

Public Notice

U S Army USACE
of Engineers
Huntington District

In reply refer to Public Notice No. 200500808 Issuance Date: Feb. 7, 2006

Stream: Rich Creek Closing Date: March 9, 2006

Please address all comments and inquiries to:
U.S. Army USACE 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 request to the West Virginia Department of Environmental Protection (WVDEP) to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Heeter Construction, Inc.
550 Charleston Road
Spencer, West Virginia 25276

LOCATION: The proposed project is located in unnamed tributaries to Rich Creek, near Earling, in Logan County, West Virginia.

DESCRIPTION: The applicant proposes to place fill material in conjunction with the relocation of West Virginia Route 10. The fill area is required in order to allow for placement of excess spoil material generated by excavation of the proposed highway cut. Approximately 600 linear feet of an ephemeral stream (Stream 1) and 500 linear feet of a perennial stream (Stream 2) would be impacted by the proposed project. Both jurisdictional streams have been previously impacted by coal mining operations. Approximately 450 linear feet of Stream 1 is currently lined with grouted rip rap and Stream 2 originates from an existing coal mine opening. The proposed excess fill volume is approximately 1,053,000 cubic yards. Prior to placement of material in the disposal area, a sediment basin would be constructed in order to trap and store sediment from site runoff. The sediment basin has been designed to store a minimum volume of 3600 cubic feet per acre of disturbed area. Both the inlet and outlet of the basin would be lined with rock riprap. Sediment traps shall be installed within the proposed fill area. Sediment controls would be prescribed as described under the West Virginia Department of Transportation Sediment and Erosion Control Manual. In order to ensure that sediment-laden runoff is minimal, vegetative seeding and mulching would be applied to disturbed areas at least every fourteen days. Any specific area where activity would cease for a period of more than fourteen days shall be seeded and mulched within seven days. Prior to placing fill material in Stream 2, a wet mine seal would be constructed at the point of origin for the stream. The seal consists of cleaning out the mine opening and filling with non-calcareous AASHTO No. 1 stone. A 12 inch diameter perforated pipe would be installed in the mine and penetrate through the stone to allow for water drainage. The discharge would then be piped to the surface of the fill to the mitigated stream channel.

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 overall project purpose. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the overall project purpose. The relocated West Virginia Route 10 project has been authorized and is currently being constructed. Other excess fill areas have also been authorized for the Route 10 project and available upland sites have been utilized. The applicant states due to the steep terrain, availability and proximity to the highway construction, this is the only feasible location to place the amount of material resulting from the Route 10 project.

COMPENSATORY MITIGATION PLAN: To compensate for stream impacts, the applicant has submitted a conceptual mitigation plan that proposes to restore the perimeter ditches along each side of the fill. These ditches would be constructed and revegetated in accordance with natural stream design practices. The development of pools within the channel would be created. Placement of boulders, log or rock weirs, log/brush rock shelters or long wing-deflectors may be used in designing the new channel. Felled trees, live stakes or rock riprap may be used in the final design of stream restoration. A final compensatory mitigation plan would be required for review and approval by this office.

Plans of the proposed work are attached to this 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 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: 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.

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.

