

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

Public Notice

In reply refer to Public Notice No. 2006-2423 KAN Issue Date: March 5, 2007

Stream: **Unnamed tributaries of Long Branch** Closing Date: April 4, 2007
of the Kanawha River

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-FS Public Notice No. 2006-2423 KAN

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 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 (U.S.), 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' request to the West Virginia Department of Environmental Protection (WVDEP) to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Craig Real Estate Corporation
209 1st Avenue
Nitro, West Virginia 25143

LOCATION: The proposed project would be located in unnamed tributaries of Long Branch, west of State Route 34, approximately 2.1 miles north of the intersection Interstate 64 and State Route 34, in Putnam County, West Virginia (approximate latitude 38° 29' 13" and longitude 81° 55' 36"). Long Branch is a tributary to the Kanawha River, a navigable (Section 10) water of the U.S. Drawing No. 1 of this Public Notice depicts the location of the proposed project.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to discharge dredged and/or fill material into 2,796 linear feet of waters of the U.S, including 995 linear feet of perennial stream, 451 linear feet of intermittent stream and 1,350 linear feet of ephemeral stream in conjunction with the US35/WV34 interchange from Crooked Creek to WV34. The proposed site excavation activities would generate project would result in the production of overburden material which must be stored in a designated disposal site. The applicant proposes to dispose of this material in two phases. Phase 1 would not impact waters of the U.S. and therefore is not subject to Section 404 regulation. Under Phase 1A the applicant proposes to dispose 800,000 cubic yards of excess overburden in an approximate 22-acre site which would result in permanent impacts to 2,796 linear feet of waters of the U.S.

According to the applicant, the purpose of the project is to create an area for commercial or residential development. Project site maps are provided on Drawings 2 and 3 and fill details are provided in Drawing 4 of this Public Notice.

ALTERNATIVE ANALYSIS: This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. The applicant will be required to submit an alternatives analysis for the Corps' review.

MITIGATION PLAN: The applicant has submitted a conceptual plan to mitigate for the permanent impact to intermittent and ephemeral waters of the U.S. The applicant proposes on-site, in-kind, stream creation using natural stream design techniques along perimeter drainage ditches of the constructed fill. The plan to mitigate for permanent impacts to perennial waters of the U.S. has not been finalized. The applicant proposes future submission of a Compensatory Mitigation Plan for impacts to waters of the U.S. regulated by Corps of Engineers. The proposed mitigation site location is provided in Drawing 5 of this Public Notice.

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 WVDEP.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places (NRHP) has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project.

This public notice serves as coordination with the State Historic Preservation Officer regarding historic properties. If the West Virginia Division of Culture and History (WVDCH) has any new information concerning potential effects to historic properties that may result from the proposed permitting action, we request the WVDCH provide information to this office pursuant to Section 106 of the National Historic Preservation Act.

In a letter dated November 21, 2006, the applicant's consultant, Terradon Corporation, contacted the WVDCH regarding the proposed project. This project has been assigned WVDCH File #FR-07-180-PU.

ENDANGERED/THREATENED SPECIES REVIEW: This public notice also serves as coordination with the U. S. Fish and Wildlife Service (USFWS) regarding threatened or endangered species. If the USFWS believes any potential effects to federally listed species would be attributable to the Huntington District's proposed permitting action, we request the USFWS provide any additional information pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

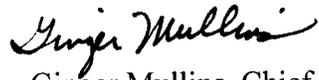
In letters dated November 21, 2006, the applicant's consultant, Terradon Corporation, contacted the USFWS and the West Virginia Department of Natural Resources regarding the proposed project and its effect on State and Federal threatened and endangered species.

PUBLIC INTEREST REVIEW AND COMMENT: 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.

