



**US Army Corps  
of Engineers**  
Louisville District ®

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# Joint Public Notice

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Public Notice No.	Open Date:	Close Date:
LRL-2004-324-LCL	30 Sep 2015	30 Oct 2015

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Please address all comments and inquiries to:  
Mr. Laban C. Lindley  
U.S. Army Corps of Engineers, Louisville District  
Indianapolis Regulatory Office  
8902 Otis Avenue, Suite S106B  
Indianapolis, Indiana 46216

Phone: 317-543-9424

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This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA) and for State Water Quality Certification pursuant to Section 401 of the CWA from the Indiana Department of Environmental Management, Office of Water Quality.

APPLICANT: Fischer Homes Development Company  
6602 East 75<sup>th</sup> Street, Suite 400  
Indianapolis, Indiana 46250

AGENT: Christopher B. Burke Engineering, LLC  
115 West Washington Street, Suite 1368 South  
Indianapolis, Indiana 46168

LOCATION: Unnamed tributaries to Thorpe Creek and adjacent wetlands, located west of the intersection of 126<sup>th</sup> Street and S.R. 238, Fishers, Hamilton County, Indiana.

Latitude: 39.9691° N  
Longitude: 85.8999° W  
7.5 Minute Quad: McCordsville, IND.

PURPOSE: To construct the build-out of the Thorpe Creek Estates residential development.

DESCRIPTION OF WORK: The applicant requests after-the-fact authorization for the discharge of 24 cubic yards (cys) of fill material into 160 linear feet (lf) of unnamed tributary to Thorpe Creek, and 1,210 cys of fill material into a total of 0.75 acre of adjacent wetland. The applicant also proposes to discharge 13 cys of fill material into a total of 366 lf of unnamed tributaries to Thorpe Creek and 339 cys of fill material into 0.21 acre of adjacent wetland. The completed and proposed work supports the installation of utilities, roadways, storm water ponds, and grading of home lots for the final build-out phases of the development.

The complete Thorpe Creek Estates development was permitted in 2005 under a Regional General Permit verification requiring mitigation. Only a portion of the permitted work was completed and the permit expired in 2009. Unauthorized filling of waters of the U.S. was discovered on the site in 2010. That work was resolved in 2011 through completed restoration and after-the-fact permitting under a Regional General

Permit verification requiring mitigation. The new unauthorized work and proposed work in waters of the U.S. represents the final build-out of the complete development. The cumulative impacts associated with this single and complete project have now exceeded general permit thresholds, and is being reviewed as a Standard Permit.

**AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES:** The applicant has stated that the development has been planned to minimize lot density and preserve natural features. In the northwest corner of the development, a storm water retention pond has been relocated to avoid impacting 0.26 acre of Wetland 2. Several lots were removed and another retention pond was revised to totally avoid impacts to Wetlands 7 and 8. Further, the proposed retention pond in the south section of the development was revised to minimize the impact to unnamed tributary 6 by 584 lf.

For compensatory mitigation the applicant proposes to utilize 2.19 acres of existing forested wetland mitigation that was approved and constructed in 2005, associated with the original permit. This mitigation is located in the same 8-digit HUC watershed and has been determined to be successful. Additionally, the applicant has proposed to purchase wetland credits from the Central Indiana Mitigation Bank and Buck Creek Mitigation Bank. The amount of credits to be purchased is tentatively 0.17 acre of emergent credit and 0.50 acre of fen credit based on pre-application coordination. Last, the applicant proposes to utilize the existing preservation of 4,624 lf of unnamed tributaries to Thorpe Creek and associated riparian buffer (19.3 acres) located on-site as compensatory stream mitigation. This stream preservation was approved in the original permit.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

**REVIEW PROCEDURES:** A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied.

A DA Permit, if otherwise warranted, will not be issued on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice serves as the notice for a Clean Water Act Section 401 application for water quality certification from the IDEM. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, Section 401 WQC Program, 100 N. Senate Avenue Room N1255, Indianapolis, Indiana 46204. The applicant is responsible for obtaining the certification from IDEM.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency (USEPA), under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to

assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Mr. Laban C. Lindley at the address noted above and should refer to the Public Notice Number LRL-2004-324-LCL.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2004-324-LCL.

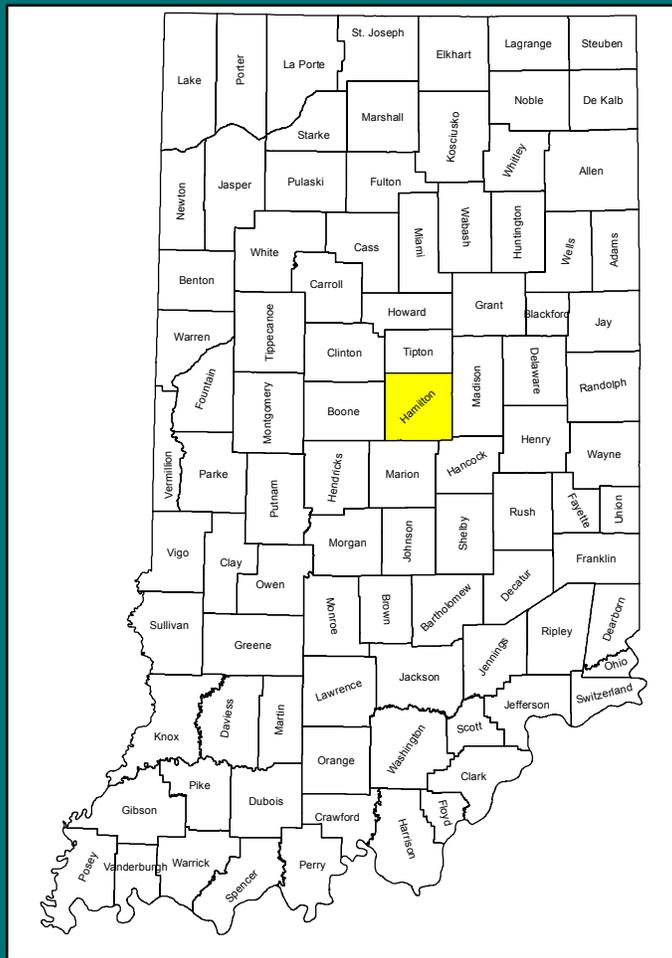
Example:

Subject: LRL-2004-324-LCL

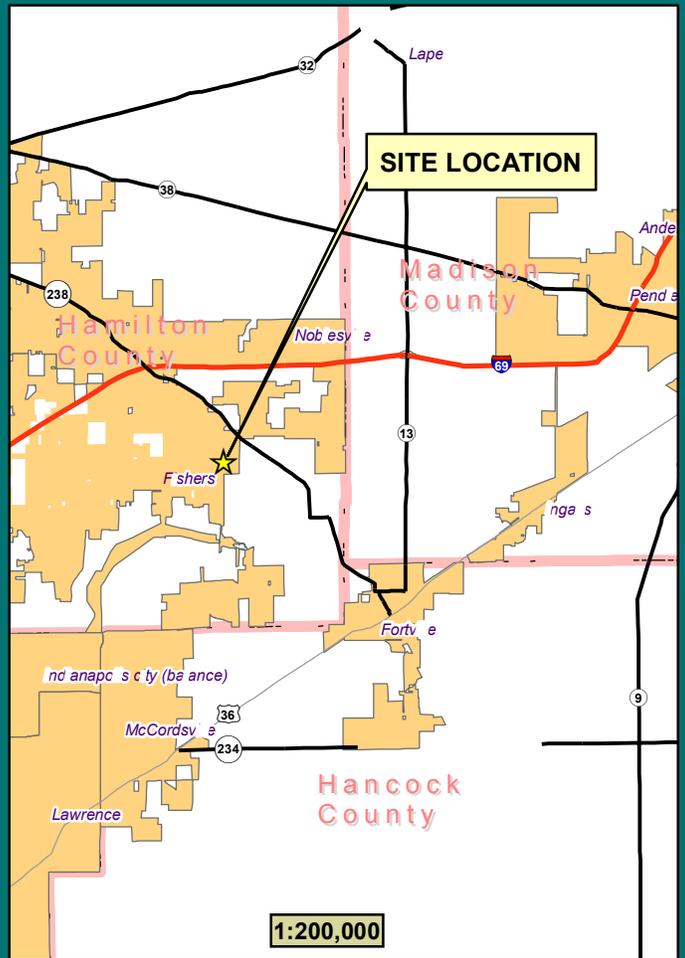
b) Provide your physical mailing address and telephone number.

c) Send your email to: [lrl.regulatorypubliccomment@usace.army.mil](mailto:lrl.regulatorypubliccomment@usace.army.mil).

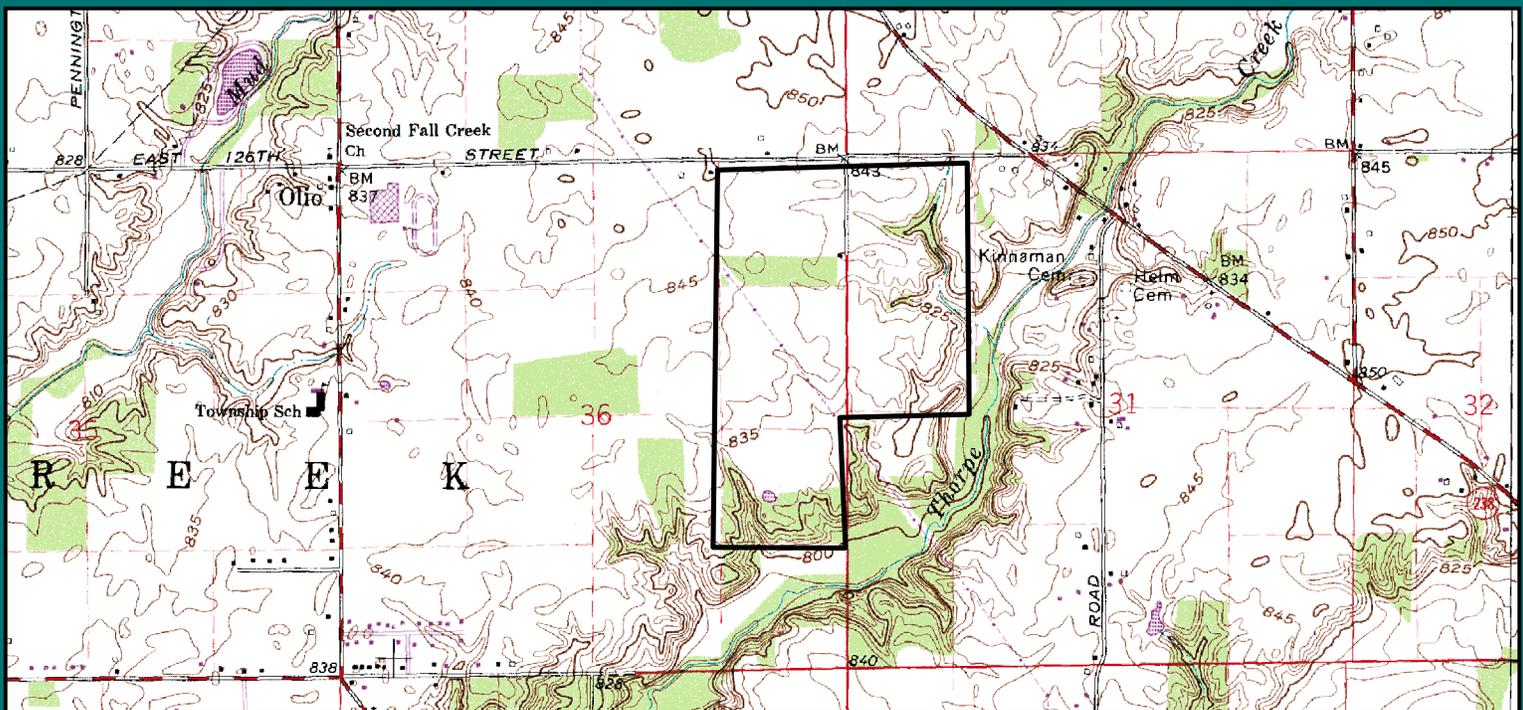
d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.



**STATE MAP**



**VICINITY MAP**



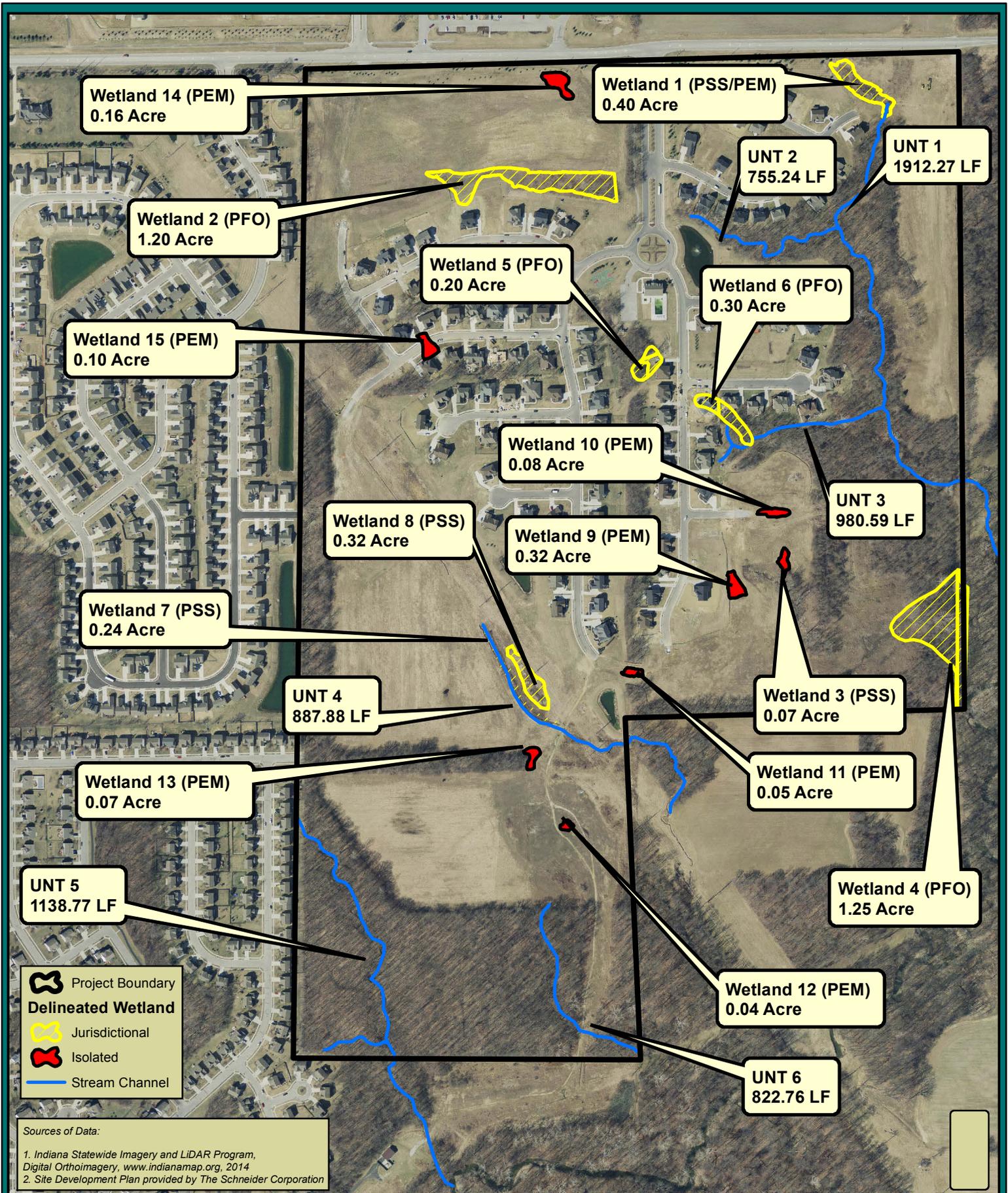
**AREA MAP**



**Christopher B. Burke Engineering, LLC**  
 PNC Center, Suite 1368 South  
 115 West Washington Street  
 Indianapolis, Indiana 46204  
 (t) 317.266.8000 (f) 317.632.3306

**PROJECT:** Thorpe Creek Estates  
**TITLE:** LRL-2004-324-LCL- Thorpe Creek Regulatory Agency Coordination and Permitting

**PROJECT NO.** 15-0002  
**APPROX. SCALE** as shown  
**DATE:** 08/2015  
**EXHIBIT 1 of 5**



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**PROJECT:**  
 Thorpe Creek Estates

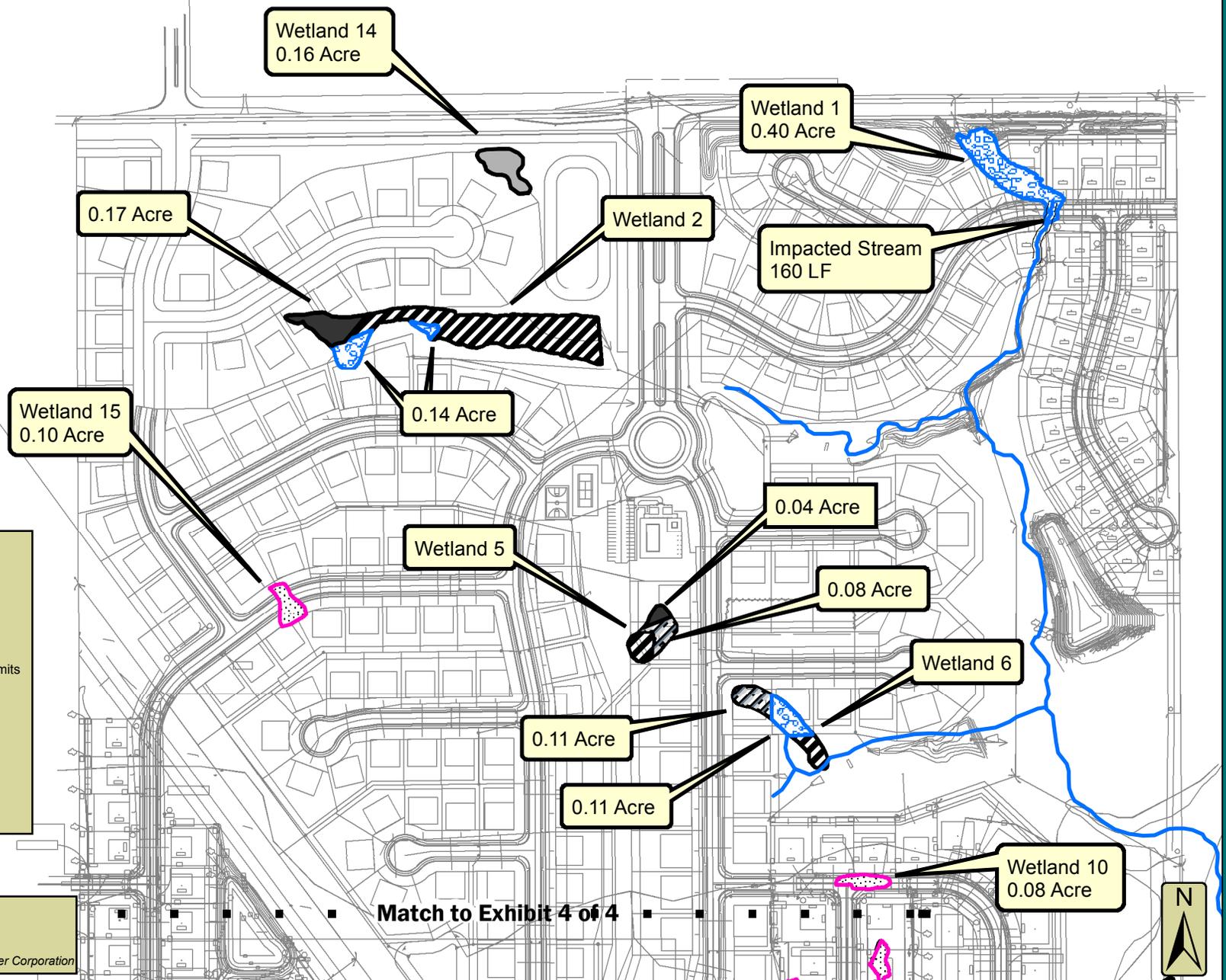
**TITLE:**  
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**PROJECT NO.**  
 15-0002

**APPROX. SCALE**  
 1" = 500'

**DATE:** 08/2015

**EXHIBIT 2 of 5**



■ ■ ■ Match Line  
 — Proposed Stream Impact  
 — Unauthorized Stream Impact  
 — Stream Channel  
 Delineated Wetland  
 Filled Wetlands in Accordance with Permits  
**Proposed Wetland Impacts**  
 Isolated  
 Jurisdictional  
**Unauthorized Wetland Impacts**  
 Isolated  
 Jurisdictional

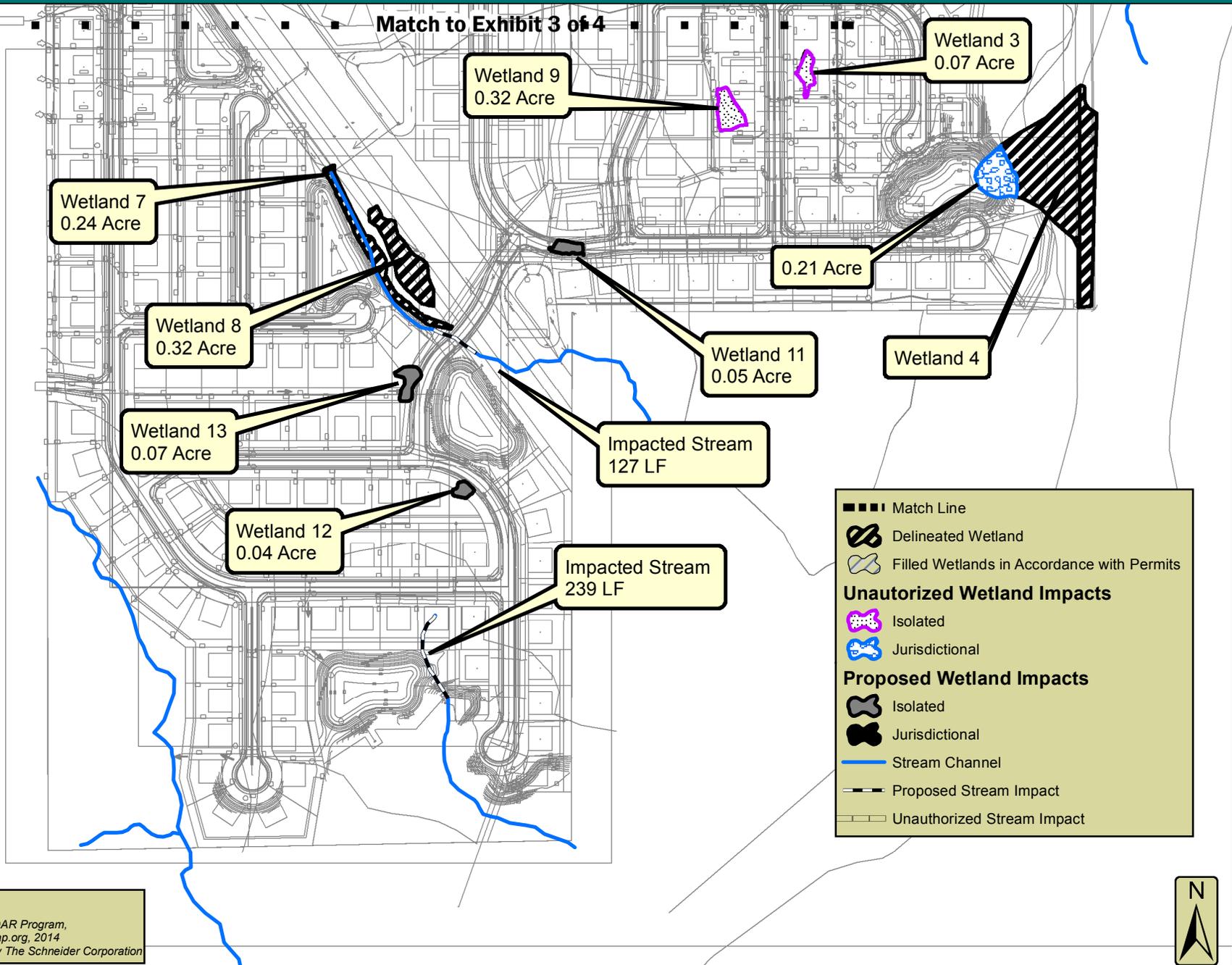
**Sources of Data:**  
 1. Indiana Statewide Imagery and LiDAR Program, Digital Orthoimagery, www.indianamap.org, 2014  
 2. Site Development Plan provided by The Schneider Corporation

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**PROJECT NO.** 15-0002  
**APPROX. SCALE** 1" = 350'  
**DATE:** 08/2015  
**EXHIBIT** 3 of 5

Match to Exhibit 3 of 4



Sources of Data:  
 1. Indiana Statewide Imagery and LiDAR Program, Digital Orthoimagery, www.indianamap.org, 2014  
 2. Site Development Plan provided by The Schneider Corporation

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PROJECT: **Thorpe Creek Estates**

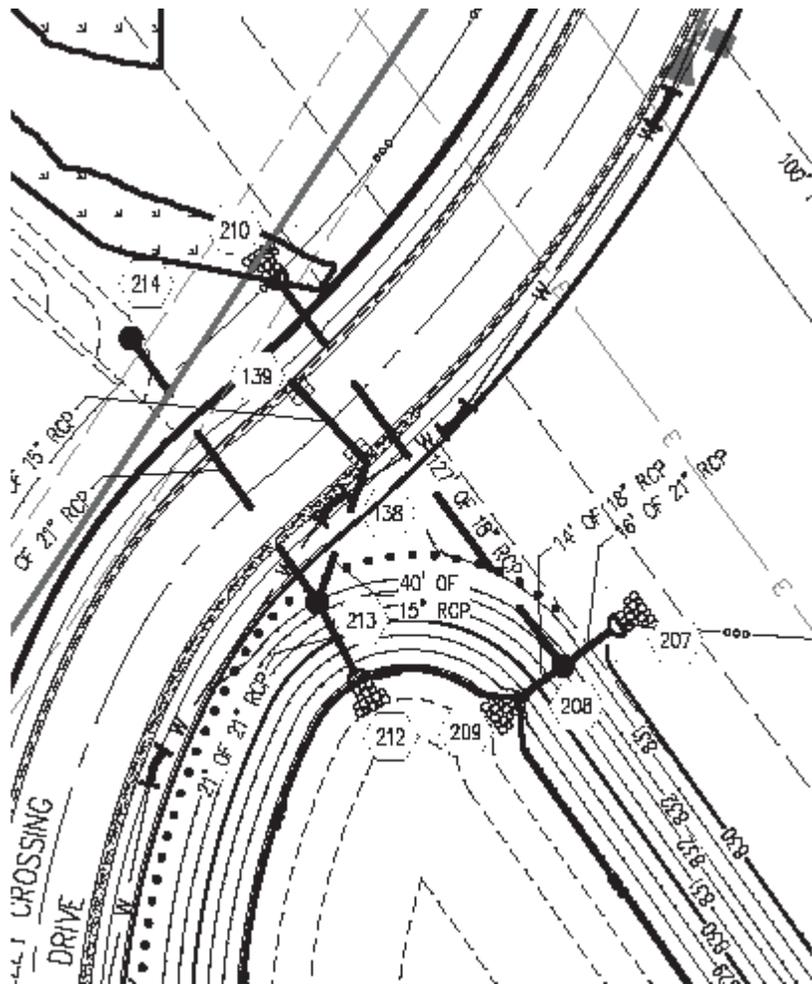
PROJECT NO. **15-0002**

APPROX. SCALE  
 1" = 350'

TITLE: **LRL-2004-324-LCL- Thorpe Creek Regulatory Agency Coordination and Permitting**

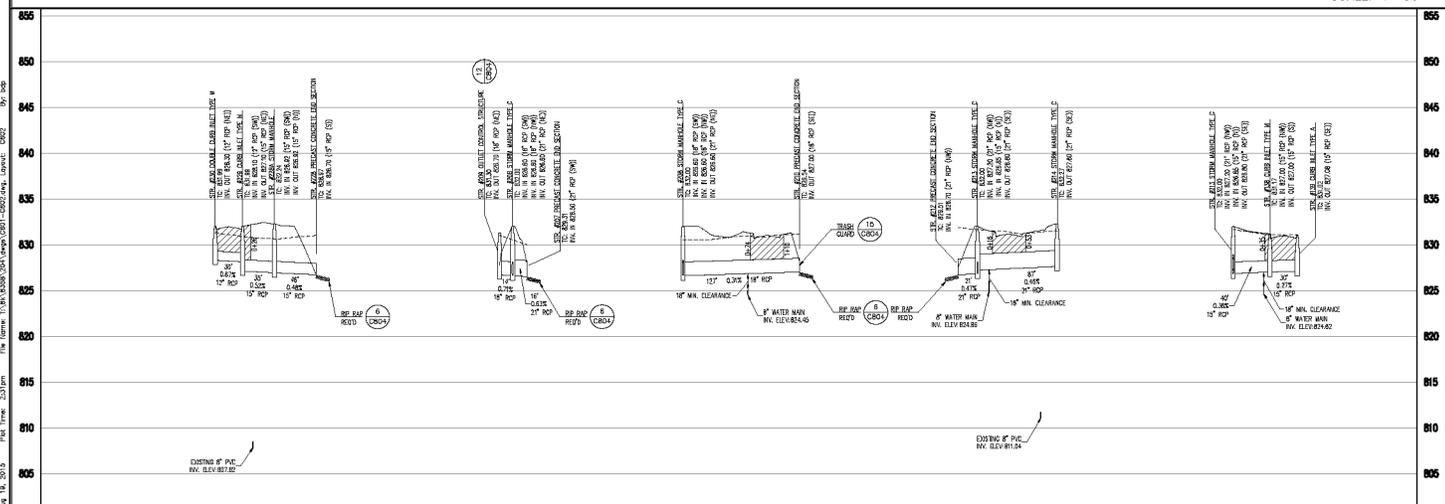
DATE: **08/2015**

EXHIBIT 4 of 5



STORM SEWER PLAN

SCALE: 1"=50'



STORM SEWER PROFILE

LEGEND		
	Existing Grade	
	New Grade	
	Storm Sewer	

SCALE: HORIZ.: 1"=50'  
VERT.: 1"=5'

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**PROJECT NO.**  
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**APPROX. SCALE**  
 1" = 500'

**DATE:** 08/2015

**EXHIBIT 5 of 5**