

02/19/09

WETLAND MITIGATION

PERMIT FROM ARMY CORP. OF ENGINEERS

DEPARTMENT OF THE ARMY

PORTLAND DISTRICT, CORPS OF ENGINEERS

P.O. BOX 2946

PORTLAND, OREGON 97208-2946



REPLY TO

ATTENTION OF:

February 19, 2009

Operations Division
Regulatory Branch
Corps No. NWP-2007-817

JCNW Family, LLC
Mr. Bill Martinak
15556 Coon Hollow Road SE
Stayton, Oregon 97383

Dear Mr. Martinak:

Enclosed is your fully executed Department of the Army Permit.

Please carefully read the permit and its conditions. In addition, if you have a contractor and/or agent, please review these conditions with them to ensure that the work is performed in accordance with the permit terms.

Also be aware that other authorizations from Federal, state, or local governments may be required by law. If the work is not completed prior to the permit expiration date, you may apply for a time extension. We recommend you apply for a time extension at least 90 days before the expiration date of the permit.

If you have any questions, please contact Ms. Debra Henry at the letterhead address, by telephone at (503) 808-4391 or by email at debra.j.henry@usace.army.mil.

Sincerely,

For Lawrence C. Evans
Lawrence C. Evans
Chief, Regulatory Branch

Enclosures

DEPARTMENT OF THE ARMY PERMIT

Permittee: JCNW Family, Bill Martinak

Permit No: NWP-2007-817

Issuing Office: U.S. Army Corps of Engineers, Portland District

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: The proposed project would permanently fill 0.79 acres of wetlands and temporarily impact 0.22 acre of wetlands. Approximately 1050 cubic yards of fill material would be placed within 0.79 acres wetland for constructing roads, sidewalks, and residential lots within the proposed subdivision. Approximately 0.22 acre of temporary impacts would occur during the construction of the sanitary sewer and stormwater utility lines. Approximately 0.14 acre would be permanently impacted to create a swale to treat stormwater. The swale would parallel the existing east-west and north-south drainage ditches before ultimately discharging to Mill Creek.

The applicant has proposed to provide compensatory mitigation for the unavoidable impacts through the purchase of 0.79 credits at the Mud Slough Mitigation Bank.

Purpose: The project purpose is to construct a 72-lot residential subdivision to provide affordable new housing for existing and new residents.

Project Location: The project is located west of Kindle Way and north of Hummingbird Lane, within NW ¼ SE ¼ Section 4, Township 9 South, Range 1 West, near Stayton, Marion County, Oregon.

Drawings: Four drawings labeled Corps ID NWP-2007-817

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2013. 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

NWP-2007-817

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).
 - (X) 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

