



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

October 27, 2020

Regulatory File No 2003-03146-JRS

Wisconsin Department of Transportation
Bill Bertrand
944 Vanderperren Way
Green Bay, WI 54304

Dear Mr. Bertrand:

This letter concerns your request for Department of the Army authorization to discharge fill material into 44.70 acres of wetlands (0.76 temporary) and into 5,463 linear feet of 13 separate tributaries associated with the WIS 15 Project (WisDOT Project IDs 1146-75-71, 72, 73, 76, 77). The project site is generally located along the WIS 15 corridor between the WIS 15/USH 45 intersection in the City of New London extending to the WIS 15/Lily of the Valley Drive intersection in the Town of Greenville. Specifically, the project is located in Sections 4-6, 9 & 10, T. 21N., R. 16E.; Section 31, T. 22N., R. 16E.; and Sections 19, 20, 27-29 & 34-36, T. 22N., R. 15E., Outagamie County, Wisconsin.

This letter contains an initial proffered permit for your project. Also enclosed is a Notification of Administrative Appeal Options and Process (NAP) fact sheet and Request for Appeal (RFA) form for information regarding your right to object to this determination.

If you object to the terms and/or conditions of this initial proffered permit, please see Section I-A. You must complete Section II of the RFA and submit it to the **District Engineer** in accordance with 33 C.F.R. Part 331. Your objections to the initial proffered permit must be received by the **St. Paul District Office** within 60 days of the date of the NAP or you will forfeit your right to appeal the permit.

Before accepting the RFA, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. § 331.5, and that it has been received by the District or Division Office within 60 days of the date of the NAP.

It is not necessary to submit an RFA form to the Corps District or Division Office if you do not object to the initial proffered permit.

If the permit, with all conditions, is acceptable, the permittee or authorized representative should sign each copy on the line above the words "PERMITTEE SIGNATURE," add the date, print or type the signatory's name clearly underneath the signature, and email both forms to the contact identified below at: joey.r.shoemaker@usace.army.mil. The District Engineer, or his designated representative, will then sign both copies and return one to you for your records. The permit is not valid without that signature.

If your project will require off-site fill material that is **not** obtained from a licensed commercial facility, you must notify us at least five working days before start of work. A cultural resources survey may be required if a licensed commercial facility is not used.

Regulatory Branch (File No. 2003-03146-JRS)

If you have any questions, please contact Joey Shoemaker in our Green Bay office at (651) 290-5378 or joey.r.shoemaker@usace.army.mil. In any correspondence or inquiries, please refer to the Regulatory file number shown above.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Vesperman", with a long horizontal flourish extending to the right.

Todd M. Vesperman
Chief, WI East Branch

Enclosure(s)

cc:

Matt Schaeve, WDNR

Jennifer Gibson, WisDOT

DEPARTMENT OF THE ARMY PERMIT

Permittee Wisconsin Department of Transportation
Permit No. 2003-03146-JRS

Issuing Office St. Paul District
U.S. Army Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

You are authorized to discharge fill material into 44.70 acres of wetlands (0.76 temporary) and into 5,463 linear feet of 13 separate tributaries. Wetland types impacted by the proposed project include 11.06 acres of Wooded Swamp (WS) wetlands, 3.65 acres of Shrub Scrub (SS) wetlands, 1.25 acres of Riparian Forested (RPF) wetlands, 0.18 acres of Riparian Emergent (RPE) wetlands, 1.57 acres of Shallow Marsh (M) wetlands, 25.13 acres of Wet Meadow (WM) wetlands, and 1.86 acres of Aquatic Bed (non-stream shallow open water areas). The project impact 475 linear feet of Black Otter Creek and 242 linear feet of the Rat River. The remaining 4,746 linear feet of stream impacts would be associated with 11 local, unnamed intermittent tributaries. The authorized work area is shown on the attached drawings labeled 2003-03146-JRS, Permit Drawings, Page 1 of 21 through Page 21 of 21.

Project Location:

The project site is generally located along the 3146-JRS WIS 15 corridor between the WIS 15/USH 45 intersection in the City of New London extending to the WIS 15/Lily of the Valley Drive intersection in the Town of Greenville. Specifically, the project is located in Sections 4-6, 9 & 10, T. 21N., R. 16E.; Section 31, T. 22N., R. 16E.; and Sections 19, 20, 27-29 & 34-36, T. 22N., R. 15E., Outagamie County, Wisconsin.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2025. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to

cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. To compensate for unavoidable adverse impacts to 11.06 acres of Wooded Swamp (WS) wetlands, 3.65 acres of Shrub Scrub (SS) wetlands, 1.25 acres of Riparian Forested (RPF) wetlands, 0.18 acres of Riparian Emergent (RPE) wetlands, 1.57 acres of Shallow Marsh (M) wetlands, 25.13 acres of Wet Meadow (WM) wetlands, and 1.86 acres of Aquatic Bed (non-stream shallow open water areas), you shall debit 43.17 Riparian Emergent Credits, 3.64 Shrub Scrub Credits and 0.86 Riparian Forested Credits from the Hope Marsh Phase 2 wetland mitigation bank in Marquette County, Wisconsin. Proof of this debit shall be provided to the Corps prior to initiating regulated wetland impacts authorized by this permit.
2. To prevent the spread of non-native and/or invasive plant species, the permittee shall ensure that equipment used at all wetland and waterway crossings is cleaned before arriving on site. Wash water shall not be discharged into any wetland, waterway, or any other surface water conveyances.
3. Monitoring of the invasive species Phragmites shall be completed for 2 full years post project construction. Project construction ends when all grading, road construction and post construction stabilization has been completed. If any Phragmites is discovered during the monitoring period, 100% of located plants shall be treated and removed from the site.
4. All waters of the United States temporarily impacted by construction activities shall be restored to their pre-impact conditions within 15 days of completion of construction.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and

conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

(PERMITTEE SIGNATURE)

(DATE)

(PERMITTEE PRINTED OR TYPED NAME)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Todd Vesperman
Chief, WI East Branch

(DATE)

for:

Karl D. Jansen
Colonel, Corps of Engineers
District Engineer

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree SIGNATURE)

(DATE)

(TRANSFeree PRINTED OR TYPED NAME)

2003-03146-JRS
Permit Drawings
1 of 21

WAUPACA CO.

250,000'

T-24-N

44° 30'

T-23-N

200,000'

T-22-N

200,000'

T-21-N

44° 15'

230,000' E

WAUPACA CO.

CO. SHAWANO CO.

2,400,000'

R-16-E

Town of Navarino

R-17-E

Town of Lessor

SHAWANO CO.

2,480,000'

R-18-E

Town of Maple Grove

BROWN CO.

2,480,000' E

R-19-E

Town of Pittsfield

BROWN CO.

T-24-N

44° 30'

T-23-N

T-22-N

200,000'

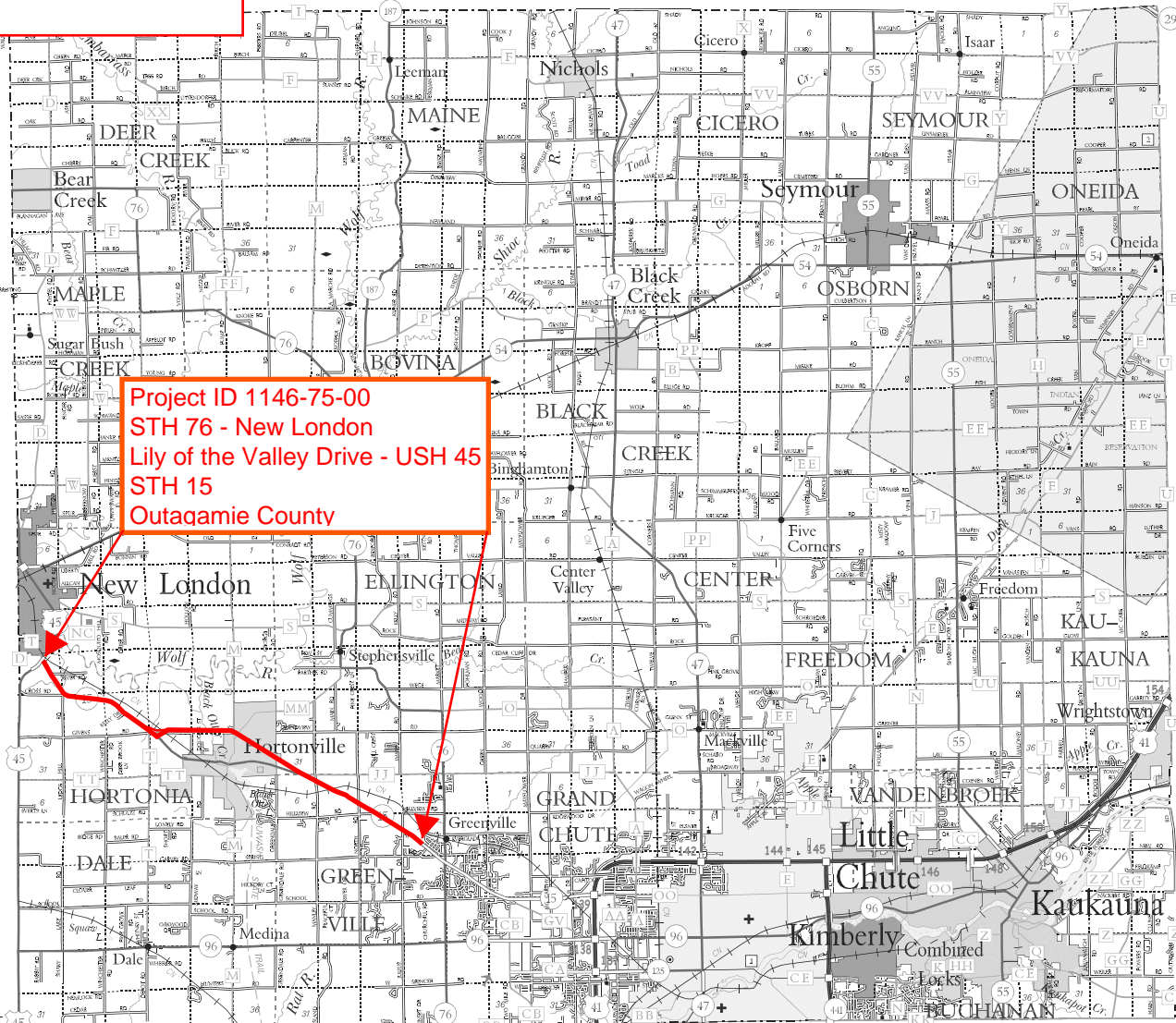
T-21-N

44° 15'

250,000' E

BROWN CO.

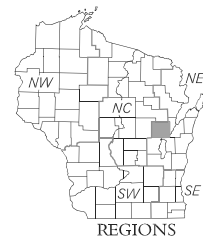
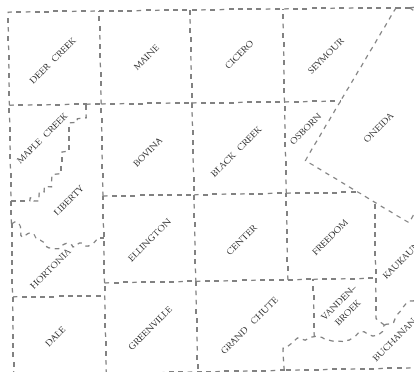
Project ID 1146-75-00
STH 76 - New London
Lily of the Valley Drive - USH 45
STH 15
Outagamie County



Appleton

LEGEND

Freeway	.....	Dam	.....
Multilane Divided	.....	Hospital	.....
U.S. or State Hwy	.....	Schools	.....
County Trunk Hwy	.....	Airport	.....
Town Road	.....	County Seat	.....
Firelane	.....	Unincorporated Village	.....
Railroad	.....	Fish Hatchery	.....
State Trail	.....	Game Farm	.....
Interchange	.....	Public Hunt. or Fish Grds.	.....
Highway Separation	.....	Public Camp & Picnic Grds.	.....
Interstate Highway No.	.....	Ranger Station	.....
U.S. Highway No.	.....	State Park	.....
State Highway No.	.....	County Park	.....
County Highway Letter	.....	Without Facilities	.....
State Boundary	.....	Rest Area	.....
County Boundary	.....	Wayside	.....
Civil Town Boundary	.....	Lawrence University	.....
Section Line	.....	Green Bay Work Release Center	.....



MILES OF HIGHWAY
as of Dec. 31, 2010

STATE	.....	197
COUNTY	.....	346
LOCAL ROADS	.....	1,463
OTHER ROADS	.....	20
TOTAL FOR COUNTY	.....	3,005

Land Area (2000 Census) 640 sq mi
Population (2000 Census) 160,971
County Seat Appleton

SECTION NUMBERING
OF A TOWNSHIP

6	5	4	3	2	1
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36

OUTAGAMIE CO.

DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING

Madison, Wisconsin

SCALE 0 1 2 MILES

Corrected for

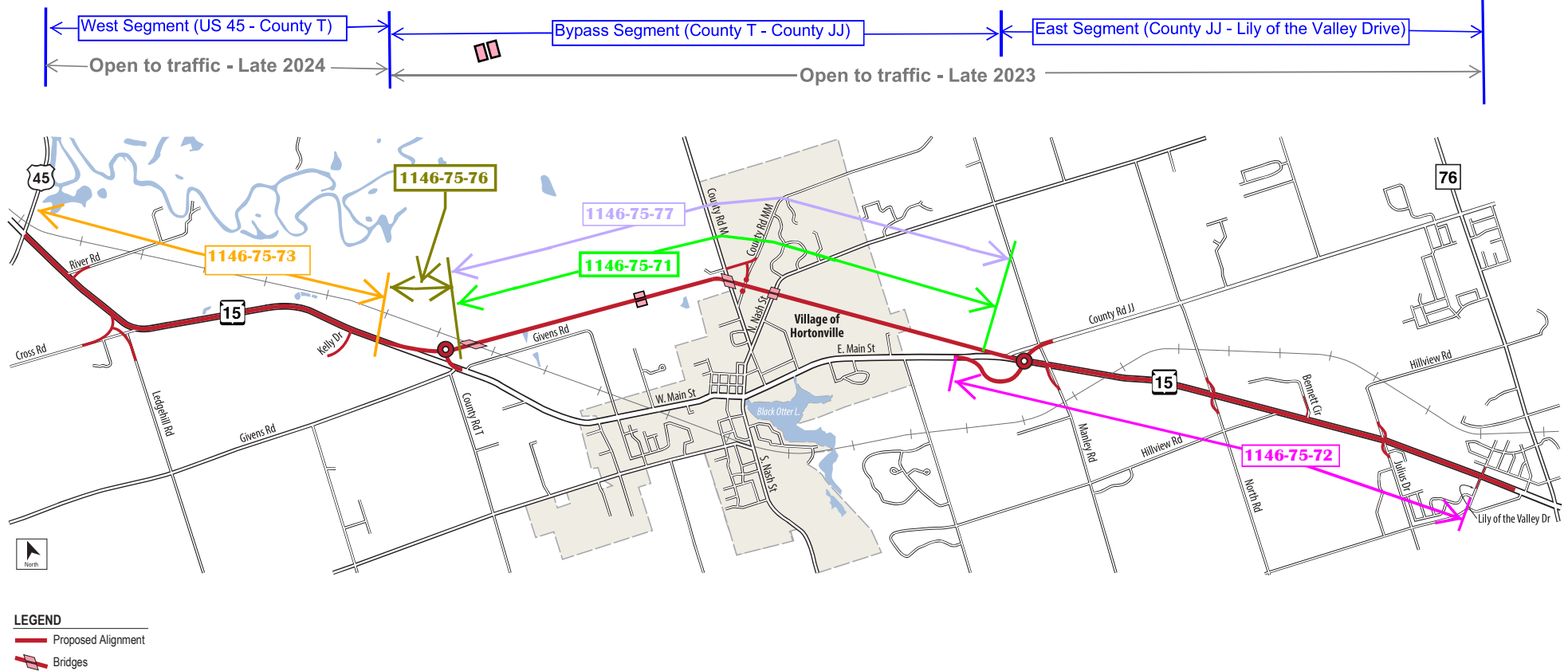
JAN. 2012

Base compiled from U.S.G.S. Quadrangles

130,000 Series

For boundaries of public hunting and fishing grounds
please contact the Department of Natural Resources

Grid based on the state plane coordinate system
central zone and the NAD 27

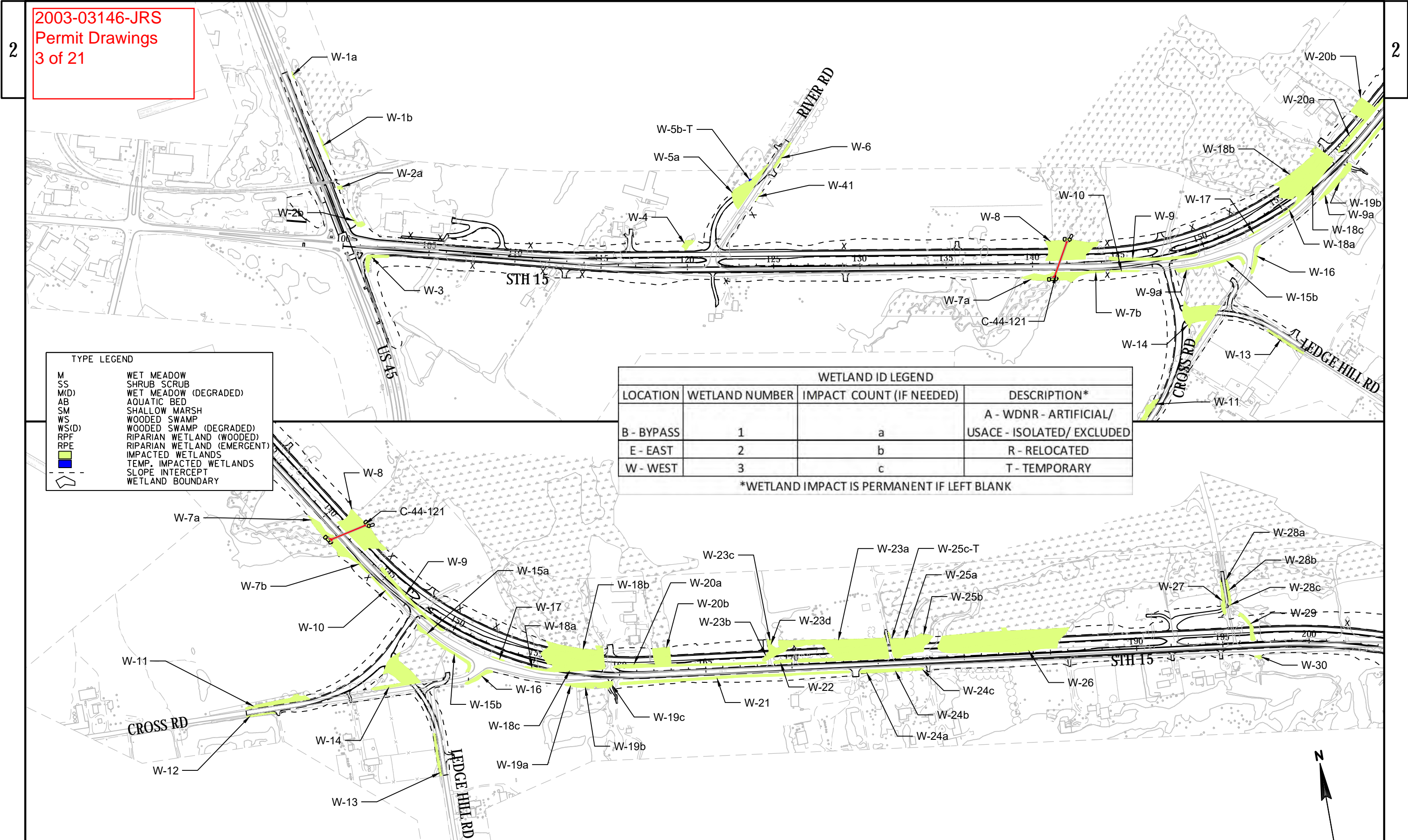


Outagamie County

TBQ200612181805MINZ Wis15_Expansion_Overview_v1 04-02-13.mxd

Wis 15 Expansion Overview

State Highway **15** Improvement Project

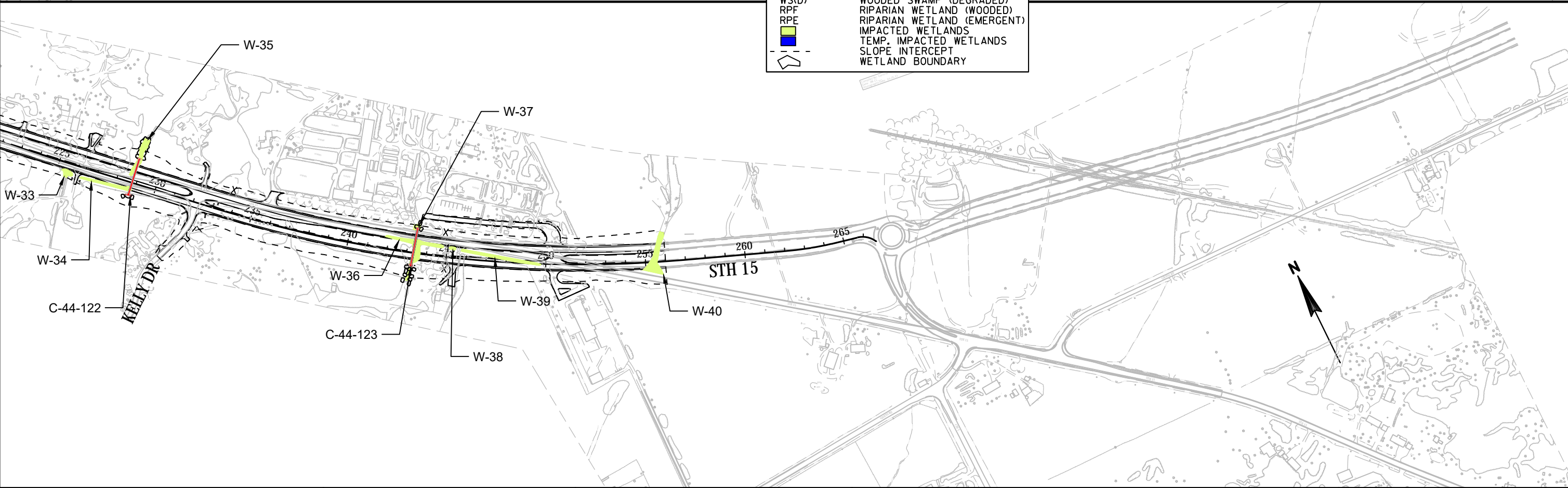
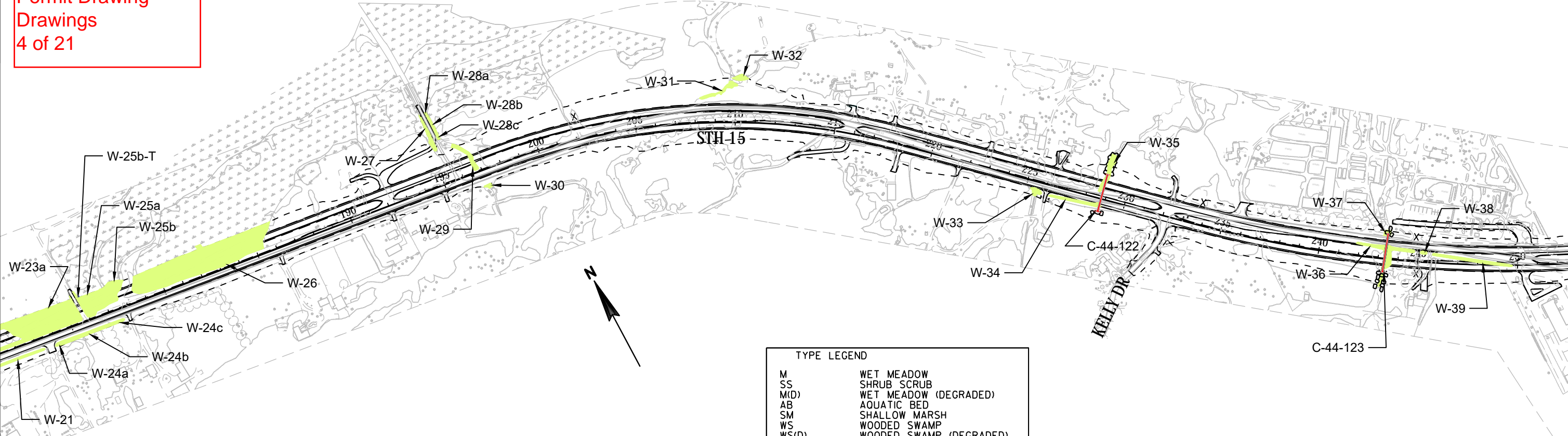


