Appendix C

Draft Stormwater Pollution Prevention Plan

DRAFT
Stormwater Pollution Prevention Plan

CAPE WIND ENERGY PROJECT
BARNSTABLE AND YARMOUTH, MASSACHUSETTS

PREPARED FOR

Cape Wind Associates, LLC
75 Arlington Street, Suite 704
Boston, MA 02116

PREPARED BY

ESS Group, Inc.
888 Worcester Street, Suite 240
Wellesley, Massachusetts 02482

Project No. E159-000

November 29, 2006

www.essgroup.com

DRAFT

STORMWATER POLLUTION PREVENTION PLAN
Cape Wind Energy Project
Barnstable and Yarmouth, Massachusetts

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ATTACHMENTS

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Notice of Intent Form

This Form Replaces Form 3510-9 (8-98)
Refer to the Following Pages for Instructions

Form Approved OMB Nos. 2040-0188 and 2040-0211

NPDES Form

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

Submission of this Notice of Intent (NOI) constitutes notice that the party identified in Section II of this form requests authorization to discharge pursuant to the NPDES Construction General Permit (CGP) permit number identified in Section I of this form. Submission of this NOI also constitutes notice that the party identified in Section II of this form meets the eligibility requirements of the CGP for the project identified in Section III of this form. Permit coverage is required prior to commencement of construction activity until you are eligible to terminate coverage as detailed in the CGP. To obtain authorization, you must submit a complete and accurate NOI form. Refer to the instructions at the end of this form.

I. Permit Number

II. Operator Information

Name: Cape Wind Associates, LLC

IRS Employer Identification Number (EIN): -

Mailing Address:

Street: 75 Arlington Street, Suite 704

City: Boston State: MA Zip Code: 02116 -

Phone: - - Fax (optional): - -

E-mail (optional):

III. Project/Site Information

Project/Site Name: Cape Wind

Project Street/Location: New Hampshire Ave, NStar ROW

City: Yarmouth and Barnstable State: MA Zip Code: -

County or similar government subdivision: Barnstable County

Latitude/Longitude (Use one of three possible formats, and specify method)

Latitude
1. __° __ ´ __ ´´ N (degrees, minutes, seconds)
2. __° __ . __ ´ N (degrees, minutes, decimal)
3. **41** . **6862** ° N (decimal)

Longitude
1. ___° __ ´ __ ´´ W (degrees, minutes, seconds)
2. ___° __ . __ ´ W (degrees, minutes, decimal)
3. **70** . **2839** ° W (decimal)

Method: ☑ U.S.G.S. topographic map ☐ EPA web site ☐ GPS ☐ Other:
• If you used a U.S.G.S. topographic map, what was the scale: 1:24,000

Project Located in Indian country? ☐ Yes ☑ No
If so, name of Reservation or if not part of a Reservation, put "Not Applicable":

Estimated Project Start Date: / / (Month / Date / Year) Estimated Project Completion Date: / / (Month / Date / Year)

Estimated Area to be Disturbed (to the nearest quarter acre): 4 . 90

IV. SWPPP Information

Has the SWPPP been prepared in advance of filing this NOI? Yes No

Location of SWPPP for viewing: Address in Section II Address in Section III Other

If Other:

SWPPP Street:

City:

State: Zip Code: -

SWPPP Contact Information (if different than that in Section II):

Name:

Phone: - - Fax (optional): - -

E-mail (optional):

V. Discharge Information

Identify the name(s) of waterbodies to which you discharge. Lewis Bay, Thornton Brook, Hawes Run, Long Pond

Is this discharge consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s)?

Yes No

VI. Endangered Species Information

Under which criterion of the permit have you satisfied your ESA eligibility obligations?

A B C D E F

- If you select criterion F, provide permit tracking number of operator under which you are certifying eligibility:

VII. Certification Information

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: _____

Print Title: _____

Signature: _____

Date: _____

Instructions for Completing EPA Form 3510-9

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

NPDES Form | This Form Replaces Form 3510-9 (8/98) | Form Approved OMB Nos. 2040-0188 and 2040-0211

Who Must File an NOI Form

Under the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et.seq.; the Act), federal law prohibits storm water discharges from certain construction activities to waters of the U.S. unless that discharge is covered under a National Pollutant Discharge Elimination System (NPDES) Permit. Operator(s) of construction sites where one or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least one acre, or any other site specifically designated by the Director, must submit an NOI to obtain coverage under an NPDES general permit. Each person, firm, public organization, or any other entity that meets either of the following criteria must file this form: (1) they have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) they have day-to-day operational control of those activities at the project necessary to ensure compliance with SWPPP requirements or other permit conditions. If you have questions about whether you need an NPDES storm water permit, or if you need information to determine whether EPA or your state agency is the permitting authority, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755.

Where to File NOI Form

See the applicable CGP for information on where to send your completed NOI form.

Completing the Form

Obtain and read a copy of the appropriate EPA Storm Water Construction General Permit for your area. To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755. Please submit original document with signature in ink - do not send a photocopied signature.

Section I. Permit Number

Provide the number of the permit under which you are applying for coverage (see Appendix B of the general permit for the list of eligible permit numbers).

Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this application. An operator of a project is a legal entity that controls at least a portion of site operations and is not necessarily the site manager. Provide the employer identification number (EIN from the Internal Revenue Service; IRS), also commonly referred to as your taxpayer ID. If the applicant does not have an EIN enter "NA" in the space provided. Also provide the operator's mailing address, telephone number, fax number (optional) and e-mail address (if you would like to be notified via e-mail of NOI approval when available). Correspondence for the NOI will be sent to this address.

Section III. Project/Site Information

Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

The applicant must also provide the latitude and longitude of the facility either in degrees, minutes, seconds; degrees, minutes, decimal; or decimal format. The latitude and longitude of your facility can be determined in several different ways, including through the use of global positioning system (GPS) receivers, U.S. Geological Survey (U.S.G.S.) topographic or quadrangle maps, and EPA's web-based siting tools, among others. Refer to *www.epa.gov/npdes/stormwater/cgp* for further guidance on the use of these methodologies. For consistency, EPA requests that measurements be taken from the approximate center of the construction site. Applicants must specify which method they used to determine latitude and longitude. If a U.S.G.S. topographic map is used, applicants are required to specify the scale of the map used.

Indicate whether the project is in Indian country, and if so, provide the name of the Reservation. If the project is in Indian Country Lands that are not part of a Reservation, indicate "not applicable" in the space provided.

Enter the estimated construction start and completion dates using four digits for the year (i.e., 05/27/1998). Enter the estimated area to be disturbed including but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Indicate to the nearest quarter acre. Note: 1 acre = 43,560 sq. ft.

Section IV. SWPPP Information

Indicate whether or not the SWPPP was prepared in advance of filing the NOI form. Check the appropriate box for the location where the SWPPP may be viewed. Provide the name,

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

NPDES Form This Form Replaces Form 3510-9 (8/98) Form Approved OMB Nos. 2040-0188 and 2040-0211

fax number (optional), and e-mail address (optional) of the contact person if different than that listed in Section II of the NOI form.

Section V. Discharge Information

Enter the name(s) of receiving waterbodies to which the project's storm water will discharge. These should be the first bodies of water that the discharge will reach. (Note: If you discharge to more than one waterbody, please indicate all such waters in the space provided and attach a separate sheet if necessary.) For example, if the discharge leaves your site and travels through a roadside swale or a storm sewer and then enters a stream that flows to a river, the stream would be the receiving waterbody. Waters of the U.S. include lakes, streams, creeks, rivers, wetlands, impoundments, estuaries, bays, oceans, and other surface bodies of water within the confines of the U.S. and U.S. coastal waters. Waters of the U.S. do not include man-made structures created solely for the purpose of wastewater treatment. U.S. Geological Survey topographical maps may be used to make this determination. If the map does not provide a name, use a format such as "unnamed tributary to Cross Creek". If you discharge into a municipal separate storm sewer system (MS4), you must identify the waterbody into which that portion of the storm sewer discharges. That information should be readily available from the operator of the MS4.

Indicate whether your storm water discharges from construction activities will be consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s). To answer this question, refer to *www.epa.gov/npdes/stormwater/cgp* for state- and regional-specific TMDL information related to the construction general permit. You may also have to contact your EPA regional office or state agency. If there are no applicable TMDLs or no related requirements, please check the "yes" box in the NOI form.

Section VI. Endangered Species Information

Indicate for which criterion (i.e., A, B, C, D, E, or F) of the permit the applicant is eligible with regard to protection of federally listed endangered and threatened species, and designated critical habitat. See Part 1.3.C.6 and Appendix C of the permit. If you select criterion F, provide the permit tracking number of the operator under which you are certifying eligibility. The permit tracking number is the number assigned to the operator by the Storm Water Notice Processing Center after EPA acceptance of a complete NOI.

Section VII. Certification Information

All applications, including NOIs, must be signed as follows:
For a corporation: By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOI form will not be considered eligible for permit coverage.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 3.7 hours. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch 2136, U.S. Environmental Protection, Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB control number on any correspondence. Do not send the completed form to this address.

Project Narrative

1.0 INTRODUCTION

Section 402 of the Clean Water Act requires permits for stormwater discharges associated with construction activities under the National Pollutant Discharge Elimination System (NPDES) program or by an equivalent state permit program. Pursuant to Environmental Protection Agency's (EPA) NPDES program, a Construction General Permit (CGP) is required for any construction activity that disturbs one or more acres of land. The CGP authorizes the discharge of stormwater pollution from construction activities in accordance with the terms and conditions of the general permit and is included in Attachment 1. The general permit includes provisions for development of a Stormwater Pollution Prevention Plan (SWPPP) to maximize the potential benefits of pollution prevention and sediment and erosion control measures at construction sites.

A SWPPP is a comprehensive guide which, when followed, is designed to prevent stormwater pollution impacts to wetlands and surface water resources from construction activities. The SWPPP will:

- Define the characteristics of the site and the type of construction which will be occurring;
- Describe the site plan for the facilities/structures to be constructed;
- Describe the practices that will be implemented to control erosion and the release of pollutants in stormwater;
- Certification and notification of the SWPPP by an authorized representative;
- Create an implementation schedule to ensure that the practices described in this SWPPP are, in fact, implemented and provide a means to evaluate the plan's effectiveness in reducing erosion, sediment, and pollutant levels in stormwater discharged from the site; and
- Describe the final stabilization/termination design to minimize erosion and prevent stormwater impacts after construction is complete.

1.1 SWPPP Content

This is a draft SWPPP that has been prepared to show the level and type of content that will be included in the completed SWPPP. A final version will be provided to the appropriate agencies prior to commencement of construction activities. The final SWPPP should include the following items:

- Identification of the SWPPP coordinator with a description of this person's duties;
- Identification of the stormwater pollution prevention team that will assist in implementation of the SWPPP during construction;
- Description of the existing site conditions including existing land use, soil types at the site, as well as the location of surface waters which are located on or next to the site (wetlands, streams, rivers, lakes, ponds, etc.);
- Identification of the body of water(s) which will receive runoff from the construction site, including the ultimate body of water that receives the stormwater;
- Identification of potential stormwater contaminants;
- Description of stormwater management controls and various Best Management Practices (BMPs) necessary to reduce erosion, sediment and pollutants in stormwater discharge;

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- Description of the facility monitoring plan and how controls will be coordinated with construction activities; and
- Description of the implementation schedule and provisions for amendment of the plan.

2.0 SWPPP COORDINATOR AND DUTIES

The construction site SWPPP coordinator for the facility is TBD (phone number: 555-555-1234) for Cape Wind Associates, LLC, which intends to construct the proposed project. Duties include the following:

- Implement the SWPPP plan with the aid of the SWPPP team;
- Oversee maintenance practices identified as BMPs in the SWPPP;
- Implement and oversee employee training;
- Conduct or provide for inspection and monitoring activities;
- Identify other potential pollutant sources and make sure they are added to the plan;
- Identify any deficiencies in the SWPPP and make sure they are corrected; and
- Ensure that any changes in construction plans are addressed in the SWPPP.

3.0 PROJECT DESCRIPTION

The overall project purpose for the Cape Wind Energy Project is to install, operate and maintain a commercial-scale renewable energy facility that will serve Massachusetts and New England regional energy needs by interconnection with the New England electric transmission and distribution grid. The Cape Wind Energy Project will serve to meet the demonstrated need for new regionally-significant renewable energy production by installing and operating a wind-powered electric generating facility comprised of 130 offshore wind turbine generators (WTGs), a centrally located Electrical Service Platform (ESP) and an associated transmission cable system. This offshore Wind Park will be capable of producing an average annual output of approximately 170 megawatts (MW) with a maximum deliverable capacity of approximately 462 MW. The Project will utilize offshore wind energy as its renewable fuel source.

3.1 Site Location

Two 115 kilovolt (kV) alternating current (AC) submarine cable circuits (the transmission cable system) enter Barnstable within coastal waters from the Town of Yarmouth and travel through Barnstable for approximately 4,000 feet and then cross back into Yarmouth within coastal waters. In general, the submarine cable system in Barnstable will enter Lewis Bay from Nantucket Sound between the existing Federal shipping channel and Egg Island. The transmission cable system will make landfall in the Town of Yarmouth at New Hampshire Avenue. From this landfall, an upland transmission cable system will be installed in an underground conduit within existing roadway layouts until it intersects with an existing NSTAR Electric Right-of-Way (ROW) east of Willow Street in Yarmouth. The upland transmission cable system will then continue within the currently cleared and maintained portions of the NSTAR Electric ROW through Yarmouth and will cross into Barnstable to extend to its terminus at the Barnstable Switching Station. Refer to Figure 1 for Site Locus.

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3.2 Existing Land Use

The proposed Project is located in residential areas of Yarmouth and Barnstable, Massachusetts and cross one category of land use. These land use category are briefly defined below.

- **Commercial/Residential Land** – Includes land currently used in a residential or commercial capacity. For the proposed project, the underground cable is located within existing roadways in residential and commercial areas as well as existing cleared and maintained transmission line right of way.

3.3 Soil Types

Soil characterization was based on the MassGIS Soil Survey Datalayer for Barnstable County, Massachusetts. The Soils datalayer has been automated from 1:25,000 published soils surveys as provided on various media by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS). All soils data released by MassGIS have been "SSURGO-certified," which means they have been reviewed and approved by the NRCS and meet all standards and requirements for inclusion in the national release of county-level digital soils data. The soil types present in the roadway and cross country portions of the project area include the following:

- **Barnstable-Plymouth complex, rolling (BcC)** – These undulating and rolling, very deep, excessively drained and well drained soils are on side slopes and hills in glacial moraine areas. Slopes range 3-15%. The soil substrate typically consists of loamy coarse sand in the upper portions and gravelly loamy coarse sand at lower depths. Permeability is moderately rapid to rapid. Depth to seasonal high water is greater than 6 feet.

- **Carver Coarse Sand (CdA, CdB)** – These very deep excessively drained soils occur in broad areas of outwash plains. Surface slopes range from 0-3% for CdA mapping units and 3-8% for CdB units. Permeability is very rapid in the subsoil and substratum. Depth to seasonal high water table more than 6 feet.

- **Plymouth-Barnstable complex, rolling, very bouldery, (PvC)** - These very deep, excessively drained and well drained soils are formed on side slopes of moraines. Stones and boulders cover 1-3% of the surface and slopes range from 3-15%. Permeability is moderately rapid to rapid in the subsoil of the Plymouth and Barnstable soil. Permeability in the substratum is generally very rapid. Depth to seasonally high water table is generally more than 6 feet.

- **Plymouth-Barnstable complex, hilly, very bouldery (PvD)** - These hilly and steep, very deep, excessively drained and well drained soils are on hills and ridges on moraines. Stones and boulders cover 1-3% of the surface and slopes range from 15-35%. The soil typically consists of light brownish gray, loose gravelly coarse sand in the lower part. Permeability ranges from moderately rapid to very rapid. Depth to seasonal high water is greater than 6 feet.

- **Plymouth-Barnstable-Nantucket complex, hilly, very bouldery (Pyd)** - These hilly and very steep, and very deep, excessively drained and well drained soils are on hills and ridges on moraines. Stones and boulders cover 1-3% of the surface and slopes range 15-35%. The soil typically consists of loamy coarse sand in the surface and becomes gravelly coarse sand at lower depths. Depth to seasonal high water is more than 6 feet, however, a perched water table may occur at a depth of 2.0-2.5 feet in early spring.

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These soils are characterized within Hydrologic Soil Group "A" or "B" in the Barnstable County Soil Survey. Soils within Hydrologic Group A and B generally have a moderate to high infiltration rate when thoroughly wet. The cable installation will not cross any areas with slow infiltration or areas that have high runoff potential. Refer to Figure 2 for soils map.

3.4 Surface Water Bodies and Wetlands

3.4.1 Yarmouth

The proposed upland transmission cable system route begins at the landfall at New Hampshire Avenue in Yarmouth and extends north for approximately four miles within the existing roadway layouts of Berry Avenue, Higgins Crowell Road, and Willow Street. The route then leaves the existing roadway layout west of Willow Street to follow within the currently cleared and maintained portions of the NSTAR Electric ROW until it leaves Yarmouth and enters Barnstable along the NSTAR Electric ROW in a westerly direction to the existing Barnstable Switching Station.

Two coastal and six freshwater wetland systems were identified within approximately 100 feet of the proposed upland transmission cable system route in Yarmouth. Figure 3 depicts an overview of the wetlands present along the upland cable route. Figure 4 Sheets 1 – 8 depicts a larger scale diagram of the wetlands in relation to the cable route. The following provides a description of those wetland resource areas identified within 100 feet of the upland transmission cable system route.

- **Salt Marsh 1** – is located approximately 200 feet west of the landfall location, between Lewis Bay and Shore Road in Yarmouth. This salt marsh is vegetated by poison ivy (*Toxicodendron radicans*), salt meadow cordgrass (*Spartina patens*), rushes (*Juncus* spp.), and seaside goldenrod (*Solidago sempervirens*). This salt marsh is positioned between the residences at 43 and 37 Shore Drive.
- **Salt Marsh 2** – is located approximately 85 to 120 feet west of the proposed transmission line route on New Hampshire Avenue. It is bordered by residences to the east and west, Shore Road to the south, and Broadway to the north. Salt Marsh 2 is vegetated by high tide bush (*Iva frutescens*), bayberry (*Morella caroliniensis*), poison ivy, salt meadow cordgrass, rushes, and seaside goldenrod. A defined channel is visible in the center of the salt marsh.
- **Wetland 1 – BVW, Bank, Waters of the U.S.** - is an Atlantic white cedar (*Chamaecyparis thyoides*) swamp located on the east and west sides of Higgins Crowell Road in Yarmouth. The wetland is within approximately 60 feet of the road, and is located at a well-defined break in slope. A 12-inch concrete culvert beneath the road appears to connect the east and west wetland areas, and this wetland is therefore regulated as Bank and Waters of the U.S. Since the cable will be installed in existing roadway, there will be no direct impact to Wetland 1.
- **Wetland 2 – BVW, BANK, LUWW, Riverfront Area, Waters of the U.S.** - consists of Jabinettes Pond, on the east side of Higgins Crowell Road, and Thornton Brook, located on both the east and west side of the road. A vegetated wetland abutting Jabinettes Pond is located within 100 feet of the proposed upland transmission cable system route. Jabinettes Pond discharges into Thornton Brook, which appears to flow west and crosses beneath Higgins Crowell Road via a buried culvert. Thornton Brook is mapped as a perennial stream on the current USGS map. However, the stream channel was observed completely dry during

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the field reviews in October 2001 and December 2002. Since the cable will be installed in existing roadway, there will be no direct impact to Wetland 2.

- **Wetland 3 – BVW, BANK, Waters of the U.S.** - is a forested wetland located approximately 50 feet west of Higgins Crowell Road in Yarmouth. An intermittent stream channel flows west through the wetland and into Little Sandy Pond, located approximately 700 feet west of Higgins Crowell Road. The intermittent stream channel was observed dry in areas in the vicinity of the wetland delineation in December 2002. Since the cable will be installed in existing roadway, there will be no direct impact to Wetland 3.

- **Wetland 4 – BVW, Waters of the U.S.** - is a large forested swamp located approximately 30 feet east of Higgins Crowell Road in Yarmouth. The wetland has an open understory and canopy and is dominated by red maple, sweet pepperbush, highbush blueberry and *Sphagnum* mosses. The wetland is defined by an obvious topographic break in slope. A headwall with a partially-buried culvert is located on the wetland's edge, adjacent to the roadway, but does not appear to be functioning. Since the cable will be installed in existing roadway, there will be no direct impact to Wetland 4.

- **Wetland 5 – BVW, BANK, Waters of the U.S.** - is located on the west side of Higgins Crowell Road in Yarmouth and is separated from the road by a strip of upland dominated by pitch pine and sheep laurel (*Kalmia angustifolia*). A manmade intermittent channel on the west side of the wetland flows west into Hawes Run. Both the wetland and intermittent channel were dry at the time of inspection in December 2002. However, observations of the area dry during non-drought periods indicate that it does not meet the definition of Pond under the WPA (310 CMR 10.04) or the Yarmouth Wetlands Protection Regulations (Section 1.04). Since the cable will be installed in existing roadway, there will be no direct impact to Wetland 5.

- **Wetland 6 – BVW, BANK, LUW, Waters of the U.S.** (federal, state, and local jurisdiction) - consists of Long Pond, which is situated on the northern edge of the ROW just west of Willow Street. The pond contains open water, surrounded by a fringe of emergent marsh and shrub swamp dominated by highbush blueberry, sweet pepperbush, swamp azalea, and leatherleaf (*Chamaedaphne calyculata*). The wetland is located at the base of a steep slope; however, many of the wetland plants, including swamp azalea and sweet pepperbush, are growing significantly upslope. Therefore, the boundary of the wetland was delineated using evidence of hydrology and hydric soils, under criteria established by the MADEP.

3.4.2 Barnstable

There are no state- or locally-regulated freshwater wetland resource areas, Riverfront Area, or Buffer Zones located within the limits of work associated with the Barnstable portion of the upland transmission cable system route.

3.5 Federally Endangered Species

This section will provide information regarding potential impacts to federally listed rare, threatened or endangered species from storm water discharges. This includes the results of Section 7 findings under ESA and/or issuance of any permits under Section 10 of ESA, if necessary. Refer to Attachment 2 for USFWS correspondence.

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3.6 Construction Details

The following sections will present detailed descriptions of the proposed work activities. For purposes of this SWPPP the submarine cable system is not described since there are no stormwater discharges associated with underwater work. The landfall transition and the upland transmission cable system are presented in below.

3.6.1 Landfall Transition

The transition of the interconnecting 115 kV submarine transmission lines from water to land will be accomplished through the use of Horizontal Directional Drill (HDD) methodology in order to minimize disturbance within the intertidal zone and near shore area. HDD will be staged at the upland landfall area and involve the drilling of the boreholes from land toward the offshore exit point. Conduits will be installed the length of the boreholes and the transmission lines are pulled through the conduits from the seaward end toward the land. A transition manhole/transmission line splicing vault will be installed using conventional excavation equipment (backhoe) at the upland transition point where the submarine and land transmission lines are then connected.

Four 18-inch High Density Polyethylene (HDPE) conduit pipes (one for each three-conductor 115 kV cable and fiber optic cable set) will be installed to reach from the onshore transition vaults to beyond the mean low water level. The offshore end will terminate in a pre-excavated pit where the jet plow cable burial machine will start. The four conduits will have an approximately 10 foot separation within the pre-excavation area. The four boreholes measure approximately 200 feet long (borehole diameters will be slightly larger than the conduit diameter to allow the conduit to be inserted in the borehole), see Figure 5 Sheets 1-3.

A drill rig will be set up onshore behind a bentonite pit where a 40-foot length of drill pipe will be set in place to begin the horizontal drilling. A bentonite and freshwater slurry will then fill the pit in which the bentonite forms a hard shell lining of the tunnel wall during the drilling process. After each 40 feet of drill pipe installation, an additional length of drill pipe is added. To minimize the release of the bentonite drilling fluid into Lewis Bay, freshwater will be used as a drilling fluid to the extent practicable prior to the drill bit emerging in the pre-excavated pit. This will be accomplished by pumping the bentonite slurry out of the hole, and replacing it with freshwater as the drill bit nears the pre-excavated pit. When the drill bit emerges in the pre-excavated pit, the bit is replaced with a series of reamers to widen the borehole followed by a pulling head on the end of pipe and then the drill pipe is used to pull back the conduit into the bored hole from the offshore end. As with the drill process, freshwater will be utilized to the maximum extent practicable as the reaming process nears the pre-excavated pit.

The HDD construction process will involve the use of bentonite drilling fluids in a mineral water slurry in order to transport drill cuttings to the surface for recycling, aid in stabilization of the in situ sediment drilling formations, and to provide lubrication for the HDD drill string and down-hole assemblies. This drilling fluid is composed of a carrier fluid and solids. The selected carrier

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fluid for this drilled crossing will consist of water (approximately 95%) and inorganic bentonite clay (approximately 5%).

The HDD operation will include an upland based HDD drilling rig system, drilling fluid recirculation systems, residuals management systems, and associated support equipment. HDD drilling material handling equipment will be located on New Hampshire Avenue. Drilling will take place from the upland to Lewis Bay. Excavated soils will be temporarily stored near the HDD drill rig during construction, and will then be reused onsite or removed and disposed of as required.

To further facilitate the HDD operation, a temporary cofferdam will be constructed at the end of the boreholes. The cofferdam will be approximately 65 feet wide and 45 feet long and will be open at the seaward end to allow for manipulation of the HDD conduits. The area enclosed by the cofferdam will be approximately 2,925 square feet. The cofferdam will be constructed using steel sheet piles driven from a barge-mounted crane. The top of the sheet piles will be cut off approximately 2 feet above mean high water. This will serve to contain any turbidity associated with the dredging and subsequent jet plow embedment operations and to provide a visual reference to its location for mariners. While the cofferdams will be located outside of areas normally subject to vessel traffic, the location of the cofferdam will be appropriately marked to warn vessels of the temporary cofferdam's presence.

The area inside the cofferdam will be excavated to expose the seaward end of the borehole. Sediment inside the cofferdam will be excavated to expose the area where the HDD borehole will end at an elevation of approximately -10 feet MLLW, with a 1 foot allowable overdredge. A 20 foot long level area will be created at the closed end of the cofferdam at this elevation. From that point, the bottom of the excavated area will be sloped at 4H:1V until it meets the existing seafloor bottom contour. Approximately 840 cubic yards of sediment will be excavated from the cofferdam. The cofferdam excavation will be backfilled, rather than allowed to in-fill over time. The dredged material will be temporarily placed on a barge for storage, then the dredged area of the cofferdam will be backfilled with the dredged material. If necessary, the dredged material backfill material will be supplemented with imported clean sandy backfill material to restore the seafloor to preconstruction grade. No removal of sediment outside of the cofferdam will be required.

The HDD operations will be conducted to minimize or avoid impacts to water quality in Lewis Bay. The upland HDD operation will be a self-contained system combined with a drilling fluid re-circulation system. This re-circulation system will recycle drilling fluids and contain and process drilling returns for offsite disposal to minimize excess fluids disposal and residual returns. None of these materials will be directly discharged or released to marine or tidal waters in Lewis Bay.

The HDD operation will be designed to include a drilling fluid fracture or overburden breakout monitoring program to minimize the potential of drilling fluid breakout into waters of Lewis Bay. It is expected that the HDD conduit systems will be drilled through sediment overburden at the landfall location. However, it is anticipated that drilling depths in the overburden will be

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sufficiently deep to avoid pressure-induced breakout of drilling fluids through the seafloor bottom based primarily on estimates of overburden thickness and porosity. Nevertheless, a visual and operational monitoring program will be implemented during the HDD operation to detect a fluid loss. This monitoring includes:

- visual monitoring of surface waters in the adjacent Lewis Bay by drilling operation monitoring personnel on a daily basis to observe potential drilling fluid breakout points;
- drilling fluid volume monitoring by technicians on a daily basis throughout the drilling and reaming operations for each HDD conduit system;
- development and implementation of a fluid loss response plan and protocol by the drill operator in the event that a fluid loss occurs. These response plans include drill stem adjustments, injection of loss circulation additives such as Benseal that can be mixed in with drilling fluids at the mud tanks, and other mitigation measures as appropriate; and
- use of appropriate bentonite drilling fluids that will gel or coagulate upon contact with sea water.

In the unlikely event of an unexpected drilling fluid release, the bentonite fluid density and composition will cause it to remain as a cohesive mass on the seafloor in a localized slurry pile similar to the consistency of gelatin. This cohesive mass can be quickly cleaned up and removed by divers and appropriate diver-operated vacuum equipment.

Each of the two landfall transition vaults will be approximately 8 feet wide by 35 feet long (outside dimensions). The submarine transmission lines will be spliced to the upland transmission lines within these transition vaults. The transition vault will contain two 38-inch manholes for access and be installed approximately with its bottom ten feet below grade. The submarine transmission lines will enter through the four 18-inch HDPE conduits and the upland transmission lines will exit the landfall transition vault to the ductbank system through 6-inch diameter PVC conduits. There will be a total of 16 PVC conduits encased within concrete: 12 transmission line conduits, two conduits for 96-fiber fiber optic cables for telecommunications, SCADA and protective relaying, and two spare conduits for the upland transmission line.

It is anticipated that the installation of the borehole and conduit by HDD techniques will take approximately two to four weeks.

Upon completion of the installation of the conduit pipes and submarine cable system, the HDD equipment will be removed and New Hampshire Avenue will be restored to its pre-construction grades and conditions. Standard stormwater erosion and sedimentation controls will be installed on the site prior to the initiation of construction activities, and will be inspected and maintained throughout construction operations. Once construction is completed, all equipment and construction materials will be removed from the site and the area will be returned to its original condition.

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3.6.2 Upland Transmission Cable Route

This section describes the two components of the upland transmission cable route: 1) the transmission line route in roadway layouts from the landfall to the NSTAR Electric ROW, and 2) the transmission line route within the existing maintained NSTAR Electric ROW within Yarmouth.

Construction of the upland transmission cable system will occur in two phases. The first phase consists of installing the ductbanks and associated vaults. The second phase consists of the installation of the upland 115 kV transmission cables, including splices and termination.

The upland transmission cable system will be installed within existing roadway layouts in Yarmouth from the landfall location to the NSTAR Electric ROW, just west of Willow Street. The transmission lines will be installed within a ductbank consisting of PVC conduits for the transmission lines spaced approximately eight inches apart (on center) encased in unreinforced concrete (minimum of 2,000 psi) which is backfilled with native material or suitable backfill to original grade. The trench opening will be a minimum of 10 feet wide within the roadways and supported by temporary trench boxes. The cables will be encased in a 2-foot high by 5-foot eight-inch wide concrete-encased ductbank. Burial depth to the top of the ductbank will be a minimum of 56 inches within the roadways to allow passage under existing water and gas lines. Two known culverts are located along the proposed route on Higgins Crowell Road, at Wetland 1 and Wetland 2. During final design, it will be determined whether the ductbanks will pass above or beneath these culverts. No impacts to the culverts are proposed. Refer to Figure 6, Sheets 1-5 for typical vault and ductbank details.

Underground upland transition vaults will be constructed approximately every 500-1,700 feet (the approximate length of transmission line that can be effectively transported by truck and pulled within manufacturer's tension specifications). These vaults will accommodate cable splicing and cross-bonding of cable metallic sheaths. Each of the two parallel underground upland splice vaults utilized at each splice location will be approximately 8 feet wide by 35 feet long (outside dimensions). The underground transition vaults will be installed approximately 9 to 10 feet below the surface of the roadway. The installation of the vaults and ductbanks will require trenching within existing roadway layouts (either within the paved road or the disturbed roadway shoulder). All excavation will be performed with standard machinery, including excavators and backhoes.

Excavated soil from the trench and vaults will be temporarily stored adjacent to the worksite or transported off-site, if on-site storage is not possible. Where soil is stored at the site, it will be stabilized with erosion and sedimentation controls. Following the completion of the installation of the transmission cable system, the excavation will be backfilled and repaved or loamed and seeded, as appropriate. Stormwater erosion and sedimentation controls will be in place prior to the initiation of construction activities. Once construction is completed, all equipment and construction debris will be removed from the site and the area will be returned to its original condition.

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In addition to the standard excavation methods described above, trenchless technologies will be used in certain locations to cross heavily traveled state highway layouts and railroad beds and avoid the disturbance caused by standard construction methods. Trenchless technologies may include Horizontal Directional Drilling (HDD), Horizontal Boring or Pipe Jacking.

No work is proposed within a freshwater wetland, salt marsh, or culvert. Erosion and sedimentation controls will be installed to prevent construction-related impacts to downgradient wetlands. Erosion and sedimentation controls will be located on Figure XXX.

