DNR Permit
- B. Addendum #2 – Pre-bid minutes and attendees and answers to any questions raised at pre-bid meeting.

7.0 QUESTIONS

- Warranty required on 1:1 channel side slopes was questioned. This will be addressed in Addendum 2.
- Is rock required for the fish barriers included in other quantities? Response: No all material and labor required to install the fish barriers is included in that pay item.
- Contractor asked about dormant seeding, we will issue Addendum #2 to require dormant seeding of all disturbed surfaces, including the channel slopes and bottom within 72 hours of project completion in accordance with newly issued DNR permit (see Addendum 1 for permit language).
- Can a CAD file be provided? A CAD file will be provided to the successful bidder.

Attachment 2

Pre- Bid Meeeting January 17th, 2013 1pm

[illegible]

Attachment 3

Attachment 3 Pages 1 and 2
Of Addendum No. 2
to the Specifications/Bid Package for
Kingston Wetland Restoration Project

Property owners adjacent to project area (per Meeker County 2009 plat book):

First Tier (easement properties):

1. Mona Almgren
PO BOX 253
300 E Linden Ave
Kimball, MN 55353
H: (320) 398-6269
2. Paul & Peter Heid
35972 704th Ave
Kimball, MN 55353
H: (320) 398-8110
3. Schiefelbein Angus Farms Ltd (formerly Wimmer)
74208 360th St
Kimball, MN 55353
O: (320) 398-6952
4. Robert & Kathleen Tenney
34926 717th Ave
Kimball, MN 55353
H: (320) 398-6255

Second Tier (adjacent to easement properties):

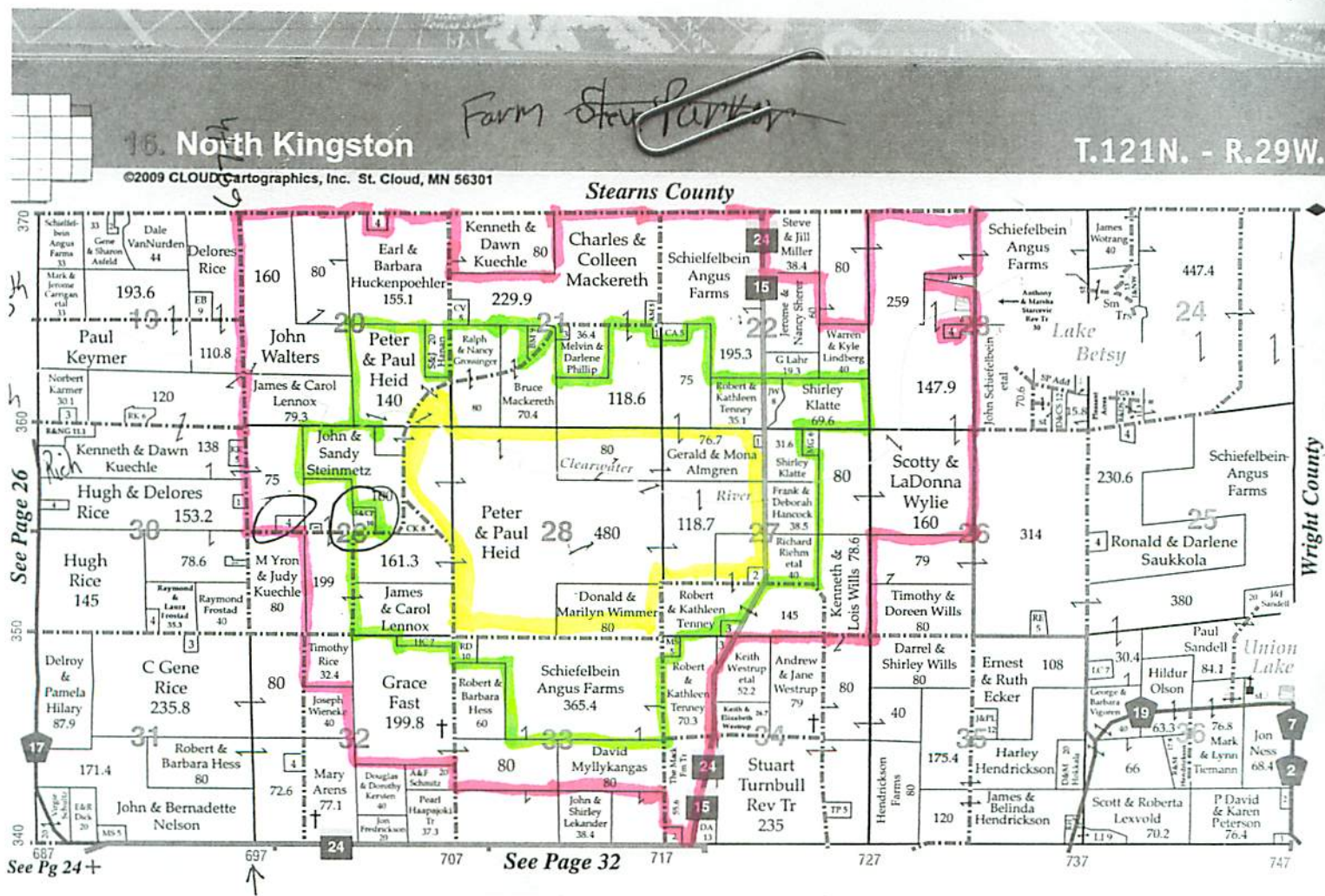
1. Mona Almgren
2. Ralph & Nancy Geislinger
3. Frank & Deborah Hancock
4. Paul & Peter Heid
5. Shirley Klatte
6. James & Carol Lennox
7. Bruce Mackereth
8. Charles & Colleen Mackereth
9. Richard Riehm
10. Schiefelbein Farms
11. John & Sandy Steinmetz
12. Robert & Kathleen Tenney

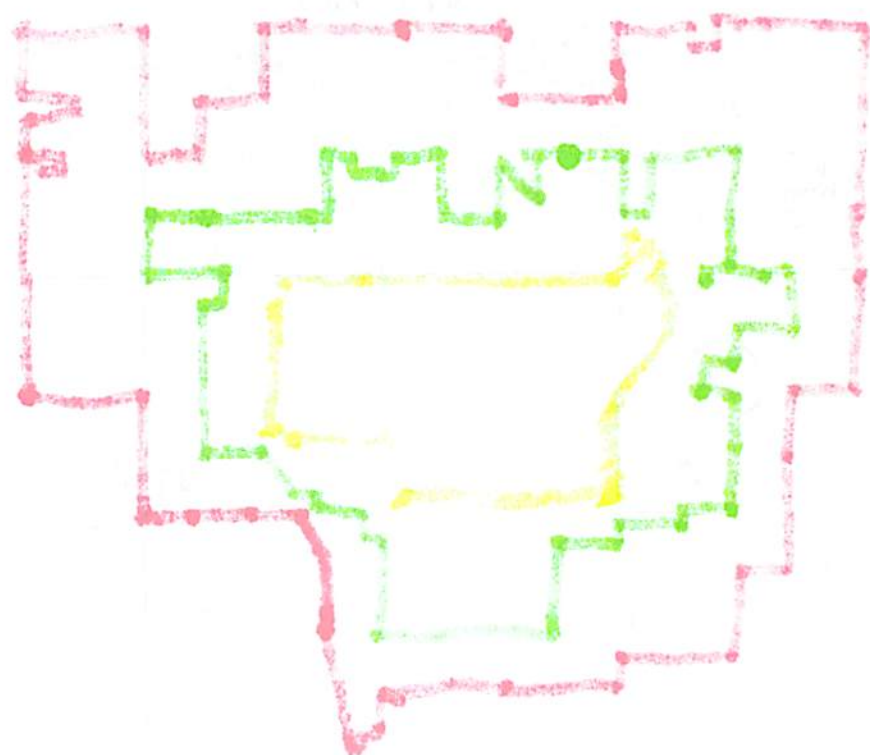
Third Tier (adjacent to second tier):

1. Grace Fast

2. Robert & Barbara Hess
3. Earl & Barbara Huckenpoehler
4. G Lahr
5. Warren & Kyle Lindberg
6. James & Carol Lennox
7. Charles & Colleen Mackereth
8. The Mack Fm Tr
9. David Myllykangas
10. Melvin & Darlene Phillip
11. Timothy Rice
12. Schiefelbein Farms
13. Jerome & Nancy Sherer
14. Robert & Kathleen Tenney
15. John Walters
16. Kenneth & Lois Willis
17. Scotty & LaDonna Wylie

- Tier 3





Attachment 4



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

January 11, 2013

REPLY TO
ATTENTION OF

Operations
Regulatory (2011-05364-JJY)

Mr. Dennis Loewen
Clearwater River Watershed District
75 Elm Street East
Box 481
Annandale, Minnesota 55302

Dear Mr. Loewen:

We have reviewed your application for the proposed Kingston Wetland Restoration and Clearwater River Water Quality Improvement Project. The project site is west of Trunk Highway (TH) 15, on the Clearwater River, in Sections 27 and 28, Township 121 North, Range 29 West, Meeker County, Minnesota. Approximate UTM coordinates for the site are Zone 15, North 396316.00147, East 5013005.432457. Approximate decimal degree coordinates for the site are Latitude 45.2629, Longitude -94.32159.

Because you have modified the project and substantially reduced the area of direct disturbance, we have withdrawn your application for an individual Department of the Army permit so that we may confirm a regional general permit authorization for the work.

The proposed work involves approximately 2 acres of excavation and grading to restore the old, ditched river channel as a meandering stream, plus other minor fill and grading to remove a diversion structure and a channel obstruction and to install a riffle section, fish barrier, and other water quality and habitat improvement features, as shown on the enclosed drawings labeled 2011-05364-JJY 1 of 11 through 11 of 11. These features should improve habitat within the modified reach of the river and the abutting Kingston Wetland complex, and they should improve water quality downstream of the project area by improving dissolved oxygen levels, reducing phosphorus export, and perhaps indirectly reducing high bacteria levels. This work should not result in a net loss of waters of the United States or of wetland values.

Subject to the enclosed conditions and the limitations described below, this work is authorized under Department of the Army Regional General Permit-03-MN (RGP-03-MN), Section I, Stream and Wetland Restoration. RGP-03-MN provides authorization under Section 404 of the Clean Water Act for certain categories of activities involving the discharge of dredged or fill material into waters of the U.S., including such restorations.

This determination covers only your project as described above and as shown on the enclosed drawings. If the design, location, or purpose of the project changes, or if it includes other work in waters or wetlands, please contact our office to make sure the work would not result in a violation of Federal law.

Copies furnished:

Full package, by mail:

Mr. Wes Boll
Wenck Associates, Inc.
1800 Pioneer Creek Center
P.O. Box 249
Maple Plain, MN 55359

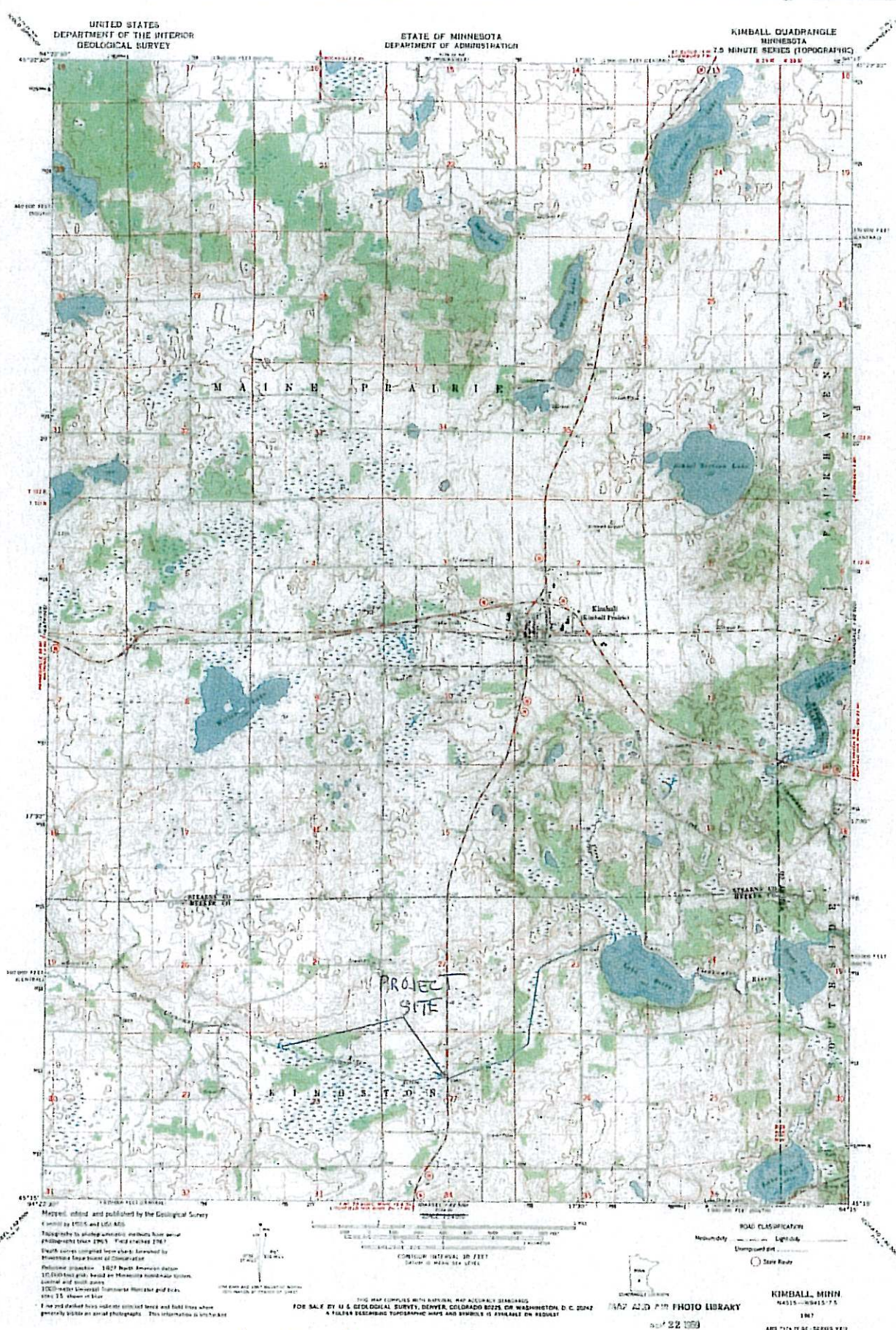
Letter, by email:

Ethan Jenzen, MDNR

Kane Radel, BWSR

Joe Norman, Meeker SWCD

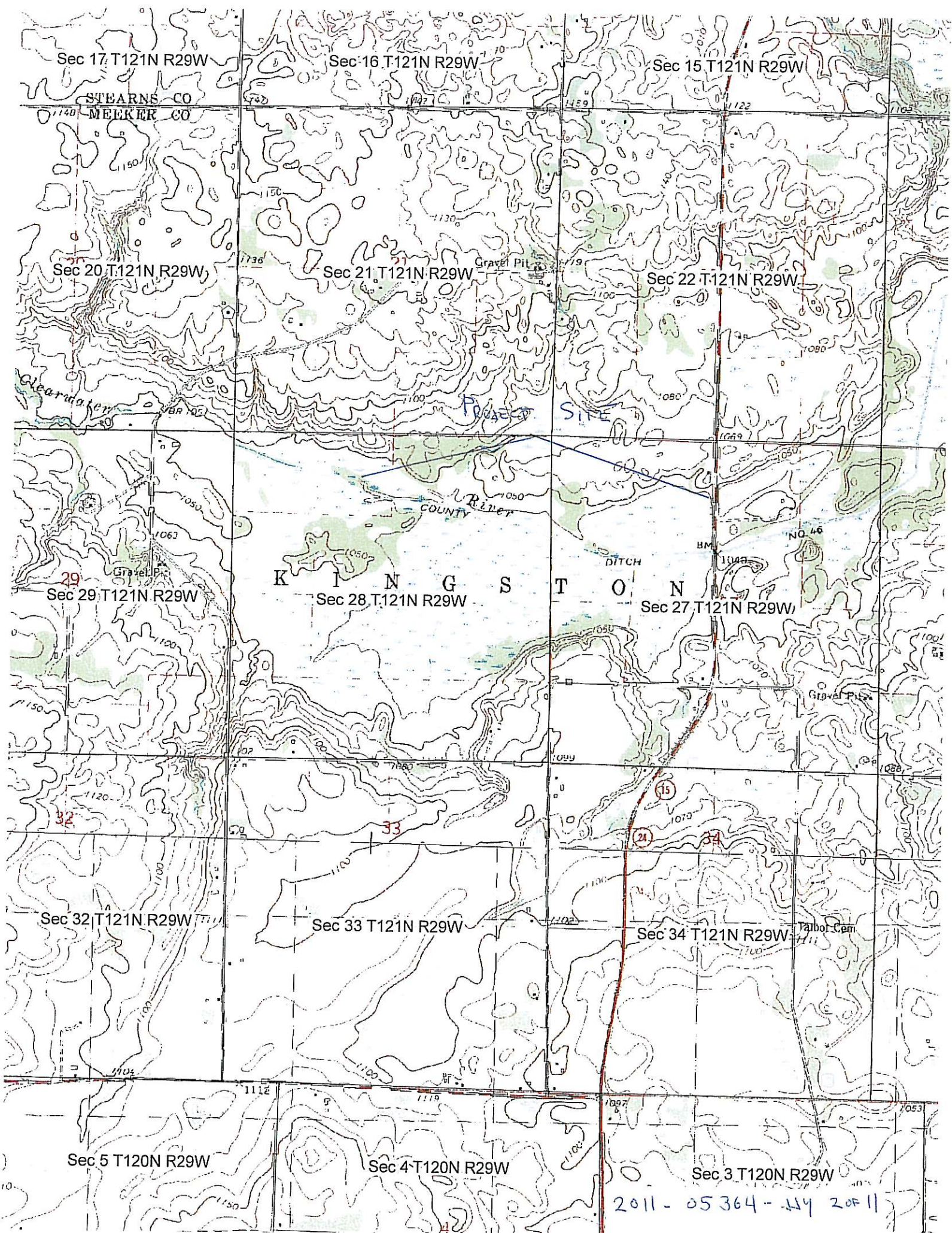
Ron Mortensen, Meeker County



USGS Topographic/Location Map

2011-05364-JJY

1 of 11



Sec 17 T121N R29W

Sec 16 T121N R29W

Sec 15 T121N R29W

STEARNES CO
MEEKER CO

Sec 20 T121N R29W

Sec 21 T121N R29W

Sec 22 T121N R29W

Sec 29 T121N R29W

Sec 28 T121N R29W

Sec 27 T121N R29W

Sec 32 T121N R29W

Sec 33 T121N R29W

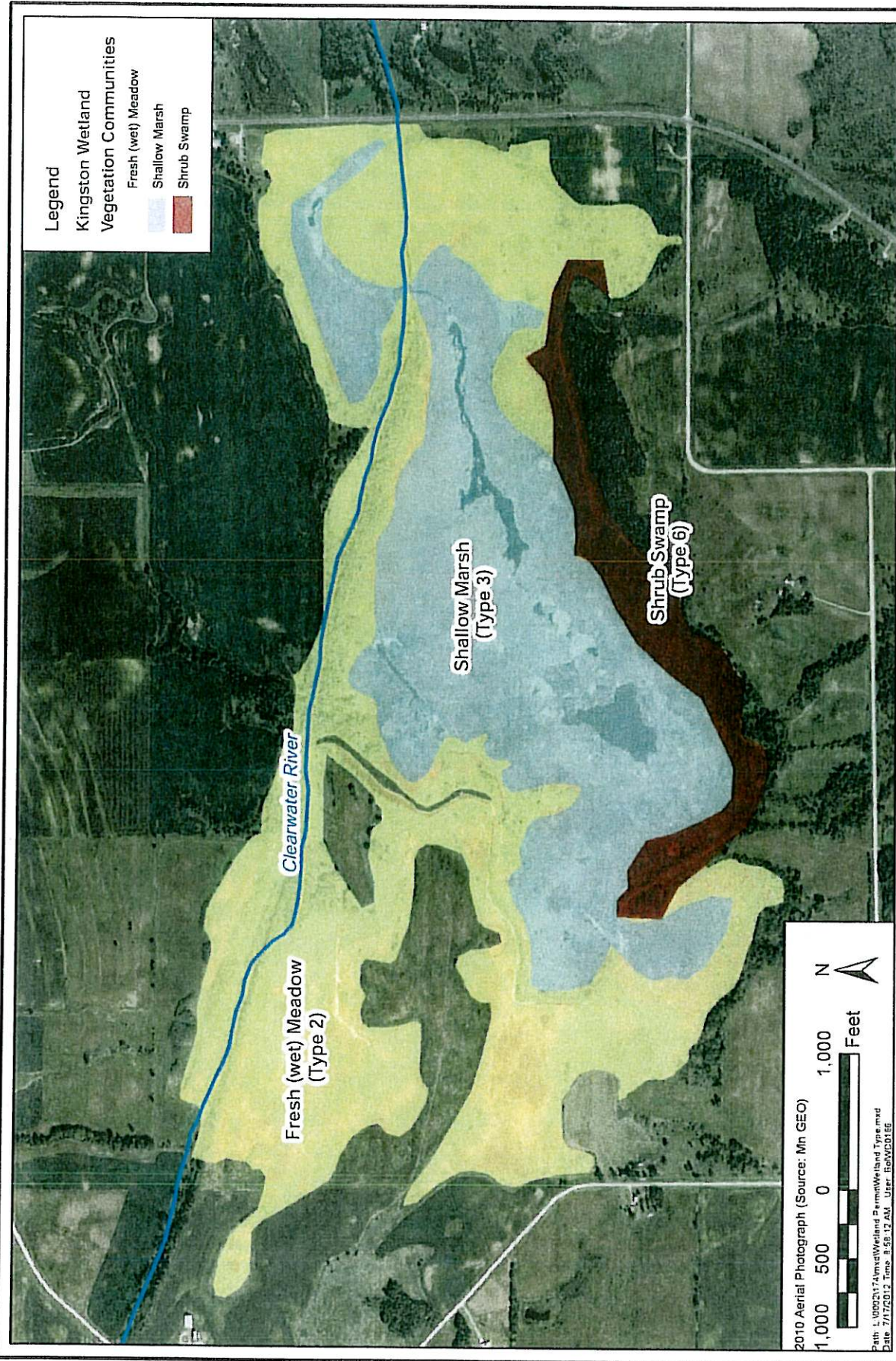
Sec 34 T121N R29W

Sec 5 T120N R29W

Sec 4 T120N R29W

Sec 3 T120N R29W

2011-05364-114 2 of 11



Legend
 Kingston Wetland
 Vegetation Communities
 Fresh (wet) Meadow
 Shallow Marsh
 Shrub Swamp

2010 Aerial Photograph (Source: Mn GEO)