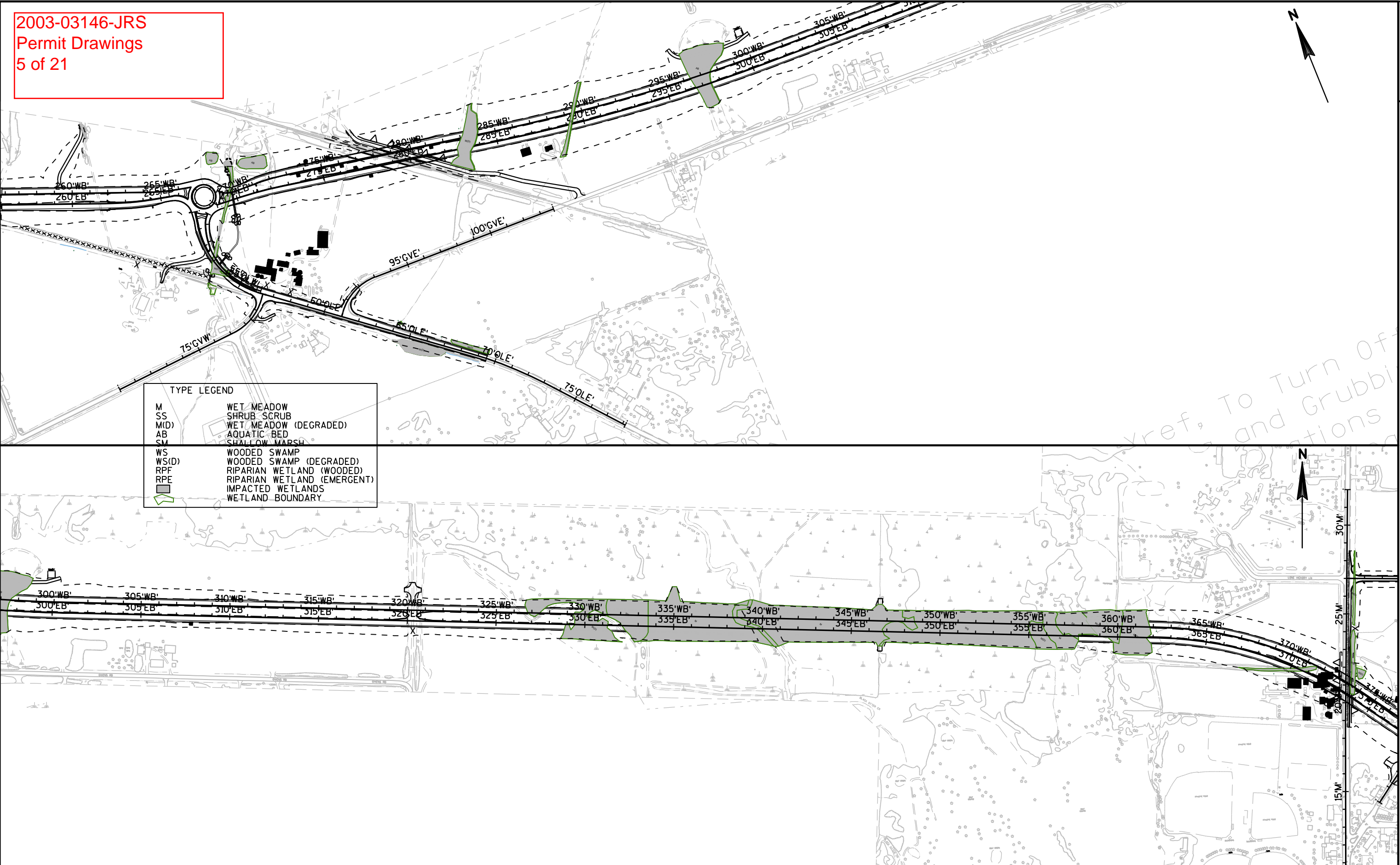
2003-03146-JRS
Permit Drawings
3 of 21

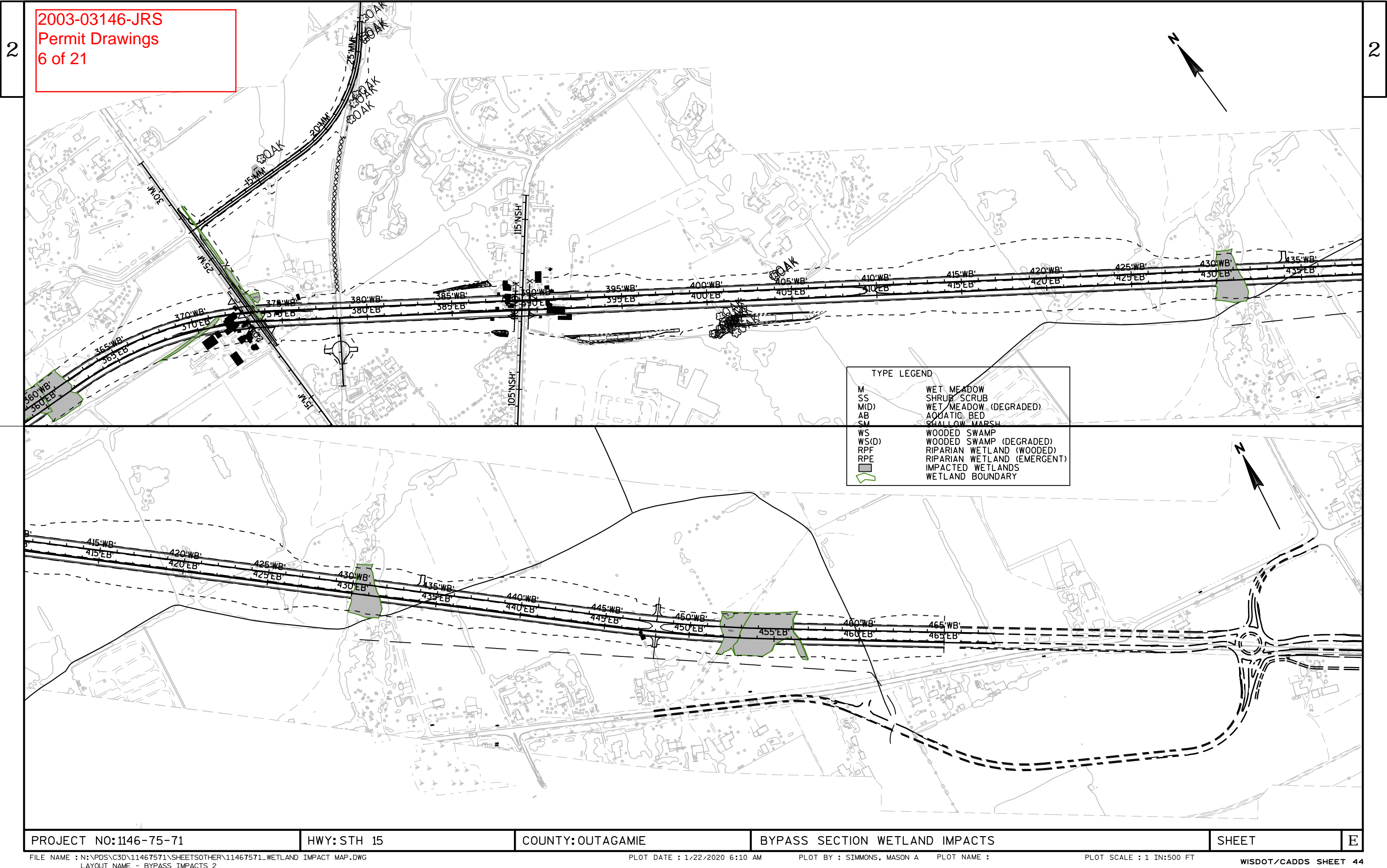
TYPE LEGEND	
M	WET MEADOW
SS	SHRUB SCRUB
M(D)	WET MEADOW (DEGRADED)
AB	AQUATIC BED
SM	SHALLOW MARSH
WS	WOODED SWAMP
WS(D)	WOODED SWAMP (DEGRADED)
RPF	RIPARIAN WETLAND (WOODED)
RPE	RIPARIAN WETLAND (EMERGENT)
[Yellow Box]	IMPACTED WETLANDS
[Blue Box]	TEMP. IMPACTED WETLANDS
[Dashed Line]	SLOPE INTERCEPT
[Solid Line]	WETLAND BOUNDARY

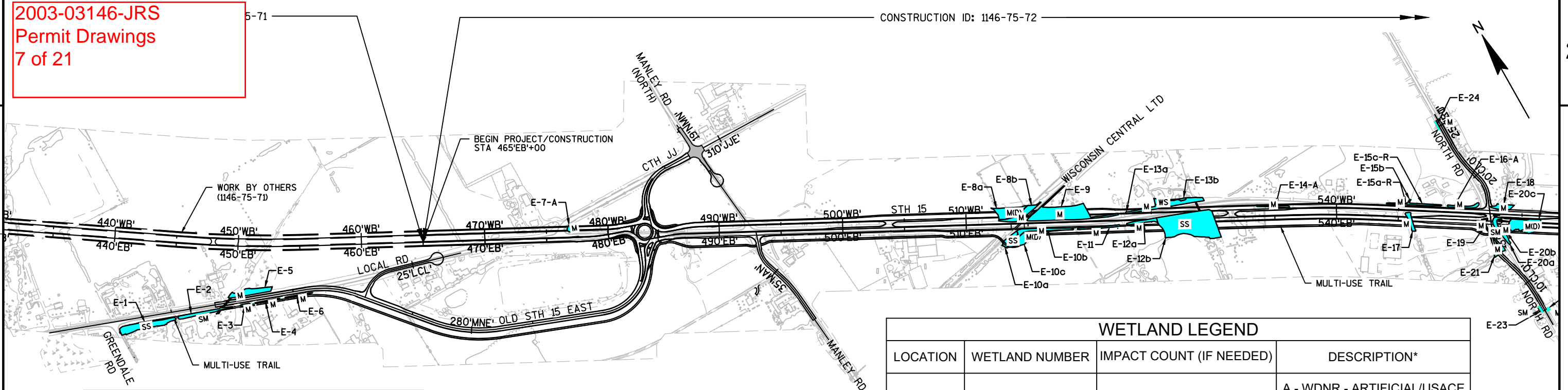
WETLAND ID LEGEND			
LOCATION	WETLAND NUMBER	IMPACT COUNT (IF NEEDED)	DESCRIPTION*
B - BYPASS	1	a	A - WDNR - ARTIFICIAL/ USACE - ISOLATED/ EXCLUDED
E - EAST	2	b	R - RELOCATED
W - WEST	3	c	T - TEMPORARY
*WETLAND IMPACT IS PERMANENT IF LEFT BLANK			

2003-03146-JRS
Permit Drawing
Drawings
4 of 21









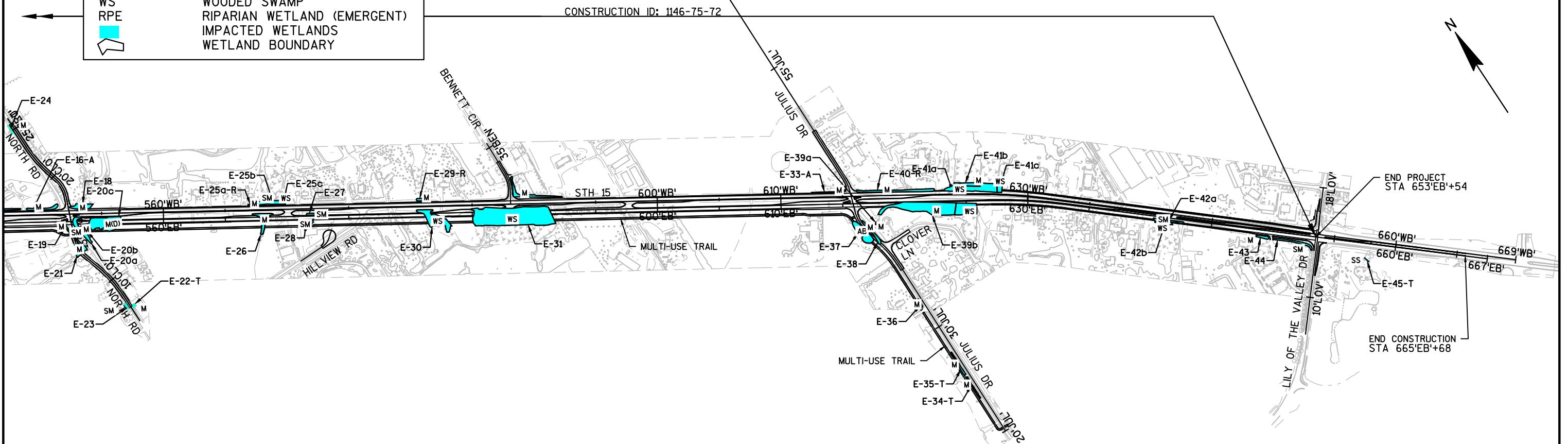
TYPE LEGEND

M	WET MEADOW
SS	SHRUB SCRUB
M(D)	WET MEADOW (DEGRADED)
AB	AQUATIC BED
SM	SHALLOW MARSH
WS	WOODED SWAMP
RPE	RIPARIAN WETLAND (EMERGENT)
	IMPACTED WETLANDS
	WETLAND BOUNDARY

WETLAND LEGEND

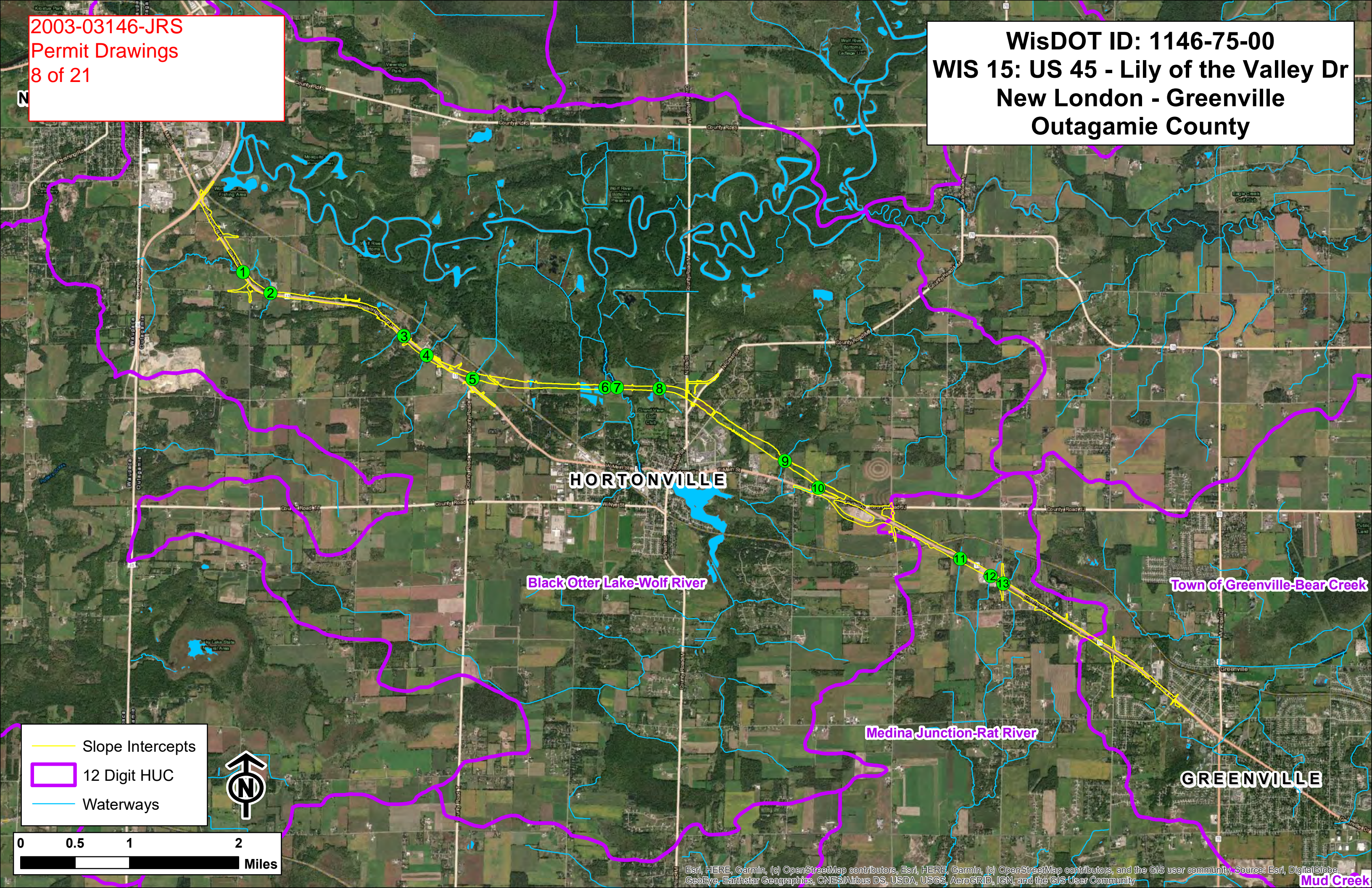
LOCATION	WETLAND NUMBER	IMPACT COUNT (IF NEEDED)	DESCRIPTION*
B-BYPASS	1	a	A - WDNR - ARTIFICIAL/USACE -ISOLATED/EXCLUDED
E - EAST	2	b	R - RELOCATED
W - WEST	3	c	T - TEMPORARY

