



STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION

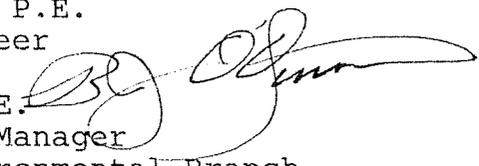
JAMES B. HUNT, JR.
GOVERNOR

DIVISION OF HIGHWAYS
P.O. BOX 25201, RALEIGH, N.C. 27611-5201

R. SAMUEL HUNT III
SECRETARY

November 1, 1994

MEMORANDUM TO: Mr. F. D. Martin, P.E.
Division 14 Engineer

FROM: B. J. O'Quinn, P.E. 
Assistant Branch Manager
Planning and Environmental Branch

SUBJECT: Swain County, Improvements to US 19 from
SR 1121 at Almonds to the existing US 19/
NC 28 Intersection; State Project No.
8.3019122; T.I.P. # A-9DA

Attached are the U. S. Army Corps of Engineers Individual Permit and the DEM 401 Water Quality Certification for the above referenced project. All environmental permits have been received for construction of this project.

BJO/eah

Attachment

cc: Mr. G. T. Shearin, P.E.
Mr. Kelly Barger, P.E.
Mr. Don Morton, P.E.
Mr. A. L. Hankins, P.E.
Mr. Victor Barbour, P.E.
Mr. John Smith, P.E.
Mr. W. D. Johnson, P.E.
Mr. N. L. Graf, FHWA
Mr. H. Franklin Vick, P.E. (cover only)
Mr. Gary Jessup (cover only)





DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS
P.O. BOX 1890
WILMINGTON, NORTH CAROLINA 28402-1890

IN REPLY REFER TO

October 26, 1994

Regulatory Branch

Action ID. 199304598

North Carolina Department of Transportation
Division of Highways
ATTN: B.J. O'Quinn, P.E.
Post Office Box 25201
Raleigh, North Carolina 27611-5201

Dear Mr. O'Quinn:

In accordance with the written request of June 17, 1994, and the ensuing administrative record, enclosed is a permit to discharge fill material into Fontana Lake, the Nantahala River, Pump and Siles Branches, and adjacent wetlands in conjunction with widening NC Highway 28 in Almond, Swain County, North Carolina (TIP No. A-9DA).

If any change in the authorized work is required because of unforeseen or altered conditions or for any other reason, the plans revised to show the change must be sent promptly to this office. Such action is necessary, as revised plans must be reviewed and the permit modified.

Carefully read your permit. The general and special conditions are important. Your failure to comply with these conditions could result in a violation of Federal law. Certain significant general conditions require that:

- a. You must complete construction before December 31, 1997.
- b. You must notify this office in advance as to when you intend to commence and complete work.
- c. You must allow representatives from this office to make periodic visits to your worksite as deemed necessary to assure compliance with permit plans and conditions.

The enclosed Notice of Authorization, ENG Form 4336, must be conspicuously displayed at your worksite.

Sincerely,

A handwritten signature in cursive script that reads "James H. Bradley".
James H. Bradley
Chief, Construction-Operations Division

Enclosures

Copy Furnished with enclosures:

NOAA, NOS, Coast & Geodetic Survey
Mapping and Charting Branch
Source Data Unit, N/Cg2211, Sta 7317
1315, East-West Highway
Silver Spring, MD 20910-3233

Copies Furnished with special conditions and plans:

Ms. L. K. (Mike) Gantt
U.S. Fish and Wildlife Service
Fish and Wildlife Enhancement
Post Office Box 33726
Raleigh, North Carolina 27636-3726

Mr. Larry Hardy
National Marine Fisheries Service
Pivers Island
Beaufort, North Carolina 28516

Mr. Thomas Welborn, Chief
U.S. Environmental Protection
Agency - Region IV
Wetlands Regulatory Unit
345 Courtland Street, N.E.
Atlanta, GA 30365

Mr. John Parker
Division of Coastal Management
North Carolina Department of
Environment, Health and
Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687

DEPARTMENT OF THE ARMY PERMIT

RECEIVED

OCT 14 1994

REGULATORY BRANCH

Permittee NCDOT

Permit No. 199304598

Issuing Office CESAW-CO-E

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Discharge approximately 61,000 cubic yards of fill material into Fontana Lake, the Nantahala River, Pump and Siles Branches, and adjacent wetlands in conjunction with widening NC Highway 28 in Almond, Swain County, North Carolina (TIP No. A-9DA). According to the enclosed plans.

Project Location:

Almond, Swain County, North Carolina

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 1997. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

See enclosed sheet.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

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

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

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

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

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

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

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

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

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

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

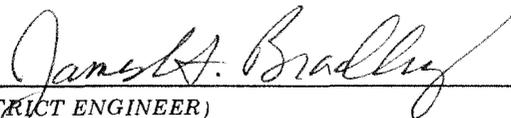
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance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

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

 Oct 11, 1994
(PERMITTEE) (DATE)
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

 10/26/94
(DISTRICT ENGINEER) (DATE)
for ROBERT J. SPERBERG, COLONEL, EN

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

(TRANSFeree) (DATE)

SPECIAL CONDITIONS

1. All work authorized by this permit must be performed in strict compliance with the attached plans, which are a part of this permit.
2. The fill material will be clean and free of any pollutants except in trace quantities. Metal products, organic materials, or unsightly debris will not be used.
3. No attempt will be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the authorized work. Use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
4. Preconstruction substrate shall be restored at the Nantahala River temporary crossing site. All excess material will be removed to an highground disposal area.
5. The activity will be conducted in such a manner as to prevent a significant increase in turbidity outside the area of construction or construction-related discharge (increases such that the turbidity in the waterbody is 25 NTU's or less are not considered significant).
6. If the permittee discovers any previously unknown historic or archeological remains while accomplishing the authorized work, he will immediately notify the Wilmington District Engineer who will initiate the required State/Federal coordination.
7. This Department of the Army permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
8. A preliminary plan for the handling and deposition of any sulfide bearing rock found during construction shall be prepared prior to the initiation of construction activities. If pyritic

rock is found, specific mitigating solutions shall be developed to handle acid runoff. Water quality monitoring stations shall be installed in drainages downstream from the project area along the construction corridor. Water quality data shall be collected before, during, and after construction in order to identify changes resulting from the construction.

9. Cofferdams should be utilized around the bridge bent footings to prevent any uncured concrete from contacting surface waters.

10. Stringent erosion control measures shall be installed before ground disturbing activities begin. These measures should be designed to anticipate heavy rainfall events in steep terrain. All measures should be regularly inspected and maintained as required.

11. Wetland mitigation requirement:

The Department of Transportation (DOT) is to prepare and implement a mitigation plan for the unavoidable 0.28 acre loss of wetlands associated with the authorized project. The plan must be approved by this office prior to implementation. The mitigation plan shall be developed in keeping with the Corps of Engineers' 1987 manual for delineating wetlands. For planning purposes, it is necessary the mitigation site be inundated or saturated for a period no less than 12.5 % of the growing season in order to satisfy the hydrology requirements of the manual.