Upland Transmission Cable System Route Within Cleared and Maintained Electric Transmission Corridor

The proposed upland transmission cable system route within the cleared and currently maintained portions of NSTAR Electric ROW from Willow Street to Barnstable/Yarmouth municipal boundary will be installed with the same general methods used for the road route described above. The excavated trench will be a minimum of 8 feet wide, and the ductbank will be buried a minimum of 24 inches from the top of the transmission line to the surface of the ground (with the exception of road-crossings along the ROW where the burial depth will revert to 56 inches. After the installation of the transmission line is complete, the excavation will be backfilled to the original grade, and the area will be seeded with *New England Erosion Control/Restoration Mix (for Dry Sites)* from New England Wetland Plants or equivalent to ensure soil stabilization. The New England Erosion Control/Restoration Mix for dry sites provides an appropriate selection of grasses to ensure that dry and recently disturbed sites will be quickly revegetated and the soil surface stabilized. It is an appropriate seed mix for road cuts, pipelines, detention basin side slopes, and areas requiring temporary cover during the ecological restoration process. The mix will be applied by hydro seeding or by mechanical spreader at a rate of 35 pounds per acre. The soil will be raked to create grooves and provide a seed bed.

The proposed transmission line route within the maintained NSTAR Electric ROW will not result in any impacts to wetland resource areas. Erosion and sedimentation controls will be installed prior to construction to prevent indirect impacts to downgradient wetland resource areas, as described in Section 5.0 below.

4.0 ASSESSMENT OF IMPACTS

4.1 Activities

The following site preparation and construction activities have the potential to affect stormwater runoff quality.

- Grading and topsoil segregation;
- Trenching;
- Direction drilling;
- Installation; and
- Backfilling and rough grading.

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Site preparation activities will be designed utilizing best practical measures to prevent erosion and control sediment to avoid adverse effects on adjacent resource areas and surface water bodies.

4.2 Materials

The following materials have the potential to affect stormwater runoff quality.

- Bentonite from directional drilling;
- Oil;
- Construction Equipment;
- Soil piles; and
- Other Construction materials.

5.0 STORMWATER CONTROL AND CONSTRUCTION MITIGATION MEASURES

Measures will be taken to prevent impacts from stormwater runoff generated by the project during construction. Actions will include implementing best management practices (BMPs), reducing potential sources of contamination, implementing stormwater management controls, developing an inspection and maintenance plan, and sequencing activities appropriately to reduce impacts.

During construction, the site Operator will comply with the precautionary measures provided in the design documents, and conduct construction activities in such a manner as to prevent damage or impairment to the environment. It is the Operator's responsibility not to undertake, at any time or in any particular area, more than that magnitude of work that can be safely and adequately controlled by the methods at the Operator's disposal. The Operator's approach will emphasize the control of erosion before it occurs.

To minimize the potential for erosion during construction, erosion and sedimentation control procedures will be implemented prior to and during construction activities. Erosion and sedimentation control measures implemented will include, at a minimum, a temporary cofferdam at the landfall transition, silt fence and hay bale barriers on the upgradient side of resource areas and catch basin inlet protection along the upland cable system route.

In general, no storage or refueling of machines and equipment will occur within wetland resource areas. Areas of exposed soil will be kept to a minimum, and a permanent vegetative cover or other form of stabilization will be established along the upland transmission cable route as soon as possible. If dewatering is necessary, sedimentation basins or other appropriate measures will be implemented.

5.1 Temporary Cofferdam

Prior to installation of the transmission cables at the landfall, a temporary cofferdam will be installed across the small rectangular embayment at the end of New Hampshire Avenue. The cofferdam will allow upland excavation work to occur without tidal waters reaching the work areas thus minimizing the migration of sediment during installation activities.

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5.2 Erosion Control Barriers

Prior to commencing construction activities, erosion control barriers will be installed between the work areas and adjacent waterbodies and wetlands to reduce the risk of soil erosion and siltation. Erosion control measures will also be installed down-slope of any temporarily stockpiled soils in the vicinity of waterbodies and wetlands. The erosion control barriers will consist of toed-in silt fence and staked hay bales. Hay bale/silt fence barriers will be maintained in functioning condition and repaired or replaced as necessary, and will remain in place until all upgradient areas have been stabilized. Please refer to Section 5.9 on inspection schedule.

5.3 Catch Basin Inlet Protection

Existing catch basins downgradient and within the limits of the proposed work will be protected from sediment inflow through the installation of filter fabric, or by surrounding them with a barrier of hay bales and installing filter fabric beneath the grates. These sedimentation controls will be regularly maintained until the drainage area tributary to the catch basin has been stabilized.

5.4 De-Watering Measures

Construction dewatering requirements, if necessary, will likely be minor and limited to control of surface water runoff. Some seepage into excavations may occur during wet seasonal periods or as pockets of perched water are encountered during excavation. It is anticipated that dewatering can likely be accomplished by open pumping from sumps, temporary ditches, and trenches within and around excavations. Surface water runoff during construction should be controlled and directed away from excavations.

5.5 Source Control and Stockpile Locations

Proper site management during construction can decrease the risk of sediment loading during construction. If it becomes necessary to stockpile materials, stockpiles will be protected and covered when necessary with erosion and sediment controls installed around the perimeter. Stockpiles will be placed in a properly graded area so as not to be affected by, or contribute to, potential runoff areas. Waste materials will be placed in large roll-off containers (or dumpsters) and removed by a contract hauler to a properly licensed landfill. The roll-off containers will be covered with a properly secured tarp before the hauler exits the site.

5.6 Construction Vehicle Refueling Operations

Mobile equipment such as dump trucks will fuel at off-site locations.

5.7 Dust Control

A combination of the following dust control measures may be implemented to reduce surface and air movement of dust from exposed soil surfaces.

- Construction activities will be scheduled in such a manner so that the least area of disturbed surface is exposed at any one time.

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- The site may be sprinkled with water until the surface is wet.

5.8 Spill Prevention and Response Plan

The material or substances listed below are expected to be present in varying quantities during construction.

- Asphalt
- Concrete products
- Steel and steel fabrication materials
- Acids
- Petroleum products and lubricants
- Adhesives
- Detergents
- Packaging materials
- Miscellaneous chemical additives
- Rubber and plastic products
- Cement
- Gravel and sand
- Wood products
- Sanitary wastes
- Glass products
- Paints
- Solvents
- Paper products

The following material management practices will be used to reduce the risk of spills or other accidental exposure of materials and substances to stormwater runoff:

1. An effort will be made to store only enough products required to complete the job.
2. All materials stored on site must be stored in a neat, orderly manner in their appropriate containers and, if possible, under a roof or other enclosure.
3. Materials will be kept in their original containers with the original manufacturer's label.
4. Substances will not be mixed with one another, unless recommended by the manufacturer.
5. Manufacturer's recommendations for proper use and disposal will be followed.
6. The Operator will perform inspections to ensure the proper storage, use and disposal of materials.
7. Whenever possible, all of the hazardous material will be used before disposing of the container.
8. On-site vehicles will be monitored for leaks and receive regular preventative maintenance to reduce the chance of leakage.
9. Petroleum products will be stored in tightly sealed containers that are clearly labeled.
10. Asphalt substances used on-site will be applied according to manufacturer's recommendations.

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11. All containers will be tightly sealed and stored when not in use. Excess paint will be properly disposed of according to the manufacturer's instructions or State and Local regulations.

The Operator will be responsible for preventing spills in accordance with the project specifications and applicable federal, state and local regulations and will identify an appropriately trained site employee involved with the day-to-day site operations to be the spill prevention and cleanup coordinator. The name(s) of the responsible spill personnel will be posted in the material storage area(s) and the on-site office. Each employee will be instructed that all spills are to be reported to the spill prevention and cleanup coordinator.

Spill control/containment equipment will be stored locally in the area of construction. Materials and equipment necessary for spill cleanup will be kept in the on-site material storage area. Equipment and materials will include, but not be limited to, absorbent booms or mats, brooms, dust pans, mops, rags, gloves, goggles, sand and plastic and metal trash containers, specifically for this purpose. It is the responsibility of the Operator to ensure the inventory will be readily accessible and maintained.

Spills will be contained with granular sorbent materials, sand, sorbent pads, booms, or all of the above to prevent spreading. Spill clean up should be completed by trained, certified clean-up contractors. Manufacturers' recommended methods for spill cleanup will be clearly posted and site personnel will be made aware of the procedures and the location of the information and cleanup supplies. Following a spill of oil or hazardous material the Operator will fill out a spill report form. The spill report form is included in Attachment 3. Emergency contact information is provided in Attachment 4. Upon completion of clean-up, spill reports and appropriate completion forms shall be provided to the proper authorities.

5.9 Inspection and Maintenance Program

The Operator shall be responsible for inspecting the sediment and erosion controls on a regular basis to note any escape of sediments. Inspections shall cover disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site. Where discharge points are accessible, they must be inspected to ascertain whether erosion control measures are effective in preventing impacts to receiving waters.

Inspections shall be completed by qualified personnel at least once every seven calendar days and within 24 hours of any storm event of 0.5 inches or greater. EPA also recommends that permittees perform a "walk through" inspection of the construction site before anticipated storm events that could possible yield a significant amount of runoff. Where sites have been finally or temporarily stabilized, or runoff is unlikely due to winter conditions, such inspections shall be conducted at least once every month.

A report summarizing the scope of the inspection, name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, and major observations relating to the implementation of the SWPPP shall be made and retained as part of the SWPPP for at least three years from the date that the site is finally stabilized. Major observations should include: the location(s) of discharges of

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sediment or other pollutants from the site; location(s) of BMPs that need to be maintained; location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and location(s) where additional BMPs are needed that did not exist at the time of inspection. The maintenance inspection report will be made after each inspection. A copy of the report form to be completed by the SWPPP coordinator is provided in Attachment 5 of this SWPPP. Completed forms will be maintained on-site during the entire construction project.

The report shall be signed in accordance with the certification language in the General Permit, namely:

> *I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

6.0 RECORD KEEPING AND UPDATING OF SWPPP

The following records shall be maintained and attached to the SWPPP by the site Operator:

- Dates when major grading activities occur;
- Dates when construction activities temporarily or permanently cease on a portion of the site; and
- Dates when stabilization measures are initiated.

Inspection reports shall be retained as part of the SWPPP for at least three years from the date that the site is finally stabilized. Such reports shall identify any incidents of non-compliance. Where a report does not identify any incidents of non-compliance, the report shall contain a certification that the facility complies with the SWPPP and the General Permit.

The site Operator shall have a copy of the SWPPP available at a central location on-site for the use of all Operators and those identified as having responsibilities under the SWPPP whenever they are on the construction site. This SWPPP shall be updated as necessary to remain consistent with any changes applicable to protecting surface water resources in sediment erosion site plans or site permits.

7.0 TERMINATION OF SWPPP

The Owner(s) and/or Operator shall submit a completed Notice of Termination (NOT) when stormwater discharges associated with construction activity have been eliminated (i.e., regulated discharges of stormwater are being terminated or final stabilization has been completed) or the permittee is no longer an Owner and/or Operator at the site.

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8.0 CERTIFICATION OF SWPPP

8.1 Certification by a Responsible Corporate Officer

I certify under penalty of law that this Stormwater Pollution Prevention Plan dated XXXX and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature: _____

Name (Printed) _____

Title: _____

Company: _____

Date: _____

8.2 Certification for Construction Activities

I, being the primary officer for all on-site construction activities associated with the Cape Wind Energy Project, have reviewed the Stormwater Pollution Prevention Plan dated XXXX and assume responsibility for the daily implementation of the Stormwater Pollution Prevention Plan by all contractors working under the direction of Cape Wind Associates, LLC on the project site. I certify under penalty of law that I understand the terms and conditions of the general SPDES permit that authorizes the stormwater discharges from the construction site as part of this certification.

Signature: _____

Name (Printed) _____

Title: _____

Company: _____

Date: _____

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Figures

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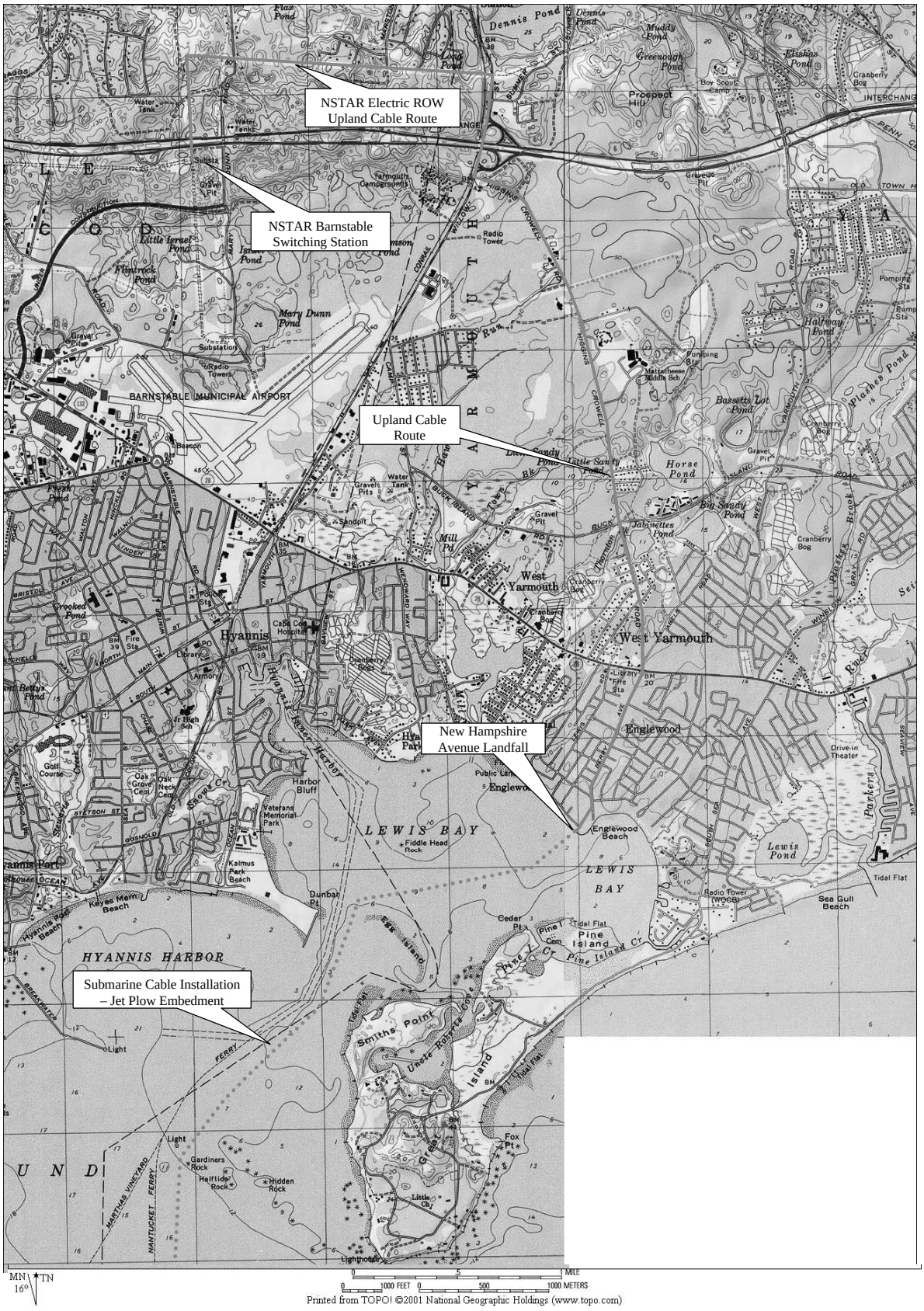

Cape Wind
Energy for Life.

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Cape Wind Project

Source: USGS Topographic Maps on CD-ROM – Northeastern USA
Scale: As Shown
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New Hampshire Avenue Landfall and
Upland Transmission Cable System Route
Yarmouth, Massachusetts

Figure
1

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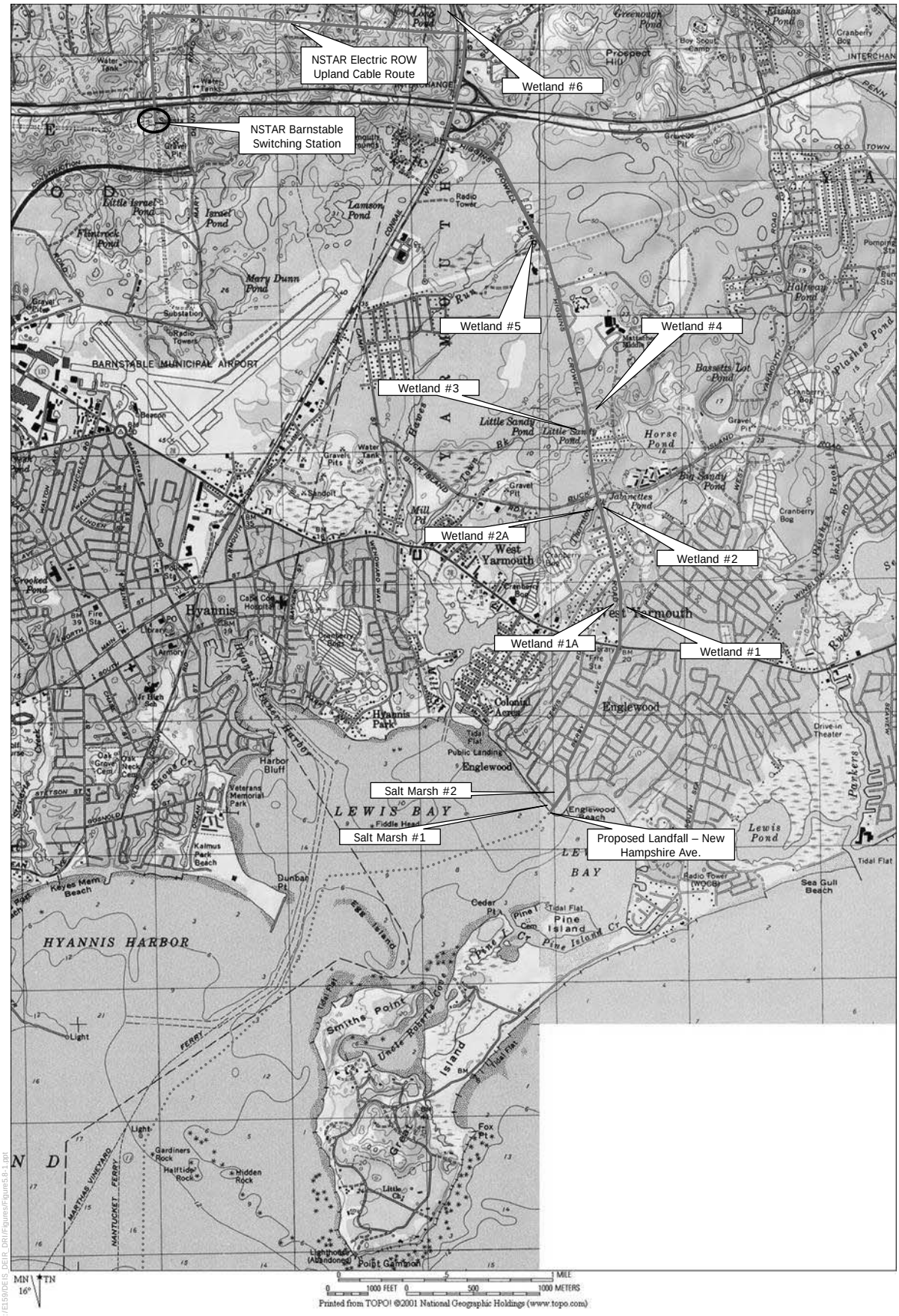
CAPE WIND PROJECT
Yarmouth and Barnstable, Massachusetts

Upland Cable Route
Soils Information

Scale: 1:19,000
Source: 1) MassGIS, USGS DRG, 1989 2) ESS, Upland Cable Route, 2006
3) MassGIS, SSURGO Soil Datalayer for Barnstable County, 2005

Figure
2



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Cape Wind Project

Wetlands on Upland Transmission Line Route
Yarmouth, Massachusetts

Figure 3

Source: USGS Topographic Maps on CD-ROM – Northeastern USA
Scale: As Shown
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Location: G:\GIS-Projects\E159\Wetlands.apr Layout: Ortho Key

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CAPE WIND PROJECT
Yarmouth, Massachusetts

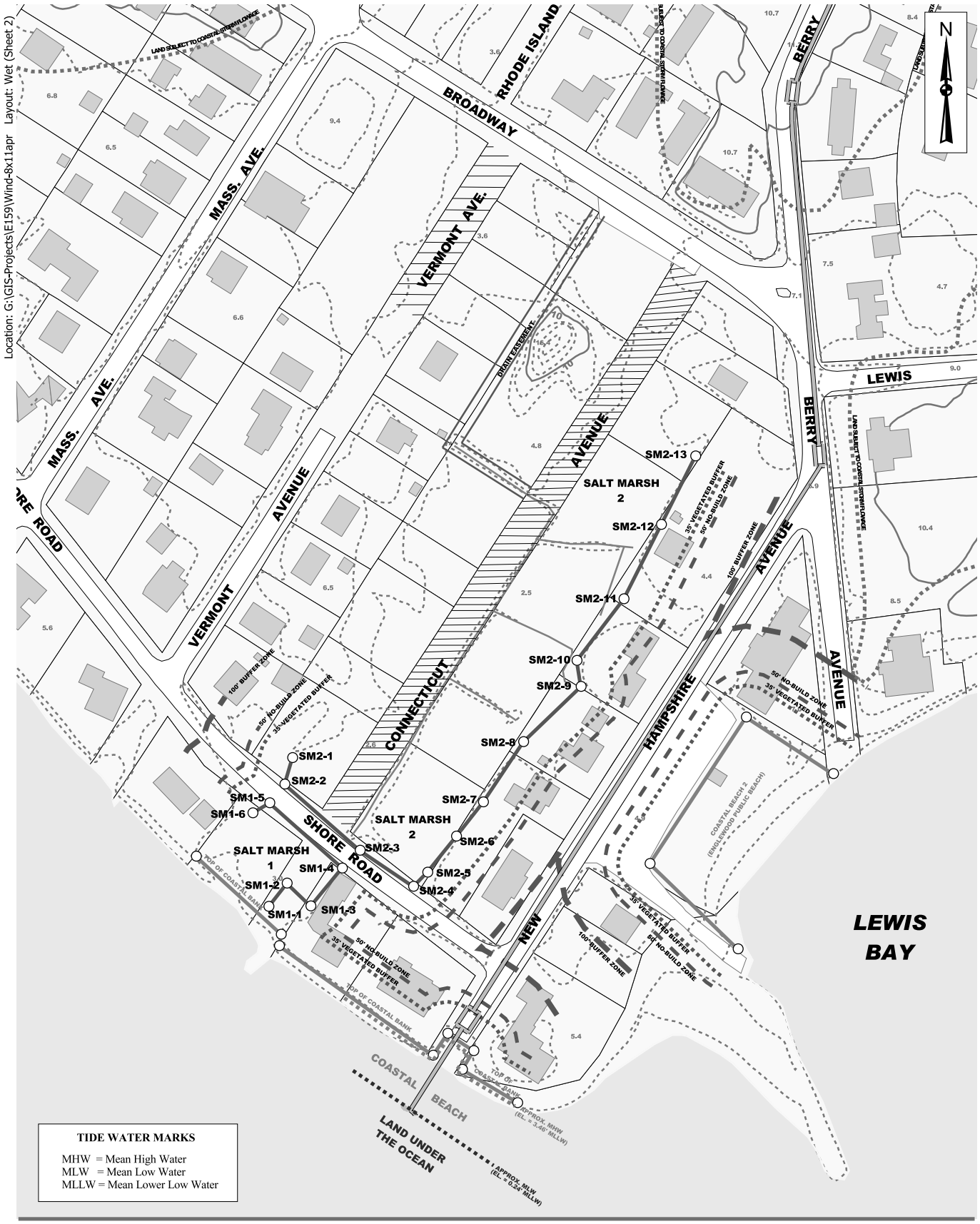
Scale: As Shown

Source: 1) MassGIS, Half Meter 5K Orthophotography, 1994

Note:
Location of Wetland Resource Figures
Figure 4 - Sheets 2-8

Wetland Resource Map Key

Figure 4
Sheet 1 of 8



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CAPE WIND PROJECT
Southeastern Massachusetts

Scale: 1" = 150'

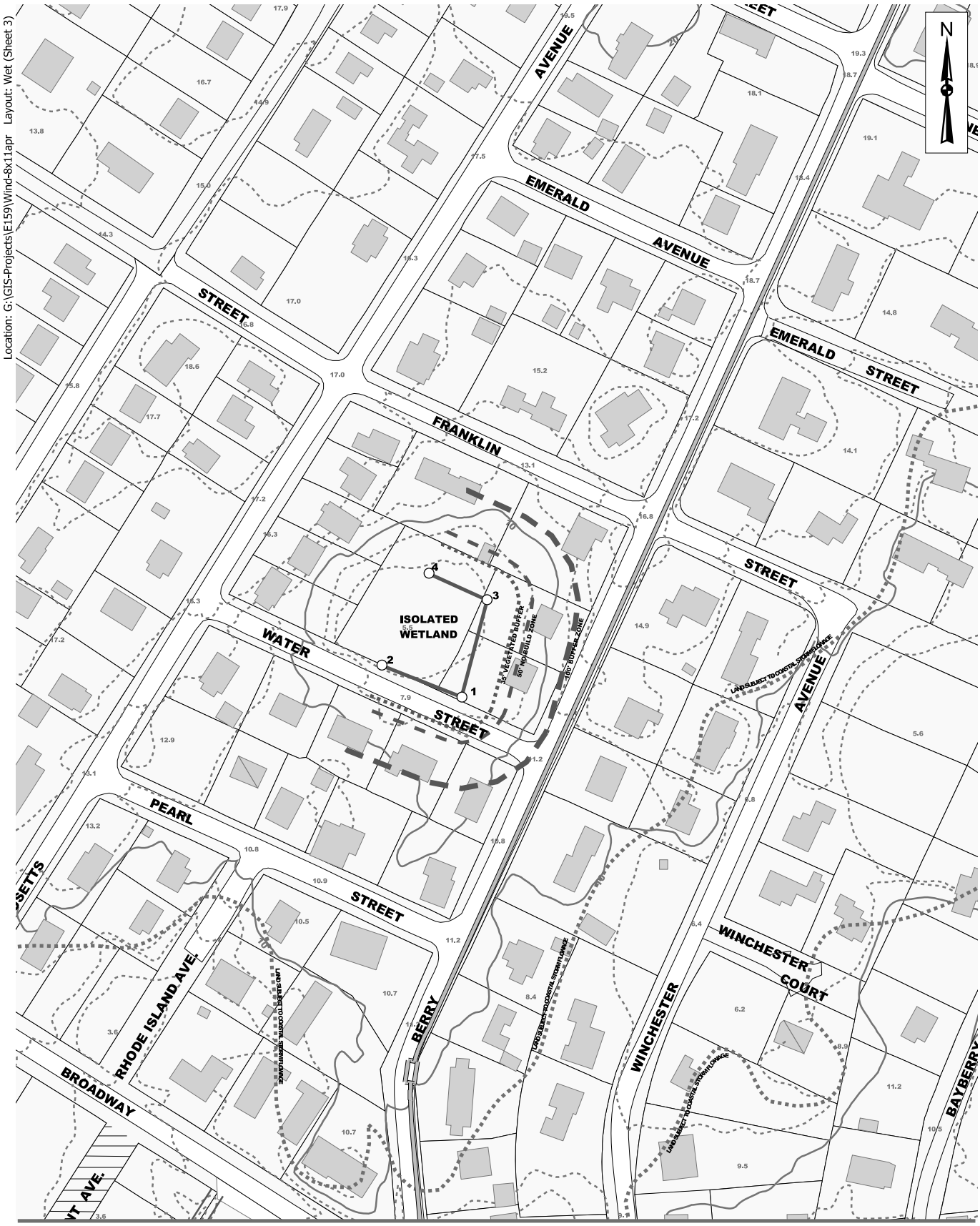
Source: 1) ESS, Wetland Flag Locations, 2002 2) ESS, Buffers, 2002
3) Town of Yarmouth, Contours (NGVD-Feet), 2001
4) Town of Yarmouth, Roads, 2001 5) MassGIS, FEMA Q3, 1997
6) Town of Yarmouth, Streams and Water Bodies, 2001
7) Town of Yarmouth, Buildings and Parcel Boundaries, 2001
8) NOAA Published Benchmark Data, (Hyannis Port, MA), 1989

LEGEND

- GPS Flag
- GPS Flag Delineations
- Drainage Easement
- Access Roads
- Gravel Roads
- Streams
- Transmission Line
- 10' Elevation Contour
- 2' Elevation Contour
- 35' Vegetated Buffer
- 50' No-Build Zone
- 100' Buffer Zone
- Land Subject To Coastal Storm Flowage
- Approximate MHW
- Approximate MLW
- Buildings
- Road Network
- Water Bodies
- Town of Yarmouth

Wetland Resource Map (Shore Road and Berry Avenue)

Figure 4
Sheet 2 of 8



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4) Town of Yarmouth, Roads, 2001 5) MassGIS, FEMA Q3, 1997
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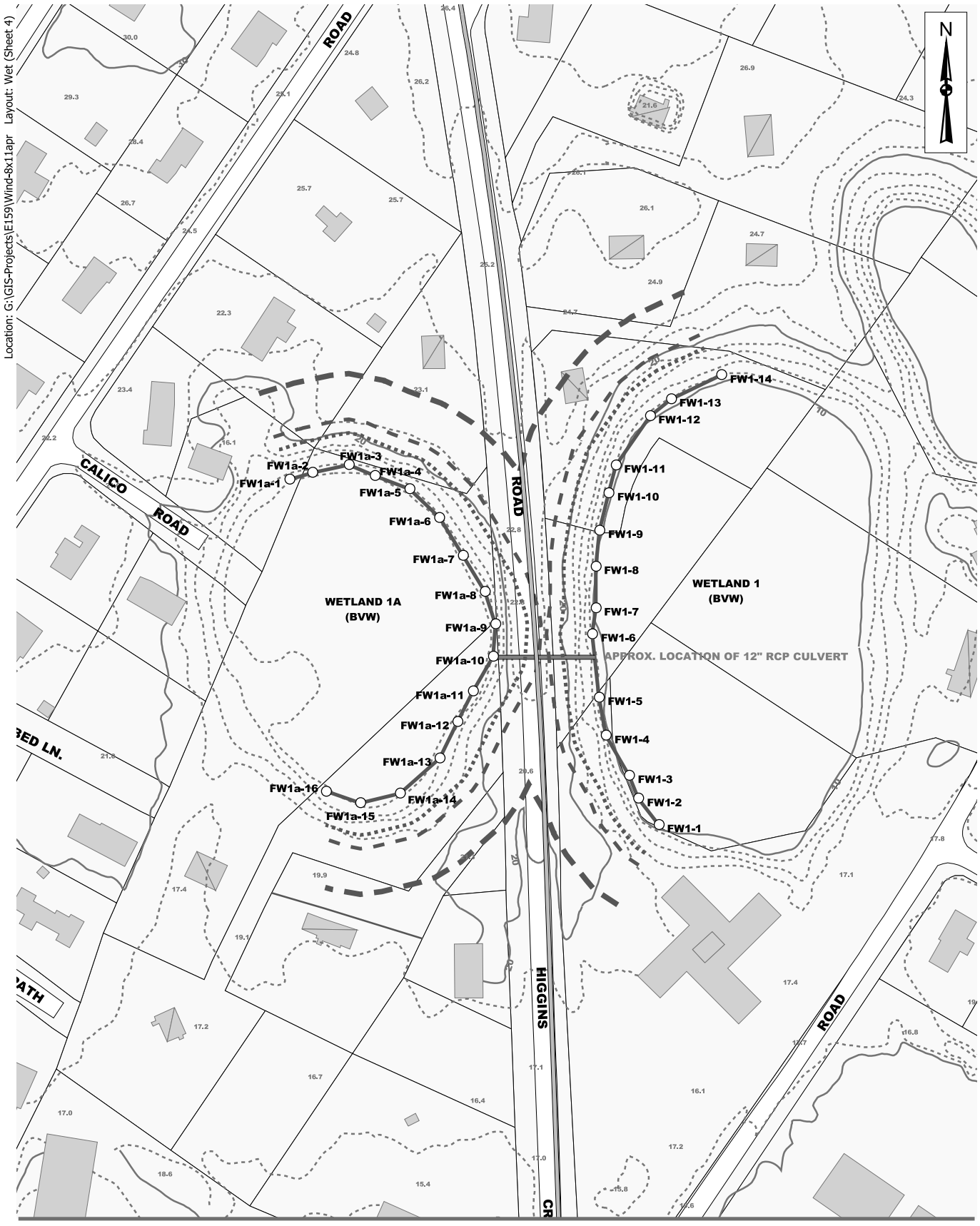
LEGEND

- GPS Flag
- GPS Flag Delineations
- Drainage Easement
- Access Roads
- Gravel Roads
- Streams
- Transmission Line
- 10' Elevation Contour
- 2' Elevation Contour
- 35' Vegetated Buffer
- 50' No-Build Zone
- 100' Buffer Zone
- Land Subject To Coastal Storm Flowage
- Buildings
- Road Network
- Water Bodies
- Town of Yarmouth

Wetland Resource Map (Berry Avenue)

Figure 4
Sheet 3 of 8



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Southeastern Massachusetts

Scale: 1" = 150'

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4) Town of Yarmouth, Roads, 2001 5) MassGIS, FEMA Q3, 1997
6) Town of Yarmouth, Streams and Water Bodies, 2001
7) Town of Yarmouth, Buildings and Parcel Boundaries, 2001
8) NOAA Published Benchmark Data, (Hyannis Port, MA), 1989

LEGEND

- GPS Flag
- GPS Flag Delineations
- Drainage Easement
- Access Roads
- Gravel Roads
- Streams
- Transmission Line
- 10' Elevation Contour
- 2' Elevation Contour
- 35' Vegetated Buffer
- 50' No-Build Zone
- 100' Buffer Zone
- Buildings
- Road Network
- Water Bodies
- Town of Yarmouth

Wetland Resource Map
(Higgins Crowell Road)

Figure 4
Sheet 4 of 8

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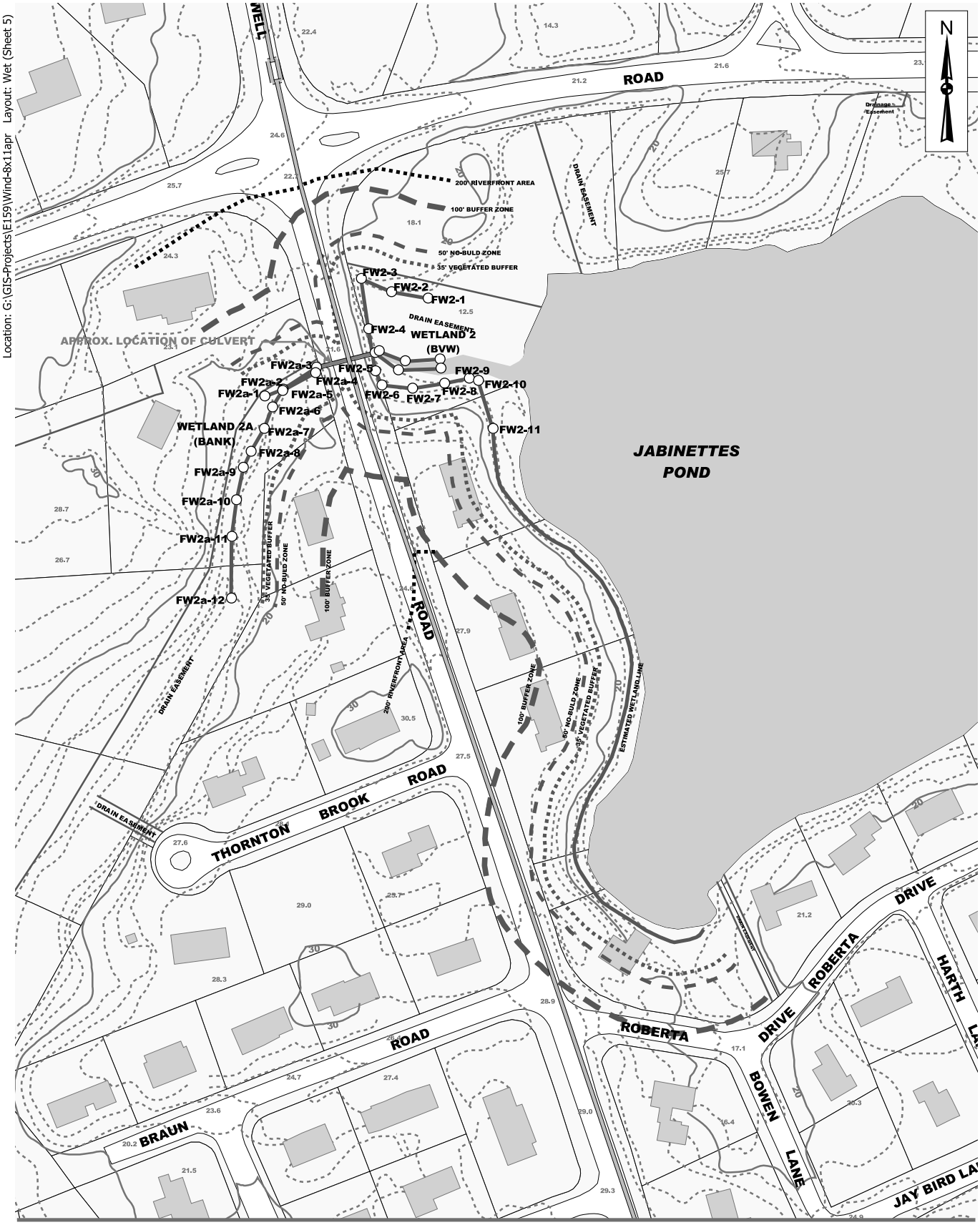

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CAPE WIND PROJECT
Southeastern Massachusetts

Scale: 1" = 150'

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3) Town of Yarmouth, Contours (NGVD-Feet), 2001
4) Town of Yarmouth, Roads, 2001 5) MassGIS, FEMA Q3, 1997
6) Town of Yarmouth, Streams and Water Bodies, 2001
7) Town of Yarmouth, Buildings and Parcel Boundaries, 2001
8) NOAA Published Benchmark Data, (Hyannis Port, MA), 1989

LEGEND

- GPS Flag
- GPS Flag Delineations
- Drainage Easement
- Access Roads
- Gravel Roads
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- Transmission Line
- 10' Elevation Contour
- 2' Elevation Contour
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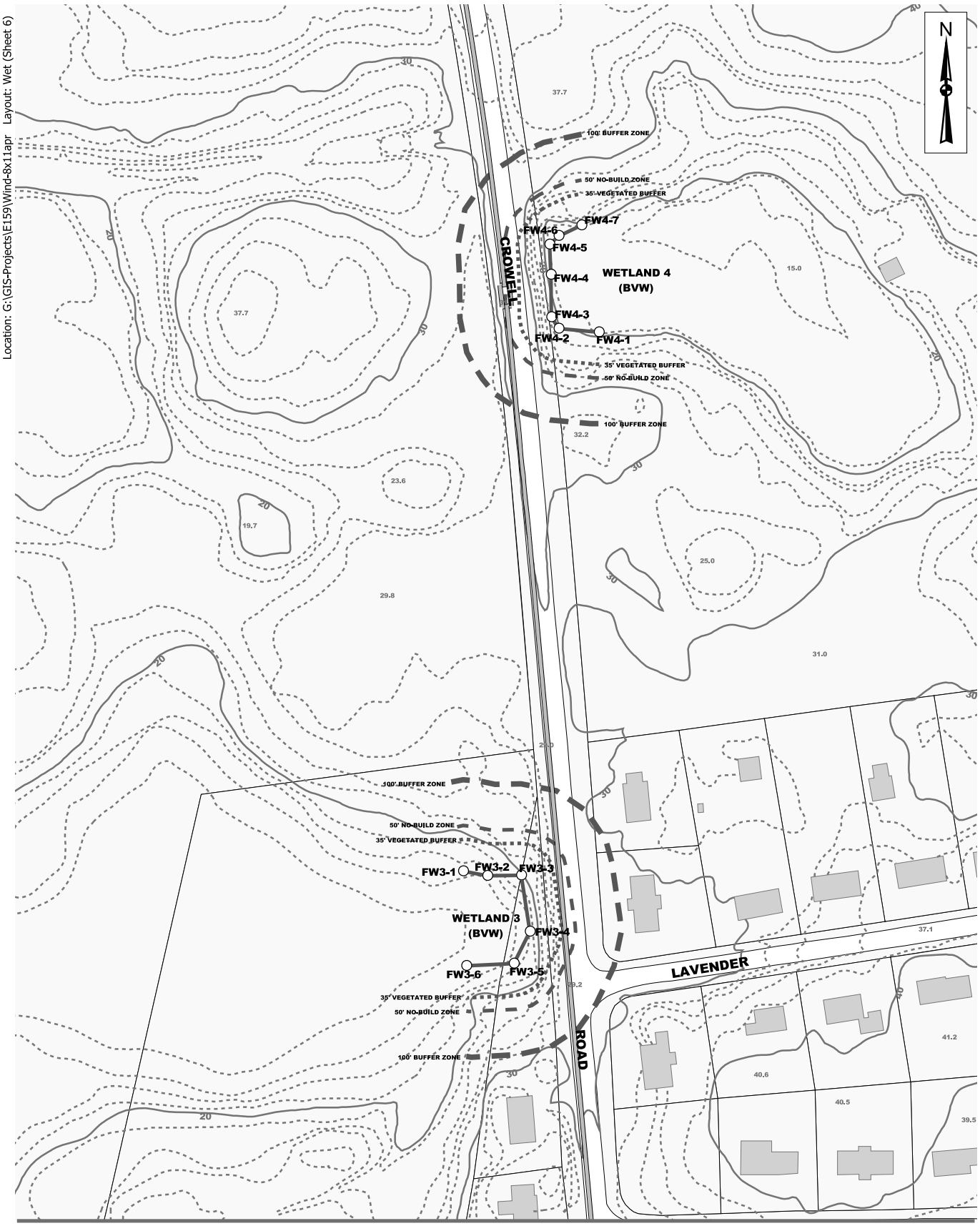
- 100' Buffer Zone
- Buildings
- Road Network
- Water Bodies
- Town of Yarmouth

Wetland Resource Map
(Higgins Crowell Road)

Figure 4
Sheet 5 of 8

Location: G:\GIS-Projects\E159\Wind-8x11apr Layout: Wet (Sheet 6)



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Scientists
Consultants

CAPE WIND PROJECT
Southeastern Massachusetts

Scale: 1" = 150'

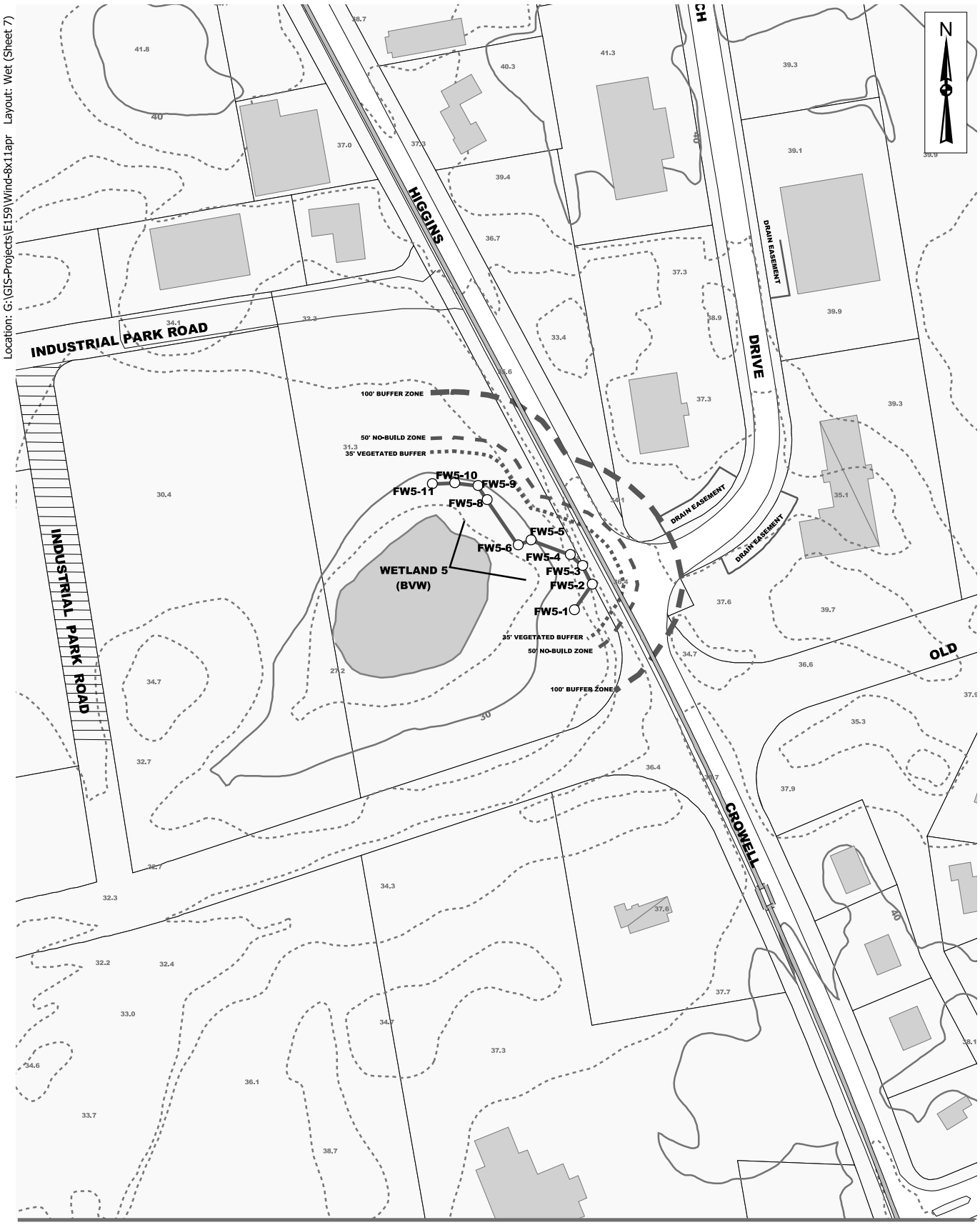
Source: 1) ESS, Wetland Flag Locations, 2002 2) ESS, Buffers, 2002
3) Town of Yarmouth, Contours (NGVD-Feet), 2001
4) Town of Yarmouth, Roads, 2001 5) MassGIS, FEMA Q3, 1997
6) Town of Yarmouth, Streams and Water Bodies, 2001
7) Town of Yarmouth, Buildings and Parcel Boundaries, 2001
8) NOAA Published Benchmark Data, (Hyannis Port, MA), 1989

LEGEND

- GPS Flag
- GPS Flag Delineations
- Drainage Easement
- Access Roads
- Gravel Roads
- Streams
- Transmission Line
- 10' Elevation Contour
- 2' Elevation Contour
- 35' Vegetated Buffer
- 50' No-Build Zone
- 100' Buffer Zone
- Buildings
- Road Network
- Water Bodies
- Town of Yarmouth

Wetland Resource Map
(Higgins Crowell Road)

Figure 4
Sheet 6 of 8



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CAPE WIND PROJECT
Southeastern Massachusetts

Scale: 1" = 150'

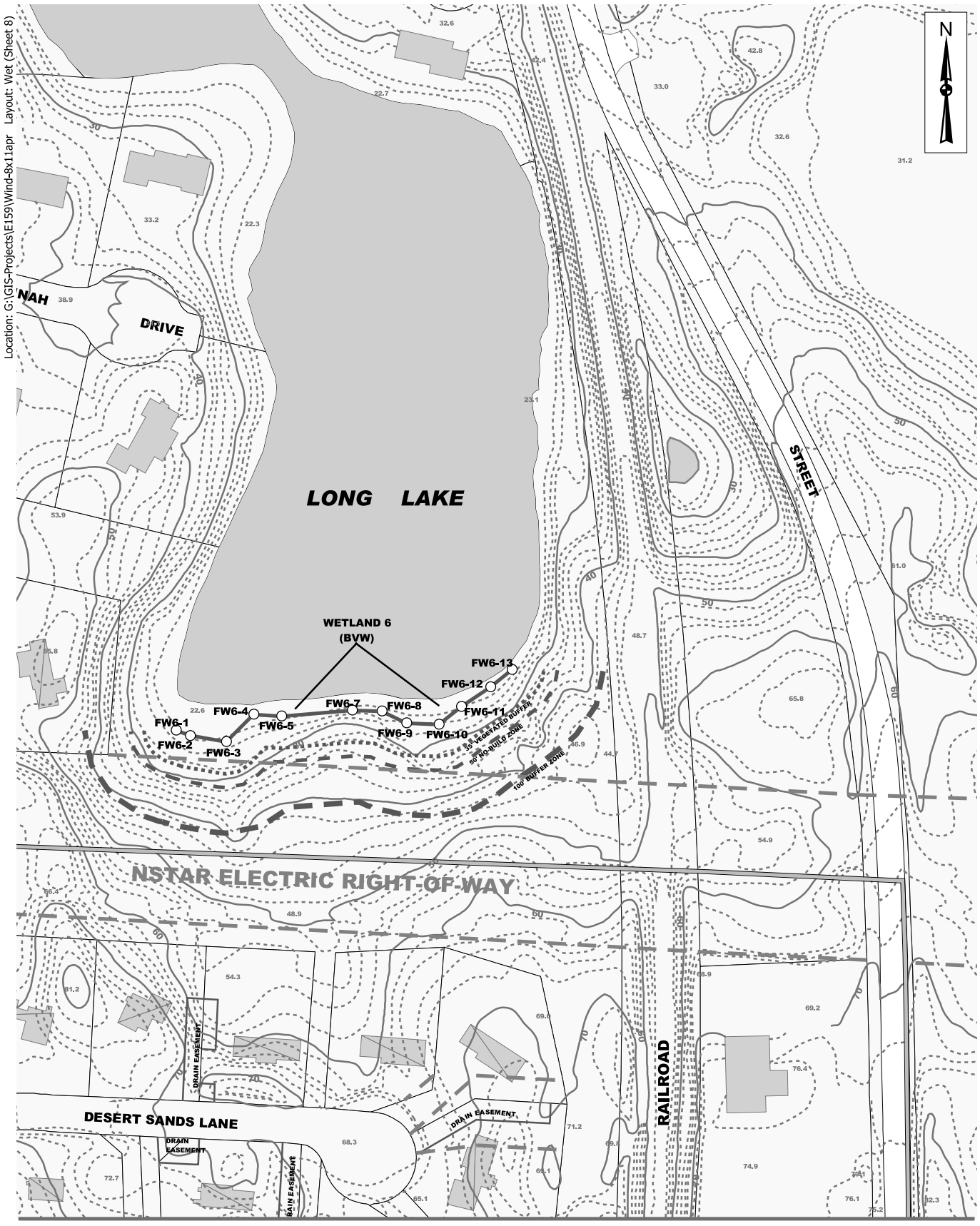
Source: 1) ESS, Wetland Flag Locations, 2002 2) ESS, Buffers, 2002
3) Town of Yarmouth, Contours (NGVD-Feet), 2001
4) Town of Yarmouth, Roads, 2001 5) MassGIS, FEMA Q3, 1997
6) Town of Yarmouth, Streams and Water Bodies, 2001
7) Town of Yarmouth, Buildings and Parcel Boundaries, 2001
8) NOAA Published Benchmark Data, (Hyannis Port, MA), 1989

LEGEND

- GPS Flag
- GPS Flag Delineations
- Drainage Easement
- Access Roads
- Gravel Roads
- Streams
- Transmission Line
- 10' Elevation Contour
- 2' Elevation Contour
- 35' Vegetated Buffer
- 50' No-Build Zone
- 100' Buffer Zone
- Buildings
- Road Network
- Water Bodies
- Town of Yarmouth

Wetland Resource Map
(Higgins Crowell Road)

Figure 4
Sheet 7 of 8



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Consultants

CAPE WIND PROJECT
Southeastern Massachusetts

Scale: 1" = 150'

Source: 1) ESS, Wetland Flag Locations, 2002 2) ESS, Buffers, 2002
3) Town of Yarmouth, Contours (NGVD-Feet), 2001
4) Town of Yarmouth, Roads, 2001 5) MassGIS, FEMA Q3, 1997
6) Town of Yarmouth, Streams and Water Bodies, 2001
7) Town of Yarmouth, Buildings and Parcel Boundaries, 2001
8) NOAA Published Benchmark Data, (Hyannis Port, MA), 1989

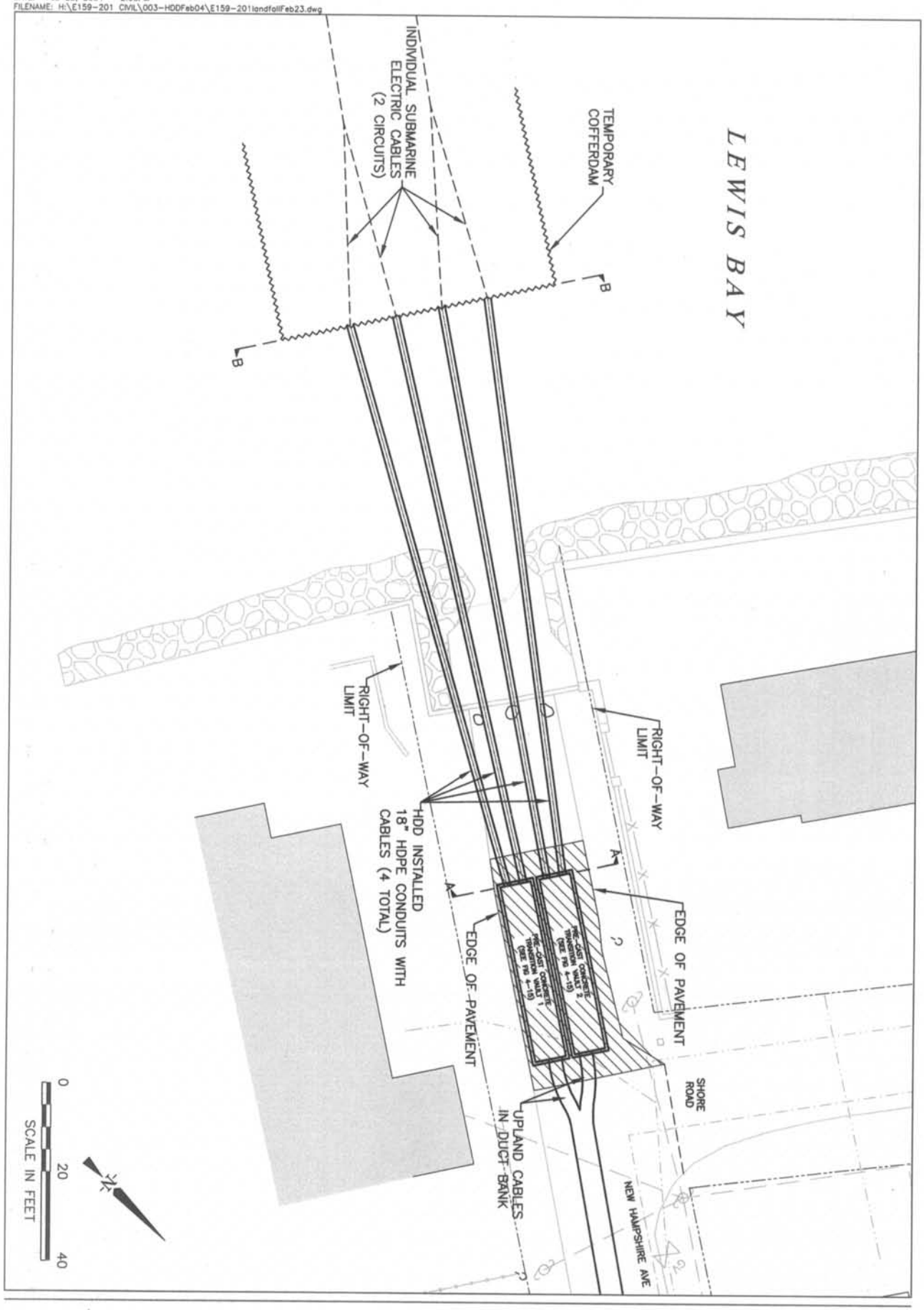
LEGEND

- GPS Flag
- GPS Flag Delineations
- Drainage Easement
- Access Roads
- Gravel Roads
- Streams
- Transmission Line
- 10' Elevation Contour
- 2' Elevation Contour
- 35' Vegetated Buffer
- 50' No-Build Zone
- 100' Buffer Zone
- Easement
- Buildings
- Road Network
- Water Bodies
- Town of Yarmouth

Wetland Resource Map
(Willow Street)

Figure 4
Sheet 8 of 8

DATE: Feb 23, 2004 - 2:06PM
FILENAME: H:\E159-201 CIVIL\003-HDDFeb04\E159-201landfallFeb23.dwg



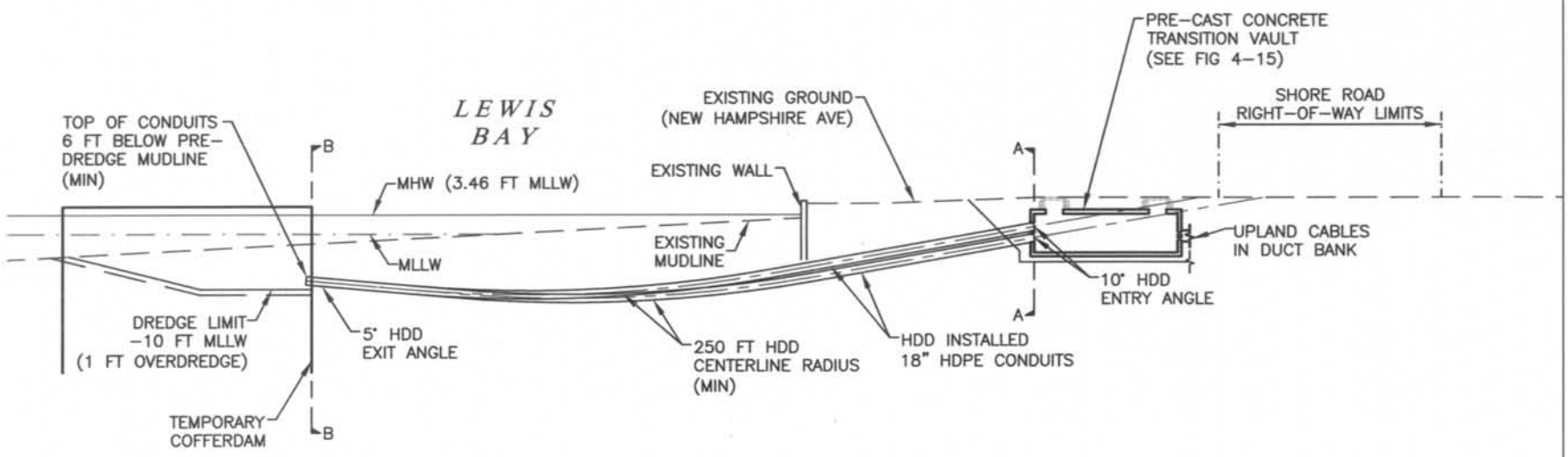
Cape Wind
Energy for Life

ESS Group, Inc.
Engineers
Scientists
Consultants

Cape Wind Associates, LLC
Cape Wind Project

Landfall Transition: Conceptual Design Plan

Figure 5
Sheet 1 of 3



NOTES:

1. UPLAND ELEVATIONS IN PLAN ARE REFERENCED TO NGVD29.
2. THERE IS NO ACCEPTED NGVD29 CONNECTION TO MLLW IN THE PROJECT AREA. RELATIONSHIP BETWEEN MLLW AND NGVD29 APPROXIMATED TO GENERATE PROFILE.
3. EXISTING GROUND ELEVATIONS IN PROFILE ARE ESTIMATED ONLY.
4. ACTUAL RELATIONSHIP MUST BE ESTABLISHED THROUGH SURVEY PRIOR TO FURTHER DESIGN EFFORTS.

0 20 40
Horiz. Scale in Feet

0 20 40
Vert. Scale in Feet

DATE: Feb 23, 2004 - 2:07PM
FILENAME: H:\E159-201 CWL\003-HDDFeb04\E159-201landfallfeb23.dwg

Landfall Transition: Conceptual Design Profile

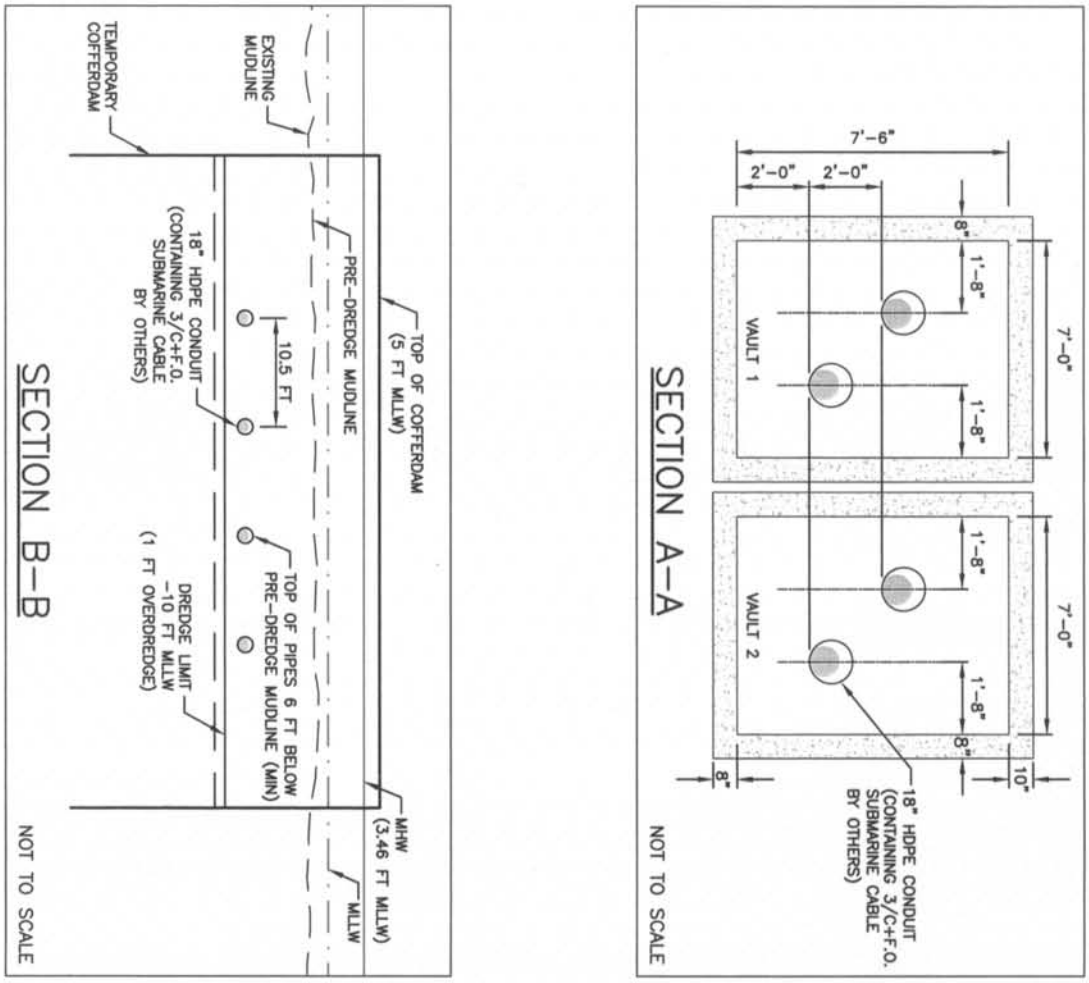
Figure 5
Sheet 2 of 3

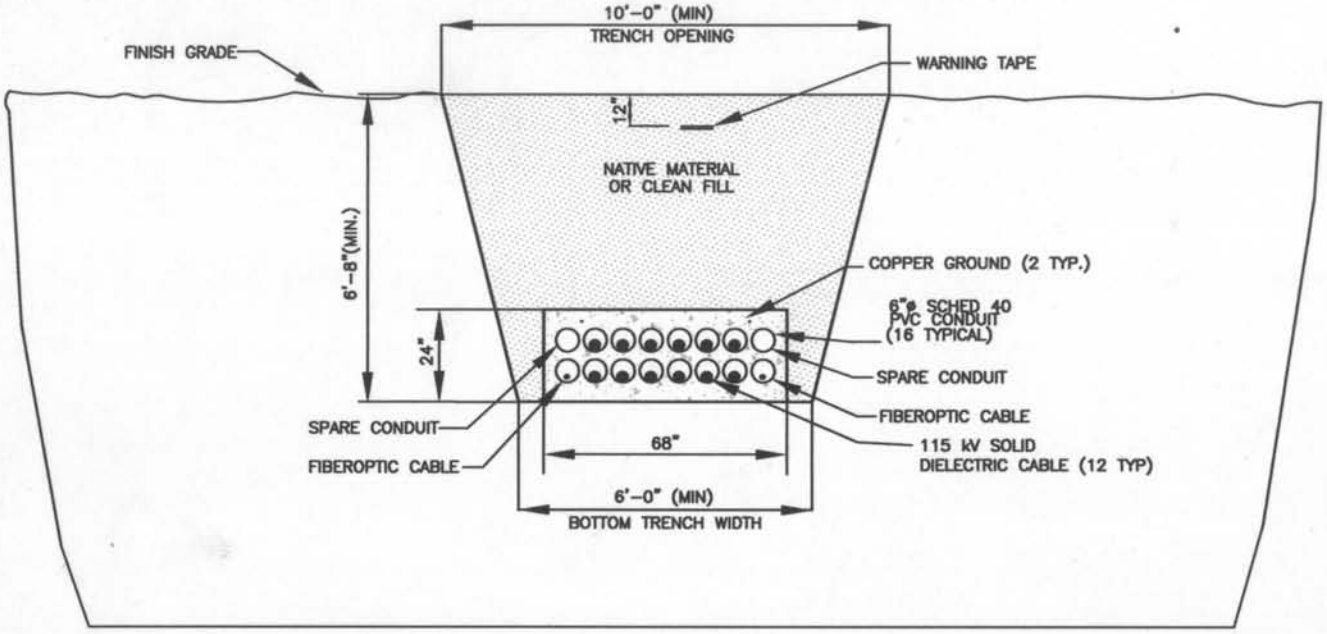
Cape Wind Associates, LLC
Cape Wind Project

ESS Group, Inc. Engineers Scientists Consultants

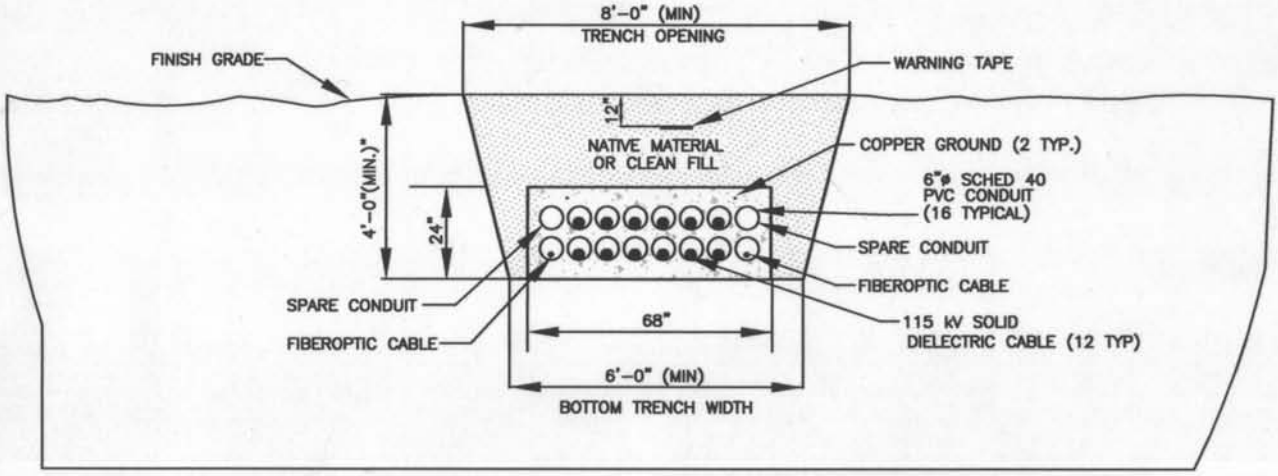
Cape Wind Energy for Life

DATE: Feb 23, 2004 - 2:07PM
FILENAME: H:\E159-201 CIVIL\003-HDDFeb04\E159-201landfallFeb23.dwg





UPLAND CABLE TRENCH CROSS-SECTION (IN ROADWAYS)
CONCRETE ENCASED DUCTBANK



UPLAND CABLE TRENCH CROSS SECTION (IN R.O.W.)
CONCRETE ENCASED DUCTBANK

NOTE:
NATIVE MATERIAL TO BE USED ONLY IF DETERMINED TO HAVE APPROPRIATE THERMAL RESISTIVITY AND TO BE ACCEPTABLE IN ACCORDANCE WITH THE SOIL MANAGEMENT PLAN.

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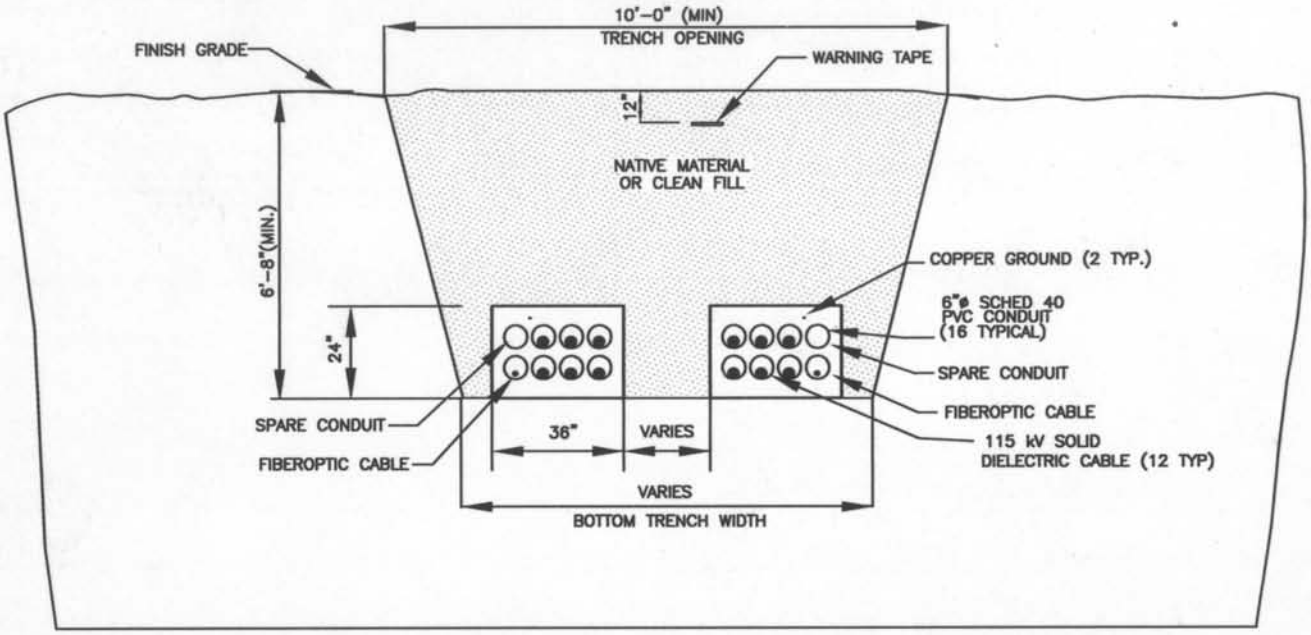
Scientists
Consultants

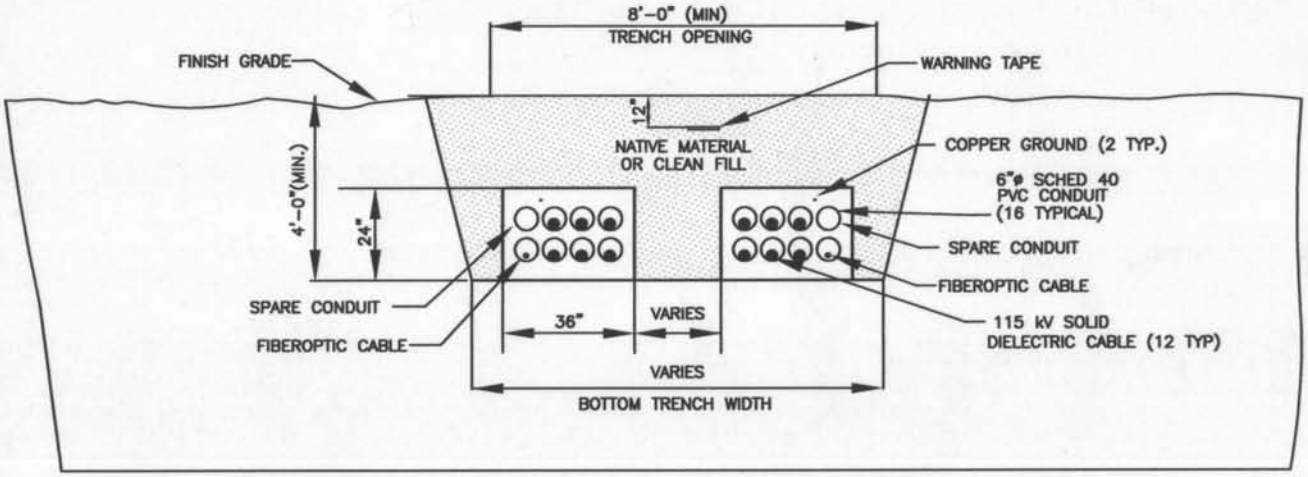
Cape Wind Associates, LLC
Cape Wind Project

Typical "8-over-8" Ductbank Cross-Section (Not To Scale)

Figure 6
Sheet 1 of 5



UPLAND CABLE TRENCH 4-OVER-4 CROSS-SECTION (IN ROADWAYS)
CONCRETE ENCASED DUCTBANK



UPLAND CABLE TRENCH 4-OVER-4 CROSS SECTION (IN R.O.W.)
CONCRETE ENCASED DUCTBANK

NOTE:
NATIVE MATERIAL TO BE USED ONLY IF DETERMINED TO HAVE APPROPRIATE THERMAL RESISTIVITY AND TO BE ACCEPTABLE IN ACCORDANCE WITH THE SOIL MANAGEMENT PLAN.

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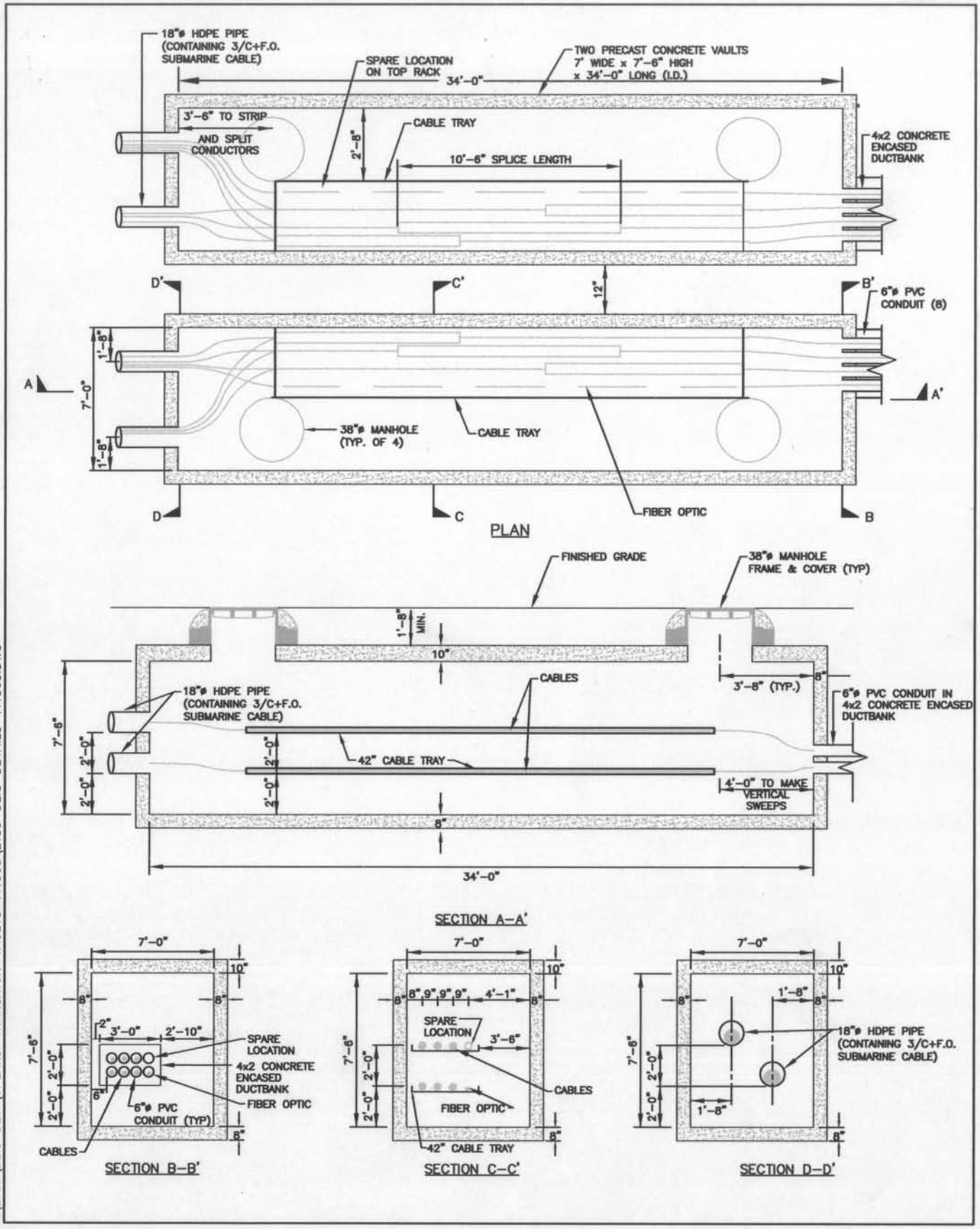
Consultants

Cape Wind Associates, LLC
Cape Wind Project

Typical "4-over-4" Ductbank Cross-Section (Not To Scale)

Figure 6
Sheet 2 of 5



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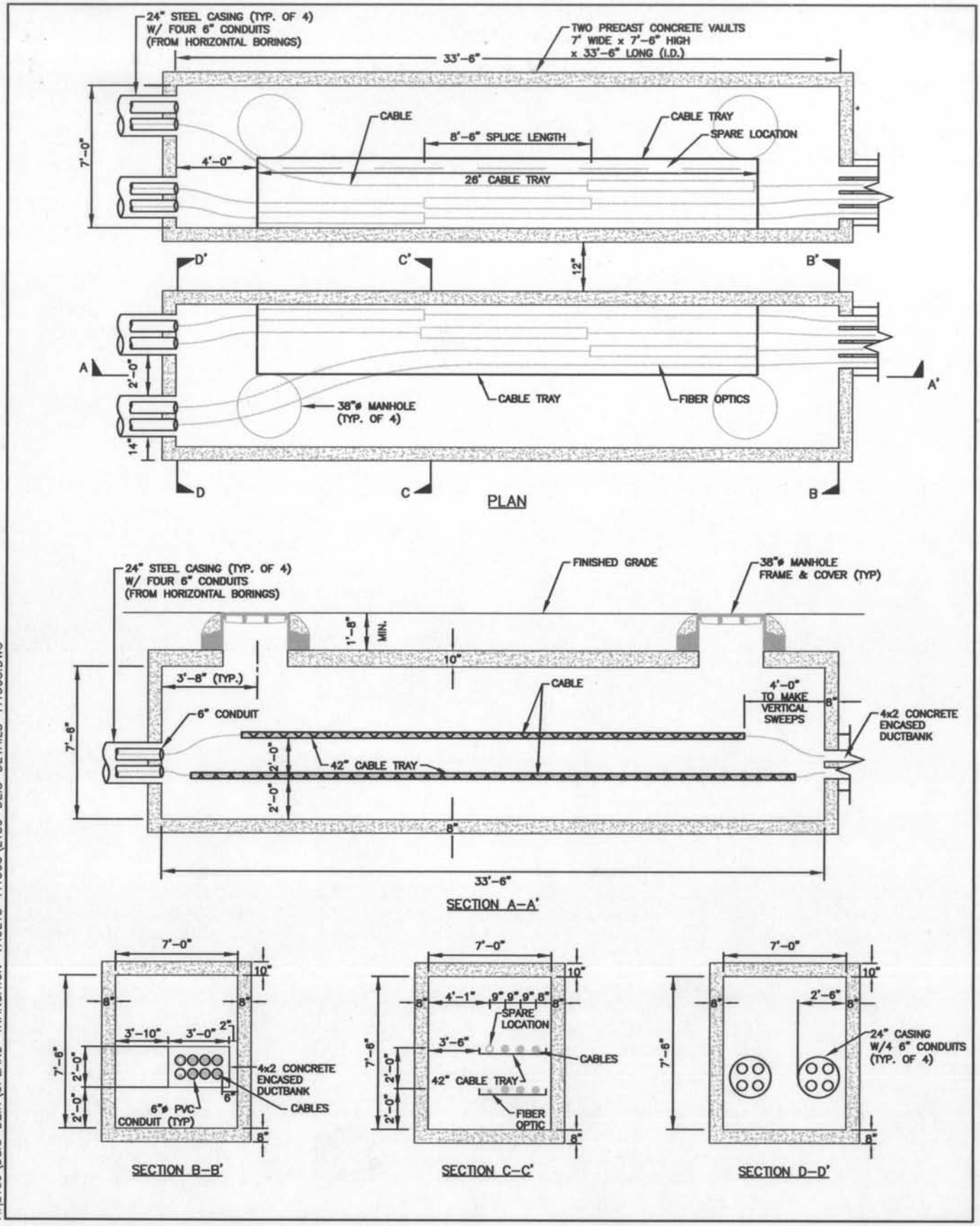
Cape Wind Project

115 kV Landfall Transition Vault

(Not To Scale)

Figure 6
Sheet 3 of 5



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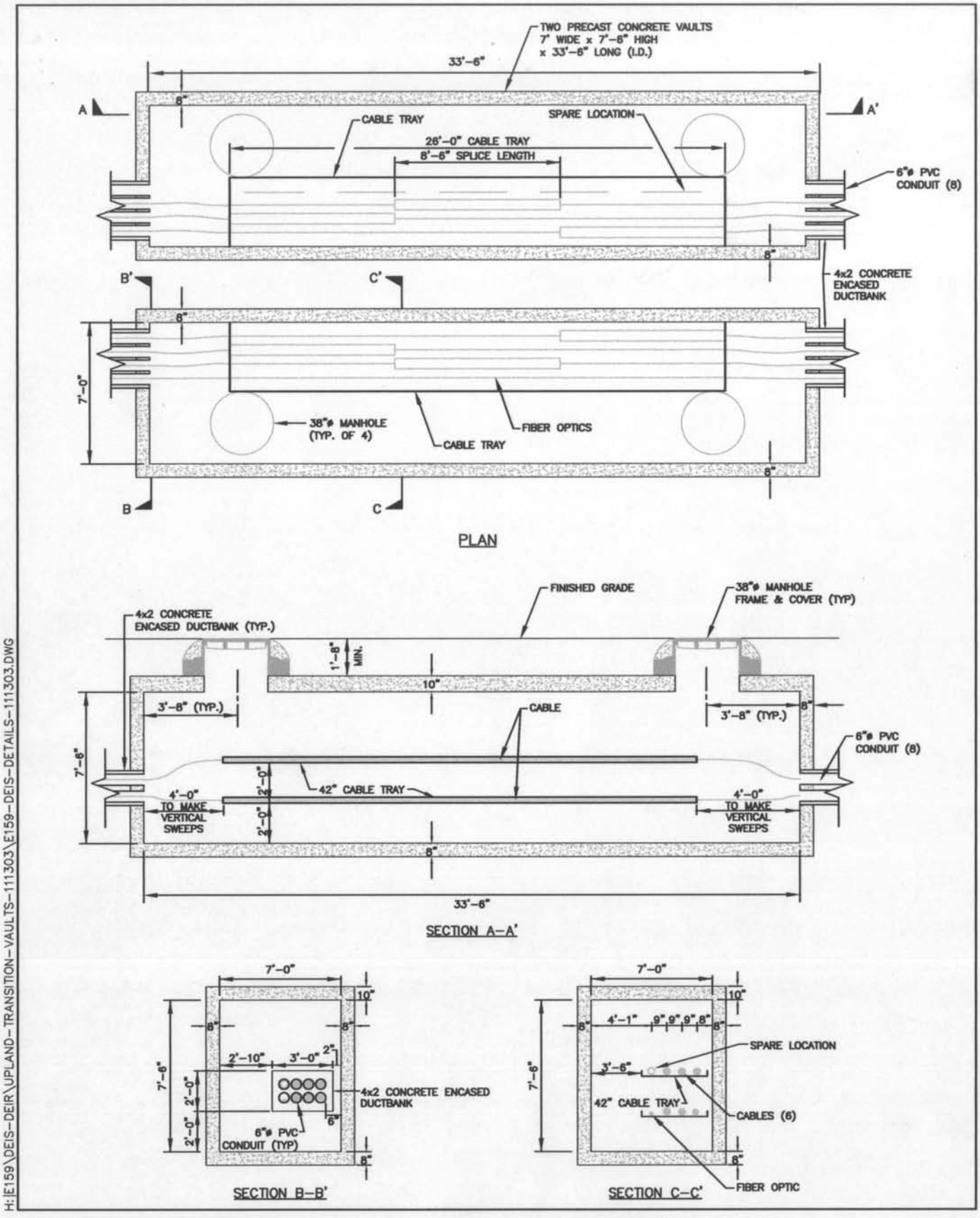
ESS Group Inc.
Engineers
Scientists
Consultants

Cape Wind Associates, LLC
Cape Wind Project

115 kV Upland Transition Vault

(Not To Scale)

Figure 6
Sheet 4 of 5



H:\E159\DEIS-DEIR\UPLAND-TRANSITION-VAULTS-111303\E159-DEIS-DETAILS-111303.DWG

Cape Wind
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Cape Wind Associates, LLC
Cape Wind Project

115kV Upland Splice Vault

(Not To Scale)

Figure 6
Sheet 5 of 5

Attachment 1

EPA Construction
General Permit

NPDES General Permit for Storm Water Discharges From Construction Activities

Table of Contents **As modified effective January 21, 2005**

National Pollutant Discharge Elimination System
General Permit for Discharges from
Large and Small Construction Activities

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et. seq., (hereafter CWA or the Act), as amended by the Water Quality Act of 1987, P.L. 100-4, operators of large and small construction activities that are described in Subpart 1.3 of this National Pollutant Discharge Elimination System (NPDES) general permit, except for those activities excluded from authorization of discharge in Subpart 1.3.C of this permit are authorized to discharge pollutants to waters of the United States in accordance with the conditions and requirements set forth herein. Permit coverage is required from the "commencement of construction activities" until "final stabilization" as defined in Appendix A.

This permit shall become effective on July 1, 2003 (as modified effective January 21, 2005).

This permit and the authorization to discharge shall expire at midnight, July 1, 2008.

Signed:

Linda M. Murphy, Director, Office of Ecosystem Protection
EPA Region 1

Kevin Bricke, Acting Director, Division of Environmental Planning and Protection
EPA Region 2

Carlos E. O'Neill, P.E., Acting Division Director, Caribbean Environmental Protection Division
EPA Region 2

John M. Capacasa, Director, Water Protection Division
EPA Region 3

Rebecca Harvey, Chief, NPDES Program Branch
EPA Region 5

Miguel I. Flores, Director, Water Quality Protection Division
EPA Region 6

Leo J. Alderman, Director, Water, Wetlands, and Pesticides Division
EPA Region 7

Stephen S. Tuber, Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance
EPA Region 8

Nancy Woo, Acting Director, Water Division
EPA Region 9

Randall F. Smith, Director, Office of Water
EPA Region 10

The signatures are for the permit conditions in Parts 1 through 9 and Appendices A through G and for any additional conditions which apply to facilities located in the corresponding state, Indian country, or other area.

PART 1: COVERAGE UNDER THIS PERMIT

1.1 Introduction

This Construction General Permit (CGP) authorizes storm water discharges from large and small construction activities that result in a total land disturbance of equal to or greater than one acre, where those discharges enter surface waters of the United States or a municipal separate storm sewer system (MS4) leading to surface waters of the United States subject to the conditions set forth in this permit. This permit also authorizes storm water discharges from any other construction activity designated by EPA where EPA makes that designation based on the potential for contribution to an excursion of a water quality standard or for significant contribution of pollutants to waters of the United States. This permit replaces two permits issued in 1998 (63 FR 7858, February 17, 1998 for EPA Regions 1, 2, 3, 7, 8, 9, and 10 and 63 FR 36489, July 6, 1998 for EPA Region 6). Any references to the 1998 CGP in this permit refer to those two permits.

This permit is presented in a reader-friendly, plain language format. This permit uses the terms "you" and "your" to identify the person(s) who owns or operates a "facility" or "activity" as defined in Appendix A and who must comply with the conditions of this permit. This format should allow you, the permittee and operator of a large or small construction activity, to easily locate and understand applicable requirements.

The goal of this permit is to reduce or eliminate storm water pollution from construction activity by requiring that you plan and implement appropriate pollution control practices to protect water quality.

1.2 Permit Area

If your large or small construction activity is located within the areas listed in Appendix B, you may be eligible to obtain coverage under this permit. Permit coverage is actually provided by legally separate and distinctly numbered permits covering each of the areas listed in Appendix B.

1.3 Eligibility

Permit eligibility is limited to discharges from "large" and "small" construction activity as defined in Appendix A or as otherwise designated by EPA. This general permit contains eligibility restrictions, as well as permit conditions and requirements. You may have to take certain actions to be eligible for coverage under this permit. In such cases, you must continue to satisfy those eligibility provisions to maintain permit authorization. If you do not meet the requirements that are a pre-condition to eligibility, then resulting discharges constitute unpermitted discharges. By contrast, if you do not comply with the requirements of the general permit, you may be in violation of the general permit for your otherwise eligible discharges.

A. Allowable Storm Water Discharges

Subject to compliance with the terms and conditions of this permit, you are authorized to discharge pollutants in:

1. Storm water associated with large and small construction activity as defined in Appendix A;
2. Storm water discharges designated by EPA as needing a storm water permit under 40 CFR §122.26(a)(1)(v) or §122.26(b)(15)(ii);
3. Discharges from support activities (e.g., concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, borrow areas) provided:
   a. The support activity is directly related to the construction site required to have NPDES permit coverage for discharges of storm water associated with construction activity;
   b. The support activity is not a commercial operation serving multiple unrelated construction projects by different operators, and does not operate beyond the completion of the construction activity at the last construction project it supports; and
   c. Appropriate controls and measures are identified in a Storm Water Pollution Prevention Plan (SWPPP) covering the discharges from the support activity areas; and
4. Discharges composed of allowable discharges listed in 1.3.A and 1.3.B commingled with a discharge authorized by a different NPDES permit and/or a discharge that does not require NPDES permit authorization.

B. Allowable Non-Storm Water Discharges

You are authorized for the following non-storm water discharges, provided the non-storm water component of the discharge is in compliance with Subpart 3.5 (Non-Storm Water Discharge Management):

1. Discharges from fire-fighting activities;
2. Fire hydrant flushings;
3. Waters used to wash vehicles where detergents are not used;
4. Water used to control dust in accordance with Subpart 3.4.G;
5. Potable water including uncontaminated water line flushings;
6. Routine external building wash down that does not use detergents;
7. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;
8. Uncontaminated air conditioning or compressor condensate;
9. Uncontaminated ground water or spring water;
10. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
11. Uncontaminated excavation dewatering;
12. Landscape irrigation.

C. Limitations on Coverage

1. This permit does not authorize post-construction discharges that originate from the site after construction activities have been completed and the site has achieved final stabilization, including any temporary support activity. Post-construction storm water discharges from industrial sites may need to be covered by a separate NPDES permit.
2. This permit does not authorize discharges mixed with non-storm water. This exclusion does not apply to discharges identified in Subpart 1.3.B, provided the discharges are in compliance with Subpart 3.5 (Non-Storm Water Discharge Management).
3. This permit does not authorize storm water discharges associated with construction activity that have been covered under an individual permit or required to obtain coverage under an alternative general permit in accordance with Subpart 4.2.
4. This permit does not authorize discharges that EPA, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. Where such a determination is made prior to authorization, EPA may notify you that an individual permit application is necessary in accordance with Subpart 4.2. However, EPA may authorize your coverage under this permit after you have included appropriate controls and implementation procedures in your SWPPP designed to bring your discharge into compliance with water quality standards.
5. *Discharging into Receiving Waters With an Approved Total Maximum Daily Load Analysis*
   a. You are not eligible for coverage under this permit for discharges of pollutants of concern to waters for which there is a total maximum daily load (TMDL) established or approved by EPA unless you incorporate into your SWPPP measures or controls that are consistent with the assumptions and requirements of such TMDL. To be eligible for coverage under this general permit, you must incorporate into your SWPPP any conditions applicable to your discharges necessary for consistency with the assumptions and requirements of such TMDL. If a specific wasteload allocation has been established that would apply to your discharge, you must incorporate that allocation into your SWPPP and implement necessary steps to meet that allocation.
   b. In a situation where an EPA-approved or established TMDL has specified a general wasteload allocation applicable to construction storm water discharges, but no specific requirements for construction sites have been identified in the TMDL, you should consult with the State or Federal TMDL authority to confirm that adherence to a SWPPP that meets the requirements of the CGP will be consistent with the approved TMDL. Where an EPA-approved or established TMDL has not

specified a wasteload allocation applicable to construction storm water discharges, but has not specifically excluded these discharges, adherence to a SWPPP that meets the requirements of the CGP will generally be assumed to be consistent with the approved TMDL. If the EPA-approved or established TMDL specifically precludes such discharges, the operator is not eligible for coverage under the CGP.

6. *Endangered and Threatened Species and Critical Habitat Protection*
   a. Coverage under this permit is available only if your storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities, as defined in Appendix A, are not likely to jeopardize the continued existence of any species that are federally-listed as endangered or threatened ("listed") under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is federally-designated as critical under the ESA ("critical habitat").
   b. You are not eligible to discharge if the storm water discharges, allowable non-storm water discharges, or storm water discharge-related activities would cause a prohibited "take" of federally-listed endangered or threatened species (as defined under section 3 of the ESA and 50 CFR 17.3), unless such takes are authorized under sections 7 or 10 of the ESA.
   c. Determining Eligibility: You must use the process in Appendix C (ESA Review Procedures) to determine eligibility *PRIOR* to submittal of the Notice of Intent (NOI). You must meet one or more of the following six criteria (A-F) for the entire term of coverage under the permit:

Criterion A. No federally-listed threatened or endangered species or their designated critical habitat are in the project area as defined in Appendix C; or

Criterion B. Formal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the ESA has been concluded and that consultation:

i. Addressed the effects of the project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and
ii. The consultation resulted in either:
   a. Biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or
   b. written concurrence from the Service(s) with a finding that the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or

Criterion C. Informal consultation with the Fish and Wildlife Service and/or the National Marine Fisheries Service under section 7 of the ESA has been concluded and that consultation:

i. Addressed the effects of the project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed threatened or endangered species and federally-designated critical habitat, and
ii. The consultation resulted in either:
   a. Biological opinion finding no jeopardy to federally-listed species or destruction/adverse modification of federally-designated critical habitat, or
   b. written concurrence from the Service(s) with a finding that the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect federally-listed species or federally-designated critical habitat; or

Criterion D. The construction activities are authorized through the issuance of a permit under section 10 of the ESA, and that authorization addresses the effects of the storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities on federally-listed species and federally-designated critical habitat; or

Criterion E. Storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities are not likely to adversely affect any federally-listed

threatened or endangered species or result in the destruction or adverse modification of federally-designated critical habitat; or

Criterion F. The project's storm water discharges, allowable non-storm water discharges, and storm water discharge-related activities were already addressed in another operator's valid certification of eligibility under Criteria A-E which included your construction activities and there is no reason to believe that federally-listed species or federally-designated critical habitat not considered in the prior certification may be present or located in the project area. By certifying eligibility under this criterion, you agree to comply with any measures or controls upon which the other operator's certification was based.

You must comply with any applicable terms, conditions, or other requirements developed in the process of meeting the eligibility requirements of the criteria in this section to remain eligible for coverage under this permit. Such terms and conditions must be documented and incorporated into your SWPPP.

7. Historic Properties

   [Reserved]

   You are reminded that you must comply with applicable state, tribal and local laws concerning the protection of historic properties and places.

1.4 Waivers for Certain Small Construction Activities

Three scenarios exist under which small construction activities (see definition in Appendix A) may be waived from the NPDES permitting requirements detailed in this general permit. These exemptions are predicated on certain criteria being met and proper notification procedures being followed. Details of the waiver options and procedures for requesting a waiver are provided in Appendix D.

PART 2: AUTHORIZATION FOR DISCHARGES OF STORM WATER FROM CONSTRUCTION ACTIVITY

To obtain coverage under this general permit, you, the operator, must prepare and submit a complete and accurate Notice of Intent (NOI), as described in this Part. Discharges are not authorized if your NOI is incomplete or inaccurate or if you were never eligible for permit coverage.

2.1 Authorization to Discharge Date

This permit is effective as of the publication date in the Federal Register and is effective for five years, expiring at midnight on the anniversary of publication in the fifth year.

A. If you submit an NOI during the first 90 days after the issuance date of this permit you are authorized to discharge storm water from construction activities under the terms and conditions of this permit seven (7) calendar days after submittal to EPA of a complete and accurate NOI (i.e., 7 days from date of postmark), except as noted in Subpart 2.1.C.

B. If you submit an NOI after the first 90 days of this permit and prior to the expiration date of this permit, you are authorized to discharge storm water from construction activities under the terms and conditions of this permit seven (7) calendar days after acknowledgment of receipt of your complete NOI is posted on EPA's NPDES website ***http://www.epa.gov/npdes/stormwater/cgp***, except as noted in Subpart 2.1.C.

C. EPA may delay your authorization based on eligibility considerations of Subpart 1.3 (e.g., ESA concerns). In these instances, you are not authorized for coverage under this permit until you receive notice from EPA of your eligibility.

2.2 Notice of Intent Contents

A. You must use the NOI form provided in Appendix E (or a photocopy thereof) and available at **www.epa.gov/npdes/stormwater/cgp**. If EPA makes other NOI forms available (either directly, by public notice, or by making information available on the Internet), you may take advantage of any of those options to satisfy the NOI use requirements of this Subpart.

B. You must provide the following information on the NOI form:

1. The applicable permit number for which you are requesting coverage (See Appendix B);

2. Operator name, address, telephone number, and Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
3. Project/Site name, address, county or similar governmental subdivision, and latitude/longitude of your construction project or site;
4. Whether your site is located in Indian country and if so, the name of the Reservation, if applicable;
5. Whether the SWPPP has been prepared in advance of filing of this NOI and the location where the applicable SWPPP may be viewed;
6. Name of the water(s) of the U.S. into which your site discharges;
7. Indication whether your discharge is consistent with the assumptions and requirements of applicable EPA approved or established TMDLs;
8. Estimated dates of commencement of construction activity and final stabilization (i.e., project start and completion dates);
9. Total acreage (to the nearest quarter acre) to be disturbed for which you are requesting permit coverage;
10. Whether any federally-listed threatened or endangered species, or federally-designated critical habitat are in your project area to be covered by this permit, and the basis for certifying eligibility for permit coverage based on the instructions in Appendix C;
11. A certification statement, signed and dated by an authorized representative as defined in Appendix G, Section 11, and the name and title of that authorized representative.

2.3 Submission Deadlines

A. *New Projects:* To obtain coverage under this permit, you must submit a complete and accurate NOI and be authorized consistent with Subpart 2.1 prior to your commencement of construction activities.

B. *Permitted Ongoing Projects (only applicable for first 90 days after this permit is issued):* If you previously received authorization to discharge for your project under the 1998 CGP and you wish to continue coverage under this permit:

1. Except as noted in 2.3.B.2, you must:
   1. Submit an NOI within 90 days of the issuance date of this permit, and
   2. Until you are authorized under this permit consistent with Subpart 2.1, comply with the terms and conditions of the 1998 CGP under which you were previously authorized.
2. If you meet the termination of coverage requirements in accordance with Subpart 5.1 within 90 days of the issuance date of this permit (e.g., construction will be finished and final stabilization achieved) you must:
   1. Submit an NOT consistent with the 2003 CGP using the NOT form provided in Appendix F, and
   2. Until coverage is no longer required, comply with the terms and conditions of the 1998 CGP under which you were previously authorized.

C. *Unpermitted Ongoing Projects (only applicable for first 90 days after this permit is issued):* If you previously did not receive authorization to discharge for your project under the 1998 CGP and you wish to obtain coverage under this permit:

1. Except as noted in 2.3.C.2, you must:
   1. Submit an NOI within 90 days of the issuance date of this permit, and
   2. Until you are authorized under this permit consistent with Subpart 2.1, comply with an interim Storm Water Pollution Prevention Plan (SWPPP) consistent with the 1998 CGP.
2. If you meet the termination of coverage requirements in accordance with Subpart 5.1 within 90 days of the issuance date of this permit (e.g., construction will be finished and final stabilization achieved) you must comply with an interim Storm Water Pollution Prevention Plan (SWPPP) consistent with the 1998 CGP until permit coverage is no longer required.

D. *Late Notifications:* Operators are not prohibited from submitting NOIs after initiating clearing, grading, excavation activities, or other construction activities. When a late NOI is submitted, authorization for discharges occurs consistent with Subpart 2.1. The Agency reserves the right to take enforcement action for any unpermitted discharges that occur between the commencement of construction and discharge authorization.

2.4 Where to Submit

A. Except as noted in Subpart 2.3.B, you must send your complete and accurate NOI to EPA at one of the following addresses:

For Regular U.S. Mail Delivery:	For Overnight/Express Mail Delivery:
EPA Storm Water Notice Processing Center	EPA Storm Water Notice Processing Center
Mail Code 4203M	Room 7420
U.S. EPA	U.S. EPA
1200 Pennsylvania Avenue, NW	1201 Constitution Avenue, NW
Washington, DC 20460	Washington, DC 20004

B. In lieu of Subpart 2.4.A, when available, you may submit your NOI using EPA's electronic NOI system (i.e., eNOI) as detailed at www.epa.gov/npdes/stormwater/cgp.

PART 3: STORM WATER POLLUTION PREVENTION PLANS (SWPPPS)

3.1 Storm Water Pollution Prevention Plan Framework

A. A SWPPP must be prepared prior to submission of an NOI as required in Part 2. At least one SWPPP must be developed for each construction project covered by this permit and such SWPPP must be prepared in accordance with good engineering practices.

B. The SWPPP must:

1. Identify all potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges from the construction site;
2. Describe practices to be used to reduce pollutants in storm water discharges from the construction site; and
3. Assure compliance with the terms and conditions of this permit.

C. Once a definable area has been finally stabilized, you may mark this on your SWPPP and no further SWPPP or inspection requirements apply to that portion of the site (e.g., earth-disturbing activities around one of three buildings in a complex are done and the area is finally stabilized, one mile of a roadway or pipeline project is done and finally stabilized, etc).

D. You must implement the SWPPP as written from commencement of construction activity until final stabilization is complete.

3.2 Requirements for Different Types of Operators

You may meet one or both of the operational control components in the definition of operator found in Appendix A. Subpart 3.2.C applies to all permittees having control over only a portion of a construction site.

A. If you have operational control over construction plans and specifications, you must ensure that:

1. The project specifications meet the minimum requirements of this Subpart and all other applicable permit conditions;
2. The SWPPP indicates the areas of the project where the operator has operational control over project specifications, including the ability to make modifications in specifications;
3. All other permittees implementing portions of the SWPPP (or their own SWPPP) who may be impacted by a change to the construction plan are notified of such changes in a timely manner; and
4. The SWPPP indicates the name of the party(ies) with day-to-day operational control of those activities necessary to ensure compliance with the SWPPP or other permit conditions.

B. If you have operational control over day-to-day activities, you must ensure that:

1. The SWPPP meets the minimum requirements of this Subpart and identifies the parties responsible for implementation of control measures identified in the plan;
2. The SWPPP indicates areas of the project where you have operational control over day-to-day activities;
3. The SWPPP indicates the name of the party(ies) with operational control over project specifications (including the ability to make modifications in specifications).

C. If you have operational control over only a portion of a larger project (e.g., one of four homebuilders in a subdivision), you are responsible for compliance with all applicable terms and conditions of this permit as it relates to your activities on your portion of the construction site, including protection of endangered species, critical habitat, and historic properties, and implementation of best management practices (BMPs) and other controls required by the SWPPP. You must ensure either directly or through coordination with other permittees, that your activities do not render another party's pollution control ineffective. You must either implement your portion of a common SWPPP or develop and implement your own SWPPP.

For more effective coordination of BMPs and opportunities for cost sharing, a cooperative effort by the different operators at a site to prepare and participate in a comprehensive SWPPP is encouraged. Individual operators at a site may, but are not required to, develop separate SWPPPs that cover only their portion of the project provided reference is made to other operators at the site. In instances where there is more than one SWPPP for a site, cooperation between the permittees is encouraged to ensure the storm water discharge controls and other measures are consistent with one another (e.g., provisions to protect listed species and critical habitat).

3.3 Pollution Prevention Plan Contents: Site and Activity Description

A. The SWPPP must identify all operators for the project site, and the areas of the site over which each operator has control.

B. The SWPPP must describe the nature of the construction activity, including:

1. The function of the project (e.g., low density residential, shopping mall, highway, etc.);
2. The intended sequence and timing of activities that disturb soils at the site;
3. Estimates of the total area expected to be disturbed by excavation, grading, or other construction activities, including dedicated off-site borrow and fill areas; and
4. A general location map (e.g., USGS quadrangle map, a portion of a city or county map, or other map) with enough detail to identify the location of the construction site and waters of the United States within one mile of the site.

C. The SWPPP must contain a legible site map, showing the entire site, identifying:

1. Direction(s) of storm water flow and approximate slopes anticipated after major grading activities;
2. Areas of soil disturbance and areas that will not be disturbed;
3. Locations of major structural and nonstructural BMPs identified in the SWPPP;
4. Locations where stabilization practices are expected to occur;
5. Locations of off-site material, waste, borrow or equipment storage areas;
6. Locations of all waters of the United States (including wetlands);
7. Locations where storm water discharges to a surface water; and
8. Areas where final stabilization has been accomplished and no further construction-phase permit requirements apply.

D. The SWPPP must describe and identify the location and description of any storm water discharge associated with industrial activity other than construction at the site. This includes storm water discharges from dedicated asphalt plants and dedicated concrete plants, that are covered by this permit.

3.4 Pollution Prevention Plan Contents: Controls to Reduce Pollutants

A. The SWPPP must include a description of all pollution control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. For each major activity identified in the project description the SWPPP must clearly describe appropriate control measures, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation.

B. The SWPPP must include a description of interim and permanent stabilization practices for the site, including a schedule of when the practices will be implemented. Site plans should ensure that existing vegetation is preserved where possible and that disturbed portions of the site are stabilized. Use of impervious surfaces for stabilization should be avoided.

C. The following records must be maintained as part of the SWPPP:

1. Dates when major grading activities occur;
2. Dates when construction activities temporarily or permanently cease on a portion of the site; and
3. Dates when stabilization measures are initiated.

D. The SWPPP must include a description of structural practices to divert flows from exposed soils, retain/detain flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site. Placement of structural practices in floodplains must be avoided to the degree practicable.

E. The SWPPP must include a description of all post-construction storm water management measures that will be installed during the construction process to control pollutants in storm water discharges after construction operations have been completed. Structural measures should be placed on upland soils to the degree practicable. Such measures must be designed and installed in compliance with applicable federal, local, state or tribal requirements.

F. The SWPPP must describe measures to prevent the discharge of solid materials, including building materials, to waters of the United States, except as authorized by a permit issued under section 404 of the CWA.

G. The SWPPP must describe measures to minimize, to the extent practicable, off-site vehicle tracking of sediments onto paved surfaces and the generation of dust.

H. The SWPPP must include a description of construction and waste materials expected to be stored on-site with updates as appropriate. The SWPPP must also include a description of controls, including storage practices, to minimize exposure of the materials to storm water, and spill prevention and response practices.

I. The SWPPP must include a description of pollutant sources from areas other than construction (including storm water discharges from dedicated asphalt plants and dedicated concrete plants), and a description of controls and measures that will be implemented at those sites to minimize pollutant discharges.

3.5 Non-Storm Water Discharge Management

The SWPPP must identify all allowable sources of non-storm water discharges listed in Subpart 1.3.B of this permit, except for flows from fire fighting activities, that are combined with storm water discharges associated with construction activity at the site. Non-storm water discharges should be eliminated or reduced to the extent feasible. The SWPPP must identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.

3.6 Maintenance of Controls

A. All erosion and sediment control measures and other protective measures identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Subpart 3.10 identify BMPs that are not operating effectively, maintenance must be performed as soon as possible and before the next storm event whenever practicable to maintain the continued effectiveness of storm water controls.

B. If existing BMPs need to be modified or if additional BMPs are necessary for any reason, implementation must be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation must be documented in the SWPPP and alternative BMPs must be implemented as soon as possible.

C. Sediment from sediment traps or sedimentation ponds must be removed when design capacity has been reduced by 50 percent.

3.7 Documentation of Permit Eligibility Related to Endangered Species

The SWPPP must include documentation supporting a determination of permit eligibility with regard to Endangered Species, including:

A. Information on whether federally-listed endangered or threatened species, or federally-designated critical habitat may be in the project area;

B. Whether such species or critical habitat may be adversely affected by storm water discharges or storm water discharge-related activities from the project;

C. Results of the Appendix C listed species and critical habitat screening determinations;

D. Confirmation of delivery of NOI to EPA or to EPA's electronic NOI system. This may include an overnight, express or registered mail receipt acknowledgment; or electronic acknowledgment from EPA's electronic NOI system.

E. Any correspondence for any stage of project planning between the U.S. Fish and Wildlife Service (FWS), EPA, the U.S. National Marine Fisheries Service (NMFS), or others and you regarding listed species and critical habitat, including any notification that delays your authorization to discharge under this permit;

F. A description of measures necessary to protect federally-listed endangered or threatened species, or federally-designated critical habitat. The permittee must describe and implement such measures to maintain eligibility for coverage under this permit.

3.8 Copy of Permit Requirements

Copies of this permit and of the signed and certified NOI form that was submitted to EPA must be included in the SWPPP. Also, upon receipt, a copy of the letter from the EPA Storm Water Notice Processing Center notifying you of their receipt of your administratively complete NOI must also be included as a component of the SWPPP.

3.9 Applicable State, Tribal, or Local Programs

The SWPPP must be consistent with all applicable federal, state, tribal, or local requirements for soil and erosion control and storm water management, including updates to the SWPPP as necessary to reflect any revisions to applicable federal, state, tribal, or local requirements for soil and erosion control.

3.10 Inspections

A. Inspections must be conducted in accordance with one of the two schedules listed below. You must specify in your SWPPP which schedule you will be following.

1. At least once every 7 calendar days, OR
2. At least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.

B Inspection frequency may be reduced to at least once every month if:

1. The entire site is temporarily stabilized,
2. Runoff is unlikely due to winter conditions (e.g., site is covered with snow, ice, or the ground is frozen), or
3. Construction is occurring during seasonal arid periods in arid areas and semi-arid areas.

C. A waiver of the inspection requirements is available until one month before thawing conditions are expected to result in a discharge if all of the following requirements are met:

1. The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e., more than one month);
2. Land disturbance activities have been suspended; and
3. The beginning and ending dates of the waiver period are documented in the SWPPP.

D. Inspections must be conducted by qualified personnel (provided by the operator or cooperatively by multiple operators). "Qualified personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact

storm water quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the construction activity.

E. Inspections must include all areas of the site disturbed by construction activity and areas used for storage of materials that are exposed to precipitation. Inspectors must look for evidence of, or the potential for, pollutants entering the storm water conveyance system. Sedimentation and erosion control measures identified in the SWPPP must be observed to ensure proper operation. Discharge locations must be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to waters of the United States, where accessible. Where discharge locations are inaccessible, nearby downstream locations must be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site must be inspected for evidence of off-site sediment tracking.

F. Utility line installation, pipeline construction, and other examples of long, narrow, linear construction activities may limit the access of inspection personnel to the areas described in Subpart 3.10.E above. Inspection of these areas could require that vehicles compromise temporarily or even permanently stabilized areas, cause additional disturbance of soils, and increase the potential for erosion. In these circumstances, controls must be inspected on the same frequencies as other construction projects, but representative inspections may be performed. For representative inspections, personnel must inspect controls along the construction site for 0.25 mile above and below each access point where a roadway, undisturbed right-of-way, or other similar feature intersects the construction site and allows access to the areas described above. The conditions of the controls along each inspected 0.25 mile segment may be considered as representative of the condition of controls along that reach extending from the end of the 0.25 mile segment to either the end of the next 0.25 mile inspected segment, or to the end of the project, whichever occurs first.

G. For each inspection required above, you must complete an inspection report. At a minimum, the inspection report must include:

1. The inspection date;
2. Names, titles, and qualifications of personnel making the inspection;
3. Weather information for the period since the last inspection (or since commencement of construction activity if the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
4. Weather information and a description of any discharges occurring at the time of the inspection;
5. Location(s) of discharges of sediment or other pollutants from the site;
6. Location(s) of BMPs that need to be maintained;
7. Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
8. Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
9. Corrective action required including any changes to the SWPPP necessary and implementation dates.

A record of each inspection and of any actions taken in accordance with this Part must be retained as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated. The inspection reports must identify any incidents of non-compliance with the permit conditions. Where a report does not identify any incidents of non-compliance, the report must contain a certification that the construction project or site is in compliance with the SWPPP and this permit. The report must be signed in accordance with Appendix G, Section 11 of this permit.

3.11 Maintaining an Updated Plan

A. The SWPPP, including the site map, must be amended whenever there is a change in design, construction, operation, or maintenance at the construction site that has or could have a significant effect on the discharge of pollutants to the waters of the United States that has not been previously addressed in the SWPPP.

B. The SWPPP must be amended if during inspections or investigations by site staff, or by local, state, tribal or federal officials, it is determined that the SWPPP is ineffective in eliminating or significantly minimizing pollutants in storm water discharges from the construction site.

C. Based on the results of an inspection, the SWPPP must be modified as necessary to include additional or modified BMPs designed to correct problems identified. Revisions to the SWPPP must be completed within

seven (7) calendar days following the inspection. Implementation of these additional or modified BMPs must be accomplished as described in Subpart 3.6.B.

3.12 Signature, Plan Review and Making Plans Available

A. A copy of the SWPPP (including a copy of the permit), NOI, and acknowledgement letter from EPA must be retained at the construction site (or other location easily accessible during normal business hours to EPA, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service) from the date of commencement of construction activities to the date of final stabilization. If you have day-to-day operational control over SWPPP implementation, you must have a copy of the SWPPP available at a central location on-site for the use of all those identified as having responsibilities under the SWPPP whenever they are on the construction site. If an on-site location is unavailable to store the SWPPP when no personnel are present, notice of the plan's location must be posted near the main entrance at the construction site.

B. A sign or other notice must be posted conspicuously near the main entrance of the construction site. If displaying near the main entrance is infeasible, the notice can be posted in a local public building such as the town hall or public library. The sign or other notice must contain the following information:

1. A copy of the completed Notice of Intent as submitted to the EPA Storm Water Notice Processing Center; and
2. If the location of the SWPPP or the name and telephone number of the contact person for scheduling SWPPP viewing times has changed (i.e., is different than that submitted to EPA in the NOI), the current location of the SWPPP and name and telephone number of a contact person for scheduling viewing times.

For linear projects, the sign or other notice must be posted at a publicly accessible location near the active part of the construction project (e.g., where a pipeline project crosses a public road).

C. SWPPPs must be made available upon request by EPA; a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service to the requestor. The copy of the SWPPP that is required to be kept on-site or locally available must be made available, in its entirety, to the EPA staff for review and copying at the time of an on-site inspection.

D. All SWPPPs must be signed and certified in accordance with Appendix G, Section 11.

3.13 Management Practices

A. All control measures must be properly selected, installed, and maintained in accordance with any relevant manufacturer specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the operator must replace or modify the control for site situations as soon as practicable.

B. If sediment escapes the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts.

C. Litter, construction debris, and construction chemicals that could be exposed to storm water must be prevented from becoming a pollutant source in storm water discharges.

D. Except as provided below, stabilization measures must be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.

1. Where stabilization by the 14th day is precluded by snow cover or frozen ground conditions, stabilization measures must be initiated as soon as practicable.
2. Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within 14 days, temporary stabilization measures do not have to be initiated on that portion of the site.

3. In arid, semiarid, and drought-stricken areas where initiating perennial vegetative stabilization measures is not possible within 14 days after construction activity has temporarily or permanently ceased, final vegetative stabilization measures must be initiated as soon as practicable.

E. A combination of sediment and erosion control measures are required to achieve maximum pollutant removal.

1. Sediment Basins: For common drainage locations that serve an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin that provides storage for a calculated volume of runoff from the drainage area from a 2-year, 24-hour storm, or equivalent control measures, must be provided where attainable until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, must be provided where attainable until final stabilization of the site. When computing the number of acres draining into a common location, it is not necessary to include flows from offsite areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed area and the sediment basin. In determining whether installing a sediment basin is attainable, the operator may consider factors such as site soils, slope, available area on-site, etc. In any event, the operator must consider public safety, especially as it relates to children, as a design factor for the sediment basin, and alternative sediment controls must be used where site limitations would preclude a safe design.
2. For drainage locations which serve 10 or more disturbed acres at one time and where a temporary sediment basin or equivalent controls is not attainable, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions).
3. For drainage locations serving less than 10 acres, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for a calculated volume of runoff from a 2-year, 24-hour storm or 3,600 cubic feet of storage per acre drained is provided.

F. Velocity dissipation devices must be placed at discharge locations and along the length of any outfall channel to provide a non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).

3.14 Documentation of Permit Eligibility Related to Total Maximum Daily Loads

The SWPPP must include documentation supporting a determination of permit eligibility with regard to waters that have an EPA-established or approved TMDL, including:

A. Identification of whether your discharge is identified, either specifically or generally, in an EPA-established or approved TMDL and any associated allocations, requirements, and assumptions identified for your discharge;

B. Summaries of consultation with State or Federal TMDL authorities on consistency of SWPPP conditions with the approved TMDL, and

C. Measures taken by you to ensure that your discharge of pollutants from the site is consistent with the assumptions and requirements of the EPA-established or approved TMDL, including any specific wasteload allocation that has been established that would apply to your discharge.

See section 1.3.C.5 for further information on determining permit eligibility related to TMDLs.

PART 4: SPECIAL CONDITIONS, MANAGEMENT PRACTICES AND OTHER NON-NUMERIC LIMITATIONS

4.1 Continuation of the Expired General Permit

If this permit is not reissued or replaced prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act and remain in force and effect. If you were granted permit coverage prior to the expiration date, you will automatically remain covered by the continued permit until the earliest of:

A. Reissuance or replacement of this permit, at which time you must comply with the conditions of the new permit to maintain authorization to discharge; or

B. Your submittal of a Notice of Termination; or

C. Issuance of an individual permit for the project's discharges; or

D. A formal permit decision by EPA to not reissue this general permit, at which time you must seek coverage under an alternative general permit or an individual permit.

4.2 Requiring an Individual Permit or an Alternative General Permit

A. EPA may require you to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition EPA to take action under this paragraph. If EPA requires you to apply for an individual NPDES permit, EPA will notify you in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision and an application form. In addition, if you are an existing permittee covered under this permit, the notice will set a deadline to file the application, and will include a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to you, coverage under this general permit will automatically terminate. Applications must be submitted to EPA at the applicable EPA Regional offices listed in Appendix B of this permit. EPA may grant additional time to submit the application upon your request. If you are covered under this permit and you fail to submit in a timely manner an individual NPDES permit application as required by EPA, then the applicability of this permit to you is automatically terminated at the end of the day specified by EPA as the deadline for application submittal.

B. You may request to be excluded from the coverage of this general permit by applying for an individual permit. In such a case, you must submit an individual application in accordance with the requirements of 40 CFR §122.26(c)(1)(ii), with reasons supporting the request, to EPA at the applicable EPA Regional office listed in Appendix B of this permit. The request may be granted by issuance of an individual permit or an alternative general permit if your reasons are adequate to support the request.

C. When an individual NPDES permit is issued to you, who are otherwise subject to this permit, or you are authorized to discharge under an alternative NPDES general permit, the applicability of this permit to you is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. If you, who are otherwise subject to this permit, are denied an individual NPDES permit or an alternative NPDES general permit, the applicability of this permit to you is automatically terminated on the date of such denial, unless otherwise specified by EPA.

4.3 Releases in Excess of Reportable Quantities

The discharge of hazardous substances or oil in storm water discharges from the construction site must be prevented or minimized in accordance with the SWPPP. This permit does not relieve you of the federal reporting requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 relating to spills or other releases of oils or hazardous substances.

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110, 40 CFR Part 117 or 40 CFR Part 302, occurs during a 24-hour period:

– you must provide notice to the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area call 202–426–2675) in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 as soon as site staff have knowledge of the discharge; and

– you must modify the SWPPP as required under Subpart 3.11 within 7 calendar days of knowledge of the release to: provide a description of the release, the circumstances leading to the release, and the date of the release. Plans must identify measures to prevent the reoccurrence of such releases and to respond to such releases.

4.4 Spills

This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.

4.5 Attainment of Water Quality Standards After Authorization

A. You must select, install, implement and maintain BMPs at your construction site that minimize pollutants in the discharge as necessary to meet applicable water quality standards. In general, except in situations explained in Subpart 4.5.B below, your SWPPP developed, implemented, and updated consistent with Part 3.0 is considered as stringent as necessary to ensure that your discharges do not cause or contribute to an excursion above any applicable water quality standard.

B. At any time after authorization, EPA may determine that your storm water discharges may cause, have reasonable potential to cause, or contribute to an excursion above any applicable water quality standard. If such a determination is made, EPA will require you to:

i. Develop a supplemental BMP action plan describing SWPPP modifications in accordance with Subpart 3.11 to address adequately the identified water quality concerns;

ii. Submit valid and verifiable data and information that are representative of ambient conditions and indicate that the receiving water is attaining water quality standards; or

iii. Cease discharges of pollutants from construction activity and submit an individual permit application according to Subpart 4.2.

All written responses required under this part must include a signed certification consistent with Appendix G, Section 11.

PART 5: TERMINATION OF COVERAGE

5.1 Requirements

You may only submit a Notice of Termination (NOT) after one or more of the following conditions have been met:

A. Final stabilization has been achieved on all portions of the site for which you are responsible;

B. Another operator has assumed control according to Appendix G, Section 11.C over all areas of the site that have not been finally stabilized;

C. Coverage under an individual or alternative general NPDES permit has been obtained; or

D. For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

The NOT must be submitted within 30 days of one of the above conditions being met. Authorization to discharge terminates at midnight of the day the NOT is signed.

5.2 Submitting a Notice of Termination

It is your responsibility to submit a complete and accurate Notice of Termination (NOT), using the form provided in Appendix F (or a photocopy thereof) available at www.epa.gov/npdes/stormwater/cgp. If EPA notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOT form options (e.g., electronic submission), you may take advantage of those options to satisfy the requirements of Part 5.

A. The Notice of Termination must include the following information:

1. The NPDES permit tracking number for the storm water discharge;
2. The basis for submission of the NOT, including: final stabilization has been achieved on all portions of the site for which the permittee is responsible; another operator/permittee has assumed control over all areas of the site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or, for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner;
3. You, the operator's name, address, telephone number and your organization's Employer Identification Number (EIN) as established by the U.S. Internal Revenue Service;
4. The name of the project and address (or a description of location if no street address is available) of the construction site for which the notification is submitted; and
5. A certification statement, signed and dated by an authorized representative as defined in Appendix G, Section 11 and the name and title of that authorized representative.

5.3 Where to Submit

A. All NOTs must be submitted to one of the following addresses:

For Regular U.S. Mail Delivery:
EPA Storm Water Notice Processing Center
Mail Code 4203M
U.S. EPA
1200 Pennsylvania Avenue, NW
Washington, DC 20460

For Overnight/Express Mail Delivery:
EPA Storm Water Notice Processing Center
Room 7420
U.S. EPA
1201 Constitution Avenue, NW
Washington, DC 20004

B. In lieu of Subpart 5.3.A, you can submit your NOT to EPA using EPA's electronic system (i.e., eNOI), when available. Check www.epa.gov/npdes/stormwater/cgp for updates.

PART 6: RETENTION OF RECORDS

Copies of the SWPPP and all documentation required by this permit, including records of all data used to complete the NOI to be covered by this permit, must be retained for at least three years from the date that permit coverage expires or is terminated. This period may be extended by request of EPA at any time.

PART 7: REOPENER CLAUSE

7.1 Procedures for Modification or Revocation

Permit modification or revocation will be conducted according to 40 CFR §122.62, §122.63, §122.64 and §124.5.

7.2 Water Quality Protection

If there is evidence indicating that the storm water discharges authorized by this permit cause, have the reasonable potential to cause or contribute to an excursion above any applicable water quality standard, you may be required to obtain an individual permit in accordance with Part 4.5 of this permit, or the permit may be modified to include different limitations and/or requirements.

7.3 Timing of Permit Modification

EPA may elect to modify the permit prior to its expiration (rather than waiting for the new permit cycle) to comply with any new statutory or regulatory requirements, such as for effluent limitation guidelines, that may be promulgated in the course of the current permit cycle.

PART 8: STANDARD PERMIT CONDITIONS

The federal regulations require that the Standard Conditions provisioned at 40 CFR §122.41 be applied to all NPDES permits. You are required to comply with those Standard Conditions, details of which are provided in Appendix G.

PART 9: PERMIT CONDITIONS APPLICABLE TO SPECIFIC STATES, INDIAN COUNTRY, OR TERRITORIES

The provisions of this Part provide modifications or additions to the applicable conditions of this permit to reflect specific additional conditions required as part of the state or tribal CWA Section 401 certification process, or the Coastal Zone Management Act (CZMA) certification process, or as otherwise established by the permitting authority. The specific additional revisions and requirements only apply to activities in those specific states, Indian country, and federal facilities. States, Indian country, and federal facilities not included in this Part do not have any modifications or additions to the applicable conditions of this permit.

State Coastal Zone Management Act (CZMA) certification was not received from Massachusetts in time for that state to be included in this permit. As such, large construction activities in Massachusetts covered under the 1998 CGP will continue to be covered under that permit. EPA will reissue the CGP for Massachusetts for large and small construction activities at a later date, and will include any state-specific modifications or additions as part of the State's CZMA certification process.

A. Region 1

1. MAR100000: Commonwealth of Massachusetts, except Indian country

a. State Water Quality Statutes, Regulations, and Policies:

i. You must comply with the Massachusetts Clean Waters Act (Ch. 21, ss. 23-56).

ii. You must comply with the conditions in 314 CMR 4.00 - Surface Water Quality Standards.

iii. You must comply with the conditions in 314 CMR 3.00 - Surface Water Discharge Permit Program.

iv. You must comply with the Wetlands Protection Act, Ch. 131, s. 40 and its regulations, 310 CMR 10.00 and any order of Conditions issued by a Conservation Commission or a Superseding Order of Conditions issued by the Massachusetts Department of Environmental Protection.

b. Department of Environmental Protection Storm Water Management Policy:

i. You must comply with the Massachusetts Storm Water Management Policy, March 1997 and applicable Storm Water Performance Standards, as prescribed by state regulations promulgated under the authority of the Massachusetts Clean Waters Act, MGL Ch. 21, ss. 23-56 and the Wetlands Protection Act Ch. 131, s. 40.

c. Other State Environmental Laws, Regulations, Policies:

i. You must comply with the Massachusetts Endangered Species Act [MESA] (MGL Ch. 313A and regulations at 321 CMR 10.00) and any actions undertaken to comply with this storm water permit, shall not result in non-compliance with the MESA.

ii. You must not conduct activities under this permit that will interfere with implementation of mosquito control work conducted in accordance with Chapter 252 including, s. 5A thereunder and DEP Guideline Number BRP G01-02, West Nile Virus Application of Pesticides to Wetland Resource Areas and Buffer Zones, and Public Water Systems.

d. Other Department Directives:

i. The Department may require you to perform water quality monitoring during the permit term if monitoring is necessary for the protection of public health or the environment as designated under the authority at 314 CMR 3.00.

ii. The Department may require you to provide measurable verification of the effectiveness of BMPs and other control measures in your management program, including water quality monitoring.

iii. The Department has determined that compliance with this permit does not protect you from enforcement actions deemed necessary by the Department under its associated regulations to address an imminent threat to the public health or a significant adverse environmental impact which results in a violation of the Massachusetts Clean Waters Act, Ch. 21, ss. 26-53.

iv. The Department reserves the right to modify the 401 Water Quality Certification if any changes, modifications or deletions are made to the general permit. In addition, the Department reserves the right to add and/or alter the terms and conditions of its 401 Water Quality Certification to carry out its responsibilities during the term of this permit with respect to water quality, including any revisions to 314 CMR 4.00, Surface Water Quality Standards.

e. Permit Compliance

i. Should any violation of the Massachusetts Surface Water Quality Standards (314 CMR 4.00) or the conditions of this certification occur, the Department will direct you to correct the violations(s). The Department has the right to take any action as authorized by the General Laws of the Commonwealth to address the violation of this permit or the MA Clean Waters Act and the regulations promulgated thereunder. Substantial civil and criminal penalties are authorized under MGL Ch. 21, s. 42 for discharging into Massachusetts' waters in violation of an order or permit issued by this Department. This certification does not relieve the you of the duty to comply with other applicable Massachusetts statutes and regulations.

2. NHR100000: State of New Hampshire

a. If you disturb 100,000 square feet or more of contiguous area, you must also apply for a "Significant Alteration of the Terrain Permit from DES pursuant to RSA 485-A:17 and Env-Ws 415. This requirement

applies to the disturbances of only 50,000 square feet when construction occurs within the protected shoreline (see RSA 483-B and Env-Ws 1400).

b. You must determine that any excavation dewatering discharges are not contaminated before they will be authorized as an allowable non-storm water discharge under this permit (see Subpart 1.3.B). The water is considered uncontaminated if there is no groundwater contamination within 1,000 feet of the discharge. Information on groundwater contamination can be generated over the Internet via the NHDES web site www.des.state.nh.us (One Stop Data Retrieval, Onestop Master Site Table). The web site also provides E-mail access to an NHDES Site Remediation Contact to answer questions about using the Web site.

c. You must treat any uncontaminated excavation dewatering discharges as necessary to remove suspended solids and turbidity. The discharges must be sampled at a location prior to mixing with storm water at least once per week during weeks when discharges occur. The samples must be analyzed for total suspended solids (TSS) and must meet monthly average and maximum daily TSS limitations of 50 milligrams per liter (mg/L) and 100 mg/L, respectively. TSS (a.k.a. Residue, Nonfilterable) analysis and sampling must be performed in accordance with Tables IB (parameter, units and method) and II (required containers, preservation techniques and holding times) in 40 CFR 136.3 (see: http://www.access.gpo.gov/nara/cfr/waisidx_02/40cfr136_02.html). Records of any sampling and analysis must be maintained and kept with the SWPPP for at least three years after final site stabilization.

d. During site design and preparation of the storm water pollution prevention plan (SWPPP), you must consider opportunities for groundwater recharge using on-site infiltration. The SWPPP must include a description of any on-site infiltration that will be installed as a post construction storm water management measure (see Subpart 3.4.E) or reasons for not employing such measures. For design considerations for infiltration measures see the September 2001 DES publication titled "Managing Storm Water as a Valuable Resource" which is available online at: www.des.state.nh.us/StormWater/construction.htm. Loss of annual recharge to groundwater should be minimized through the use of infiltration measures wherever feasible.

B. Region 2

1. NYR10000I: Indian country within the State of New York

St. Regis Mohawk Territory at Akwesasne

a. NOIs shall also be submitted to the St. Regis Mohawk Tribe, Environment Division, at the same time they are submitted to EPA, at the following address:

St. Regis Mohawk Tribe, Environment Division
412 State Route 37
Akwesasne, NY 13655
Attn: Clean Water Program Manager.

b. In addition, Storm Water Pollution Prevention Plans (and any updates or amendments thereto) must be submitted to the Environment Division and to the Tribal Historic Preservation Officer at least thirty (30) days in advance of corresponding Notices of Intent. This will allow the Environment Division and the THPO to make an informed determination as to whether any proposed discharges might adversely impact the quality of its surface or groundwater, or disturb sites of historic or cultural significance to the Tribe that may be listed, or eligible to be listed, on the National Register of Historic Places.

c. Within 10 days of the inspection required under Subpart 3.10.G of this permit, the permittee shall provide a copy of the Inspection Report to the Environment Division.

C. Region 6

1. NMR150000: The State of New Mexico, except Indian country

NOTE: Conditions in the New Mexico Environment Department (NMED) certification of the permit resulted in permit requirements adding further restrictions on eligibility for discharges to Outstanding National Resource Waters (ONRWs), expanding on requirements for pollution prevention plans, and limiting options provided in the permit related to inspection frequency and final stabilization.

a. In addition to all other provisions of this permit, operators who intend to obtain authorization under this permit for all new storm water discharges must satisfy the conditions in Subpart 9.C.1.a.i, unless a TMDL has been established for the receiving stream which specifies a waste load allocation (WLA) for

construction storm water discharges or the receiving stream is a Tier 3 water, in which case Subpart 9.C.1.a.ii applies.

i. The operator must include a Sediment Control Plan (SCP) as a part of the Storm Water Pollution Prevention Plan (SWPPP). The SCP must include site-specific interim and permanent stabilization, managerial, and structural solids, erosion, and sediment control BMPs and/or other controls that are designed to prevent an increase in the sediment yield and flow velocity from pre-construction, undisturbed conditions. This applies to discharges both during construction and after construction operations have been completed. The SCP must identify, and document the rationale for selecting these BMPs and/or other controls. The SCP must also describe design specifications, construction specifications, maintenance schedules (including a long term maintenance plan), criteria for inspections, as well as expected performance and longevity of the BMPs. Using appropriate soil loss prediction models (such as SEDCAD 4.0, RUSLE, SEDIMONT II, MULTISED, etc.), the operator(s) must demonstrate, and include documentation in the SCP, that implementation of the site-specific practices will result in sediment yields that will not be greater than the sediment yield levels from pre-construction, undisturbed conditions. The SCP must be prepared in accordance with good engineering practices and certified by a registered professional engineer. The operator(s) must design, implement, and maintain BMPs in the manner specified in the SCP and the SWPPP.

ii. Operators are not eligible to obtain authorization under this permit for all new storm water discharges to outstanding national resource waters (ONRWs) (also referred to as "Tier 3: waters). According to the Antidegradation Policy at Paragraph 3 of Subsection A of 20.6.4.8 NMAC, in part, "ONRWs may include, but are not limited to, surface waters of the state within national and state monuments, parks, wildlife refuges, waters of exceptional recreational or ecological significance, and waters identified under the Wild and Scenic Rivers Act." No ONRWs exist at the time this permit is being finalized; however, during the term of the permit, if a receiving water is designated as an ONRW, the operator must obtain an individual permit for storm water discharges from large and small construction activities.

b. Storm water discharges associated with industrial activity to Clean Water Act section 303(d) waters as well as all other "waters of the State" that the New Mexico Environment Department, Surface Water Quality Bureau (SWQB) has determined to be or may reasonably be expected to be contributing to a violation of a water quality standard and/or that do not comply with the applicable anti-degradation provisions of the State's WQS are not authorized by this permit.

Note: Upon receipt of this determination, NMED anticipates that, within a reasonable period of time, EPA will notify the general permittee to apply for and obtain an individual NPDES permit for these discharges per 40 CFR Part 122.28(b)(3).

c. Inspections required under Subpart 3.10 must be conducted at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. The option for inspections at least once per 7 calendar days is not available. The Inspection Waivers provided in Parts 3.10.B and C still apply.

d. Permittees can not use temporary erosion controls as described in item 3 of the Appendix A definition of "Final Stabilization"as a method for final stabilization under the permit.

e. Signed copies of discharge monitoring reports, individual permit applications, and all other reports required by the permit to be submitted, shall also be sent to:

Program Manager
Point Source Regulation Section
Surface Water Quality Bureau
New Mexico Environment Department
P.O. Box 26110
Santa Fe, NM 87502

2. NMR15000I: Indian country within the State of New Mexico, except Navajo Reservation Lands that are covered under Arizona permit AZR10000I and Ute Mountain Reservation Lands that are covered under Colorado permit COR10000I

a. *Pueblo of Acoma* The following conditions apply only to discharges on the Pueblo of Acoma.

i. A copy of the storm water pollution prevention plan, Notice of Intent, and Notice of Termination must be submitted to the Haaku Water Office at the address below. The pollution prevention plan must be submitted to the Pueblo at least thirty (30) days in advance of submitting the Notice of Intent to EPA.

HAAKU WATER OFFICE
Pueblo of Acoma
P.O. Box 309
Pueblo of Acoma, NM 87034

b. *Pueblo of Isleta* The following conditions apply only to discharges on the Pueblo of Isleta.

i. Subpart 1.3.C.4, (Eligibility, Limitations on Coverage) first sentence, is revised to read: "This permit does not authorize discharges that EPA or the Pueblo of Isleta, prior to authorization under this permit, determines will cause, have the reasonable potential to cause, or contribute to an excursion above any applicable water quality standard or impairment of a designated use of receiving waters."

ii. Subpart 2.4. (Where to Submit) is amended to add the following section (2.4.C):

C. Copies of all Notices of Intent submitted to EPA must also be sent concurrently to the Pueblo of Isleta at the following address. Discharges are not authorized by this permit unless an accurate and complete Notice of Intent has been submitted to the Pueblo of Islet

Regular U.S. Mail Delivery	OR	Overnight/Express Mail Delivery
Environment Department Pueblo of Isleta P.O. Box 1270 Isleta, NM 87022		Environment Department Building L 11000 Broadway, SE Albuquerque, NM 87105

iii. Part 2 (Authorizations for Discharges of Storm Water from Construction Activity), second sentence, is amended to read: " Discharges are not authorized if your NOI is incomplete or inaccurate, if you failed to submit a copy of the NOI to the Pueblo of Isleta, or if you were never eligible for permit coverage.

iv. Subpart 3.4. (Pollution Prevention Plan Contents: Controls to Reduce Pollutants), section A, last sentence, is amended to read: "For each major activity identified in the project description the SWPPP must clearly describe appropriate control measures, the general sequence during the construction process in which the measures will be implemented, and which operator is responsible for the control measure's implementation and maintenance."

v. Subpart 3.8 (Copy of Permit Requirements), first sentence, is revised to read "Copies of this permit and of the signed and certified NOI form that was submitted to the Pueblo of Isleta and EPA must be included in the SWPPP."

vi. Subpart 3.10.(Inspections), section A is revised to read "Inspections must be conducted at least once every 7 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater."

vii. Subpart 3.10. (Inspections), section G, last paragraph, is amended to add: "Copies of inspection reports that identify incidents of noncompliance shall be sent to Pueblo of Isleta at the address listed in Subpart 2.4.C." (See above)

viii. Subpart 3.12. (Signature, Plan Review and Making Plans Available), section A, first sentence is amended to read: "A copy of the SWPPP (including a copy of the permit) must be retained at the construction site (or other location easily accessible during normal business hours to the Pueblo of Isleta's Environmental Department, EPA, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service) from the date of commencement of construction activities to the date of final stabilization."

ix. Subpart 3.12. (Signature, Plan Review and Making Plans Available), section C. is amended to read: "SWPPPs must be made available upon request by EPA; representatives of the Pueblo of Isleta Environment Department, a state, tribal or local agency approving sediment and erosion plans, grading plans, or storm water management plans; local government officials; the operator of a municipal separate storm sewer receiving discharges from the site; and representatives of the U.S. Fish and Wildlife Service or the National Marine Fisheries Service to the requestor. The copy of the

SWPPP that is required to be kept on-site or locally available must be made available, in its entirety, to the EPA staff and the Pueblo of Isleta's Environment Department staff for review and copying at the time of an on-site inspection.

x. Subpart 3.13. (Management Practices), section A is amended to add: "Erosion and sediment controls shall be designed to retain sediment on-site."

xi. Subpart 4.3 (Releases in Excess of Reportable Quantities), first bullet is amended to read: "you must provide notice to the Pueblo of Isleta Environment Department (505-869-5748) and the National Response Center (NRC) (800–424–8802; in the Washington, DC, metropolitan area call 202–426–2675) in accordance with the requirements of 40 CFR Part 110, 40 CFR Part 117 and 40 CFR Part 302 as soon as site staff have knowledge of the discharge; and"

xii. Subpart 4.5 (Attainment of Water Quality Standards After Authorization), is amended to add the following fourth bullet:

"You must provide the Pueblo of Isleta, at the address listed in Subpart 2.4.C, with a copy of the EPA notification, the supplemental action plan, data and certification required by EPA."

xiii. Subpart 5.3. (Where to Submit) is amended to add the following section (5.3.C):

C. Copies of all Notices of Termination submitted to EPA must also be sent concurrently to the Pueblo of Isleta at the following address.

Regular U.S. Mail Delivery	OR	Overnight/Express Mail Delivery
Environment Department Pueblo of Isleta P.O. Box 1270 Isleta, NM 87022		Environment Department Building L 11000 Broadway, SE Albuquerque, NM 87105

xiv. Any correspondence, other than NOIs and NOTs, with the Pueblo of Isleta concerning storm water discharges authorized by this permit shall sent one of the addresses in Subpart 5.3.C (see above).

xv. Appendix G, Section 9, first sentence is amended to read:

"You must allow the Pueblo of Isleta's Environment Department, EPA, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:"

xvi. Appendix G, Section 12, subsections A, B, C, F, G and H are amended to require that when you must notify EPA of an event (e.g., planned changes, anticipated noncompliance, transfers, required reporting due to potential adverse effects or environmental impacts or other noncompliance matters), the Pueblo of Isleta must also be notified.

xvii. Parties wishing to apply for an Equivalent Analysis Waiver (see Appendix D, Section C) must provide a copy of the waiver analysis to the Pueblo of Isleta at the address specified in Subpart 5.3.C (See above) at the time it is submitted to EPA.

c. *Pueblo of San Juan.* The following conditions apply only to discharges on the Pueblo of San Juan.

i. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Pueblo at the time it is provided to the Environmental Protection Agency, at the following address:

Office of Environmental Affairs
Pueblo of San Juan
P.O. Box 717
San Juan, NM 87566

ii. Appendix G, Section 10 (Monitoring and records), item D is amended to add:

"All monitoring must be conducted in accordance with the Pueblo of San Juan's Quality Assurance Project Plan."

d. *Pueblo of Sandia*. The following conditions apply only to discharges on the Pueblo of Sandia.

i. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Pueblo at the same time it is submitted to the Environmental Protection Agency.

Environment Department
Pueblo of Sandia
Box 6008
Bernalillo, NM 87004

ii. The Storm Water Pollution Prevention Plan must be available to tribal environmental personnel upon request.

iii. You must telephone the Pueblo of Sandia Environment Department at (505) 867-4533 of any noncompliance that may endanger human health or the environment within ten (10) hours of becoming aware of the circumstance.

e. *Santa Clara Pueblo*. The following conditions apply only to discharges on the Santa Clara Pueblo.

i. Copies of the Notice of Intent (NOI) and Notice of Termination (NOT) must be provided to the Santa Clara Pueblo Office of Environmental Affairs at the same time it is submitted to the Environmental Protection Agency.

Santa Clara Pueblo
Office of Environmental Affairs
One Knee Street
P.O. Box 580
Espanola, NM 87532

f. *Pueblo of Tesuque* The following conditions apply only to discharges on the Pueblo of Tesuque.

i. A copy of the storm water pollution prevention plan, Notice of Intent, and Notice of Termination must be submitted to the Pueblo of Tesuque Environment Department at the address below. The Notice of Intent and the Notice of Termination must be submitted at the same time they are submitted to EPA. The pollution prevention plan must be submitted before the project begins. Phone: 505- 983-2667 FAX: 505-982-2331

Pueblo of Tesuque
Environment Department
Rt. 42, Box 360-T
Santa Fe, NM 87506

3. OKR15000F: Discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with oil and gas exploration, drilling, operations, and pipelines (includes SIC Groups 13 and 46, and SIC codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, 09).

a. Subpart 1.3.C. (Limitations on Coverage) is modified to add paragraphs 8 and 9 as follows:

"8. For activities located within the watershed of any Oklahoma Scenic River, including the Illinois River, Flint Creek, Barren Fork Creek, Upper Mountain Fork, Little Lee Creek, and Big Lee Creek or an water or watershed designated "ORW" (Outstanding Resource Water) in Oklahoma's Water Quality Standards, this permit may only be used to authorize discharges from temporary construction activities. Discharges from ongoing activities such as sand and gravel mining or any other mineral mining are not authorized.

9. Activities located within the watershed of any Oklahoma Scenic River, including the Illinois River, Flint Creek, Barren Fork Creek, Upper Mountain Fork, Little Lee Creek, and Big Lee Creek or an water or watershed designated "ORW" (Outstanding Resource Water) in Oklahoma's Water Quality Standards, this permit may not be used to authorize discharges from concrete or asphalt batch plants."

D. Region 8

1. MTR10000I: Indian country within the State of Montana

a. Confederated Salish and Kootenai Tribes of the Flathead Nation. The following conditions apply only for projects on the Flathead Indian Reservation:

i. The permittee must send the SWPPP to the Tribes at least 30 days before construction starts. The 30 day period will give Tribal staff time to become familiar with the project site, prepare for construction inspections and determine compliance with Tribal water quality standards, as required by the Tribe's Water Quality Management Ordinance 89B (1990) and Surface Water Quality Standards & Antidegradation Policy (1995). Copies of the SWPPP should be sent to the following address:

Confederated Salish and Kootenai Tribes
Natural Resources Department
Department Head
P.O. Box 278
Pablo, MT 59855

ii. Before submitting the Notice of Termination, permittees must clearly demonstrate to an appointed tribal staff person during an on-site inspection that requirements for site stabilization have been met and all temporary erosion control structures removed. The staff person performing the on-site inspection will be determined by the Environmental Protection Division Manager. The staff person will draft a short letter stating the stabilization requirements have been met to add to the permittees Notice of Termination submission to EPA.

iii. The permittee must send a copy of the Notice of Intent (NOI) and the Notice of Termination (NOT) to the Tribes at the same time that the NOI and NOT is sent to EPA. Copies of the NOI and NOT should be sent to the address above.

b. Fort Peck Tribes - Assiniboine & Sioux. The following conditions apply only for projects within the Fort Peck Indian Reservation:

i. The permittee must send a copy of the Notice of Intent (NOI) and the Notice of Termination (NOT) to the Tribes at the same time that the NOI and NOT is sent to EPA. Copies of the NOI and NOT should be sent to the following address:

Deb Madison
Environmental Program Manager
Fort Peck Assiniboine & Sioux Tribes
P.O. Box 1027
Poplar, MT 59255

E. Region 9

1. ASR100000: The Island of American Samoa

a. Discharges authorized by the general permit shall meet all applicable American Samoa water quality standards.

b. Permittees discharging under the general permit shall comply with all conditions of the permit.

2. AZR10000I: Indian country lands within the State of Arizona, including Navajo Reservation lands in New Mexico and Utah

a. White Mountain Apache Tribe. The following condition applies only for projects on the White Mountain Apache Reservation: All NOIs for proposed storm water discharge coverage shall be provided to the following address:

Tribal Environmental Planning Office
P.O. Box 2109
Whiteriver, AZ 85941

3. NIR100000: Commonwealth of the Northern Mariana Islands (CNMI)

a. An Earthmoving and Erosion Control Permit shall be obtained from the CNMI DEQ prior to any construction activity covered under the NPDES general permit.

b. All conditions and requirements set forth in the USEPA NPDES general permit for discharges from large and small construction must be complied with.

c. A SWPPP for storm water discharges from construction activity must be approved by the Director of the CNMI DEQ prior to the submission of the NOI to USEPA. The CNMI address for the submittal of the SWPPP for approval is:

Commonwealth of the Northern Mariana Islands
Office of the Governor
Director, Division of Environmental Quality (DEQ)
P.O. Box 501304 C.K.
Saipan, MP 96950-1304

d. An NOI to be covered by the general permit for discharges from large and small construction sites must be submitted to CNMI DEQ (use above address) and USEPA, Region 9, in the form prescribed by USEPA, accompanied by a SWPPP approval letter from CNMI DEQ.

e. The NOI must be postmarked seven (7) calendar days prior to any storm water discharges and a copy must be submitted to the Director of CNMI DEQ (use above address) no later than seven (7) calendar days prior to any stormwater discharges.

f. Copies of all monitoring reports required by the NPDES general permit must be submitted to CNMI DEQ (use above address).

g. In accordance with section 10.3(h) and (i) of the CNMI water quality standards, CNMI DEQ reserves the right to deny coverage under the general permit and to require submittal of an application for an individual NPDES permit based on a review of the NOI or other information made available to the Director.

F. Region 10

1. AKR100000: The State of Alaska, except Indian country

a. Operators of construction projects disturbing five or more acres occurring outside the Municipality of Anchorage must submit a copy of the Storm Water Pollution Prevention Plan (SWPPP) and a copy of the Notice of Intent (NOI) to the State of Alaska Department of Environmental Conservation (ADEC) for review, and shall be accompanied by the state-required fee of $400. Submittal of the SWPPP and the NOI to the ADEC should be made at the same time the NOI is submitted to the EPA.

b. Operators of publicly-funded projects disturbing five or more acres occurring within the Municipality of Anchorage must submit a copy of the SWPPP and a copy of the NOI to the ADEC for review, and shall be accompanied by the state-required fee of $400. Submittal of the SWPPP and the NOI to the ADEC should be made at the same time the NOI is submitted to the EPA.

c. Operators of construction projects disturbing at least one acre and less than five acres must submit a copy of the NOI to the ADEC at the same time it is submitted to the EPA.

d. Storm Water Pollution Prevention Plans and Notices of Intent must be submitted to ADEC at the following address:

Alaska Department of Environmental Conservation
Water Quality Permitting/Storm Water
555 Cordova Street
Anchorage, Alaska 99501

e. Operators of private construction projects disturbing one or more acres within the Municipality of Anchorage shall submit a copy of the Storm Water Pollution Prevention Plan to the Municipality at the following address:

Municipality of Anchorage, Office of Planning Development and Public Works
4700 S. Bragaw Street
P.O. Box 196650
Anchorage, Alaska 99519-6650

f. Submittal of the SWPPP to the Municipality of Anchorage should be made before or at the same time the NOI is submitted to the EPA and the ADEC and shall be accompanied by any Municipality-required fee.

2. IDR100000: The State of Idaho, except Indian country

a. Any construction related storm water discharges to impaired water bodies on Idaho's Clean Water Act (CWA) Section 303(d) list with EPA-approved Total Maximum Daily Loads (TMDL) must be consistent with any load allocations established by the applicable TMDL.

b. No net increase of listed pollutants is allowed in any construction related storm water discharges to an impaired water body considered "high priority" as included on Idaho's CWA Section 303(d) list that does not yet have an EPA-approved TMDL.

c. If a TMDL has not been established for an impaired water body considered "medium priority" or "low priority" as included on Idaho's CWA Section 303(d) list, BMPs shall be employed as necessary to prohibit further impairment of the designated or existing beneficial uses.

d. Only BMPs authorized by the appropriate designated agency as defined in the Idaho Water Quality Standards and Wastewater Treatment Requirements (IDAPA 58.01.02 et seq.), or otherwise approved by the Idaho Department of Environmental Quality, will be allowed.

e. Use of the "Equivalent Analysis Waiver" in Addendum D is not authorized.

f. Operators may contact the Idaho Department of Environmental Quality regional office nearest the construction activity for more information about impaired waterways:

Boise Regional Office:
1445 N. Orchard
Boise ID 83706-2239
Tel: (208)373-0550
Fax: (208)373-0287

Cascade Satellite Office:
109 N. Main St., PO Box 247
Cascade, ID 83611
Tel: (208)382-6808
Fax: (208)382-3327

Coeur d'Alene Regional Office:
2110 Ironwood Parkway
Coeur d'Alene ID 83814
Tel: (208)769-1422
Fax: (208)769-1404

Grangeville Satellite Office:
300 W. Main
Grangeville ID 83530
Tel: (208)983-0808
Fax: (208)983-2873

Idaho Falls Regional Office:
900 N. Skyline, Suite B
Idaho Falls, ID 83402
Tel: (208)528-2650
Fax: (208)528-2695

Lewiston Regional Office:
1118 "F" Street
Lewiston, ID 83501
Tel: (208)799-4370
Toll Free: 1-877-541-3304
Fax: (208)799-3451

Pocatello Regional Office:
444 Hospital Way #300
Pocatello ID 83201
Tel: (208)236-6160
Fax: (208)236-6168

Twin Falls Regional Office:
601 Pole Line Road, Suite 2
Twin Falls, ID 83301
Tel: (208)736-2190
Fax: (208)736-2194

3. ORR10000I: Indian country within the State of Oregon, except Fort McDermitt Reservation lands (see Region 9):

a. Confederated Tribes of the Umatilla Indian Reservation. The following conditions apply only for projects within the exterior boundaries of the Umatilla Indian Reservation:

i. The operator shall be responsible for achieving compliance with the Confederated Tribes of the Umatilla Indian Reservation's (CTUIR) Water Quality Standards.

ii. The operator shall submit all Erosion Control and/or Storm Water Pollution Prevention Plans to the CTUIR Water Resources Program for review and approval by the Department of Natural Resources Director prior to submitting the Notice of Intent to EPA and prior to beginning any discharge activities.

iii. The operator shall contact the CTUIR Tribal Historic Preservation Office (THPO) prior to beginning any construction activities to determine whether a cultural resource survey of the project area or other investigation is required. All cultural resource fieldwork must be conducted by qualified personnel and documented using Oregon Reporting Standards. The resulting report must be submitted to the THPO for concurrence at least 30 days before any ground disturbing work can occur at the site. The operator must obtain THPO concurrence in the form of a letter, which (if necessary) will include any measures that must be taken to prevent or mitigate adverse effects to potentially eligible historic properties, prior to any ground disturbing work.

iv. The operator shall submit copies of the Notice of Intent to the CTUIR Water Resources Program and the CTUIR Tribal Historic Preservation Office at the same time it is submitted to EPA.

v. Erosion Control and Storm Water Pollution Prevention Plans and Notices of Intent shall be submitted to:

Confederated Tribes of the Umatilla Indian Reservation
Water Resources Program
P.O. Box 638
Pendleton, OR 97801
(541) 276-3447

Confederated Tribes of the Umatilla Indian Reservation
Cultural Resources Protection Program
Tribal Historic Preservation Office
P.O. Box 638
Pendleton, OR 97801
(541) 276-3629

b. Confederated Tribes of Warm Springs. The following conditions apply only for projects on the Warm Springs Indian Reservation:

i. All activities covered by this NPDES general permit occurring within a designated riparian buffer zone as established in Ordinance 74 (Integrated Resource Management Plan or IRMP) must be reviewed, approved and permitted through the Tribe's Hydraulic Permit Application process, including payment of any applicable fees.

ii. All activities covered by this NPDES general permit must follow all applicable land management and resource conservation requirements specified in the IRMP.

iii. Operators of activities covered by this NPDES general permit must submit a Storm Water Pollution Prevention Plan to the Tribe's Water Control Board at the following address for approval at least 30 days prior to beginning construction activity:

Chair, Warm Springs Water Control Board
P.O. Box C
Warm Springs, Oregon 97761

4. WAR10000F: Federal Facilities in the State of Washington, except those located on Indian Country

The following conditions apply to stormwater discharges from all permitted construction sites which disturb one acre or more and which discharge to surface waters (40 CFR part 122.26(b)(14)(x) and 122.26 (b)(15)):

a. Discharges must not cause or contribute to a violation of surface water quality standards (Chapter 173-201A WAC), sediment management standards (Chapter 173-204 WAC), ground water quality standards (Chapter 173-200 WAC), and human health-based criteria in the National Toxics Rule (Federal Register, Vol. 57, No. 246, Dec. 22, 1992, pages 60848-60923). Discharges that are not in compliance with these standards are not authorized.

b. You must apply all known available and reasonable methods of prevention, control and treatment (AKART), including the preparation and implementation of an adequate Stormwater Pollution Prevention Plan (SWPPP), with all appropriate BMPs installed and maintained in accordance with the SWPPP and the terms and conditions of this permit.

c. Stormwater BMPs must be properly designed, constructed, maintained and operated to:

i. Prevent pollution of state waters and protect water quality, including compliance with applicable state water quality standards;

ii. Satisfy state requirements for all known available and reasonable methods of prevention, control and treatment (AKART) of wastes (including construction stormwater runoff) prior to discharge to waters of the state; and

iii. Satisfy the federal technology-based treatment requirements under 40 CFR part 125.3.

d. You must document the technical basis for the design criteria used to select and design your stormwater management BMPs. You must document within your Stormwater Pollution Prevention Plan (SWPPP) how stormwater BMPs were selected, the pollutant removal performance expected from the BMP being selected, the technical basis (scientific, technical studies, and/or modeling) which support the performance claims for the BMPs being selected, and an assessment of how the selected BMP will

comply with state water quality standards, satisfy the state AKART requirements, and satisfy the federal technology-based treatment requirements.

If you choose to follow the stormwater management practices contained in stormwater technical manuals approved by Washington State, including the proper selection, implementation and maintenance of appropriate BMPs, you are presumed to have satisfied this demonstration requirement and do not need to include within the SWPPP the technical basis which support the performance claims for the BMPs being used. The SWPPP must include a reference to the manual used. Approved stormwater technical manuals include:

i. Stormwater Management Manual for Western Washington, August 2001, for sites west of the crest of the Cascade Mountains;

ii. Stormwater Management Manual for Eastern Washington, (completion expected in the fall of 2003) for sites east of the crest of the Cascade Mountains; or

iii. Other equivalent stormwater management guidance documents approved by Ecology.

e. Stormwater discharges from construction sites which disturb 5 acres or more (40 CFR part 122.26(b)(14)(x)) and which discharge to surface waters listed as impaired by the state under Section 303(d) of the Clean Water Act for turbidity, fine sediment, high pH, and/or phosphorus are subject to an effluent limitation that is equal to the applicable water quality standards at the point of discharge. If impairment is due to turbidity and/or fine sediment, the turbidity at the point of discharge shall not exceed the background (upstream) turbidity of the receiving water.

i. Effluent limitations apply to direct discharges to listed waterbodies as well as indirect discharges via a stormwater conveyance system.

ii. All references and requirements associated with Section 303(d) of the Clean Water Act shall use the most current listing by Ecology of impaired waters that exists at the time of application for coverage under this permit

f. Stormwater discharges from construction sites which disturb 5 acres or more (40 CFR part 122.26(b)(14)(x)) and which discharge to surface waters for which there is a total maximum daily load (TMDL) allocation or other control plan that addresses sediment (including turbidity, fine sediment, total suspended solids or siltation), high pH, or phosphorus must be consistent with the requirements in the approved TMDL or applicable control plan. Control plans may be total maximum daily load (TMDL) determinations, restrictions for the protection of endangered species, ground water management plans, or other limitations that regulate or set limits on discharges to a specific waterbody or groundwater recharge area.

Information on impaired waterways is available from the Department of Ecology web site at: http://www.ecy.wa.gov/programs/wq/stormwater. You may also contact the Department of Ecology for more information about impaired waterways at:

Mailing Address:
Department of Ecology
Stormwater Unit
PO Box 47600
Olympia, WA 98504-7600
Phone: 360-407-6000

Physical Address:
Department of Ecology
300 Desmond Drive
Lacey, WA 98503
Phone: 360-407-6000

5. WAR10000I: Indian country within the State of Washington

a. Puyallup Tribe of Indians. The following conditions apply only for projects on the Puyallup Reservation:

i. Each operator shall be responsible for achieving compliance with the Puyallup Tribe's Water Quality Standards.

ii. Each operator shall submit all Pollution Prevention Plans to the Puyallup Tribe Environmental Department for review and approval prior to beginning any discharge activities.

iii. Each operator shall submit a copy of the Notice of Intent to the Puyallup Tribal Environmental Department at the same time it is submitted to EPA.

iv. Storm Water Pollution Prevention Plans and Notices of Intent shall be submitted to:

Puyallup Tribe Natural Resources, Environmental Department
1850 Alexander Avenue
Tacoma, WA 98421

b. Confederated Tribes of the Chehalis Reservation. The following conditions apply only for projects on the Chehalis Reservation:

i. The operator shall be responsible for achieving compliance with the Chehalis Tribe's Water Quality Standards.

ii. The operator shall submit a Storm Water Pollution Prevention Plan to the Chehalis Tribe Department of Natural Resources for review and approval at least thirty (30) days prior to beginning any discharge activities.

iii. The operator shall submit a copy of the Notice of Intent to the Chehalis Tribe Department of Natural Resources at the same time it is submitted to EPA.

iv. Storm Water Pollution Prevention Plans and Notices of Intent shall be submitted to:

Chehalis Tribe Department of Natural Resources
420 Howanut Road
Oakville, WA 98568

Appendix A - Definitions and Acronyms

Definitions

"Arid Areas" means areas with an average annual rainfall of 0 to 10 inches.

"Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practice to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Commencement of Construction Activities" means the initial disturbance of soils associated with clearing, grading, or excavating activities or other construction-related activities (e.g., stockpiling of fill material).

"Control Measure" as used in this permit, refers to any BMP or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

"CWA" means the Clean Water Act or the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq.

"Discharge" when used without qualification means the ''discharge of a pollutant.''

"Discharge of Storm Water Associated with Construction Activity" as used in this permit, refers to a discharge of pollutants in storm water from areas where soil disturbing activities (e.g., clearing, grading, or excavation), construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling), or other industrial storm water directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

"Eligible" means qualified for authorization to discharge storm water under this general permit.

"Facility" or "Activity" means any "point source" or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

"Federal Facility" means any buildings, installations, structures, land, public works, equipment, aircraft, vessels, and other vehicles and property, owned by, or constructed or manufactured for the purpose of leasing to, the Federal government.

"Final Stabilization" means that:

1. All soil disturbing activities at the site have been completed and either of the two following criteria are met:

a. a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or

b. equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

2. When background native vegetation will cover less than 100 percent of the ground (e.g., arid areas, beaches), the 70 percent coverage criteria is adjusted as follows: if the native vegetation covers 50 percent of the ground, 70 percent of 50 percent (0.70 X 0.50 = 0.35) would require 35 percent total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.

3. In arid and semi-arid areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:

a. Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed, and installed along with an appropriate seed base to provide erosion control for at least three years without active maintenance by you,

b. The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.

4. For individual lots in residential construction, final stabilization means that either:

a. The homebuilder has completed final stabilization as specified above, or

b. The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization.

5. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land, staging areas for highway construction, etc.), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to ''water of the United States,'' and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria (1) or (2) or (3) above.

"Indian country" is defined at 40 CFR §122.2 to mean:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

2. All dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and

3. All Indian allotments, the Indian titles to which have not been extinquished, including rights-of-ways running through the same.

"Large Construction Activity" is defined at 40 CFR §122.26(b)(14)(x) and incorporated here by reference. A large construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than five acres of land or will disturb less than five acres of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than five acres. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

"Municipal Separate Storm Sewer System" or "MS4" is defined at 40 CFR §122.26(b)(8) to mean a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

1. Owned and operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States;

2. Designed or used for collecting or conveying storm water;

3. Which is not a combined sewer; and

4. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2.

"New Project" means the "commencement of construction activities" occurs after the effective date of this permit.

"Ongoing Project" means the "commencement of construction activities" occurs before the effective date of this permit.

"Operator" for the purpose of this permit and in the context of storm water associated with construction activity, means any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or

2. The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform permittees of EPA's interpretation of how the regulatory definitions of ''owner or operator'' and ''facility or activity'' are applied to discharges of storm water associated with construction activity.

"Owner or operator" means the owner or operator of any ''facility or activity'' subject to regulation under the NPDES program.

"Permitting Authority" means the United States Environmental Protection Agency, EPA, a Regional Administrator of the Environmental Protection Agency or an authorized representative.

"Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

"Pollutant" is defined at 40 CFR §122.2. A partial listing from this definition includes: dredged spoil, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial or municipal waste.

"Project Area" means:

- The areas on the construction site where storm water discharges originate and flow toward the point of discharge into the receiving waters (including areas where excavation, site development, or other ground disturbance activities occur) and the immediate vicinity. (Example: 1. Where bald eagles nest in a tree that is on or bordering a construction site and could be disturbed by the construction activity or where grading causes storm water to flow into a small wetland or other habitat that is on the site that contains listed species.)
- The areas where storm water discharges flow from the construction site to the point of discharge into receiving waters. (Example: Where storm water flows into a ditch, swale, or gully that leads to receiving waters and where listed species (such as amphibians) are found in the ditch, swale, or gully.)
- The areas where storm water from construction activities discharge into receiving waters and the areas in the immediate vicinity of the point of discharge. (Example: Where storm water from construction activities discharges into a stream segment that is known to harbor listed aquatic species.)
- The areas where storm water BMPs will be constructed and operated, including any areas where storm water flows to and from BMPs. (Example: Where a storm water retention pond would be built.)
- The areas upstream and /or downstream from construction activities discharges into a stream segment that may be affected by the said discharges. (Example: Where sediment discharged to a receiving stream settles downstream and impacts a breeding area of a listed aquatic species.)

"Receiving water" means the "Water of the United States" as defined in 40 CFR §122.2 into which the regulated storm water discharges.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Semi-Arid Areas" means areas with an average annual rainfall of 10 to 20 inches.

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

"Small Construction Activity" is defined at 40 CFR §122.26(b)(15) and incorporated here by reference. A small construction activity includes clearing, grading, and excavating resulting in a land disturbance that will disturb equal to or greater than one (1) acre and less than five (5) acres of land or will disturb less than one (1) acre of total land area but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than one (1) acre and less than five (5) acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the site.

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water Discharge-Related Activities" as used in this permit, include: activities that cause, contribute to, or result in storm water point source pollutant discharges, including but not limited to: excavation, site development, grading and other surface disturbance activities; and measures to control storm water including the siting, construction and operation of BMPs to control, reduce or prevent storm water pollution.

"Total Maximum Daily Load" or "TMDL" means the sum of the individual wasteload allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and natural background. If a receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure.

"Waters of the United States" is as defined at 40 CFR §122.2.

"Wetland" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

ACRONYMS

BMP - Best Management Practices

CGP - Construction General Permit

CFR - Code of Federal Regulations

CWA - Clean Water Act

EPA - United States Environmental Protection Agency

ESA - Endangered Species Act

FWS - United States Fish and Wildlife Service

MS4 - Municipal Separate Storm Sewer System

MSGP - Multi-Sector General Permit

NHPA - National Historic Preservation Act

NMFS - United States National Marine Fisheries Service

NOI - Notice of Intent

NOT - Notice of Termination

NPDES - National Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works

SHPO - State Historic Preservation Officer

SWPPP - Storm Water Pollution Prevention Plan

THPO - Tribal Historic Preservation Officer

TMDL - Total Maximum Daily Load

WQS - Water Quality Standard

Appendix B - Permit Areas Eligible for Coverage

Permit coverage for storm water discharges from construction activity occurring within the following areas is provided by legally separate and distinctly numbered permits:

1. EPA Region 1: CT, MA, ME, NH, RI, VT

US EPA, Region 01
Office of Ecosystem Protection
NPDES Storm Water Program
1 Congress St, Suite 1100 (CMU)
Boston, MA 02114-2023

The States of Connecticut, Maine, Rhode Island, and Vermont are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
MAR100000	Commonwealth of Massachusetts (except Indian country)
MAR10000I	Indian country within the State of Massachusetts
CTR10000I	Indian country within the State of Connecticut
NHR100000	State of New Hampshire
RIR10000I	Indian country within the State of Rhode Island
VTR10000F	Federal Facilities in the State of Vermont
MER10000I	Indian country within the State of Maine

2. EPA Region 2: NJ, NY, PR, VI

For NJ, NY, and VI:

US EPA, Region 02
NPDES Storm Water Program
290 Broadway, 24th Floor
New York, NY 10007-1866

For PR:

US EPA, Region 02
Caribbean Environmental Protection Division
NPDES Storm Water Program
1492 Ponce de Leon Ave
Central Europa Building, Suite 417
San Juan, PR 00907-4127

The State of New York is the NPDES Permitting Authority for the majority of discharges within its state. The State of New Jersey and the Virgin Islands are the NPDES Permitting Authority for all discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
NYR10000I	Indian country within the State of New York
PRR100000	The Commonwealth of Puerto Rico

3. EPA Region 3: DE, DC, MD, PA, VA, WV

US EPA, Region 03
NPDES Storm Water Program
1650 Arch St
Philadelphia, PA 19103

The State of Delaware is the NPDES Permitting Authority for the majority of discharges within its state. Maryland, Pennsylvania, Virginia, and West Virginia are the NPDES Permitting Authority for all discharges within their respective states.

Permit No.	Areas of Coverage/Where EPA is Permitting Authority
DCR100000	The District of Columbia
DER10000F	Federal Facilities in the State of Delaware

4. EPA Region 4: AL, FL, GA, KY, MS, NC, SC, TN

US EPA, Region 04
Water Management Division
NPDES Storm Water Program
61 Forsyth St SW
Atlanta, GA 30303-3104

Coverage Not Available. Construction activities in Region 4 must obtain permit coverage under an alternative permit.

5. EPA Region 5: IL, IN, MI, MN, OH, WI

US EPA, Region 05
NPDES & Technical Support
NPDES Storm Water Program
77 W Jackson Blvd
(WN-16J)
Chicago, IL 60604-3507

The States of Michigan, Minnesota, and Wisconsin are the NPDES Permitting Authority for the majority of discharges within their respective states. The States of Illinois, Indiana, and Ohio are the NPDES Permitting Authorities for all discharges within their respective states.

Permit No.	Areas of coverage/where EPA is Permitting Authority
MIR10000I	Indian country within the State of Michigan
MNR10000I	Indian country within the State of Minnesota
WIR10000I	Indian country within the State of Wisconsin, except the Sokaogon Chippewa (Mole Lake) Community.

6. EPA Region 6: AR, LA, OK, TX, NM (except see Region 9 for Navajo lands, and see Region 8 for Ute Mountain Reservation lands)

US EPA, Region 06
NPDES Storm Water Program
1445 Ross Ave, Suite 1200
Dallas, TX 75202-2733

The States of Louisiana, Oklahoma, and Texas are the NPDES Permitting Authority for the majority of discharges within their respective state. The State of Arkansas is the NPDES Permitting Authority for all discharges within its respective state.

Permit No.	Areas of coverage/where EPA is Permitting Authority
LAR15000I	Indian country within the State of Louisiana
NMR150000	The State of New Mexico, except Indian country
NMR15000I	Indian country within the State of New Mexico, except Navajo Reservation Lands that are covered under Arizona permit AZR10000I and Ute Mountain Reservation Lands that are covered under Colorado permit COR10000I.
OKR15000I	Indian country within the State of Oklahoma
OKR15000F	Discharges in the State of Oklahoma that are not under the authority of the Oklahoma Department of Environmental Quality, including activities associated with with oil and gas exploration, drilling, operations, and pipelines (includes SIC Groups 13 and 46, and SIC codes 492 and 5171), and point source discharges associated with agricultural production, services, and silviculture (includes SIC Groups 01, 02, 07, 08, 09).
TXR15000F	Discharges in the State of Texas that are not under the authority of the Texas Commission on Environmental Quality (formerly TNRCC), including activities associated with the exploration, development, or production of oil or gas or geothermal resources, including transportation of crude oil or natural gas by pipeline.
TXR15000I	Indian country within the State of Texas.

7. EPA Region 7: IA, KS, MO, NE (except see Region 8 for Pine Ridge Reservation Lands)

US EPA, Region 07
NPDES Storm Water Program
901 N 5th St
Kansas City, KS 66101

The States of Iowa, Kansas, and Nebraska are the NPDES Permitting Authority for the majority of discharges within their respective states. The State of Missouri is the NPDES Permitting Authority for all discharges within its state.

Permit No.	Areas of coverage/where EPA is Permitting Authority
IAR10000I	Indian country within the State of Iowa
KSR10000I	Indian country within the State of Kansas
NER10000I	Indian country within the State of Nebraska, except Pine Ridge Reservation lands (see Region 8)

8. EPA Region 8: CO, MT, ND, SD, WY, UT (except see Region 9 for Goshute Reservation and Navajo Reservation Lands), the Ute Mountain Reservation in NM, and the Pine Ridge Reservation in NE.

US EPA, Region 08
NPDES Storm Water Program
999 18th St, Suite 300
(EPR-EP)
Denver, CO 80202-2466

The States of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of coverage/where EPA is Permitting Authority
COR10000F	Federal Facilities in the State of Colorado, except those located on Indian country
COR10000I	Indian country within the State of Colorado, as well as the portion of the Ute Mountain Reservation located in New Mexico
MTR10000I	Indian country within the State of Montana
NDR10000I	Indian country within the State of North Dakota, as well as that portion of the Standing Rock Reservation located in South Dakota (except for the portion of the lands within the former boundaries of the Lake Traverse Reservation which is covered under South Dakota permit SDR10000I listed below)
SDR10000I	Indian country within the State of South Dakota, as well as the portion of the Pine Ridge Reservation located in Nebraska and the portion of the lands within the former boundaries of the Lake Traverse Reservation located in North Dakota (except for the Standing Rock Reservation which is covered under North Dakota permit NDR10000I listed above)
UTR10000I	Indian country within the State of Utah, except Goshute and Navajo Reservation lands (see Region 9)
WYR10000I	Indian country within the State of Wyoming

9. EPA Region 9: CA, HI, NV, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Goshute Reservation in UT and NV, the Navajo Reservation in UT, NM, and AZ, the Duck Valley Reservation in ID, and the Fort McDermitt Reservation in OR.

US EPA, Region 09
NPDES Storm Water Program
75 Hawthorne St
San Francisco, CA 94105-3901

The States of Arizona, California and Nevada are the NPDES Permitting Authority for the majority of discharges within their respective states. The State of Hawaii is the NPDES Permitting Authority for all discharges within its state.

Permit No.	Areas of coverage/where EPA is Permitting Authority
ASR100000	The Island of American Samoa
AZR10000I	Indian country within the State of Arizona, as well as Navajo Reservation lands in New Mexico and Utah
CAR10000I	Indian country within the State of California
GUR100000	The Island of Guam
JAR100000	Johnston Atoll
MWR100000	Midway Island and Wake Island
NIR100000	Commonwealth of the Northern Mariana Islands
NVR10000I	Indian country within the State of Nevada, as well as the Duck Valley Reservation in Idaho, the Fort McDermitt Reservation in Oregon and the Goshute Reservation in Utah

10. EPA Region 10: AK, WA, ID (except see Region 9 for Duck Valley Reservation Lands), and OR (except see Region 9 for Fort McDermitt Reservation).

US EPA, Region 10
NPDES Storm Water Program
1200 6th Ave (OW-130)
Seattle, WA 98101-1128
Phone: (206) 553-6650

The States of Oregon and Washington are the NPDES Permitting Authority for the majority of discharges within their respective states.

Permit No.	Areas of coverage/where EPA is Permitting Authority
AKR100000	The State of Alaska, except Indian country
AKR10000I	Indian country within the state of Alaska
IDR100000	The State of Idaho, except Indian country
IDR10000I	Indian country within the State of Idaho, except Duck Valley Reservation lands (see Region 9)
ORR10000I	Indian country within the State of Oregon, except Fort McDermitt Reservation lands (see Region 9)
WAR10000F	Federal Facilities in the State of Washington, except those located on Indian country
WAR10000I	Indian country within the State of Washington

Appendix C - Endangered Species Act Review Procedures

You must meet at least one of the six criteria in Subpart 1.3.C.6 to be eligible for coverage under this permit. You must follow the procedures in this Appendix to assess the potential effects of storm water discharges and storm water discharge-related activities on listed species and their critical habitat. When evaluating these potential effects, operators must evaluate the entire project area.

For purposes of this Appendix, the term “project area” is inclusive of the term “Action Area.” Action area is defined in 50 CFR §402.02 as all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action. This includes areas beyond the footprint of the construction area that may be affected by storm water discharges and storm water discharge related activities. “Project area” is defined in Appendix A.

(Operators who are eligible and able to certify eligibility under Criterion B, C, D, or F of Subpart 1.3.C.6 because of a previously issued ESA section 10 permit, a previously completed ESA section 7 consultation, or because the operator’s activities were already addressed in another operator’s certification of eligibility may proceed directly to Step Four.)

Step One: Determine if Listed Threatened or Endangered Species are Present On or Near Your Project Area

You must determine, to the best of your knowledge, whether listed species are located on or near your project area. To make this determination, you should:

- Determine if listed species are in your county or township. The local offices of the U.S. Fish and Wildlife Service (FWS), National Marine Fisheries Service (NMFS), and State or Tribal Heritage Centers often maintain lists of federally listed endangered or threatened species on their internet sites. Visit www.epa.gov/npdes/stormwater/cgp to find the appropriate site for your state or check with your local office. In most cases, these lists allow you to determine if there are listed species in your county or township.
- If there are listed species in your county or township, check to see if critical habitat has been designated and if that area overlaps or is near your project area.
- Contact your local FWS, NMFS, or State or Tribal Heritage Center to determine if the listed species could be found on or near your project area and if any critical habitat areas have been designated that overlap or are near your project area. Critical habitat areas maybe designated independently from the listed species for your county, so even if there are no listed species in your county or township, you must still contact one of the agencies mentioned above to determine if there are any critical habitat areas on or near your project area.

You can also find critical habitat designations and associated requirements at 50 CFR Parts 17 and 226. http://www.access.gpo.gov.

- If there are no listed species in your county or township, no critical habitat areas on or near your project area, or if your local FWS, NMFS, or State or Tribal Heritage Center indicates that listed species are not a concern in your part of the county or township, you may check box A on the Notice of Intent Form.
- If there are listed species and if your local FWS, NMFS, or State or Tribal Heritage Center indicates that these species could exist on or near your project area, you will need to do one or more of the following:
  - Conduct visual inspections: This method may be particularly suitable for construction sites that are smaller in size or located in non-natural settings such as highly urbanized areas or industrial parks where there is little or no natural habitat, or for construction activities that discharge directly into municipal storm water collection systems.
  - Conduct a formal biological survey. In some cases, particularly for larger construction sites with extensive storm water discharges, biological surveys may be an appropriate way to assess whether species are located on or near the project area and whether there are likely adverse effects to such species. Biological surveys are frequently performed by environmental consulting firms. A biological survey may in some cases be useful in conjunction with Steps Two, Three, or Four of these instructions.
  - Conduct an environmental assessment under the National Environmental Policy Act (NEPA). Such reviews may indicate if listed species are in proximity to the project area. Coverage under the CGP does not trigger such a review because the CGP does not regulate new sources (that is, dischargers subject to New Source Performance Standards under section 306 of the Clean Water Act), and is thus statutorily

exempted from NEPA. See CWA section 511(c). However, some construction activities might require review under NEPA for other reasons such as federal funding or other federal involvement in the project.

If listed threatened or endangered species or critical habitat are present in the project area, you must look at impacts to species and/or habitat when following Steps Two through Four. Note that many but not all measures imposed to protect listed species under these steps will also protect critical habitat. Thus, meeting the eligibility requirements of this CGP may require measures to protect critical habitat that are separate from those to protect listed species.

Step Two: Determine if the Construction Activity's Storm Water Discharges or Storm Water Discharge-Related Activities Are Likely to Adversely Affect Listed Threatened or Endangered Species or Designated Critical Habitat

To receive CGP coverage, you must assess whether your storm water discharges or storm water discharge-related activities is likely to adversely affect listed threatened or endangered species or designated critical habitat that are present on or near your project area.

Potential adverse effects from storm water discharges and storm water discharge-related activities include:

- *Hydrological.* Storm water discharges may cause siltation, sedimentation or induce other changes in receiving waters such as temperature, salinity or pH. These effects will vary with the amount of storm water discharged and the volume and condition of the receiving water. Where a storm water discharge constitutes a minute portion of the total volume of the receiving water, adverse hydrological effects are less likely. Construction activity itself may also alter drainage patterns on a site where construction occurs that can impact listed species or critical habitat.
- *Habitat.* Excavation, site development, grading, and other surface disturbance activities from construction activities, including the installation or placement of storm water BMPs, may adversely affect listed species or their habitat. Storm water may drain or inundate listed species habitat.
- *Toxicity.* In some cases, pollutants in storm water may have toxic effects on listed species.

The scope of effects to consider will vary with each site. If you are having difficulty determining whether your project is likely to adversely affect listed species or critical habitat, or one of the Services has already raised concerns to you, you must contact the appropriate office of the FWS, NMFS or Natural Heritage Center for assistance. If adverse effects are not likely, then you may check box E on the NOI form and apply for coverage under the CGP. If the discharge may adversely effect listed species or critical habitat, you must follow Step Three.

Step Three: Determine if Measures Can Be Implemented to Avoid Adverse Effects

If you make a preliminary determination that adverse effects are likely to occur, you can still receive coverage under Criterion E of Subpart 1.3.C.6 of the CGP if appropriate measures are undertaken to avoid or eliminate the likelihood of adverse effects prior to applying for CGP coverage. These measures may involve relatively simple changes to construction activities such as re-routing a storm water discharge to bypass an area where species are located, relocating BMPs, or by changing the "footprint" of the construction activity. You should contact the FWS and/or NMFS to see what appropriate measures might be suitable to avoid or eliminate the likelihood of adverse impacts to listed species and/or critical habitat. (See 50 CFR §402.13(b)). This can entail the initiation of informal consultation with the FWS and/or NMFS (described in more detail in Step Four).

If you adopt measures to avoid or eliminate adverse affects, you must continue to abide by those measures for the duration of the construction project and coverage under the CGP. These measures must be described in the SWPPP and are enforceable CGP conditions and/or conditions for meeting the eligibility criteria in Subpart 1.3. If appropriate measures to avoid the likelihood of adverse effects are not available, you must follow Step Four.

Step Four: Determine if the Eligibility Requirements of Criterion B, C, D, or F of Subpart 1.3.C.6 Can Be Met

Where adverse effects are likely, you must contact the FWS and/or NMFS. You may still be eligible for CGP coverage if any likely adverse effects can be addressed through meeting Criterion B, C, D, or F of Subpart 1.3.C.6 of the CGP. These criteria are as follows:

1. *An ESA Section 7 Consultation Is Performed for Your Activity (See Criterion B or C of Subpart 1.3.C.6 of the CGP).*

Formal or informal ESA section 7 consultation is performed with the FWS and/or NMFS that addresses the effects of your storm water discharges and storm water discharge-related activities on federally-listed and threatened

species and designated critical habitat. FWS and/or NMFS may request that consultation take place if any actions are identified that may affect listed species or critical habitat. In order to be eligible for coverage under this permit, consultation must result in a "no jeopardy opinion" or a written concurrence by the Service(s) on a finding that your storm water discharge(s) and storm water discharge-related activities are not likely to adversely affect listed species or critical habitat (For more information on consultation, see 50 CFR §402). If you receive a "jeopardy opinion," you may continue to work with the FWS and/or NMFS and your permitting authority to modify your project so that it will not jeopardize listed species or designated critical habitat.

Most consultations are accomplished through informal consultation. By the terms of this CGP, EPA has automatically designated operators as non-federal representatives for the purpose of conducting informal consultations. See Subpart 1.3.C.6 and 50 CFR §402.08 and §402.13. When conducting informal ESA section 7 consultation as a non-federal representative, you must follow the procedures found in 50 CFR Part 402 of the ESA regulations. You must notify FWS and/or NMFS of your intention and agreement to conduct consultation as a non-federal representative.

Consultation may occur in the context of another federal action at the construction site (e.g., where ESA section 7 consultation was performed for issuance of a wetlands dredge and fill permit for the project or where a NEPA review is performed for the project that incorporates a section 7 consultation). Any terms and conditions developed through consultations to protect listed species and critical habitat must be incorporated into the SWPPP. As noted above, operators may, if they wish, initiate consultation with the Services at Step Four.

Whether ESA section 7 consultation must be performed with either the FWS, NMFS or both Services depends on the listed species that may be affected by the operator's activity. In general, NMFS has jurisdiction over marine, estuaries, and anadromous species. Operators should also be aware that while formal section 7 consultation provides protection from incidental takings liability, informal consultation does not.

2. *An Incidental Taking Permit Under Section 10 of the ESA is Issued for the Operators Activity (See Criterion D of Subpart 1.3.C.6 of the CGP).*

Your construction activities are authorized through the issuance of a permit under section 10 of the ESA and that authorization addresses the effects of your storm water discharge(s) and storm water discharge-related activities on federally-listed species and designated critical habitat. You must follow FWS and/or NMFS procedures when applying for an ESA Section 10 permit (see 50 CFR §17.22(b)(1) for FWS and §222.22 for NMFS). Application instructions for section 10 permits for FWS and NMFS can be obtained by accessing the FWS and NMFS websites (http://www.fws.gov and http://www.nmfs.noaa.gov) or by contacting the appropriate FWS and NMFS regional office.

3. *You are Covered Under the Eligibility Certification of Another Operator for the Project Area (See Criterion F of Subpart 1.3.C.6 of the CGP).*

Your storm water discharges and storm water discharge-related activities were already addressed in another operator's certification of eligibility under Criteria A through E of Subpart 1.3.C.6 which also included your project area. For example, a general contractor or developer may have completed and filed an NOI for the entire project area with the necessary Endangered Species Act certifications (criteria A-E), subcontractors may then rely upon that certification and must comply with any conditions resulting from that process. By certifying eligibility under Criterion F of Subpart 1.3.C.6, you agree to comply with any measures or controls upon which the other operator's certification under Criterion B, C, or D of Subpart 1.3.C.6 was based. Certification under Criterion F of Subpart 1.3.C.6 is discussed in more detail in the Fact Sheet that accompanies this permit.

You must comply with any terms and conditions imposed under the eligibility requirements of Criterion A through F to ensure that your storm water discharges and storm water discharge-related activities are protective of listed species and/or critical habitat. Such terms and conditions must be incorporated in the project's SWPPP. If the eligibility requirements of Subpart 1.3.C.6 cannot be met, then you are not eligible for coverage under the CGP. In these instances, you may consider applying to EPA for an individual permit.

Appendix D - Small Construction Waivers and Instructions

These waivers are only available to storm water discharges associated with small construction activities (i.e., 1-5 acres). As the operator of a small construction activity, you may be able to qualify for a waiver in lieu of needing to obtain coverage under this general permit based on: (A) a low rainfall erosivity factor, (B) a TMDL analysis, or (C) an equivalent analysis that determines allocations for small construction sites are not needed. Each operator, otherwise needing permit coverage, must notify EPA of its intention for a waiver. It is the responsibility of those individuals wishing to obtain a waiver from coverage under this general permit to submit a complete and accurate waiver certification as described below. Where the operator changes or another is added during the construction project, the new operator must also submit a waiver certification to be waived.

A. Rainfall Erosivity Waiver

Under this scenario the small construction project's rainfall erosivity factor calculation ("R" in the Revised Universal Soil Loss Equation) is less than 5 during the period of construction activity. The operator must certify to the Permitting Authority that construction activity will occur only when the rainfall erosivity factor is less than 5. The period of construction activity begins at initial earth disturbance and ends with final stabilization. Where vegetation will be used for final stabilization, the date of installation of a stabilization practice that will provide interim non-vegetative stabilization can be used for the end of the construction period, provided the operator commits (as a condition of waiver eligibility) to periodically inspect and properly maintain the area until the criteria for final stabilization as defined in the construction general permit have been met. If use of this interim stabilization eligibility condition was relied on to qualify for the waiver, signature on the waiver with its certification statement constitutes acceptance of and commitment to complete the final stabilization process. The operator must submit a waiver certification to EPA prior to commencing construction activities.

Note: The rainfall erosivity factor "R" is determined in accordance with Chapter 2 of Agriculture Handbook Number 703, Predicting Soil Erosion by Water: A Guide to Conservation Planning With the Revised Universal Soil Loss Equation (RUSLE), pages 21–64, dated January 1997; United States Department of Agriculture (USDA), Agricultural Research Service.

EPA funded a cooperative agreement with Texas A&M University to develop an online rainfall erosivity calculator. You can access the calculator from EPA's website at: www.epa.gov/npdes/stormwater/cgp. Use of the calculator allows you to determine potential eligibility for the rainfall erosivity waiver. It may also be useful in determining the time periods during which construction activity could be waived from permit coverage. You may find that moving your construction activity by a few weeks or expediting site stabilization will allow you to qualify for the waiver.

If you are the operator of the construction activity and eligible for a waiver based on low erosivity potential, you must provide the following information on the waiver certification in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operators;
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The rainfall erosivity factor calculation that applies to the active construction phase at your project site; and
5. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection 11, that certifies that the construction activity will take place during a period when the value of the rainfall erosivity factor is less than five.

At the time of publication, a Low Erosivity Waiver Form is not available. If EPA does create a form, it will be noticed (either directly, by public notice, or by making information available on the Internet at www.epa.gov/npdes/stormwater/cgp.

Note: If the R factor is 5 or greater, you cannot apply for the rainfall erosivity waiver, and must apply for permit coverage as per Subpart 2.1 of the construction general permit, unless you qualify for the Water Quality Waiver as described below.

If your small construction project continues beyond the projected completion date given on the waiver certification, you must recalculate the rainfall erosivity factor for the new project duration. If the R factor is below five (5), you

must update all applicable information on the waiver certification and retain a copy of the revised waiver as part of the site SWPPP. The new waiver certification must be submitted prior to the projected completion date listed on the original waiver form to assure your exemption from permitting requirements is uninterrupted. If the new R factor is five (5) or above, you must submit an NOI as per Part 2.

B. TMDL Waiver

This waiver is available if EPA has established or approved a TMDL that addresses the pollutant(s) of concern and has determined that controls on storm water discharges from small construction activity are not needed to protect water quality. The pollutant(s) of concern include sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. Information on TMDLs that have been established or approved by EPA is available from EPA online at http://www.epa.gov/owow/tmdl/ and from state and tribal water quality agencies.

If you are the operator of the construction activity and eligible for a waiver based on compliance with an EPA established or approved TMDL, you must provide the following information on the Waiver Certification form in order to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2. Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3. Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the water body(s) that would be receiving storm water discharges from your construction project;
5. The name and approval date of the TMDL;
6. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection 11, that certifies that the construction activity will take place and that the storm water discharges will occur, within the drainage area addressed by the TMDL.

C. Equivalent Analysis Waiver

This waiver is available for non-impaired waters only. The operator can develop an equivalent analysis that determines allocations for his small construction site for the pollutant(s) of concern or determines that such allocations are not needed to protect water quality. This waiver requires a small construction operator to develop an equivalent analysis based on existing in-stream concentrations, expected growth in pollutant concentrations from all sources, and a margin of safety.

If you are a construction operator who wants to use this waiver, you must develop your equivalent analysis and provide the following information to be waived from permitting requirements:

1. Name, address and telephone number of the construction site operator(s);
2 Name (or other identifier), address, county or similar governmental subdivision, and latitude/longitude of the construction project or site;
3 Estimated construction start and completion (i.e., final stabilization) dates, and total acreage (to the nearest quarter acre) to be disturbed;
4. The name of the water bodies that would be receiving storm water discharges from your construction project;
5. Your equivalent analysis;
6. A statement, signed and dated by an authorized representative as provided in Appendix G, Subsection 11, that certifies that the construction activity will take place and that the storm water discharges will occur, within the drainage area addressed by the equivalent analysis.

D. Waiver Deadlines and Submissions

1. Waiver certifications must be submitted prior to commencement of construction activities.

2. If you submit a TMDL or equivalent analysis waiver request, you are not waived until EPA approves your request. As such, you may not commence construction activities until receipt of approval from EPA.
3. Late Notifications: Operators are not prohibited from submitting waiver certifications after initiating clearing, grading, excavation activities, or other construction activities. The Agency reserves the right to take enforcement for any unpermitted discharges that occur between the time construction commenced and waiver authorization is granted.

Submittal of a waiver certification is an optional alternative to obtaining permit coverage for discharges of storm water associated with small construction activity, provided you qualify for the waiver. Any discharge of storm water associated with small construction activity not covered by either a permit or a waiver may be considered an unpermitted discharge under the Clean Water Act. As mentioned above, EPA reserves the right to take enforcement for any unpermitted discharges that occur between the time constructioncommenced and either discharge authorization is granted or a complete and accurate waiver certification is submitted. EPA may notify any operator covered by a waiver that they must apply for a permit. EPA may notify any operator who has been in non-compliance with a waiver that they may no longer use the waiver for future projects. Any member of the public may petition EPA to take action under this provision by submitting written notice along with supporting justification.

Complete and accurate Rainfall Erosivity waiver certifications must be sent to the following address:

Regular U.S. Mail Delivery	Overnight/Express Mail Delivery
EPA Storm Water Notice Processing Center Mail Code 4203M U.S. EPA 1200 Pennsylvania Avenue, NW Washington, DC 20460	EPA Storm Water Notice Processing Center Room 7420 U.S. EPA 1201Constitution Avenue, NW Washington, DC 20004

Complete and accurate TMDL or equivalent analysis waiver requests must be sent to the applicable EPA Region office specified in Appendix B.

Appendix E - Notice of Intent Form and Instructions

From the effective date of this permit, operators are to use the Notice of Intent Form contained in this Appendix to obtain permit coverage.

This Form Replaces Form 3510-9 (8-98) Refer to the Following Pages for Instructions

Form Approved OMB Nos. 2040-0188 and 2040-0211

NPDES Form

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

Submission of this Notice of Intent (NOI) constitutes notice that the party identified in Section II of this form requests authorization to discharge pursuant to the NPDES Construction General Permit (CGP) permit number identified in Section I of this form. Submission of this NOI also constitutes notice that the party identified in Section II of this form meets the eligibility requirements of the CGP for the project identified in Section III of this form. Permit coverage is required prior to commencement of construction activity until you are eligible to terminate coverage as detailed in the CGP. To obtain authorization, you must submit a complete and accurate NOI form. Refer to the instructions at the end of this form.

I. Permit Number

II. Operator Information

Name:

IRS Employer Identification Number (EIN): -

Mailing Address:

Street:

City: State: Zip Code: -

Phone: - - Fax (optional): - -

E-mail (optional):

III. Project/Site Information

Project/Site Name:

Project Street/Location:

City: State: Zip Code: -

County or similar government subdivision:

Latitude/Longitude (Use one of three possible formats, and specify method)

Latitude 1. ° ' " N (degrees, minutes, seconds)
2. ° ' N (degrees, minutes, decimal)
3. ° N (decimal)

Longitude 1. ° ' " W (degrees, minutes, seconds)
2. ° ' W (degrees, minutes, decimal)
3. ° W (decimal)

Method: ☐ U.S.G.S. topographic map ☐ EPA web site ☐ GPS ☐ Other:
• If you used a U.S.G.S. topographic map, what was the scale:

Project Located in Indian country? ☐ Yes ☐ No
If so, name of Reservation or if not part of a Reservation, put "Not Applicable":

Estimated Project Start Date: / / Month Date Year

Estimated Project Completion Date: / / Month Date Year

Estimated Area to be Disturbed (to the nearest quarter acre): .

EPA Form 3510-9 (Rev. 6/03)

IV. SWPPP Information

Has the SWPPP been prepared in advance of filing this NOI? ☐ Yes ☐ No

Location of SWPPP for viewing: ☐ Address in Section II ☐ Address in Section III ☐ Other
If Other:

SWPPP Street:

City:

State: Zip Code: -

SWPPP Contact Information (if different than that in Section II):

Name:

Phone: - - Fax (optional): - -

E-mail (optional):

V. Discharge Information

Identify the name(s) of waterbodies to which you discharge.

Is this discharge consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s)?
☐ Yes ☐ No

VI. Endangered Species Information

Under which criterion of the permit have you satisfied your ESA eligibility obligations?
☐ A ☐ B ☐ C ☐ D ☐ E ☐ F

• If you select criterion F, provide permit tracking number of operator under which you are certifying eligibility:

VII. Certification Information

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name:

Print Title:

Signature:

Date:

EPA Form 3510-9 (Rev. 6/03)

Instructions for Completing EPA Form 3510-9

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

NPDES Form | This Form Replaces Form 3510-9 (8/98) | Form Approved OMB Nos. 2040-0188 and 2040-0211

Who Must File an NOI Form
Under the provisions of the Clean Water Act, as amended (33 U.S.C. 1251 et.seq.; the Act), federal law prohibits storm water discharges from certain construction activities to waters of the U.S. unless that discharge is covered under a National Pollutant Discharge Elimination System (NPDES) Permit. Operator(s) of construction sites where one or more acres are disturbed, smaller sites that are part of a larger common plan of development or sale where there is a cumulative disturbance of at least one acre, or any other site specifically designated by the Director, must submit an NOI to obtain coverage under an NPDES general permit. Each person, firm, public organization, or any other entity that meets either of the following criteria must file this form: (1) they have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or (2) they have day-to-day operational control of those activities at the project necessary to ensure compliance with SWPPP requirements or other permit conditions. If you have questions about whether you need an NPDES storm water permit, or if you need information to determine whether EPA or your state agency is the permitting authority, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755.

Where to File NOI Form
See the applicable CGP for information on where to send your completed NOI form.

Completing the Form
Obtain and read a copy of the appropriate EPA Storm Water Construction General Permit for your area. To complete this form, type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks (abbreviate if necessary to stay within the number of characters allowed for each item). Use one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions on this form, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755. Please submit original document with signature in ink - do not send a photocopied signature.

Section I. Permit Number
Provide the number of the permit under which you are applying for coverage (see Appendix B of the general permit for the list of eligible permit numbers).

Section II. Operator Information
Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this application. An operator of a project is a legal entity that controls at least a portion of site operations and is not necessarily the site manager. Provide the employer identification number (EIN from the Internal Revenue Service; IRS), also commonly referred to as your taxpayer ID. If the applicant does not have an EIN enter "NA" in the space provided. Also provide the operator's mailing address, telephone number, fax number (optional) and e-mail address (if you would like to be notified via e-mail of NOI approval when available). Correspondence for the NOI will be sent to this address.

Section III. Project/Site Information
Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., Intersection of State Highways 61 and 34). Complete site information must be provided for permit coverage to be granted.

The applicant must also provide the latitude and longitude of the facility either in degrees, minutes, seconds; degrees, minutes, decimal; or decimal format. The latitude and longitude of your facility can be determined in several different ways, including through the use of global positioning system (GPS) receivers, U.S. Geological Survey (U.S.G.S.) topographic or quadrangle maps, and EPA's web-based siting tools, among others. Refer to *www.epa.gov/npdes/stormwater/cgp* for further guidance on the use of these methodologies. For consistency, EPA requests that measurements be taken from the approximate center of the construction site. Applicants must specify which method they used to determine latitude and longitude. If a U.S.G.S. topographic map is used, applicants are required to specify the scale of the map used.

Indicate whether the project is in Indian country, and if so, provide the name of the Reservation. If the project is in Indian Country Lands that are not part of a Reservation, indicate "not applicable" in the space provided.

Enter the estimated construction start and completion dates using four digits for the year (i.e., 05/27/1998). Enter the estimated area to be disturbed including but not limited to: grubbing, excavation, grading, and utilities and infrastructure installation. Indicate to the nearest quarter acre. Note: 1 acre = 43,560 sq. ft.

Section IV. SWPPP Information
Indicate whether or not the SWPPP was prepared in advance of filing the NOI form. Check the appropriate box for the location where the SWPPP may be viewed. Provide the name, fax number (optional), and e-mail address (optional) of the contact person if different than that listed in Section II of the NOI form.

Instructions for Completing EPA Form 3510-9

Notice of Intent (NOI) for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit

NPDES Form | This Form Replaces Form 3510-9 (8/98) | Form Approved OMB Nos. 2040-0188 and 2040-0211

Section V. Discharge Information
Enter the name(s) of receiving waterbodies to which the project's storm water will discharge. These should be the first bodies of water that the discharge will reach. (Note: If you discharge to more than one waterbody, please indicate all such waters in the space provided and attach a separate sheet if necessary.) For example, if the discharge leaves your site and travels through a roadside swale or a storm sewer and then enters a stream that flows to a river, the stream would be the receiving waterbody. Waters of the U.S. include lakes, streams, creeks, rivers, wetlands, impoundments, estuaries, bays, oceans, and other surface bodies of water within the confines of the U.S. and U.S. coastal waters. Waters of the U.S. do not include man-made structures created solely for the purpose of wastewater treatment. U.S. Geological Survey topographical maps may be used to make this determination. If the map does not provide a name, use a format such as "unnamed tributary to Cross Creek". If you discharge into a municipal separate storm sewer system (MS4), you must identify the waterbody into which that portion of the storm sewer discharges. That information should be readily available from the operator of the MS4.

Indicate whether your storm water discharges from construction activities will be consistent with the assumptions and requirements of applicable EPA approved or established TMDL(s). To answer this question, refer to *www.epa.gov/npdes/stormwater/cgp* for state- and regional-specific TMDL information related to the construction general permit. You may also have to contact your EPA regional office or state agency. If there are no applicable TMDLs or no related requirements, please check the "yes" box in the NOI form.

Section VI. Endangered Species Information
Indicate for which criterion (i.e., A, B, C, D, E, or F) of the permit the applicant is eligible with regard to protection of federally listed endangered and threatened species, and designated critical habitat. See Part 1.3.C.6 and Appendix C of the permit. If you select criterion F, provide the permit tracking number of the operator under which you are certifying eligibility. The permit tracking number is the number assigned to the operator by the Storm Water Notice Processing Center after EPA acceptance of a complete NOI.

Section VII. Certification Information
All applications, including NOIs, must be signed as follows:
For a corporation: By a responsible corporate officer. For the purpose of this Section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOI form will not be considered eligible for permit coverage.

Paperwork Reduction Act Notice
Public reporting burden for this application is estimated to average 3.7 hours. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form, including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch 2136, U.S. Environmental Protection, Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. Include the OMB control number on any correspondence. Do not send the completed form to this address.

Appendix F - Notice of Termination Form and Instructions

From the effective date of this permit, operators are to use the Notice of Termination Form contained in this Appendix to terminate permit coverage.

This Form Replaces Form 3517-7 (8-98)
Refer to the Following Page for Instructions

Form Approved OMB Nos. 2040-0086 and 2040-0211

NPDES Form

EPA

United States Environmental Protection Agency
Washington, DC 20460

Notice of Termination (NOT) of Coverage Under an NPDES General Permit for Storm Water Discharges Associated with Construction Activity

Submission of this Notice of Termination constitutes notice that the party identified in Section II of this form is no longer authorized to discharge storm water associated with construction activity under the NPDES program from the site identified in Section III of this form. All necessary information must be included on this form. Refer to the instructions at the end of this form.

I. Permit Information

NPDES Storm Water General Permit Tracking Number: | | | | | | | | |

Reason for Termination (Check only one):

- ☐ Final stabilization has been achieved on all portions of the site for which you are responsible.
- ☐ Another operator has assumed control, according to Appendix G, Section 11.C of the CGP, over all areas of the site that have not been finally stabilized.
- ☐ Coverage under an alternative NPDES permit has been obtained.
- ☐ For residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

II. Operator Information

Name:

IRS Employer Identification Number (EIN): | | | - | | | | | | | |

Mailing Address:

Street:

City: State: Zip Code:

Phone: - - Fax (optional): - -

E-mail (optional):

III. Project/Site Information

Project/Site Name:

Project Street/Location:

City: State: Zip Code:

County or similar government subdivision:

IV. Certification Information

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Print Name: _____

Print Title: _____

Signature: _____

Date: _____

EPA Form 3510-13 (Rev. 6/03)

Instructions for Completing EPA Form 3510-13

Notice of Termination (NOT) of Coverage Under an NPDES General Permit for Storm Water Discharges Associated with Construction Activity

NPDES Form | This Form Replaces Form 3517-7 (8-98) | Form Approved OMB Nos. 2040-0086 and 2040-0211

Who May File an NOT Form

Permittees who are presently covered under the EPA-issued National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity may submit an NOT form when final stabilization has been achieved on all portions of the site for which you are responsible; another operator has assumed control in accordance with Appendix G, Section 11.C of the General Permit over all areas of the site that have not been finally stabilized; coverage under an alternative NPDES permit has been obtained; or for residential construction only, temporary stabilization has been completed and the residence has been transferred to the homeowner.

"Final stabilization" means that all soil disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of at least 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed. See "final stabilization" definition in Appendix A of the Construction General Permit for further guidance where background native vegetation covers less than 100 percent of the ground, in arid or semi-arid areas, for individual lots in residential construction, and for construction projects on land used for agricultural purposes.

Completing the Form

Type or print, using uppercase letters, in the appropriate areas only. Please place each character between the marks. Abbreviate if necessary to stay within the number of characters allowed for each item. Use only one space for breaks between words, but not for punctuation marks unless they are needed to clarify your response. If you have any questions about this form, refer to *www.epa.gov/npdes/stormwater/cgp* or telephone the Storm Water Notice Processing Center at (866) 352-7755. Please submit original document with signature in ink - do not send a photocopied signature.

Section I. Permit Number

Enter the existing NPDES Storm Water General Permit Tracking Number assigned to the project by EPA's Storm Water Notice Processing Center. If you do not know the permit tracking number, refer to *www.epa.gov/npdes/stormwater/cgp* or contact the Storm Water Notice Processing Center at (866) 352-7755.

Indicate your reason for submitting this Notice of Termination by checking the appropriate box. Check only one:

Final stabilization has been achieved on all portions of the site for which you are responsible.

Another operator has assumed control according to Appendix G, Section 11.C over all areas of the site that have not been finally stabilized.

Coverage under an alternative NPDES permit has been obtained.

For residential construction only, if temporary stabilization has been completed and the residence has been transferred to the homeowner.

Section II. Operator Information

Provide the legal name of the person, firm, public organization, or any other entity that operates the project described in this application and is covered by the permit tracking number identified in Section I. The operator of the project is the legal entity that controls the site operation, rather than the site manager. Provide the employer identification number (EIN from the Internal Revenue Service; IRS). If the applicant does not have an EIN enter "NA" in the space provided. Enter the complete mailing address and telephone number of the operator. *Optional:* enter the fax number and e-mail address of the operator.

Section III. Project/Site Information

Enter the official or legal name and complete street address, including city, state, zip code, and county or similar government subdivision of the project or site. If the project or site lacks a street address, indicate the general location of the site (e.g., intersection of State Highways 61 and 34). Complete site information must be provided for termination of permit coverage to be valid.

Section IV. Certification Information

All applications, including NOIs, must be signed as follows:

For a corporation: By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

Include the name and title of the person signing the form and the date of signing. An unsigned or undated NOT form will not be considered valid termination of permit coverage.

Paperwork Reduction Act Notice

Public reporting burden for this application is estimated to average 0.5 hours per notice, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Send comments regarding the burden estimate, any other aspect of the collection of information, or suggestions for improving this form including any suggestions which may increase or reduce this burden to: Chief, Information Policy Branch, 2136, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. Include the OMB number on any correspondence. Do not sent the completed form to this address.

Appendix G - Standard Permit Conditions

STANDARD PERMIT CONDITIONS

1. Duty To Comply

You must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

A. You must comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

B. The Clean Water Act provides that any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed the maximum amounts authorized by Section 309(d) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $27,500 per day for each violation).

The Clean Water Act provides that any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of $2,500 to $25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than $50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who knowingly violates such sections, or such conditions or limitations is subject to criminal penalties of $5,000 to $50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than $100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than $500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than $1,000,000 and can be fined up to $2,000,000 for second or subsequent convictions.

C. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Pursuant to 40 CFR Part 19 and the Act, administrative penalties for Class I violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(A) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed $27,500). Pursuant to 40 CFR Part 19 and the Act, penalties for Class II violations are not to exceed the maximum amounts authorized by Section 309(g)(2)(B) of the Act and the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. §2461 note) as amended by the Debt Collection Improvement Act (31 U.S.C. §3701 note) (currently $11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed $137,500).

2. Duty to Reapply

If you wish to continue an activity regulated by this permit after the expiration date of this permit, you must apply for and obtain a new permit.

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for you in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

4. Duty to Mitigate

You must take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

5. Proper Operation and Maintenance

You must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by you to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by you only when the operation is necessary to achieve compliance with the conditions of this permit.

6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. Your filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

7. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privileges.

8. Duty to Provide Information

You must furnish to EPA, within a reasonable time, any information which EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. You must also furnish to EPA upon request, copies of records required to be kept by this permit.

9. Inspection and Entry

You must allow EPA, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon presentation of credentials and other documents as may be required by law, to:

A. Enter upon your premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

D. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

10. Monitoring and Records

A. Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

B. You must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of EPA at any time.

C. Records of monitoring information must include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed

4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

D. Monitoring results must be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, unless other test procedures have been specified in the permit.

E. The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

11. Signatory Requirements

A. All applications, including NOIs, must be signed as follows:

1. For a corporation: By a responsible corporate officer. For the purpose of this Part, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or
3. For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this Part, a principal executive officer of a federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator of EPA).

B. All reports required by this permit, including SWPPPs, must be signed by a person described in Appendix G, Subsection 11.A above or by a duly authorized representative of that person. A person is a duly authorized representative only if:

1. The authorization is made in writing by a person described in Appendix G, Subsection 11.A;
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
3. The signed and dated written authorization is included in the SWPPP. A copy must be submitted to EPA, if requested.

C. Changes to Authorization. If an authorization under Subpart 2.1 is no longer accurate because a different operator has responsibility for the overall operation of the construction site, a new NOI satisfying the requirements of Subpart 2.1 must be submitted to EPA prior to or together with any reports, information, or applications to be signed by an authorized representative. The change in authorization must be submitted within the time frame specified in Subpart 2.2, and sent to the address specified in Subpart 2.3.

D. Any person signing documents required under the terms of this permit must include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is,

to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

E. The CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than 6 months per violation, or by both.

12. Reporting Requirements

A. Planned changes. You must give notice to EPA as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR §122.29(b); or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under 40 CFR §122.42(a)(1).

B. Anticipated noncompliance. You must give advance notice to EPA of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

C. Transfers. This permit is not transferable to any person except after notice to EPA. EPA may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (See 40 CFR §122.61; in some cases, modification or revocation and reissuance is mandatory.)

D. Monitoring reports. Monitoring results must be reported at the intervals specified elsewhere in this permit.

1. Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by EPA for reporting results of monitoring of sludge use or disposal practices.
2. If you monitor any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in 40 CFR Part 503, or as specified in the permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by EPA.
3. Calculations for all limitations which require averaging of measurements must use an arithmetic mean.

E. Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be submitted no later than 14 days following each schedule date.

F. Twenty-four hour reporting.

1. You must report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time you become aware of the circumstances. A written submission must also be provided within five days of the time you become aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
2. The following shall be included as information which must be reported within 24 hours under this paragraph.
   a. Any unanticipated bypass which exceeds any effluent limitation in the permit. (See 40 CFR §122.41(g).)
   b. Any upset which exceeds any effluent limitation in the permit
   c. Violation of a maximum daily discharge limitation for any of the pollutants listed by EPA in the permit to be reported within 24 hours. (See 40 CFR §122.44(g).)

3. EPA may waive the written report on a case-by-case basis for reports under Appendix G, Subsection 12.F.2 if the oral report has been received within 24 hours.

G. Other noncompliance. You must report all instances of noncompliance not reported under Appendix G, Subsections 12.D, 12.E, and 12.F, at the time monitoring reports are submitted. The reports must contain the information listed in Appendix G, Subsection 12.F.

H. Other information. Where you become aware that you failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Permitting Authority, you must promptly submit such facts or information.

13. Bypass

A. Definitions.

1. Bypass means the intentional diversion of waste streams from any portion of a treatment facility
2. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. Bypass not exceeding limitations. You may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Appendix G, Subsections 13.C and 13.D.

C. Notice–

1. Anticipated bypass. If you know in advance of the need for a bypass, you must submit prior notice, if possible at least ten days before the date of the bypass.
2. Unanticipated bypass. You must submit notice of an unanticipated bypass as required in Appendix G, Subsection 12.F (24-hour notice).

D. Prohibition of bypass.

1. Bypass is prohibited, and EPA may take enforcement action against you for bypass, unless:
   a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
   b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
   c. You submitted notices as required under Appendix G, Subsection 13.C.
2. EPA may approve an anticipated bypass, after considering its adverse effects, if EPA determines that it will meet the three conditions listed above in Appendix G, Subsection 13.D.1.

14. Upset

A. Definition. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond your reasonable control. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Appendix G, Subsection 14.C are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

C. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and that you can identify the cause(s) of the upset;
2. The permitted facility was at the time being properly operated; and

3. You submitted notice of the upset as required in Appendix G, Subsection 12.F.2.b(24 hour notice).
4. You complied with any remedial measures required under Appendix G, Section 4.

D. Burden of proof. In any enforcement proceeding, you, as the one seeking to establish the occurrence of an upset, has the burden of proof.

Attachment 2

Rare Species Correspondence

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Field Office
70 Commercial Street, Suite 300
Concord, New Hampshire 03301-5087

FILE

September 25, 2002

Heather Rafferty Heater
Environmental Science Service, Inc.
888 Worcester Street, Suite 240
Wellesley, Massachusetts 02482

Dear Ms. Heater:

This responds to your August 23, 2002 letter requesting supplemental information on the presence of federally-listed and proposed endangered or threatened species in relation to two upland cable routes for the Cape Wind Project in Yarmouth and Mashpee and terminating in Barnstable, Massachusetts. Our comments are provided in accordance with Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531-1543).

As mentioned in our letter of July 10, 2002, the federally-listed threatened piping plover (*Charadrius melodus*) occurs on Popponesset Beach in Mashpee, Massachusetts (Mashpee Route). However, based on a review of our files, no federally-listed or proposed threatened or endangered species under the jurisdiction of the U.S. Fish and Wildlife Service are known to occur in or immediately adjacent to the upland cable route areas within the NSTAR rights-of-way. We suggest that you contact Pat Huckery or Dr. Scott Melvin of the Massachusetts Natural Heritage and Endangered Species Program, Route 135, Westborough, MA 01581, telephone (508) 792-7270, for information on state-listed species that may be present.

Thank you for your cooperation and please contact me at 603-223-2541 if we can be of further assistance.

Sincerely yours,

Susanna L. von Oettingen

Susanna L. von Oettingen
Endangered Species Biologist
New England Field Office

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Field Office
70 Commercial Street, Suite 300
Concord, New Hampshire 03301-5087

RE: Cape Wind Project, ESS Project No. E159-000 January 5, 2007

Mr. Thomas Liddy
ESS Group, Inc.
888 Worcester Street, Suite 240
Wellesley, MA 02482

Dear Mr. Liddy:

This responds to your December 1, 2006, letter requesting information on any changes in the occurrence and distribution of federally-listed endangered, threatened, or proposed species and their habitats along the route of the proposed submarine cable in Nantucket Sound and the upland cable NSTAR transmission line corridor in Yarmouth, Massachusetts.

We are not aware of any changes to the distribution or occurrence of the threatened piping plover (*Charadrius melodus*) within the general project area. Piping plovers are well distributed along many of the south shore beaches on Cape Cod. Plovers nest west of the proposed cable landfall on nearby Great Island, Yarmouth, and east of the cable landfall on Kalmus Beach, Hyannis. They are not known to nest at Englewood Beach, the site of the proposed cable landfall.

Preliminary new information regarding the distribution of the endangered roseate tern (*Sterna dougallii*) in the general project vicinity became available this summer. During July and August, several roseate terns were observed among more than 500 terns staging at Black Beach in Falmouth (J. Spendelow, USGS, pers. comm.). Observations of color banded roseate terns were made at Eel Point, Nantucket Island, Black Beach, Falmouth and South Beach, Chatham, indicating use of beaches farther west than expected and movement around Nantucket Sound by post-breeding roseate terns (J. Spendelow, pers. comm.).

Based on information currently available to us, the New England cottontail (*Sylvilagus transitionalis*) is known to occur at a location adjacent to the Barnstable Municipal Airport. On September 12, 2006, the U.S. Fish and Wildlife Service designated the New England cottontail as a candidate species for future listing as a threatened or endangered species 176 FR 53756 (50 CFR part 17). New England cottontails are considered habitat specialists, as they are dependent on early-successional habitats typically described as thickets. New England cottontails demonstrate a strong affinity for heavy cover and are reluctant to stray from it. Habitats of this type are typically associated with beaver flowage wetlands, idle agricultural lands, power line corridors, edges of railroad right-of-ways, and patches of regenerating forests. In contrast,

eastern cottontails (which can often be found living with New England cottontails) appear to have relatively generalized habitat requirements and can often be found in residential-type habitats, such as private lawns, golf courses, and active agriculture areas.

Given suitable habitat conditions, the New England cottontail is likely to occur along the existing utility right-of-way leading from Willow Street to the Barnstable Switching Station. Vegetation management activities associated with the installation of the transmission line could have a significant impact on the ability of the New England cottontails to persist there. Although there are no regulatory requirements to do so at this time, we would like to discuss vegetation management practices that might ensure the persistence of New England cottontails in the area.

Without further information on the amount and distribution of turbidity in marine waters that will result from seabed cable installation, it is difficult to comment on the necessity of time-of-year restrictions. The time of year when the greatest number of roseate terns are likely to be present in Nantucket Sound is the period mid-July through mid-September. Accordingly, a conservative approach would avoid work in marine waters where roseate terns may be foraging during this period.

This response pertains only to listed and proposed, and candidate threatened and endangered species pursuant to the Endangered Species Act of 1973 (as amended). It does not address state-listed species or federally-protected species, such as endangered sea turtles or marine mammals, that are subject to the jurisdiction of NOAA Fisheries. Additionally, this response addresses only the route of the submarine cable and the NSTAR transmission line corridor. The Cape Wind energy park project will undergo a separate and comprehensive consultation as required under the ESA.

Receipt of any new information on the effects of the proposed action, or new information on the occurrence of listed species in the project area, may require re-evaluation of this response. Questions regarding this letter, and for further Endangered Species Act consultation, please contact me or Michael Amaral at 603/223-2541.

Sincerely yours,

Michael J. Bartlett
Supervisor
New England Field Office

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Field Office
70 Commercial Street, Suite 300
Concord, New Hampshire 03301-5087

July 10, 2002

Heather Rafferty Heater
Environmental Science Service, Inc.
888 Worcester Street, Suite 240
Wellesley, Massachusetts 02482

Dear Ms. Heater:

This responds to your June 4, 2002 letter requesting information on the presence of federally-listed and proposed endangered or threatened species in relation to two upland cable routes for the Cape Wind Project in Yarmouth and Mashpee, Massachusetts. Our comments are provided in accordance with Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531-1543).

Based on a review of our files, we have determined that the federally-listed threatened piping plover (*Charadrius melodus*) occurs on Popponesset Beach in Mashpee, Massachusetts (Alternative Landfall and Cable Route). Three pairs of piping plovers nested on this beach in 2001. You should contact Dr. Scott Melvin of the Massachusetts Natural Heritage and Endangered Species Program, Route 135, Westborough, MA 01581, telephone (508) 792-7270, for current nesting information. Should the Alternative Landfall and Cable Route be selected, please contact this office for additional consultation.

No other federally-listed or proposed threatened or endangered species under the jurisdiction of the U.S. Fish and Wildlife Service are known to occur in the two project areas. However, we suggest that you contact Pat Huckery of the Massachusetts Natural Heritage and Endangered Species Program, Route 135, Westborough, MA 01581, telephone (508) 792-7270, for information on state-listed species that may be present.

A list of federally-endangered and threatened species in Massachusetts is included for your information. Thank you for your cooperation and please contact me at 603-223-2541 if we can be of further assistance.

Sincerely yours,

Susanna L. von Oettingen
Endangered Species Biologist
New England Field Office

Enclosure

FEDERALLY LISTED ENDANGERED AND THREATENED SPECIES IN MASSACHUSETTS

Common Name	Scientific Name	Status	Distribution
FISHES:			
Sturgeon, shortnose*	Acipenser brevirostrum	E	Atlantic coastal waters and rivers (Conn. R.)
REPTILES:			
Turtle, bog	Clemmys muhlenbergii	T	Berkshire County
Turtle, green*	Chelonia mydas	T	Oceanic straggler in southern New England
Turtle, hawksbill*	Eretmochelys imbricata	E	Oceanic straggler in Southern New England
Turtle, leatherback*	Dermochelys coriacea	E	Oceanic summer resident
Turtle, loggerhead*	Caretta caretta	T	Oceanic summer resident
Turtle, Atlantic ridley*	Lepidochelys kempii	E	Oceanic summer resident
Turtle, Northern red-bellied couter (Plymouth redbelly)	Chrysemys rubriventris bangsi	E	Plymouth & Dukes Counties
BIRDS:			
Eagle, bald	Haliaeetus leucocephalus	T	Nesting: Quabbin Res., Middleborough and along Conn. R.; entire state-migratory/wintering
Plover, piping	Charadrius melodus	T	Atlantic coast, nesting
Tern, roseate	Sterna dougallii dougallii	E	Atlantic coast/islands, nesting
MAMMALS:			
Bat, Indiana	Myotis sodalis	E	Berkshire County/historic
Whale, blue*	Balaenoptera musculus	E	Oceanic
Whale, finback*	Balaenoptera physalus	E	Oceanic
Whale, humpback*	Megaptera novaeangliae	E	Oceanic
Whale, right*	Eubalaena spp. (all species)	E	Oceanic
Whale, sei*	Balaenoptera borealis	E	Oceanic
Whale, sperm*	Physeter catodon	E	Oceanic
MOLLUSKS:			
Wedgemussel, dwarf	Alasmidonta heterodon	E	Hampshire, Franklin County
INSECTS:			
Beetle, Puritan tiger	Cicindela puritana	T	Hampshire County
Beetle, Northeastern beach	Cicindela dorsalis dorsalis	T	Dukes & Bristol Counties
Beetle, American burying	Nicrophorus americanus	E	Penikese & Nantucket Isl., reintroduced populations
PLANTS:			
Small whorled pogonia	Isotria medeoloides	T	Hampshire, Essex, Hampden, Worcester, Middlesex Counties
Sandplain gerardia	Agalinus acuta	E	Barnstable & Dukes Counties
Northeastern bulrush	Scirpus ancistrochaetus	E	Franklin County

* Except for sea turtle nesting habitat, principal responsibility for these species is vested with the National Marine Fisheries Service

Rev. 1/8/02

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Field Office
70 Commercial Street, Suite 300
Concord, New Hampshire 03301-5087

September 10, 2003

Rebecca Weissman
ESS Group, Inc.
888 Worcester Street, Suite 240
Wellesley, MA 02482

Dear Ms. Weissman:

This letter responds to your August 12, 2003 letter requesting information on the presence of federally-listed and proposed endangered or threatened species in relation to a proposed submarine and upland transmission line for the Cape Wind Project in Barnstable and Yarmouth, Massachusetts. Our comments are provided in accordance with Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531-1543).

Based on information currently available to us, piping plovers occur on Kalmus Park Beach and Dunbar Point, Barnstable and Great Island, Yarmouth in the vicinity of the submarine portion of the transmission line. No other federally-listed or proposed threatened or endangered species under the jurisdiction of the U.S. Fish and Wildlife Service are known to occur in the project area, with the exception of occasional transient bald eagles (*Haliaeetus leucocephalus*).

Thank you for your cooperation and please contact me at 603-223-2541, extension 22, if we can be of further assistance.

Sincerely yours,

for Susanna L. von Oettingen
Endangered Species Biologist
New England Field Office

Attachment 3

Spill Report Form

Cape Wind Project

Spill Report Form

Observer: _____ Date: _____

Type of Material: _____ Quantity: _____

Description of Release:

_____
_____
_____
_____
_____
_____
_____

Circumstances Leading to Release:

_____
_____
_____
_____
_____
_____
_____

Location of Release:

_____
_____
_____
_____
_____
_____
_____

Response Actions:

_____
_____
_____
_____
_____
_____
_____

Attach documentation of notification and corrective measures implemented to prevent reoccurrence.

Cape Wind Project

Spill Clean-up Report

Start Date and Time: _____ Finish Date and Time: _____

Clean-up Contractor Name: _____

Street Address:

_____

City: _____ State: _____ Zip Code: _____

Spill Type and Description:

_____
_____
_____
_____

Amount of Material(s) Removed:

_____
_____
_____
_____

Material Disposal Location:

_____
_____
_____
_____

Street Address:

_____

City: _____ State: _____ Zip Code: _____

I certify that clean up was performed and completed on the above listed dates in accordance with 310 CMR 40 of the MA Contingency Plan. Spills in excess of reportable concentrations, as described in Subpart 4.3, must be reported as required under 40 CFR 100 of the Clean Water Act and certain provision of 301 and 402 of the Clean Water Act are also applicable.

Operator Signature: _____ Date: _____

Attachment 4

Emergency Contact Information

EMERGENCY NOTIFICATION PHONE NUMBERS

1. PROJECT SUPERINTENDANT
   NAME: _____ CELL: _____
   OFFICE: _____ HOME PHONE: _____

   PROJECT MANAGER:
   NAME: _____ Cell: _____
   OFFICE: _____ HOME PHONE: _____

   GENERAL SUPERINTENDANT:
   NAME: _____ Cell: _____
   OFFICE: ( )_____ HOME PHONE: ( ) _____

2. YARMOUTH FIRE DEPARTMENT
   GENERAL NUMBER: 911/ (508) 398-2211

3. BARNSTABLE FIRE DEPARTMENT
   GENERAL NUMBER: 911/ (508) 362-3312

4. MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION
   SPILL REPORT: (617) 556-1000
   SOUTHEAST REGION: (508) 946-2718

5. NATIONAL RESPONSE CENTER
   PHONE: (800) 424-8802

   ALTERNATE: U.S. ENVIRONMENTAL PROTECTION AGENCY
   EMERGENCY: (617) 223-7265
   BUSINESS: (617) 860-4300

6. YARMOUTH CONSERVATION COMMISSION
   PHONE: (508) 398-2231, Ext. 288

7. YARMOUTH DEPARTMENT OF PUBLIC WORKS
   PHONE: (508) 398-2231 Ext. Ext. 290

8. BARNSTABLE CONSERVATION COMMISSION
   PHONE: (508) 862-4093

Attachment 5

Inspection and Maintenance Form

CAPE WIND ASSOCIATES
Storm Water Pollution Prevention Plan
Inspection and Maintenance Report Form

To be completed every week and within 24 hours of a rainfall event of 0.5 inches or more

Inspector:_____ Date:_____

Days since last rainfall:_____ Amount of last rainfall:_____

EROSION CONTROL

Area	Condition of Erosion Controls	Is there evidence of washout or overtopping?	Improvement Needed?

Maintenance Required:

Date Maintenance Performed:

CAPE WIND ASSOCIATES
Storm Water Pollution Prevention Plan
Addendum Form

Date	Change to SWPPP	Reason for Change