*WETLAND IMPACT IS PERMANENT IF LEFT BLANK



2003-03146-JRS
Permit Drawings
8 of 21

WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
New London - Greenville
Outagamie County



— Slope Intercepts
— 12 Digit HUC
— Waterways



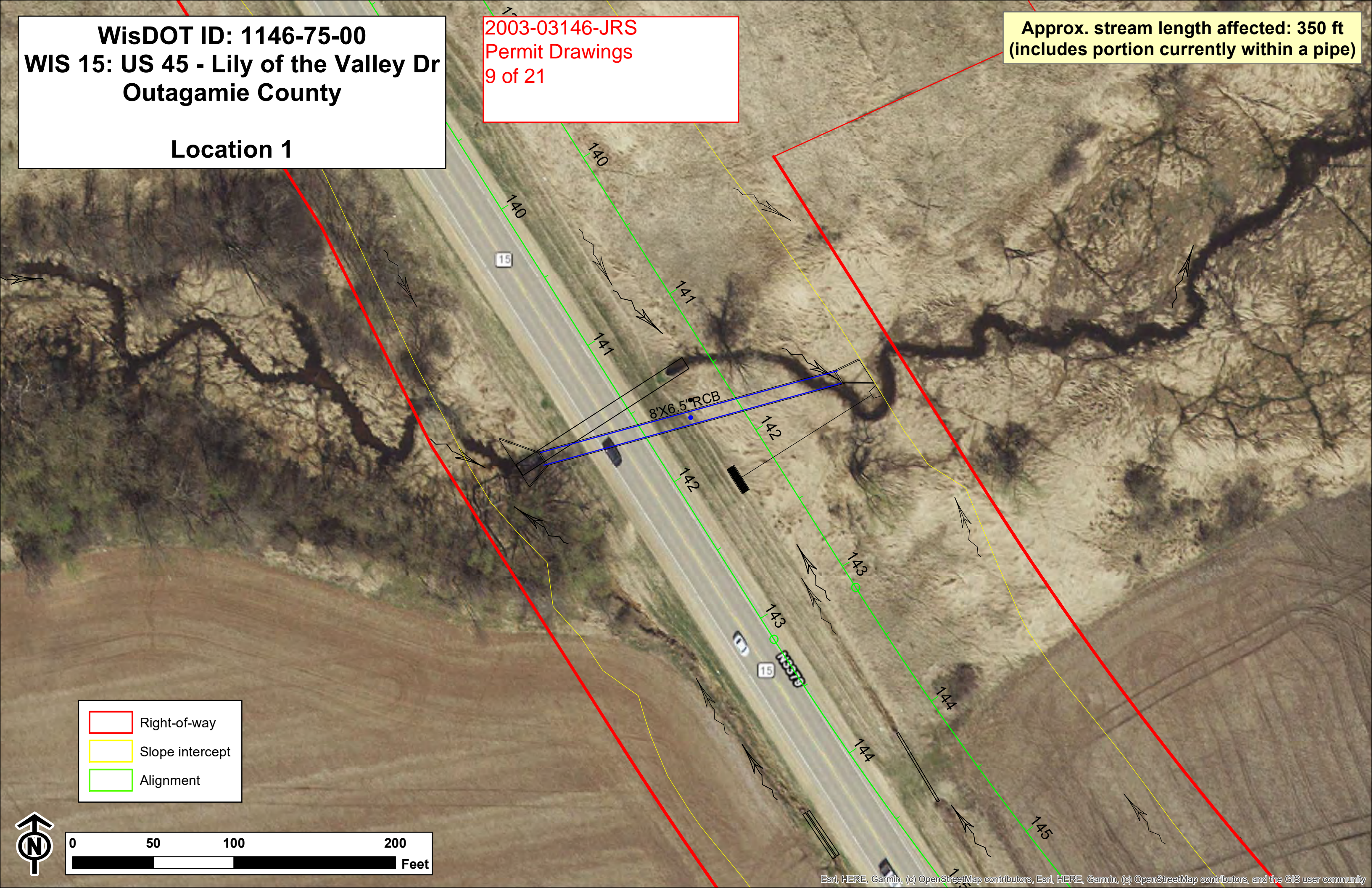
0 0.5 1 2
Miles

WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

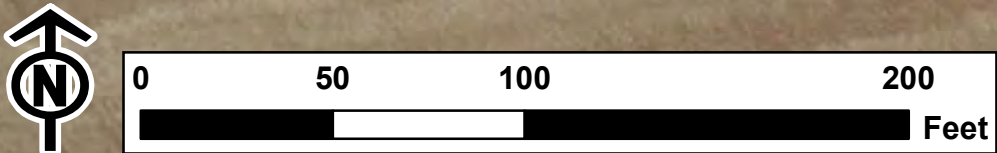
Location 1

2003-03146-JRS
Permit Drawings
9 of 21

Approx. stream length affected: 350 ft
(includes portion currently within a pipe)



- Right-of-way
- Slope intercept
- Alignment

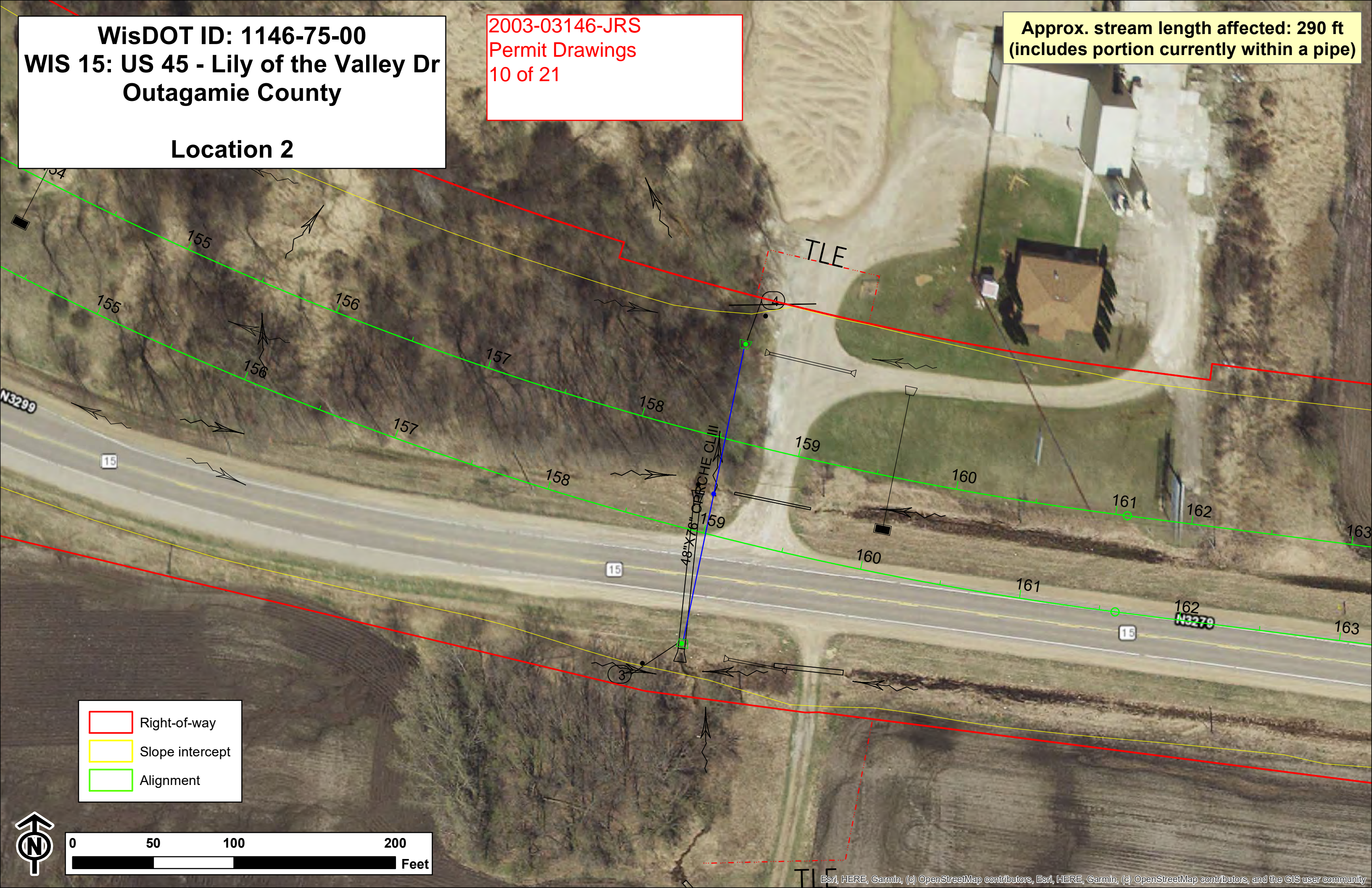


WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

Location 2

2003-03146-JRS
Permit Drawings
10 of 21

Approx. stream length affected: 290 ft
(includes portion currently within a pipe)



Right-of-way

Slope intercept

Alignment

0

50

100

200

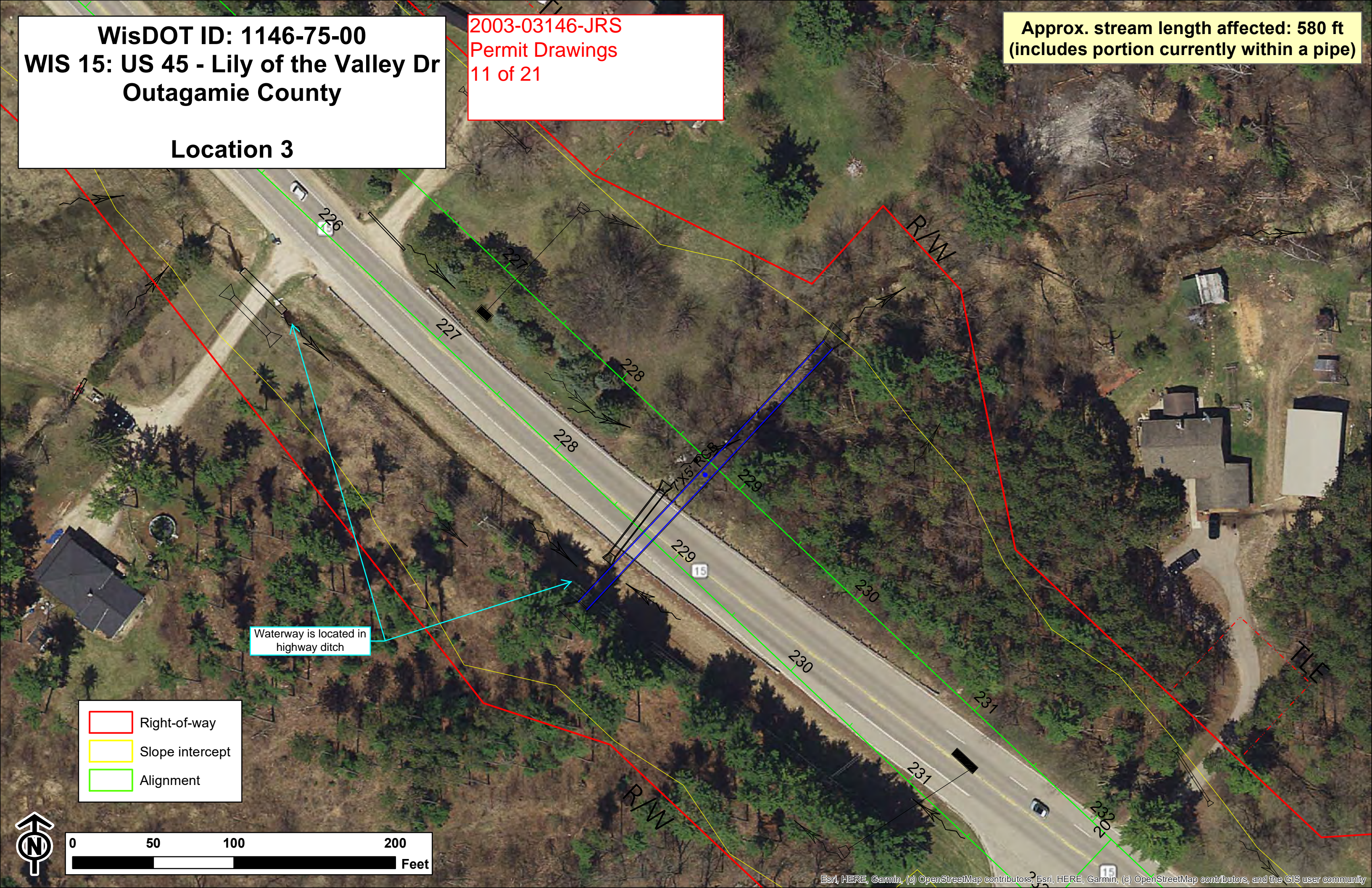
Feet

WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

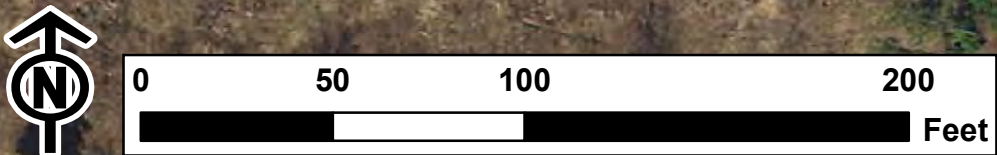
Location 3

2003-03146-JRS
Permit Drawings
11 of 21

Approx. stream length affected: 580 ft
(includes portion currently within a pipe)