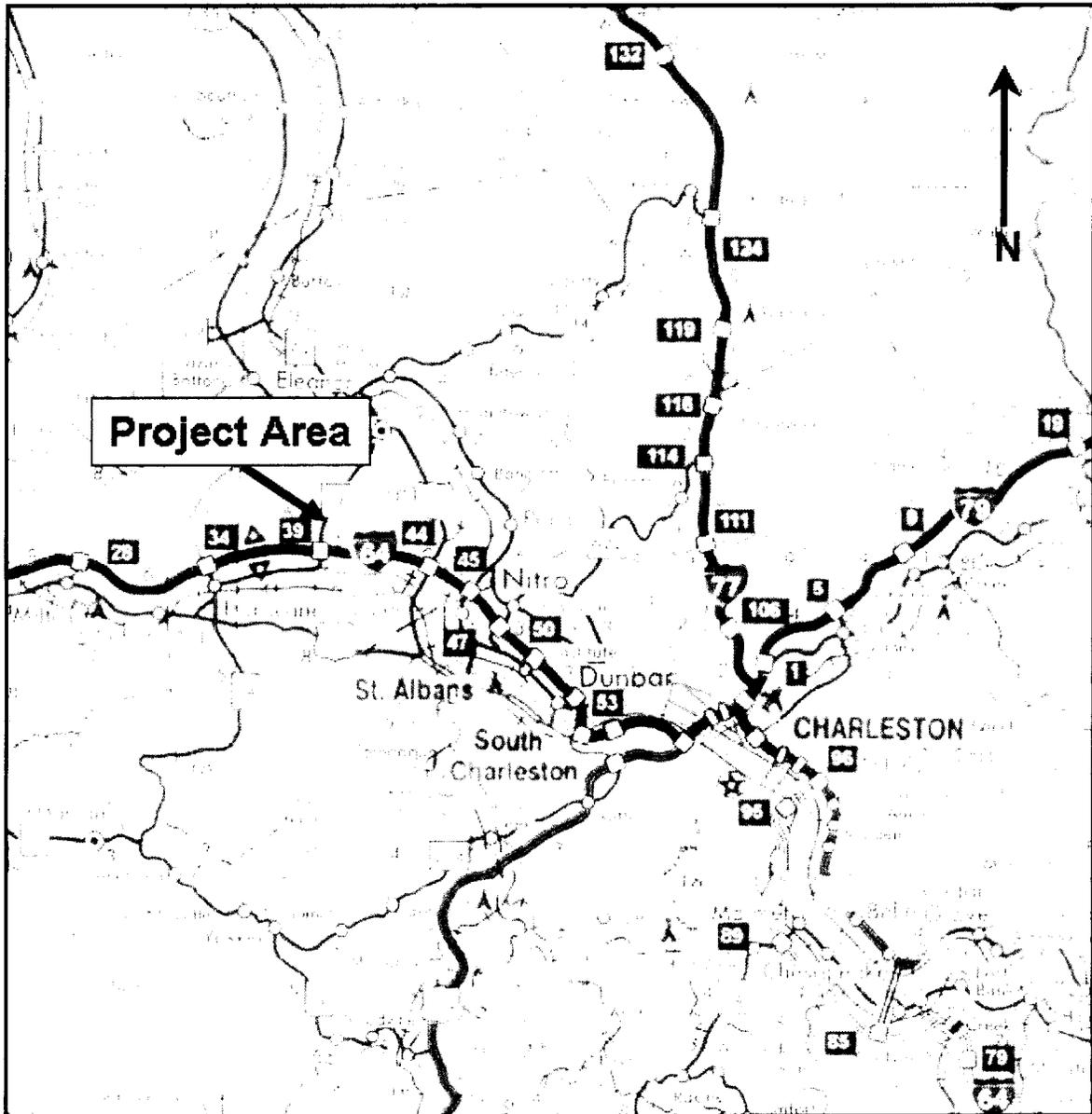
Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national 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. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. 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 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 of Engineers 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.

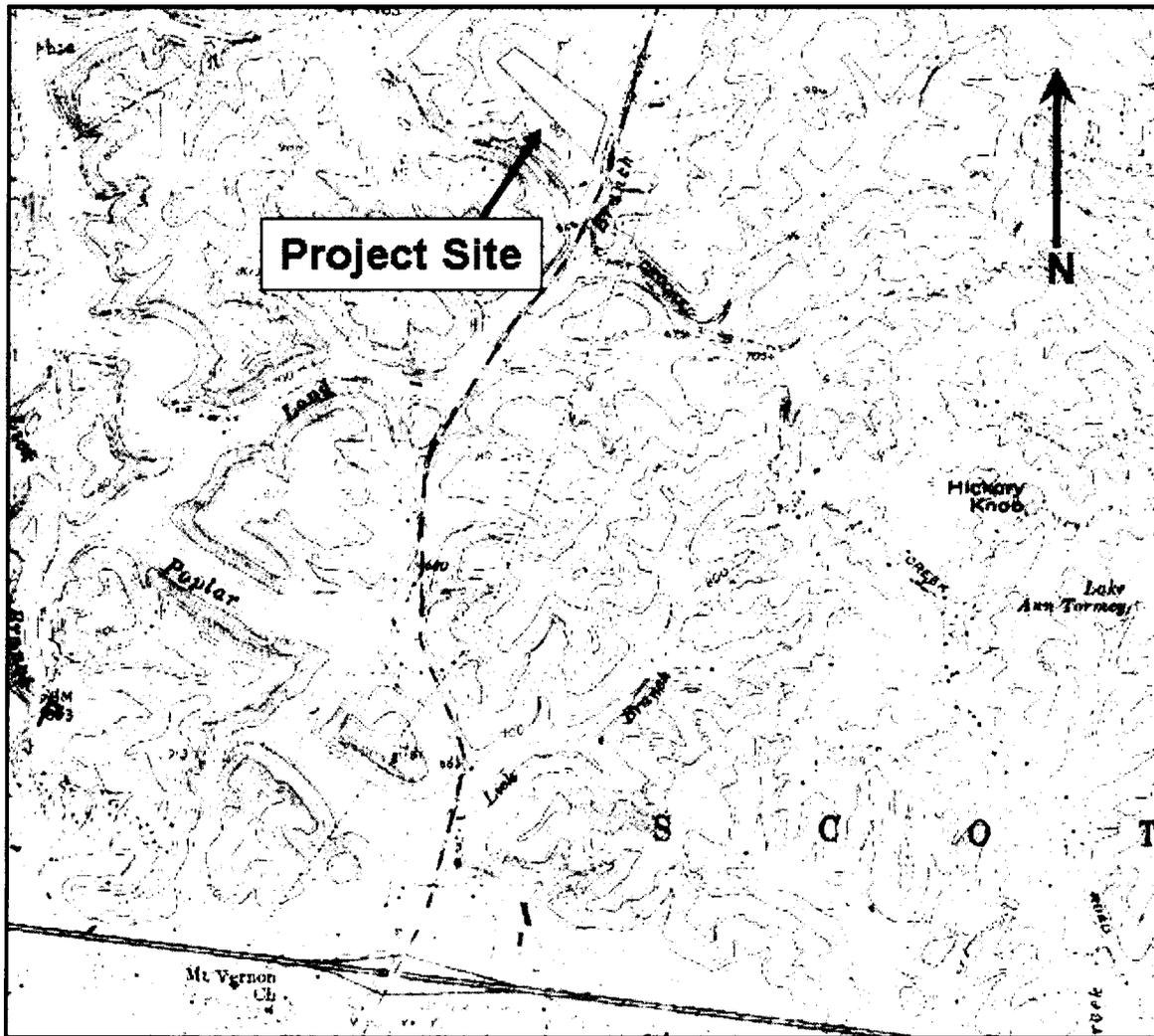
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mr. Richard Hemann, Regulatory Specialist, South Regulatory Section, CELRH-OR FS, USACE Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning the above, please contact Mr. Richard Hemann of the South Regulatory Section at (304) 399-5710.


Ginger Mullins, Chief
Regulatory Branch

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**US35 Fill Site – Craigo Property
2006-2423 KAN
Area Map
Drawing 1 Of 5**