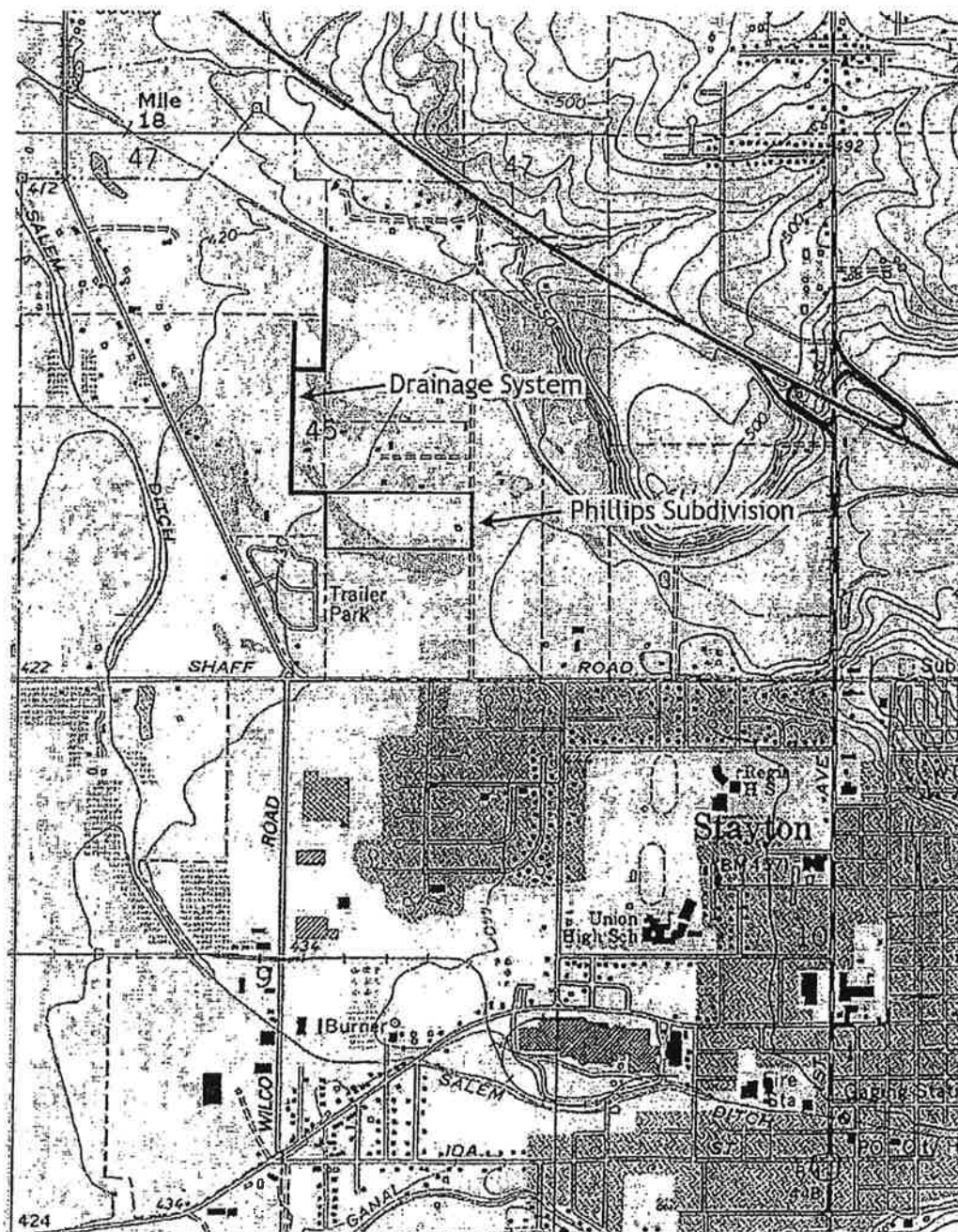
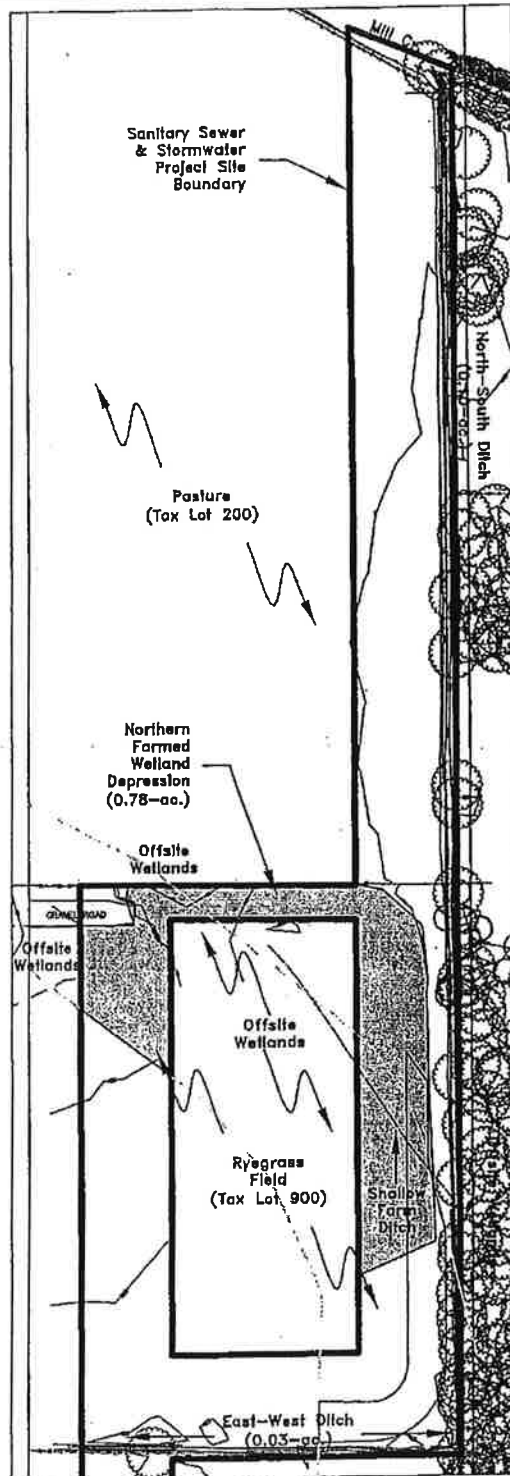
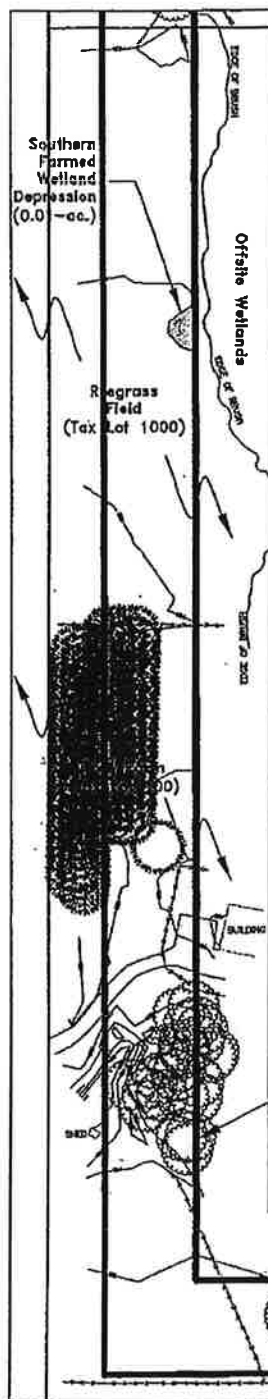


Figure 1. Location of Phillips Subdivision and the drainage system in northwest Stayton, Oregon (USGS Stayton, Oregon 7.5' quadrangle, 1969, photorevised 1986).

Encl 1
NWP-2007-817



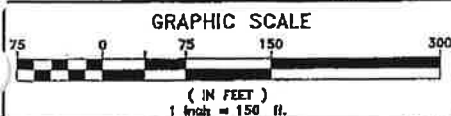
SOURCE: Barker Surveying Co. wetland boundary & topographic survey, 2007.

Terra Science, Inc.
Soil, Water, & Wetland Consultants

WETLAND FILL PERMIT APPLICATION
FOR THE PHILLIPS SUBDIVISION
Stayton, Marion County, Oregon

EXISTING CONDITIONS
(North & South Insets)