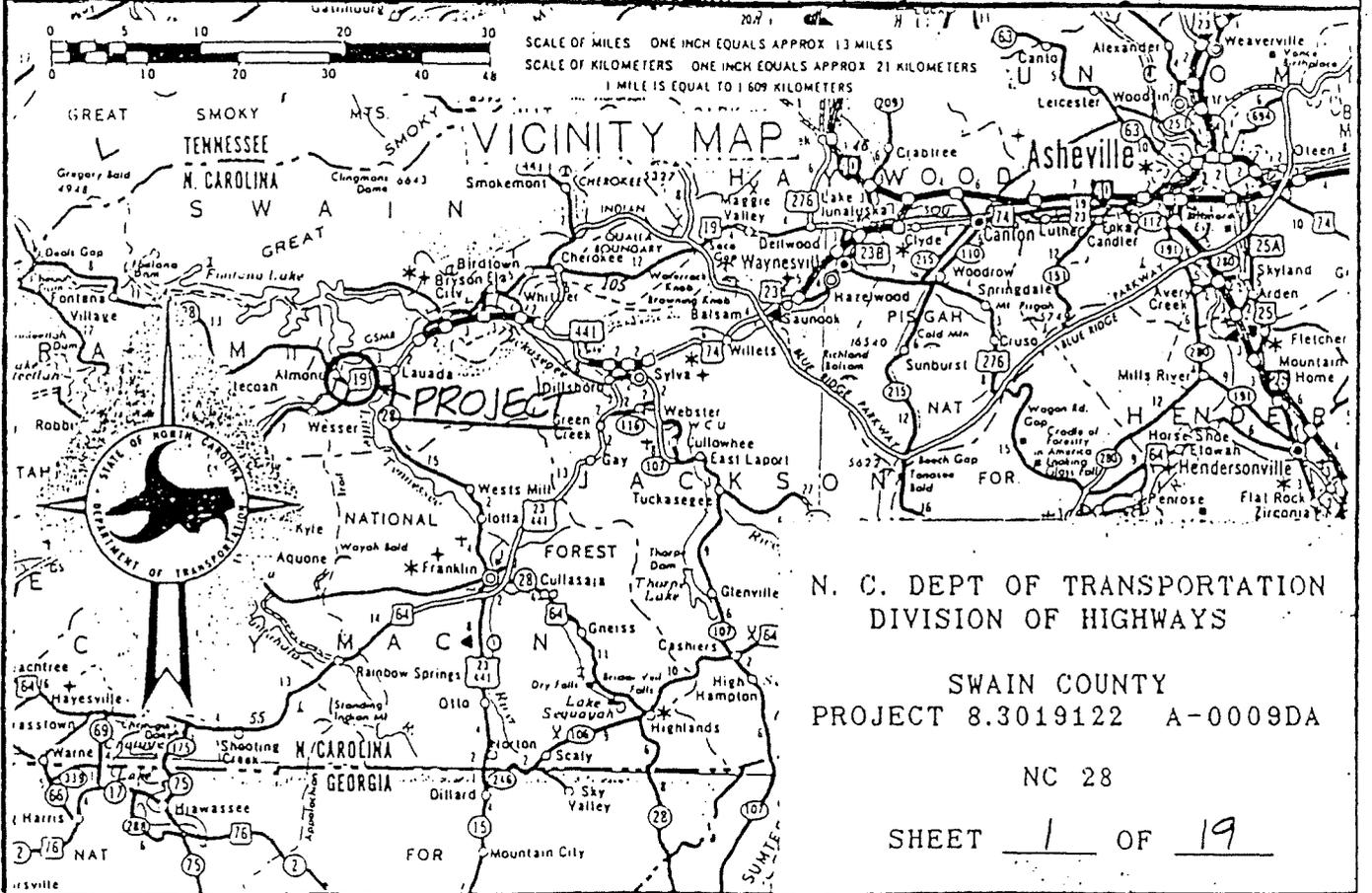
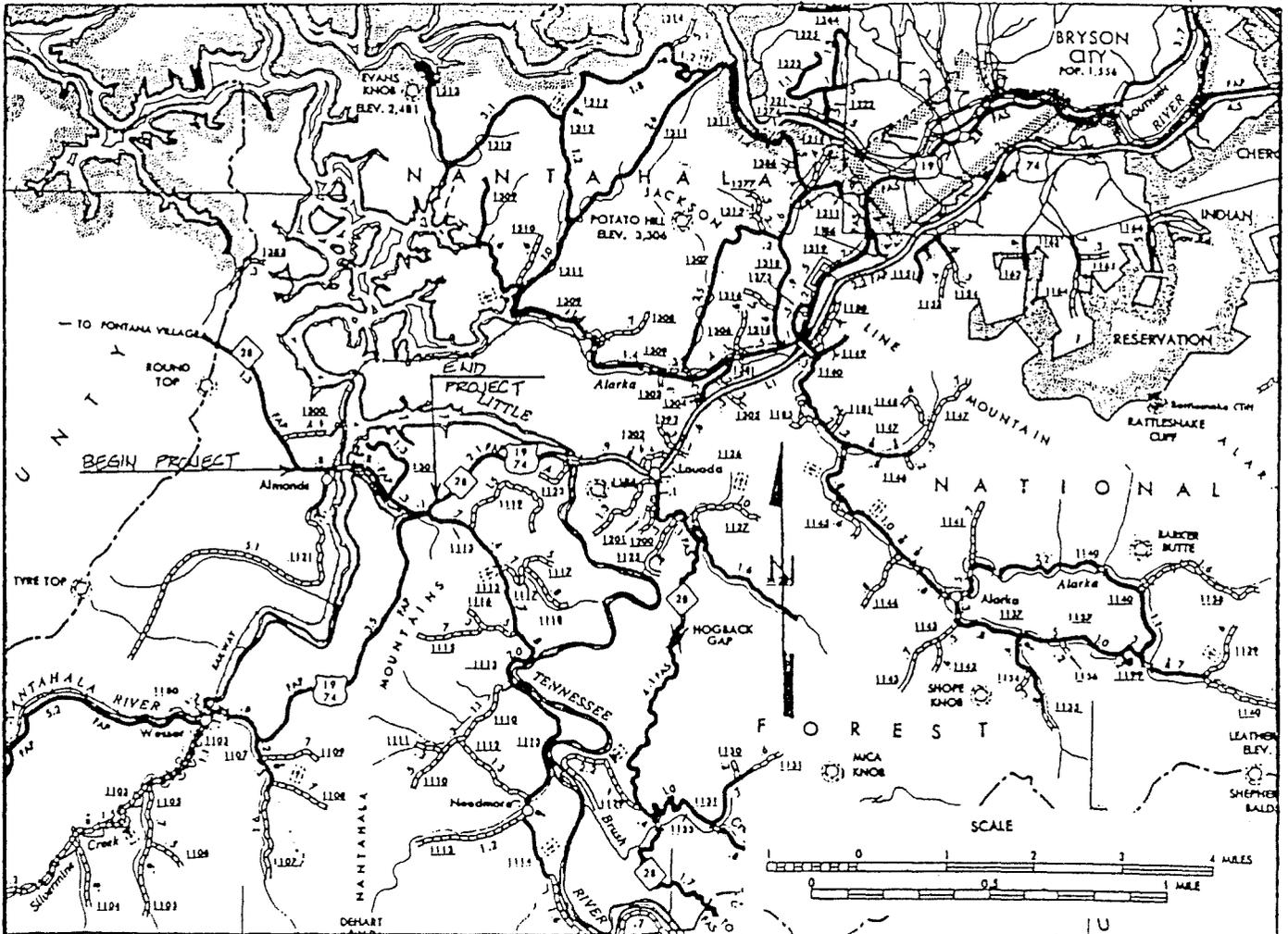
The mitigation ratios proposed by DOT in a project letter dated September 7, 1994 (see project file) are acceptable as is the proposed mitigation location at the Talula Creek mitigation bank (currently under development off State Highway 129 in Graham County). Additional special conditions regarding mitigation success criteria, monitoring requirements, and/or management

strategies may be required depending on which mitigation option is pursued. The mitigation ratios proposed by DOT include the following:

Construction	3 acres constructed for each acre lost
Restoration	2 acres restored for each acre lost
Enhancement	4 acres enhanced for each acre lost
Preservation	10 acres preserved for each acre lost

The DOT shall strive to mitigate wetland losses by selecting the construction or restoration options over enhancement and preservation. The overall mitigation objective shall be to replace or restore wetlands in kind and therefore, with similar functional value.

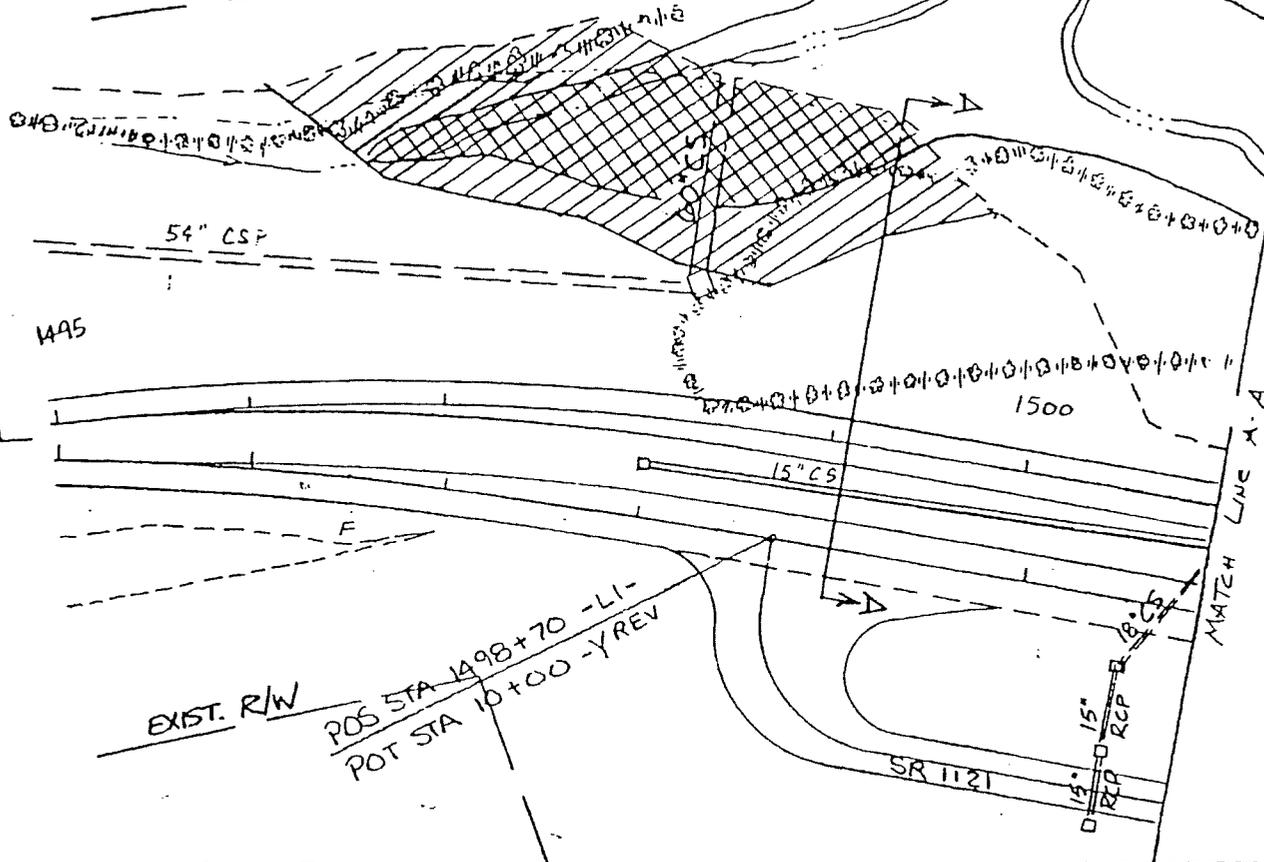
The mitigation plan is to be completed within 180 days following the date this permit is issued. Wetland mitigation work shall be completed within 1 year from the date the permit is issued.



