

U.S. Army Corps of Engineers
Tulsa District

Public Notice

Reply To:

U.S. Army Corps of Engineers ATTN: Regulatory Office 2488 East 81St Street Tulsa, Oklahoma 74137-4290 SWT-2024-00428 Public Notice No.

September 13, 2024 Public Notice Date

October 12, 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 U.S.C. 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 U.S.C. 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.

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DEPARTMENT OF THE ARMY

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

Application No. SWT-2024-00428

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. Joe Brutsché

Director, Environmental Program Division

Oklahoma Department of Transportation (ODOT)

200 Northeast 21st Street Oklahoma City, OK 73105

Agent: Mr. Jared Bechtol Mr. Ben Hagood

ODOT Freese and Nichols, Inc.

200 Northeast 21st Street 801 Cherry Street, Suite 2800

Oklahoma City, OK 73105 Fort Worth, TX 76102

<u>Location:</u> The proposed project is located along State Highway-4 (SH-4) from West Wilshire Boulevard extending north approximately 3.7 miles to State Highway (SH-3) in Sections 20, 21, 28, 29, and 32, Township 13 North, Range 5 West, on Spring Creek and its unnamed tributaries in Yukon and Piedmont, Canadian County, Oklahoma. The project site can be found on the Bethany, Oklahoma 7.5 Minute USGS Quadrangle map at North Latitude 35.5809181 and West Longitude 97.7452042.

<u>Project Description:</u> This proposed project (ODOT Job Piece 04758(04)) would widen the existing SH-4 two-lane highway to a two-lane configuration with 12-foot (ft) driving lanes and 8 ft shoulders.

The proposed improvements would be on a slight offset to the west and the existing road would remain open to traffic during construction. The intersections at Britton Road, Hefner Road, and 122nd Street would be improved by adding turn lanes. There are seven Reinforced Concrete Boxes (RCBs) that would be improved or replaced within the new offset alignment. Additionally, improvements are needed at certain streams to improve or maintain the drainage within the project footprint and protect SH-4.

<u>Purpose</u>: ODOT proposes to widen SH-4 to the west of the existing alignment while restoring stable channel functions. The overall purpose of this work would reduce curves as well as improve grading and drainage to make sure that this portion of SH-4 is safe for public transportation.

The project is not a water dependent activity.

Summary Table of Impacts:

Original Proposal									
Number or Location (Permanent)	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cy below OHWM	Footprint (ac and/or If) within OHWM				
Stream 1 (Encl 7)	RCB	Open Water	Steel/Concrete	87.1 cy	0.027 ac 85 lf				
Stream 2 (Encl 6 and 7)	RCB	Open Water	Steel/Concrete	496.6 cy	0.154 ac 295 lf				
Stream 2 (Encls 6 and 7)	Concrete Lining	Open Water	Steel/Concrete	742.1 cy	0.230 ac 726 lf				
Stream 2 (Encls 6 and 7)	RCB	Open Water	Steel/Concrete	22.6 cy	0.007 ac 56 lf				
Stream 3 (Encl 6)	RCB	Open Water	Steel/Concrete	12.9 cy	0.004 ac 35 lf				
Stream 4 North (Encl 6)	RCB	Open Water	Steel/Concrete	135.5	0.042 ac 303 lf				
Stream 4 North (Encl 6)	Channel Change	Open Water	Dirt/Vegetated	626 cy	0.152 ac 1,170 lf				
Stream 4 South (Encl 5)	RCB	Open Water	Steel/Concrete	32.3 cy	0.010 ac 109 lf				
Stream 5 (Encl 5)	Concrete Lining	Open Water	Steel/Concrete	48.4 cy	0.015 ac 162 lf				
Stream 6 (Encl 4)	RCB, Concrete Lining	Open Water	Steel/Concrete	9.7 cy	0.003 lf 27 lf				
Pond 2 (Encl 5)	Channel Change	Pond	Dirt/Vegetated Slope	193.6 cy	0.059 ac 125 lf				
Number or Location (Temporary)	Impact Activity	Type of Water	Type of Fill Material	Qty of Material cy below OHWM	Footprint (ac and/or If) within OHWM				
Stream 1 (Encl 7)	Channel Change	Open Water	Riprap	6.5 cy	0.002 ac 18 lf				
Stream 1 (Encl 7)	Channel Change	Open Water	Grading/Dirt	25.8 cy	0.08 ac 41 lf				

Pond 1 (Encl 7)	Channel Change	Open Water	Dirt/Ve	egetated	58.1 cy	0.018 ac 30 lf
Stream 2 (Encls 6 and 7)	Channel Change	Open Water	Dirt/Vegetated		67.8 cy	0.021 ac 27 lf
Stream 2 (Encls 6 and 7)	Channel Change	Open Water	Dirt/Natural Bottom		225.9 cy	0.070 ac 376 lf
Stream 3 (Encl 6)	Channel Change	Open Water	Dirt/Natural Bottom		12.9 cy	0.004 ac 34 lf
Stream 4 South (Encl 5)	Channel Change	Open Water	Dirt/Vegetated		83.9 cy	0.026 ac 238 lf
TOTAL:		Permanent Impacts:		2,407.1 cy	0.703 ac 3,093 lf	
		RCB & Concrete-Lining:		Dirt:		
		0.492 ac		0.211 ac		
		1,587.5 cy		819.6 cy		
		1,798 lf 1		1,295 lf		
			Temporary Impacts	480.9 cy	0.149 ac	
			Temporary impacts		764 If	
			Dirt:	Rock Riprap:		
			147 ac	0.002 ac		
		47	74.4 cy	6.5 cy		
			746 lf	18 lf		

cubic yards (cy), Ordinary High-Water Mark (OHWM), acre (ac), linear feet (If) NOTE: Rock Riprap Various Sizes 18-inch to 30-inch

<u>Description of Work</u>: The applicant proposes to place 2,407.1 cy of fill material consisting of concrete (0.492 ac) and dirt (0.211 ac) that results in permanent impacts to Spring Creek and its unnamed tributaries for the construction of seven RCBs, two channel changes, and three concrete lining projects to widen the SH-4 roadway.

The project also includes seven temporary channel change impacts using rock riprap (0.002 ac) and dirt (0.147 ac) to construct and regrade Spring Creek and its unnamed tributaries.

The ODOT proposal would protect the waters of the United States by providing a vegetative bank (vegetative slope) with natural bottom channel.

Concrete-Lining Channels: Concrete-lined ditches that replace waters of the United States are engineered to provide long-term conveyance and stable channels that limit erosion and maintenance requirements to fill in previously disturbed areas directly abutting the existing culverts.

Rock Riprap: The various sized rock riprap would be used to form a stable channel bed at the upstream and downstream location of Stream 1. This rock riprap would be removed upon completion of the project.

Pond 1: The pond slopes would be re-graded as needed to facilitate conveyance through the right-of-way with vegetated banks to limit erosion and facilitate long-term bank stability.

Pond 2: The existing pond would be breached, and side slopes graded to result in the reduction of the pond area.

The work would be performed using conventional earthmoving equipment such as excavators, wheeled dump trucks, and tracked equipment.

<u>Avoidance and Minimization Information:</u> The applicant provided the following on how avoidance and minimization of impacts to aquatic resources was incorporated into the project plan:

ODOT evaluated alternatives that could avoid and minimize impacts to waters of the United States. This effort included analyzing a No Action Alternative where there would be no improvements to SH-4. The No Action Alternative would not fulfill the purpose and need of the project by failing to correct a narrow roadway with no shoulders and substandard geometry and narrow bridges, which is expected to result in continued safety concerns. As such, it was removed from further consideration. A symmetrical widening alternative was considered during design, however, certain geometric deficiencies, such as vertical curves (hills and valleys) require correction and it is not possible to correct these deficiencies while the road is open to traffic. Therefore, the Symmetrical Widening Alternative was dismissed. An East Offset Alternative was evaluated to allow the road to remain open during construction, but due to housing relocations and the need for additional geometric modifications, it was removed from further consideration. A West Offset with Span bridge alternative was evaluated but would greatly increase costs, and therefore, would not be practicable.

The Proposed Alternative was determined to provide a long-term solution to the problem while also minimizing adverse impacts to aquatic resources. The limits of construction for the proposed project have been reduced to the maximum extent practicable to meet the purpose of the project. ODOT proposes to utilize previously disturbed areas directly adjacent to an existing highway as opposed to a new corridor through undisturbed areas. Stream impacts were limited to the minimum necessary to protect the proposed alignment of SH-4.

The amount of proposed fill materials within waters of the United States was limited to no more than necessary to construct the project. As a result, all but two of the waterbody crossings would not be significantly affected.

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

ODOT considered various mitigation alternatives to avoid and minimize impacts to most of the stream channels resulting in minimal impact at these crossings. Compensatory mitigation is unwarranted at the majority of the crossings.