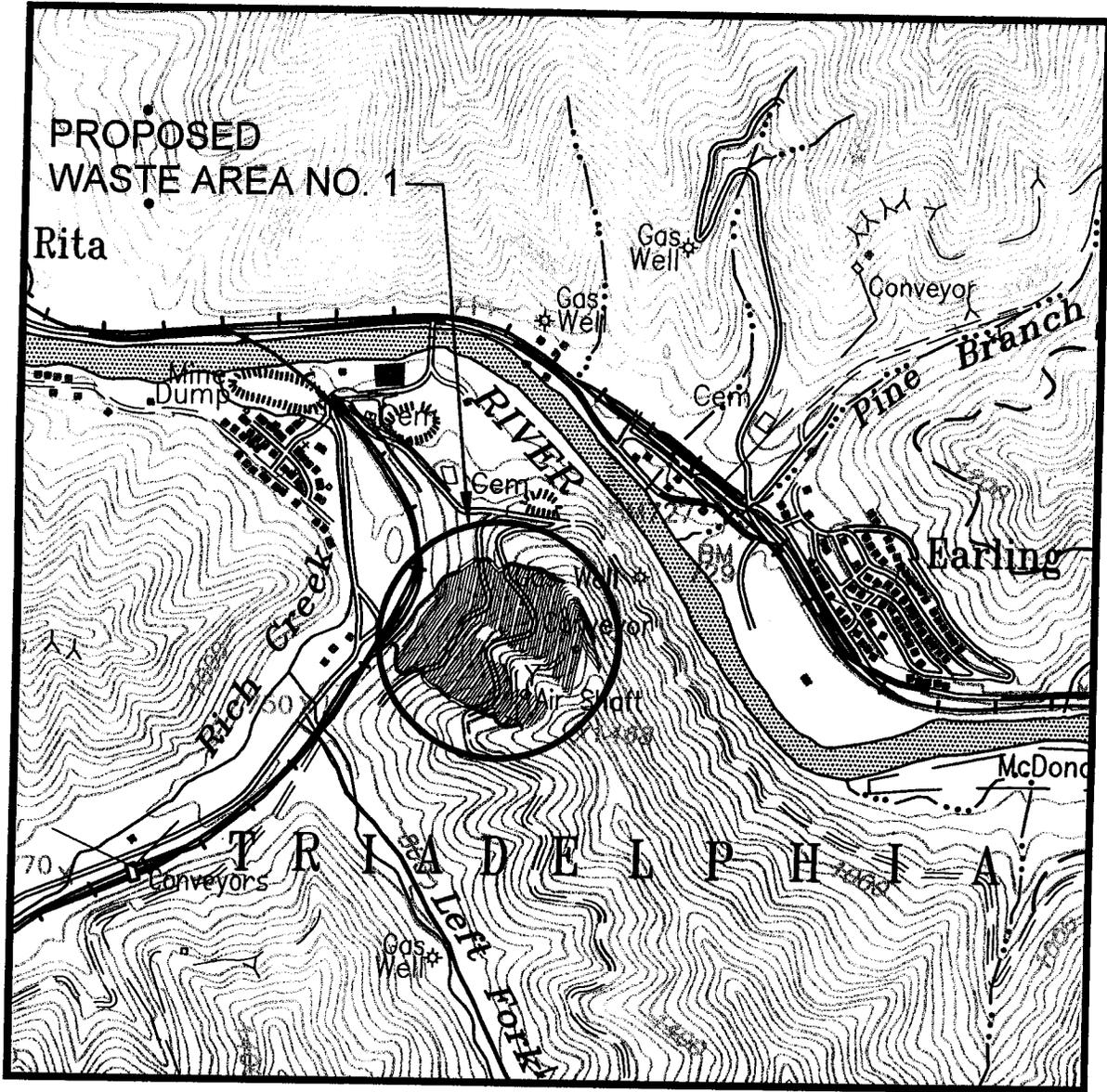
Persons wishing to submit comments, objections or requests for public hearings concerning the Corps of Engineers permit should write:

U.S. Army Corps of Engineers
ATTN: CELRH-OR-F Public Notice No. 200500808
502 Eighth Street
Huntington, West Virginia 25701-2070

If you have any questions concerning this public notice, please call Ms. Sarah M. Workman of the South Regulatory Section at 304-399-5710.


Ginger Mullins, Chief
Regulatory Branch

(W)



VICINITY MAP
N.T.S.



DRAWN: RGL
 CHECKED: MAC
 SCALE: N.T.S.

