



**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.
199900650-2

Issuance Date:
January 8, 2007

Stream: Tucker Branch, Untrib Tucker Br,
Untrib Long Branch

Closing Date:
February 5, 2007

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5710

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under 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 (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: West Virginia Department of Transportation
Division of Highways
1900 Kanawha Boulevard East
Building Five, Room 110
Charleston, West Virginia 25305-0430

LOCATION: The proposed project is located on the Winfield and Scott Depot USGS quadrangles from WV 34 to Hurricane Creek Road (CR 19), near Winfield, Putnam County, West Virginia.

DESCRIPTION: A Section 404 individual Department of the Army (DA) permit, Number 199900650, authorized the West Virginia Division of Highways to place fill material into streams and wetlands in conjunction with the relocation and widening of US 35 to a four-lane highway for approximately 37 miles. The authorized relocation and widening project is located between US 35 in Henderson, Mason County and I-64 in Scott Depot, Putnam County, West Virginia.

The West Virginia Division of Highways has requested the permit be modified to reflect a proposed alignment shift within the 6.28 mile section from WV 34 to Hurricane Creek Road (CR 19). The proposed alignment shift occurs in the vicinity of the FMC Sportsman's Club beginning at station 6655+00 and ending at station 6818+73. The shift is approximately 1,200 feet to the east of the original alignment and extends for approximately two miles within this 6.28 mile section.

Comparison of the impacts shown in the original application with those proposed due to the alignment shift indicate approximately 13,875 linear feet of stream would be impacted by the original alignment, while approximately 16,525 linear feet of stream would be impacted by the shifted alignment. Although the proposed alignment shift is located farther up in the watershed, the perennial and intermittent impacts appear to increase while the ephemeral impacts decrease. According to the applicant, these increases are due in part to changes in stream classification and the availability of more detailed information since the original application was submitted.

The attached tables detail the proposed impacts (linear feet) for perennial, intermittent and ephemeral streams due to the alignment shift with respect to the impacts shown in the original application (meters and linear feet). The proposed alignment shift is shown on the attached plans.

COMPENSATORY MITIGATION: To compensate for stream impacts, the applicant proposes to construct channels with natural stream design techniques in accordance with the original Section 404 individual Department of the Army (DA) permit, Number 199900650.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the register in the area affected by the proposed project. A copy of this public notice will be sent to the State Historic Preservation Offices for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED AND THREATENED SPECIES: The Huntington District has consulted the most recently available information and has determined the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or

adverse modification of habitat of such species which has been determined to be critical. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are 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 ownership and, in general, the needs and welfare of the people.

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. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the District Engineer may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

