



# Public Notice

---

U.S. Army Corps  
of Engineers  
Tulsa District

Reply To:

U.S. Army Corps of Engineers  
ATTN: Regulatory Office  
2488 E 81<sup>st</sup> Street  
Tulsa, OK 74137

SWT-2024-00126

Public Notice No.

September 25, 2024

Public Notice Date

October 24, 2024

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.



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT  
2488 EAST 81ST STREET  
TULSA, OKLAHOMA 74137-4290

Application No. SWT-2024-00126

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

Applicant: Mr. Austin Embrey  
AAON  
2425 S Yukon Ave  
Tulsa, OK 74107

Agent: Rev. WB Smith  
HISINC, LLC  
28508 W 41st St. S  
Mannford, OK 74044

Location: The proposed project is in Section 15, Township 19 North, Range 12 East, Tulsa, Tulsa County, Oklahoma (Enclosure 1). The project site can be found on the Sand Springs, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 36.128557 and West Longitude -96.023164.

Project Description: The project is to develop a new manufacturing building, parking lots and outside facilities.

Purpose: The basic purpose of this work is commercial development. The project is not a water dependent activity. Commercial developments do not have to be in a special aquatic site to fulfill the basic purpose of the project. Therefore, a commercial development is not a water dependent activity.

The overall project purpose is to construct a commercial development including a 950,000 square foot building for the expansion of the existing AAON facility on South Yukon Ave in Tulsa, Oklahoma, facilitating interaction with existing on-site manufacturing and storage facilities.

Summary Table of Impacts:

Number or Location	Feature Type	Impact Activity	Type of Water	Footprint linear feet (lf)	Footprint acre (ac)
FS-1	Waterway	Fill Portion of Natural Channel (1,654 lf), Re-grade portion of Natural Channel (214 lf), Re-grade Slopes of Natural Channel (488 lf)	Vegetated Channel – Ephemeral Stream	2,356 lf	0.77 ac
FS-2	Waterway	Fill Natural Channel and Create Portion of New Alignment Channel	Vegetated Channel – Ephemeral Stream	310 lf	0.1 ac
FS-3	Wetland	Total Fill Area	Sapling/Shrub Wetland		0.1 ac
FS-4	Wetland	Total Fill Area	Sapling/Shrub Wetland		0.04 ac
FS-5	Wetland	Proposed SWD Area (Wet Pond)	Forested Wetland		0.03 ac
FS-6	Wetland	Proposed SWD Area (Wet Pond)	Forested Wetland		0.006 ac
FS-7	Wetland	Proposed SWD Area (Wet Pond)	Forested Wetland		0.25 ac
FS-8 Plot 1	Wetland	Raised Overbank Fill Area for Building	Herbaceous Wetland		6.13 ac

Description of Work: The project site is proposed to be re-graded as shown on the enclosed plan (Enclosure 2). The existing 1,654 lf of existing diagonal oriented (NWSE) natural Cherry Creek channel would be backfilled for the location of the new manufacturing facility. Downstream, approximately 214 lf of the existing channel to the south end of the AAON property would be regraded to tie to the entrance of the stormwater detention facility. Also, downstream, approximately 488 lf of the Cherry Creek channel would remain natural channel with bank sloping for stabilization on the east side and re-grading to the west side adjacent to the proposed on-site stormwater detention facility. Approximately 2,301 lf of new channel would be constructed on the west and south side of the AAON property to convey the 1% storm event. This new channel would be a gabion wall channel with a grass bottom that would be periodically mowed. The new channel would be constructed to provide direct flow conveyance from the southeast corner of Magellan Tank Farm to the south side of the AAON property. The channel would also provide compensatory floodplain storage for the previous overbank flooding on the remainder of the site that would be elevated with fill to bring the new building and parking out of the Special Flood Hazard Area. Stormwater from the site would flow into the new channel and divert into the on-site stormwater detention facility through a stormwater inlet weir on the north side of the stormwater detention

facility and then discharge back into Cherry Creek at the southeast corner of the stormwater detention facility.

