



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 2014-130
Public Notice No.

June 17, 2014
Public Notice Date

July 18, 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

This public notice has been provided as a public service and may be reprinted at your discretion. However, any cost incurred as a result of reprinting or further distribution shall not be a basis for claim against the Government.

Application No. SWT-2014-130

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 is to install gabion basket sloped walls on both banks and three weirs along Chisholm Creek for approximately 800 linear feet within the project boundary. The walls are to offer bank stabilization associated with an upland planned development.

Name of Applicant: Mr. Bill Wetterman
Chisholm Creek Land LP
3600 NW 138th Street, Suite 102
Oklahoma City, OK 73134

Name of Agent: Mr. Timothy W. Johnson
Johnson & Associates, Inc.
1 East Sheridan Avenue, 2nd Floor
Oklahoma City, OK 73104

Location: The proposed project is in the Northwest 1/4 of Section 17, Township 13 North, Range 3 West, near Oklahoma City, Oklahoma County, Oklahoma. The project site can be found on the Britton Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 35.60280 and West Longitude -97.54727.

Purpose: The basic purpose of this work is to stabilize both banks of Chisholm Creek within the project boundary of an upland planned development. The applicant believes the bank stabilization design will also add a beautification aspect to the stream as a valued amenity.

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

The overall purpose of this work is to widen and deepen the existing stream reach to provide additional flood capacity through a planned commercial development. The stabilization of the creek within the project boundary is to reduce erosion. The applicant believes that the gabion basket/weir design will result in an aesthetically pleasing aquatic feature associated with the planned development.

Note: This project was originally proposed and permitted by an individual permit authorization (OKR2015476) for a reinforced concrete box culvert for the 800 linear feet. The project did not have a mitigation plan that would be consistent with the current mitigation guidelines for the Tulsa District. This permit was issued in 2007 and expired in April of 2010. The project was not accomplished within the original timeframe due to economic constraints.

Table of Impact:

Original Proposal					
<u>Number or Location</u>	<u>Impact Activity</u>	<u>Type of Impact</u>	<u>Type of Fill Material</u>	<u>Quantity of Material (CY) below OHWM</u>	<u>Footprint (AC and/or LF)</u>
Left Descending Bank	Placement of Fill Material	Bank Stabilization	Rock filled gabion baskets	1,153 CY	800 LF
Right Descending Bank	Placement of Fill Material	Bank Stabilization	Rock filled gabion baskets	1,153 CY	800 LF
Channel	Placement of Fill Material	3 Weirs	Concrete weir walls	189 CY (total)	0.05 AC

Description of Work: The applicant proposes the installation of gabion basket walls on both banks and the installation of three stepping weirs within the channel of Chisholm Creek. The gabion basket walls will be composed of native rock inside of wire gabion baskets. The walls would result in the total volume of 2,305 cubic yards at or below the ordinary high water mark. These structures will be stacked on top of each other in a staggered manner resulting in a slope of approximately 3:1 feet. The weirs will be installed in the same 800 linear feet segment, resulting in 189 cubic yards of reinforced weir concrete wall and native stone being placed at or below the ordinary high water mark.

To accommodate the above structures and to widen and deepen the overall channel, the applicant proposes to excavate 13,406 cubic yards of total material along both banks of Chisholm Creek for approximately 800 linear feet. After filter fabric has been placed within the footprint of the walls, the walls would be installed, and then backfilling behind the walls would be accomplished using soil from the excavation process. The applicant is proposing to place sod and a minimum of 20 trees along the identified common areas that are on the top of the bank (enclosure 5).

The work will be conducted using a backhoe, tracked backhoe, bulldozer, and dump truck. To access the site for construction, two graveled access points will be constructed on each side of the stream down into the Channel.

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:

“Due to the location and nature of the project impact avoidance cannot be achieved but is minimized with the light impact design. Compensation is not required since the completion of the project will result in a major enhancement to the stream value, quality, and aquatic value. Compensatory mitigation is not required--nothing has been destroyed to compensate for. The proposed modifications enhance the stream.”