- Right-of-way
- Slope intercept
- Alignment

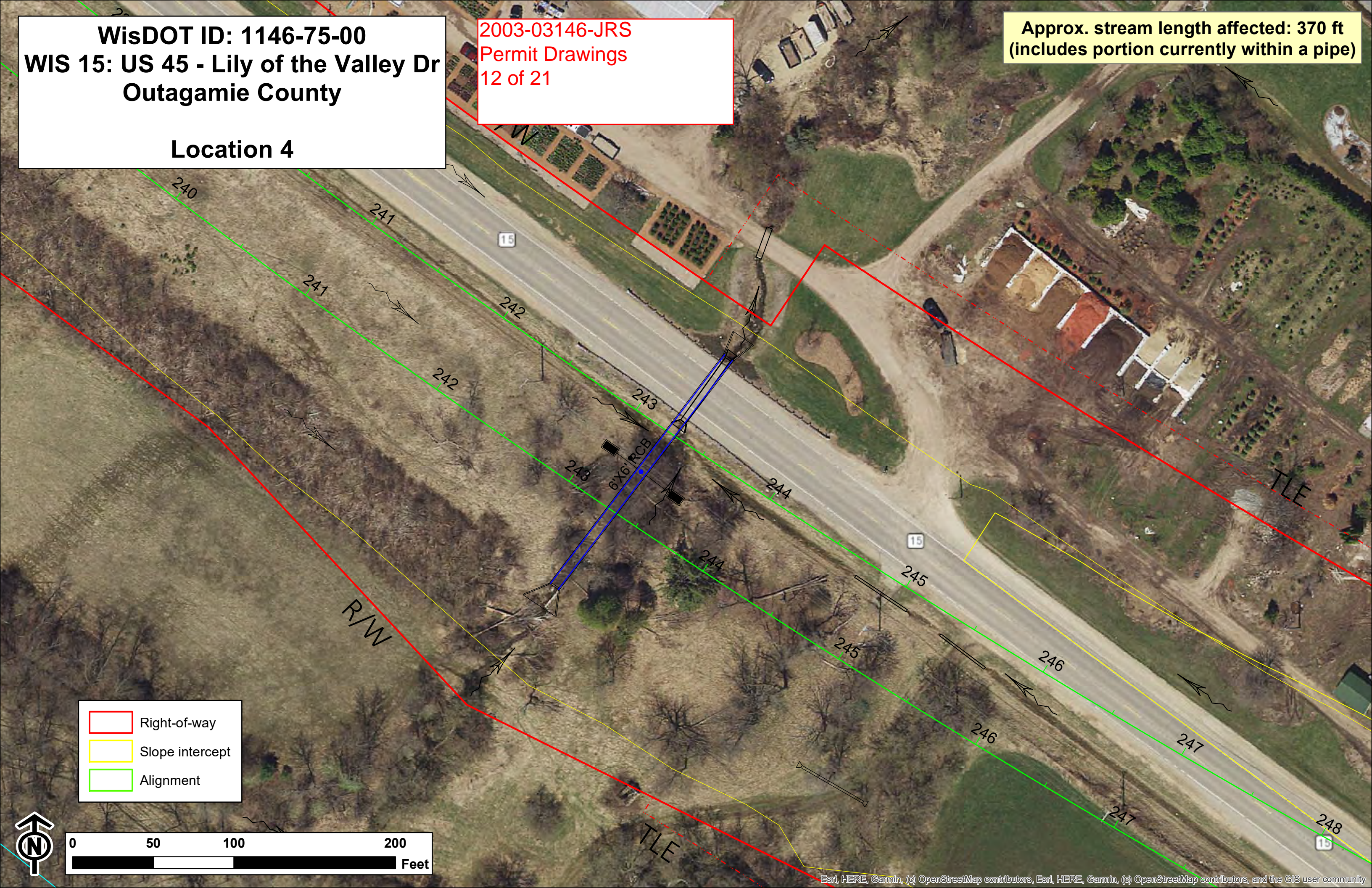


WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

Location 4

2003-03146-JRS
Permit Drawings
12 of 21

Approx. stream length affected: 370 ft
(includes portion currently within a pipe)



- Right-of-way
- Slope intercept
- Alignment



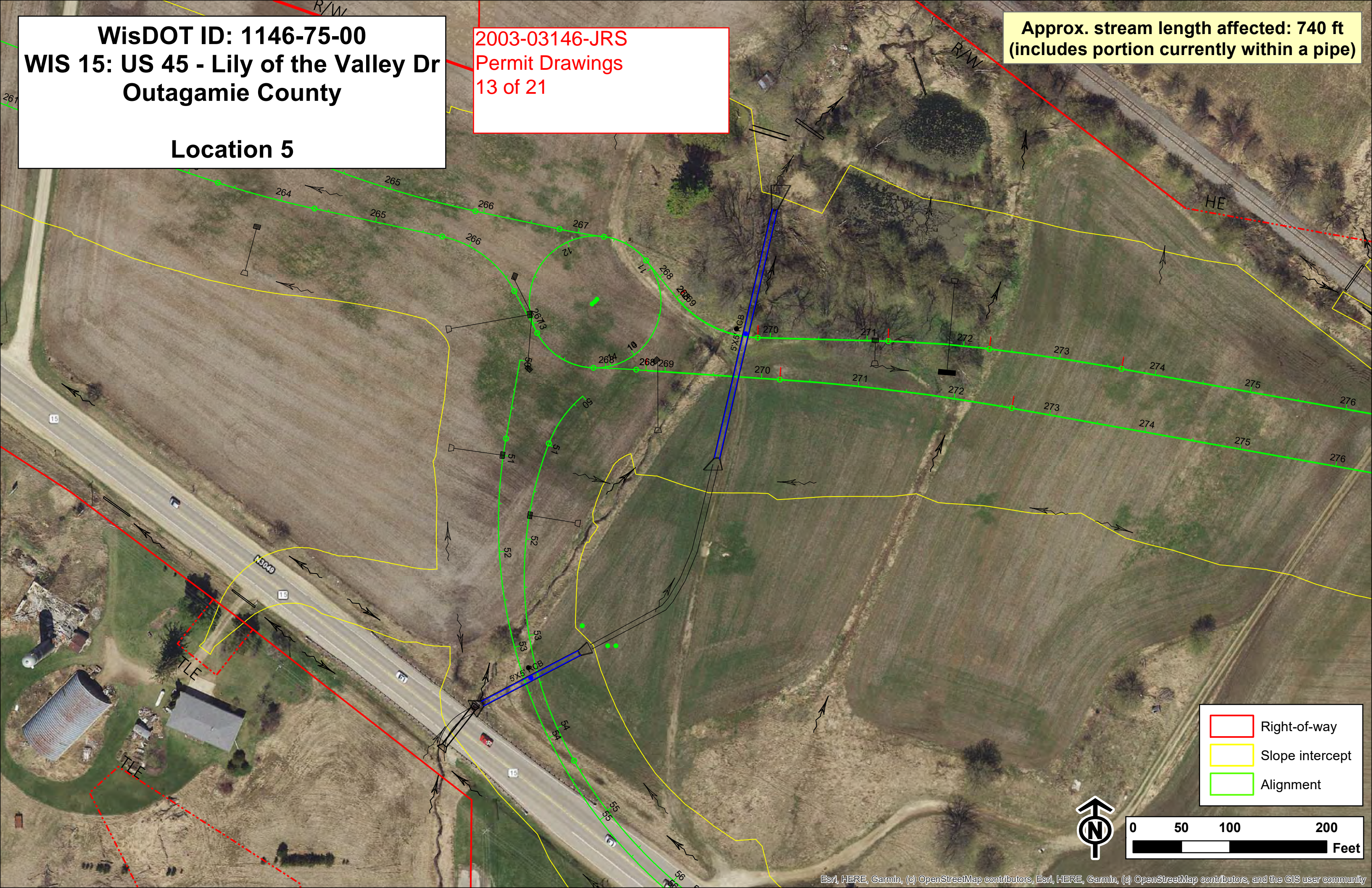
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WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

Location 5

2003-03146-JRS
Permit Drawings
13 of 21

Approx. stream length affected: 740 ft
(includes portion currently within a pipe)



Right-of-way
Slope intercept
Alignment



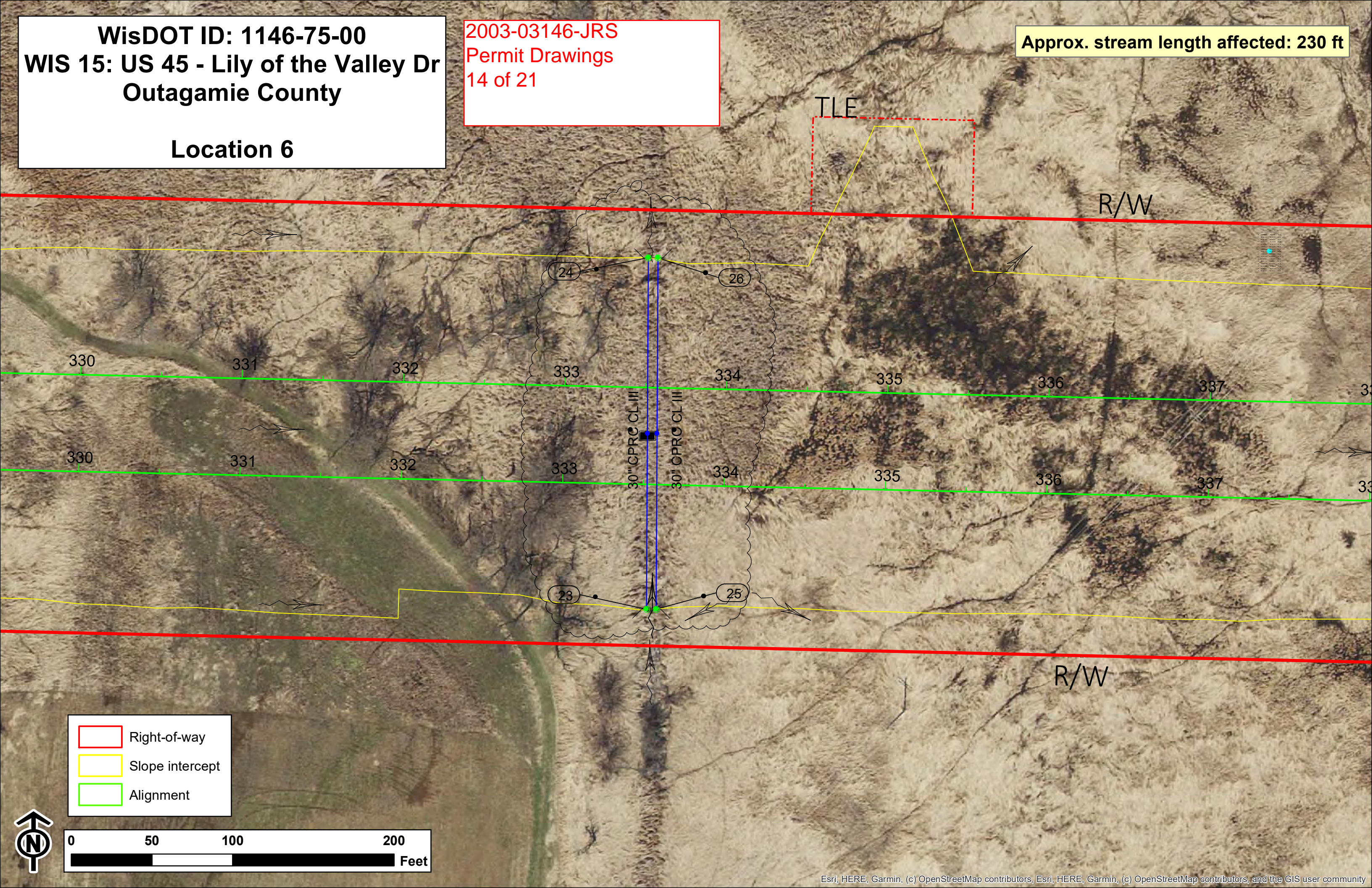
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WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