WALTER H. BROSNAN, et al.

EDGE OF WETLANDS

EXIST. R/W



1495

1500

15" CS

MATCH LINE X-A

EXIST. R/W

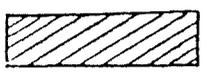
POS STA 1498+70 -LI-
POT STA 10+00 -Y-REV

SR 1121

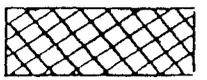
15" RCP
15" RCP

WALTER H. BROSNAN
et al.

SITE ONE

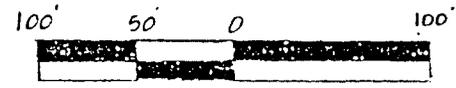


FILL BELOW MAXIMUM POOL



FILL IN WETLANDS

SCALE: 1" = 100'

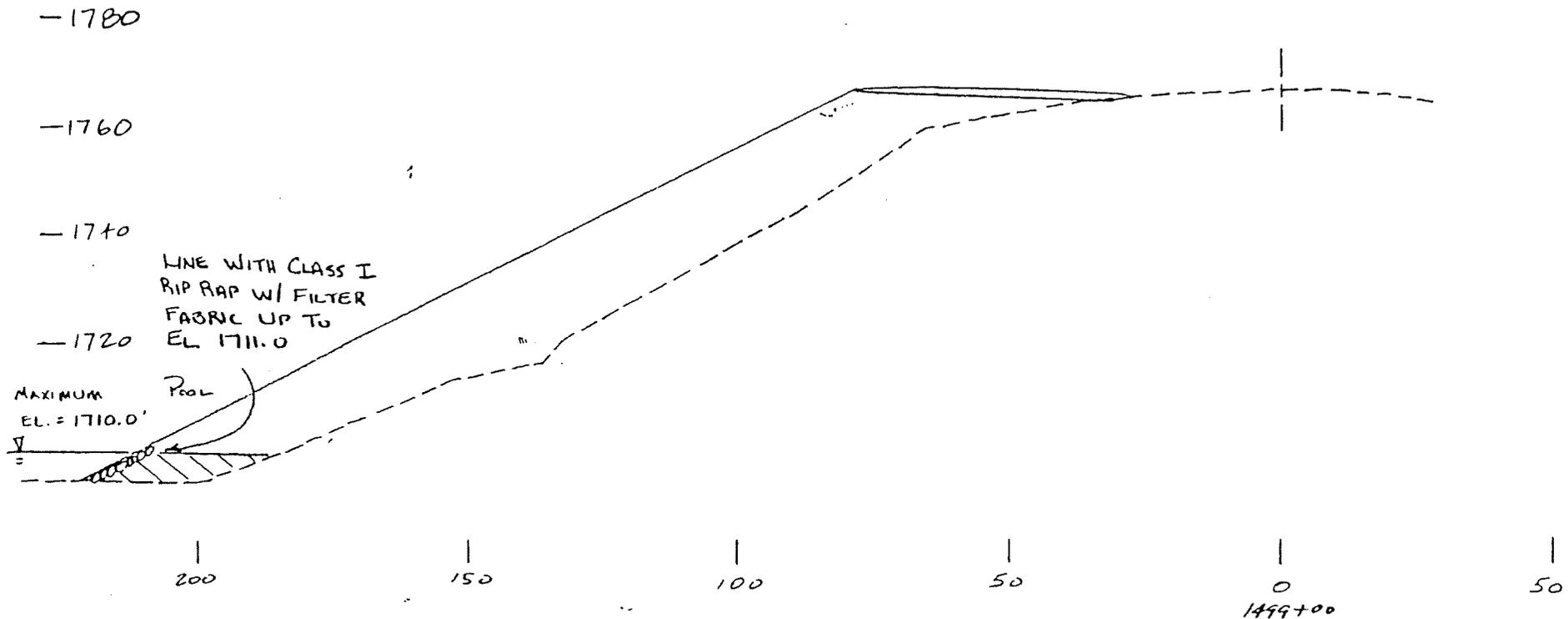


N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

SWAIN COUNTY
PROJECT 8.3019122 A-0009DA

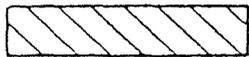
NC 28

SHEET 2 OF 19



SITE ONE

SECTION A-A



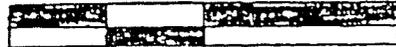
FILL BELOW MAXIMUM POOL

30 15 0 30



HORIZONTAL SCALE 1" = 30'

30 15 0 30



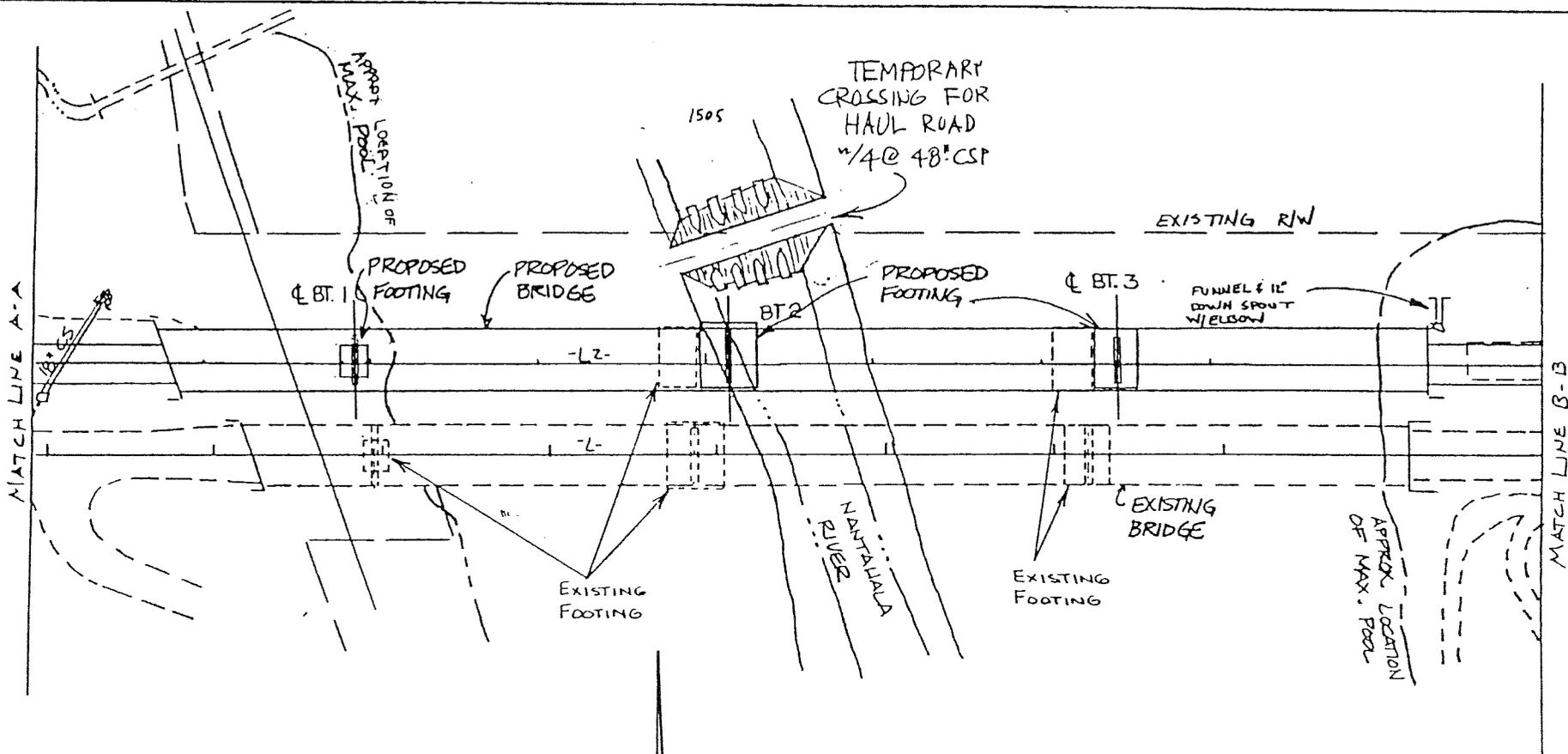
VERTICAL SCALE 1" = 30'