Compensatory mitigation is proposed for Stream 2 and Stream 4 North via credits obtained through the Deep Fork Mitigation Bank. Credits were calculated using the July 2021 Oklahoma Stream Mitigation Method (OSMM) as found on the Tulsa District Corps website. OSMM is a methodology used to quantify the number of stream credits that a project will need to mitigate impacts. Stream 2 and Stream 4 North will continue to function as streams and are presumed to remain waters of the waters of the United States (i.e., jurisdictional) following construction. The OSMM was used to quantify existing function and compare it to predicted function following construction.

The proposed permanent impacts would occur exclusively on intermittent streams. The Deep Fork Mitigation Bank only has perennial stream credits. As such, a ratio of 0.5 perennial credits per intermittent credit is proposed. Additionally, the proposed project is located in the secondary service area of the Deep Fork Mitigation Bank which incurs a 1.5 multiplier to credits. The number of perennial stream credits proposed to be purchased for this project is 3,492.4.

The purchase of stream credits from an existing mitigation bank was selected because this type of mitigation represents a preferred method where available as described in the 2008 Mitigation Rule, and for this project, stream credits were available in the secondary service area of the Deep Fork Mitigation Bank.

Government Authorizations obtained or received: N/A

<u>Project Setting:</u> This project is located in rural Canadian County within the Oklahoma Eco-Region of Prairie Tableland (27d) consisting of flat lowland and river valley deposits to support agricultural crops. Primary uses of the land are farming of grains (winter wheat and sorghum).

<u>Existing Condition:</u> Spring Creek is a perennial stream, and its unnamed tributaries have intermittent flows from the southwest to the northeast. The existing two-lane roadway has curves and no shoulders along this alignment on SH-4.

<u>Cultural Resources:</u> 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.

The Federal Highway Administration (FHWA) is the lead federal agency for this project. ODOT, on behalf of FHWA, determined, pursuant to 36 CFR 800.4(d)(1), that there are

no historic properties affected. The Corps would provide consultation with the State Historic Preservation Office and the State Archaeologist with Corps assessment and determination.

The FHWA consulted with the following tribes: Cheyenne and Arapaho Tribes and Osage Nation on January 5, 2011, and ODOT provided a cultural survey on July 29, 2011.

<u>Threatened and Endangered Species</u>: ODOT received an official species list from the U.S. Fish and Wildlife Service. The IPAC consultation number is 2024-0072789 dated July 18, 2024. ODOT determined that this project will have no effect on the federally listed piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), whooping crane (*Grus americana*), Arkansas River shiner (*Notropis pirardi*), peppered chub (*Macrhybopsis tetranema*), and monarch butterfly (*Danaus plexippus*).

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.

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.

<u>Plans and Data:</u> Plans showing the location of the proposed activity and other data are enclosed with this notice (Enclosures 1 through 21). If additional information is desired, it may be obtained from Mr. Marcus Ware, Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137; or by telephone 918-669-7400.

<u>Comments:</u> 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,

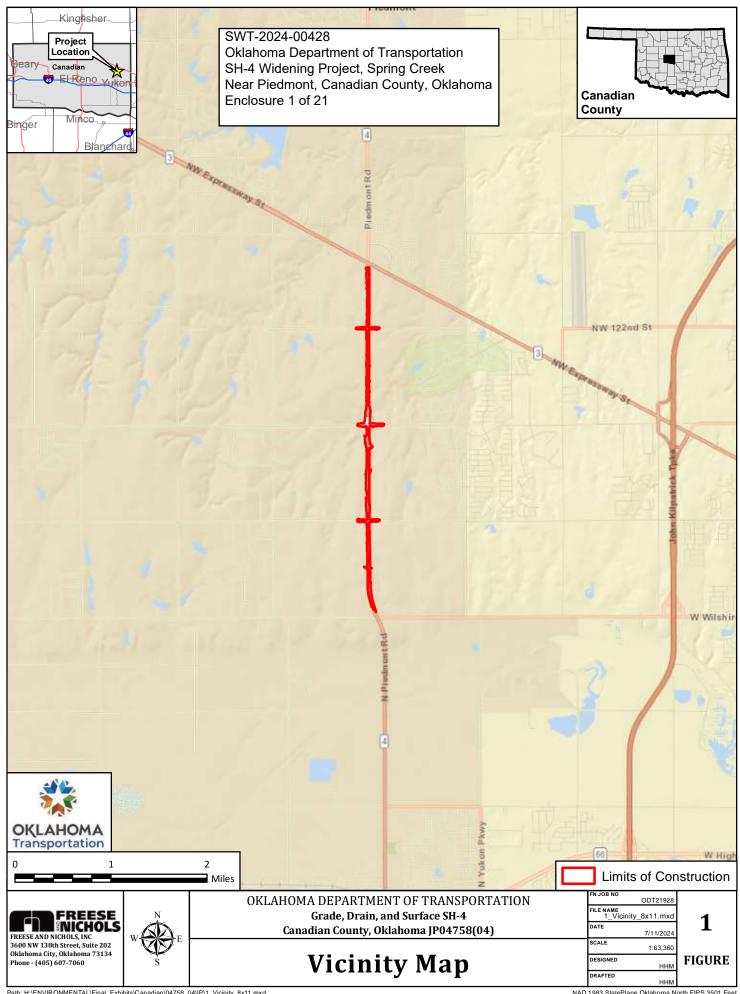
condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental 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.

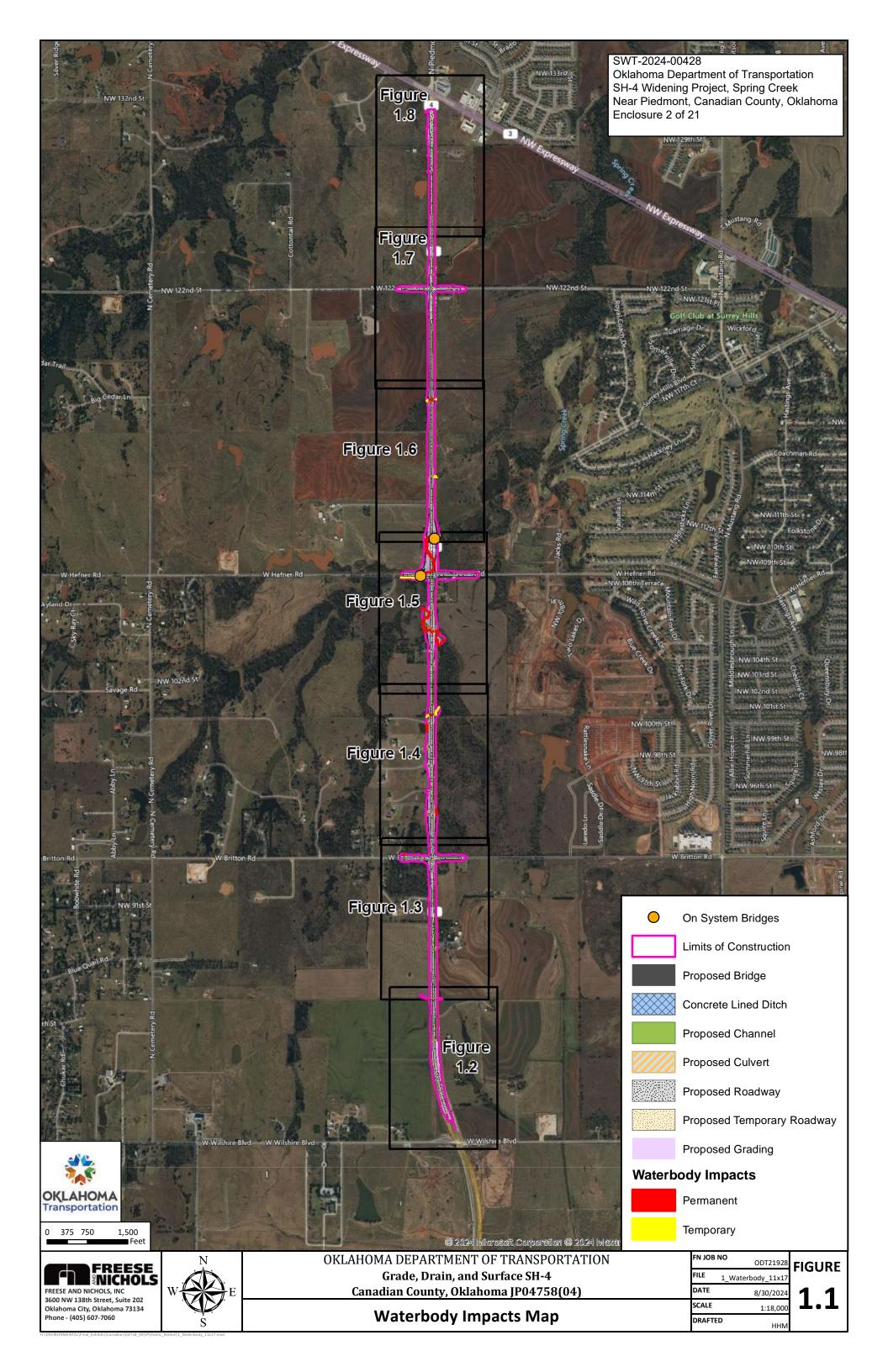
Any comments on this proposal must be submitted to be received by the Corps by the expiration date of this public notice comment period. Comments received after this date will not be considered in our decision. You may submit comments to mailing address Tulsa District Corps of Engineers, ATTN: Regulatory Office, 2488 East 81st Street, Tulsa, OK 74137 or email CESWT-RO@usace.army.mil. Please include the public notice number SWT-2024-00428 in the subject line of your email message.