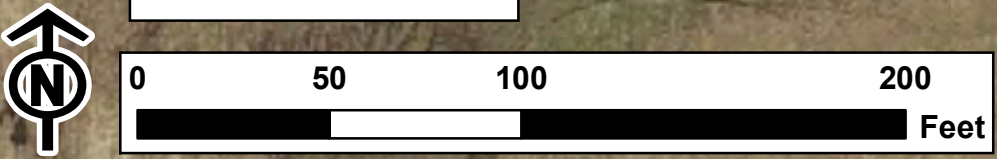
Location 6

2003-03146-JRS
Permit Drawings
14 of 21

Approx. stream length affected: 230 ft



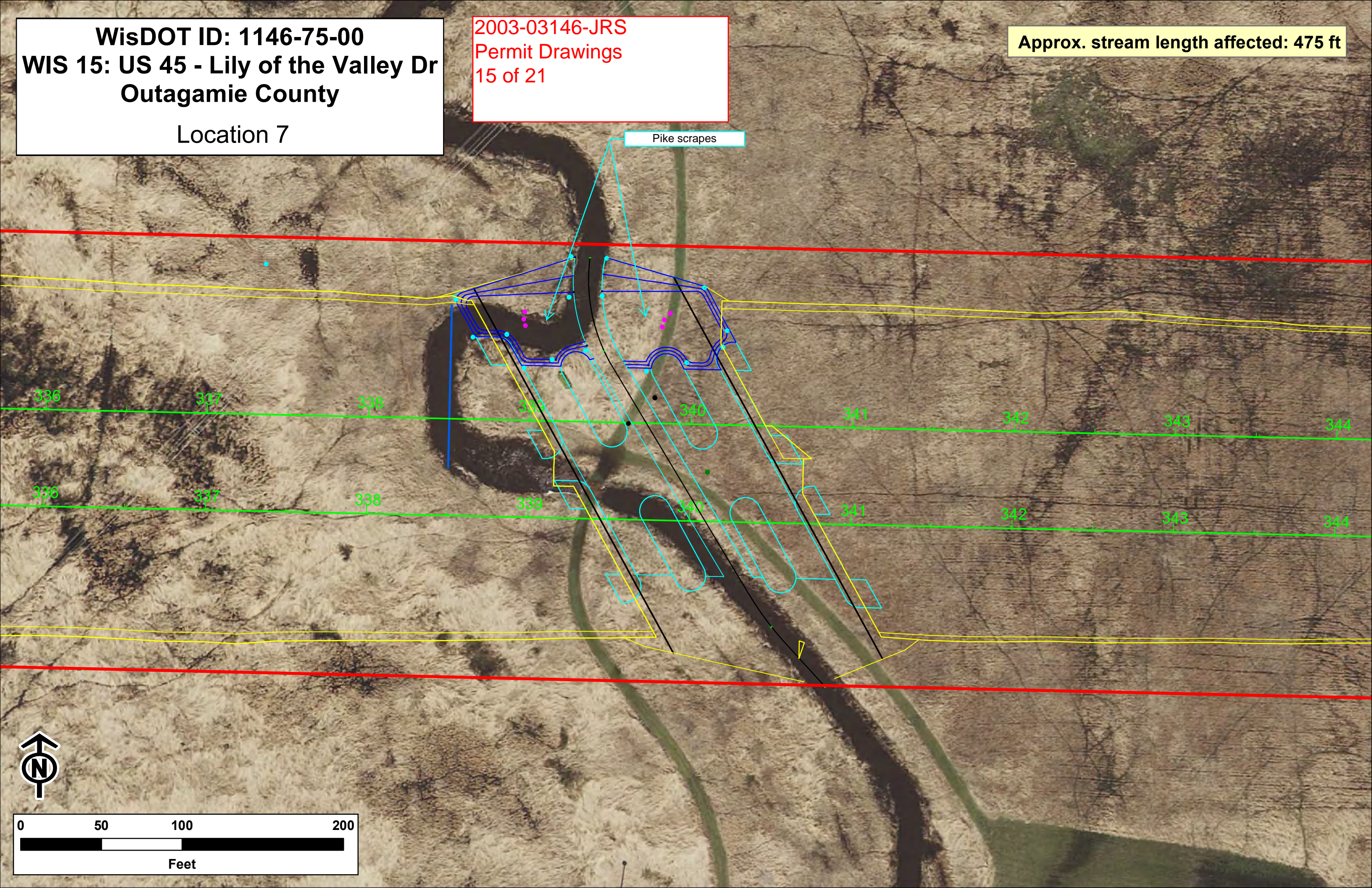
- Right-of-way
- Slope intercept
- Alignment



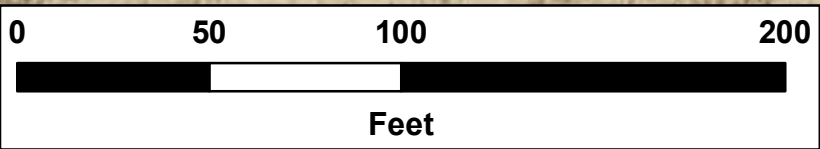
WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County
Location 7

2003-03146-JRS
Permit Drawings
15 of 21

Approx. stream length affected: 475 ft



Pike scrapes

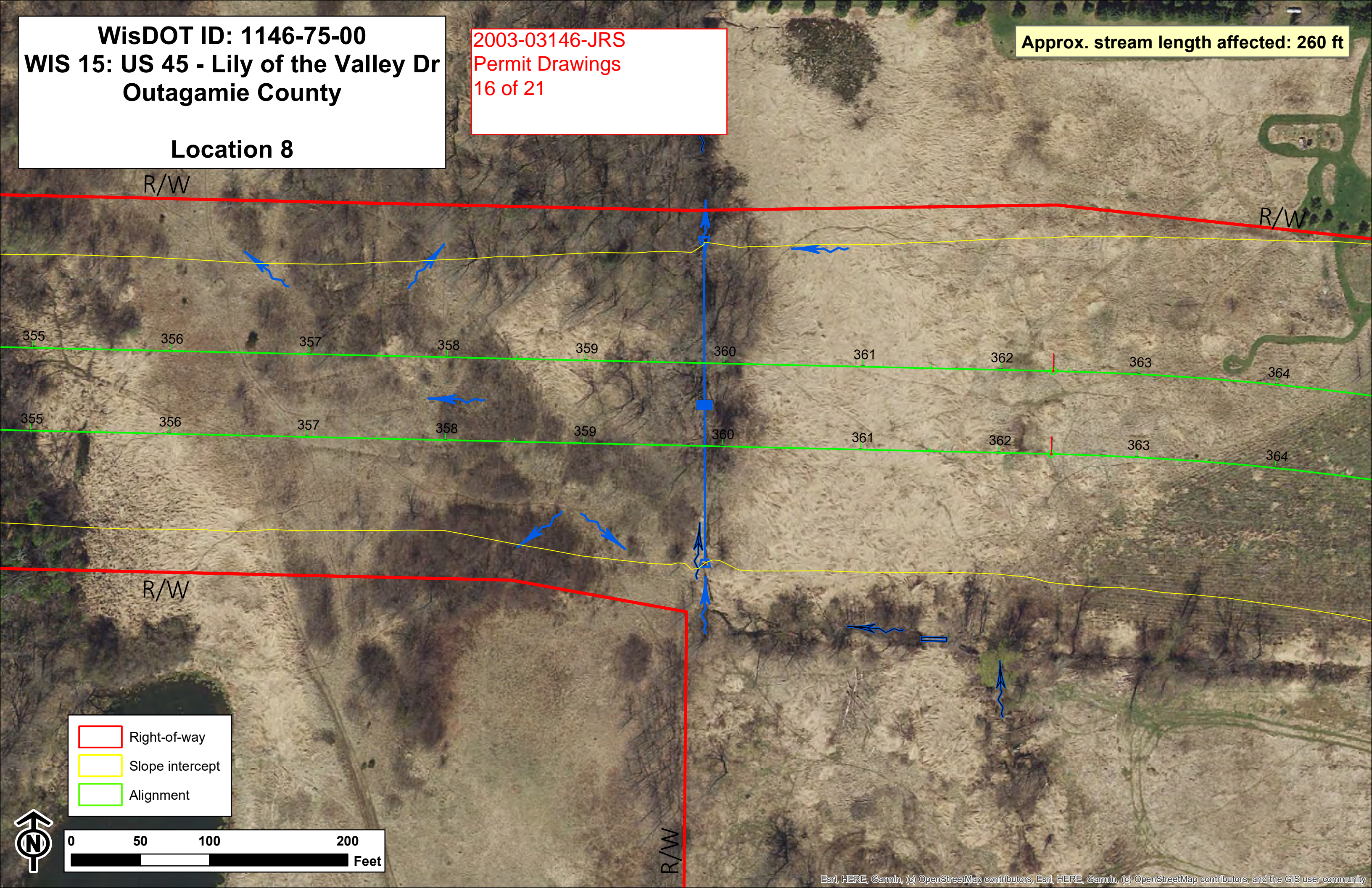


WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

Location 8

2003-03146-JRS
Permit Drawings
16 of 21

Approx. stream length affected: 260 ft

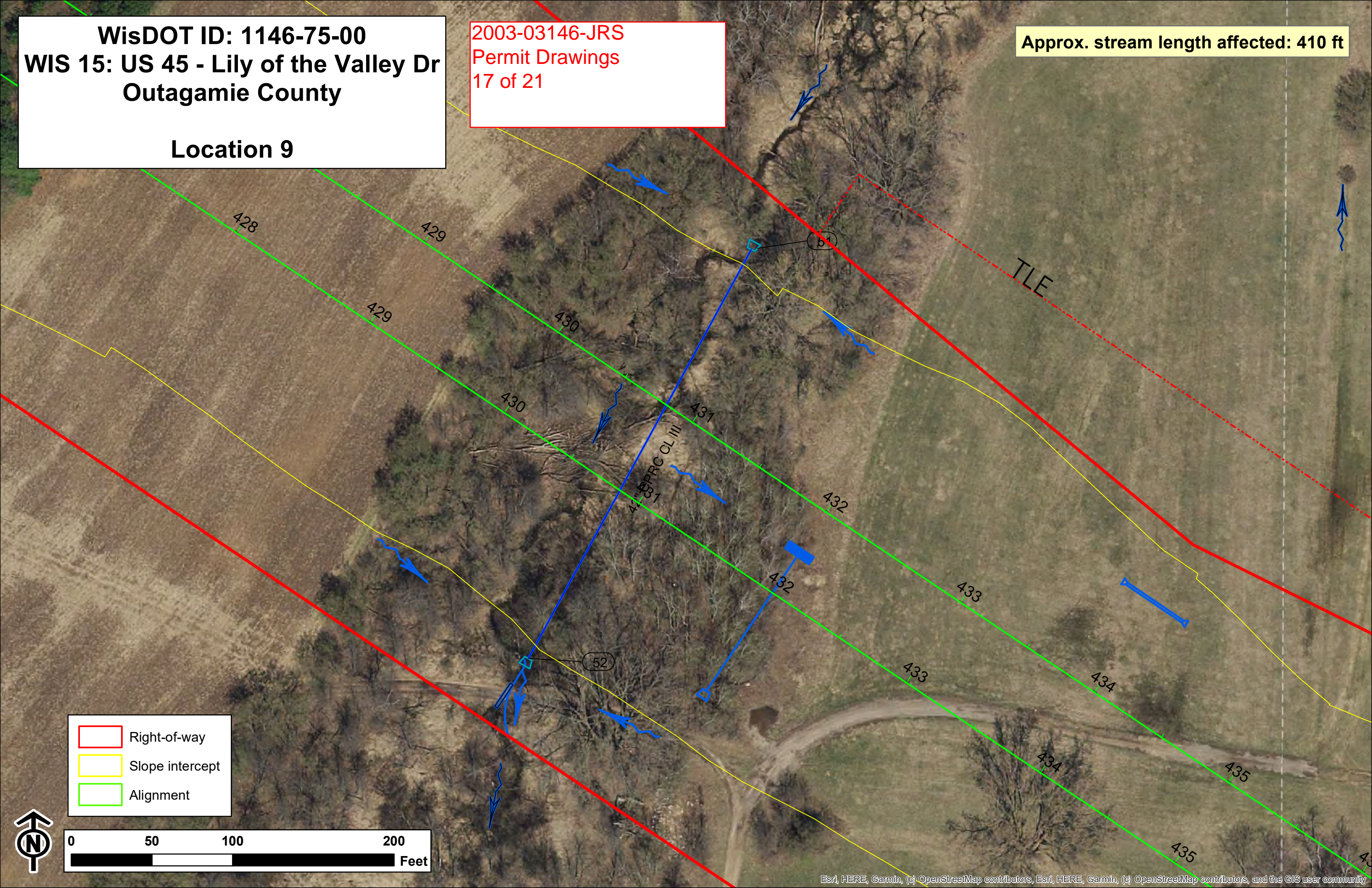


WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

Location 9

2003-03146-JRS
Permit Drawings
17 of 21

Approx. stream length affected: 410 ft

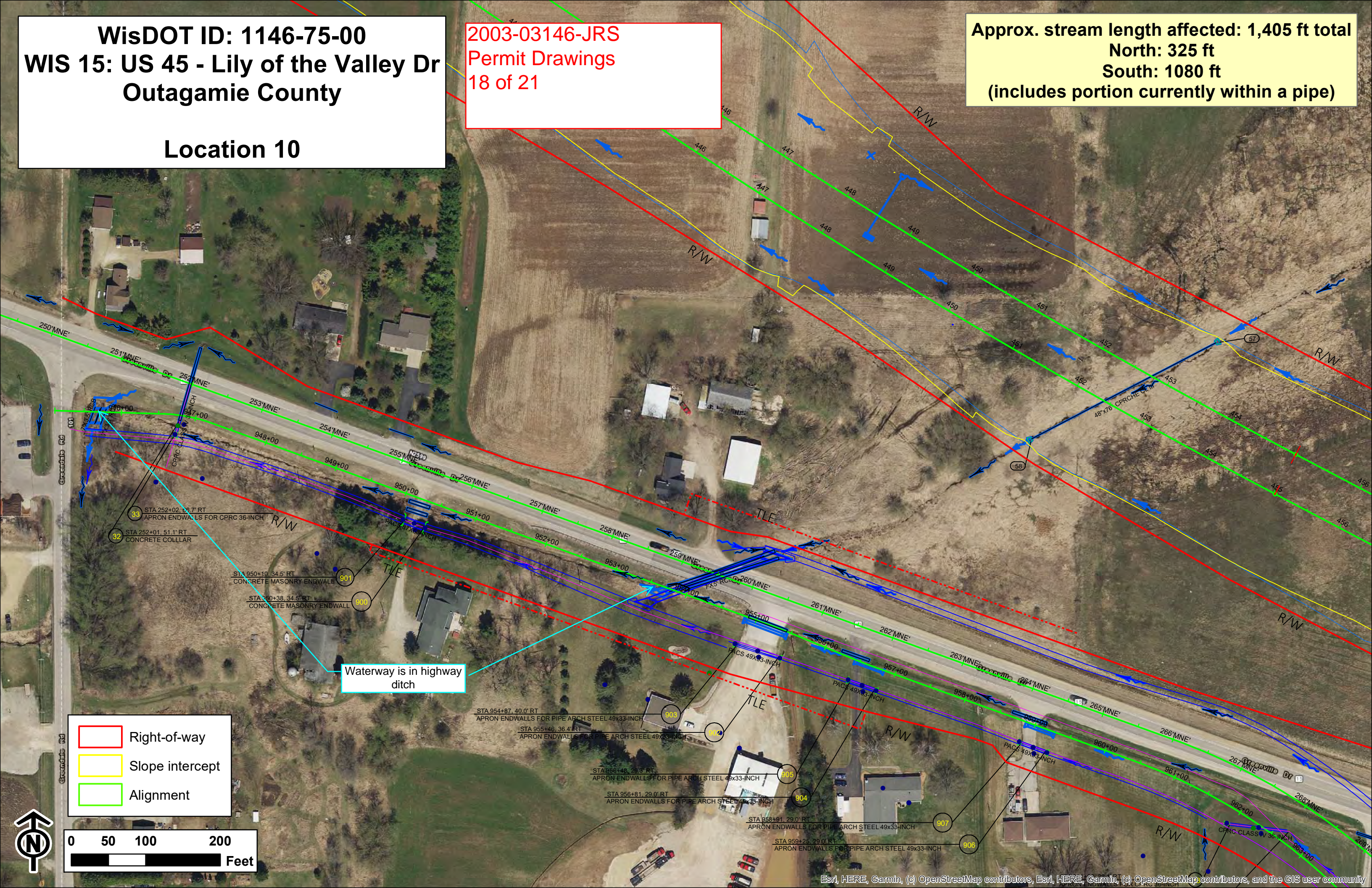


WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

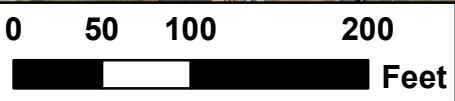
Location 10

2003-03146-JRS
Permit Drawings
18 of 21

Approx. stream length affected: 1,405 ft total
North: 325 ft
South: 1080 ft
(includes portion currently within a pipe)



