Public Notice

U.S. Army Corps
of Engineers
Tulsa District

Reply To:

U.S. Army Corps of Engineers
ATTN: Regulatory Office
1645 South 101st East Avenue
Tulsa, OK 74128-4609

SWT 2013-474
Public Notice No.

March 18, 2014
Public Notice Date

April 16, 2014
Expiration Date

PURPOSE
The purpose of this public notice is to inform you of a proposal for work in which you might be interested and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest.

SECTION 10
The U.S. Army Corps of Engineers is directed by Congress through Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition, or capacity of navigable waters of the United States. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404
The U.S. Army Corps of Engineers is directed by Congress through Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharges of dredged and fill material into all waters of the United States. These waters include lakes, rivers, streams, mudflats, sandflats, sloughs, wet meadows, natural ponds, and wetlands adjacent to other waters. The intent of the law is to protect these waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical, and biological integrity.

NOTICE TO PUBLISHERS
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DEPARTMENT OF ARMY
CORPS OF ENGINEERS, TULSA DISTRICT
1645 SOUTH 101ST EAST AVENUE
TULSA, OKLAHOMA 74128-4609

Application No. SWT-2013-474

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY (ODEQ)
(30-DAY COMMENT PERIOD)

Interested parties are hereby notified that the District Engineer (DE) has received an application for a Department of the Army (DA) permit and water quality certification pursuant to Sections 404 and 401 of the Clean Water Act. The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto.

The application proposes to facilitate the Luther Road Section 14 Emergency Streambank Stabilization Project which addresses streambank erosion control and bank slope instability to stop the eastward migration of a meander of the North Canadian River. Stabilizing the streambanks is needed to protect public safety and facilities (Luther Road Bridge).

Name of Applicant: Oklahoma County
Mr. Stacy Trumbo, County Engineer
320 Robert S. Kerr, Suite 101
Oklahoma City, OK 73102

Name of Agent: U.S. Army Corps of Engineers, Tulsa District
Project Manager: Mr. Rich Bilinski,
Technical Lead for NEPA: Ms. Patricia A. Newell,
1645 South 101st East Ave.
Tulsa, OK 74128

Location: The proposed project is located along both banks of the North Canadian River in the Southeast 1/4 of Section 21, Township 12 North, Range 1 East, near Harrah, Oklahoma County, Oklahoma. The project site can be found on the Horseshoe Lake Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 35.502989 and West Longitude 97.196839.

Purpose: The basic purpose of this work is to provide bank stabilization.

A water dependency determination is unnecessary since no special aquatic sites are located at the project site.

The overall purpose of this work is to address streambank erosion and bank slope instability to stop the eastward migration of a meander of the North Canadian River.

Stabilizing the streambanks is needed to protect public safety and facilities. In addition to protecting Luther Road and the bridge spanning the North Canadian River, electric distribution lines parallel the road and high power electric transmission lines are situated adjacent to the left bank of the river. Streambank erosion has already exposed one of the concrete footings of the transmission pylon adjacent to the left bank of the river. The meander of the North Canadian River has migrated approximately 900 feet eastward in the last 10 years and is within 100 feet of Luther Road and the bridge.

Table of Impact:

Original Proposal					
Number or Location	**Impact Activity**	**Type of Impact**	**Type of Fill Material**	**Quantity of Material (CY) below OHWM**	**Footprint (AC and/or LF)**
Left Descending Bank	Placement of Fill Material	Bank Stabilization	24-inch Riprap and Bedding	8,777 CY	3,500 LF
Right Descending Bank	Placement of Fill Material	Bank Stabilization	24-inch Riprap and Bedding	965 CY	350 LF

Description of Work: The applicant proposes to construct two bank stabilization projects. Fill material to be placed below the OHWM for these projects would be 24-inch crusher run riprap with bedding material and native grass added for stabilization above the riprap.

The first bank stabilization project would be along the left descending streambank. This streambank has existing concrete rubble placed for erosion control. 8,777 CY of this existing fill material would be used for this proposal, the excess would be hauled to a commercial landfill. Reshaping of the bank would occur to a 3-foot horizontal to 1-foot vertical ratio slope for a linear distance of approximately 3,500 linear feet. Additional fill material includes 6-inch layer of bedding material armored by 24-inch riprap to the 1-year frequency discharge elevation.

The second bank stabilization project would be along the right descending streambank at the Luther Road Bridge. This bank protection project would armor 350 linear feet of the up and down streambank at the Luther Road Bridge. This streambank also has existing concrete rubble placed for erosion control. 965 CY of this existing fill material would be used for this proposal, the excess would be hauled to a commercial landfill. The project description is generally the same as first bank stabilization project.

Appropriate vegetation will be used to stabilize approximately 4.7 acres above the riprap to the top of slope.

An on-site temporary staging area would be constructed. Additionally, an unimproved permanent access road and drainage ditch would also be established to facilitate this proposal at the project site.

Section 14 Projects: Section 14 of the Flood Control Act of 1946 (P.L. 79-526) authorizes the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes. The Oklahoma County is the local, non-federal sponsor for this proposed project. This stabilization project is needed to protect public safety and facilities. The Luther Road Bridge and the concrete footings of the transmission pylon are the public facilities this proposal is intended to protect.

The Oklahoma County would be responsible for maintenance of this project. The Corps would be responsible for construction design and oversight.

The Corps has finalized an Environmental Assessment (EA) for this proposal. The environmental assessment concluded with a Finding of No Significant Impact dated September 27, 2013.

Avoidance and Minimization Information: The applicant provided the following statement with regard to how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

> Seven alternatives including the no action alternative have been described for this proposal. No avoidance and minimization information was supplied by Oklahoma County.

This following alternative information was taken from the Corps EA of September 2013:

Alternative 1 is the No-Action Alternative (or the future without project condition) that assumes no action is taken. Although this alternative does not meet the goal of stabilizing the streambank, the analysis of the no-action is required by the Council on Environmental Quality (CEQ) regulations for the National Environmental Policy Act (NEPA) to identify baseline conditions against which potential impacts in the EA can be identified.

Action Alternatives 2, 3, and 4 are similar in that they all propose to establish a temporary staging area, access road, and drainage ditch; remove the existing concrete rubble; grade the streambank at a 2h:1v slope; place a layer of 6 inches of bedding material or filter fabric; and placing riprap 24 inches thick. They differ in the required quantity and up-slope elevation of riprap and planting areas. For the purposes of this EA, the analysis of impacts will group Action Alternatives 2, 3, and 4 together. Action Alternatives 2, 3, and 4 would require the acquisition of approximately 5.2 acres for the staging area, access road, drainage ditch, and construction.

Action Alternatives 5, 6, and 7 are similar in that they all propose to establish a temporary staging area, access road, and drainage ditch; remove the existing concrete rubble; grade the streambank at a 3h:1v slope; place a layer of 6 inches of bedding material or filter fabric; and placing riprap 24 inches thick. They differ in the required quantity and

up-slope elevation of riprap and planting areas. For the purposes of this EA, the analysis of impacts will group action alternatives 5, 6, and 7 together. Action Alternatives 5, 6, and 7 would require the acquisition of approximately 6.5 acres for the temporary staging area, access road, drainage ditch, and construction.

The Tentatively Selected Plan (TSP) at the signing of the EA was Action Alternative 2. The TSP for this public notice is Action Alternative 5 without the filter fabric.

Mitigation: Furthermore, the applicant proposes the following as compensatory mitigation for the unavoidable impacts to aquatic resources expected from the proposed project:

No compensatory mitigation plan has been provided by the Oklahoma County.

This mitigation plan is the applicant's proposal. The Corps has made no determination at this time with regard to the adequacy of the proposed mitigation relative to the federal mitigation rules and guidance, including Tulsa District's Mitigation and Monitoring Guidelines. The Corps is accepting comments on the need for and nature of the proposed mitigation in addition to comments on the applicant's primary proposal. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Other: Two local landowners have placed approximately 2,450 linear feet of concrete rubble at this site without Department of the Army authorization. Landowner A has placed approximately 1,800 linear feet of bank stabilization and Landowner B has placed approximately 650 linear feet of bank stabilization in the North Canadian River. This proposal would address erosion throughout the entire site.

Additionally, the proposed streambank stabilization project was coordinated with the following agencies:

Agency	**Date Coordination Complete**	**Reference Number**
Oklahoma Archeological Survey	September 6, 2013 and July 8, 2013	
Oklahoma Natural Heritage Inventory	July 2, 2013	2013-260-FED-CORP
EPA, Compliance Assurance and Enforcement Division	July 16, 2013	
ODEQ	July 11, 2013	
U.S. FWS	July 30, 2013	
Tribal Consultation	No Tribes Responded	
Oklahoma Biological Survey	July 16, 2013	

Project Setting: The study area is located within a transitional area between the Central Great Plains and Cross Timbers ecoregions of central Oklahoma. The Central Great Plains ecoregion includes scattered hills, low mountains, gypsum karst, and sandy

flats. Upland natural vegetation in this dry-sub humid area is predominately mixed grass prairie, but honey mesquite (*Prosopis glandulosa*) and buffalograss (*Bouteloua dactyloides*) are native to the South and to sandy areas. Mean annual rainfall increases to the east, and varies from approximately 22 to 38 inches. Streamflow stops or nearly stops in the summer, but scattered pools persist and serve as summer refuges for aquatic fauna. The most common minnows include the red shiner (*Cyprinella lutrensis*), sand shiner (*Notropis altipinnis*), suckenmouth minnow (*Phenacobius mirablis*), and the plains minnow (*Hybognathus argyritis*). The endemic (and threatened) Arkansas River shiner (*Notropis girardi*) also has designated critical habitat within this ecoregion. Freckled madtoms (*Noturus nocturnus*) and isolated pockets of orangethroat (*Etheostoma spectabile*) and dusky darters (*Percina sciera*) also occur (Woods et aI., 2005).

Existing Condition: The area is primarily agricultural and was actively farmed until the eastward migration separated the landowner from the cropland. The soils are fine and very fine sandy loams. Aerial imagery dating back to 1990 shows that this area was farmed nearly to the river, with no riparian vegetation along the left bank and minimal riparian vegetation on the right bank at the southernmost bridge abutment. Since 1990, the meander has migrated approximately 1,500 feet eastward.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Encls 1 - 4). If additional information is desired, it may be obtained from U.S. Army Corps of Engineers, Tulsa District, ATTN: Regulatory Office, 1645 South 101st East Avenue, Tulsa, OK 74128-4609, or telephone 918-669-7400.

Cultural Resources: The DE has consulted the National Register of Historic Places regarding the potential effects from the proposed action. The DE will comply with the requirements of the National Historic Preservation Act of 1966 for any known or presently unknown historic or archeological resources that may exist in the project vicinity and which could be directly affected by the proposed work. This public notice is being sent to the State Historic Preservation Officer and to Native American Tribal governments to reveal if other known historic or archeological resources may be eligible for listing in the National Register exist in the project area and which could be directly affected by the proposed work. This coordination is being done to fulfill our requirements under the National Historic Preservation Act of 1966 (Public Law 89-665) and associated historic preservation laws. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological or other historic properties which may be affected by the proposed work, the DE will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966, as amended, and 36 CFR Part 800, in accordance with implementing regulations 33 CFR 325, Appendix C.

Threatened and Endangered Species: The following federally listed species are known to occur in the vicinity or are listed for the county in which the proposed action is located: piping plover (*Charadrius melodus*), whooping crane (*Grus Americana*), and the least tern (*Sterna antillarum*). No critical habit is present. A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies.

We are currently assessing the potential effects of the proposed action on these species and will comply with the Endangered Species Act with regard to any affect of our decision on this permit application.

Environmental Considerations: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit 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, including the cumulative effects thereof: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownerships, and, in general, the needs and welfare of the people. A permit will be denied if the discharge does not comply with the Environmental Protection Agency's 404(b)(1) Guidelines. Subject to the 404(b)(1) Guidelines and any other applicable guidelines or criteria, a permit will be granted unless the DE determines that it would be contrary to the public interest.

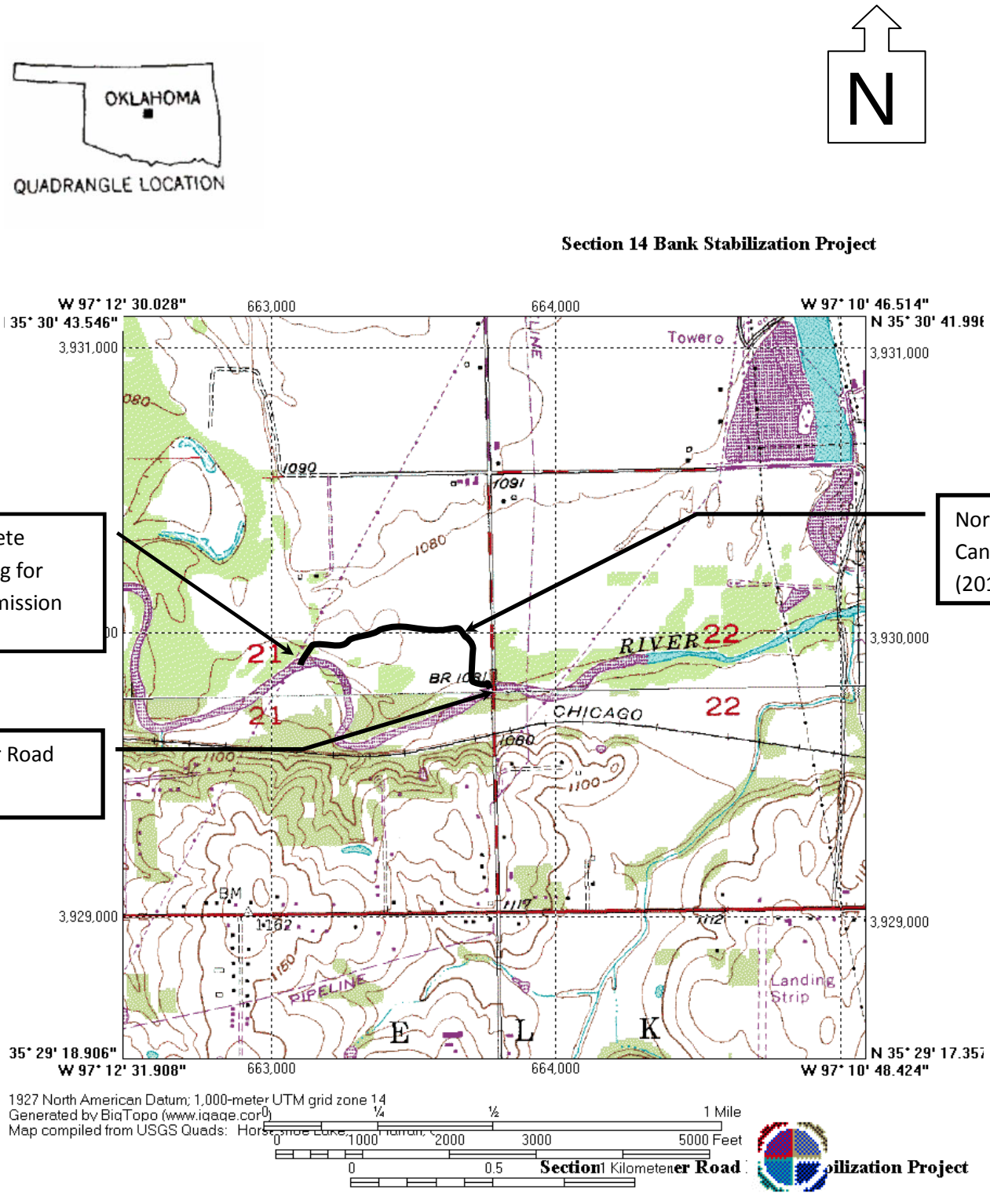
Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and officials, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the DE no later than 30 days from the date of this public notice. Any comments received will be considered by the Corps 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. Any person may request in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

At the request of the Oklahoma Water Resources Board's National Flood Insurance Program State Coordinator, we are sending a copy of this notice to the local flood plain administrator to apprise the administrator of proposed development within their jurisdiction. In accordance with 44 CFR Part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. The local flood plain administrator is required to perform this review for all proposed development and maintain records of such review.

Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a water quality Section 401 certification for the proposed project. Work may not commence until decisions have been made on both Sections 401 and 404.

Andrew R. Commer
Chief, Regulatory Office

Enclosures



SWT-2013-474
Section 14 Luther Road Bank Stabilization Project
Oklahoma County
North Canadian River
Enclosure 1 of 4

Project Location: The proposed project area is located adjacent to the west shoulder of Luther Road, approximately 350 feet north of the Arkansas-Oklahoma railroad, 0.5-miles north of US Highway 62 (NE 23rd Street) and approximately 2 miles west-northwest of Harrah, Oklahoma. The heavy, green line is the conceptual location of the highly eroded stream banks that would be stabilized with this project.

RIPRAP PLAN

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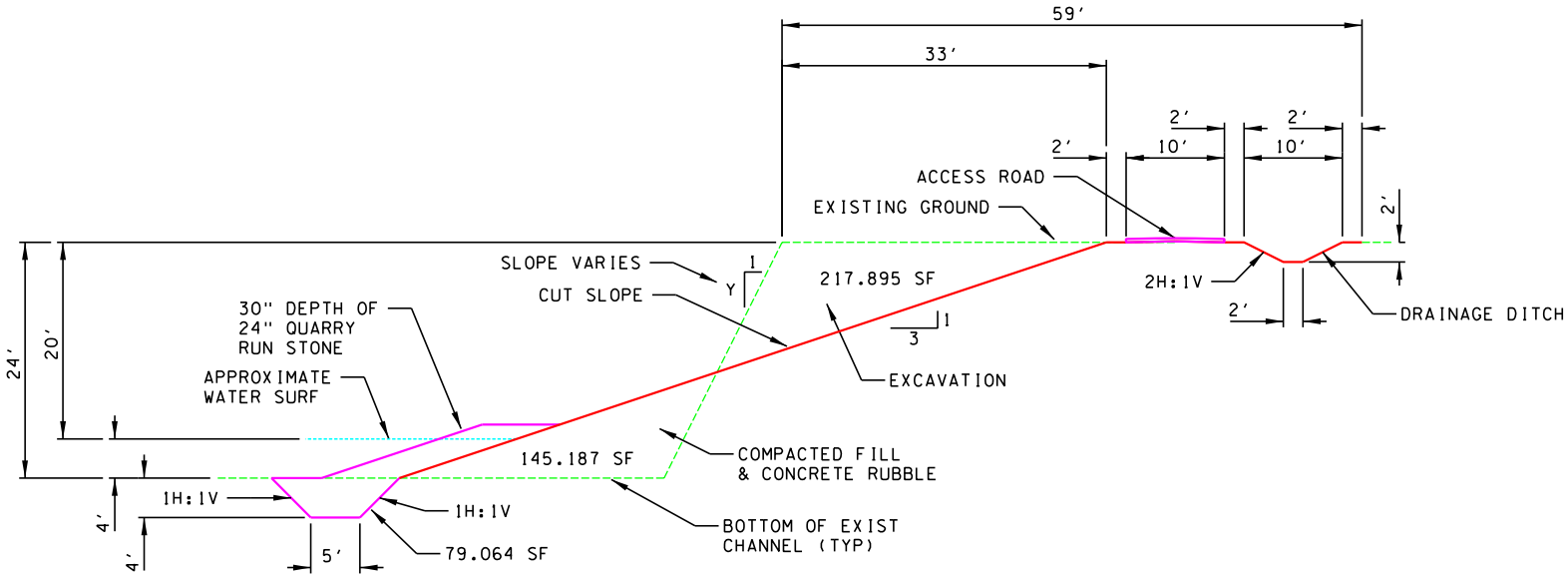
SCALE OF FEET

SWT-2013-474
Section 14 Luther Road Bank Stabilization
Oklahoma County
North Canadian River
Enclosure 3 of 4



TYPICAL SECTION

CUT SLOPE PUSHED INTO RIVER
BALANCING CUT/FILL
KEYING INTO RIVER BED
QUARRY RUN STONE

SWT-2013-474
Section 14 Luther Road Bank Stabilization
Oklahoma County
North Canadian River
Enclosure 4 of 4