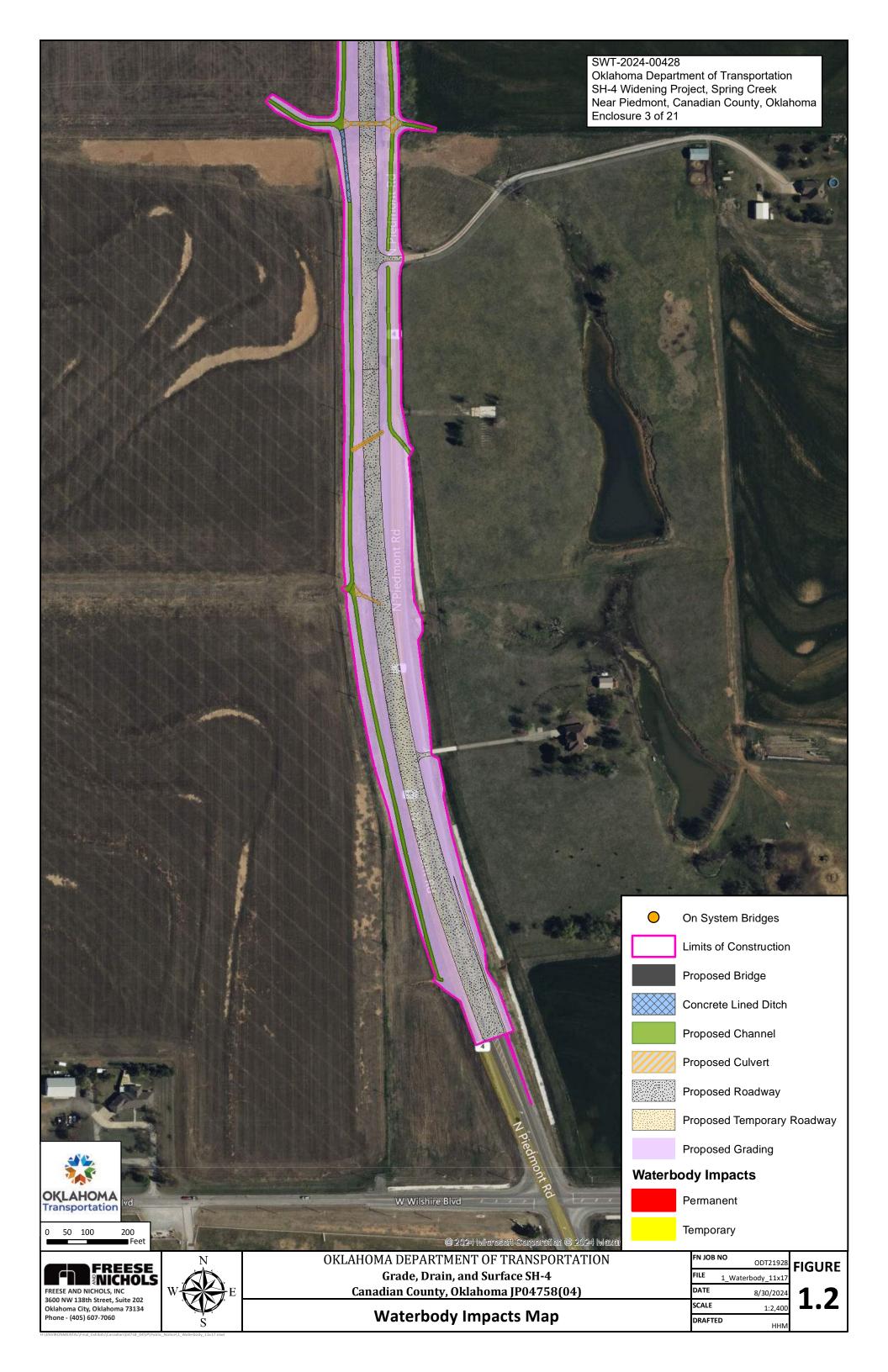
Comments concerning water quality impacts will be forwarded to ODEQ for consideration in issuing a Section 401 Water Quality Certification for the proposed project. Work may **not** commence until decisions have been made on both Sections 401 and 404.

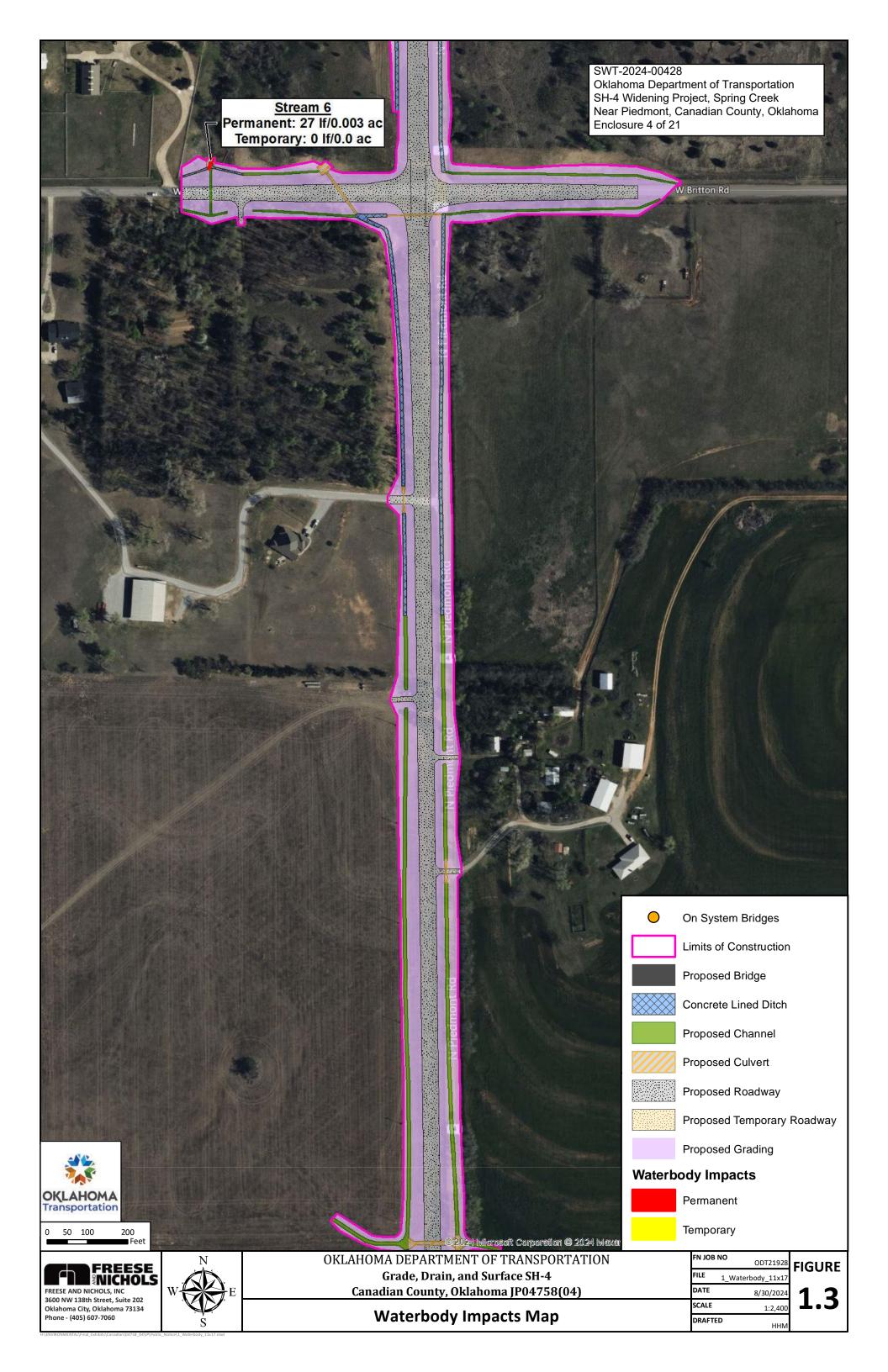
Andrew R. Commer Chief, Regulatory Office