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:

AAON initially began their expansion plan with new manufacturing building in 2020 that would require the relocation of Cherry Creek West.

The anticipated sizing for manufacturing purposes was a 950,000 square foot (sf) building. In that scenario the first thought for West Cherry Creek was to build a reinforced concrete box culvert in the existing West Cherry Creek channel and build the building over the top. The box would have to have sufficient clearance for equipment to keep the long box culvert clean. With the diagonal orientation the building layout became problematic due to the loading of the large machines.

The next option was a 923,211 sf building with a new West Cherry Creek Channel on the north and east side of the Project Area. This was hydraulically designed as a 60-foot bottom width concrete channel with vertical walls. This required three to four bridges over the creek to allow heavy trucks, forklifts, etc. to pass between buildings. This became a potential logistical issue for manufacturing.

The next option was a 923,473 sf building with a new West Cherry Creek Channel on the west and south side of the Project Area. This was hydraulically designed as a 60-foot bottom width concrete channel with vertical walls. The wall height on the outside wall varied due to the contributing drainage areas from the west and the elevation grade changes between 6 feet in some locations and 8 feet in certain areas.

The current option was a 860,469 sf building with a new West Cherry Creek Channel on the west and south side of the Project Area. This was hydraulically designed as a varying width grass lined bottom with gabion walls. The north end is a 65-foot bottom width. The south side and about 2/3 of the west side is a 75-foot bottom width due to the increased friction from the gabion baskets. Again the wall height on the outside wall varies due to the contributing drainage areas from the west and the elevation grade changes between 6 feet in some locations and 8 feet in certain areas. This will be accomplished with some additional shallower special gabion baskets and sloped grading to the property line.

In each case there is the on-site stormwater detention facility to mitigate the increased stormwater runoff from the added impervious areas.

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

Initially there was anticipation that a local mitigation area might be found and this Building Project would incorporate a physical Mitigation Plan into the Project costs. Examining options, the only real potential site would be located downstream of the AAON property and upstream of the railroad yard on the west side of Southwest Boulevard. However, after researching the ownership of the properties that are

currently floodplain lands and probable wetlands for enhancement, it was quickly determined that the railroad companies that owned the lands would be very unlikely to sell the property that would have to be enhanced and deed protected in perpetuity. That left the option of purchasing mitigation credits from the Honey Springs Mitigation Bank. The mitigation credits would be based in part on the Oklahoma Stream Mitigation Method worksheet. HISINC, LLC has created a Project impact OSMM worksheet based on the impacts on West Cherry Creek. Based on the proposed “environmental enhancement” of the West Cherry Creek channel using a gabion wall approach and the use of a “wet pond” for the stormwater detention facility; both of which would provide aquatic habitat and vegetation, some benefit credit for the “environmentally friendly” approach may be acceptable.

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. Compensatory Mitigation for unavoidable impacts may be required to ensure that this activity requiring a Section 404 permit, if issued, complies with the Section 404 (b)(1) Guidelines. The Corps bears the final decision on the need for and extent of mitigation required if the project proposed herein is authorized.

Government Authorizations obtained or received: The applicant is aware of the stormwater and floodplain permit requirements.

Project Setting: The Osage Cuestas ecoregion is an irregular to undulating plain that is underlain by interbedded, westward-dipping sandstone, shale, and limestone. East-facing cuestas and low hills occur. Topography is distinct from the nearby Flint Hills (28), Ozark Highlands (39), and Cherokee Plains (40d). Natural vegetation is mostly tall grass prairie, but a mix of tall grass prairie and oak–hickory forest is native to eastern areas. The mosaic of natural vegetation is unlike the Cross Timbers (29) and Ozark Highlands (39). Rangeland and cropland are more expansive and trees are generally relegated to riparian areas and rocky hills as well as areas where fire has been suppressed.

Existing Condition: Vegetation has regenerated across the formerly forested floodplain and is dominated by careless weed, southern annual saltmarsh aster, barnyard grass, cottonwood saplings, black willow saplings, sycamore saplings, and persimmon saplings.