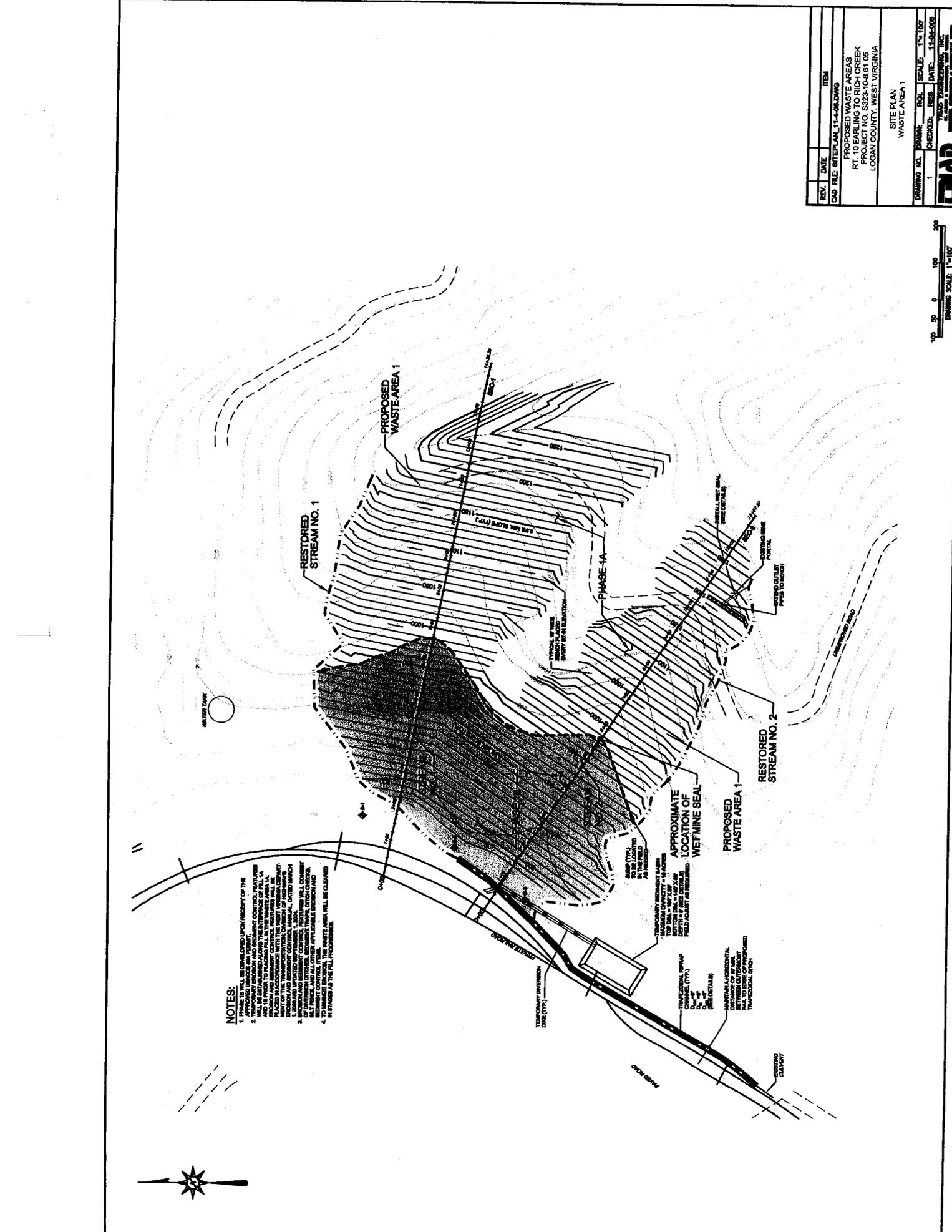


VICINITY MAP
 WASTE AREA 1
 PROJECT NO. S323-10-8.61.05
 LOGAN COUNTY, WEST VIRGINIA

FIGURE NO.

1C

1. PHASE 1 WILL BE DEVELOPED UPON RECEIPT OF THE NEPA PERMIT.
 2. TEMPORARY EROSION AND SEDIMENT CONTROL FEATURES WILL BE INSTALLED PRIOR TO THE START OF PHASE 1 AND IN ACCORDANCE WITH THE PERMIT.
 3. EROSION AND SEDIMENT CONTROL MEASURES WILL BE INSTALLED PRIOR TO THE START OF PHASE 1 AND IN ACCORDANCE WITH THE PERMIT.
 4. TO MAINTAIN PROPER DRAINAGE, THE WASTE AREA WILL BE CLEARED IN STAGES AS THE FILL PROGRESSES.



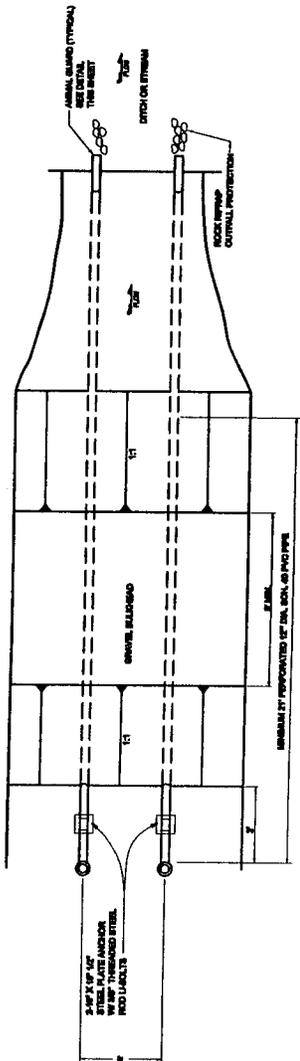
REV.	DATE	ITEM
CAD FILE: SITEPLAN_11-000.DWG		

PROPOSED WASTE AREAS
 RICH CREEK
 PROJECT NO. S225-10-081 DS
 LOGAN COUNTY, WEST VIRGINIA

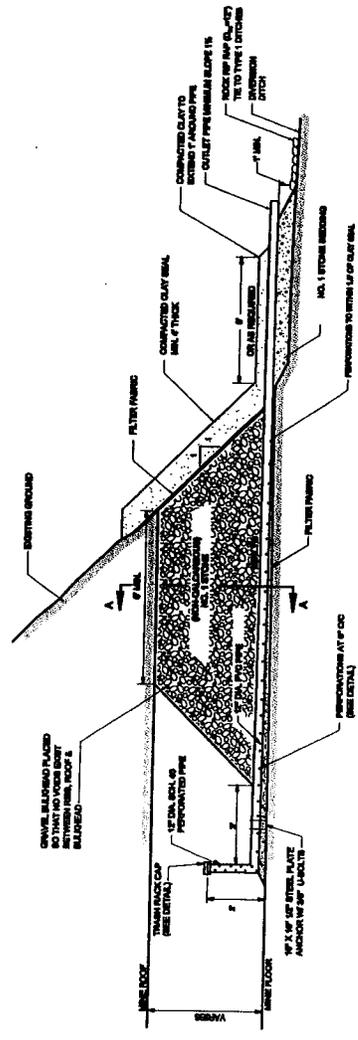
SITE PLAN
 WASTE AREA 1

DRAWING NO. 1
 DRAWING SCALE: 1"=100'
 CHECKED: DES
 DATE: 11-04-08
 WOOD ENGINEERING, INC.
 1000 W. 10TH ST., SUITE 100
 MARTINSBURG, WV 26150