INSET 3.1






Revised May 2008

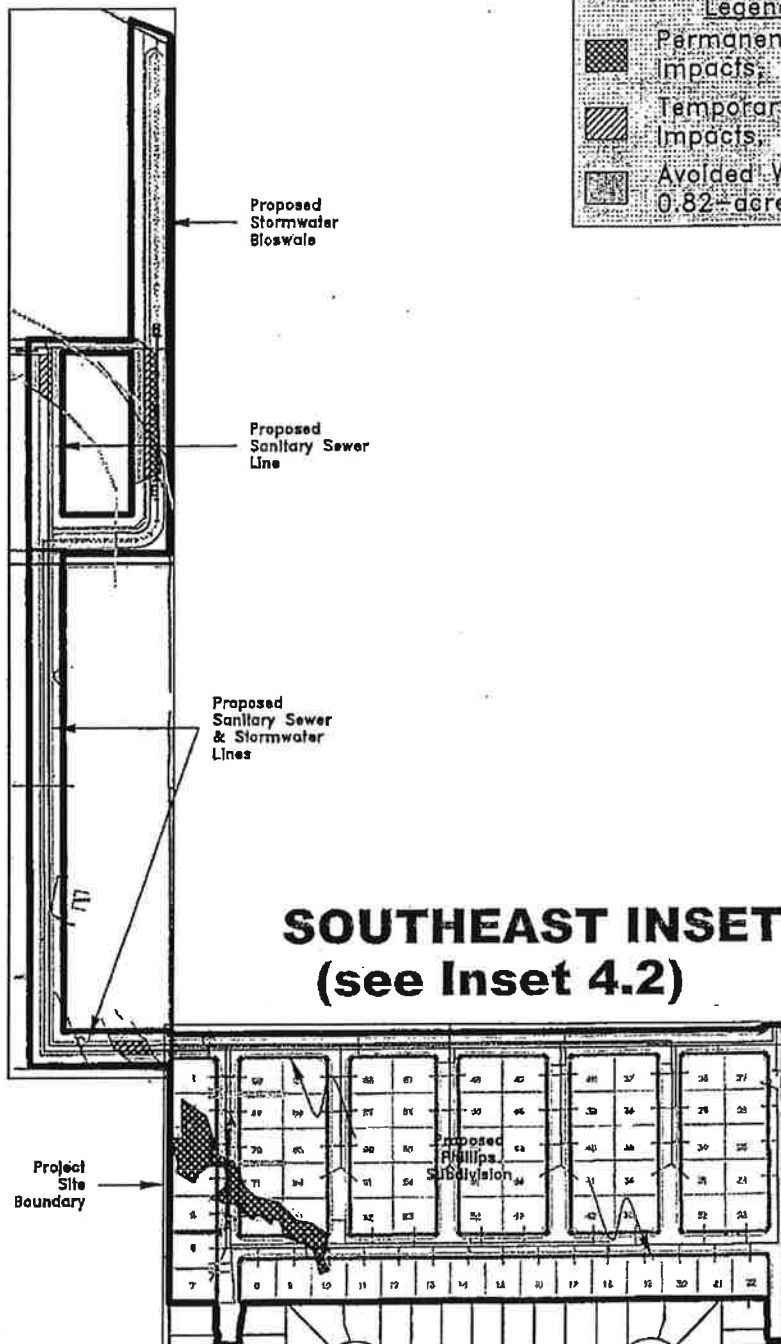
AWP-2007-817

NORTH INSET
(see Inset 4.1)

SOUTH INSET
(see Inset 4.1)

SOUTHEAST INSET
(see Inset 4.2)

Legend	
	Permanent Wetland Impacts, 0.79-acre
	Temporary Wetland Impacts, 0.14-acre
	Avoided Wetland, 0.82-acre



SOURCE: Adapted from Westech Engineering, Inc. civil plan, 2007.

Terra Science, Inc.
Soil, Water, & Wetland Consultants

WETLAND FILL PERMIT APPLICATION
FOR THE PHILLIPS SUBDIVISION
Stayton, Marion County, Oregon