Cultural Resources: The DE is responsible to ensure compliance with the National Historic Preservation Act of 1966 (NHPA) (Public Law 89-665), as amended, and other cultural resources laws and Executive Orders. A preliminary review of the state's records has been completed for the presence of sites included in, or eligible for, inclusion in the National Register of Historic Places, as well as the Oklahoma Landmark Inventory Database. There are no known historic properties, as defined by the NHPA, in or within the vicinity of the proposed permit area.

Threatened and Endangered Species: The following federally listed, proposed, or candidate species are known to occur in the vicinity or are listed for the county in which the proposed action is located: Tricolored Bat (*Perimyotis subflavus*), Piping Plover (*Charadrius melodus*), Red Knot (*Calidris canutus rufa*), Alligator Snapping Turtle (*Macrochelys temminckii*), American Burying Beetle (*Nicrophorus americanus*) and Monarch Butterfly (*Danaus plexippus*). A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies. The IPAC consultation number is 2024-0124829.

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 effect of our decision on this permit application.

Essential Fish Habitat (EFH): N/A

Navigation: The proposed activity is not located in the vicinity of a federal navigation channel.

Section 408: The Tulsa District 408 Coordinator is evaluating whether this project would require permission under Section 14 of the Rivers and Harbors Act (33 USC 408).

Water Quality Certification: Water quality certification or waiver would be required from the Oklahoma Department of Environmental Quality.

Coastal Zone Management Consistency: N/A

Evaluation Factors: 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, floodplain 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.

Plans and Data: Plans showing the location of the proposed activity and other data are enclosed with this notice. If additional information is desired, it may be obtained from

Mr. David Carraway, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or telephone 918-669-7400.

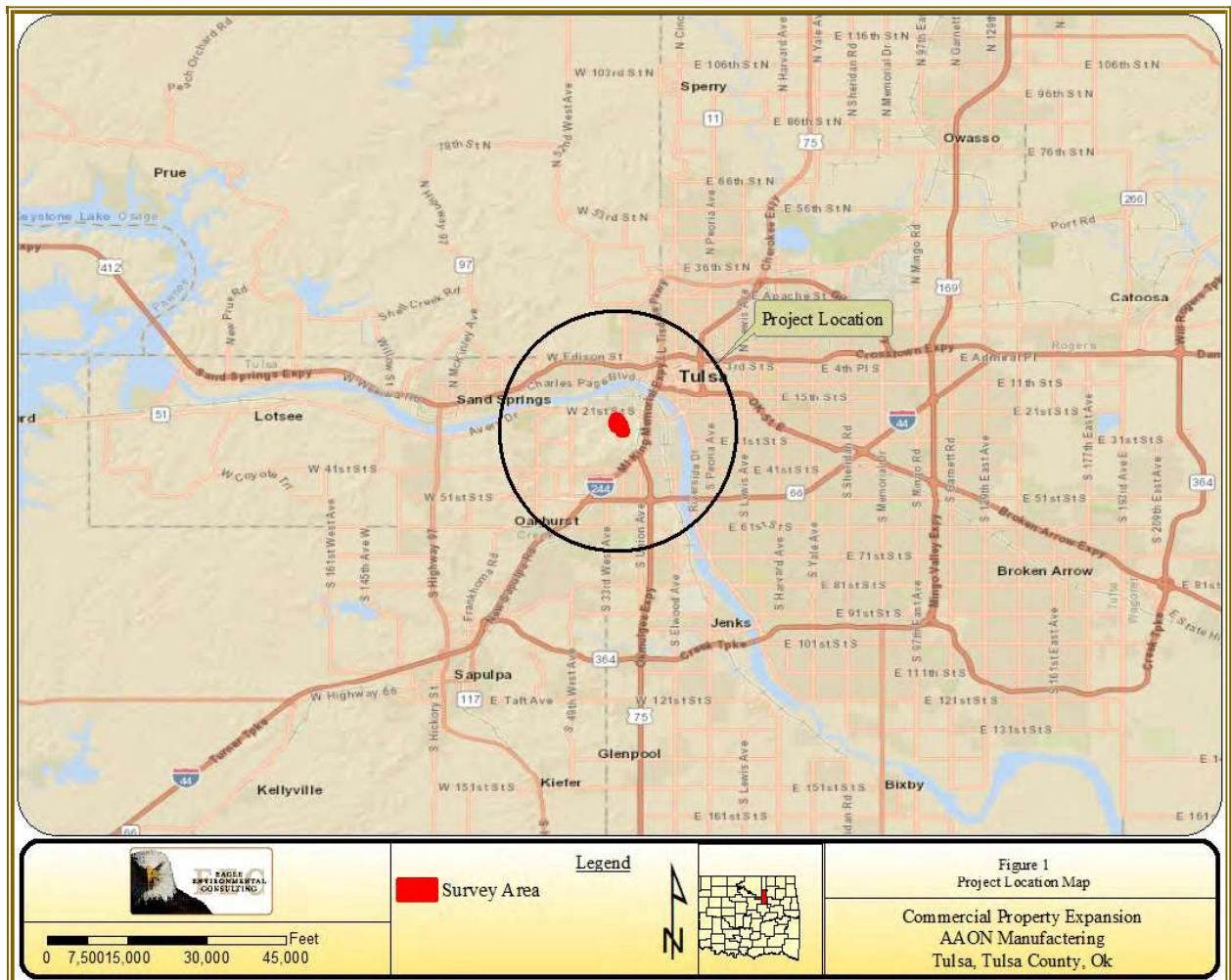
Comments: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine 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 comments on this proposal must be submitted to be received by the Corps by the expiration date of this public notice comment period. Comments received after this date will not be considered in our decision. You may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137 or email CESWT-RO@usace.army.mil. Please include the public notice number SWT-2024-00126 in the subject line of your email message.

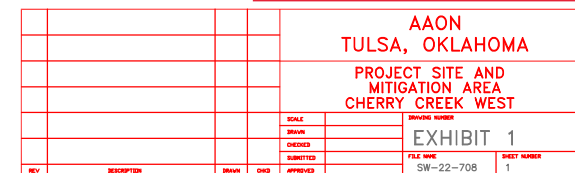
Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality Certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

Andrew R. Commer  
Chief, Regulatory Office

Enclosures

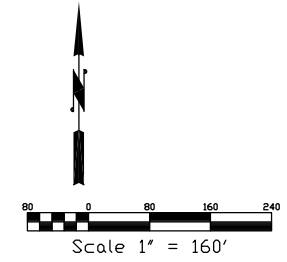
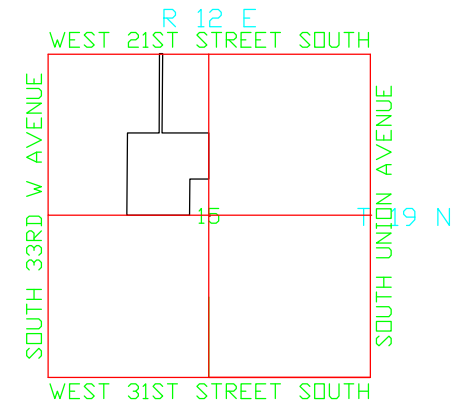
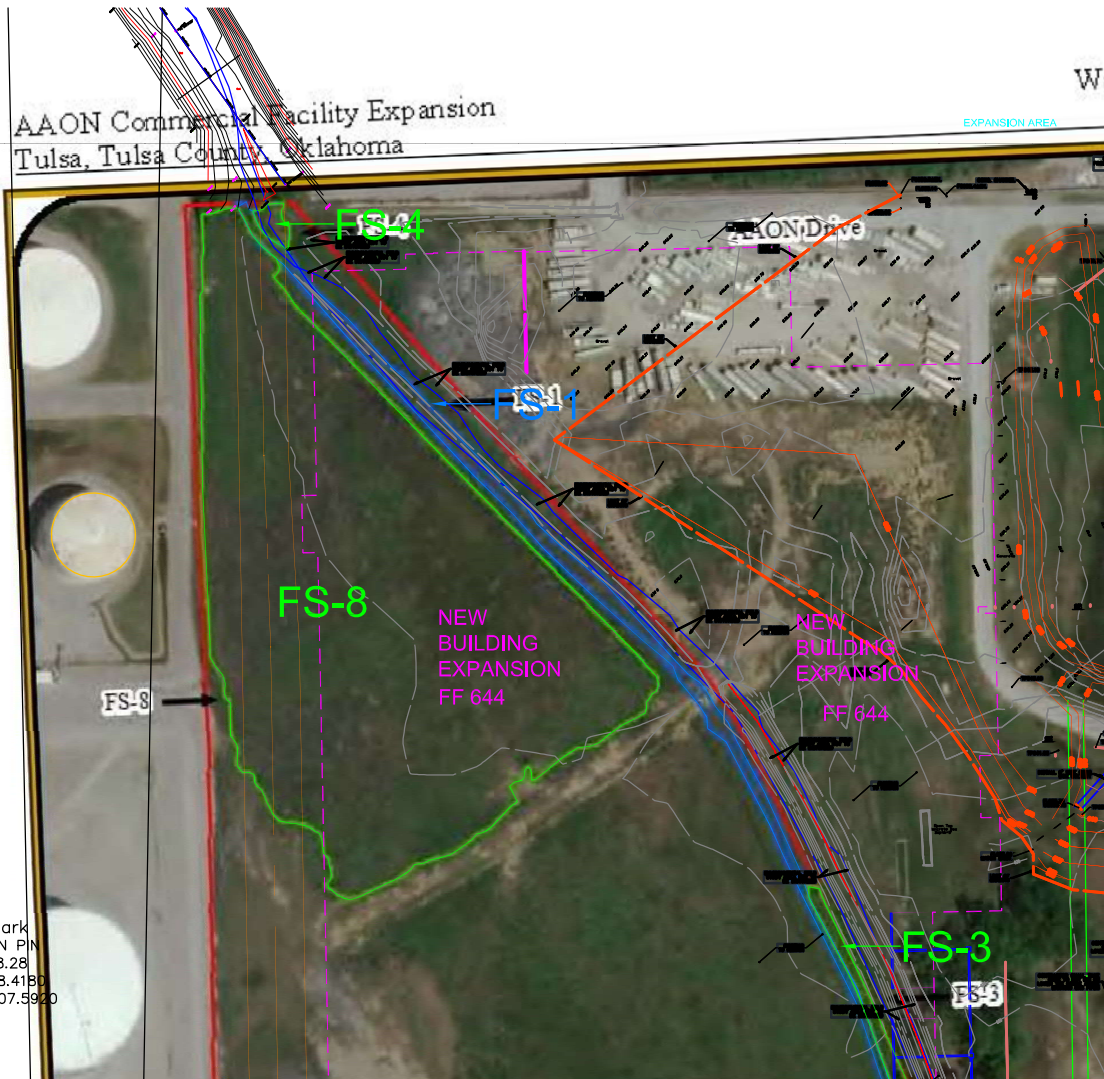








AAON Commercial Facility Expansion  
Tulsa, Tulsa County, Oklahoma



- Legend**
- FL — FLOWLINE (INVERT)
  - EC — EXISTING CONTOUR
  - PG — PROPOSED WEST PARKING REGRADE
  - X-SEC — BACKWATER X-SEC
  - WETLAND
  - WATERWAY
  - BM — BENCHMARK

**Benchmark Notes**

Benchmark	Benchmark
3/8" Iron Pin	3/8" IRON PIN
ELEV=688.80	ELEV=638.28
N=416672.4300	N=417238.4180
E=2552806.0250	E=2553007.5920



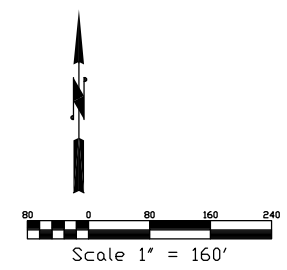
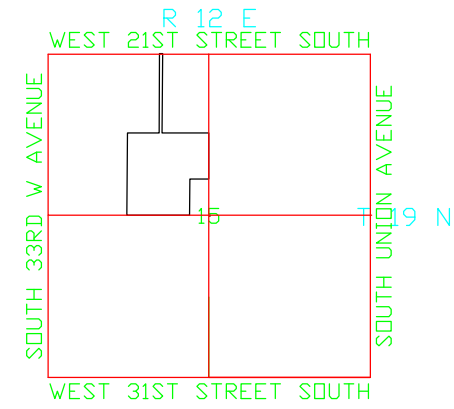
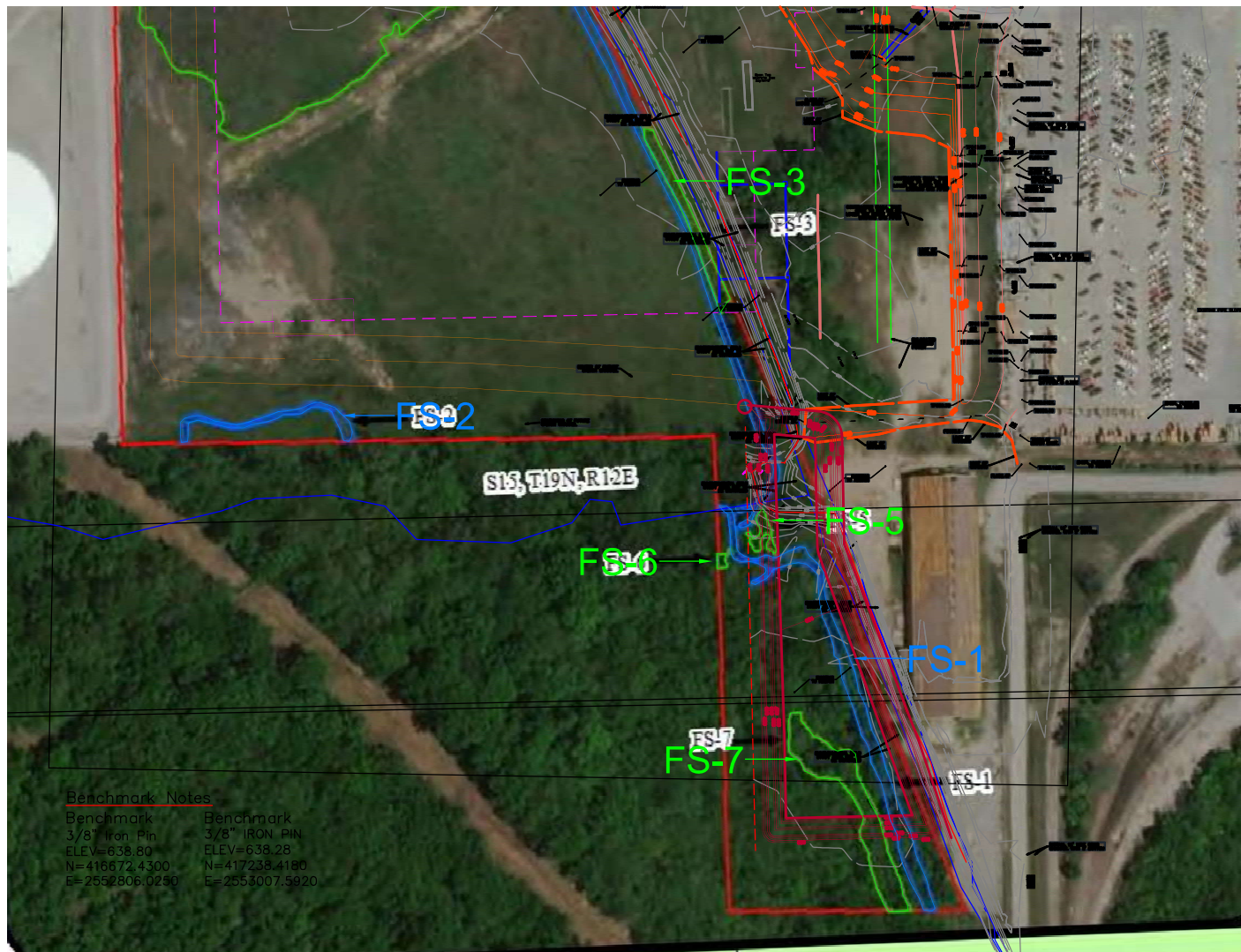
**Utility Statement**