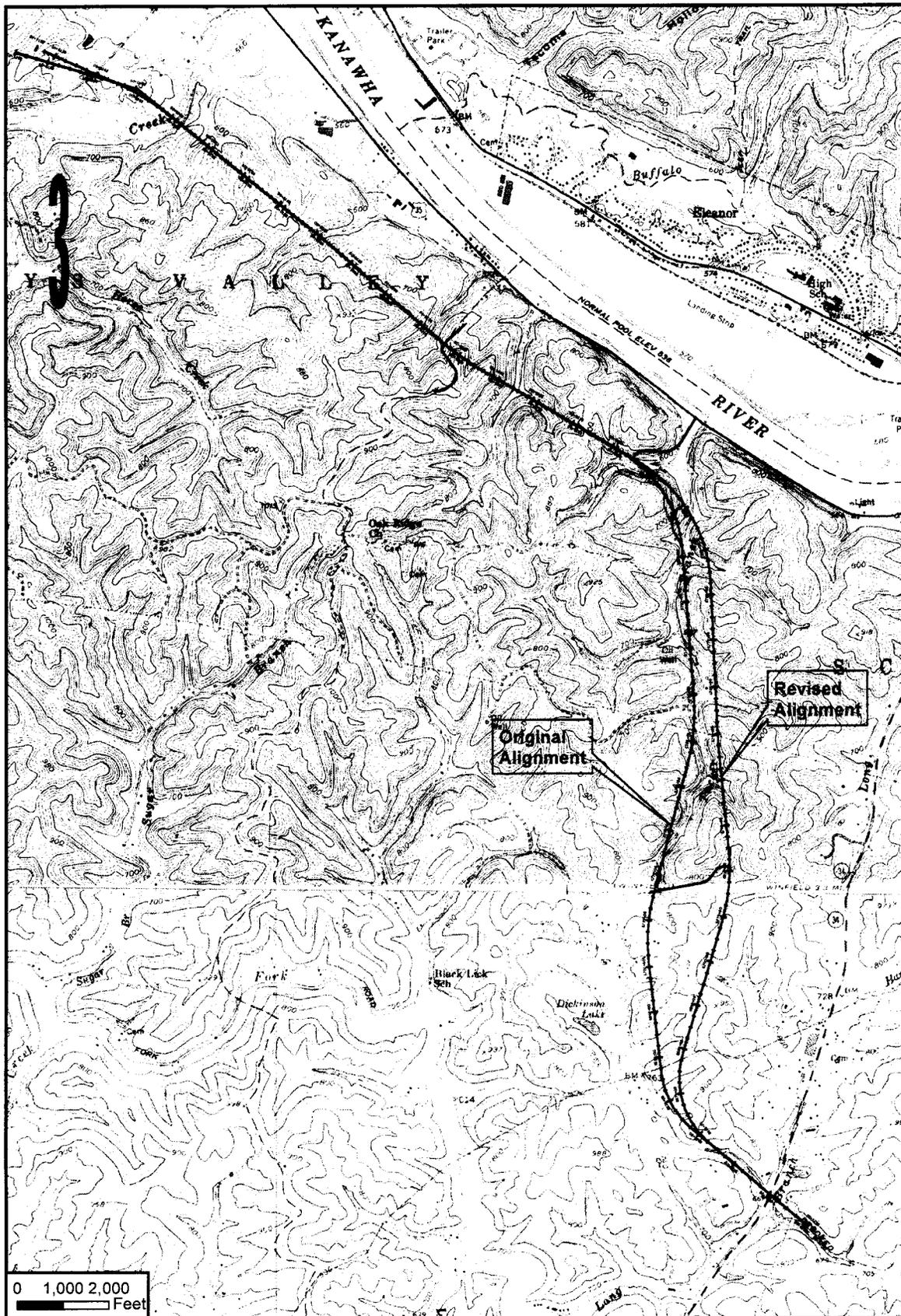
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to

U.S. Army Corps of Engineers
ATTN: CELRH-OR-F Public Notice No. 199900650-2
502 Eighth Street
Huntington, West Virginia 25701-2070

If you have any questions concerning this public notice, please call Ms. LuAnne Conley, South Regulatory Section at 304-399-5710.


for Ginger Mullins
Chief, Regulatory Branch

(WV)



Legend

— Roadway Centerline



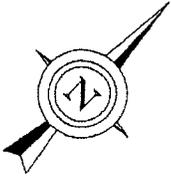
**West Virginia Department of Transportation
Division of Highways**

**US 35: WV 34 - Hurricane Creek Road
U340-35-4.30**

Metric Sta. 203+150 -
Sta. 6665+43
New Sta. 6665+00
Ephemeral

Prelim.
Alignment

Metric Sta. 1+900 to 2+200 -
Sta. 6661+30 to 6663+50, LT.
Intermittent Stream



Metric Sta. 202+300 to Sta. 202+860 -
Sta. 6637+54 to Sta. 6655+91
Perennial Stream

New
Alignment

Begin Alignment Shift
Sta. 6655+00 =
Approx. Metric Sta. 202+832

LEGEND

- RIGHT OF WAY
- WETLAND ENCROACHMENT
- OPEN WATER/POND
- ENCROACHMENT STREAM CROSSING IMPACT (INCLUDES BRIDGES, BOX CULVERTS, PIPES)
- CHANNEL RELOCATION