PLAN VIEW &
PROPOSED
WETLAND
IMPACTS
w/ Index

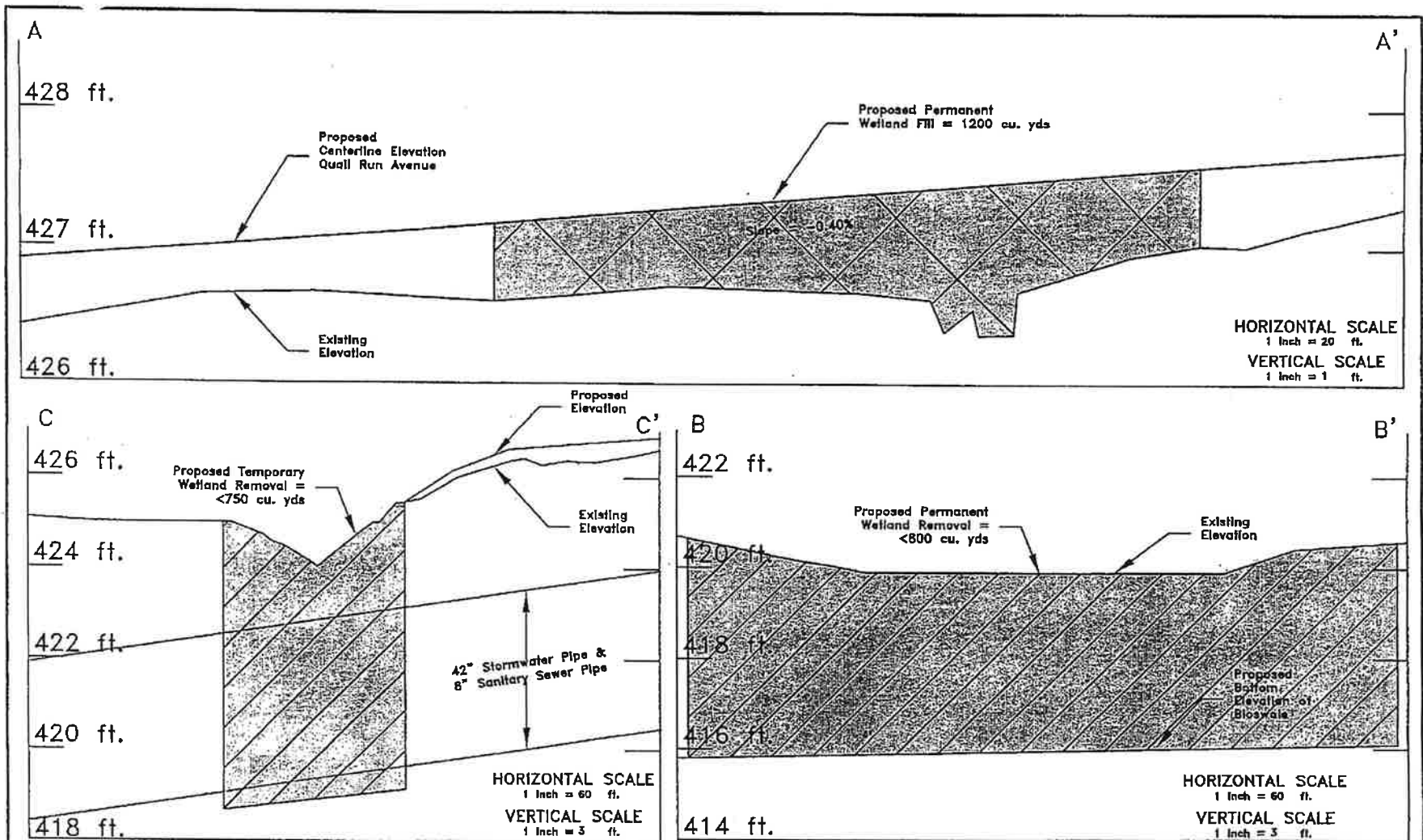
FIGURE 4.0



Revised May 2008

A—A' WETLAND IMPACT
CROSS-SECTIONS
(see Figure 5)

NWP-2007-817



SOURCE: Adapted from Westech Engineering, Inc. civil plan, 2007.

Terra Science, Inc.
Soil, Water, & Wetland Consultants

WETLAND FILL PERMIT APPLICATION
FOR THE PHILLIPS SUBDIVISION
Stayton, Marion County, Oregon

CROSS-SECTIONS

FIGURE 5

Revised May 2008

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: JCNW Family, LLC | File Number: NWP-2007-817 | Date: 12/19/08

Attached is: | See Section below

<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input checked="" type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the **approved** JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice. Also, see Section II.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

Encl 2



DEPARTMENT OF THE ARMY
PORTLAND DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2946
PORTLAND, OREGON 97208-2946

02/19/09
WETLAND MITIGATION
PERMIT - ARMY CORP OF
ENGINEERS

REPLY TO
ATTENTION OF:

February 19, 2009

Operations Division
Regulatory Branch
Corps No. NWP-2007-817

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Mr. Bill Martinak
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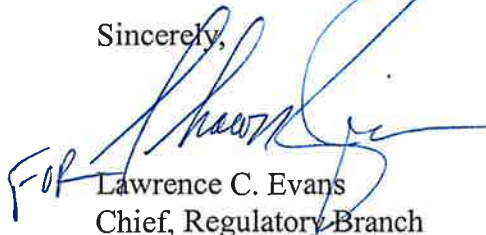
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NWP-2007-817