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED ALL UNDERGROUND UTILITIES.



SWT-2024-00126  
AAON  
AAON Building Project  
Tulsa, Tulsa County, Oklahoma  
Enclosure 3 of 6

AAON TULSA, OKLAHOMA			
NORTH PROJECT AREA WETLANDS AND WATERWAYS CHERRY CREEK WEST			
SCALE		DRAWING NUMBER	
DRAWN		EXHIBIT 2	
CHECKED		FILE NAME	
SUBMITTED		SW-22-708	
REV		SHEET NUMBER	
DESCRIPTION		2	
DRAWN		APPROVES	



- Legend**
- FL — FLOWLINE (INVERT)
  - EC — EXISTING CONTOUR
  - PG — PROPOSED WEST PARKING REGRADE
  - X-SEC — BACKWATER X-SEC
  - WETLAND
  - WATERWAY
- BM = BENCHMARK

SWT-2024-00126  
 AAON  
 AAON Building Project  
 Tulsa, Tulsa County, Oklahoma  
 Enclosure 4 of 6



**Utility Statement**

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED ALL UNDERGROUND UTILITIES.



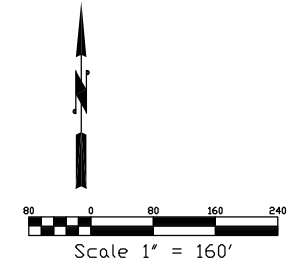
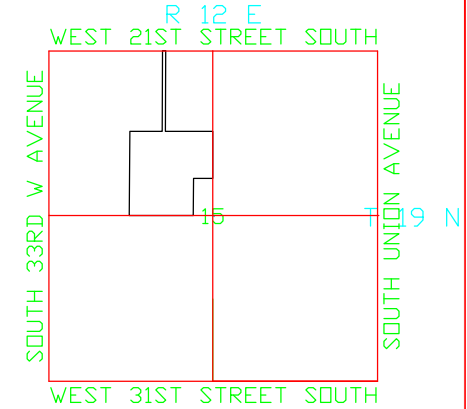