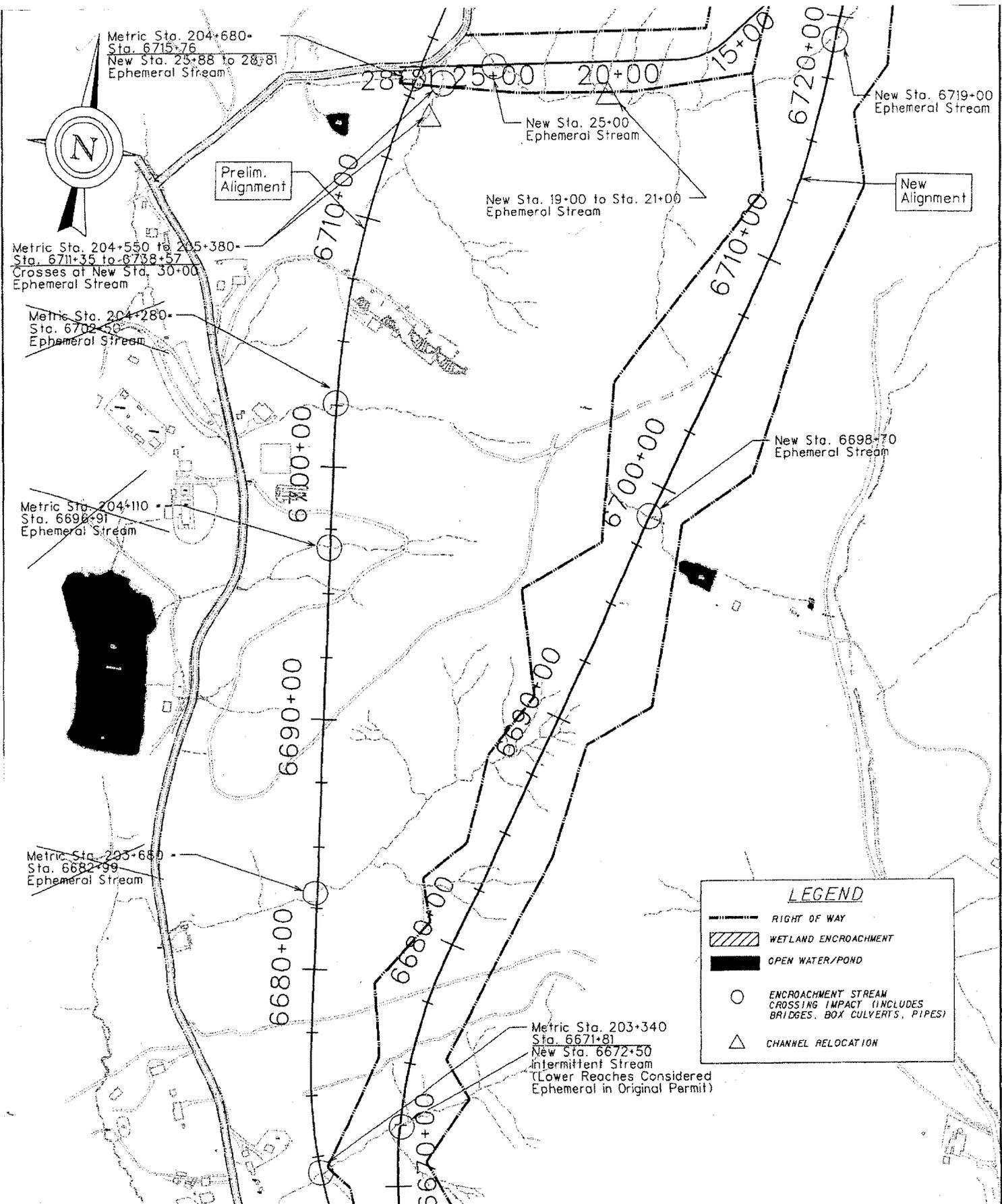
US 35 IMPROVEMENTS
MASON AND PUTNUM COUNTIES
WEST VIRGINIA

US 35 WETLANDS/STREAM
IDENTIFICATION, DELINEATION, AND
MITIGATION REPORT

SCALE: 1" = 500'
DATE: 11/5/2006

PERMIT REVISION
NOVEMBER 2006

IMPACT LOCATIONS KEY MAP



US 35 IMPROVEMENTS
 MASON AND PUTNUM COUNTIES
 WEST VIRGINIA

US 35 WETLANDS/STREAM
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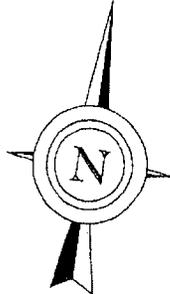
Metric Sta. 205+940 to 206+380 -
Sta. 6756+97 to 6771+41
Perennial Stream