- Right-of-way
- Slope intercept
- Alignment

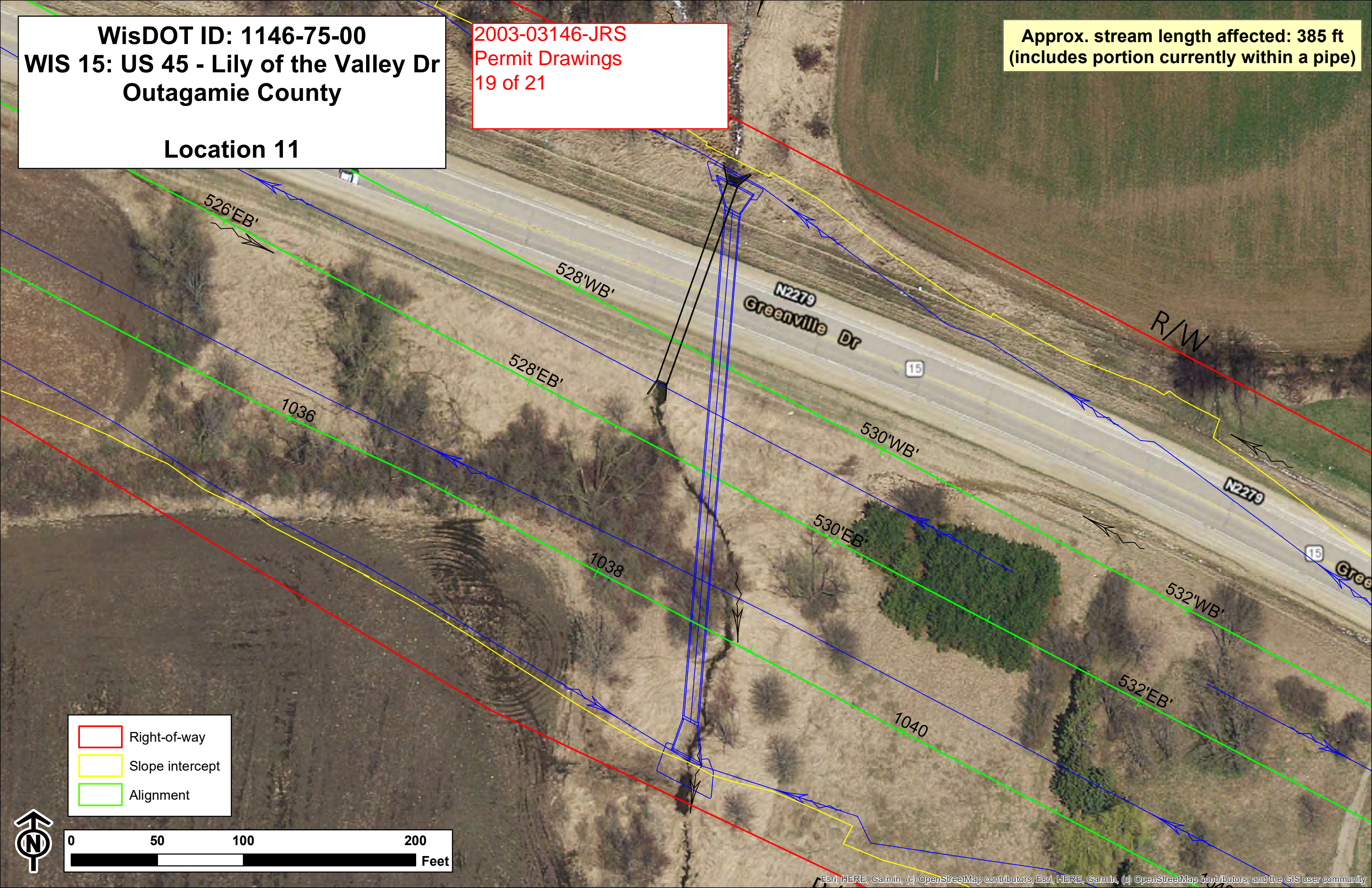


WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

Location 11

2003-03146-JRS
Permit Drawings
19 of 21

Approx. stream length affected: 385 ft
(includes portion currently within a pipe)

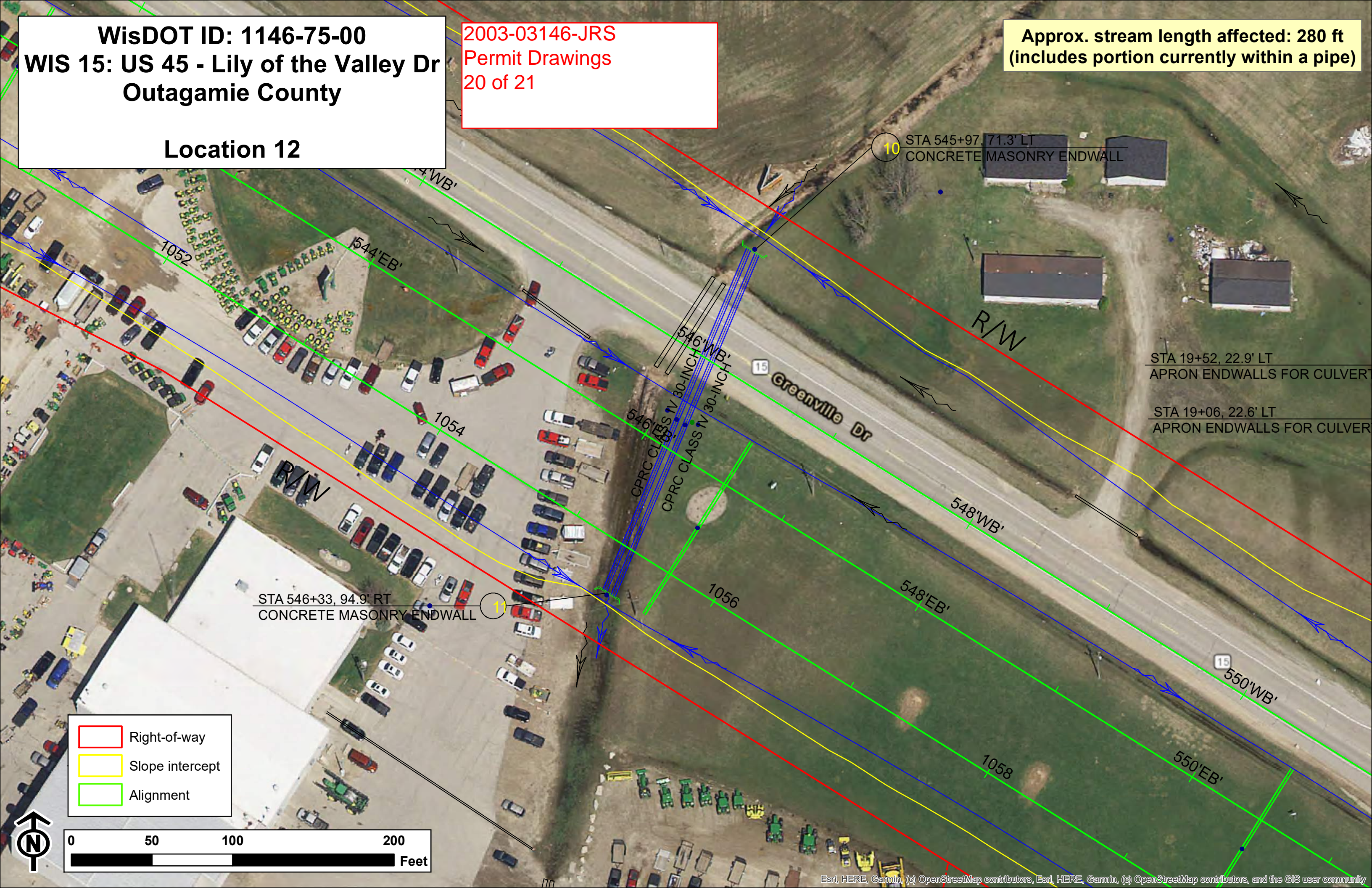


WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

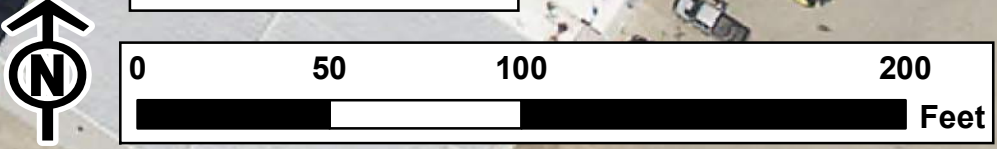
Location 12

2003-03146-JRS
Permit Drawings
20 of 21

Approx. stream length affected: 280 ft
(includes portion currently within a pipe)



- Right-of-way
- Slope intercept
- Alignment

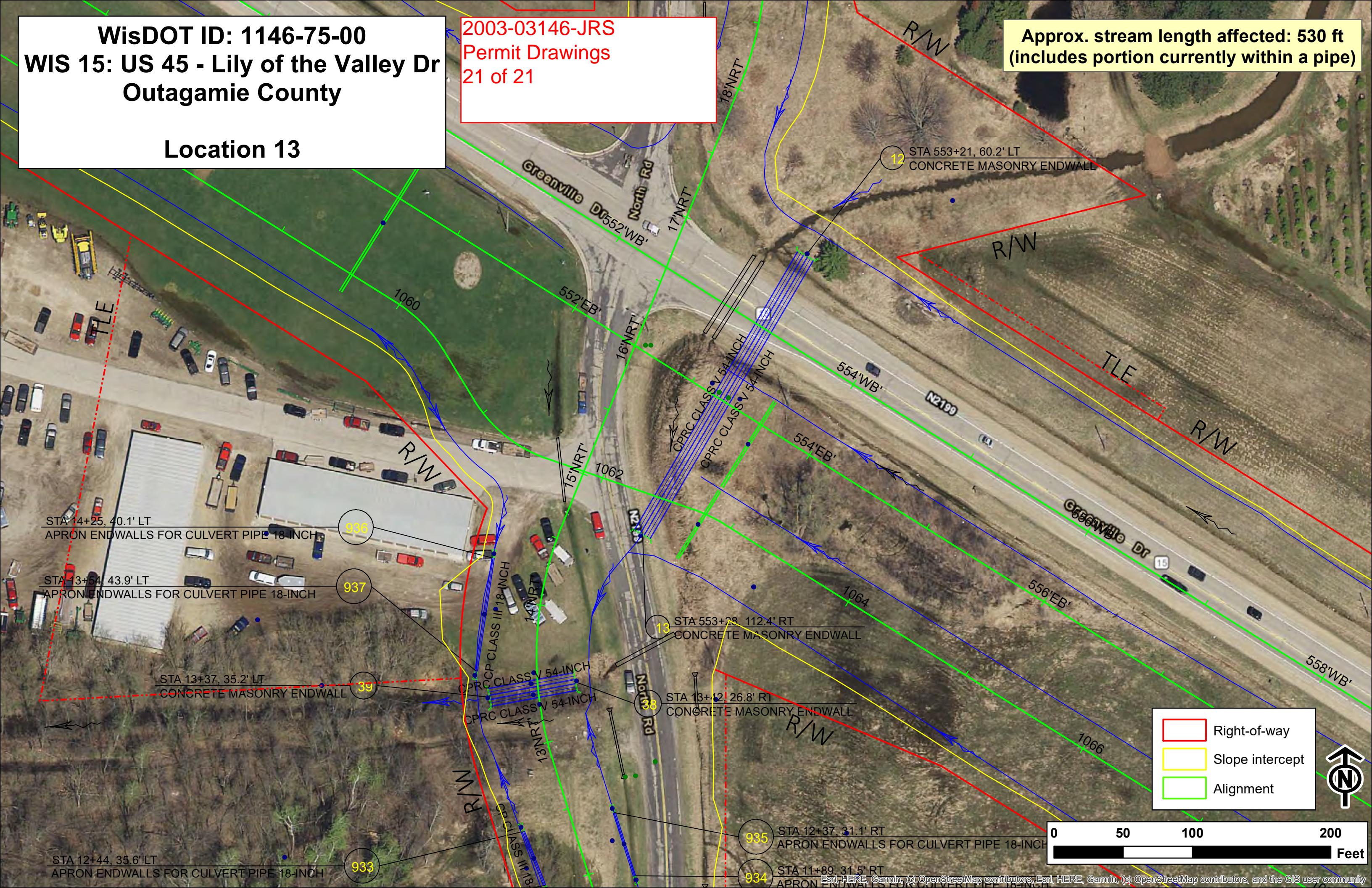


WisDOT ID: 1146-75-00
WIS 15: US 45 - Lily of the Valley Dr
Outagamie County

Location 13

2003-03146-JRS
Permit Drawings
21 of 21

Approx. stream length affected: 530 ft
(includes portion currently within a pipe)





July 9, 2020

Mr. William Bertrand, P.E.
Wisconsin Department of Transportation – NE Region
944 Vanderperren Way
Green Bay, WI 54304-5344

Subject: DNR Final Concurrence:

Project I.D. 1146-75-71, 72, 73, 76, 77
WIS 15 – US 45 to Lily of the Valley Drive
Town of Greenville to City of New London
Outagamie County
FIN: 72425 – Bypass Segment
FIN: 72427 – East Segment
FIN: 72429 – West Segment

Dear Mr. Bertrand:

Thank you for the information regarding the projects referenced above. Based on the information provided to the Wisconsin Department of Natural Resources (DNR), the final project design addresses the environmental issues raised through the initial review and coordination process. DNR has determined that the water quality, floodplain and wetland protection objectives of the DNR/DOT Cooperative Agreement have been met. This concurrence also constitutes Water Quality Certification pursuant to Section 401, under the Federal Clean Water Act. The DNR has evaluated this proposal and has determined that this activity will be conducted in a manner which is consistent with the standards contained in chapters NR 103 and NR 299, Wis. Adm. Code, Water Quality Certification is granted.