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DIVISION OF HIGHWAYS

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SHEET 3 OF 19



FONTANA LAKE
 TVA OWNS TO MAX. POOL ELEV. = 1710

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 DIVISION OF HIGHWAYS

SWAIN COUNTY
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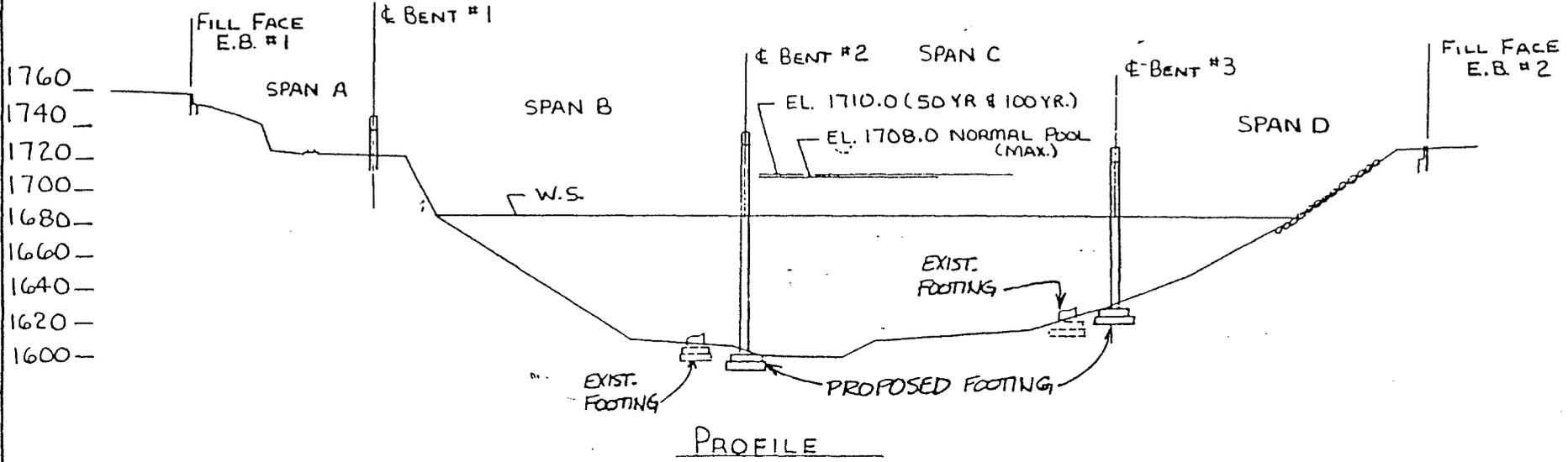
SHEET 4 OF 19

SITE Two



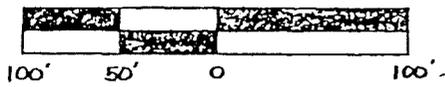
SCALE 1" = 100'

1502+00 1503+00 1504+00 1505+00 1506+00 1507+00 1508+00 1509+00

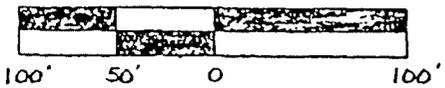


PROFILE

SITE TWO



VERTICAL SCALE 1" = 100'



HORIZONTAL SCALE 1" = 100'

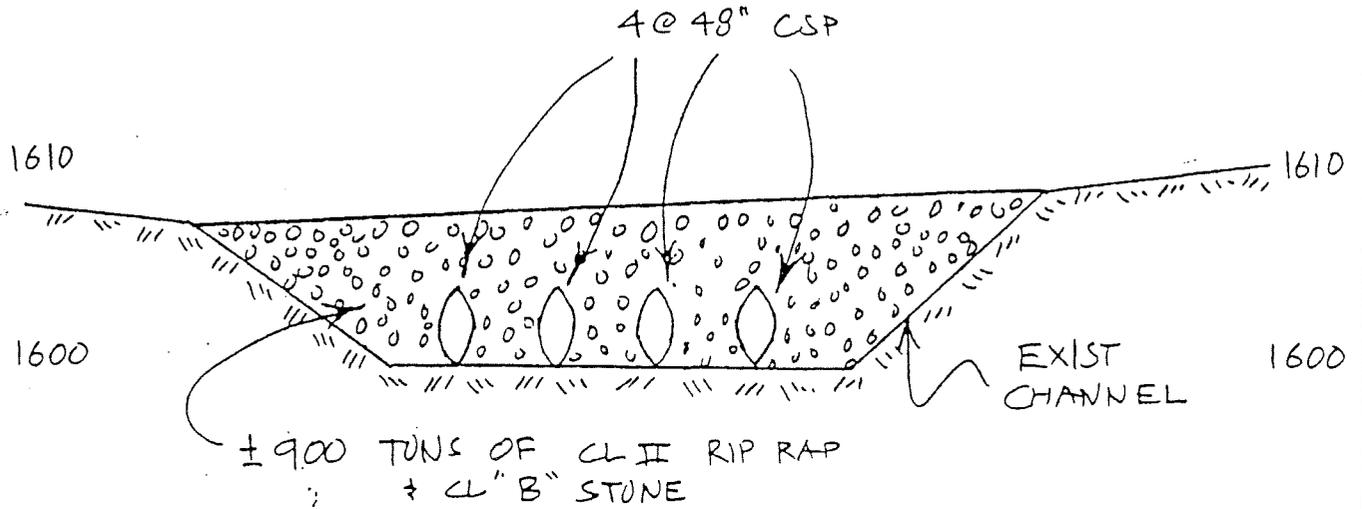
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DIVISION OF HIGHWAYS

SWAIN COUNTY
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SHEET 5 OF 19

TEMPORARY CROSSING FOR HAUL ROAD



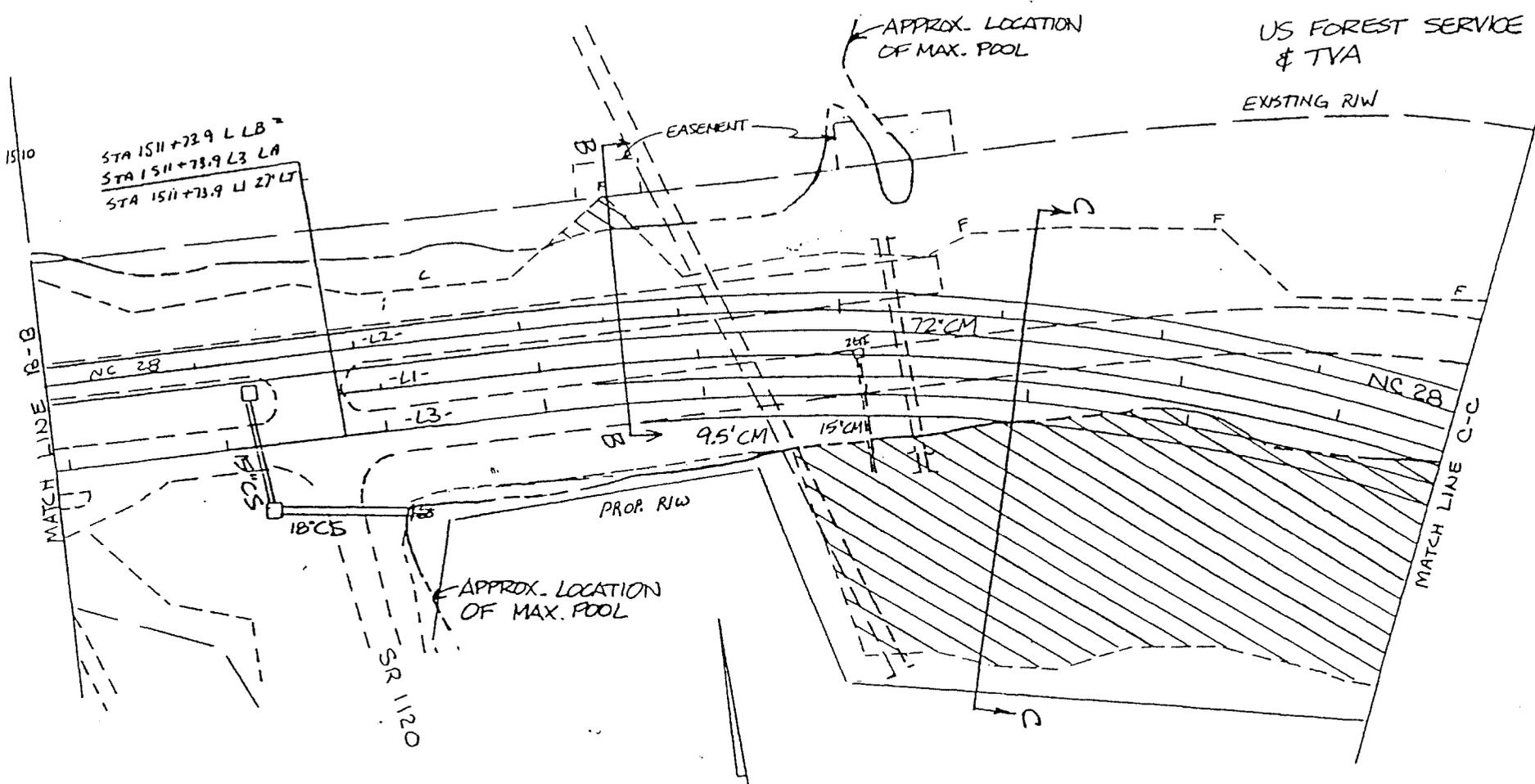
SCALE
HOR.: 1" = 20'
VER.: 1" = 10'

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DIVISION OF HIGHWAYS

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SHEET 6 OF 19



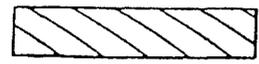
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SHEET 7 OF 19

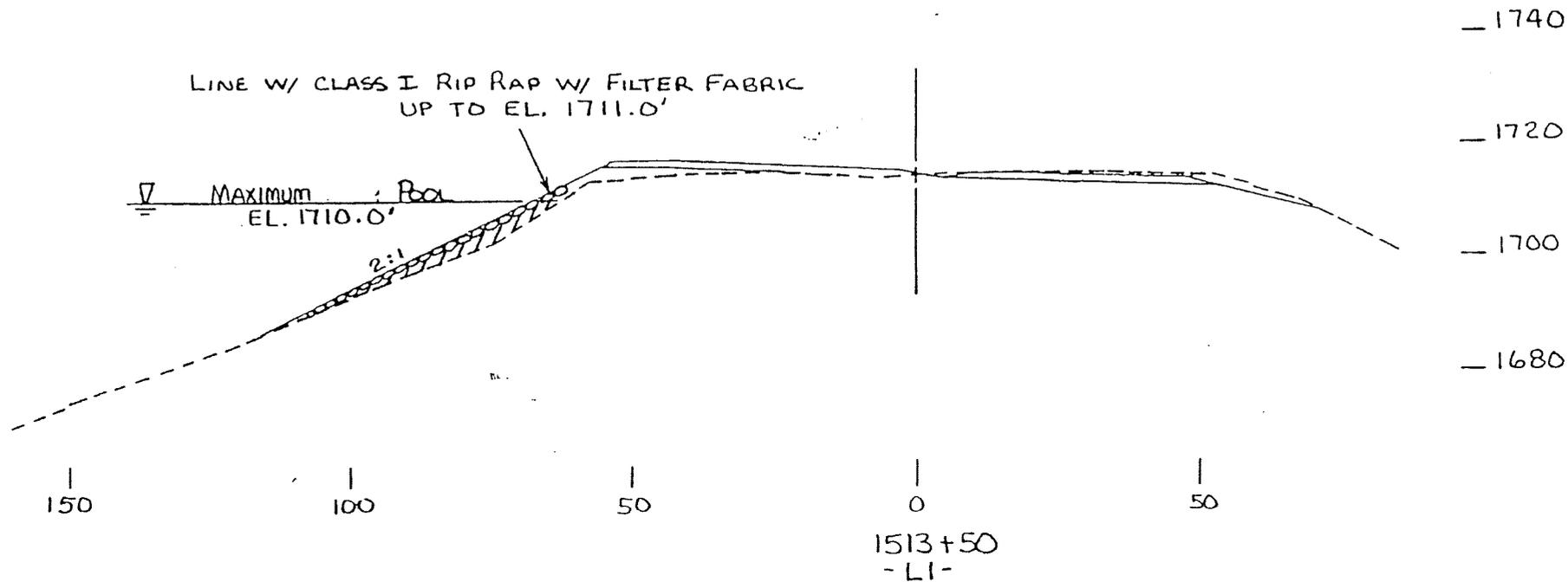
SITE THREE A & B



FILL BELOW MAXIMUM POOL



SCALE: 1" = 100'



SITE THREE A

SECTION B-B

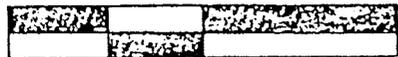


FILL BELOW MAXIMUM POOL



HORIZONTAL SCALE 1" = 30'

30 15 0 30



VERTICAL SCALE 1" = 30'

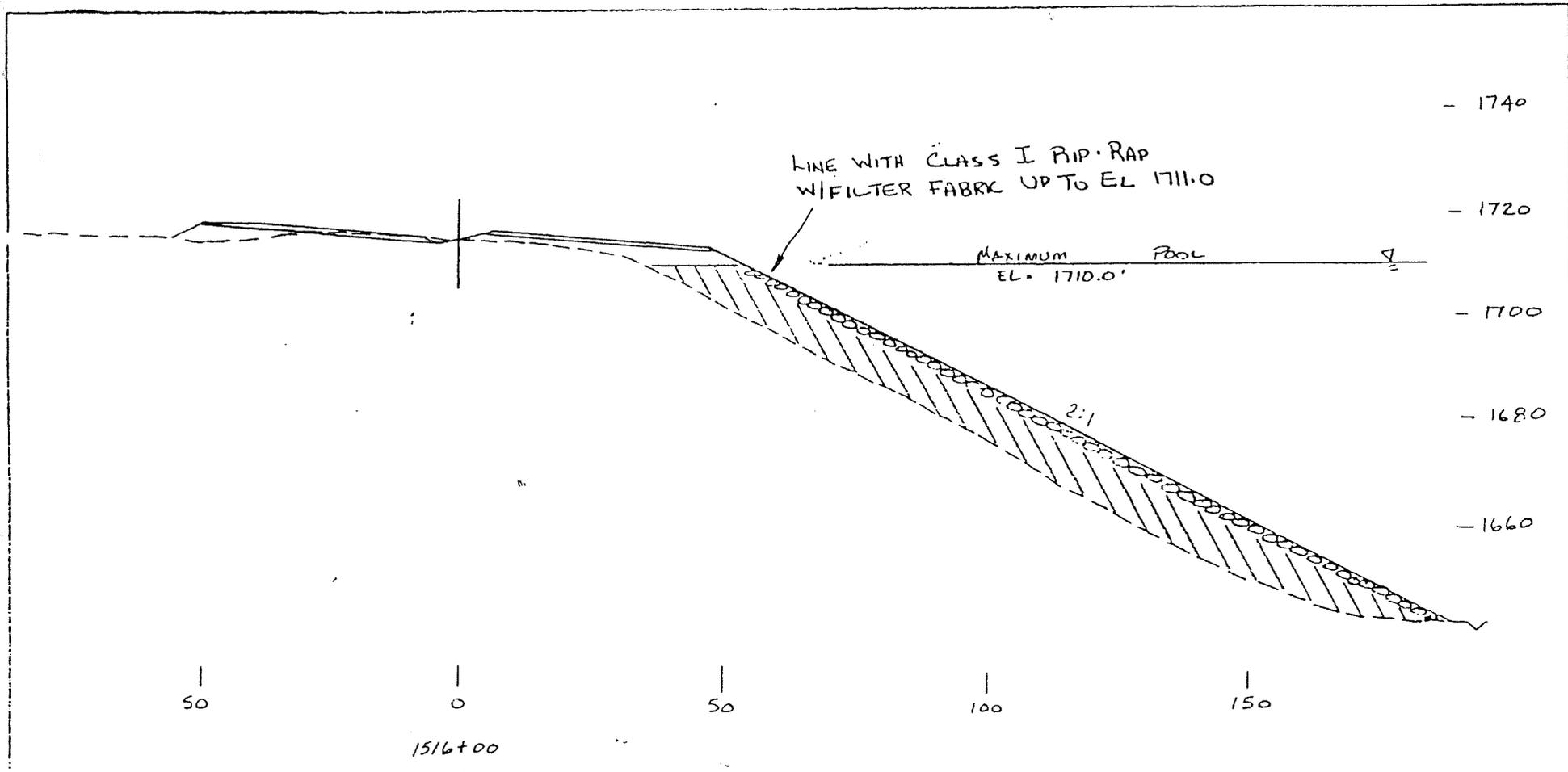
30 15 0 30

N. C. DEPT OF TRANSPORTATION
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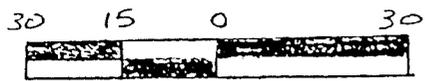
SHEET 9 OF 19



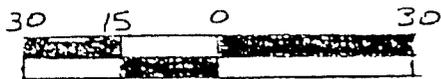
SITE THREE B

SECTION C-C

 FILL BELOW MAXIMUM POOL



HORIZONTAL SCALE 1" = 30'



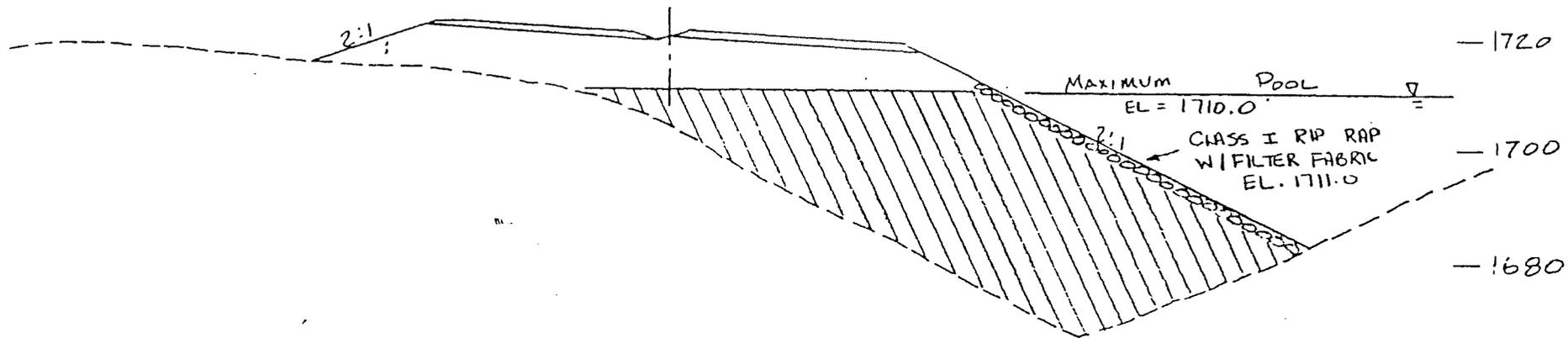
VERTICAL SCALE 1" = 30'

N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

SWAIN COUNTY
PROJECT 8.3019122 A-0009DA

NC 28

SHEET 10 OF 19



100

50

0

50

100

150

1520+00
-L1-

SITE THREE B

SECTION D-D



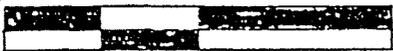
FILL BELOW MAXIMUM POOL

30 15 0 30



HORIZONTAL SCALE 1" = 30'

30 15 0 30



VERTICAL SCALE 1" = 30'

N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

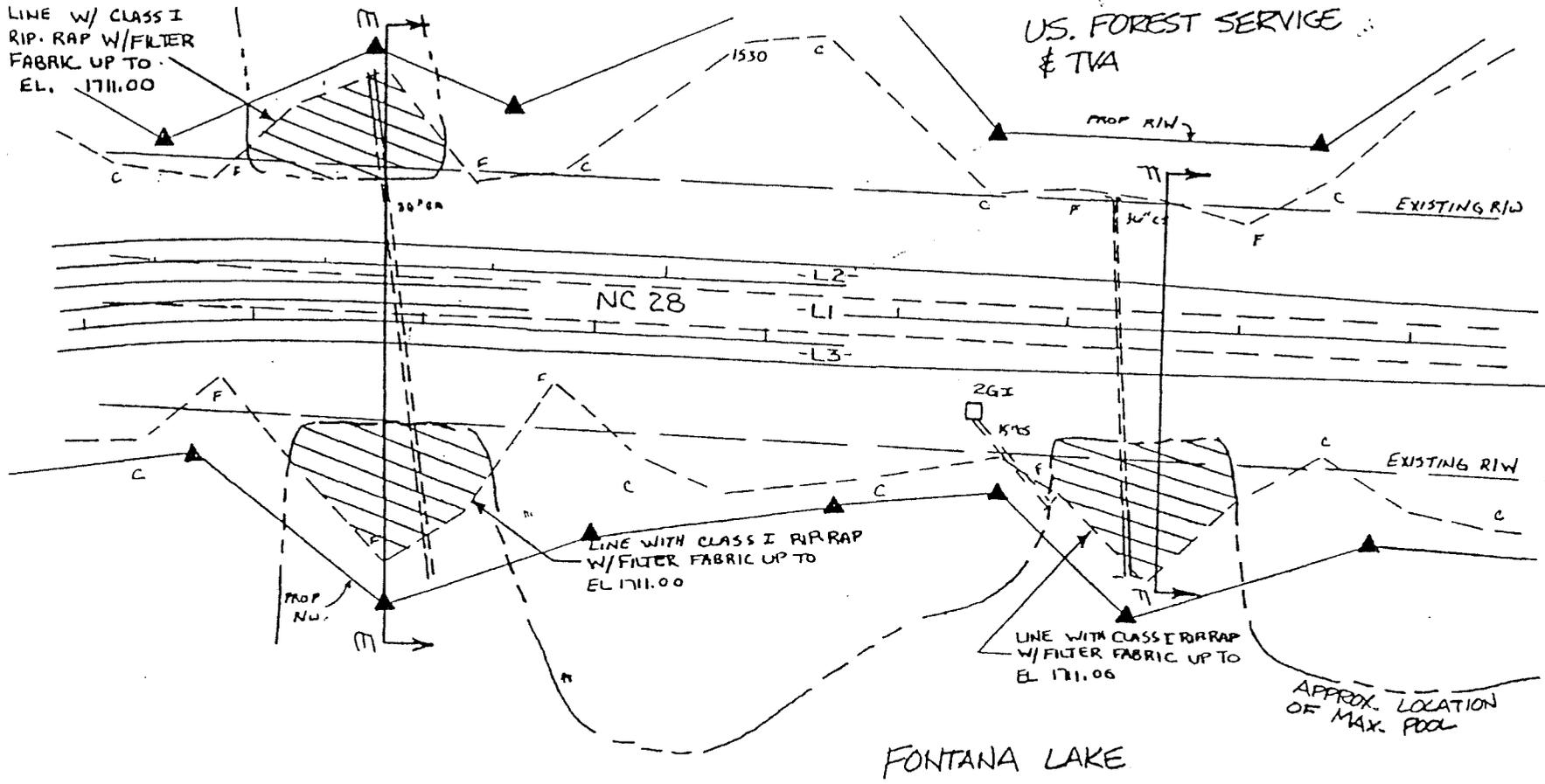
SWAIN COUNTY
PROJECT 8.3019122 A-0009DA

NC 28

SHEET 11 OF 19

LINE W/ CLASS I
RIP. RAP W/FILTER
FABRIK UP TO
EL. 1711.00

U.S. FOREST SERVICE
& TVA



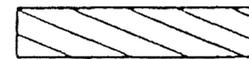
N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

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SHEET 12 OF 19

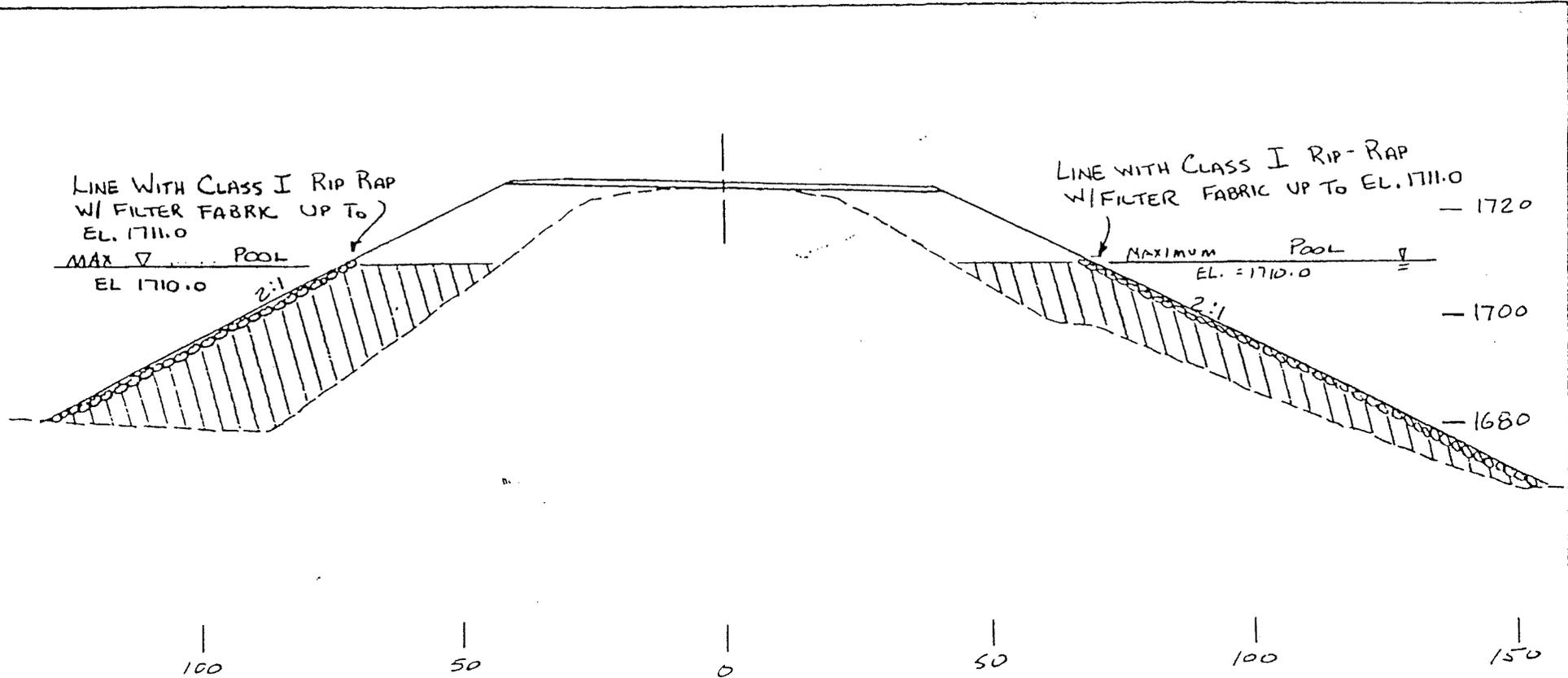
SITE FOUR A+B



FILL BELOW MAXIMUM POOL



SCALE: 1" = 100'

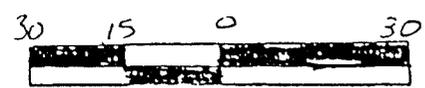


1528100
-L1-

SECTION E-E

SITE FOUR A

 FILL BELOW MAXIMUM POOL



HORIZONTAL SCALE 1" = 30'



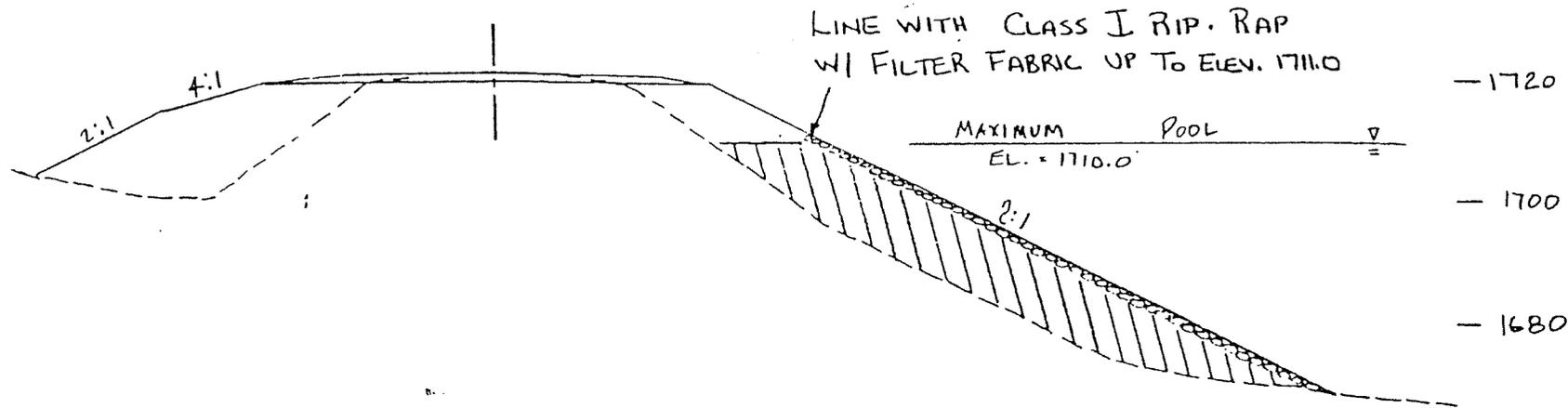
VERTICAL SCALE 1" = 30'

N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

SWAIN COUNTY
PROJECT 8.3019122 A-0009DA

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SHEET 13 OF 19

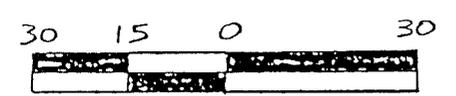


SECTION F-F

SITE FOUR B



FILL BELOW MAXIMUM POOL



HORIZONTAL SCALE 1" = 30'



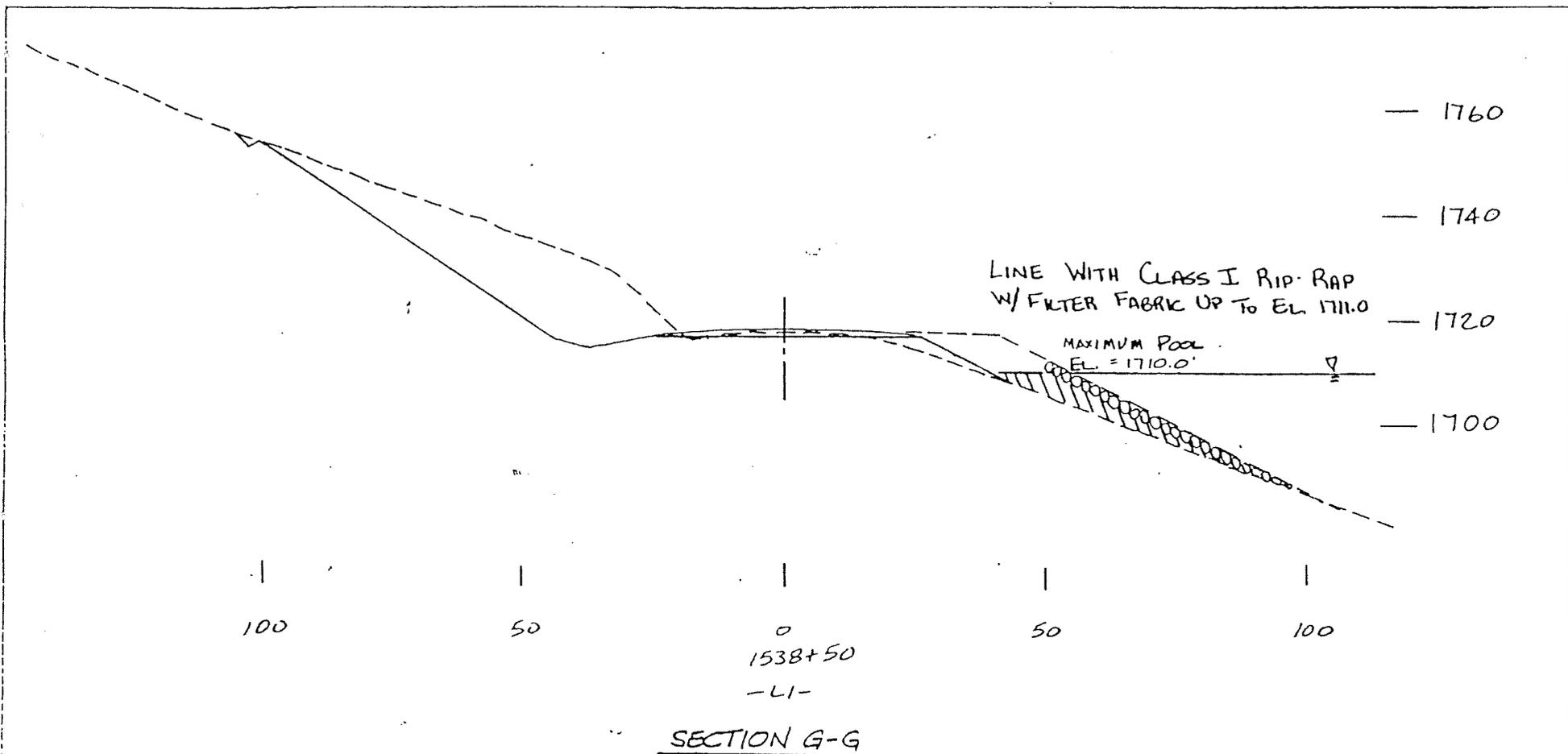
VERTICAL SCALE 1" = 30'

N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

SWAIN COUNTY
PROJECT 8.3019122 A-0009DA

NC 28

SHEET 14 OF 19



SITE FIVE



FILL BELOW MAXIMUM POOL

30 15 0 30



HORIZONTAL SCALE 1" = 30'

30 15 0 30



VERTICAL SCALE 1" = 30'

N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

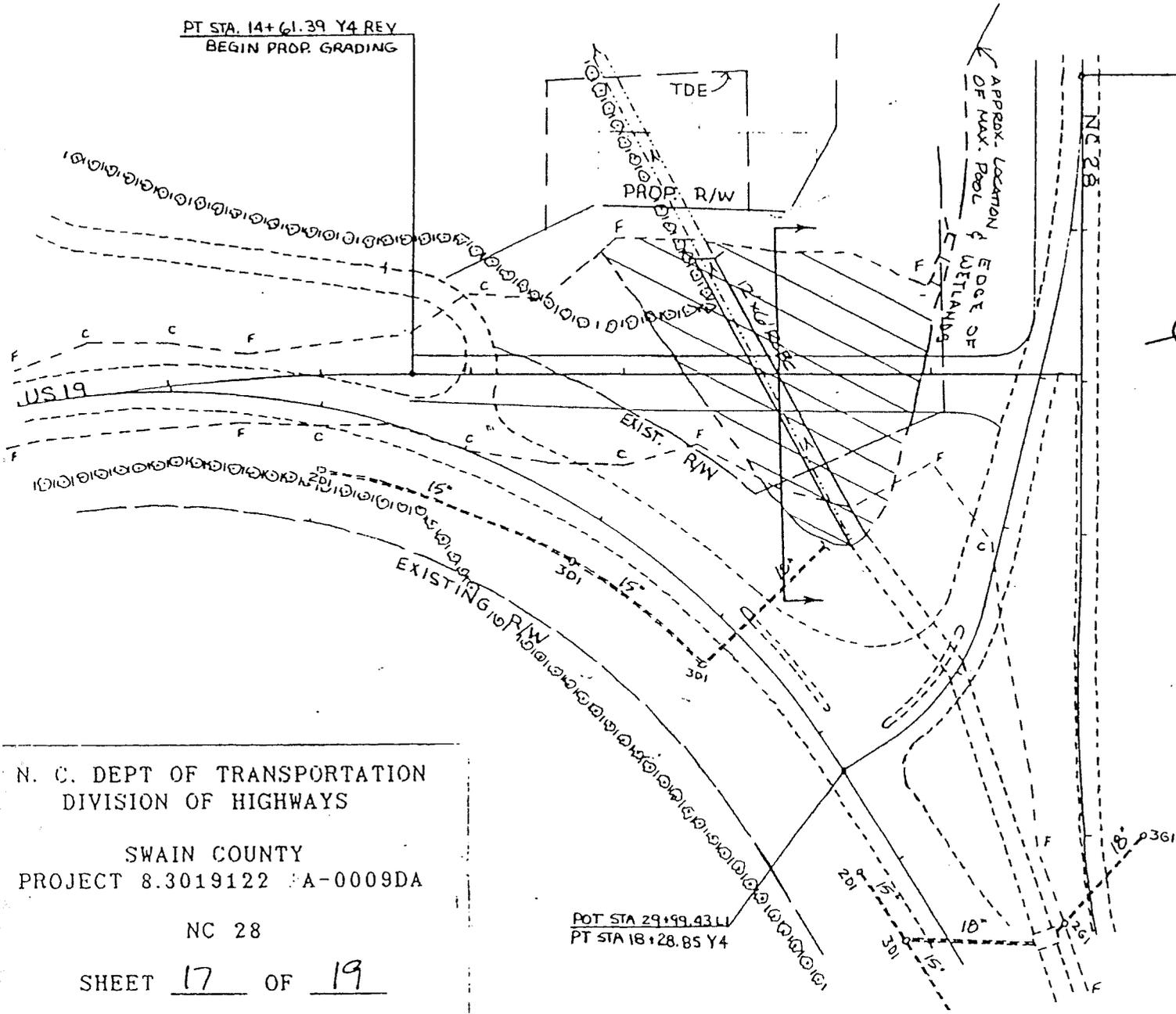
SWAIN COUNTY
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NC 28

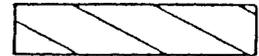
SHEET 16 OF 19

PT STA. 14+61.39 Y4 REV
BEGIN PROP. GRADING

PC STA. 25+00.00 L1
POT STA. 25+00.00 LREV
POT STA. 25+00.00 RP



SITE SIX



FILL BELOW MAXIMUM POOL
& FILL IN WETLANDS



SCALE: 1" = 100'

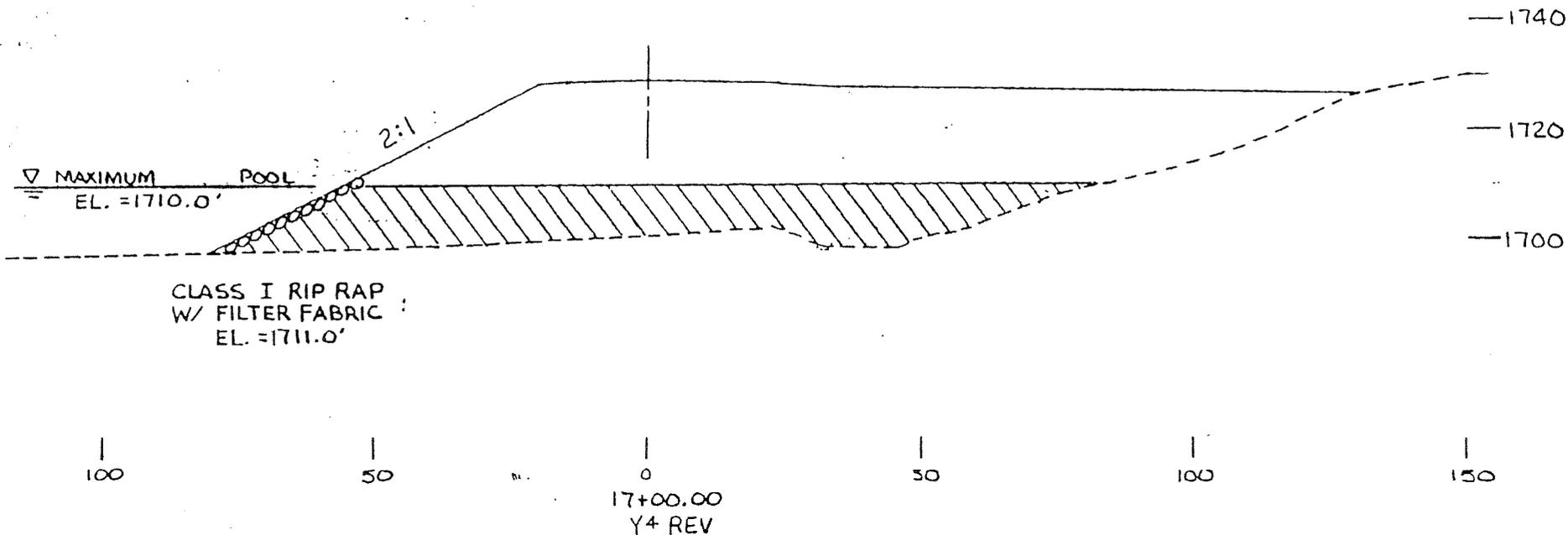
N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

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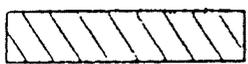
SHEET 17 OF 19

POT STA 29+99.43 L1
PT STA 18+28.85 Y4

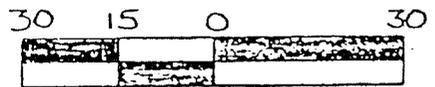


SECTION H-H

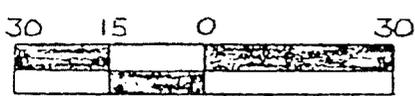
SITE SIX



FILL BELOW MAXIMUM POOL & FILL IN WETLANDS



HORIZONTAL SCALE 1" = 30'



VERTICAL SCALE 1" = 30'

N. C. DEPT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 SWAIN COUNTY
 PROJECT 8.3019122 A-0009DA
 NC 28
 SHEET 18 OF 19

SUMMARY SHEET

SITE	STATION	STRUCTURE TYPE	FILL BELOW MAXIMUM HIGH POOL (C.Y.)	FILL IN SURFACE WATERS (acres)	FILL IN WETLANDS (acres)
I	1496+15 TO 1499+50 -L1-	60" CS	6,427	0.26	0.28
II	1501+50 TO 1509+50 -L2-	BRIDGE	0	0	0
IIIA	1513+10 TO 1513+75 -L1-		135	0.02	0
IIIB	1514+55 TO 1521+90 -L1-		48,705	1.94	0
IVA	1527+25 TO 1528+65	36" CS	6,317	0.35	0
IVB	1531+95 TO 1533+05 -L1-	36" CS	3,429	0.12	0
V	1538+00 TO 1539+10 -L1-	24" CS	440	0.12	0
VI	15+85 TO 18+20 -Y4REV-	12' X 6' RCBC	7,221	-----	0.62
TOTAL			72,674 C.Y.	2.81 ac	0.90 ac

N. C. DEPT OF TRANSPORTATION
DIVISION OF HIGHWAYS

SWAIN COUNTY
PROJECT 8.3019122 A-0009DA

NC 28

SHEET 19 OF 19

State of North Carolina
Department of Environment,
Health and Natural Resources
Division of Environmental Management

James B. Hunt, Jr., Governor
Jonathan B. Howes, Secretary
A. Preston Howard, Jr., P.E., Director



August 18, 1994

Mr. Barney O'Quinn
Planning and Environmental Branch
NC DOT
P.O. Box 25201
Raleigh, N.C. 27611-5201

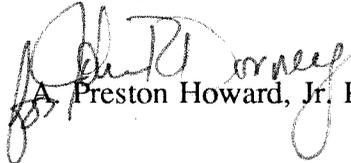
Dear Mr. O'Quinn:

Subject: Certification Pursuant to Section 401 of the Federal
Clean Water Act,
Proposed road improvement, US 19 from SR 1121 at Almonds to the existing US
19/NC 28 intersection.
Project # 94672, COE # 199304598, TIP # A-9DA
Swain County

Attached hereto is a copy of Certification No. 2903 issued to N.C. Department of
Transportation dated August 18, 1994. This Certification replaces one issued to the DOT on 11
August, 1994.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,



A. Preston Howard, Jr. P.E.

Attachments
wqc2906

cc: Wilmington District Corps of Engineers
Corps of Engineers Asheville Field Office
Asheville DEM Regional Office
Mr. John Dorney
Mr. Steve Benton, Division of Coastal Management
Central Files

NORTH CAROLINA
Swain County

CERTIFICATION

THIS CERTIFICATION is issued in conformity with the requirements of Section 401 Public Laws 92-500 and 95-217 of the United States and subject to the North Carolina Division of Environmental Management Regulations in 15 NCAC 2H, Section .0500 to N.C. Dept. of Transportation resulting in 3.09 acres of impact to wetlands and water in Swain County pursuant to an application filed on the 21st day of July of 1994 to widen and relocate US 19 from SR 1121 at Almonds to the existing US 19/NC 28 intersection.

The Application provides adequate assurance that the discharge of fill material into the waters of Fontana Lake in conjunction with the proposed development in Swain County will not result in a violation of applicable Water Quality Standards and discharge guidelines. Therefore, the State of North Carolina certifies that this activity will not violate Sections 301,302,303,306,307 of PL 92-500 and PL 95-217 if conducted in accordance with the application and conditions hereinafter set forth.

Condition(s) of Certification:

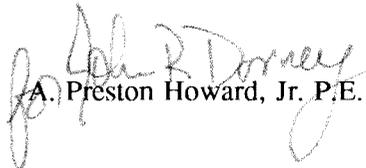
1. That the activity be conducted in such a manner as to prevent significant increase in turbidity outside the area of construction or construction related discharge (increases such that the turbidity in the stream is 25 NTU's or less are not considered significant).
2. DEM shall be copied on all mitigation plans and annual reports for such plans.

Violations of any condition herein set forth shall result in revocation of this Certification. This Certification shall become null and void unless the above conditions are made conditions of the Federal or Costal Area Management Act Permit.

If this Certification is unacceptable to you, you have the right to an adjudicatory hearing upon written request within thirty (30) days following receipt of this Certification. This request must be in the form of a written petition conforming to Chapter 150B of the North Carolina General Statutes and filed with the Office of Administrative Hearings, P.O. Box 27447, Raleigh, N.C. 27611-7447. Unless such demands are made, this Certification shall be final and binding.

This the 18th day of August, 1994.

DIVISION OF ENVIRONMENTAL MANAGEMENT


A. Preston Howard, Jr. P.E.

WQC# 2906



**This notice of authorization must be
conspicuously displayed at the site of work.**

United States Army Corps of Engineers

October 26, 1994

discharge fill material into Fontana Lake, the Nantahala
River Pump and Siles Branched, and adjacent wetlands in
conjunction with widening NC highway 28 (TIP No. A-9DA)

A permit to

at

Almond, Swain County, North Carolina

NCDOT

has been issued to

B. J. O'Quinn

on Oct. 26 1994

Address of Permittee

Post Office Box 25201 Raleigh, North Carolina

Permit Number

Action ID. 199304598

James H. Bradley
District Commander

ROBERT J. SPERBERG, COL, EN