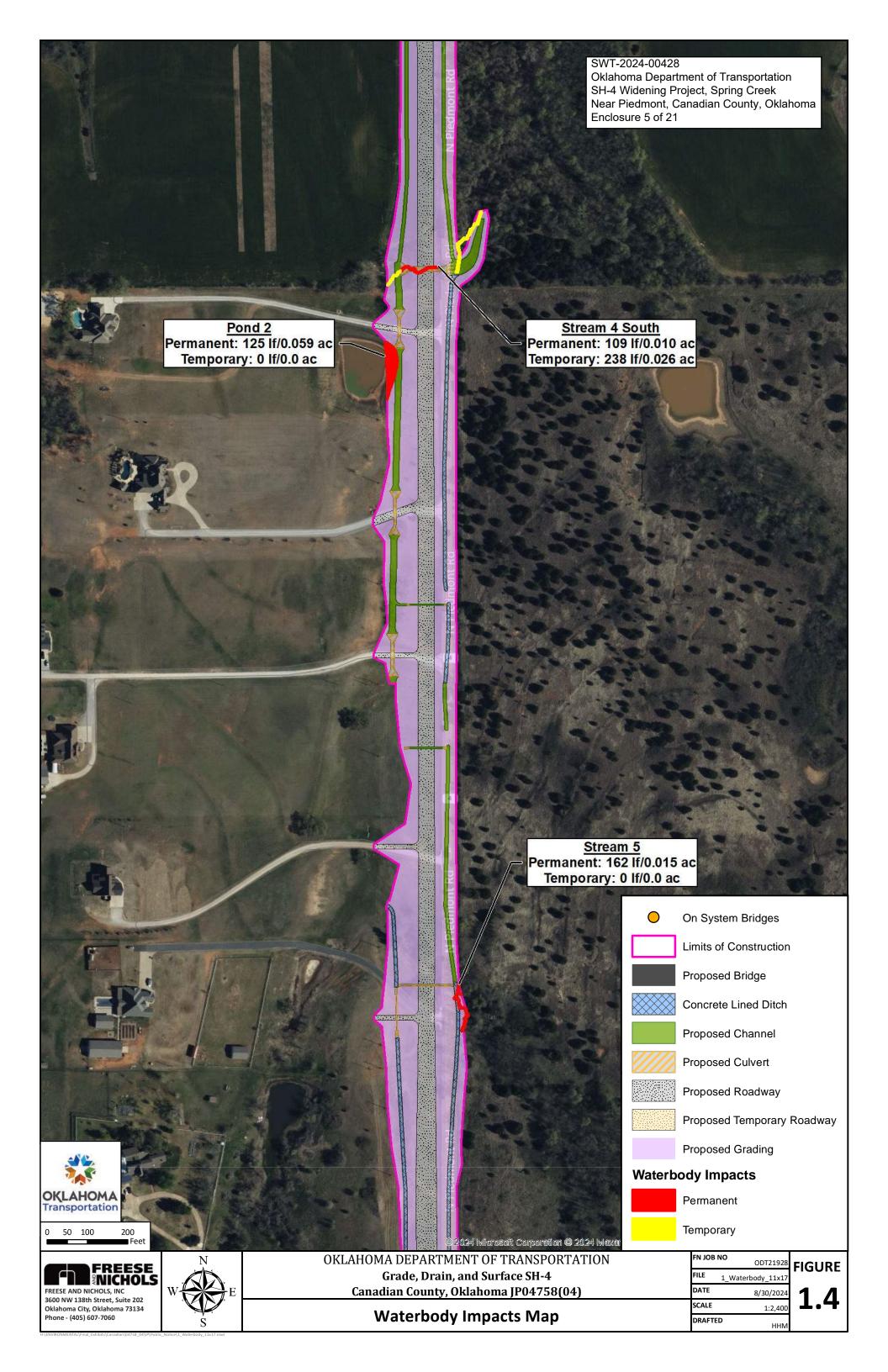
Enclosures

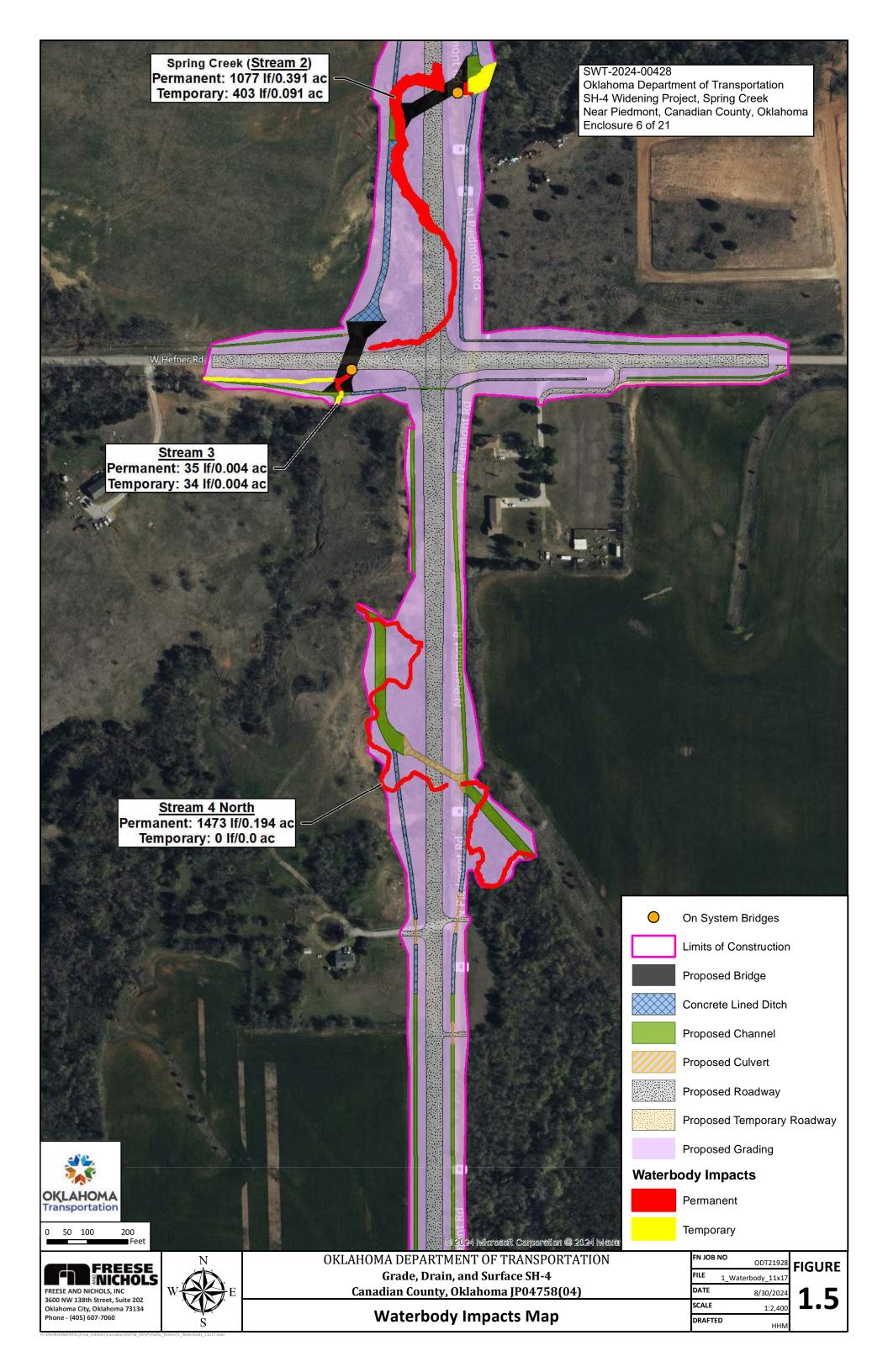


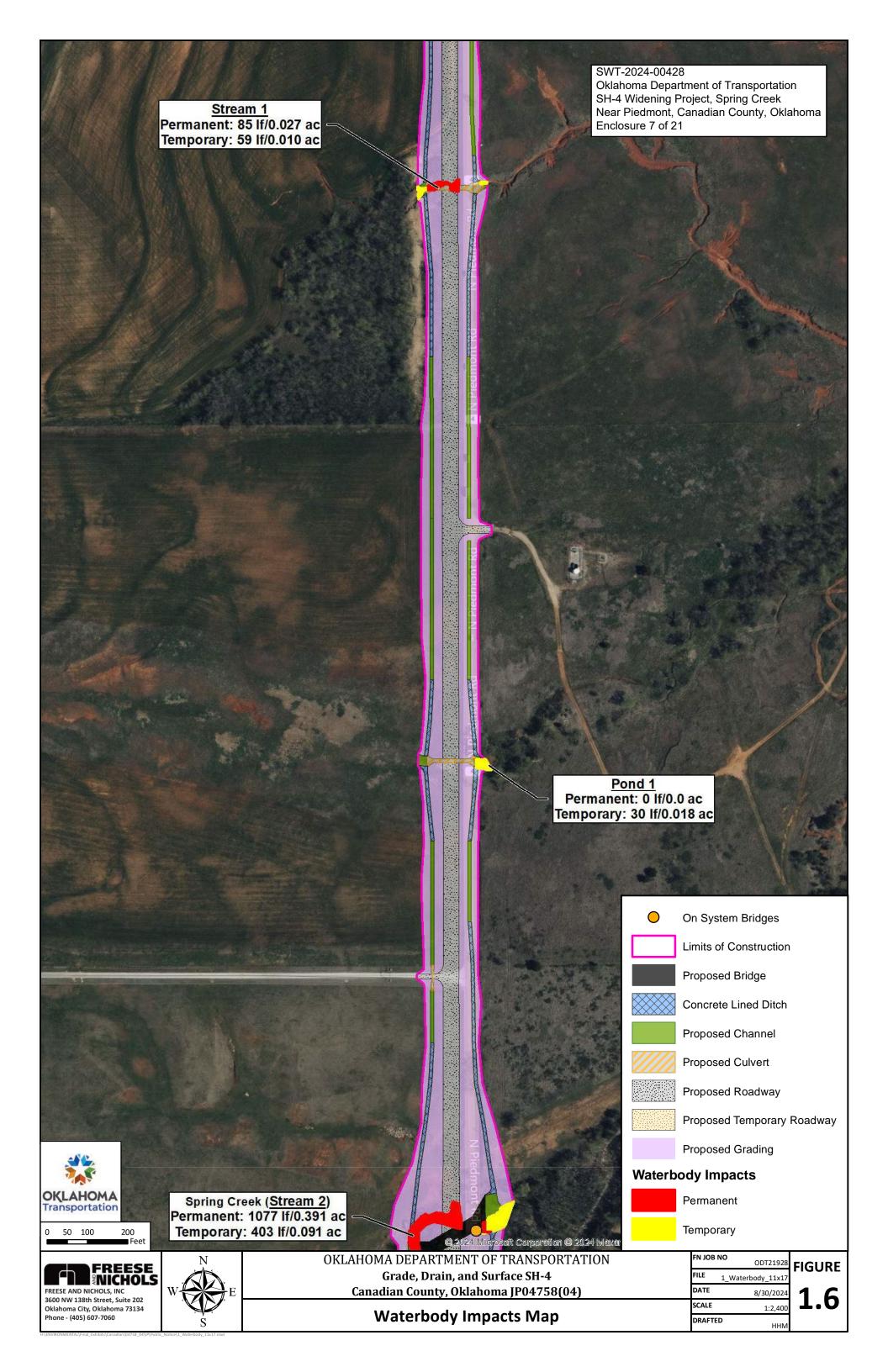


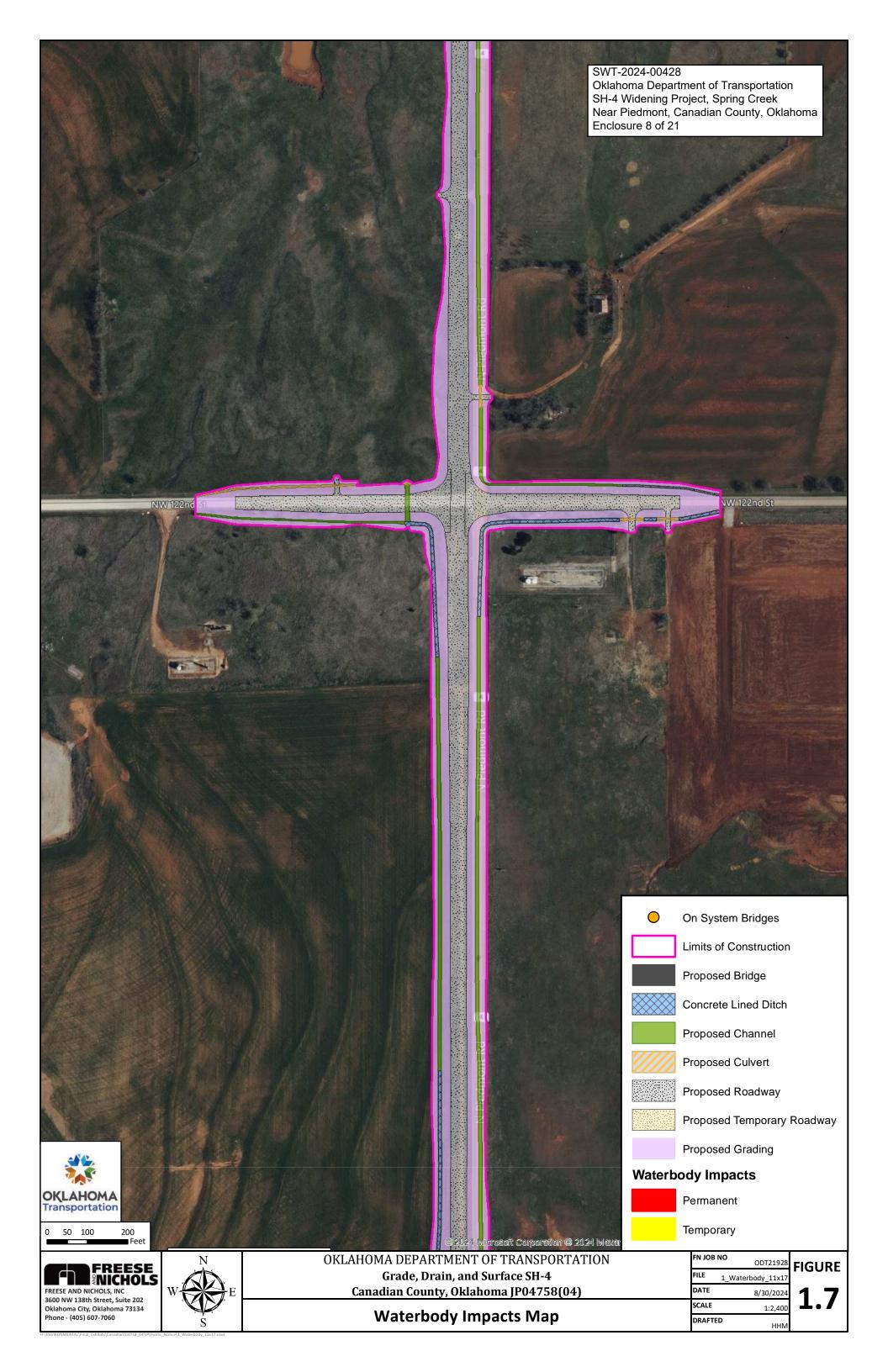


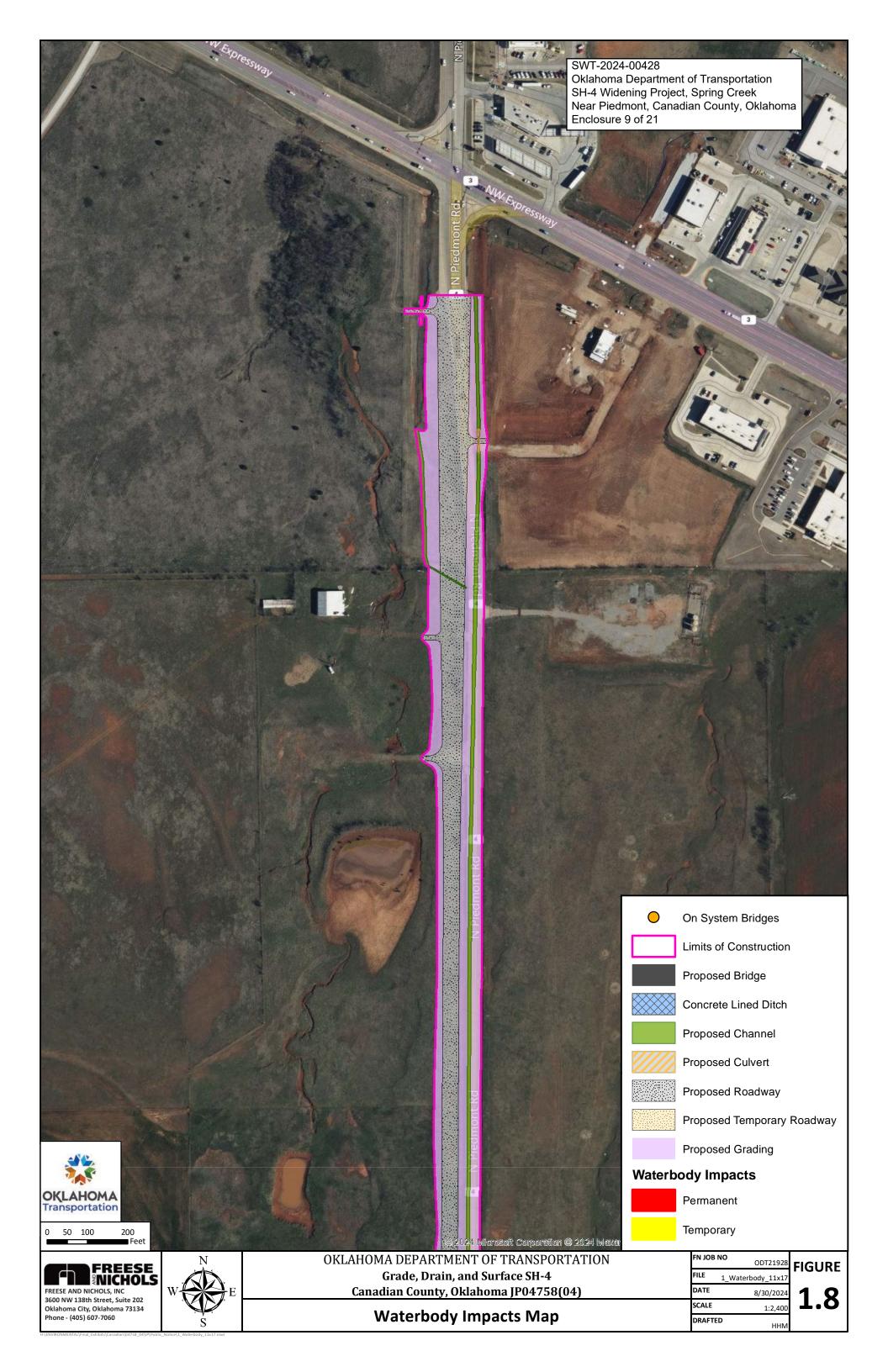


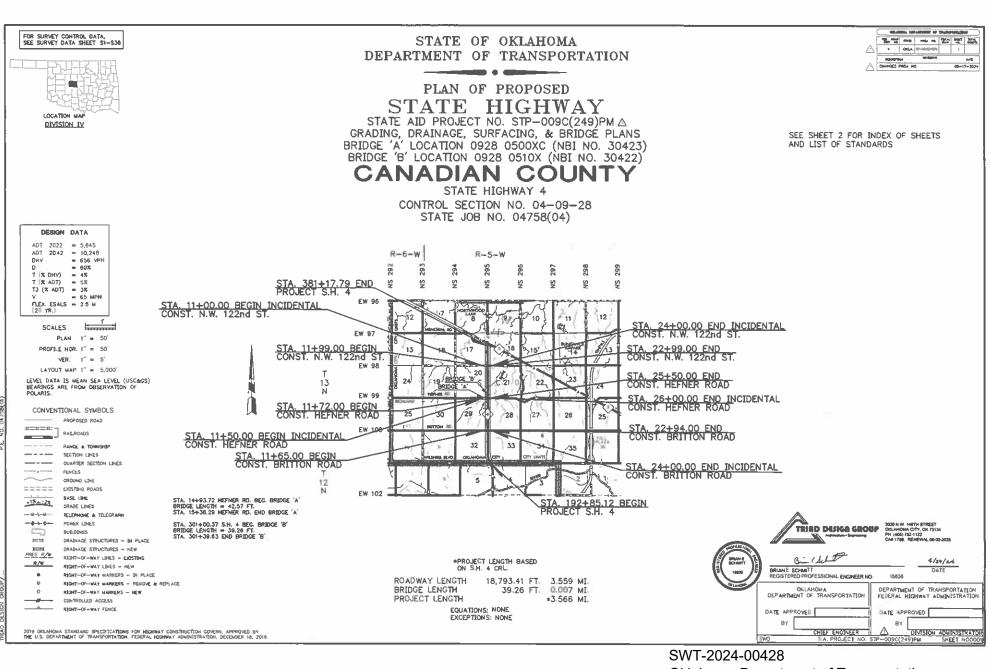




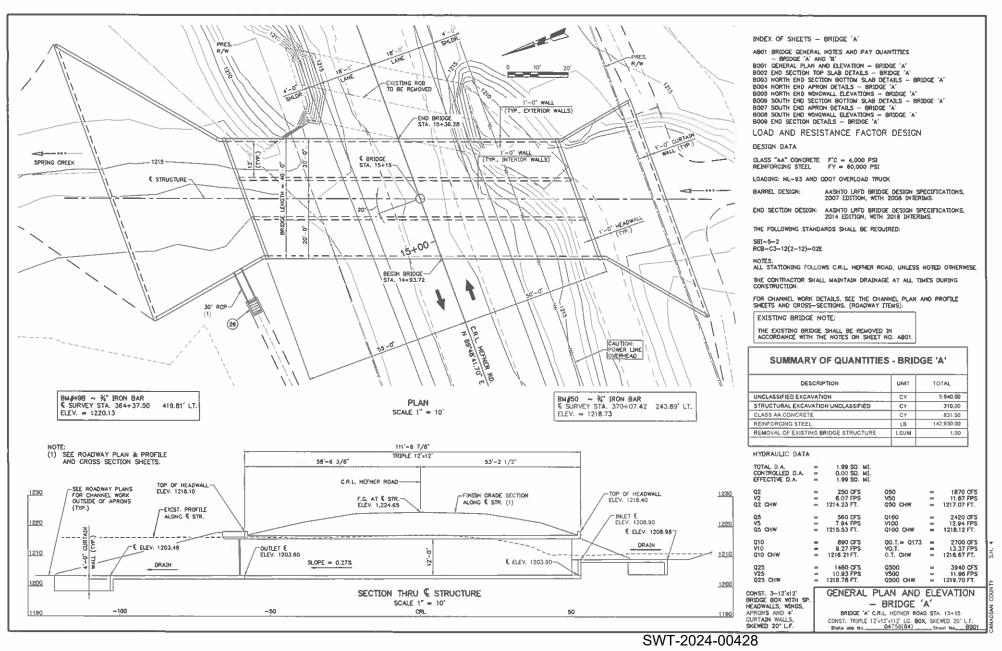




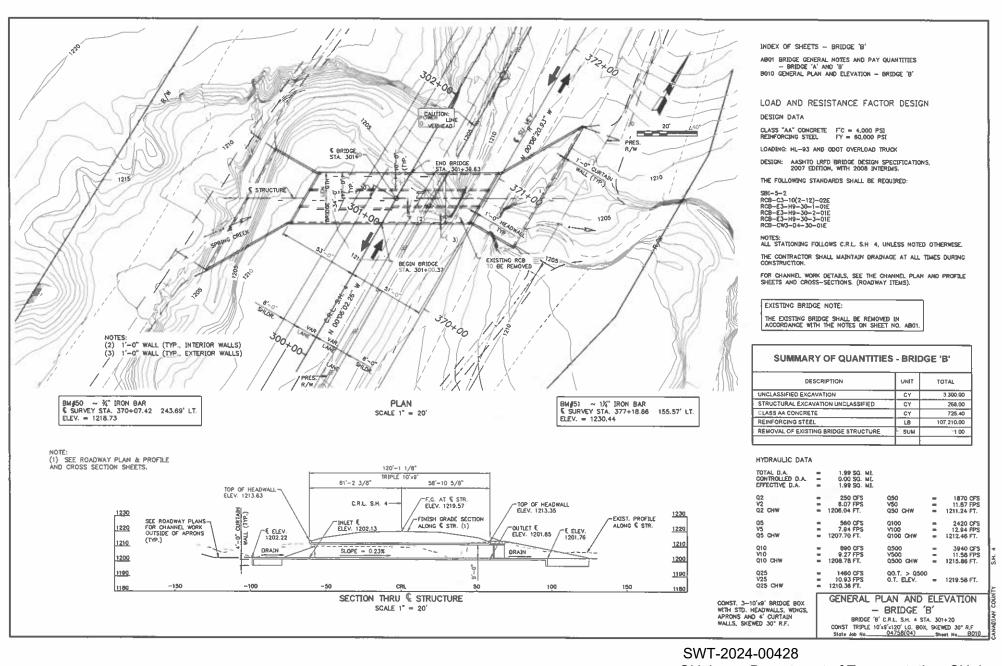




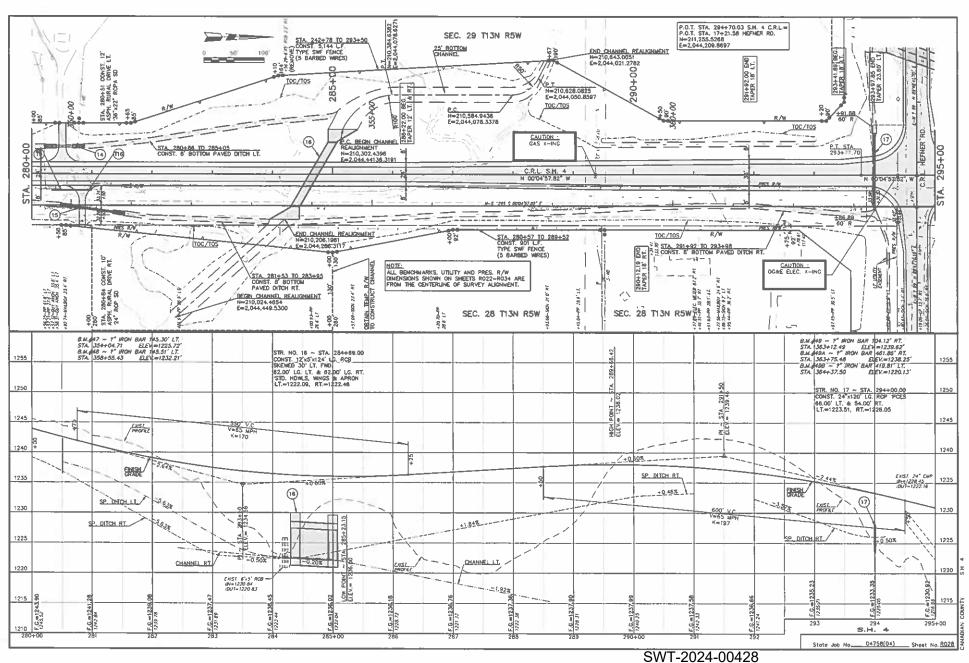
Oklahoma Department of Transportation SH-4 Widening Project, Spring Creek Near Piedmont, Canadian County, Oklahoma Enclosure 10 of 21



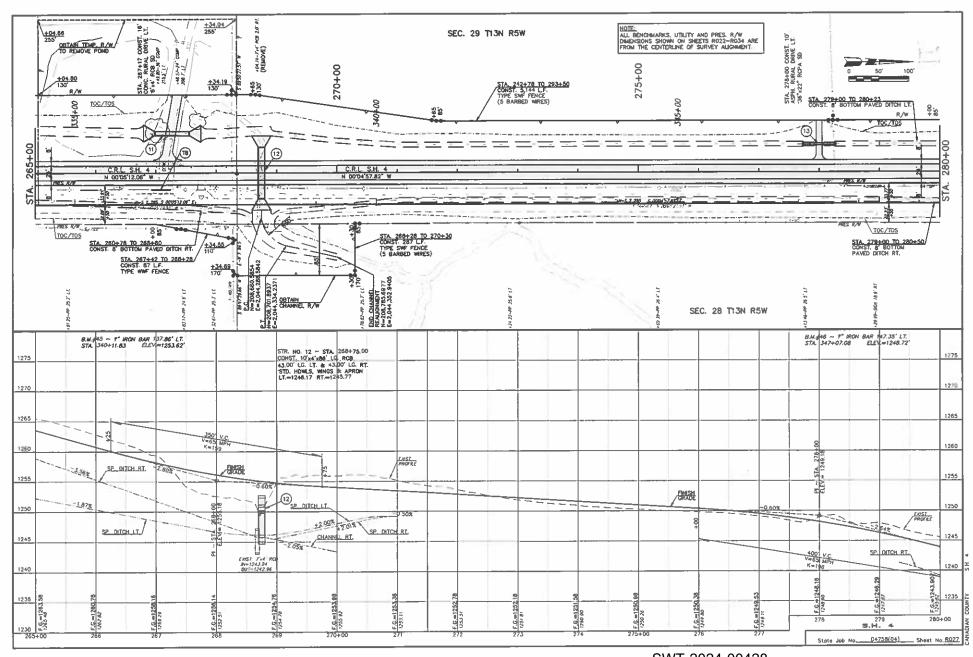
Oklahoma Department of Transportation SH-4 Widening Project, Spring Creek Near Piedmont, Canadian County, Oklahoma Enclosure 11 of 21



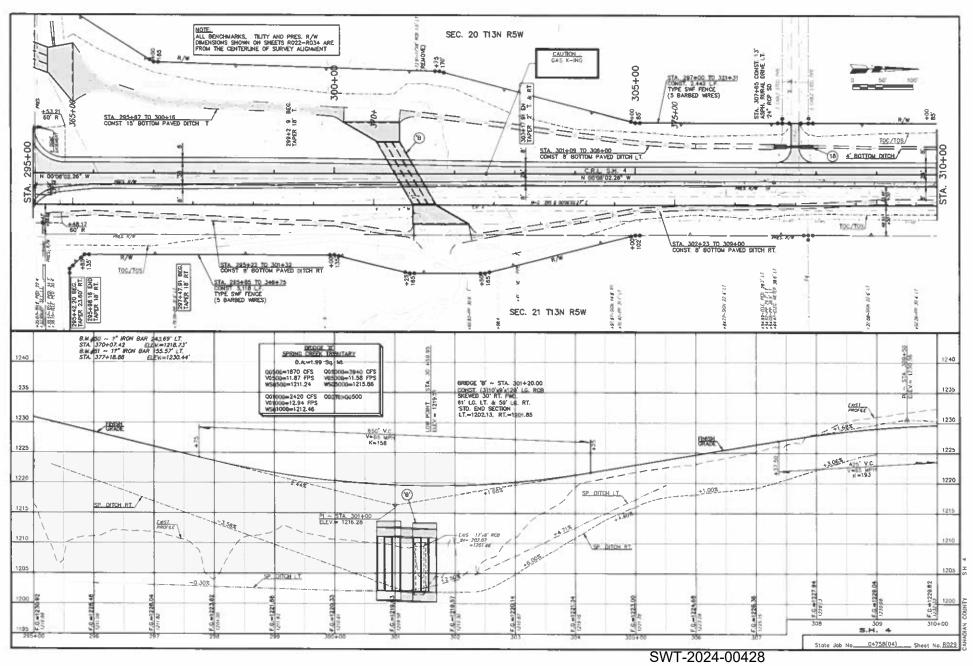
Oklahoma Department of Transportation SH-4 Widening Project, Spring Creek Near Piedmont, Canadian County, Oklahoma Enclosure 12 of 21



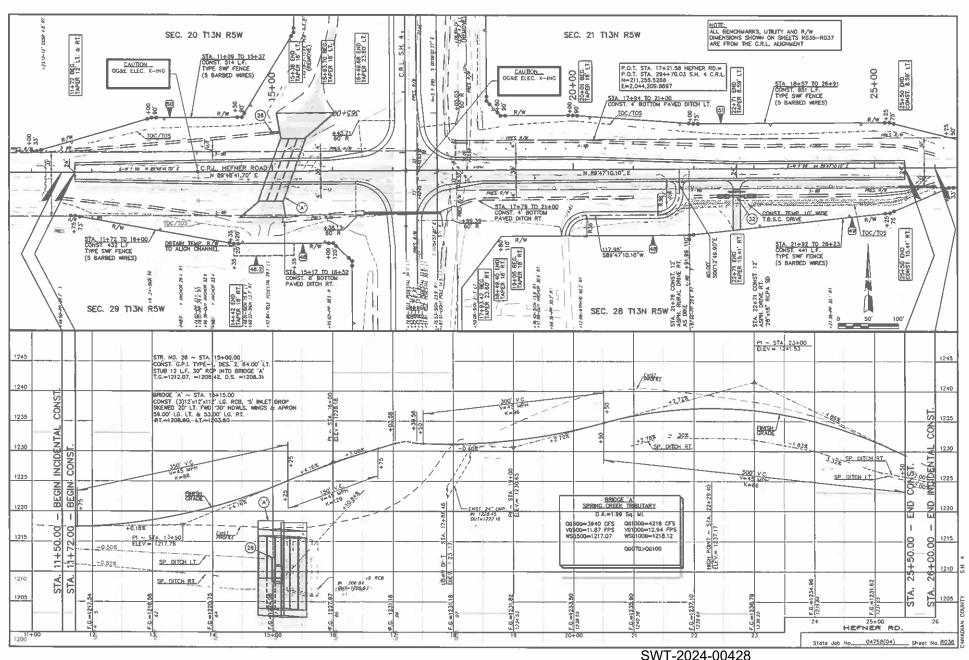
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Oklahoma Department of Transportation SH-4
Widening Project, Spring Creek
Near Piedmont, Canadian County, Oklahoma
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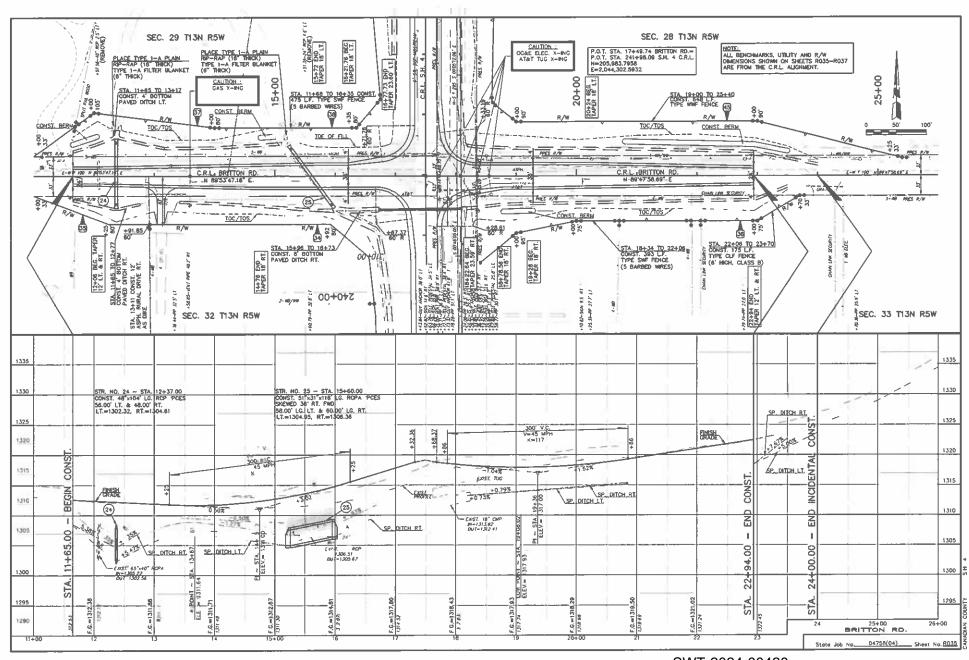


Oklahoma Department of Transportation SH-4 Widening Project, Spring Creek Near Piedmont, Canadian County, Oklahoma Enclosure 15 of 21

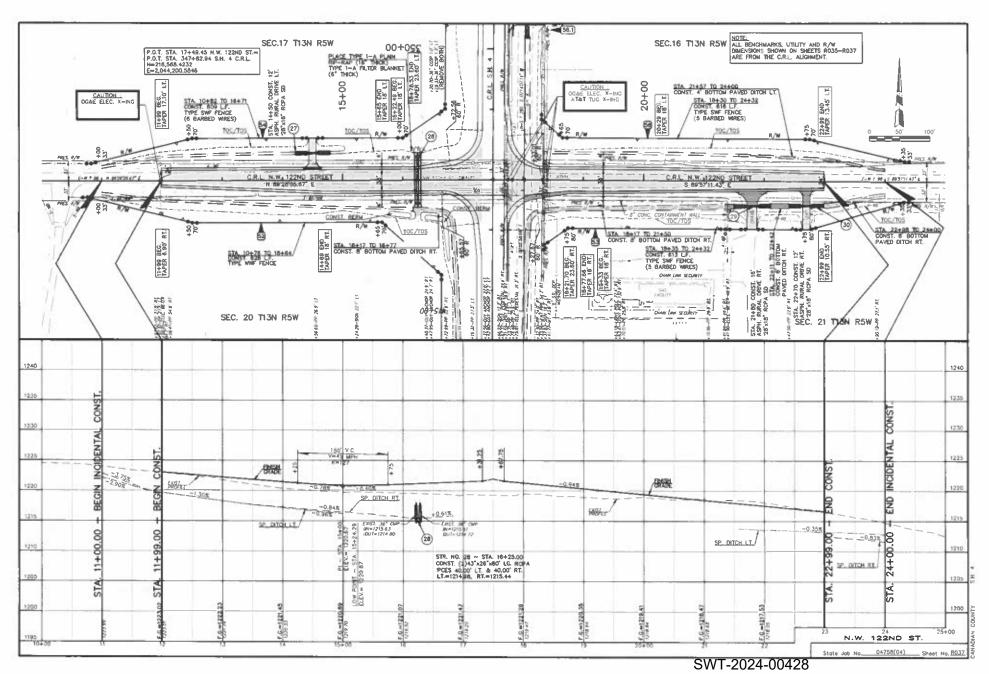


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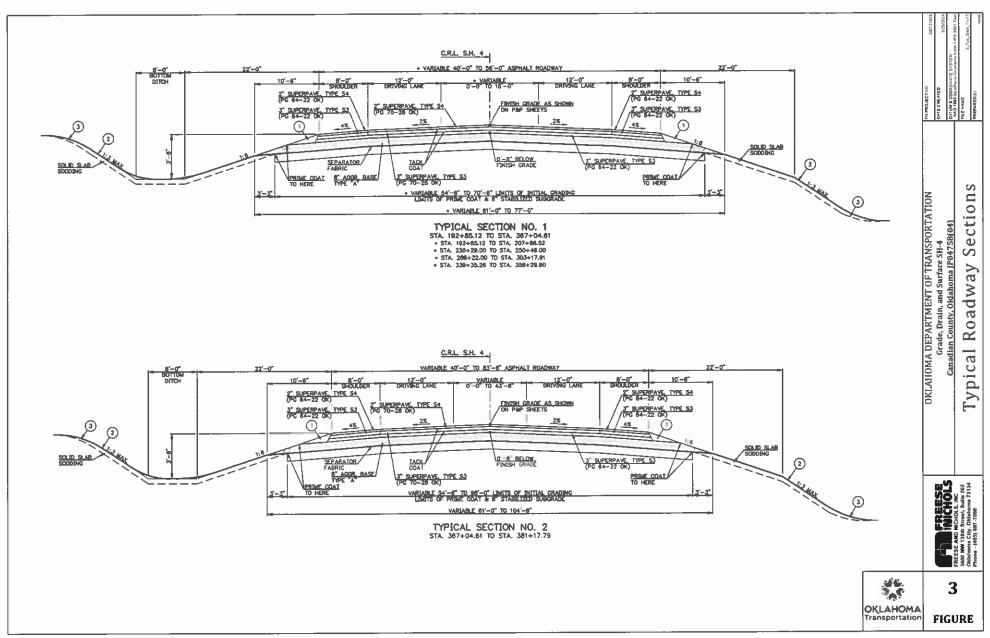
Oklahoma Department of Transportation SH-4 Widening Project, Spring Creek Near Piedmont, Canadian County, Oklahoma Enclosure 16 of 21



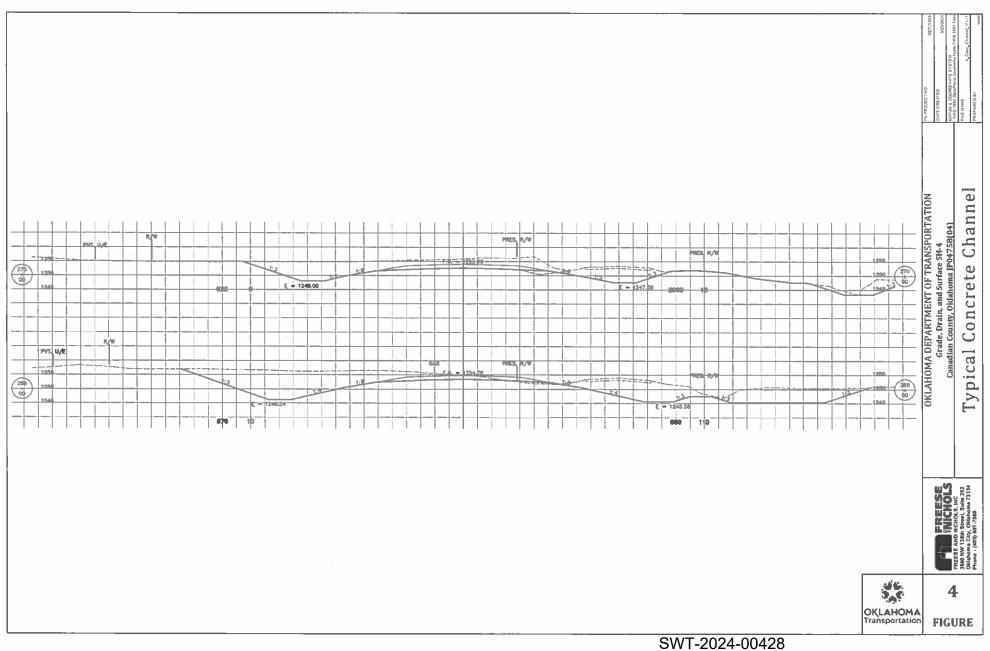
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Oklahoma Department of Transportation
SH-4 Widening Project, Spring Creek
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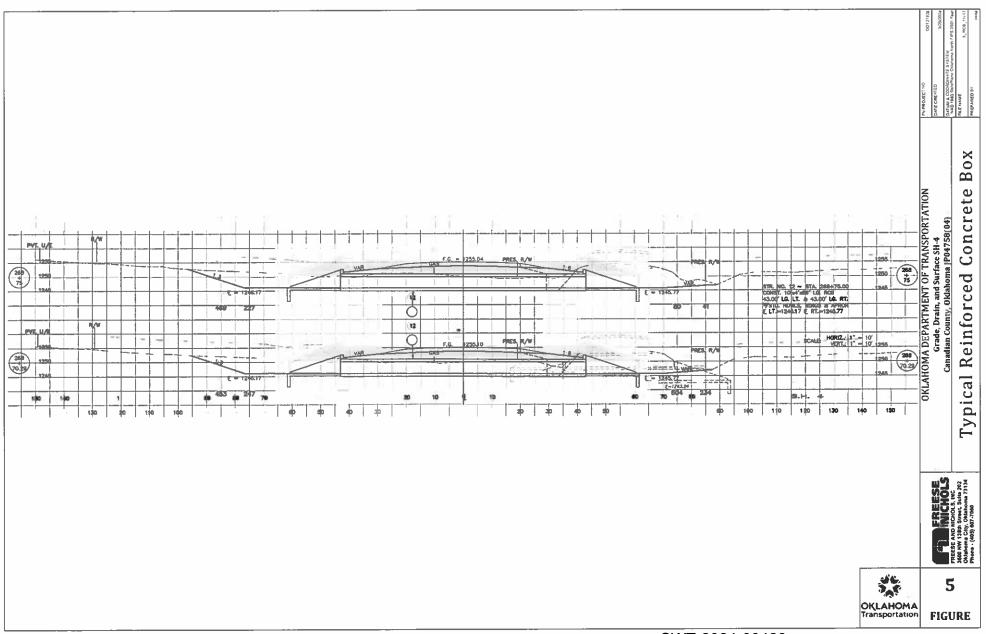
Oklahoma Department of Transportation SH-4 Widening Project, Spring Creek Near Piedmont, Canadian County, Oklahoma Enclosure 18 of 21



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Oklahoma Department of Transportation SH-4
Widening Project, Spring Creek
Near Piedmont, Canadian County, Oklahoma
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