Should the scope of the project change, consultation with the DNR must be reinitiated. Any additional project related work proposed under the Erosion Control Implementation Plan (ECIP) will be evaluated by DNR within 14 days for sensitive resources, potential impacts to the environment, and erosion and sediment control. Those proposed activities shown to be in compliance with Ch. 283, Wis. Stats will be added to the original application as an amendment. Further comments on the project may be presented at the preconstruction conference. DNR understands that project construction will be in conformance with our initial review letter, previous coordination, the DNR/DOT Cooperative Agreement, and the following:

Wetlands:

The WIS 15 project will result in 43.27 acres of permanent wetland loss, which includes the total of all project I.D. numbers listed above. The wetland impacts by quantity and type are as follows: 1.86 acres of aquatic bed (AB); 17.14 acres of wet meadow (M); 6.57 acres degraded wet meadow (M(D)); 1.57 acres of shallow marsh (SM); 3.64 acres of shrub-scrub (SS); 11.06 acres of wooded swamp (WS); 0.18 acres of riparian-emergent (RPE); 1.25 acres riparian-wooded (RPF). The DNR understands that these losses will be charged against the Hope Marsh Phase 2 bank in Marquette County. The wetland

quantity and types mitigated will be, 43.17 acres of RPE, 0.86 acres of RPF, and 3.64 acres of SS, for a total compensation of 47.66 acres.

Fisheries/Stream Work:

There are numerous waterways intersected by the WIS 15 project, which are typically cool to warm water streams, some of which have been identified to have fish spawning habitat. In order to prevent harm to migrating or spawning fish, there can be no in-stream work from March 1 through June 15 at the following locations:

- West Segment
 - Station 141'EB'+40 – Tributary to the Wolf River
 - Station 158'EB'+99 – Tributary to the Wolf River
 - Station 243'EB'+50 – Tributary to the Wolf River
- Bypass Segment
 - Station 269'EB'+80 – Tributary to the Wolf River
 - Station 338'EB'+00 to 341'EB'+00 – Black Otter Creek
 - Station 430'EB'+72 – Tributary to Black Otter Lake
 - Station 451'EB'+29 – Tributary to Black Otter Lake
- East Segment
 - Station 529'EB'+74 – Tributary to the Rat River
 - Station 553'EB'+24 – Tributary to the Rat River
 - Station 568'EB'+00 – Tributary to the Rat River

Natural Heritage Conservation (formerly “Endangered Resources”):

The Natural Heritage Inventory (NHI) review of this project was renewed on 10/11/19 for the presence of threatened and endangered (T&E) species, as well as critical habitats and special concern species. Further review of the project(s) areas of disturbance eliminated the possibility of impact to a number of known T&E species within the 1 mile buffer. After continued coordination and field reviews between the DNR and WisDOT, below is a summary of the current findings:

- Special accommodations have been made by DOT to address the issue of Blanding's Turtle passage under the Hortonville Bypass section, including permanent turtle fencing and additional “wildlife passage” culverts.
- Several species of Special Concern butterflies are known to occur near the West segment. Therefore, WisDOT has committed to using native “pollinator friendly” seed mixes at several locations along the West segment for final restoration, as specified in the project plans.
- To avoid impact to any state listed birds (1 threatened, 1 special concern) along the Hortonville bypass, the clearing and grubbing for that segment will occur outside of their nesting season, which is April 1 through July 31.
- There are no known Northern Long-eared Bat (NLEB) maternity roost trees within 150 feet of the project, or known hibernacula within 0.25 miles of the proposed project area.
- This project is located outside of any High Potential Zones (HPZ) for the Rusty Patched Bumblebee (RPBB), and therefore should have no impact on this federally endangered species.

Waterways and Floodplain:

DNR has reviewed the hydraulic engineering information submitted on 8/9/17, which was completed for the entire length of this project. All but one (see below) of the new structures will have a predicted upstream water elevation that is slightly lower than the existing conditions, so the DNR has no habitat concerns as it pertains to those structures and elevations.

Based on your computations regarding the new Hortonville Bypass bridge (B-44-295/296) over Black Otter Creek, the Q_{100} discharge is 1,390 cfs, resulting in a predicted upstream water surface elevation of 762.93 feet. The proposed structure is located within the flood fringe of the Wolf River, and DNR has determined that this project would result in an increase to the Regional Flood Elevation (RFE). However, the DNR also reviewed the Dam Failure Shadow for the Hortonville Dam, which was adopted by Outagamie County, and it appears that there would not be an increase to the regulatory RFE. This information is outlined in the FAD Analysis letter from DNR Water Management Engineer, Miles Winkler, dated 9/6/17.

In accordance with the DNR/DOT Cooperative Agreement, DOT must notify the Outagamie County Zoning Administrator of this predicted upstream water surface elevation and provide a copy of the study, so that the spirit and intent of the procedure in chapter NR 116, Wis. Adm. Code are followed. Following construction, the current floodplain maps should be revised through the FEMA Letter of Map Change Process (LOMC), which would show the new/revised floodplain boundary for the Wolf River watershed.

Temporary Structures:

If necessary, temporary structures should be designed in accordance with Section 526 Standards Specifications and Section 8.1.5 of DOT's Bridge Manual. Design parameters should include the 5-year flood discharge (Q_5), the 5-year high water elevation (HW5), and the flow area shall pass the 5-year flood. The DNR will review temporary structures as they relate to the effects of fish and habitat only. Temporary structures also need to comply with all local municipal zoning ordinance(s) that regulate structures in floodplain. In order to maintain your project schedule, we recommend working with the local municipal zoning departments as soon as possible.

Temporary Stream Channel or Culvert:

If a temporary channel is needed for culvert or bridge construction, the channel should be lined with plastic or other non-erodible material and weighted down with clean stone. A temporary channel or culvert must be capable of carrying all stream flows during the construction period and must maintain a suitable depth and velocity to allow the passage of migrating fish and aquatic species. Fish that become stranded in dewatered areas or temporary channels should be captured and returned to the active channel immediately.

These requirements should be addressed in the special provisions, and require the contractor to outline necessary construction methods in the ECIP.

Invasive Species and Viral Hemorrhagic Septicemia (VHS):

All project equipment shall be decontaminated for removal of invasive species prior to and after each use on the project site by utilizing other best management practices (BMPs), which can be found here <https://dnr.wi.gov/topic/Invasives/bmp.html>. Utilizing these BMP's will help avoid the spread of invasive species as outlined in NR 40, Wis. Adm. Code. For further information on the NR 40 Rule, please refer to the following link: <https://dnr.wi.gov/topic/invasives/classification.html>

Any equipment coming into contact with surface waters must be properly cleaned and disinfected to address the spread of invasive species and viruses. Special provisions must require contractors to implement the following measures before and after mobilizing in-water equipment to prevent the spread of VHS, Zebra Mussel, and other invasive species. Contractors should follow **STSP 107-055**

Environmental Protection, Aquatic Exotic Species Control, or protocol found here:
<http://dnr.wi.gov/topic/Invasives/disinfection.html>.

- **Emerald Ash Borer:** This project has the potential for spreading the Emerald Ash Borer (EAB) beetle. While it is legal to freely move ash debris or wood throughout Wisconsin, it is a best management practice to prevent spreading the pest to areas where it is not yet established. A frequently updated map of where EAB is confirmed in WI is available at [Wisconsin's EAB Information website](#). As a rule of thumb, if your project is in the southern half of the state and you are removing many dead or dying ash, they may be infested with EAB. If so, consider these [best management practices to prevent spread of EAB](#).
- **Oak Wilt:** This project involves work that may involve cutting, pruning, or accidental wounding of oak trees. Follow WDOT policy regarding preventing transmission of oak wilt, <https://wisconsin.gov/rdwy/cmm/cm-03-10.pdf#cm3-10.2>
- ***Phragmites australis* (Giant Reed Grass):** A special commitment has been made by WisDOT, with regards to preventing the spread *Phragmites* during and after construction, and those commitments are as follows:
 - Set up designated wash stations along the project to wash equipment that will be going in and out of known infested areas.
 - To excavate invested soil and plant material during the highway construction project. As much as is feasible, that material will be buried in a project fill area at a sufficient depth to prevent further spread of *phragmites*.
 - WisDOT will make the contractor aware of the sensitivity of the wetlands near the Wolf River bottom lands while working on the Hortonville bypass section.
 - WisDOT will review the completed project sections for *Phragmites australis* for 2 years post-construction. *Phragmites australis* found growing within the highway right-of-way will be controlled by use of herbicide, and possibly mechanical means.

Transportation Construction General WPDES Permit:

The DNR also has determined that construction site activities associated with the subject project will be regulated under ch. 283, Wis. Stats., ch. NR 216, Wis. Adm. Code, and in accordance with Wisconsin Pollutant Discharge Elimination System (WPDES) General Permit No. WI-S066796-1, for Department of Transportation Discharges of Storm Water Associated with Land Disturbing Construction Activity (Transportation Construction General Permit or TCGP). All erosion control and storm water management activities undertaken at the site must be done in accordance with the terms and conditions of the general permit. The DNR understands that the WisDOT will submit a project-specific ECIP as an amendment for DNR review within 14 days prior to starting construction. A Certificate of Permit Coverage is enclosed and must be posted in a conspicuous place on the construction site.

When construction activities have ceased, temporary controls have been removed, and the site has undergone final stabilization, a Notice of Termination (NOT) of coverage under the general permit must be submitted to the DNR. Final stabilization means that all land-disturbing construction activities at the construction site have been completed, and that a uniform perennial vegetative cover has been established with a density of at least 70% of the cover for the unpaved areas, and for areas not covered by permanent structures or equivalent permanent stabilization measures.

Selected Sites & Commercial Non-Metallic Mines:

- The WisDOT Select Site process must be adhered to for clean fill or any other material that leaves the work site. The DNR liaison will review all proposed select sites and a site visit may be required. Filling of wetlands, waterways or floodplain is not allowed under the select site process, unless the site owner obtains required permits. New impervious surfaces, structures, or ponds to remain after project closure need to comply with local, state, and federal jurisdictions where applicable. Contaminated materials leaving the site must be handled in accordance with NR Administrative Code Series 500, 600, and 700.
- The area of disturbance associated with selected sites, haul roads, staging areas, etc. will be added to the area of disturbance identified in the project design. If the total disturbance exceeds 1-acre, a NOI to discharge storm water under the TCGP must be submitted at least 14 working days prior to construction for consideration by the DNR.
- Projects using commercial non-metallic mines must provide documentation that such mines have received all applicable local, state and federal permits before being used on the project, including local non-metallic mining reclamation permits and applicable WPDES permits (including FIN#) as issued by the DNR.

You are responsible for obtaining any other necessary local, state, or federal approvals prior to construction.

If you have any questions, please contact this office at (920) 366-1544, or email at matthew.schaeve@wisconsin.gov.

Sincerely,



Matthew D. Schaeve
Environmental Analysis & Review Specialist
Northeast Region

Electronic copies: Joey Shoemaker – U.S. Army Corps of Engineers, Green Bay
 John Spielmacher, P.E. – WisDOT
 Jennifer Gibson – WisDOT REC
 Tom Kobus – WisDOT SWEC
 Steve Swanson – Outagamie County Zoning Administrator
 Dean Steingraber – Outagamie County Highway Commissioner
 Miles Winkler – WDNR, Water Management Engineer
 Cara Kamke – WDNR Conservation Warden
 Kaitlin Kernosky – WDNR Conservation Warden
 Bobbi Jo Fischer – WDNR EARS Central Team Supervisor

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

**Applicant: Wisconsin Department of
Transportation, Bill Bertrand**

File No.: 2003-03146-JRS

Date: October 27, 2020

Attached is:

See Section below

X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

U.S. Army Corps of Engineers
Attn: Joey Shoemaker
211 N Broadway Street, Ste. 221
Green Bay, Wisconsin 54303

If you only have questions regarding the appeal process you may also contact the Division Engineer through:

Administrative Appeals Review Officer
Mississippi Valley Division
P.O. Box 80 (1400 Walnut Street)
Vicksburg, MS 39181-0080
601-634-5820 FAX: 601-634-5816

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: