

To:

Mr. Zachary Carter
Nevada Division of Environmental Protection
Bureau of Water Quality Planning
901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249
Ndep401@ndep.nv.gov

Date: November 22, 2024

Dear Mr. Carter,

Enclosed is a complete 401 Water Quality Certification application for the Carson River Bank Stabilization project, located at Pradere Rd & Ricci Rd, Dayton, Lyon County, Nevada near 39.236653° North, - 119.587220° West. The project proponent is the Dayton Valley Conservation District (DVCD). The project is located in the Carson River, a Section 10 Rivers and Harbors Act (RHA) traditionally navigable waterway (TNW) and thus subject to both Section 10 RHA and Clean Water Act (CWA) Section 404 permitting through the U.S. Army Corps of Engineers (USACE).

This proposed project would result in impacts to the Carson River. The project qualifies for coverage under the USACE Nationwide Permit (NWP) 13, Bank Stabilization, and does require pre-construction notification to the USACE. The USACE ID has not yet been assigned for this project and the USACE Project Manager for this area is undetermined at this time.

Through the proposed project, the applicant- DVCD, would perform bank stabilization along two segments of the Carson River. This work proposes to use in-stream gravel/sand bars, riprap, and clean soil with biotechniques applied to stabilize the banks to a 3:1 slope. The project elements that require a Section 10 RHA permit includes all work occurring within the banks of the Carson River. The project elements that require a CWA Section 404 permit includes the pushing of gravel/sand bar materials across the river bed using tracked equipment (alteration of the bed elevation), the placement of fill material below the ordinary high water mark (OHWM) of the Carson River for the bank stabilization.

This application has been prepared in compliance with the 2023 Certification Rule, and all application requirements are contained herein. This application is being submitted to NDEP and the USACE concurrently, so that the federal agency has the required information to establish the reasonable period of time for NDEP to issue the 401 WQC decision. Should you require any additional information please contact me at jthomason@teamues.com or 775-525-0384.

Thank you,



Jennifer Thomason
Senior Environmental Scientist



Clean Water Act Section 401 Water Quality Certification Application

Please refer to the “Clean Water Act Section 401 Water Quality Certification Application Guidance” document for assistance with completing this application.

A. Pre-Filing Meeting	
Please provide the date that a pre-filing meeting was requested from Nevada Division of Environmental Protection (NDEP) Bureau of Water Quality Planning (BWQP).	April 17, 2023
<i>Note: If a pre-filing meeting has not been requested, please schedule a pre-filing meeting with NDEP BWQP.</i>	

B. Contact Information	
Project Proponent Information	
Company Name: Dayton Valley Conservation District	Address: 34 Lakes Blvd
Applicant Name: Austin Lemons	City: Dayton
Phone: 775-246-6220 ext 1878	Fax: State: NV
Email: alemons@daytonvalleyconservation.com	Zip Code: 89403
Agent Information	
Company Name: UES	Address: 4480 West Hacienda Avenue, Suite 104
Agent Name: Jennifer Thomason	City: Las Vegas
Phone: 775-525-0384	Fax: State: Nevada
Email: jthomason@teamues.com	Zip Code: 89118

C. Project General Information			
Project Location			
Project/Site Name: Carson River Bank Stabilization		Name of receiving waterbody): Carson River	
Address: Pradere Rd & Ricci Rd,		Type of waterbody present at project location (<i>select all that apply</i>): <input checked="" type="checkbox"/> Perennial River or Stream <input type="checkbox"/> Intermittent River or Stream <input type="checkbox"/> Ephemeral River or Stream <input type="checkbox"/> Lake/Pond/Reservoir <input type="checkbox"/> Wetland <input type="checkbox"/> Other: _____	
City: Dayton			
County: Lyon			
State: NV			
Zip Code: 89403			
Latitude (UTM or Dec/Deg): 39.236653		Longitude (UTM or Dec/Deg): -119.587220	
Township: 16N	Range: 21E	Section: 26 & 23	¼ Section: NWNE (26) & SWSE(23)


Project Details	
<p>Project purpose:</p>	<p>The project purpose is to stabilize the Carson River along two areas.. Each of the two areas identified for stabilization have become highly erodible since the 2017 high water events leading to the loss of large trees in the cottonwood gallery along this segment of the Carson River and threatening the Dayton Valley Road Bridge with tree debris strikes and a buildup of sediment at the bridge apron and support structures.</p>
<p>Describe current site conditions:</p> <p>Attachments can include, but are not limited to, relevant site data, photographs that represent current site conditions, or other relevant documentation.</p>	<p>The project area consists of two separate areas of concern (Areas 1 and 2, Attachment 1). This project is planned to address recent flooding effects and the loss of land to adjacent landowners. As a result of the high water conditions over the winter of 2023, the river migrated approximately 8 feet laterally and 2 feet vertically causing large land and tree loss. A photolog of each proposed work area is included in Attachment 2. This segment of the Carson River is within the Carson River Mercury Superfund site.</p> <p>Area 3 of the engineered plans is not being proposed for permit coverage at this time. Further, the engineered plans have incorrect impact calculations and the impacts described in this application document should take precedence.</p>
<p>Describe the proposed activity including methodology of each project element:</p>	<p>The overall goal is to return eroded bank materials back to the area of origination to restore the project area to the pre-existing condition prior to flooding in 2017 and 2023. In-stream materials (sand and gravel bars) will be dredged and utilized to reshape the bank to a 3-to-1 slope in Areas 1 and 2. The project area occurs on both the west (Area 1) and east (Area 2) banks of the Carson River.</p> <p>Following the completion of Area 2, the contractor would then move upstream to Area 1. If the selected contractor has the capacity, then Area 1 may be constructed concurrently with Area 2. The project construction contractor will utilize the following equipment: a dozer to push in-stream materials to the bank, an excavator to load and place materials, a loader to haul and drop materials, haul trucks to transport materials to and from the site, a street sweeper to remove dirt tracked out onto roadways, water trucks for dust control, and a backhoe for similar functions of the loader and excavator.</p> <p>All bedload material is part of the Superfund site and is thus assumed to have high levels of mercury and/or arsenic. Through the project, this material would be sequestered in the bank and would not be further transported downstream during storm events. This has been a long-standing acceptable practice and water quality and/or sediment testing is not being proposed for this reason. The selected contractor would be responsible for developing a safe handling plan for the material during work activities.</p> <p>Construction is expected to start in Area 2, where BMPs (identified below) will be installed and then any live flows would be diverted to the opposite bank. The diversion would be created by excavating the channel through or around the existing in-stream bar and then diverting flows into that excavated channel through the installation of k-rail (or similar structural material) as depicted on the typical provided in the engineering plans. Once the water has been diverted into the</p>

	<p>temporary channel then the contractor will cut approx. 37 CY of material from the bank and begin moving approx. 729 CY of materials from the gravel/sand bars along approx. 628 linear feet of the east bank. In-stream materials will be dredged to no lower than the lowest current elevation of the riverbed. This material will be used to create a 3:1 bank slope along the 628 linear feet of bank. Approximately 1,104 cubic yards of riprap will be installed as toe protection to a height of 3 feet on the Area 2 bank. Riprap placement will serve to stabilize the project area, protect from future erosion, promote beneficial sediment deposition, and provide support for upslope bioengineering applications. The Area 2 bank stabilization area (APN 006-101-05) would result in permanent impacts to approx. 0.23 acre and 628 linear feet of the Carson River. Temporary impacts resulting from equipment moving materials along the stream bed and the channel diversion is estimated to be 3 acres. The bedload material will be capped with riprap and soil with fiber rolls and willow treatments (i.e., bioengineering materials) per the attached engineered plans. Bioengineering materials are estimated to be approx. 75 CY.</p> <p>Area 1 would be constructed using the same sequencing as Area 2. Approx. 913 CY (of which 285 CY below OHWM) of material would be cut from the bank and approx. 1,046CY of instream material would be pushed to the bank to reconstruct approx. 1,085 linear feet of stream bank. Approx. 2,911 cubic yards of riprap will be installed as toe protection to a height of 3 feet. Bioengineering materials are estimated to be approx. 150 CY. The Area 1 bank stabilization area (APN 006-101-04) would result in permanent impacts to approx. 0.6 acre and 1,085 linear feet of stream bank of the Carson River. Temporary impacts resulting from equipment moving materials along the stream bed and the channel diversion is estimated to be approx. 5.75 acres.</p>
<p>Estimate the nature, specific location, and number of discharge(s) expected to be authorized by the proposed activity:</p>	<p>Described above as part of the construction sequencing.</p>
<p>Provide the date(s) on which the proposed activity is planned to begin and end and the approximate date(s) when any discharge(s) may commence:</p>	<p>This work is proposed to occur during low flow conditions, typically occurring in the winter. If permitting timeframes support, the work would be completed over the 2024/2025 winter construction season so that critical funding for the project is not lost. If this construction season is lost, then the work would be scheduled for the next available construction season when funding is available. All work is expected to be completed by March 2026, when the current NWP's are set to expire. Area 2 is expected to take approx. one month to complete. Area 1 is expected to take approx. six weeks to complete.</p>
<p>Provide a list of the federal permit(s) or license(s) required to conduct the activity which may result in a discharge into regulated waters (see mandatory attachments):</p>	<p>USACE NWP 13 coverage under Section 10 of the Rivers and Harbors Act. Because Section 10 coverage is being sought, all activities and impacts within the river banks are calculated herein and not just those below the OHWM.</p>
<p>Provide a list of all other federal, state, interstate, tribal, territorial, or local agency authorizations required for the proposed activity and the current status of each authorization:</p>	<p>NV State Lands Permit- pending NDEP Working in Waterways- pending NDEP Construction Stormwater General Permit- to be obtained by the selected contractor</p>

Total area of impact to regulated waterbodies (acres):	Area 1= 5.75 acres Area 2= 3 acres	
Total distance of impact to regulated waterbodies (linear feet):	Area 1= 1,225 linear feet Area 2= 650 linear feet	
Amount excavation and/or fill discharged within regulated waters (acres, linear feet, and cubic yards):	Temporary: Area 1= 5.75 ac/1,225 lf/excavation=1,046 CY Area 2= 3 ac/ 650 lf/excavation= 655 CY	Permanent: Area 1= 0.6 ac/1,085 lf/4,107 CY Area 2= 0.23 ac/628 lf/1,834 CY
Amount of dredge material discharged within regulated waters (acres, linear feet, and cubic yards):	Temporary: 0	Permanent: The dredged material is the same as the excavated material and is included in the above calculations.
Describe the reason(s) why avoidance of temporary fill in regulated waters is not practicable (if applicable):	The movement of the bed material across the river bottom is considered temporary fill material and cannot be avoided to complete the project purpose. Further, the installation of the BMPs will constitute a temporary fill and are needed to ensure the project does not cause an exceedance of state water quality standards. Because BMPs are located within the larger temporary disturbance area, the fill quantities and measurements have not been separated out in calculations.	
Describe the Best Management Practices (BMPs) to be implemented to avoid and/or minimize impacts to regulated waters: Examples include sediment and erosion control measures, habitat preservation, flow diversions, dewatering, hazardous materials management, water quality monitoring, equipment or plans to treat, control, or manage discharges, etc.	Project specific BMPs to be implemented for the project: <ul style="list-style-type: none"> • Construction in the dry, live stream flows are being routed away from the bank being stabilized. • Work scheduled during low flow conditions. • See attached engineering plan for the placement of temporary berm and k-rail to prevent downstream water quality impacts. • Diversion will be constructed per the engineering typical provided, with the temporary low flow channel constructed first followed by installation of the upstream k-rail to divert the flow into the newly cut low flow and then construction of the downstream temporary berm and k-rail installation. Once toe of riprap for bank stabilization has been placed then the temporary diversion structures will be removed and the native material will be placed in the upslope area of the bank to be sequestered in place by the native material. The removal of the diversion will allow for the return of the live stream flows to the original low flow channel. The work will be ordered so that equipment will not be driving through live stream flows. • There is no wet concrete proposed for use. The k-rail is precast and set in the channel with equipment. • The construction contractor is responsible for obtaining the approved SWPPP for the proposed project. A construction contractor has not yet been selected for this project. An approved SWPPP will be obtained prior to the start of work. • The construction contractor is responsible for obtaining the approved spill prevention plan for the proposed project. A construction contractor has not yet been selected for this 	

	<p>project. An approved spill prevention plan will be obtained prior to the start of work.</p> <ul style="list-style-type: none"> • Future periodic maintenance of the proposed in-stream work is not anticipated. • Equipment will be cleaned prior to being used on site to avoid the transfer of additional invasive weed seeds. However, invasive weeds were documented within the banks of the aquatic resource during the field investigation. • Stockpiles will have perimeter controls such as silt fencing and/or filtration wattles. <p>General BMPs to be implemented for the project:</p> <ul style="list-style-type: none"> • Limit access to and from the site. • Stabilize construction entrances/exits to minimize the track out of dirt and mud onto adjacent streets. Conduct frequent street sweeping. • Avoid storing or stockpiling materials near storm drain inlets, gullies or streams. • Perform major maintenance and repairs of vehicles and equipment off site. • Keep construction sites clean by removing trash, debris, wastes, etc. on a regular basis. • Clean up spills immediately using dry clean up methods (e.g., absorbent materials such as cat litter, sand or rags for liquid spills, sweeping for dry spills such as cement, mortar or fertilizer) and by removing the contaminated soil from spills on dirt areas. • Prevent erosion by implementing any or a combination of soil stabilization practices such as mulching, surface roughening, and temporary silt fencing. • Maintain all vehicles and equipment in good working condition. Inspect frequently for leaks, and repair promptly. • Practice proper waste disposal. Many construction materials and wastes, including solvents, water-based paint, vehicle fluids, broken asphalt and concrete, wood, and cleared vegetation can be recycled. Materials that cannot be recycled must be taken to an appropriate landfill or disposed of as hazardous waste. • Cover open dumpsters with secure tarps or plastic sheeting. Never clean out a dumpster by washing it down on the construction site. • Arrange for an adequate debris disposal schedule to ensure that dumpsters do not overflow.
<p>Describe how the activity has been designed to avoid and/or minimize adverse effects, both temporary and permanent, to regulated waters:</p>	<p>Temporary impacts have been minimized through the proposed BMPs and construction sequencing. Permanent impacts have been minimized by sequestering contaminated bed loads into the banks to reduce further downstream transport. Both temporary and permanent impacts have been avoided through limiting project site areas to those that would benefit most from stabilization and preservation of the cottonwood gallery corridor through this reach of the Carson River.</p>

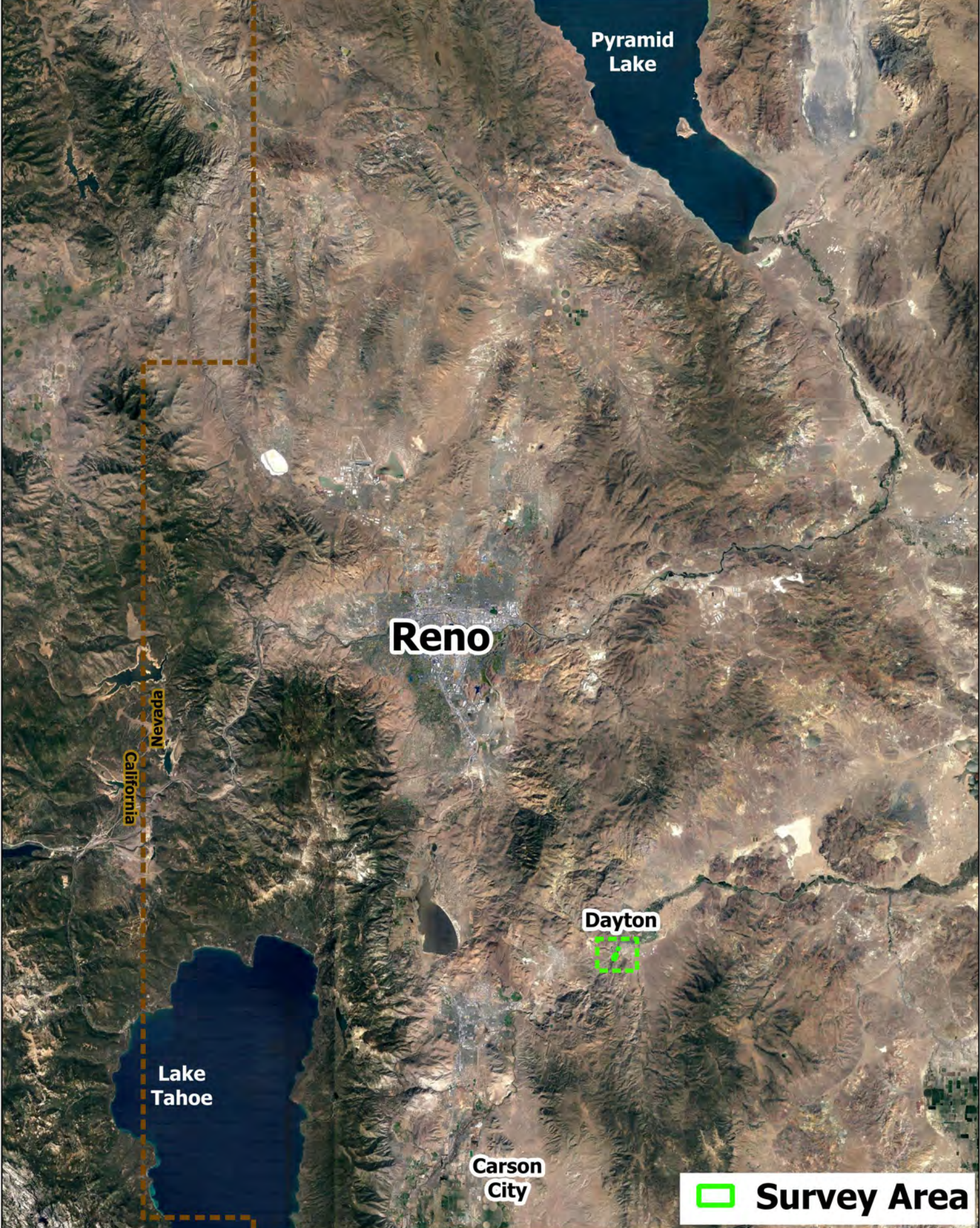
Describe any compensatory mitigation planned for this project (if applicable):	Compensatory mitigation is not being proposed for this project.
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D. Signature		
Name and Title (Print): Austin Lemons DVCD District Manager	Phone Number: 775-246-6220 ext 1878	Date: 11/25/24
<div data-bbox="126 709 490 760"></div> <hr/> <p data-bbox="126 781 428 802">Signature of Responsible Official</p>		

Mandatory Attachments:

- **Federal Permit or License Identification:**
 - Project proponents seeking a federal general permit or license must include a copy of the draft federal license or permit and any readily available water quality-related materials that informed the development of the draft federal license or permit, or;
 - Project proponents seeking a federal individual permit or license must include a copy of the federal permit or license application and any readily available water quality-related materials that informed the development of the federal license or permit application.
- **Site Map** - A map or diagram of the proposed project site including project boundaries in relation to regulated waters, local streets, roads, and highways.
- **Engineered Drawings** - Engineered drawings are preferred to be submitted at the 70% design level. If only conceptual designs are available at the time of application, plans for construction should be submitted prior to the start of the project. Specific locations of the proposed activities and details of specific work elements planned for the project should be identified (e.g., staging areas, concrete washouts, perimeter controls, water diversions, or other BMPs).

Submit the completed application materials to NDEP (ndep401@ndep.nv.gov) with the appropriate U.S. Army Corps of Engineers Regulatory Office copied on the communication (<http://www.spk.usace.army.mil/Missions/Regulatory/Contacts/Contact-Your-Local-Office/>).



Pyramid Lake

Reno

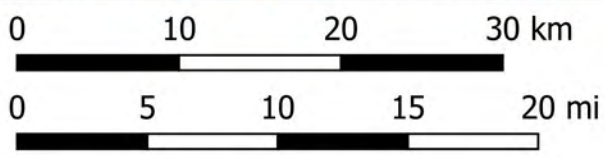
Nevada
California

Dayton

Lake Tahoe

Carson City

 **Survey Area**



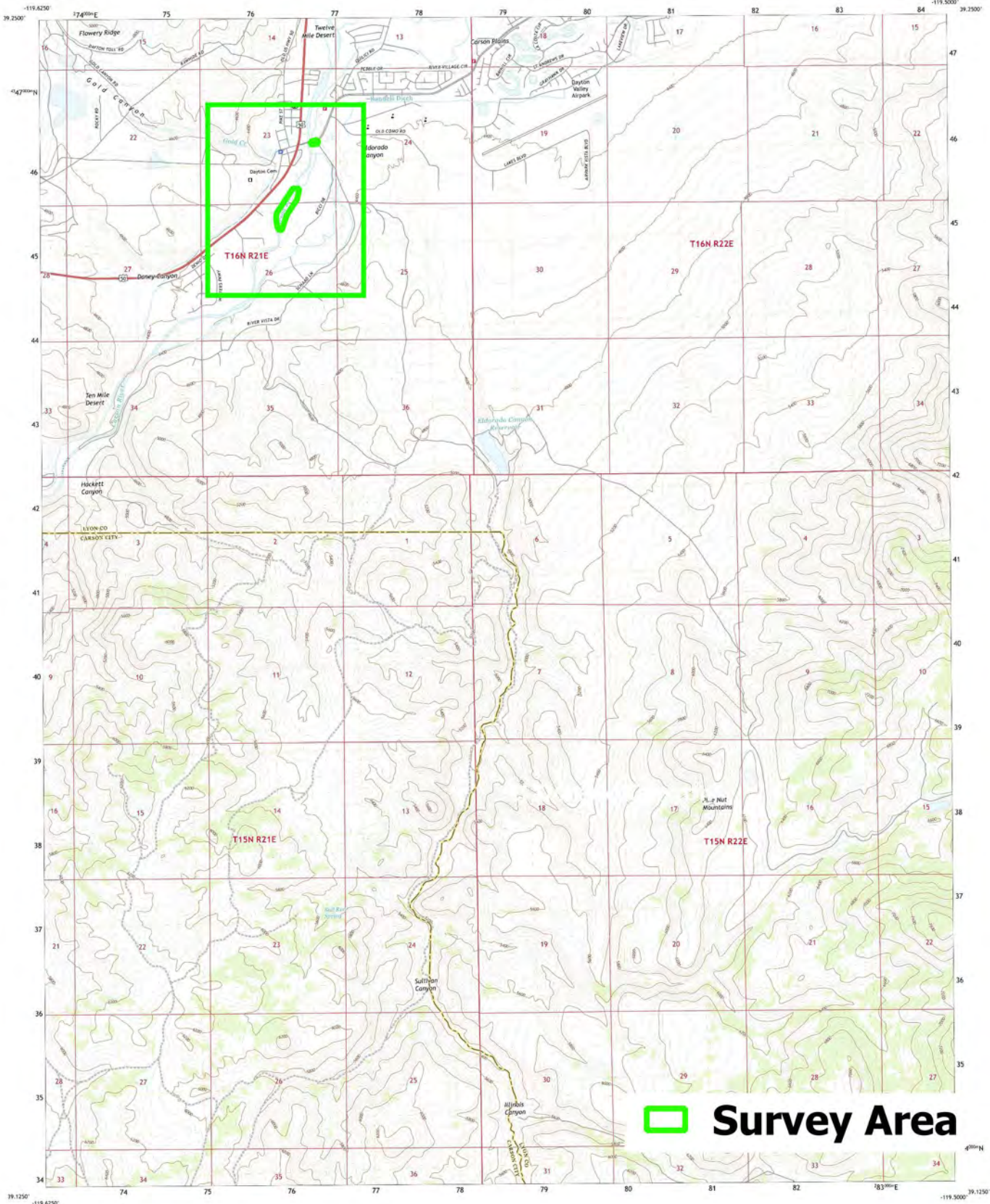
Carson River Bank Stabilization Project
Project Location

Scale:
1: 600,000

Base Imagery: Google Earth
CRS: EPSG 3857-WGS84/ Pseudo-Mercator

Map Made: June 8, RP



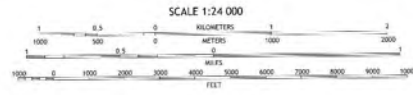


Survey Area

Produced by the United States Geological Survey

World Geodetic System of 1984 (WGS84). Projection used is UTM Universal Transverse Mercator, Zone 12S. This map is not a legal document. Boundaries may be general and for this map scale. Private lands with government reservations may not be shown. Obtain permission before entering private lands.

Imagery: NAIP, June 2017 - November 2017
 Bathymetry: U.S. Census Bureau, 2014
 Wetlands: National Hydrography Dataset, 2002 - 2011
 Contours: National Elevation Dataset, 2018
 Boundaries: Multiple sources: 1997 metadata file, 2009
 Public Land Survey System: BLM, 2000
 Metadata: FWS National Wetlands Inventory 1982 - 1986

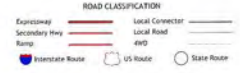


CONTOUR INTERVAL: 40 FEET
 NORTH AMERICAN VERTICAL DATUM OF 1985
 This map was produced to conform with the National Geospatial Program US Topo (Print) Standards.

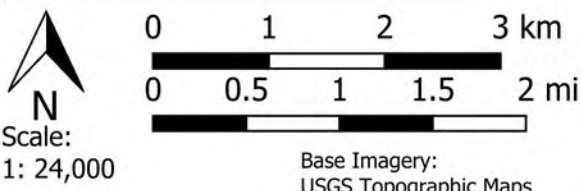


1	2	3
4	5	6
7	8	9

1 Virgin City
 2 Flourey Peak
 3 Jamboree Flat
 4 New Empire
 5 Camp
 6 Mt. Tenabawan Hill
 7 Miner's Peak
 8 Miner's Corner



DAYTON, NV 2021



CRS: EPSG 3857-WGS84/ Pseudo-Mercator



Carson River Bank Stabilization Project
 Survey Area Topo Map

Carson River Bank Stabilization Project

Site Laydown Map



Legend

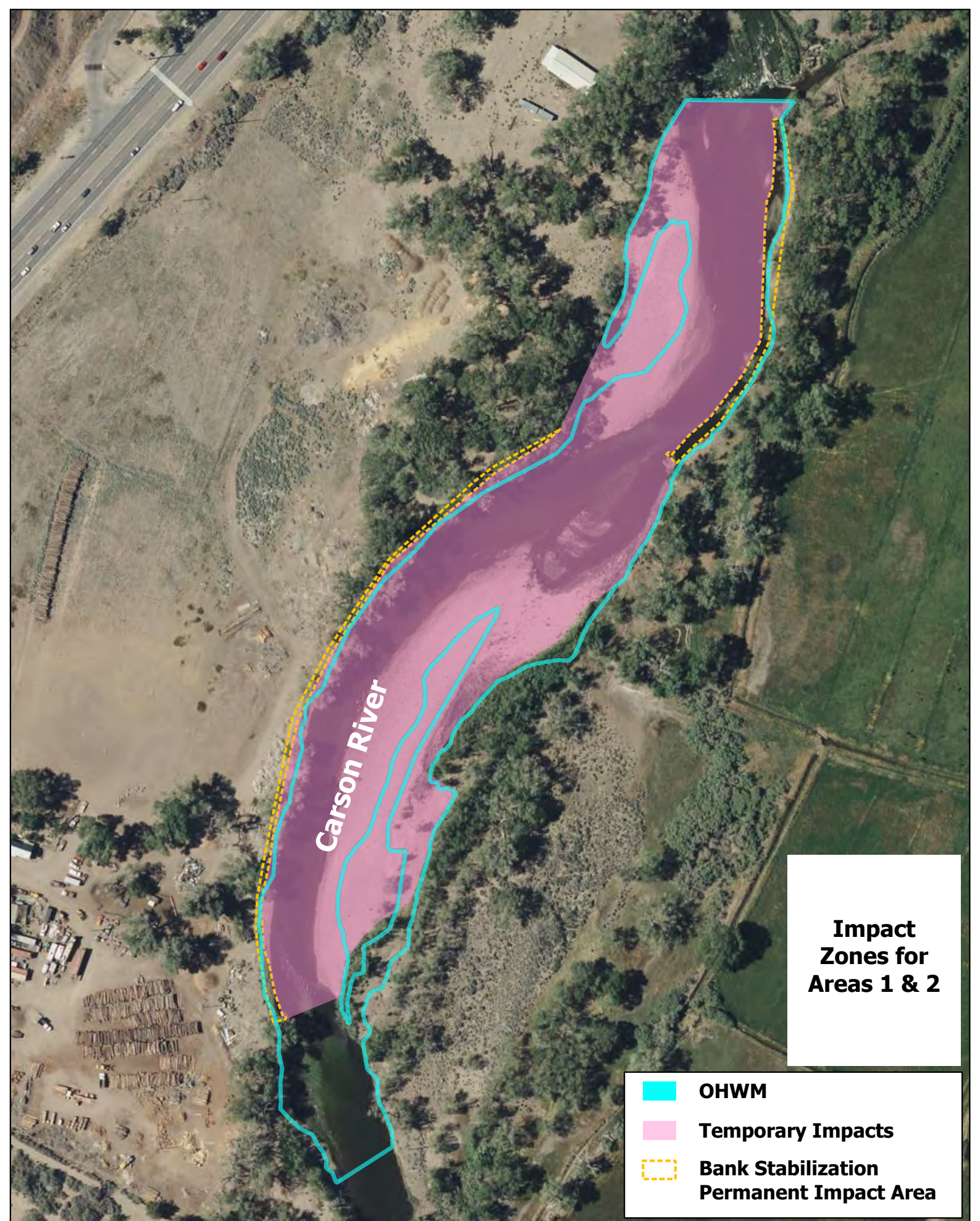
- Haul Route/Ingress/Egress
- Perimeter Controls
- Stabilization
- Staging Areas (Pink)

Google Earth

Image © 2024 Airbus

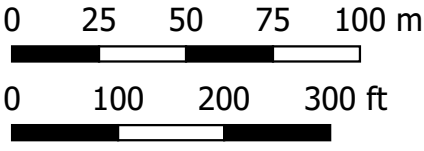


1000 ft



**Impact
Zones for
Areas 1 & 2**

-  **OHWM**
-  **Temporary Impacts**
-  **Bank Stabilization
Permanent Impact Area**



**Carson River Bank Stabilization Project
Impacts Map**

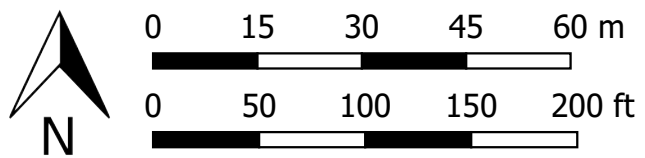
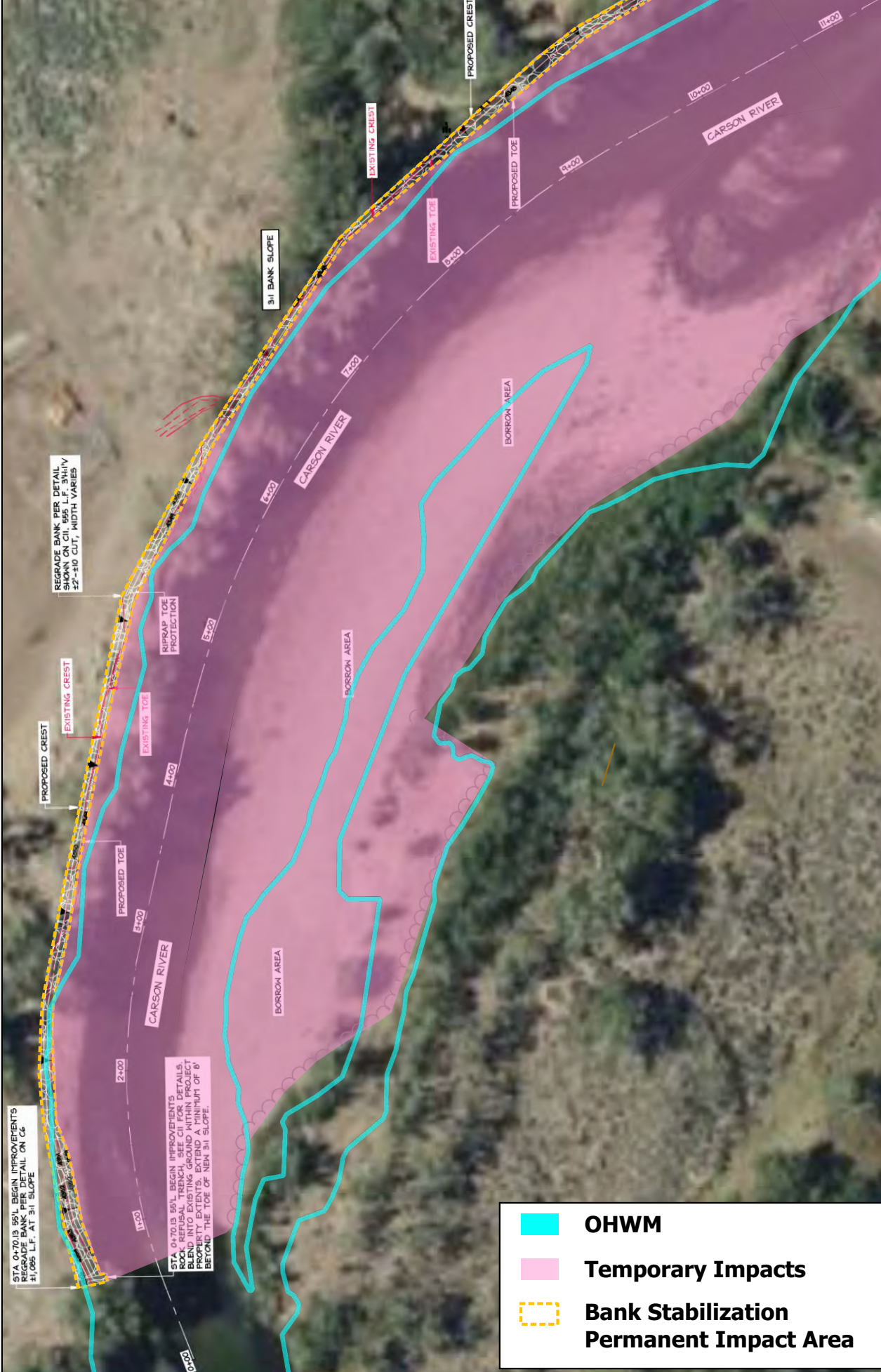
Scale:
1 inch =
230 ft



Impacts for Area 1 below OHWM

Temporary impacts
(pushing in-stream material to bank & BMPs)=
5.75 acres,
1,225 linear feet,
1,046 CY dredged

Permanent impact
(bank stabilization)=
0.6 acre,
1,085 linear feet,
4,107 CY fill material=
1,046 CY in-stream materials
+ 2,911 CY riprap
+ 150 CY bioeng materials
1,959 CY dredge/cut=
1,046 CY in-stream materials
+ 913 CY cut bank



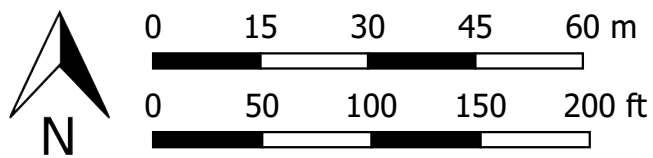
Carson River Bank Stabilization Project Area 1 Impacts Map with Planset



Impacts for Area 2 below OHWM

Temporary impacts
(pushing in-stream material to bank)=
3 acres,
650 linear feet,
729 CY

Permanent impact
(bank stabilization)=
0.23 acre,
628 linear feet,
1,834 CY=
655 CY in-stream materials
+ 1,104 CY riprap
+ 75 CY bioeng materials



Carson River Bank Stabilization Project Area 2 Impacts Map with Planset





CONSTRUCTION NOTE

1. REGRADE FAILED RIVER BANKS BY CUTTING FROM PROPOSED CREST LINE AT THE SLOPE NOTED ON PLANS. USE MATERIAL GENERATED FROM THE CUT AS FILL IN CONJUNCTION WITH ADDITIONAL FILL MATERIAL FROM THE BORROW AREAS AS NECESSARY. SEE RIVER BANK REGRADE DETAIL ON C6.
2. INSTALL 26,200 S.F. RIP-RAP TOE PROTECTION TO A HEIGHT OF 3' PER DETAIL ON SHEET C6.
3. DEPTH OF EXCAVATION IN BORROW AREA SHALL NOT EXCEED ELEVATION OF ADJACENT PROPOSED TOE IN PROJECT AREA. TRANSITION FROM BORROW AREA TO EX. UNDISTURBED GROUND SHALL BE MADE AT 5:1 (MAX.) IN A SMOOTH & WORKMAN-LIKE MANNER.
4. PROTECT EXISTING TREES AND RIPARIAN VEGETATION TO THE EXTENT POSSIBLE THROUGHOUT CONSTRUCTION. REMOVAL OF TREES IN EXCESS OF 6" IN DIAMETER IS PROHIBITED WITHOUT OWNER APPROVAL UNLESS OTHERWISE NOTED.

LEGEND



VOLUMES

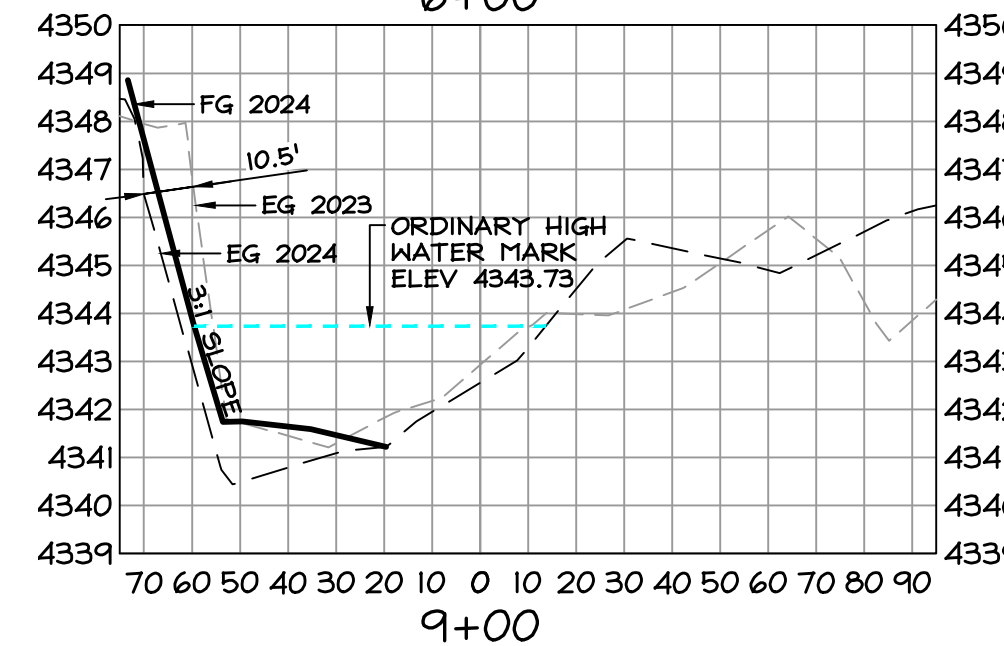
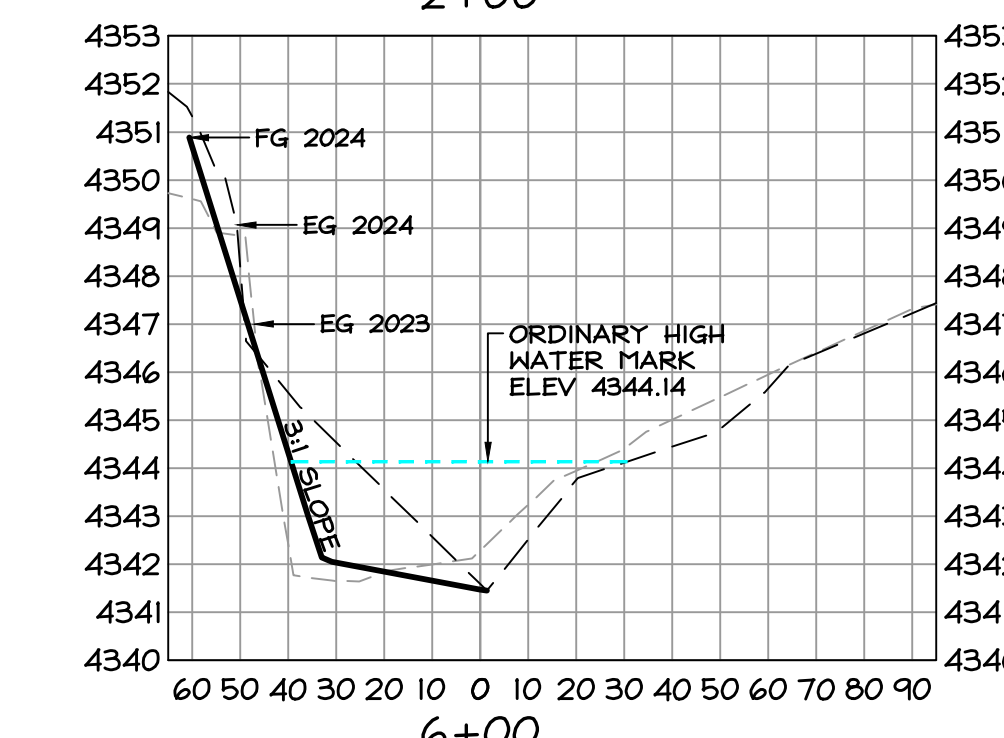
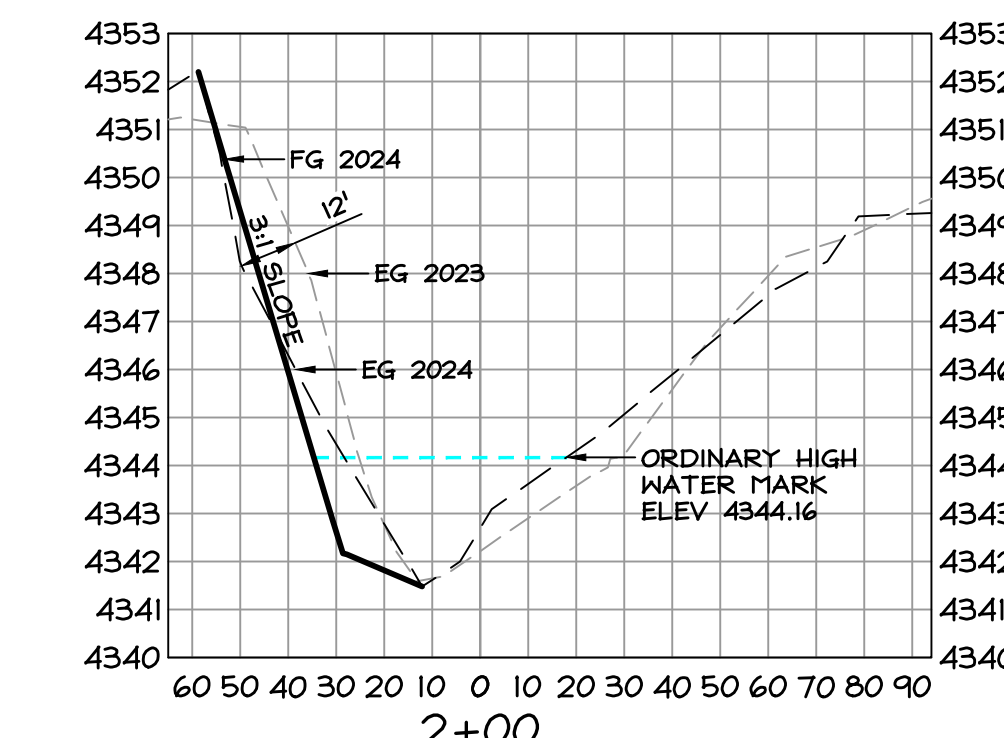
TOTAL VOLUME: ±1,085 L.F. 0.60 ACRES
 CUT = 913 CYS
 FILL = 1,046 CYS
 NET FILL = 133 CYS

VOLUME BELOW ORDINARY HIGH WATER MARK
 CUT = 285 CYS
 FILL = 462 CYS
 NET FILL = 176 CYS

TOTAL RIPRAP
 26,200 S.F. TOTAL RIPRAP

NOTE: NO GUARANTEE IS MADE CONCERNING THE ACCURACY OF THE ESTIMATED QUANTITIES. THE CONTRACTOR SHALL DETERMINE ACTUAL QUANTITIES OF WORK ASSOCIATED WITH THE PROJECT.

CROSS SECTIONS



Y:\client_files\0582-0582-022\CAD\Engineering\Improvement_plans\0582-022-C3.dwg 11/21/2024 1:28:24 PM James.Turner

NO.	DATE	REVISION BLOCK	BY



R|O Anderson
 MINDEN 10300 Durbin
 P.O. Box 22291 Reno, NV 89421
 775.782.2322 F 775.782.7084

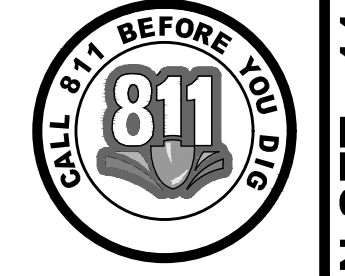
**2024 CARSON RIVER BANK STABILIZATION PROJECTS
 DAYTON VALLEY CONSERVATION DISTRICT**

**PRADERE
 SITE 1
 GRADING PLAN**

ENGINEER: ROBERT O. ANDERSON
 DATE: 11.19.2024

DRAWN: JT
 ENGINEER: ROA
 SCALE: 1"=40'
 DATE: 11.19.2024

JOB: 0582-022
 DRAWING: SEE PLOT STAMP
 SHEET: C3
 OF: 7 SHEETS



CONSTRUCTION SET - 11.19.2024



CONSTRUCTION NOTE

1. REGRADE FAILED RIVER BANKS BY CUTTING FROM PROPOSED CREST LINE AT THE SLOPE NOTED ON PLANS. USE MATERIAL GENERATED FROM THE CUT AS FILL IN CONJUNCTION WITH ADDITIONAL FILL MATERIAL FROM THE BORROW AREAS AS NECESSARY. SEE RIVER BANK REGRADE DETAIL ON C6.
2. INSTALL 9,940 S.F. RIP-RAP TOE PROTECTION TO A HEIGHT OF 3' PER DETAIL ON SHEET C6.
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LEGEND



VOLUMES

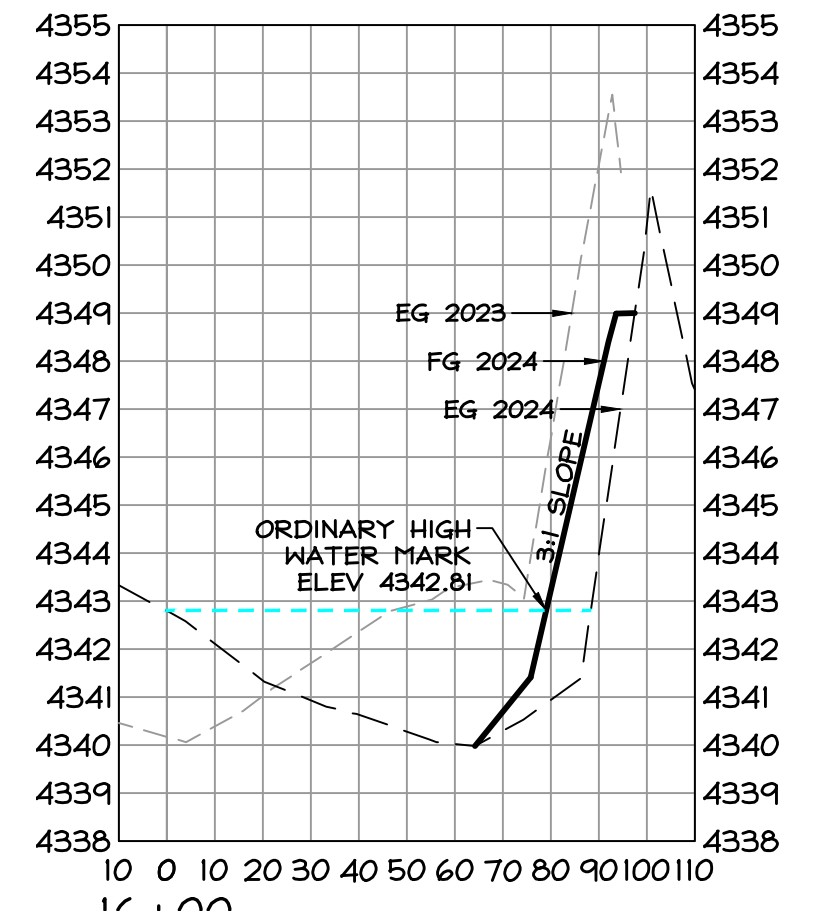
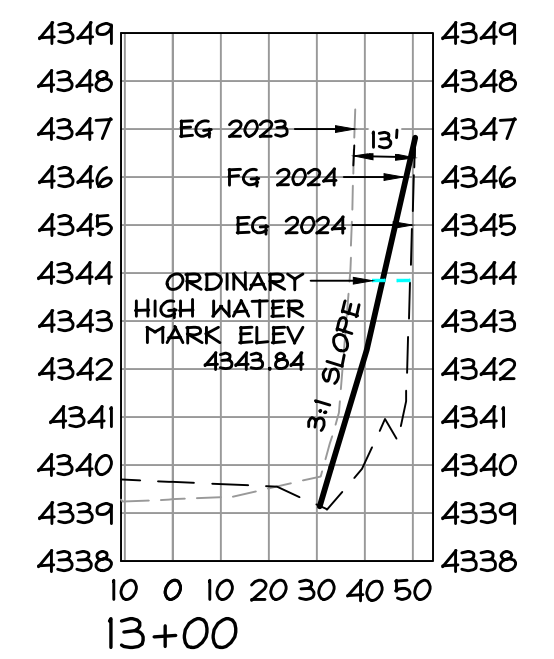
TOTAL VOLUME: ±628 L.F. 0.23 ACRES
 CUT = 37 CYS
 FILL = 655 CYS
 NET FILL = 618 CYS

VOLUME BELOW ORDINARY HIGH WATER MARK
 CUT = 2 CYS
 FILL = 531 CYS
 NET FILL = 529 CYS

TOTAL RIPRAP
 9,940 S.F. TOTAL RIPRAP

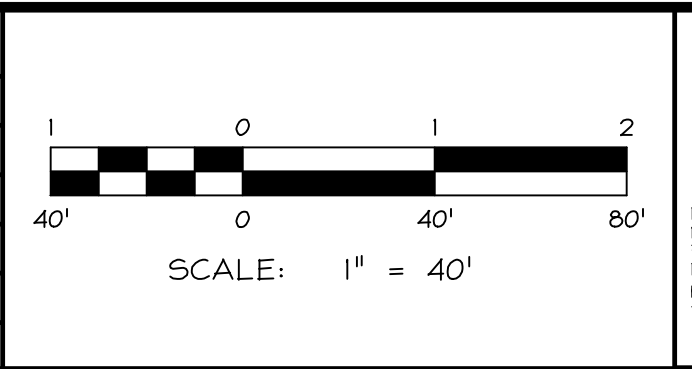
NOTE: NO GUARANTEE IS MADE CONCERNING THE ACCURACY OF THE ESTIMATED QUANTITIES. THE CONTRACTOR SHALL DETERMINE ACTUAL QUANTITIES OF WORK ASSOCIATED WITH THE PROJECT.

CROSS SECTIONS



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NO.	DATE	REVISION BLOCK	BY



R|O Anderson
 MINDEN 1403 Eisenhower Ave
 RENO 95504
 P. 775.782.2323
 F. 775.782.7084

RENO 10500 Double Diamond Pkwy, Unit 118
 Reno, NV 95621
 P. 775.782.2322
 F. 775.782.7084

2024 CARSON RIVER BANK STABILIZATION PROJECTS
 DAYTON VALLEY CONSERVATION DISTRICT

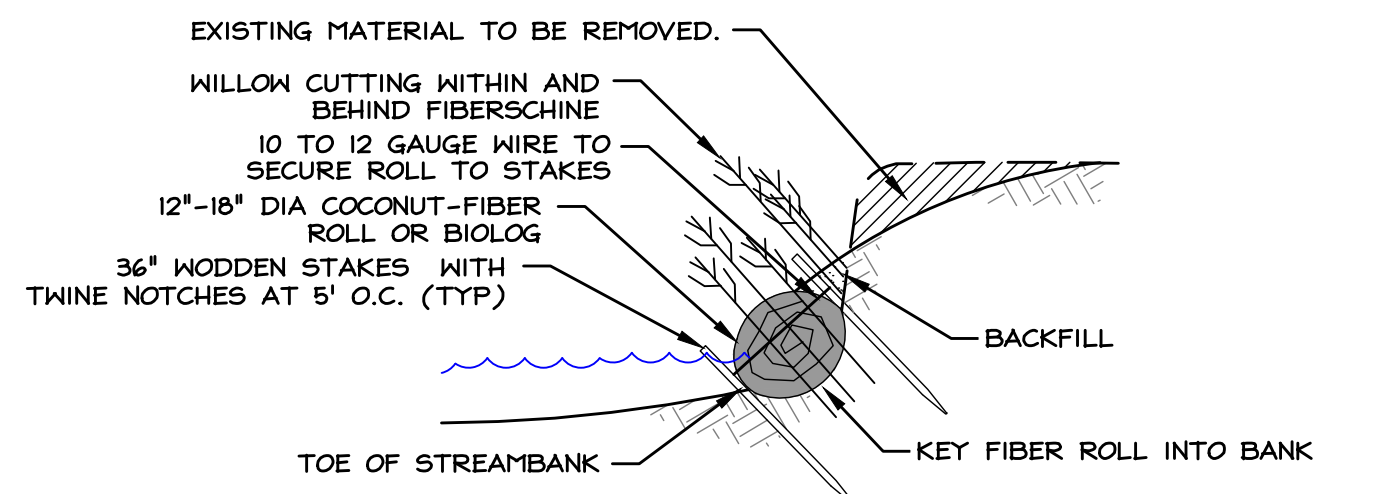
RICCI RANCH
 SITE 2
 GRADING PLAN

ENGINEER: ROBERT O. ANDERSON
 Exp. 12-31-24
 No. 7761

DRAWN: JT	JOB: 0582-022
ENGINEER: ROA	DRAWING: SEE PLOT STAMP
SCALE: 1"=40'	SHEET: C4
DATE: 11.19.2024	OF: 7 SHEETS



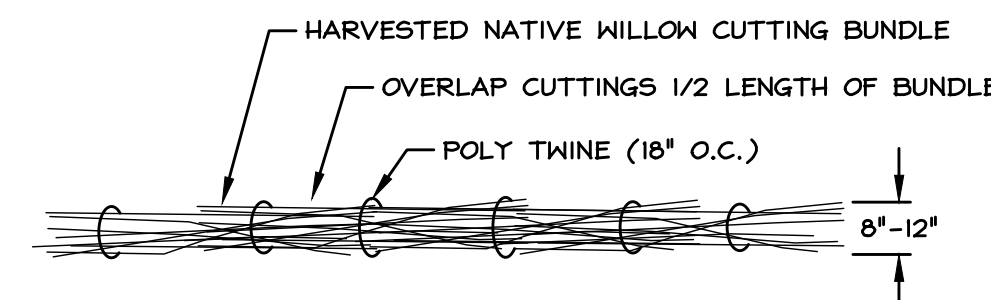
CONSTRUCTION SET - 11.19.2024



- NOTES:
1. EXTEND FIBERSCHINE 5 FEET BEYOND END OF TREATMENT AREA.
 2. WILLOW CUTTINGS TO BE HARVEST FROM LOCAL SOURCE AS AVAILABLE.
 3. CLEANLY DETACH WILLOW CUTTING MATERIAL 1" FROM EXISTING GROUND AT THE PLANT BASE. REMOVE SIDE AND TERMINAL BRANCHES. ASSURE NO BARK DAMAGE OCCURS TO REMAINING WILLOW BASE. PRESERVE AND PROTECT BASE IN PLACE.
 4. PROTECT HARVEST SITE FROM PERMANENT DISTURBANCE. UPON COMPLETION OF HARVEST ACTIVITY, RESTORE SITE TO NATIVE CONDITIONS.
 5. SOAK WILLOW CUTTINGS FOR 5-7 DAYS, BEFORE ROOTS BEGIN TO EMERGE FROM CUTTING.

FIBERSCHINES W/ WILLOW CUTTING DETAIL

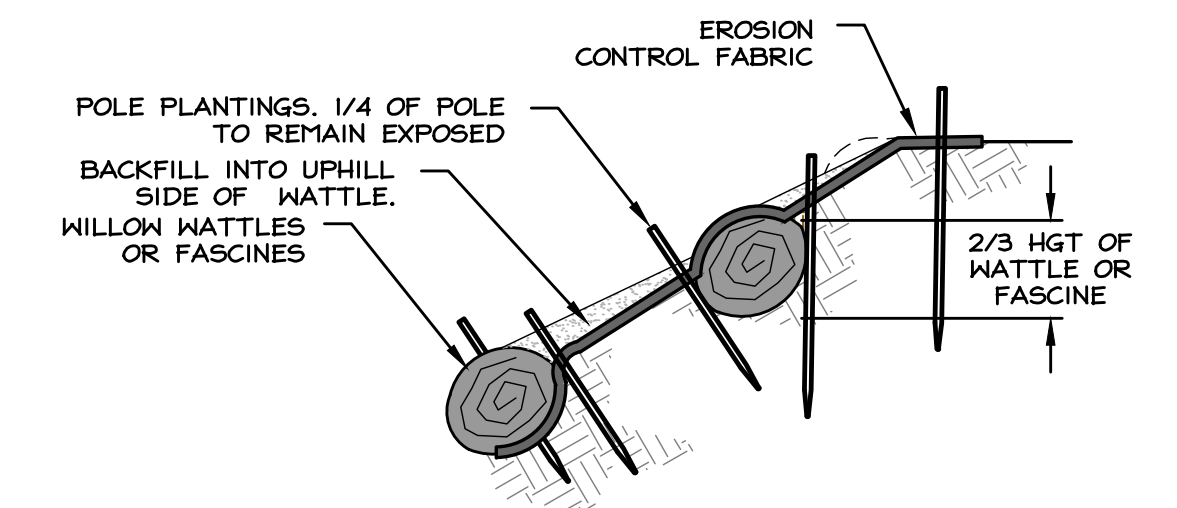
NOT TO SCALE



- NOTES:
1. WILLOW CUTTINGS TO BE HARVEST FROM LOCAL SOURCE AS AVAILABLE.
 2. CLEANLY DETACH WILLOW CUTTING MATERIAL 1" FROM EXISTING GROUND AT THE PLANT BASE. REMOVE SIDE AND TERMINAL BRANCHES. ASSURE NO BARK DAMAGE OCCURS TO REMAINING WILLOW BASE. PRESERVE AND PROTECT BASE IN PLACE.
 3. SECURE WILLOW BUNDLE WITH 2 POLY TWINE PIECES PER BUNDLE.
 4. PROTECT HARVEST SITE FROM PERMANENT DISTURBANCE. UPON COMPLETION OF HARVEST ACTIVITY, RESTORE SITE TO NATIVE CONDITIONS.
 5. SOAK WILLOW CUTTINGS FOR 5-7 DAYS, BEFORE ROOTS BEGIN TO EMERGE FROM CUTTING.
 6. ALTERNATE DIRECTION OF WILLOW BUNDLE TO PRODUCE AN EVEN WIDTH AT THE OVERLAP LOCATION.

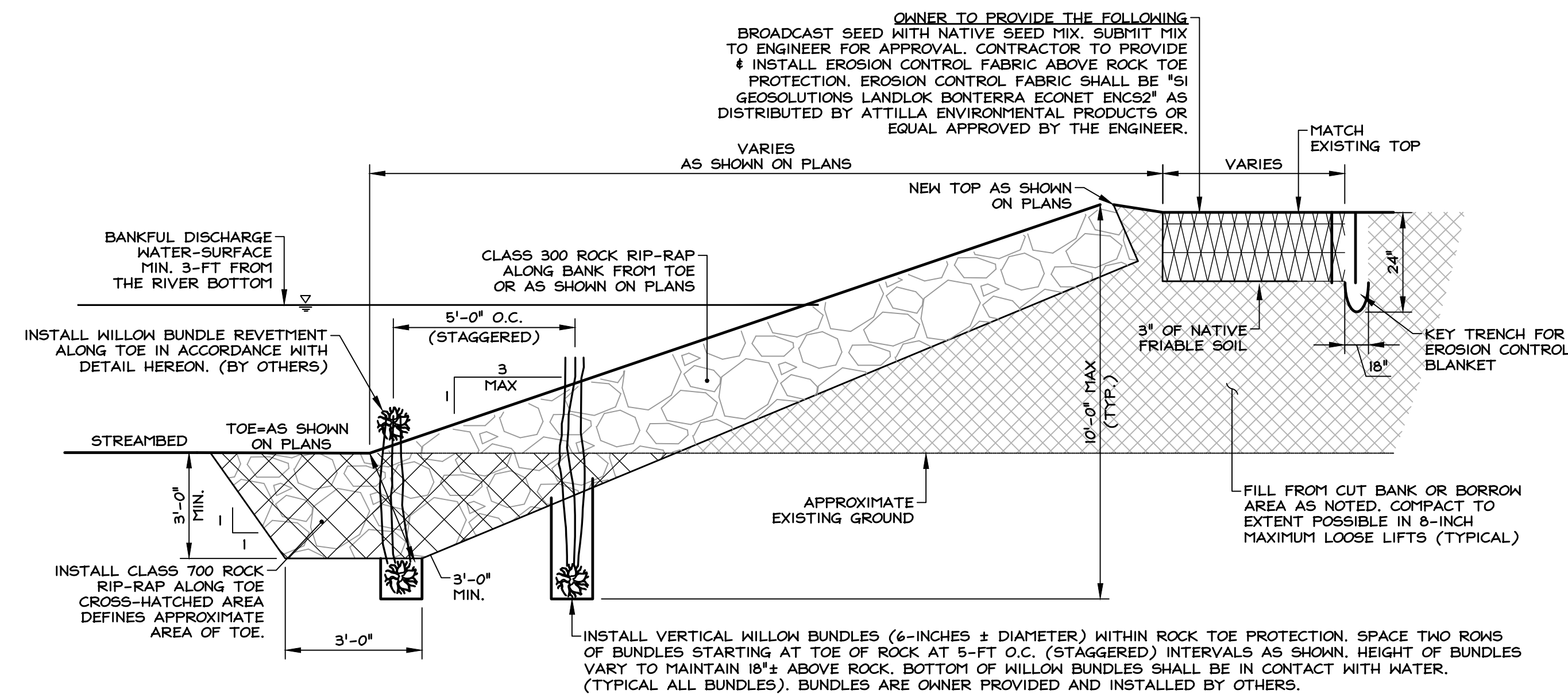
WILLOW WATTLES DETAIL

NOT TO SCALE



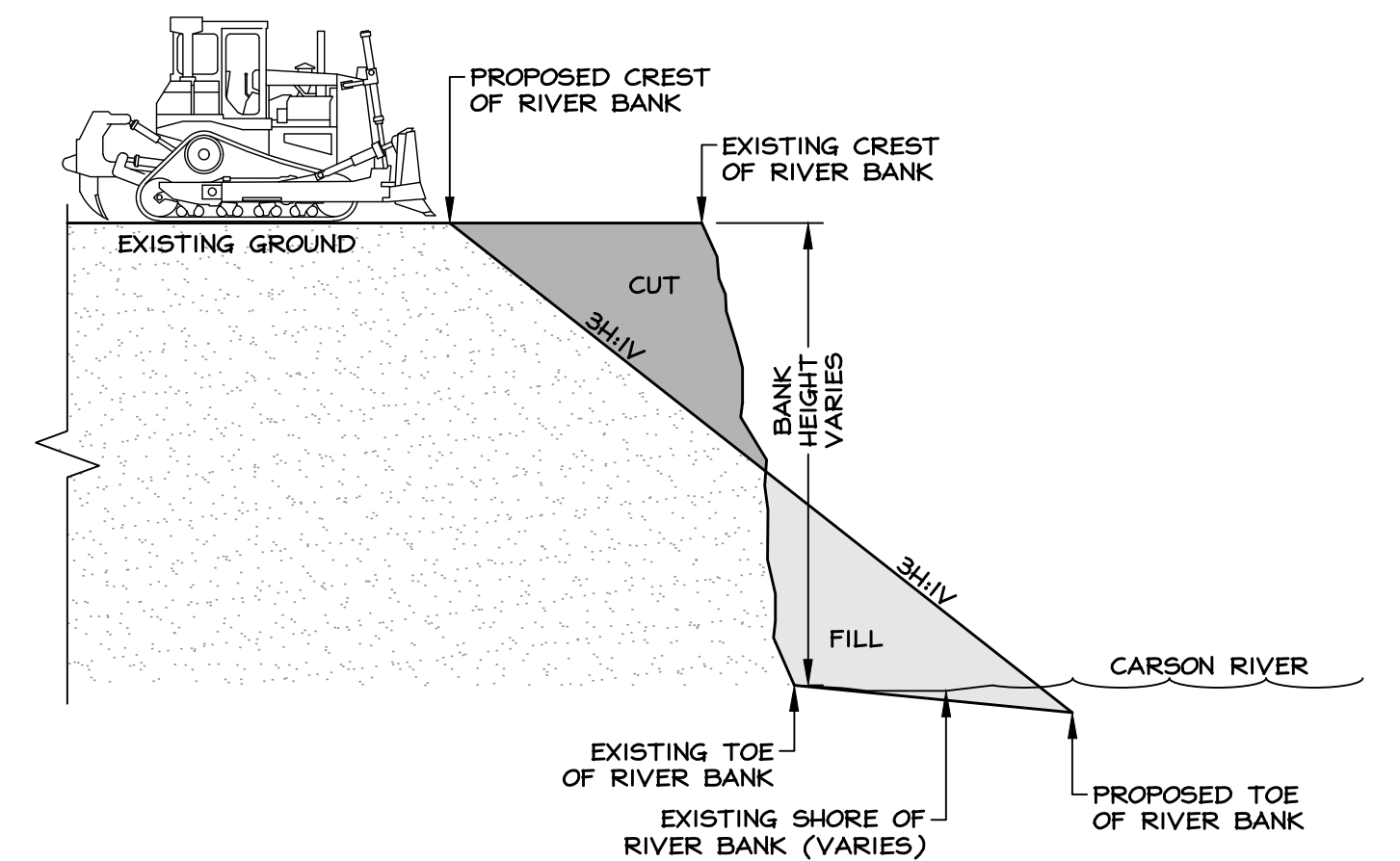
WILLOW WATTLES, FABRIC & POLE PLANTINGS

NOT TO SCALE



ROCK TOE & SLOPE PROTECTION

NOT TO SCALE



RIVER BANK REGRADE SECTION

NOT TO SCALE

TEST TABLE 200.06.03-II

% BY SIZE PASSING	CLASS 150 BEDDING	SIZE (INCHES)					
		CLASS 150/CLASS 300/400 BEDDING	CLASS 300 CLASS 550/700 BEDDING	CLASS 400 CLASS 900 BEDDING	CLASS 550	CLASS 700	CLASS 900
100	4	10	20	30	40	48	60
70-85	9	18	27	36	45	54	64
30-50	1	6	12	18	24	30	36
5-15	3/4	2	5	7	12	18	24
0-5	#4	1	2	3	6	8	12
D ₅₀	6	12	16	22	28	35	42

1. MATERIAL PASSING THE NO. 40 SIEVE

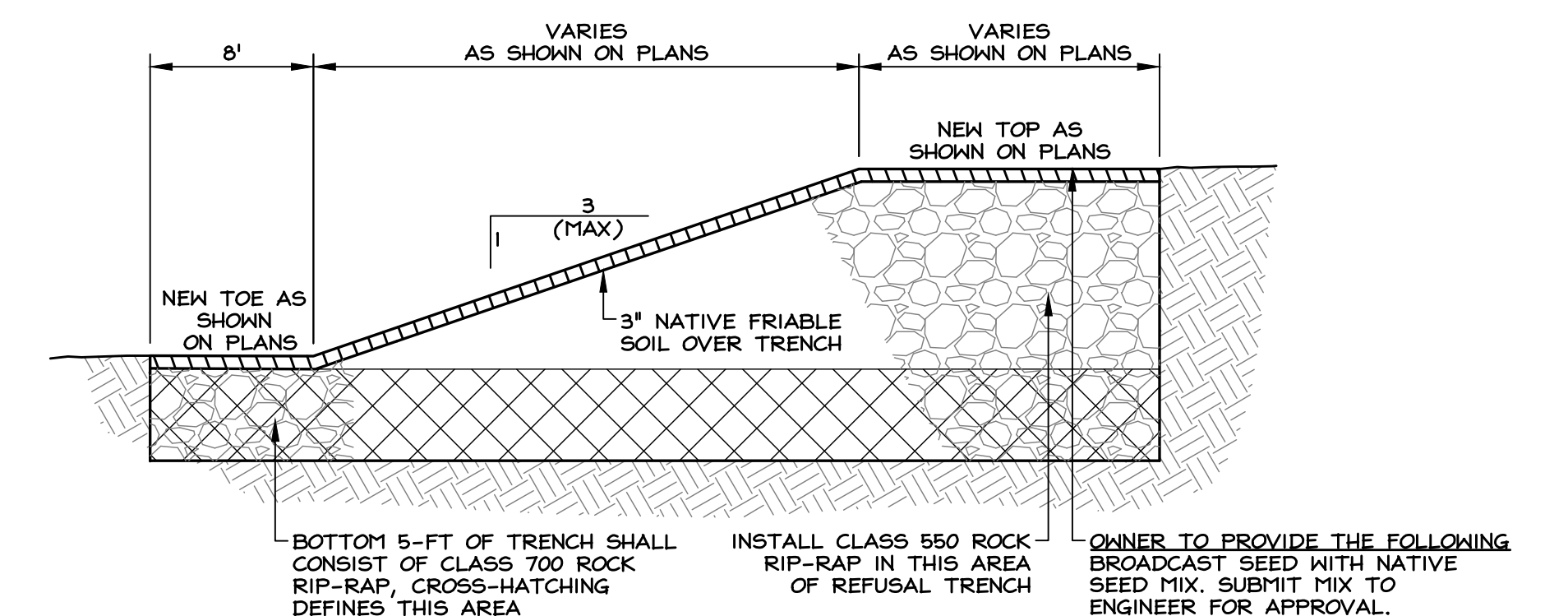
TEST TABLE 200.07.03-II

TEST	TEST METHOD	REQUIREMENTS
RESISTANCE TO DEGRADATION (%)	ASTM C131 OR C535 (1)(3)	45 MAXIMUM
ABSORPTION (%)	ASTM C127 (3)	4 MAXIMUM
APPARENT SPECIFIC GRAVITY	ASTM C127 (3)	2.5 MINIMUM (2)
DURABILITY	ASTM D3744 (3)	52 MINIMUM

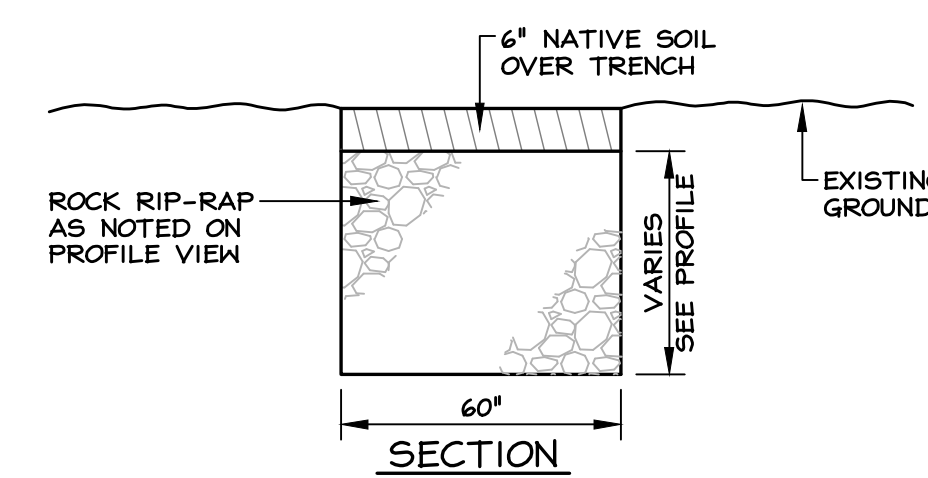
1. 500 REVOLUTIONS
2. RIPRAP WITH SPECIFIC GRAVITY OF LESS THAN 2.5 MAY BE USED OUTSIDE OF CHANNELS AND MAJOR DRAINAGE FACILITIES IF APPROVED BY AGENCY OR ENGINEER.
3. TESTS PERFORMED ON A PROCESSED SAMPLE OF THE PARENT ROCK.

ROCK RIP-RAP SPECIFICATIONS

NOT TO SCALE



PROFILE



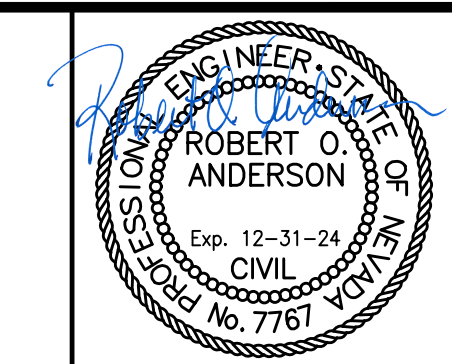
ROCK REFUSAL TRENCH

NOT TO SCALE

R/O Anderson
 MINDEN RENO
 1403 Eisenhower Ave. 10500 Double
 P.O. Box 2229 Diamond Pkwy, Unit 105
 Minden, NV 89423 Reno, NV 89501
 P. 775.782.2322 F. 775.782.2322
 F. 775.782.7084

2024 CARSON RIVER BANK STABILIZATION PROJECTS
DAYTON VALLEY CONSERVATION DISTRICT

DETAILS

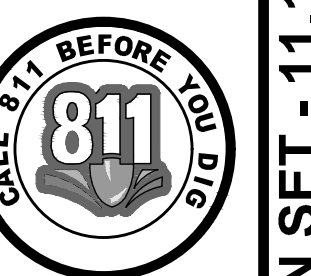


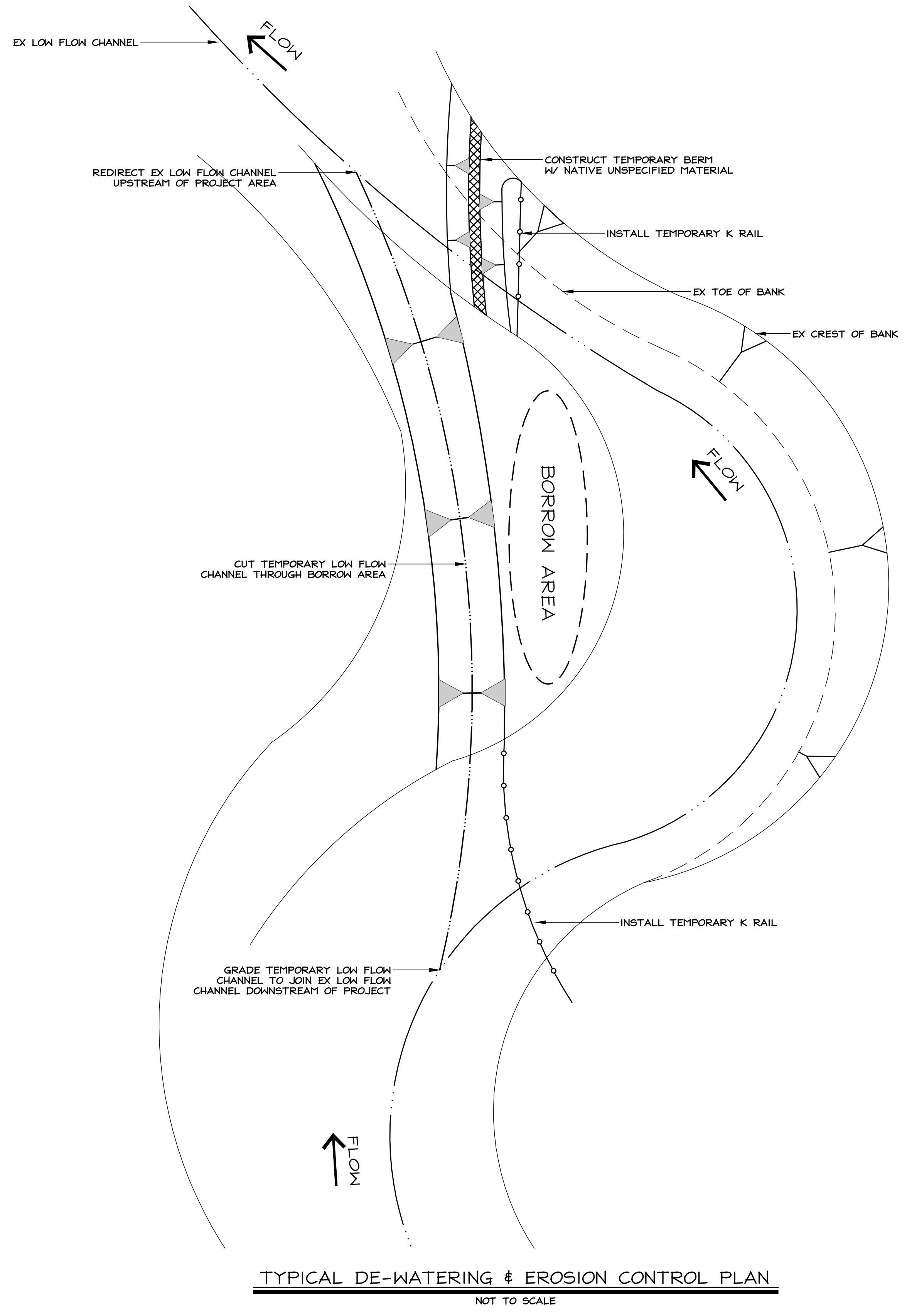
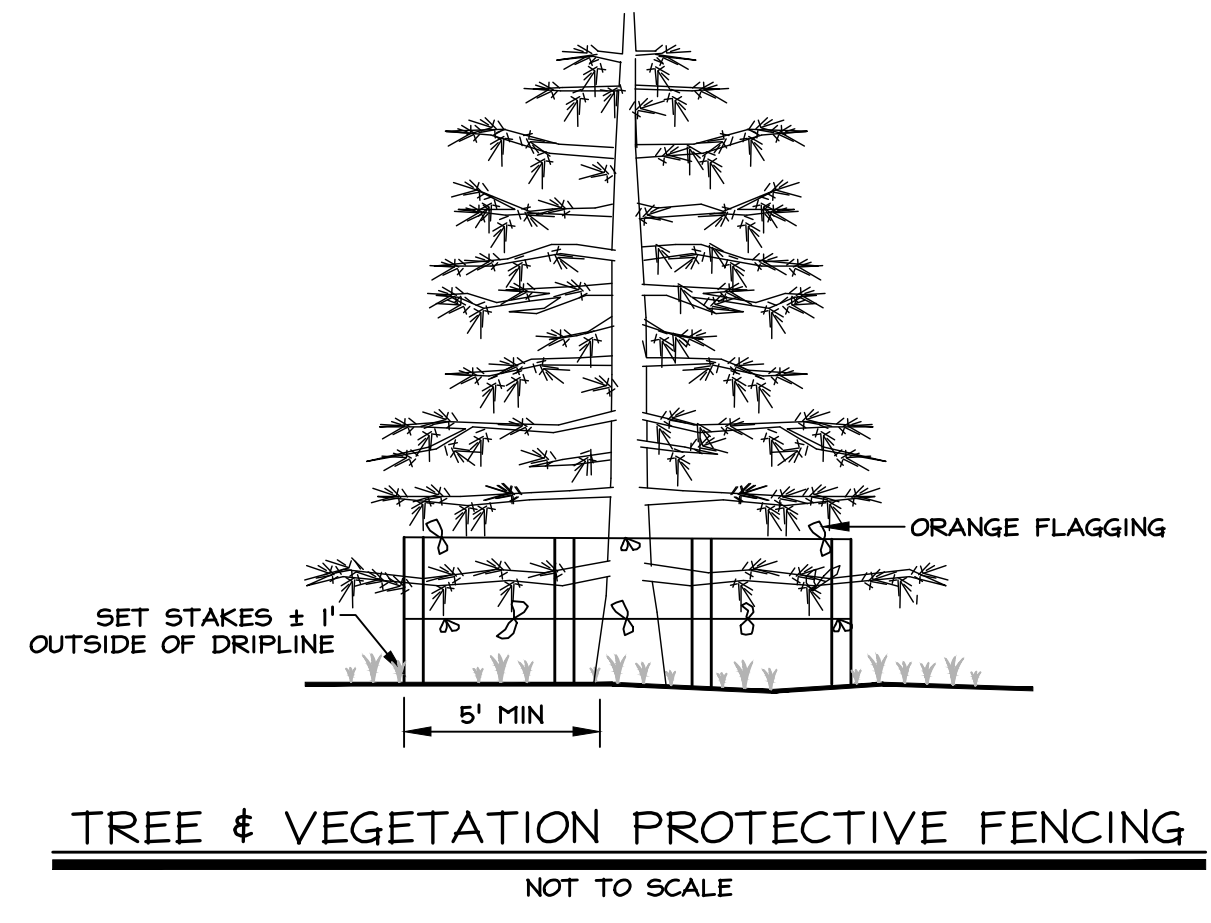
DRAWN: JT JOB: 0582-022
 ENGINEER: ROA DRAWING: SEE PLOT STAMP
 SCALE: 1"=40' SHEET: C6
 DATE: 11/19/2024 OF: 7 SHEETS

11/19/2024

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CONSTRUCTION SET - 11.19.2024





- GENERAL NOTES**
1. PLAN SHOWN IS GENERIC & WILL REQUIRE ADJUSTMENT IN FIELD BY CONTRACTOR.
 2. PLAN ASSUMES WORK IS CONDUCTED AT EXTREMELY LOW FLOW CONDITIONS.
 3. CONTRACTOR SHALL SATISFY HIMSELF THAT LOCATION WHERE TEMPORARY LOW-FLOW CHANNEL IS CUT WILL ALLOW ENOUGH BORROW AREA TO SATISFY FILL REQUIREMENTS OF PROJECT.
 4. LOW-FLOW CHANNEL WILL BE FILLED & RESTORED TO EX. CONDITIONS.
- SPILL PREVENTION AND RESPONSE**
1. CONTRACTOR SHALL STEAM CLEAN ALL EQUIPMENT THAT WILL BE WORKING IN RIVER BED AT SHOP PRIOR TO COMMENCING CONSTRUCTION.
 2. ALL EQUIPMENT SHALL BE CHECKED FOR LEAKS AND REPAIRED PRIOR TO COMMENCING CONSTRUCTION.
 3. CONTRACTOR SHALL INSURE INTEGRITY OF SILT FENCE AND STRAW BALE BARRIERS DURING THE COURSE OF CONSTRUCTION.
 4. CONTRACTOR SHALL USE DRIP PANS OR ABSORBENT MATS DURING FUELING AND MAINTENANCE TO PROTECT AGAINST SPILLS.
 5. SPILLED PETROLEUM PRODUCTS, CONTAMINATED SOILS OR WATER, AND ACCUMULATED SEDIMENTS SHALL BE CLEANED UP AND PROPERLY DISPOSED OF AT A LICENSED LANDFILL. DISCHARGE OF SUCH MATERIALS TO THE RIVER CHANNEL OR DITCHES IS PROHIBITED.
- REVEGETATION**
1. ALL DISTURBED AREAS, CUT & FILL SLOPES SHALL BE RE-SEED. THE SEED MIX, APPLICATION RATE ETC. SHALL BE SPECIFIED BY THE DVCD.
 2. REVEGETATED AREAS WILL BE INSPECTED AT COMPLETION OF INSTALLATION & ACCEPTANCE SUBJECT TO COMPLIANCE WITH SPECIFIED MATERIALS & INSTALLATION REQUIREMENTS. FOR ONE FULL GROWING SEASON AFTER PLANTING, CONTRACTOR SHALL GUARANTEE 30% COVERAGE BY SEED SPECIES & MULCH SUCH THAT THERE IS NO SIGNIFICANT EVIDENCE OF RILLS, GULLIES OR OTHER EVIDENCE OF EROSION. IF ADEQUATE COVERAGE IS NOT ACHIEVED, THE CONTRACTOR SHALL RE-SOIL, AMEND, RE-SEED OR RE-MULCH. THE ENGINEER, UPON CONTRACTOR'S REQUEST, WILL MAKE FINAL INSPECTION & ACCEPTANCE ONE FULL YEAR FOLLOWING COMPLETION OF SEEDING (THE MAINTENANCE PERIOD). PROVIDE NOTIFICATION AT LEAST 10 WORKING DAYS BEFORE REQUESTED INSPECTION DATE.
- GENERAL DE-WATERING & TEMPORARY EROSION CONTROL PLAN NOTES**
1. IN CASE OF EMERGENCY CALL DAYTON VALLEY CONSERVATION DISTRICT (ROB HOLLEY @ 775-246-1999 OR ENGINEER @ 775-782-2322).
 2. CONTRACTOR MAY SUBMIT ALTERNATE DE-WATERING & EROSION CONTROL PLAN TO ENGINEER. SUBMITTAL SHALL BE MADE IN ADVANCE OF CONSTRUCTION ACTIVITIES FOR REVIEW & APPROVAL.
 3. CONSTRUCTION SHALL BE SCHEDULED TO COINCIDE WITH PERIODS OF LOW FLOW IN THE RIVER.
 4. RESTORE AREAS DISTURBED BY DE-WATERING ACTIVITIES TO PRE-CONSTRUCTION CONDITIONS.
 5. ANY PASTURE FENCES DAMAGED, FAILING OR RELOCATED FOR CONSTRUCTION ACTIVITIES SHALL BE RESTORED TO EXISTING CONDITIONS AT TOP OF BANK.
 6. DUST SHALL BE CONTROLLED BY THE CONTRACTOR TO THE SATISFACTION OF THE ENGINEER AND OWNER.
 7. THE CONTRACTOR SHALL MAINTAIN A CLEAN PROJECT SITE, REMOVING CONSTRUCTION DEBRIS AT THE END OF EACH ACTIVITY DAY. TRASH WILL BE HAULED TO A LICENSED DISPOSAL FACILITY. NO CONSTRUCTION WASTE MATERIALS SHALL BE BURIED ON SITE.
 8. THE CONTRACTOR SHALL MAINTAIN DEBRIS FREE CONSTRUCTION ROUTES, ADJACENT STREETS AND STORM DRAIN SYSTEMS.
 9. A STANDBY CREW FOR EMERGENCY WORK SHALL BE AVAILABLE AT ALL TIMES. NECESSARY MATERIALS SHALL BE AVAILABLE ON-SITE AND STOCKPILED AT APPROVED LOCATIONS TO FACILITATE RAPID CONSTRUCTION OF TEMPORARY DEVICES OR TO REPAIR DAMAGED EROSION CONTROL MEASURES. CONTRACTOR SHALL PROVIDE OWNER WITH THE NAME & PHONE NUMBER OF EMERGENCY CONTACT AT THE PRE-CONSTRUCTION MEETING.
 10. AFTER A RAINSTORM, ALL BMP'S AND GRADED SLOPE SURFACE PROTECTION MEASURES SHALL BE INSPECTED TO VERIFY CONTINUED SATISFACTORY OPERATION AND REPAIRED OR REPLACED IF NECESSARY.
 11. ALL EROSION CONTROL MEASURES SHALL BE MAINTAINED IN GOOD WORKING ORDER. IF A REPAIR IS NECESSARY IT SHALL BE INITIATED WITHIN 24 HOURS OF REPORT.
 12. FILL SLOPES AT THE PROJECT PERIMETER MUST DRAIN AWAY FROM THE TOP OF THE SLOPE AT THE CONCLUSION OF EACH WORKING DAY.
 13. BUILT UP SEDIMENT SHALL BE REMOVED AS NECESSARY TO MAINTAIN PROPER FUNCTIONING OF THE BMP'S.
 14. ALL CONTROL MEASURES SHALL BE INSPECTED AT LEAST ONCE PER WEEK AND FOLLOWING ANY STORM EVENT OF 0.5 INCHES OR GREATER.
 15. A MAINTENANCE INSPECTION REPORT WILL BE MADE AFTER EACH INSPECTION. THE REPORT WILL CONTAIN THE NAME OF THE INSPECTOR, MEASURES, AREAS INSPECTED, OBSERVED CONDITIONS, AND NOTE CHANGES NECESSARY.
 16. REPORT RELEASES OF REPORTABLE QUANTITIES OF OIL OR HAZARDOUS MATERIALS (IF THEY OCCUR) TO NDEP AND THE OWNER WITHIN 24 HOURS.
 17. FILTER FABRIC FENCES. IF THE FABRIC BECOMES CLOGGED, TORN, OR DEGRADES, IT SHOULD BE REPLACED. MAKE SURE THE STAKES ARE SECURELY DRIVEN IN THE GROUND AND ARE IN GOOD SHAPE (IE, NOT BENT, CRACKED, OR SPLINTERED, AND ARE REASONABLY PERPENDICULAR TO THE GROUND.) REPLACE DAMAGED STAKES.
 18. SEDIMENT THAT ACCUMULATES IN THE BMP MUST BE PERIODICALLY REMOVED IN ORDER TO MAINTAIN BMP EFFECTIVENESS. SEDIMENT SHOULD BE REMOVED WHEN THE SEDIMENT ACCUMULATION REACHES ONE-THIRD OF THE BARRIER HEIGHT. SEDIMENT REMOVED DURING MAINTENANCE MAY BE INCORPORATED INTO EARTHWORK ON THE SITE OR DISPOSED AT AN APPROPRIATE LOCATION.
 19. NO DE-WATERING UNTIL FLOWS EXCEED 400 CFS AS READ AT THE CARSON CITY GAUGE.

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NO.	DATE	REVISION BLOCK	BY

RO Anderson
www.roanderson.com

MINDEN 1603 Eisenhower Ave
P.O. Box 2229
Minden, NV 89423
P 775.782.2322
F 775.782.7084

RENO 10500 Double
Diamond Pkwy, Unit 105
Reno, NV 89521
P 775.782.2322
F 775.782.7084

2024 CARSON RIVER BANK STABILIZATION PROJECTS

DAYTON VALLEY CONSERVATION DISTRICT

DETAILS

DRAWN: JT
ENGINEER: ROA
SCALE: N/A
DATE: 11.19.2024

JOB: 0582-022
DRAWING: SEE PLOT STAMP
SHEET: C7
OF: 7 SHEETS

CONSTRUCTION SET - 11.19.2024



U S Army Corps of
Engineers
Sacramento District

2021 Nationwide Permit Summary

33 CFR Part 330; Issuance of Nationwide
Permits – February 25, 2022

13. Bank Stabilization. Bank stabilization activities necessary for erosion control or prevention, such as vegetative stabilization, bioengineering, sills, rip rap, revetment, gabion baskets, streambarbs, and bulkheads, or combinations of bank stabilization techniques, provided the activity meets all of the following criteria:

- (a) No material is placed in excess of the minimum needed for erosion protection;
- (b) The activity is no more than 500 feet in length along the bank, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects (an exception is for bulkheads—the district engineer cannot issue a waiver for a bulkhead that is greater than 1,000 feet in length along the bank);
- (c) The activity will not exceed an average of one cubic yard per running foot, as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;
- (d) The activity does not involve discharges of dredged or fill material into special aquatic sites, unless the district engineer waives this criterion by making a written determination concluding that the discharge of dredged or fill material will result in no more than minimal adverse environmental effects;
- (e) No material is of a type, or is placed in any location, or in any manner, that will impair surface water flow into or out of any waters of the United States;
- (f) No material is placed in a manner that will be eroded by normal or expected high flows (properly anchored native trees and tree tops may be used in low energy areas);
- (g) Native plants appropriate for current site conditions, including salinity, must be used for bioengineering or vegetative bank stabilization;
- (h) The activity is not a stream channelization activity; and

(i) The activity must be properly maintained, which may require repairing it after severe storms or erosion events. This NWP authorizes those maintenance and repair activities if they require a authorization.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the bank stabilization activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges of dredged or fill material, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. After construction, temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The areas affected by temporary fills must be revegetated, as appropriate.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the bank stabilization activity:

- (1) Involves discharges of dredged or fill material into special aquatic sites; or
- (2) is in excess of 500 feet in length; or
- (3) will involve the discharge of dredged or fill material of greater than an average of one cubic yard per running foot as measured along the length of the treated bank, below the plane of the ordinary high water mark or the high tide line. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: In coastal waters and the Great Lakes, living shorelines may be an appropriate option for bank stabilization, and may be authorized by NWP 54.

A. Regional Conditions

1. [Regional Conditions for California](#)
2. [Regional Conditions for Nevada and Utah](#)

B. Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or

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U.S. ARMY CORPS OF ENGINEERS – SACRAMENTO DISTRICT

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prior permit authorization under one or more NWP's, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. **Navigation.**

- (a) No activity may cause more than a minimal adverse effect on navigation.
- (b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- (c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP's 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

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

12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment 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 or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. **Removal of Temporary Fills.** Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. **Proper Maintenance.** Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. **Single and Complete Project.** The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. **Wild and Scenic Rivers.**

- (a) No NWP 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 in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will 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, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <https://www.rivers.gov/>.

17. **Tribal Rights.** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. **Endangered Species.**

(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species (or species proposed for listing or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWPs.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether an additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <https://www.fws.gov/> or <https://www.fisheries.noaa.gov/topic/endangered-species-conservation> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties.

(a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If

the appropriate documentation is not submitted, then an additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or a diverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106

consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110(k) of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. **Discovery of Previously Unknown Remains and Artifacts.** Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. **Designated Critical Resource Waters.** Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource

waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. **Mitigation.** The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or

maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWP, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the

district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert

a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality.

(a) Where the certifying authority (state, a authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality

Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with a associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

(a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written

notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4)

(i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for

compensatory mitigation or other mitigation measures.

(ii) For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.

(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;

(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such

designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will 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, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination:

(1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve

discharges of dredged or fill material into special aquatic sites; and (iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

C. District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or

cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.

2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary.

Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.

□ 4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) that the activity does not qualify for a authorization under the NWP and instruct the applicant on the procedures to seek a authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

D. Further Information

1. District engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

E. Nationwide Permit Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s) but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in an aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in an aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gauges, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Non-tidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high-water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of "open waters" include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Pre-construction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where pre-construction notification is not required, and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23).

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high-water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high-water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: 1) held in trust by the United States for the benefit of any Indian tribe or individual; or 2) held by any Indian tribe or individual subject to restrictions by the United States against a lienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or a agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWPs, a waterbody is a “water of the United States.” If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).