 1,000 500 0 1,000 Feet
 N
 Path: L:\0002517\AlamedaWetland\BermWetland Type.mxd
 Date: 7/17/2012 Time: 8:58:12 AM User: EbdW02166

CRWD
 Kingston Wetland Vegetation Communities

Wenck
 Engineers - Scientists
 Business Professionals
 www.wenck.com
 1800 Pioneer Creek Center
 Maple Plain, MN 55359-0429
 1-800-472-2232

JULY 2012
 Figure 2

2011-05364-117 3 of 11



PHOTO C. FISH BARRIER INSTALLATION EXAMPLE 1



PHOTO D. FISH BARRIER INSTALLATION EXAMPLE 2

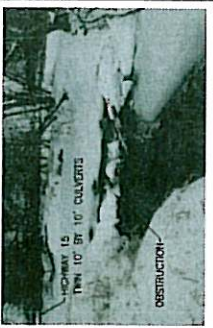


PHOTO E. EXISTING CHANNEL OBSTRUCTION TO BE REMOVED



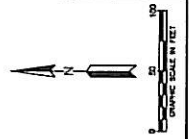
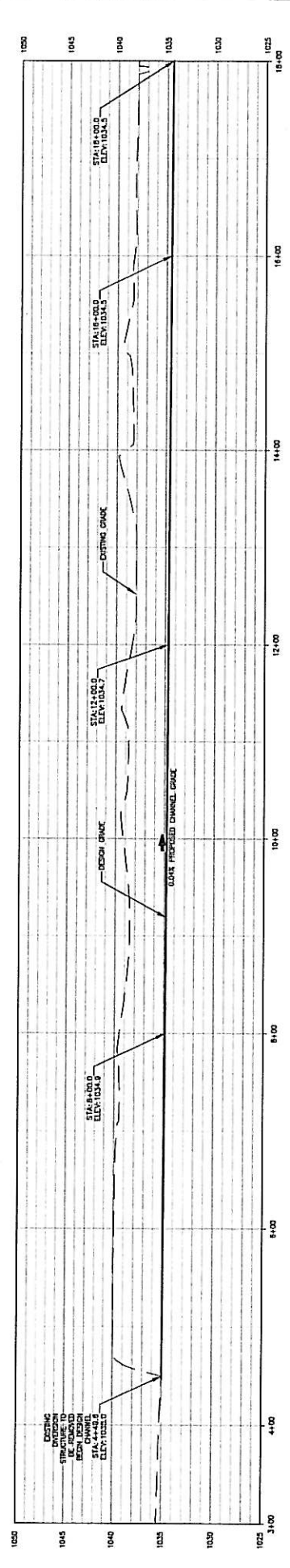
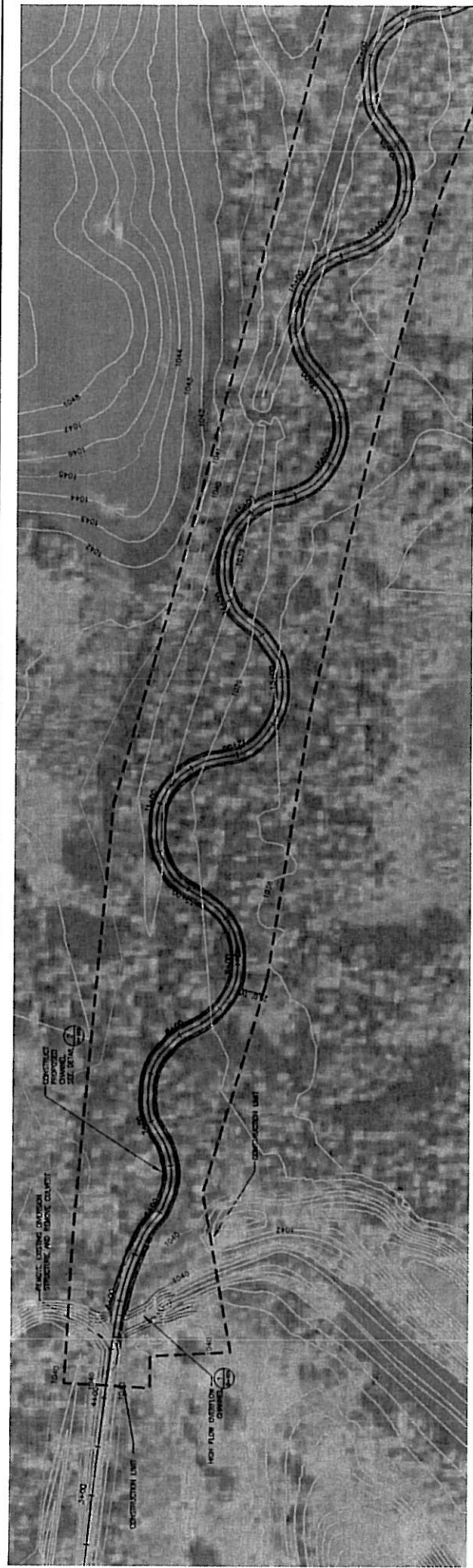
PHOTO A. EXISTING CULVERT TO BE REMOVED



PHOTO B. EXISTING DIVERSION STRUCTURE TO BE REMOVED

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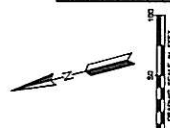
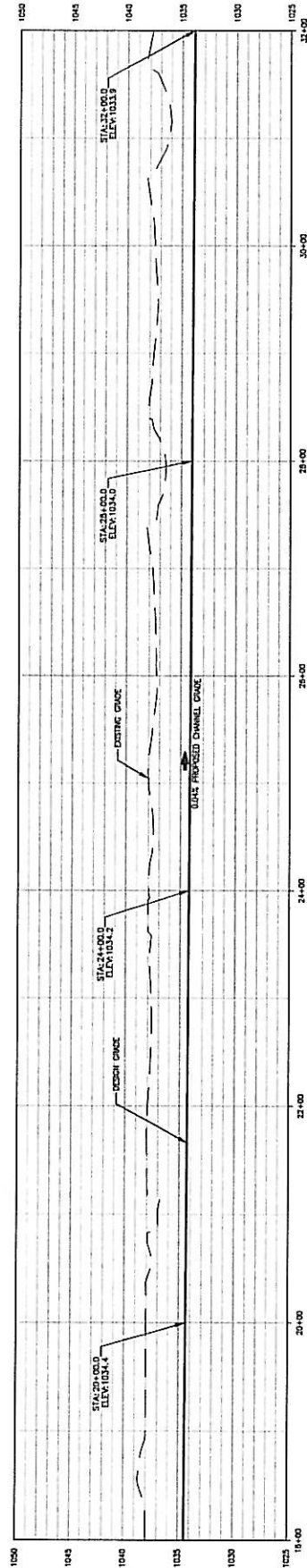
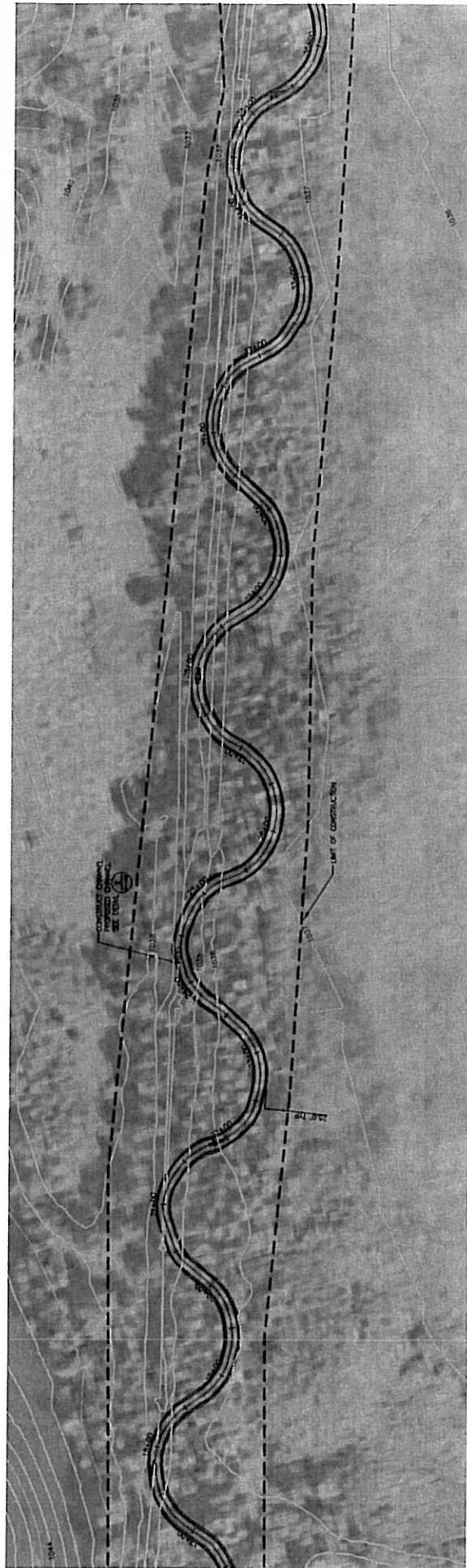
2011-05364-11 5 of 11



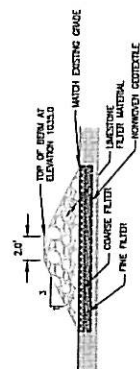
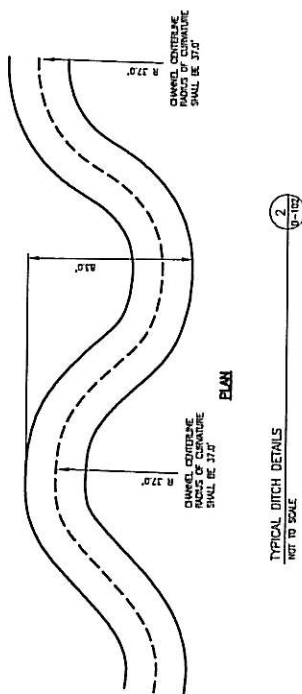
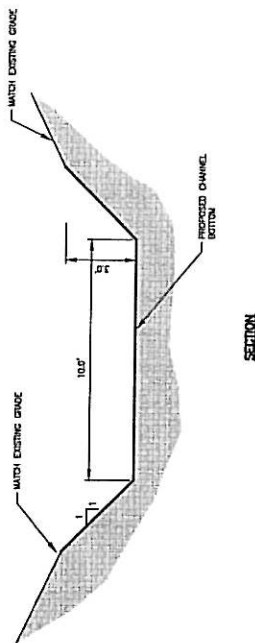
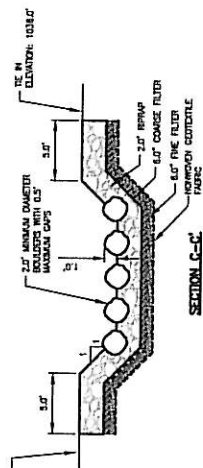
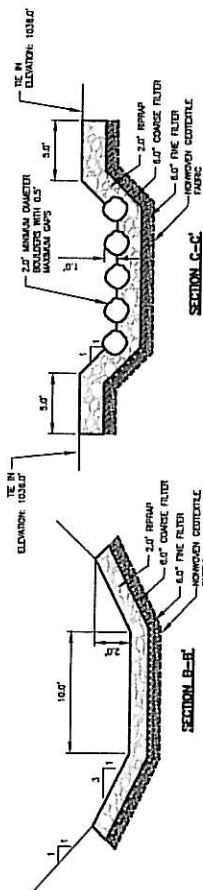
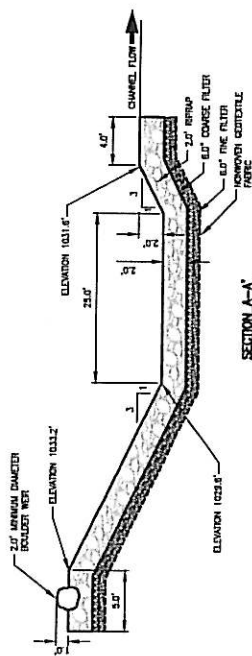
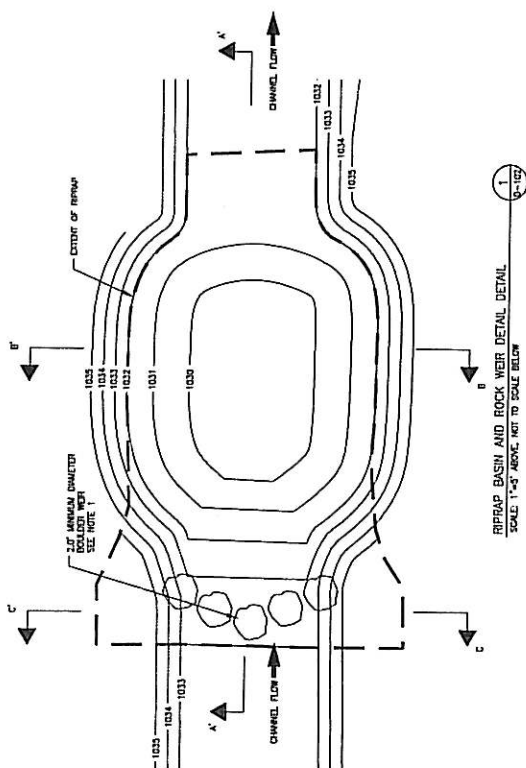
PROJECT TITLE				CHANNEL PLAN AND PROFILE			
KINGSTON WETLAND RESTORATION				STA 3+00 TO STA 18+00			
CLEARWATER RIVER WATERSHED DISTRICT				DATE BY CHD	APP'D	DATE DATE	12/20/2012
				ENC INCH	ENC INCH	SCALE	AS NOTED
				PROJECT NO.	SHEET NO.	C-103	REV AS
				0002-174			3

Wenck			
CONSULTANTS			
1. I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THAT I AM A duly Licensed Professional Engineer in the State of Minnesota.			
DATE	12/20/12	DATE	12/20/12
ENC INCH	12/20/12	ENC INCH	12/20/12
JOB NO.	00728/12	JOB NO.	00728/12
REVISION DESCRIPTION		REVISION DESCRIPTION	
REV		REV	

2011-05364-J17 6 of 11



SCALE		DATE		PROJECT TITLE		SHEET TITLE	
1. I HEREBY CERTIFY THAT THE PLAN, SPECIFICATIONS, OR REPORT PREPARED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND THE LIMITS OF THE STATE OF MINNESOTA.		PROJECT NAME		CLEARWATER RIVER WATERSHED DISTRICT		CHANNEL PLAN AND PROFILE STA. 18+00 TO STA. 32+00	
3. FINAL PLANS		DATE		PROJECT NO.		SHEET NO.	
2. SHORT FINAL PLANS		DATE		PROJECT NO.		SHEET NO.	
1. DWG. PLAN SET		DATE		PROJECT NO.		SHEET NO.	
REV		REVISION DESCRIPTION		PROJECT NO.		SHEET NO.	
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4		12/20/2012		0002-174		C-10a	
5		12/20/2012		0002-174		C-10a	
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7		12/20/2012		0002-174		C-10a	
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133		12/20/2012		0002-174		C-10a	
134		12/20/2012		0002-174		C-10a	
135		12/20/2012		0002-174		C-10a	
136		12/20/2012		0002-174		C-10a	
137		12/20/2012		0002-174		C-10a	
138		12/20/2012		0002-174		C-10a	
139		12/20/2012		0002-174		C-10a	
140		12/20/2012		0002-174		C-10a	
141		12/20/2012		0002-174		C-10a	
142		12/20/2012		0002-174		C-10a	
143		12/20/2012		0002-174		C-10a	
144		12/20/2012		0002-174		C-10a	
145		12/20/2012		0002-174		C-10a	
146		12/20/2012		0002-174		C-10a	
147		12/20/2012		0002-174		C-10a	
148		12/20/2012		0002-174		C-10a	
149		12/20/2012		0002-174		C-10a	
150		12/20/2012		0002-174		C-10a	
151		12/20/2012		0002-174		C-10a	
152		12/20/2012		0002-174		C-10a	
153		12/20/2012		0002-174		C-10a	
154		12/20/2012		0002-174		C-10a	
155		12/20/2012		0002-174		C-10a	
156		12/20/2012		0002-174		C-10a	
157		12/20/2012		0002-174		C-10a	
158		12/20/2012		0002-174		C-10a	
159		12/20/2012		0002-174		C-10a	
160		12/20/2012		0002-174		C-10a	
161		12/20/2012		0002-174		C-10a	
162		12/20/2012		0002-174		C-10a	
163		12/20/2012		0002-174		C-10a	
164		12/20/2012		0002-174		C-10a	
165		12/20/2012		0002-174		C-10a	
166		12/20/2012		0002-174		C-10a	
167		12/20/2012		0002-174		C-10a	
168		12/20/2012		0002-174		C-10a	
169		12/20/2012		0002-174		C-10a	
170		12/20/2012		0002-174		C-10a	
171		12/20/2012		0002-174		C-10a	
172		12/20/2012		0002-174		C-10a	
173		12/20/2012		0002-174		C-10a	
174		12/20/2012		0002-174		C-10a	
175		12/20/2012		0002-174		C-10a	
176		12/20/2012		0002-174		C-10a	
177		12/20/2012		0002-174		C-10a	
178		12/20/2012		0002-174		C-10a	
179		12/20/2012		0002-174		C-10a	
180		12/20/2012		0002-174		C-10a	
181		12/20/2012		0002-174		C-10a	
182		12/20/2012		0002-174		C-10a	
183		12/20/2012		0002-174		C-10a	
184		12/20/2012		0002-174		C-10a	
185		12/20/2012		0002-174		C-10a	
186		12/20/2012		0002-174		C-10a	
187		12/20/2012		0002-174		C-10a	
188		12/20/2012		0002-174		C-1	



1	PERSONAL INFORMATION	DATE	5/10/2013	REC. NO.	4213
2	NAME	PRINT NAME	MICHAEL ALDERMAN		
3	FINAL PLANS	DATE	12/31/12	DESIGNED BY: <u>Michael Alderman</u>	
4	GRANT FINAL PLANS	DATE	12/31/12		
5	GRANT PLAIN SET	DATE	08/28/13		
6	GRANT PLAIN SET	DATE	08/28/13		

SEAL: NEW COUNTY HAS NOT REVISIONS OF ANYTHING
 HAS REVIEWED BY US IN ORDER TO DIRECT ANYTHING
 IN THE COUNTY AND A FULLY REPRODUCED UNDER US
 IN THE COUNTY AND A FULLY REPRODUCED UNDER US

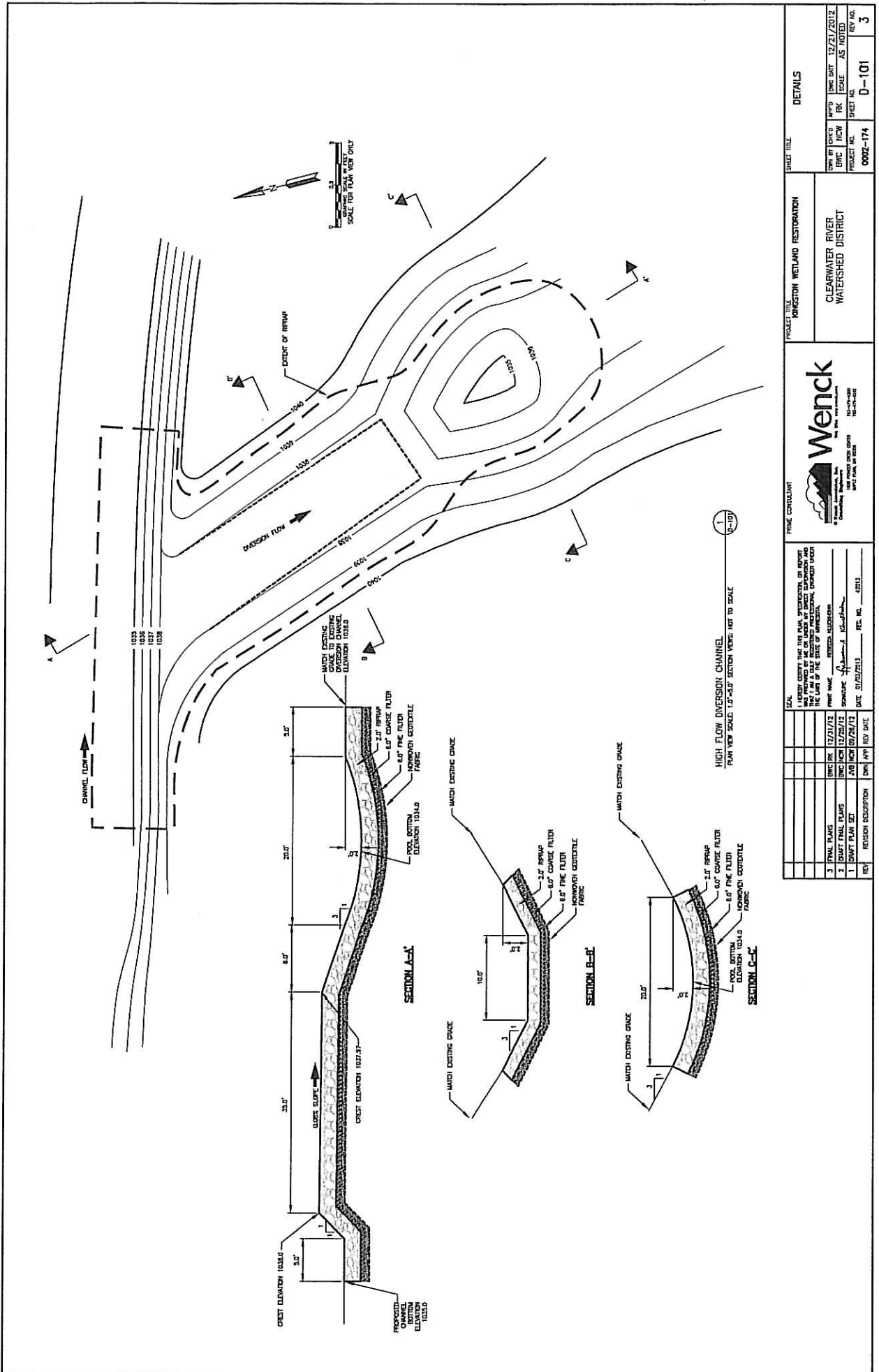
SHEET NO.	SHEET NO.	REV NO.	DWG DATE 12/21/2012	
			SCALE AS NOTED	
OWN BY CHKS	APPRO			
BWC NCR	RK			



Wenck

CLEARWATER RIVER
WATERSHED DISTRICT

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2011-05364-11 11 of 11

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

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:

District Office		St. Paul District		File/ORM # MVP-2011-05364-JJY		PJD Date: January 11, 2013	
State MN		City/County Meeker County		Name/ Address of Person Requesting PJD		Mr. Dennis Loewen Clearwater River Watershed District 75 Elm Street East Box 481 Annandale, Minnesota 55302	
Nearest Waterbody:		Kingston Wetland, Clearwater River		Location: TRS, LatLong or UTM:		Secs. 27 and T. 120 N., R. 29 W. Latitude 45.2629, Longitude -94.32159	
Identify (Estimate) Amount of Waters in the Review Area:				Name of Any Water Bodies Tidal:			
Non-Wetland Waters:				on the Site Identified as			
2500 linear ft		20 width		acres		Stream Flow:	
				Perennial		Section 10 Waters: Non-Tidal:	
Wetlands: 500 acre(s)		Cowardin Class:		Palustrine, emergent		<input checked="" type="checkbox"/> Office (Desk) Determination <input checked="" type="checkbox"/> Field Determination:	
						Date of Field Trip: November 3, 2011	

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: _____
- ☒ U.S. Geological Survey Hydrologic Atlas:
☒ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite quad name: MN-KIMBALL
- ☒ USDA Natural Resources Conservation Service Soil Survey. Citation: _____
- ☒ National wetlands inventory map(s). Cite name: MN-KIMBALL
- ☒ State/Local wetland inventory map(s): _____
- ☒ FEMA/FIRM maps: _____
- ☒ 100-year Floodplain Elevation is: _____
- ☒ Photographs: ☒ Aerial (Name & Date): Corps (ORM), 2012
☐ Other (Name & Date): _____
- ☒ 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)**

Signature and Date of Person Requesting Preliminary JD
(REQUIRED, unless obtaining the signature is impracticable)

EXPLANATION OF PRELIMINARY AND APPROVED JURISDICTIONAL DETERMINATIONS:

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 "preconstruction 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.

RGP-03-MN STANDARD CONDITIONS

All RGP-03-MN authorizations are subject to the following standard conditions, as applicable. These conditions must be satisfied for any RGP authorization to be valid:

1. Mitigation/Sequencing. Discharges of dredged or fill material into waters of the United States must be or avoided and minimized to the maximum extent practicable.

2. Suitable fill material. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). All fill (including riprap) authorized under this permit, must consist of suitable material free from toxic pollutants in other than trace quantities. In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, St. Paul District must be notified prior to the use of the new site to determine whether a cultural survey of the site is necessary.

3. Proper maintenance. Any structure or fill authorized shall be properly maintained, including maintenance, to ensure public safety.

4. Erosion and siltation controls. Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark, must be permanently stabilized at the earliest practicable date. Work should be done in accordance with state-approved, published practices, such as defined in Minnesota Pollution Control Agency Document, PROTECTING WATER QUALITY IN URBAN AREAS - BEST MANAGEMENT PRACTICES FOR MINNESOTA.

Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or planting and maintaining vegetative cover, to prevent subsequent erosion. Cofferdams shall be constructed and maintained so as to prevent erosion into the water. If earthen material is used for cofferdam construction, sheet piling, riprap or a synthetic cover must be used to prevent dam erosion.

5. Removal of temporary fills. Temporary fills are allowed to remain in place for up to three months. Upon request the District Engineer may extend this period allowing temporary fills to

remain in place for up to a total of 180 days, where appropriate.

At the end of the specified timeframe, temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

6. General Information-Information about Federal Endangered species may be obtained by contacting the U. S. Fish and Wildlife Service at (612) 725-3548. The District's web page (www.mvp.usace.army.mil/regulatory/) will also contain a link to the U.S. Fish and Wildlife Service. Information concerning cultural resources may be obtained by contacting the State Historic Preservation Office at (651) 296-5462. Project proponents are encouraged to contact these agencies early in project planning because doing so can help avoid violations of Federal law and potentially lengthy permitting delays. Persons performing work should be aware that Federal or state regulations concerning endangered species and cultural resources may apply to their projects whether or not the work requires a Corps permit. If referenced web sites are unavailable or the necessary information is not available on the referenced web site, the Corps contact for your county can be found on our web site referenced above, or you may call 651-290-5375.

7. Other permit requirements. No Corps RGP-03-MN authorization eliminates the need for other local, state or Federal authorizations, including but not limited to National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) permits from the Minnesota Pollution Control Agency, public waters work permits from the Minnesota Department of Natural Resources, or Wetland Conservation Act authorizations from the applicable local governmental unit.

8. Historic properties, (cultural resources). No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the Director of Engineers has complied with the provisions of 33 CFR part 325 Appendix C. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places.

9. Cultural resources. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Officer must be contacted for further instruction.

10. If you discover any previously unknown historic or archaeological remains while accomplishing the authorized activity you must immediately stop work and notify this office of

what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

11. Spawning areas. Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

12. Obstruction of high flows. To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

13. Adverse effects from impoundments. If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

14. Waterfowl breeding areas. Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

15. Navigation. No activity may cause more than a minimal adverse effect on navigation.

16. Aquatic life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water.

17. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

18. Tribal rights. No activity or its operation may impinge or abrogate reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

19. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency with direct management responsibility for such river has determined that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

20. Water quality standards. All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable Federal, State, and local water quality and effluent standards on a continuing basis.

21. Preventive measures. Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a manner that would allow them to enter the watercourse as a result of spillage, natural runoff, or flooding.

22. Spill contingency plan. A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the State Duty Officer at 1-800-422-0798 and the U.S. Coast Guard at telephone number (1-800) 424-8802.

23. Disposal sites. If dredged or excavated material is placed on an upland disposal sight (above the ordinary high-water mark), the site must be securely diked or contained by some other acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. The containment area, whether bulkhead or upland disposal sight, must be fully completed prior to the placement of any dredged material.

24. Water intakes/activities. No activity, including structures and work in waters of the U.S. or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

25. Endangered Species.

a. No activity is authorized which is likely to adversely affect a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized.

b. Authorization of an activity under RGP-03-MN does not authorize the take of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence

of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their World Wide Web pages on the Internet.

c. If it becomes apparent that a federally listed endangered plant or animal species will be affected by work authorized by this permit, work must be stopped immediately and the St. Paul District of the Corps of Engineers must be contacted for further instruction.

26. Known Populations of Federally Listed Threatened and Endangered species. Information on known populations of Federally listed species and their designated critical habitat is available on our web site and from the Twin Cities Field Office of the U.S.F.W.S. See standard condition 6 or contact information.

27. The time limit for completing work authorized by RGP-03-MN ends upon the expiration date of RGP-03-MN. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least three months before the expiration date is reached.

28. You must maintain the authorized activity in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

29. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of RGP-03-MN.

30. State Section 401 Water quality Certification. The Minnesota Pollution Control Agency has waived Section 401 certification for RGP-03-MN.

31. Coastal Zone Management consistency determination. The State of Minnesota has determined that GP-03-MN is consistent with the Minnesota CZM program.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. RGP-03-MN does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. RGP-03-MN does not grant any property rights or exclusive privileges.

c. RGP-03-MN does not authorize any injury to the property or rights of others.

d. RGP-03-MN does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In authorizing work, the Federal Government does not assume any liability, including but not limited to the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that a proponent's project is authorized by RGP-03 will be made in reliance on the information provided by the applicant.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it

is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. Standard condition 27 above, establishes a time limit for the completion of the activity authorized by this general permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit. This permit becomes effective upon the issuance date specified after the Federal official, designated to act for the Secretary of the Army, has signed below. This general permit remains in effect for five years unless it is otherwise modified, suspended, or revoked.