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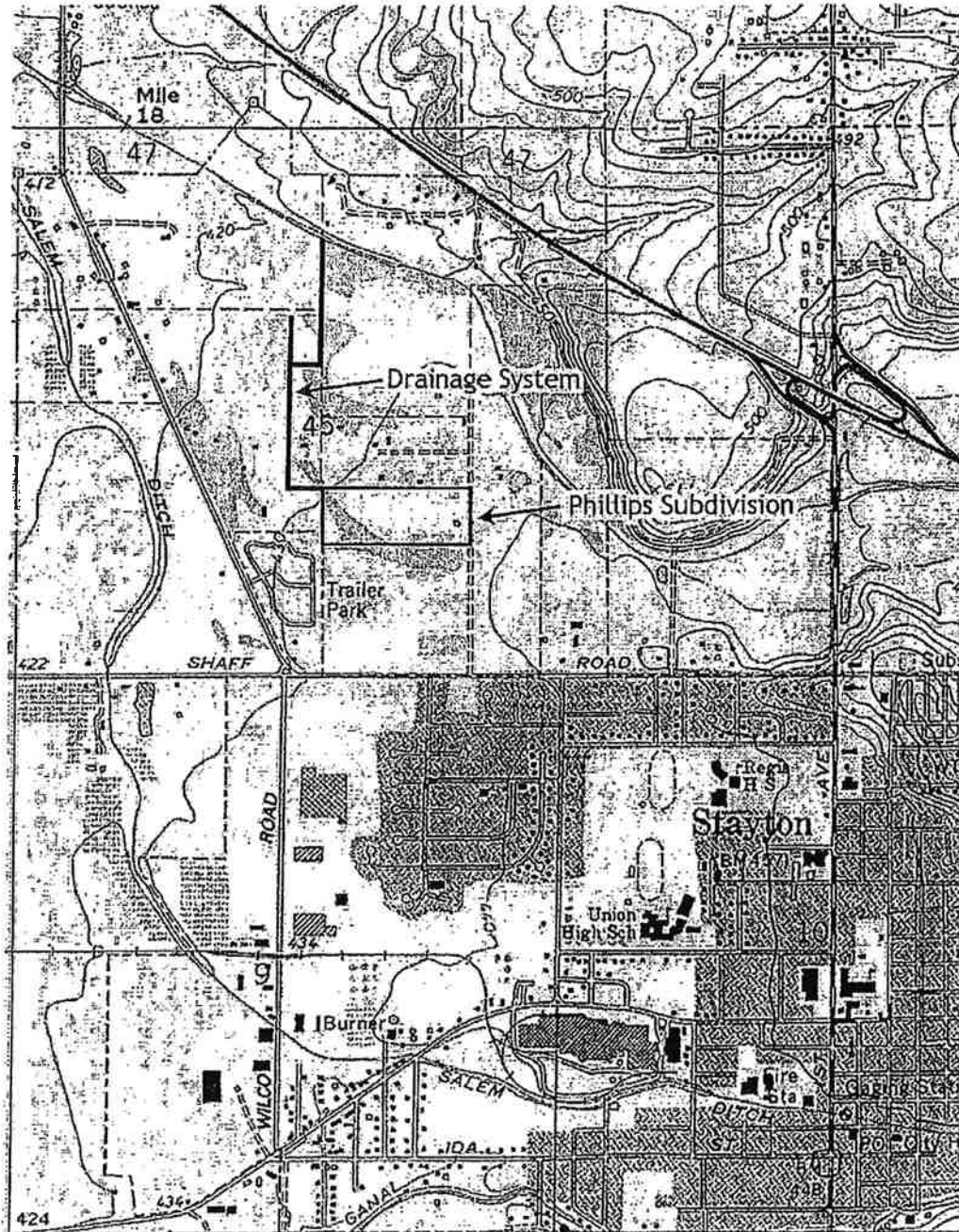
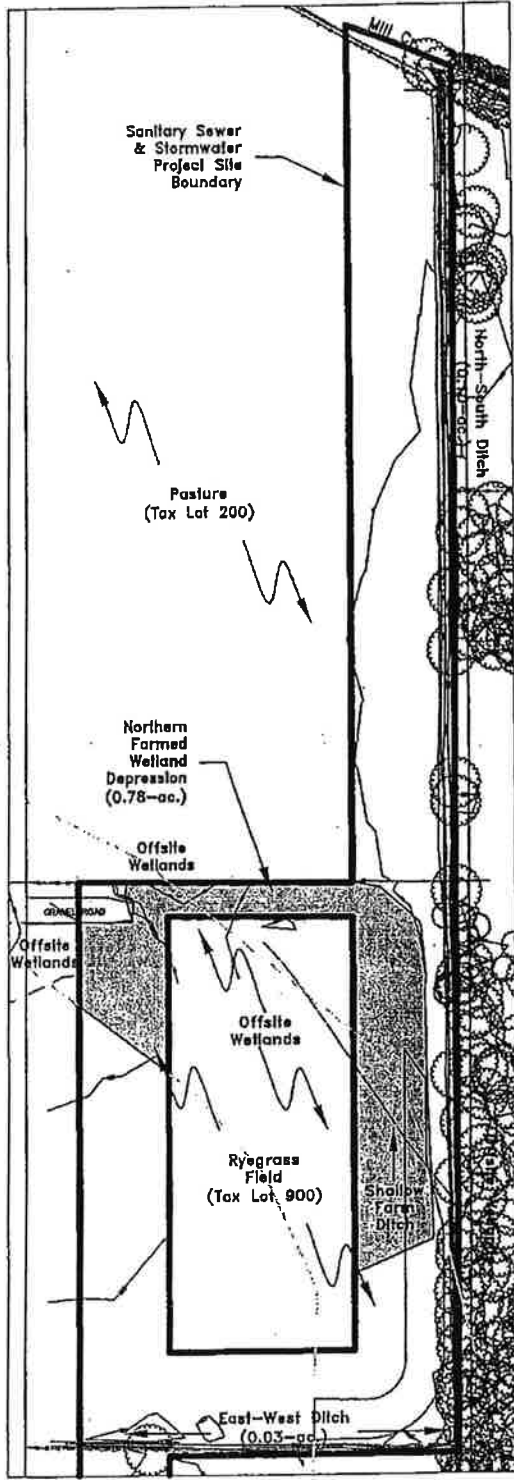
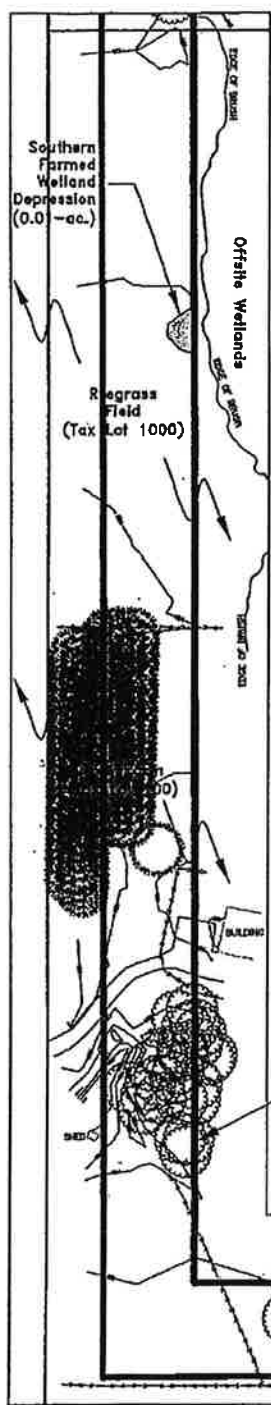


Figure 1. Location of Phillips Subdivision and the drainage system in northwest Stayton, Oregon (USGS Stayton, Oregon 7.5' quadrangle, 1969, photorevised 1986).

Encl 1
NWP-2007-817



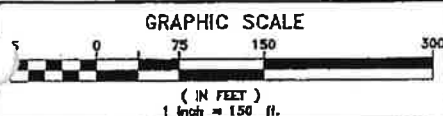
SOURCE: Barker Surveying Co. wetland boundary & topographic survey, 2007.

Terra Science, Inc.
Soil, Water, & Wetland Consultants

WETLAND FILL PERMIT APPLICATION
FOR THE PHILLIPS SUBDIVISION
Stayton, Marion County, Oregon

EXISTING CONDITIONS
(North & South Insets)

INSET 3.1






Revised May 2008

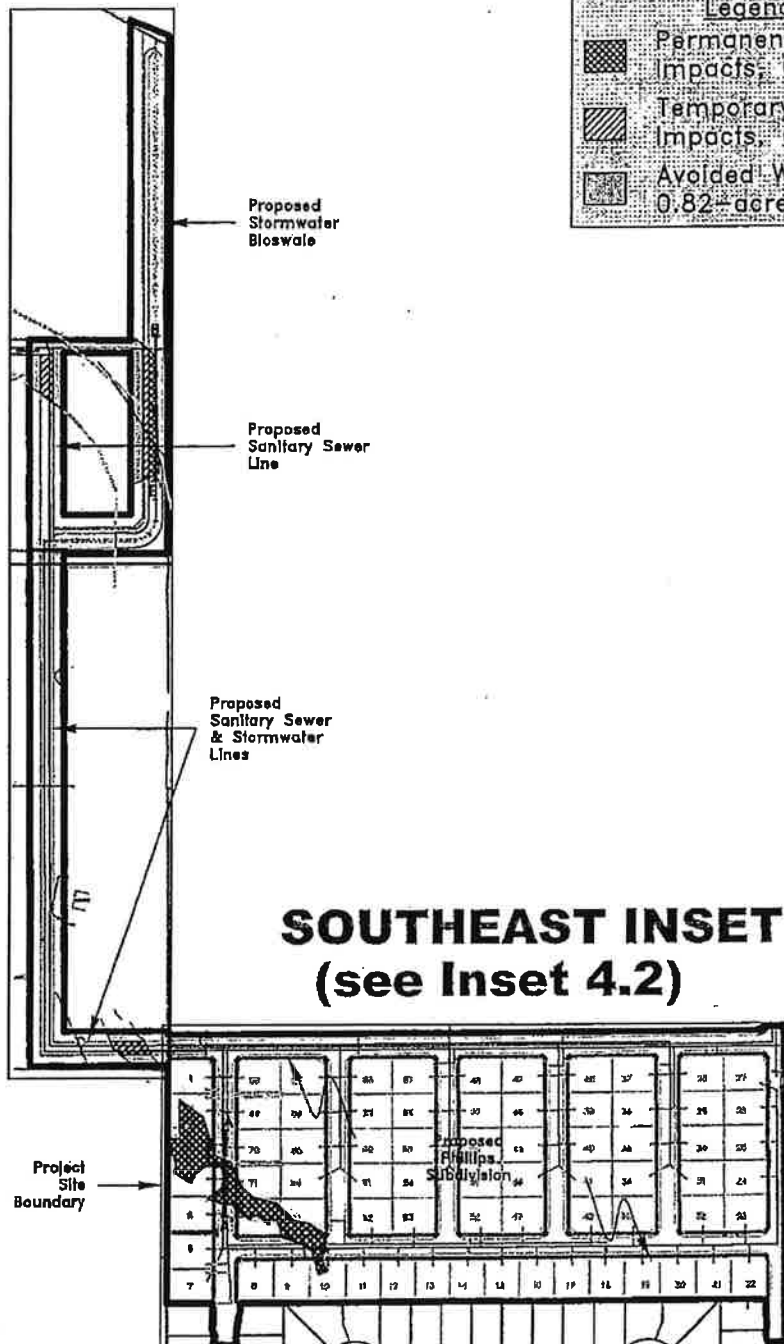
MWP-2007-817

NORTH INSET
(see Inset 4.1)

SOUTH INSET
(see Inset 4.1)

SOUTHEAST INSET
(see Inset 4.2)

Legend	
	Permanent Wetland Impacts, 0.79-acre
	Temporary Wetland Impacts, 0.14-acre
	Avoided Wetland, 0.82-acre



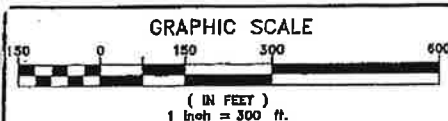
SOURCE: Adapted from Westech Engineering, Inc. civil plan, 2007.

Terra Science, Inc.
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WETLAND FILL PERMIT APPLICATION
FOR THE PHILLIPS SUBDIVISION
Stayton, Marion County, Oregon