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

Although the above avoidance and minimization statement states that the applicant does not propose a compensatory mitigation plan. The applicant does have mitigation aspects incorporated into the design. Based on the original RCB design, the new design has been minimized. The applicant is proposing to plant trees along both of the banks of the creek within the area of impact in a common area. The trees will consist of an even mixture of Shumard Oak (*Quercus shumardii*), Sycamore (*Platanus occidentalis*), and Green Ash (*Fraxinus pennsylvanica*). The applicant states,

“The light impact design using gabion baskets to stabilize the banks, natural bottom, and stepping weirs to provide pools along the reach all tend to enhance the stream and improve the aquatic value. With this type of improvement, it is felt compensatory mitigation need not be required.”

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: The original Endangered Species review for this project concluded that this project would have no effect on listed species at that time. The United States Fish and Wildlife Service responded with a concurrence letter dated August 31, 2006.

The original Section 106 review for this project resulted in a cultural resources survey conducted on November 12, 2006 by JCR Cultural Resources. This report concludes that no effect for historic or cultural resources will be impacted. Concurrence letters from both the Oklahoma Archeological Survey (December 10, 2014) and the State Historic Preservation Office (August 23, 2014) in response to the survey and its recommendation of “no effect”.

Project Setting: This proposed project has a drainage area of 212.69 surface acres within the upper limits of the headwater zone of the Cimarron River, which is in the Cross Timbers Transition Ecoregion of Oklahoma. This stream is an intermittent to perennial waterway, which has been influenced by urban growth. Commercial and residential developments draining into this waterway upstream of the project site have altered the stream. The project area is bordered on the north by a Wal-Mart supercenter and its parking lot.

Existing Condition: The site contains a relatively flat floodplain with mixed grasses west of the creek and a wooded terrace to the east. The stream is characterized as incised throughout much of the segment. Currently no riparian corridor is visible on the project site. The site was documented as having a riparian corridor present on the original application review.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice (Encl 1-5). 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 previously completed consultation for Section 106 of the Nation Historic Preservation Act of 1966. Refer to the above statement in the, "Other" section for further information.

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*), red knot (*Calidris canutus rufa*), whooping crane (*Grus Americana*), Arkansas River shiner (*Notropis girardi*), and interior least tern (*Sterna antillarum*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. This notice constitutes a request to those agencies for information on whether any other listed or proposed-to-be-listed endangered or threatened species may be present in the area which would be affected by the proposed activity.

Our preliminary determination is that the proposed activity will not affect listed threatened or endangered species or their critical habitat.

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.