**US35 Fill Site – Craigo Property
2006-2423 KAN
Site Map
Drawing 2 Of 5**

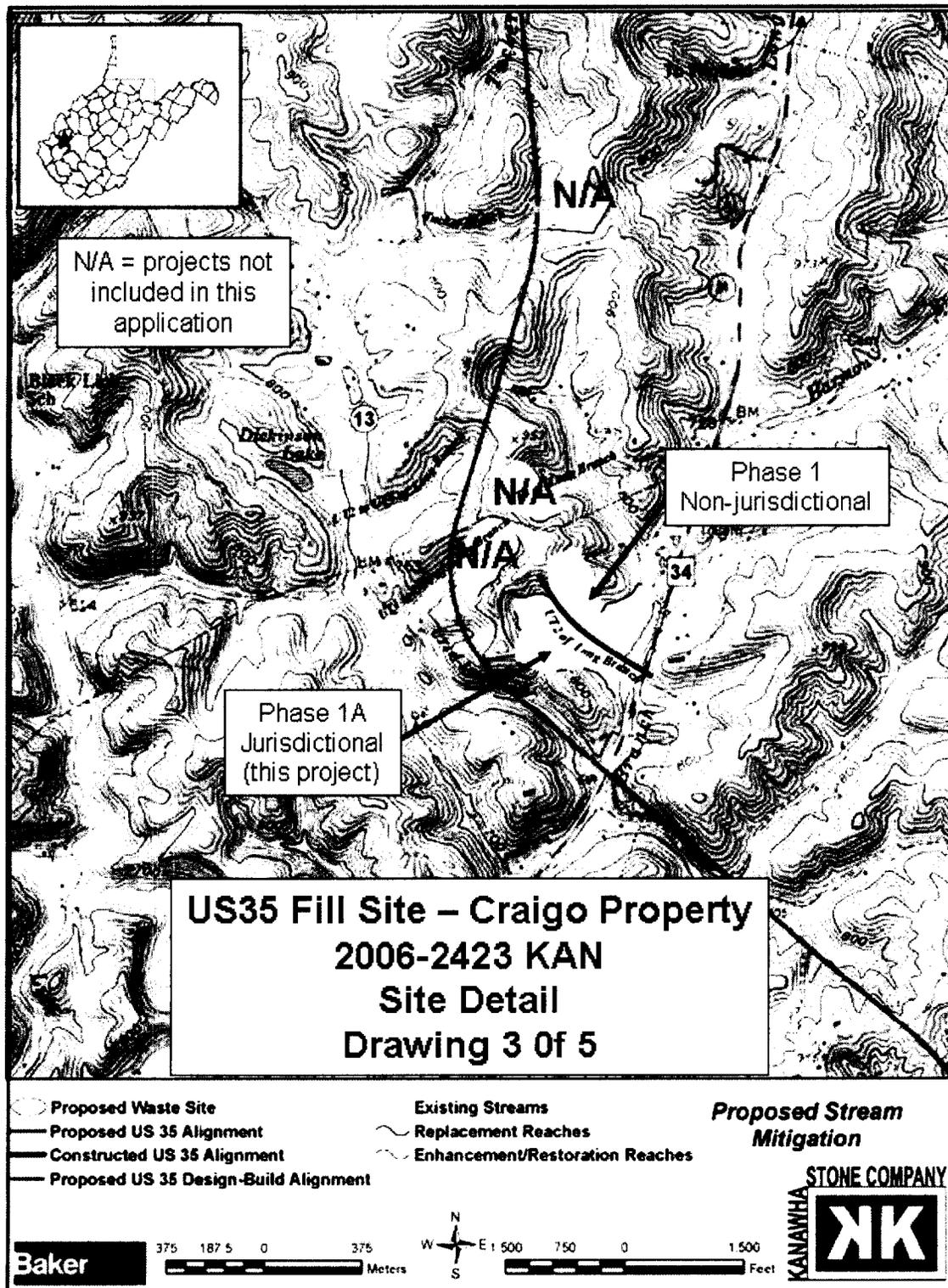
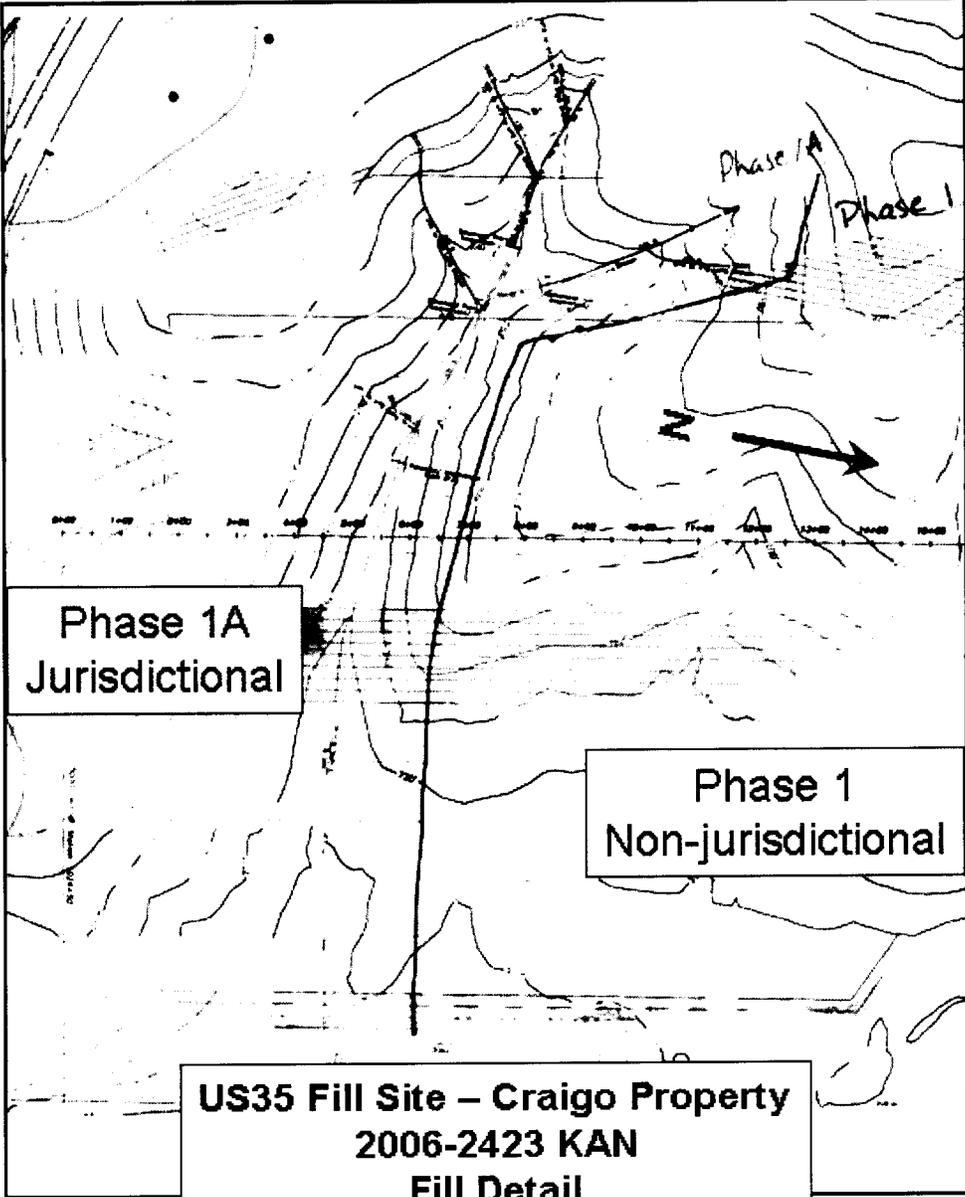
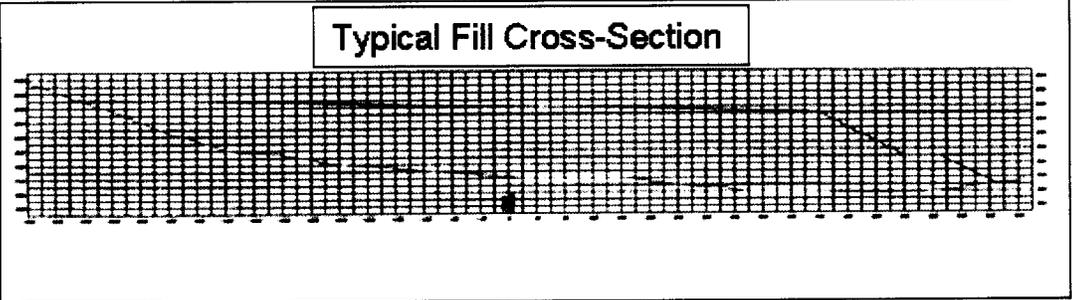


Figure 2 Proposed Stream Mitigation



US35 Fill Site – Craig Property
2006-2423 KAN
Fill Detail
Drawing 4 Of 5

Typical Fill Cross-Section





**US35 Fill Site – Craigo Property
2006-2423 KAN
Mitigation Map
Drawing 5 Of 5**