PLAN VIEW &
PROPOSED
WETLAND
IMPACTS
w/ Index

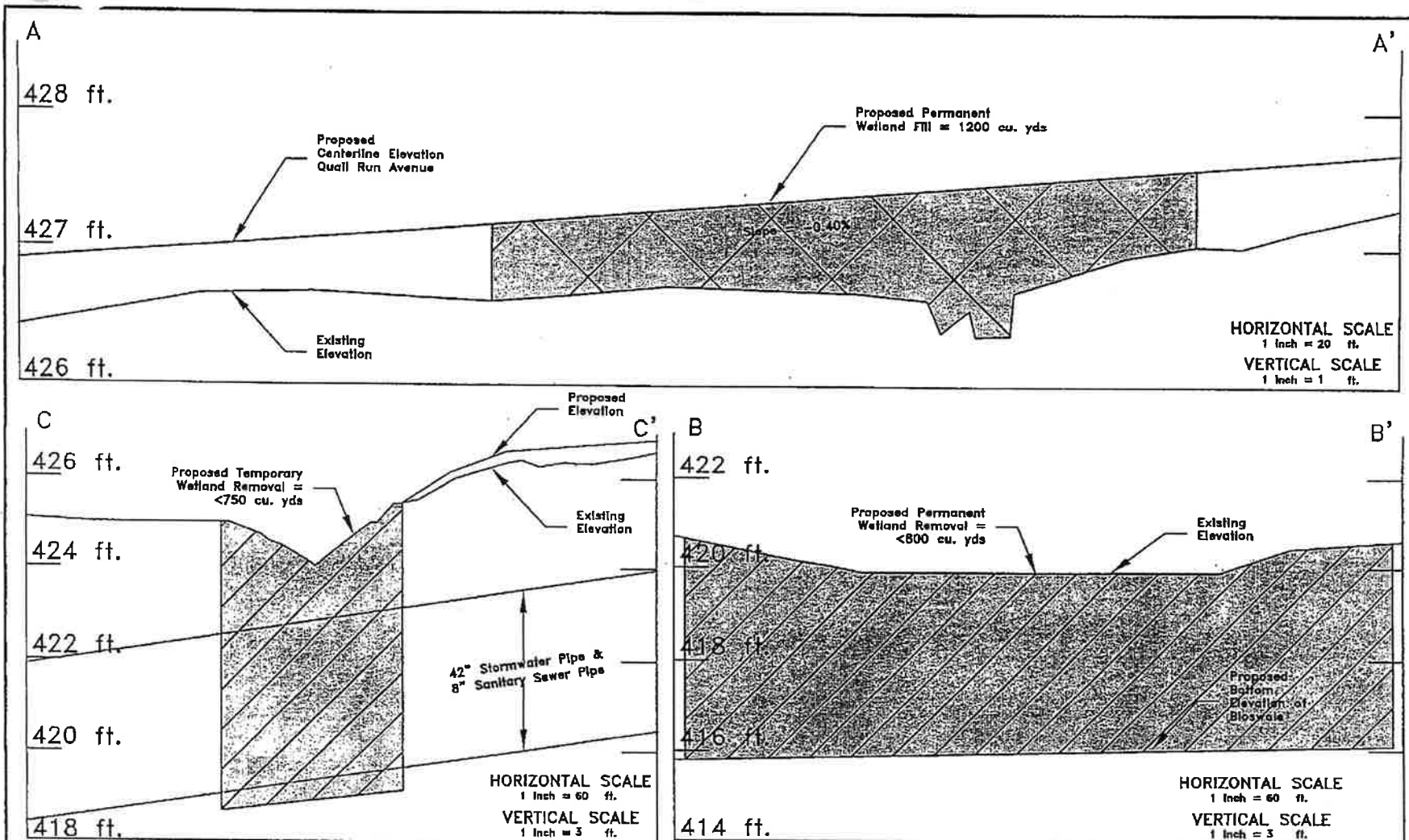
FIGURE 4.0



Revised May 2008

A' WETLAND IMPACT
CROSS-SECTIONS
(see Figure 5)

NWP-2007-817



SOURCE: Adapted from Westech Engineering, Inc. civil plan, 2007.

Terra Science, Inc.
Soil, Water, & Wetland Consultants

WETLAND FILL PERMIT APPLICATION
FOR THE PHILLIPS SUBDIVISION
Stayton, Marion County, Oregon

CROSS-SECTIONS

FIGURE 5

Revised May 2008

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: JCNW Family, LLC	File Number: NWP-2007-817	Date: 12/19/08
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input checked="" type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

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- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

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E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

Encl 2

02/02/09

Division of State Lands Permits: Removal/Fill Permit
wetland mitigation



1875 N. Greenwood Rd. Rickreall, OR 97371
Phone (503) 623-0768 Cell (503) 559-0223 wetlandbank@msn.com

PURCHASER
RECEIPT

Date 2-2-09

DSL Permit # 39192

Corps Permit # 2007-817

PURCHASED BY: JCNW Family, LLC
ADDRESS: P.O. Box 398

Phone# () _____

Credits Purchased .79

Amount Paid 51,618.60

Received By: _____

Mark Kwang Check # 48858



1875 N. Greenwood Rd. Rickreall, OR 97371
Phone (503) 623-0768 Cell (503) 559-0223 wetlandbank@msn.com

RECEIPT

Date: February 2, 2009
DSL Permit # 39192
Corps Permit # 2007-817

PURCHASED BY: JCNW Family, LLC
ADDRESS: P.O. Box 398
Phone # () Credits Purchased: .79

Purchaser has paid the Bank the agreed upon price for the number of wetland mitigation credits noted above.

By Mark Knaupp
Mark Knaupp

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
☎ 503-986-5200

NOTICE:
This Permit
Must Be On
Waterway

Permit No.:
Permit Type:
Waterway:
County:
Expiration Date:

39192-RF Renewal
Removal/Fill
Wetland
Marion
February 4, 2013

JCNW FAMILY LLC

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action, which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
6. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
7. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390 and related administrative rules.
8. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.
9. Authorization from the U.S. Army Corps of Engineers may also be required.

NOTICE: If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 - 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Department of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Department of State Lands, 503-986-5200.

Lori Warner-Dickason, Northern Region Manager
Wetlands & Waterways Conservation Div
Oregon Department of State Lands


Authorized Signature

February 4, 2012
Date Issued

ATTACHMENT A

Permittee: JCNW FAMILY LLC

Special Conditions for Removal/Fill Permit No. 39192-RF

PLEASE READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT

This project may be site inspected by the Department of State Lands (Department) as part of our monitoring program. The Department has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. **Responsible Party:** By signature of the application, Bill Martinak is acting as the representative of JCNW FAMILY LLC. By proceeding under this permit, Bill Martinak agrees to comply with and fulfill all terms and conditions of this permit. Bill Martinak is responsible for carrying-out the terms and conditions of this permit unless the permit is officially transferred to another party as approved by the Department.
2. **Authorization to Conduct Removal and/or Fill:** This permit authorizes the placement of up to 1050 cubic yards and removal of up to 800 cubic yards and the temporary removal of 470 cubic yards of rock, gravel, silt, and clay in T 09S, R 01W, Section 04, Tax Lot 1200 in wetlands, Marion County, as outlined in the attached permit application, map and drawings, dated August 13, 2007. In the event information in the application conflicts with these permit conditions, the permit conditions prevail.
3. **Authorization to Conduct Compensatory Mitigation:** This permit also authorizes removal and fill activities necessary to complete the required compensatory mitigation.
4. **Changes to the Project or Inconsistent Requirements from Other Permitting Agencies:** It is the permittee's responsibility to ensure that all state, federal and local permits are consistent and compatible with the final approved project plans and the project as executed. The permit holder must obtain Department approval prior to modifying the project design, implementation and/or operating conditions imposed by other required permits that would be inconsistent with the approved application or this permit.
5. **Department May Halt or Modify:** DSL retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.

Prior to Beginning Construction

6. **Local Government Approval Required Prior to Beginning Work:** Issuance of this permit is contingent upon acquisition of the appropriate development permit from the City of Stayton, Marion County.
7. **Stormwater Management Approval Required Prior to Beginning Work:** Issuance of the permit is contingent upon acquisition of an NPDES permit from the Oregon Department of Environmental Quality.

8. **Pre-construction Resource Area Flagging:** Prior to any site grading, the surveyed boundaries of the avoided wetlands shall be surrounded by bright orange construction fencing, which shall be maintained during construction of the project. There shall be no heavy equipment within fenced areas.
9. **Water Quality Certification:** The Department of Environmental Quality (DEQ) may evaluate this project for a Clean Water Act Section 401 Water Quality Certification (WQC). If the evaluation results in issuance of a Section 401 WQC, that turbidity condition will govern any allowable turbidity exceedance and monitoring requirements.
10. **Turbidity Monitoring Required During Construction:** The authorized work shall not cause turbidity of affected waters to exceed 10% over natural background turbidity 100 feet downstream of the fill point.

For projects proposed in areas with no discernible gradient break (gradient of 2% or less), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring intervals per 24 hour work period provided all practicable control measures have been implemented. This turbidity standard exceedance interval applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land.

For projects in all other areas, the turbidity standard can be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects may also be subject to additional reporting requirements.

Turbidity shall be monitored during active in-water work periods. Monitoring points shall be at an undisturbed site (representative background) 100 feet upstream from the turbidity causing activity (i.e., fill or discharge point), 100 feet downstream from the fill point, and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard.

11. **Erosion Control Methods:** The following erosion control measures (and others as appropriate) shall be implemented:
 - a. All exposed soils shall be stabilized during and after construction in order to prevent erosion and sedimentation.
 - b. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures shall be used to prevent movement of soil into waterways or wetlands.
 - c. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, shall be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
 - d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian or wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities shall be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after

completion of the permitted work, they shall be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.

- e. Where vegetative erosion control is being done on cut slopes steeper than 2:1, a tackified seed mulch shall be used so the seed does not wash away before germination and rooting.
- f. Excavated material shall be placed on upland areas having stable slopes and shall be prevented from eroding back into waterways or wetlands
- g. Erosion control measures shall be inspected and maintained as necessary to ensure their continued effectiveness, until soils become stabilized.
- h. All erosion control structures shall be removed when project is complete and soils are stabilized and vegetated.

12. **Hazardous, Toxic and Waste Material Handling:** Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint or other deleterious waste materials shall not be allowed to enter waters of the state. No wood treated with leachable preservatives shall be placed in waters of the state. Machinery refueling is to occur at least 150 feet from waters of the state and confined in a designated area to prevent spillage into waters of the state. Barges shall have containment system to effectively prevent petroleum products or other deleterious material from entering waters of the State. Project-related spills into water of the state or onto land with a potential to enter waters of the state shall be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.

General Construction Conditions

13. **Work Period in Jurisdictional Areas:** Fill or removal activities below the ordinary high water elevation of Mill Creek shall be conducted between June 1 to October 15, unless otherwise coordinated with Oregon Department of Fish and Wildlife and approved in writing by the Department.
14. **Federally Listed Endangered or Threatened Species:** When listed species are present, the authorization holder must comply with the Federal Endangered Species Act. If previously unknown listed species are encountered during the project, the authorization holder shall contact the appropriate agency as soon as possible.
15. **Archaeological Resources:** If any archaeological resources and/or artifacts are encountered during construction, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-986-0674).
16. **Construction Corridor:** There shall be no removal of vegetation or heavy equipment operating or traversing outside the designated construction corridor/area (Figures #3, 3.1).
17. **Work Area Isolation:** The work area shall be isolated from the water during construction according to the Work Area Isolation Plan contained in the application. All structures and materials used to isolate the work area shall be removed immediately following construction and water flow returned to pre-construction conditions.
18. **Stream Diversion Prohibited:** The stream shall not be diverted from the natural bed.

9. **Trenching in Wetlands:** During trenching or excavation, the top layer of soil shall be separated from the rest of the excavated material and put back on top when the trench or pit is back-filled. If the native underlying soils are not used as bedding material, and a coarser, non-native soil or other material is used, preventative measures such as clay or concrete plugs shall be used so that underground hydraulic piping does not occur and dewater the site and adjacent wetlands.
20. **Temporary Ground Disturbances:** All temporarily disturbed areas shall be returned to original ground contours at project completion, as proposed in the Site Restoration Plan in the application.
21. **Operation of Equipment in the Water Prohibited:** There shall be no operation of equipment in the water. Work in the waterway shall be conducted from top of the bank.
22. **Fish Passage Required:** The project shall meet Oregon Department of Fish and Wildlife requirements for fish passage.
23. **Riprap Placement Methods:** Riprap/rock shall be placed in the under the following conditions:
 - a. Only clean, erosion resistant rock from an upland source shall be used as riprap. No broken concrete or asphalt shall be used.
 - b. Riprap rock shall be placed in a manner that does not increase the upland surface area.
 - c. Riprap shall be placed in a way as to minimize impacts to the active stream channel.
 - d. Gravel or filter fabric should be placed behind the riprap rock, including the toe trench rock, as a filter blanket.
 - e. All riprap rock shall be placed, not dumped, from above the bank line.

Mitigation

The following conditions apply to the actions described in the Mitigation Plan (Pages #5 of permit application and attachment G), dated August 13, 2007.

24. Wetland mitigation for the unavoidable loss of 0.79 acres of PFOE and PEME Cowardin wetlands has been accomplished via purchase of 0.79 credits from the Mud Slough Wetland Mitigation bank, per the **proof of purchase dated February 2, 2009.**

Renewal Issued: February 4, 2012

Department of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
☎ 503-986-5200

Permit No.:	39192-RF Renewal
Permit Type:	Remova/Fill
Waterway:	Wetland
County:	Marion
Expiration Date:	February 4, 2013

JCNW FAMILY LLC

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action, which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
6. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
7. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390 and related administrative rules.
8. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.
9. Authorization from the U.S. Army Corps of Engineers may also be required.

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Lori Warner-Dickason, Northern Region Manager
Wetlands & Waterways Conservation Div
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Authorized Signature

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