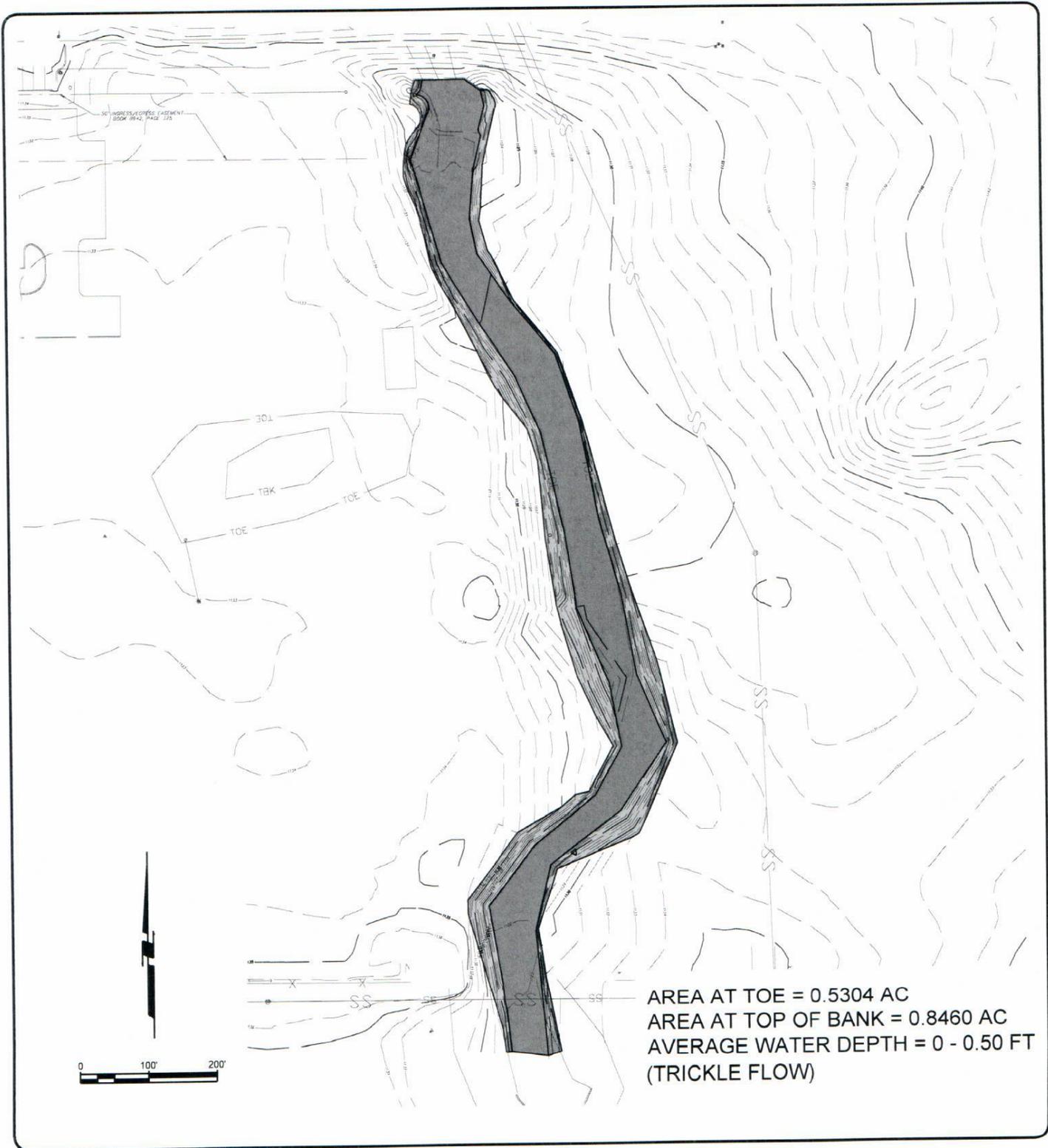
Comments: In order to consider and evaluate the impacts of this proposed activity the Corps is soliciting comments from the public, federal, state, and local agencies and officials, Indian tribes, and other interested parties. Comments concerning the issuance of this permit should be received by the 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.

The ODEQ hereby incorporates this public notice and procedure as its own public notice and procedure by reference thereto. 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