New Sta. 6765+50
Ephemeral Stream

Metric Sta. 1+000 to 1+240 -
Sta. 6756+98, LI
Ephemeral Stream

New Sta. 6758+00
Intermittent Stream

Prelim.
Alignment



Metric Sta. 205+700 to 205+940 -
Sta. 6749+10 to 6756+97
Intermittent Stream

New Sta. 6749+17
Ephemeral Stream

New Sta. 6747+50
Ephemeral Stream

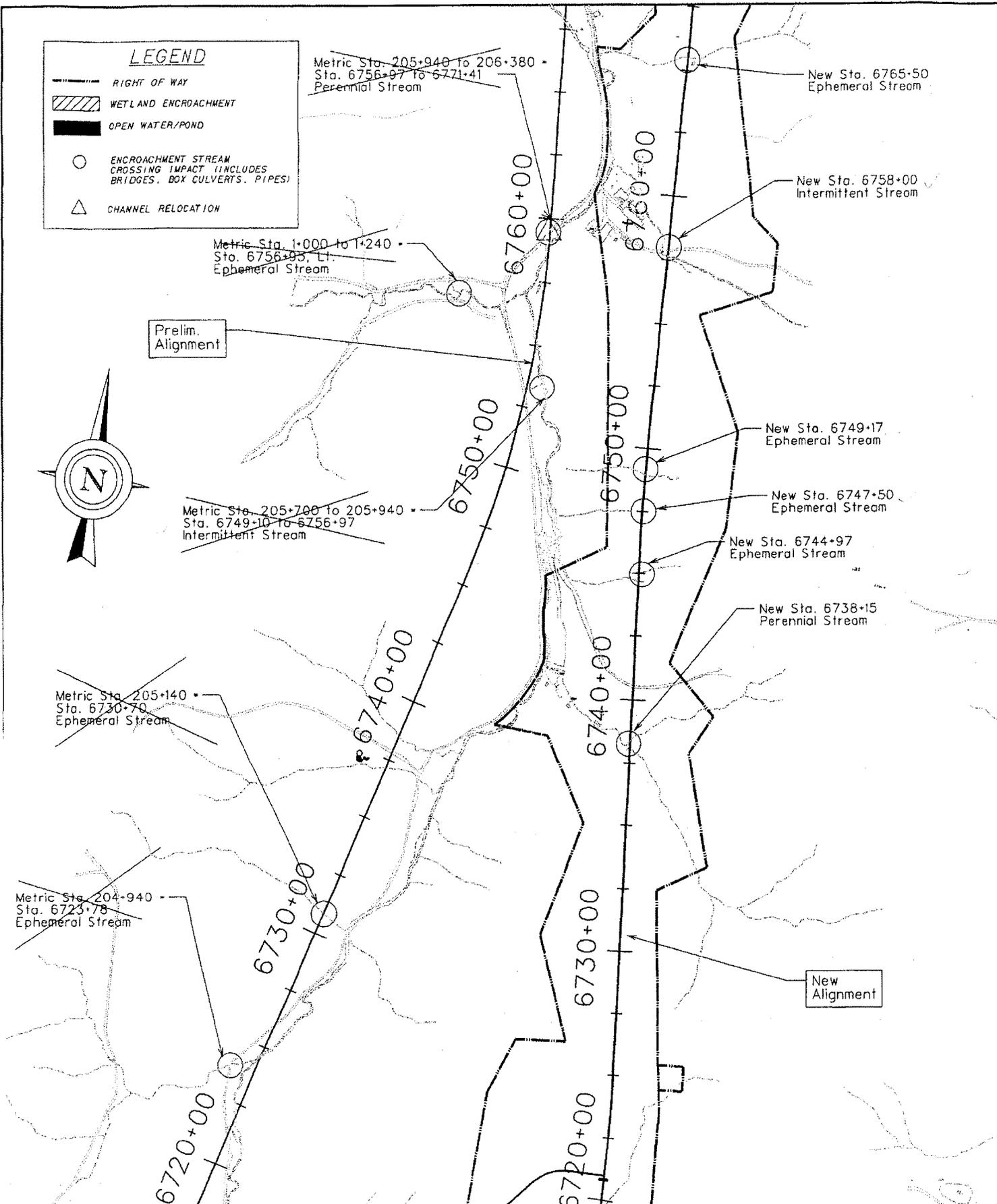
New Sta. 6744+97
Ephemeral Stream

New Sta. 6738+15
Perennial Stream

Metric Sta. 205+140 -
Sta. 6730+70
Ephemeral Stream

Metric Sta. 204+940 -
Sta. 6723+78
Ephemeral Stream

New
Alignment



US 35 IMPROVEMENTS
MASON AND PUTNUM COUNTIES
WEST VIRGINIA

US 35 WETLANDS/STREAM
IDENTIFICATION, DELINEATION, AND
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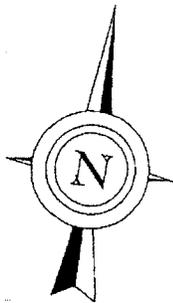
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PERMIT REVISION
NOVEMBER 2006

IMPACT LOCATIONS KEY MAP

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-  RIGHT OF WAY
-  WETLAND ENCROACHMENT
-  OPEN WATER/POND
-  ENCROACHMENT STREAM CROSSING IMPACT (INCLUDES BRIDGES, BOX CULVERTS, PIPES)
-  CHANNEL RELOCATION



Metric Sta. 206+700 to 1+300
 Sta. 6781+91 to 6804+22
 New Sta. 6789+23 to 6803+27
 Perennial Stream

New Sta. 6815+00
 Intermittent Stream

New Sta. 6818+00
 Intermittent Stream

Metric Sta. 1+120
 Sta. 6798+17
 New Sta. 6797+40
 Intermittent Stream
 (Considered Ephemeral in Original Permit)

New Alignment

Metric Sta. 206+920
 Sta. 6788+71
 New Sta. 6785+87
 Perennial Stream
 (Considered Ephemeral in Original Permit)

Metric Sta. 1+090
 Sta. 6782+51 Lt.
 Perennial Stream

Prelim. Alignment

New Sta. 6782+50 to 6785+67
 Intermittent Stream

US 35 IMPROVEMENTS
 MASON AND PUTNUM COUNTIES
 WEST VIRGINIA

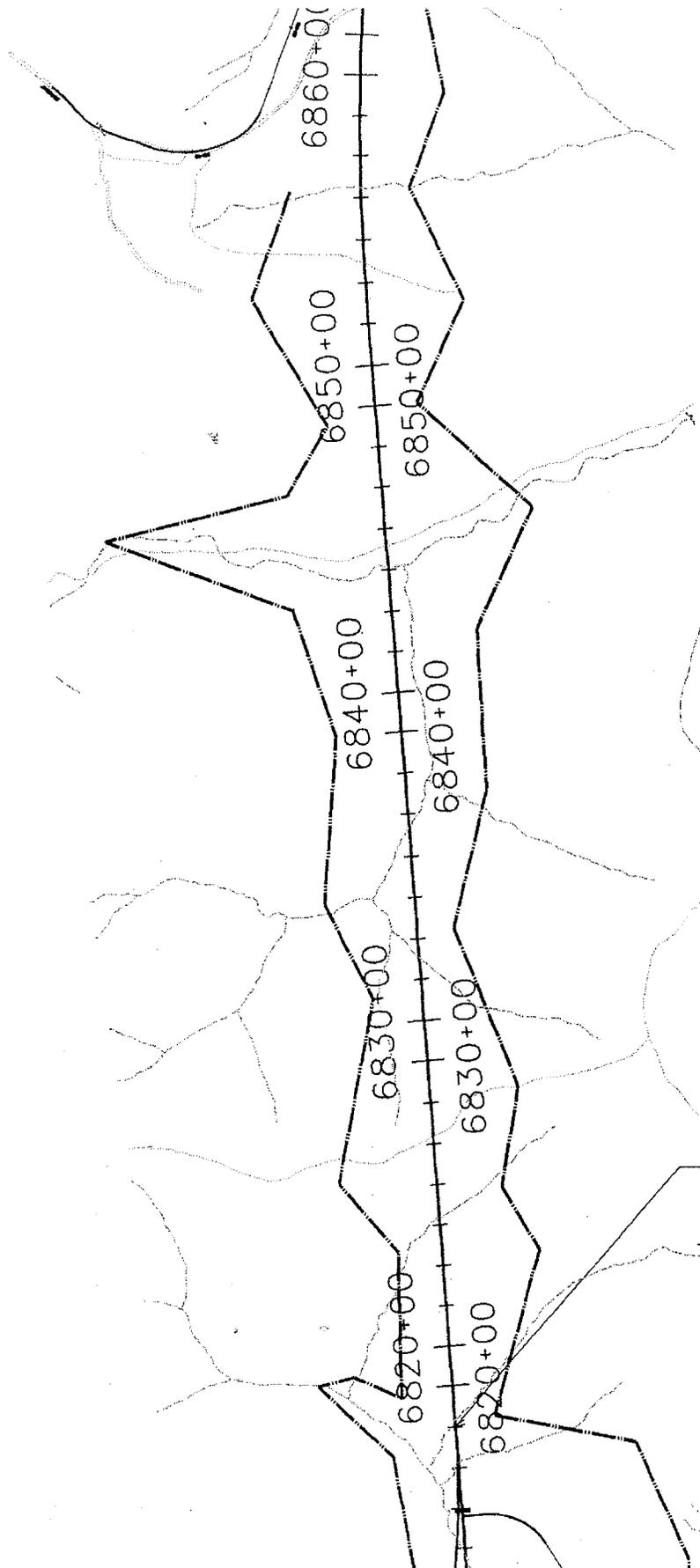
US 35 WETLANDS/STREAM
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DATE: 11/5/2006

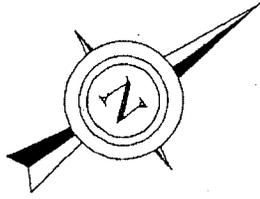
PERMIT REVISION
 NOVEMBER 2006

IMPACT LOCATIONS KEY MAP



LEGEND

- RIGHT OF WAY
- WETLAND ENCROACHMENT
- OPEN WATER/POND
- ENCROACHMENT STREAM CROSSING IMPACT (INCLUDES BRIDGES, BOX CULVERTS, PIPES)
- CHANNEL RELOCATION



End Alignment Shift
 Sta. 6818+73 =
 Approx. Metric Sta. 207+824

US 35 IMPROVEMENTS MASON AND PUTNUM COUNTIES WEST VIRGINIA	US 35 WETLANDS/STREAM IDENTIFICATION, DELINEATION, AND MITIGATION REPORT	SCALE: 1" = 500'
PERMIT REVISION NOVEMBER 2006	IMPACT LOCATIONS KEY MAP	DATE: 11/5/2006

US 35 - Stream Crossings Detailed Impact Summary Table for Perennial Streams

Metric Station	Approx. English Station	Sheet Index		Stream Name	Stream Type	Original Permit Stream Impact (m)	Original Permit Stream Impact (ft)	Revised Stream Impact (ft)
		Original Permit	Revised Permit					
202+300 / 202+860	6637+54/6655+91	7	1	^a UT of Long Branch	Perennial	587	1926	1926
205+940 / 206+380	6756+97/6771+41	9	3	^b Tucker Branch	Perennial	^c 186	610	0
1+090	6782+51	9	4	^b Tucker Branch	Perennial	98	322	0
206+700 / 1+300	6781+91/6804+22	9	4	^b Tucker Branch	Perennial	^d 638	2093	1742
	6738+15		3	UT of Tucker Branch	Perennial	0	0	1403
	6785+87		4	UT of Tucker Branch	Perennial	0	0	^e 1416
TOTAL IMPACTS:							4951	6487

a - Named Corrected. Named Poplar Fork in in original permit.

b - Name Corrected. Named Tucker Creek in original permit

c - Original permit channel relocation 141m / 364', revised permit zero relocation

d - Original permit channel relocation 421m / 1381', revised permit zero relocation

e - In the original permit this stream was considered to be ephemeral, revised impacts were listed as zero in the revised ephemeral table.

US 35 - Stream Crossings Detailed Impact Summary Table for Intermittent Streams

Metric Station	Approx. English Station	Sheet Index		Stream Name	Stream Type	Original Permit Stream Impact (m)	Original Permit Stream Impact (ft)	Revised Stream Impact (ft)
		Original Permit	Revised Permit					
1+900 / 2+200	6661+30/6663+50	7	1	^a UT of Long Branch	Intermittent	265	869	869
205+700 / 205+940	6749+10/6756+97	9	3	^b Tucker Branch	Intermittent	365	1198	0
	6672+50		2	UT of Long Branch	^c Intermittent	0	0	657
	6758+00		3	UT of Tucker Branch	Intermittent	0	0	870
	6782+50 / 6785+67		4	UT of Tucker Branch	^d Intermittent	0	0	858
	6797+40		4	UT of Tucker Branch	^e Intermittent	0	0	425
	6815+00		4	UT of Tucker Branch	^e Intermittent	0	0	1294
	6818+00		4	UT of Tucker Branch	^e Intermittent	0	0	457
TOTAL IMPACTS:							2067	5430

a Name Corrected. Named Poplar Fork in Original Permit

b Name Corrected. Named Tucker Creek in Original Permit

c In the original permit these streams were considered to be ephemeral, revised impacts were listed as zero in the revised ephemeral table.

d Revised permit stream relocation length 858'

e Stations fall within limits of original permit. No streams were considered jurisdictional in this area at the time of the original permit.

US 35 - Stream Crossings Detailed Impact Summary Table for Ephemeral Streams

Metric Station	Approx. English Station	Sheet Index		Stream Name	Stream Type	Original Permit Stream Impact (m)	Original Permit Stream Impact (ft)	Revised Stream Impact (ft)
		Original Permit	Revised Permit					
203+150	6665+43	7	1	UT of Long Branch	Ephemeral	115	377	660
203+340	6671+81	7	2	UT of Long Branch	Ephemeral	115	377	^a 0
203+680	6682+99	8	2	UT of Long Branch	Ephemeral	120	394	0
204+110	6696+91	8	2	UT of Long Branch	Ephemeral	90	295	0
204+280	6702+50	8	2	UT of Long Branch	Ephemeral	105	345	0
204+680	6715+76	8	2	UT of Tucker Branch	Ephemeral	130	427	360
204+550 / 205+380	6711+35/6738+57	8	2	UT of Tucker Branch	Ephemeral	^c 900	^c 2953	118
204+940	6724+34	8	3	UT of Tucker Branch	Ephemeral	80	262	0
205+140	6730+70	8	3	UT of Tucker Branch	Ephemeral	110	361	0
1+000 / 1+240	6756+95	9	3	UT of Tucker Branch	Ephemeral	180	591	0
206+920	6788+71	9	4	UT of Tucker Branch	Ephemeral	80	262	^b 0
1+120	6798+17	9	4	UT of Tucker Branch	Ephemeral	65	213	^a 0
	6698+00		2	UT of Long Branch	Ephemeral	0	0	481
	6719+00		2	UT of Tuckers Branch	Ephemeral	0	0	958
	25+00		2	UT of Tucker Branch	Ephemeral	0	0	374
	19+00 / 21+00		2	UT of Tucker Branch	Ephemeral	0	0	^d 150
	6744+97		3	UT of Tucker Branch	Ephemeral	0	0	504
	6747+50		3	UT of Tucker Branch	Ephemeral	0	0	132
	6749+17		3	UT of Tucker Branch	Ephemeral	0	0	321
	6765+50		3	UT of Tucker Branch	Ephemeral	0	0	550
TOTAL IMPACTS							6857	4608

For comparison purposes existing ephemeral stream impacts were measured from approximate r/w limits for the preliminary alignment.

a Considered Intermittent under new criteria.

b Considered Perennial under new criteria.

c Original permit channel relocation 900m / 2953', revised permit zero relocation

d Revised permit channel relocation - 150' of impact