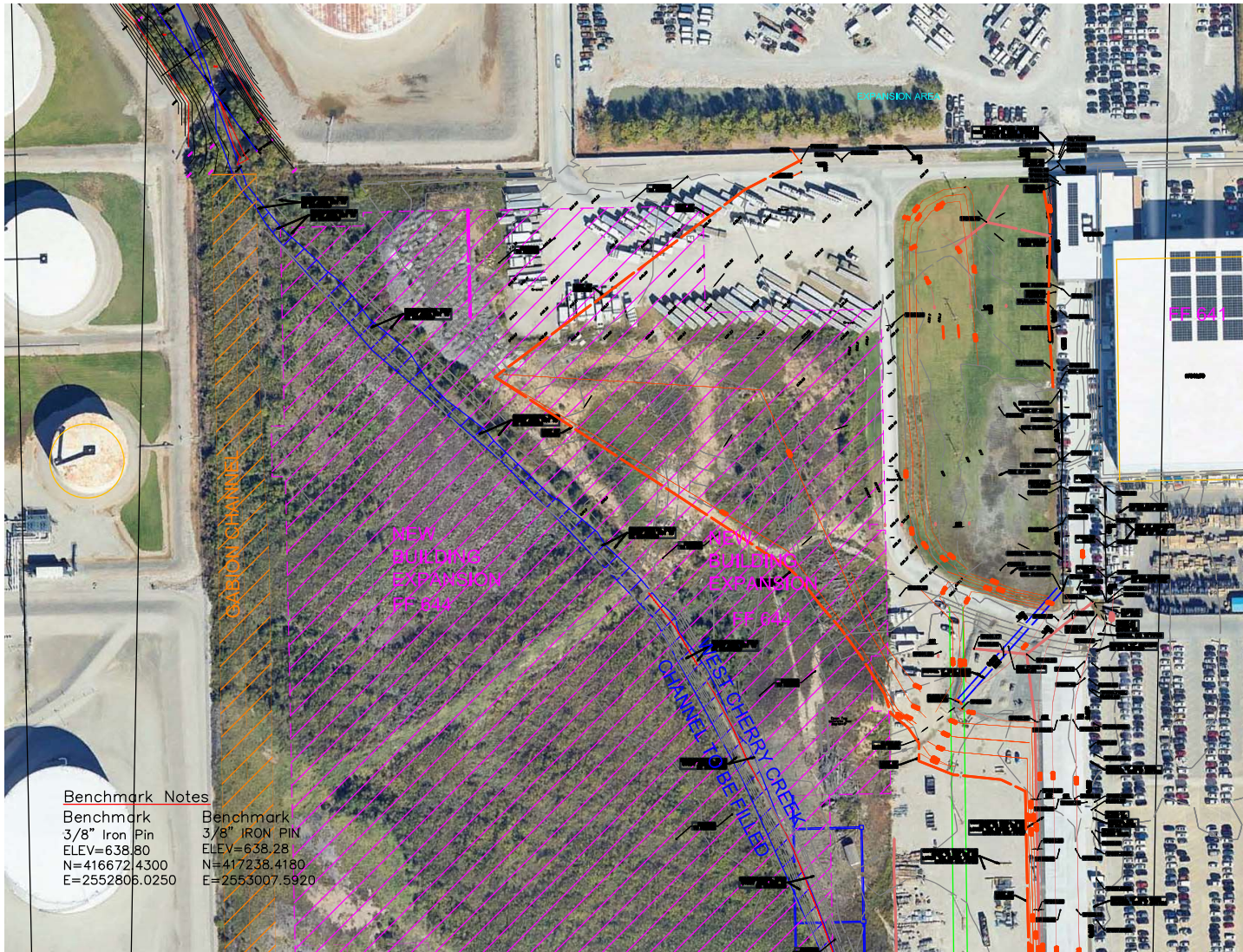
Hydrogeos International Services  
 Inter-National Consultancy, L.L.C.

				AAON TULSA, OKLAHOMA			
				SOUTH PROJECT AREA WETLANDS AND WATERWAYS CHERRY CREEK WEST			
				EXHIBIT 3			
				SW-22-708 3			
REV	DESCRIPTION	DRAWN	CHECKED	APPROVED			









- Legend**
- FL — FLOWLINE (INVERT)
  - EC — EXISTING CONTOUR
  - PG — PROPOSED WEST PARKING REGRADE
  - X-SEC — BACKWATER X-SEC
  - WETLAND
  - WATERWAY
- BM = BENCHMARK

SWT-2024-00126  
AAON  
AAON Building Project  
Tulsa, Tulsa County, Oklahoma  
Enclosure 6 of 6



**Utility Statement**

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED ALL UNDERGROUND UTILITIES.



Hydroponics International Services  
Inter-National Consultancy, L.L.C.

AAON TULSA, OKLAHOMA			
SOUTH PROJECT AREA SITE FEATURES - NORTH CHERRY CREEK WEST			
EXHIBIT 5		SHEET NUMBER 5	
REV	DESCRIPTION	DRAWN	CHKD
		APPROVED	