ACAD FILE: H:\2054\2054014\2054014-CHANNEL EXHIBIT.dwg, 5/12/2014 11:13 AM, Chris Gettings
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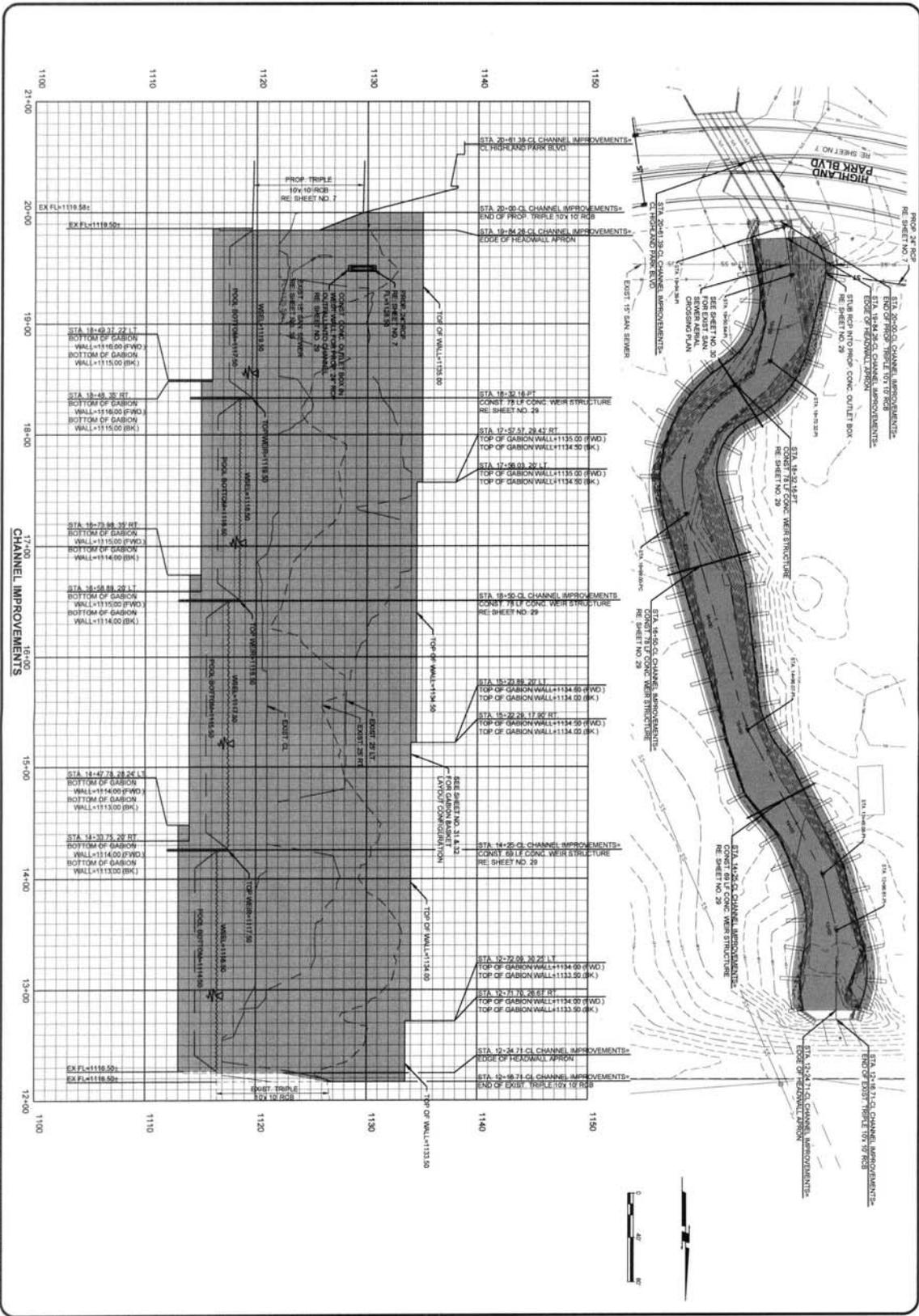
Proj. No.: _____
 Date: 05-12-14
 Scale: 1" = 100'

CHISOLM CREEK DEVELOPMENT
 COE I.D. NO. SWT-2014-130
CHANNEL EXHIBIT



Johnson & Associates, Inc.
 1 E. Sheridan Ave., Suite 200
 Oklahoma City, OK 73104
 (405) 235-8075 FAX (405) 235-8078
 Certificate of Authorization #1484 Exp. Date: 06-30-2015
 ENGINEERS • SURVEYORS • PLANNERS

SWT-2014-130
 Chisholm Creek Bank Stabilizaiton
 Chisholm Creek
 Oklahoma County
 Enclosure 1 of 5

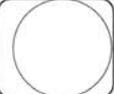


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CHANN EL IMPROVEMENTS
 PRIVATE CHANNEL IMPROVEMENTS FOR CHISOLM CREEK

PRIVATE CHANNEL IMPROVEMENTS
 FOR CHISOLM CREEK
 OKLAHOMA CITY, OKLAHOMA COUNTY, OKLAHOMA
 CHANNEL IMPROVEMENTS
 PLAN & PROFILE

Johnson & Associates, Inc.
 1 E. Sheridan Ave., Suite 200
 Oklahoma City, OK 73104
 (405) 235-8200 FAX (405) 235-8205
 Certificate of Authorization #1488 Exp. Date 06-30-2015
 ENGINEERS SURVEYORS PLANNERS

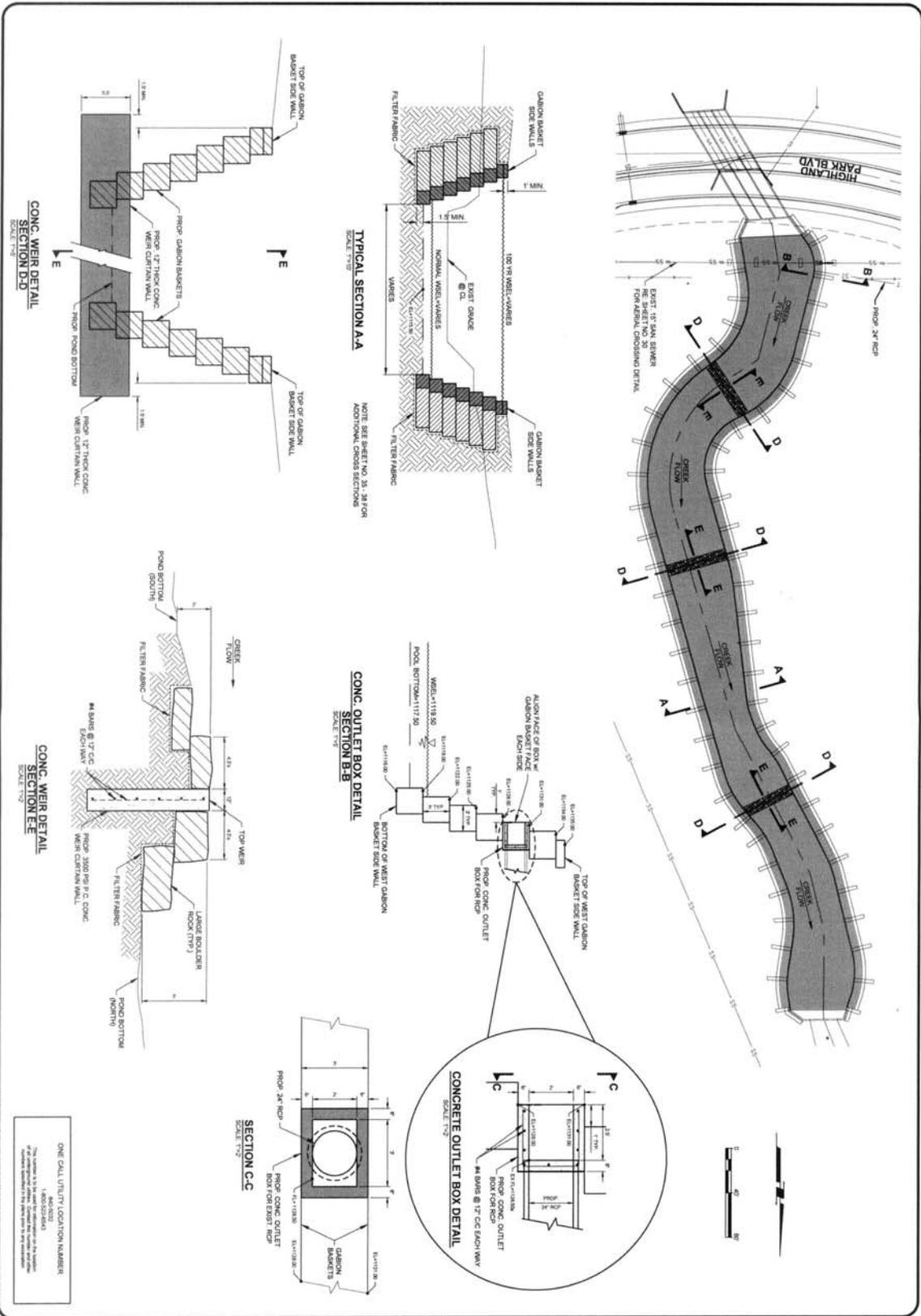


REVISIONS		
NO.	DESCRIPTION	DATE

SHEET NUMBER
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PD-2318

SWT-2014-130
 Chisolm Creek Bank Stabilizaiton
 Chisolm Creek
 Oklahoma County
 Enclosure 2 of 5



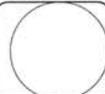
PRIVATE CHANNEL IMPROVEMENTS FOR CHISOLM CREEK

ONE CALL UTILITY LOCATION NUMBER
 Call before you dig. Call 800-4-A-SHED.
 Call before you dig. Call 800-4-A-SHED.
 Call before you dig. Call 800-4-A-SHED.

SHEET NUMBER
29

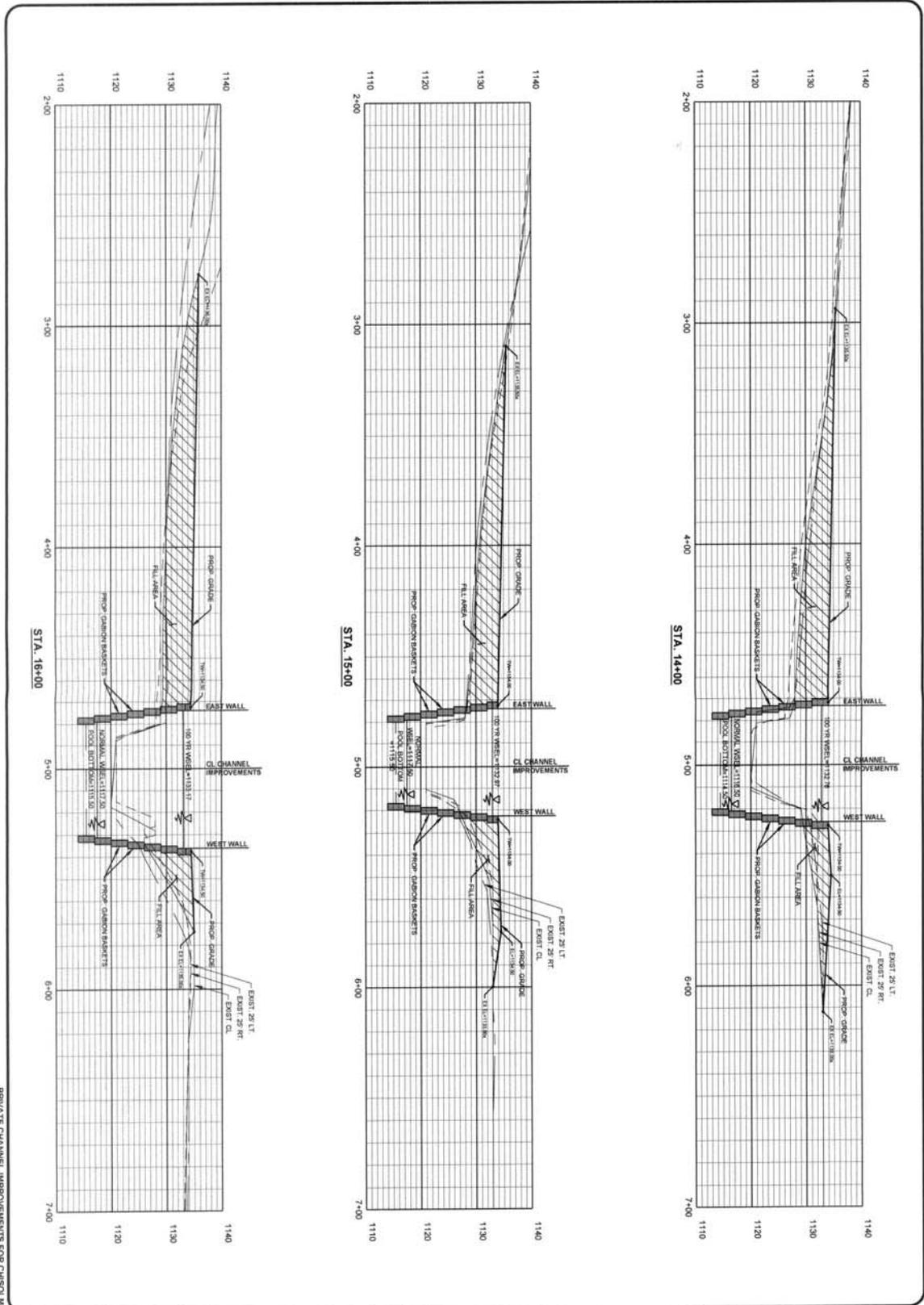
PRIVATE CHANNEL IMPROVEMENTS FOR CHISOLM CREEK
 OKLAHOMA CITY, OKLAHOMA COUNTY, OKLAHOMA
 CHANNEL IMPROVEMENTS DETAILS & SECTIONS

Johnson & Associates, Inc.
 1 E. Sheridan Ave., Suite 200
 Oklahoma City, OK 73104
 405-236-8019 FAX 405-233-8019
 Certificate of Accreditation #1484 Exp. Date 06/30/2015
 ENGINEERS SURVEYORS PLANNERS



REVISIONS		
NO.	DESCRIPTION	DATE

SWT-2014-130
 Chisolm Creek Bank Stabilization
 Chisolm Creek
 Oklahoma County
 Enclosure 3 of 5



PRIVATE CHANNEL IMPROVEMENTS FOR CHISOLM CREEK

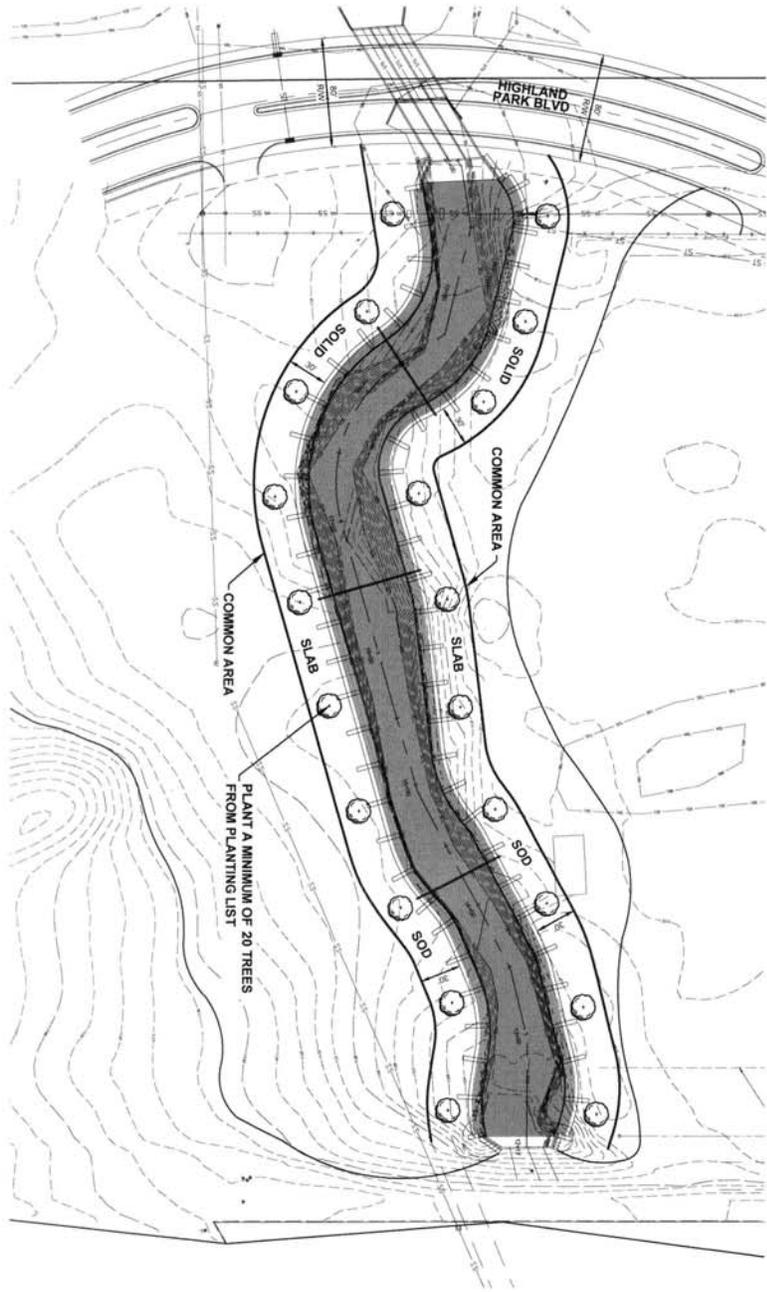
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SHEET NUMBER

PRIVATE CHANNEL IMPROVEMENTS FOR CHISOLM CREEK
OKLAHOMA CITY, OKLAHOMA COUNTY, OKLAHOMA
CROSS SECTIONS

Johnson & Associates, Inc.
1 E. Sheridan Ave., Suite 200
Oklahoma City, OK 73104
405.235.8075 FAX: 405.235.8073
Certificate of Authorization #1184 Exp. Date: 08-30-2015
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REVISIONS		
NO.	DESCRIPTION	DATE

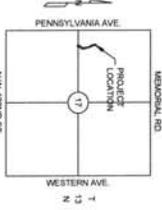
SWT-2014-130
Chisolm Creek Bank Stabilizaiton
Chisolm Creek
Oklahoma County
Enclosure 4 of 5



PLANT A MINIMUM OF 20 TREES FROM PLANTING LIST

TREES
PLANTING SELECTION LIST

- | | |
|---------------------|-------------------|
| Common Name | Symbol |
| River Birch | (Circle with 'R') |
| Shumard Oak | (Circle with 'S') |
| Green Ash | (Circle with 'G') |
| Green Fraxinoid | (Circle with 'F') |
| Black Walnut | (Circle with 'B') |
| SCHEMATIC | |
| Common Elm | (Circle with 'E') |
| Chickadee | (Circle with 'C') |
| Hybrid Poplar | (Circle with 'P') |
| Dwarf Spreading Yew | (Circle with 'Y') |



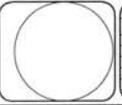
ONE CALL UTILITY LOCATION MARKERS
 1-800-327-6443
 Call before you dig. Call the utility owner to determine the location of the utility lines. Call 811 for more information.

PRIVATE CHANNEL IMPROVEMENTS FOR CHISOLM CREEK

33A
 SHEET NUMBER
 PROJECT NO. 2014-130
 DATE 06-30-2015

PRIVATE CHANNEL IMPROVEMENTS FOR CHISOLM CREEK
 COMMON AREA & VEGETATIVE BUFFER PLAN

Johnson & Associates, Inc.
 1 E. Sheridan Ave., Suite 200
 Oklahoma City, OK 73104
 (405) 238-8075 FAX (405) 228-8078
 Certificate of Authorization #1487 Exp. Date 06-30-2015
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REVISIONS		
NO.	DESCRIPTION	DATE

SWT-2014-130
 Chisholm Creek Bank Stabilization
 Chisholm Creek
 Oklahoma County
 Enclosure 5 of 5