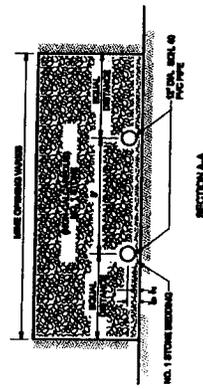




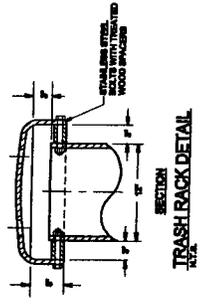
TYPICAL MINE WET SEAL
N/A



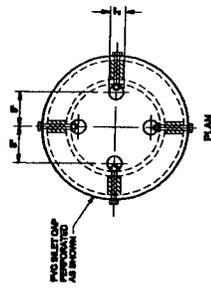
TYPICAL MINE WET SEAL
N/A



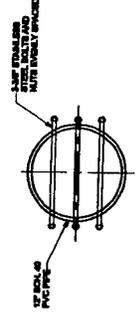
TYPICAL MINE WET SEAL
N/A



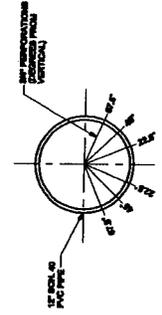
TRASH RACK DETAIL
N/A



TRASH RACK DETAIL
N/A



ANIMAL GUARD DETAIL
N/A



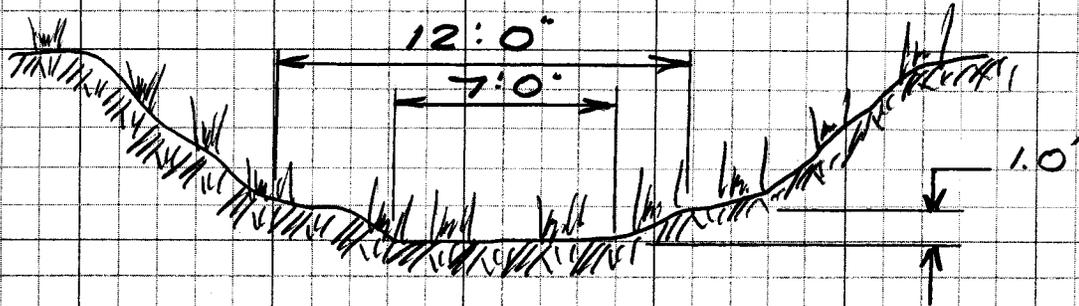
PIPE PERFORATION DETAIL
N/A

- BACKFILL NOTES:**
- 1) WET FILLER SHALL BE ACCOMPLISHED BY GRANULAR WITH NO. 10 MACHONUMBER STONE.
 - 2) BACKFILL SHALL BE FILLED WITH STONE TO A DEPTH ALLOWED BY THE ENGINEER.
 - 3) THE CLAY SEAL SHALL BE FILLED WITH STONE TO A DEPTH ALLOWED BY THE ENGINEER.
 - 4) AFTER BACKFILLING OF CLAY SEAL, THE CLAY SEAL SHALL BE INSTALLED AND THE ENTIRE AREA SHALL BE GRADDED AND REVEGETATED.

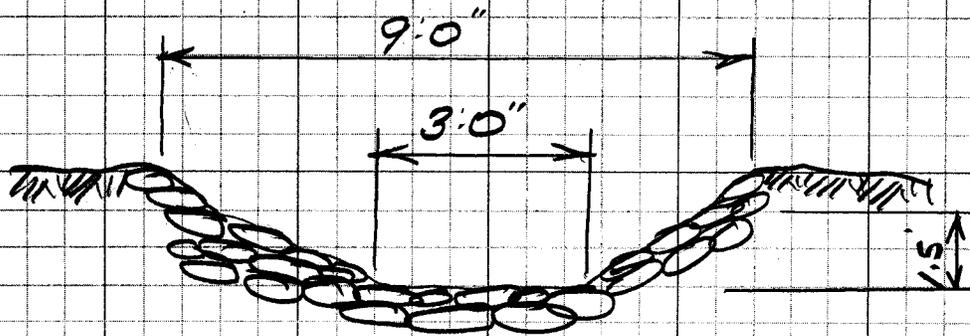
REV.	DATE	ITEM
CAD FILE	PLAN SHEET DWG	
PROPOSED WASTE AREAS RT. 10 EARLING TO RICH CREEK PROJECT NO. S232-10-B 05 LOGAN COUNTY, WEST VIRGINIA		
WASTE AREA 1 - WET SEAL DETAILS		
DRAWING NO.	SCALE	NOTED
1A	1/4" = 1'-0"	
CHECKED	DATE	
	08-27-06	
ETAD ENGINEERING, INC. 1000 W. MAIN STREET, SUITE 100 CHARLESTON, WEST VIRGINIA 25301		

Job. No: <u>04-04-0538</u>	Item: <u>STREAM CROSS SECTIONS</u>	By: <u>DHR</u>	Date: <u>NOV. 2005</u>
Project: <u>EARLING TO RICH CREEK</u>	Sheet <u>1</u> of <u>2</u>	Check:	Date:

WASTE AREA NO. 1



UNGROUTED UPPER PORTION



GROUTED LOWER PORTION

AVERAGE CROSS SECTIONS

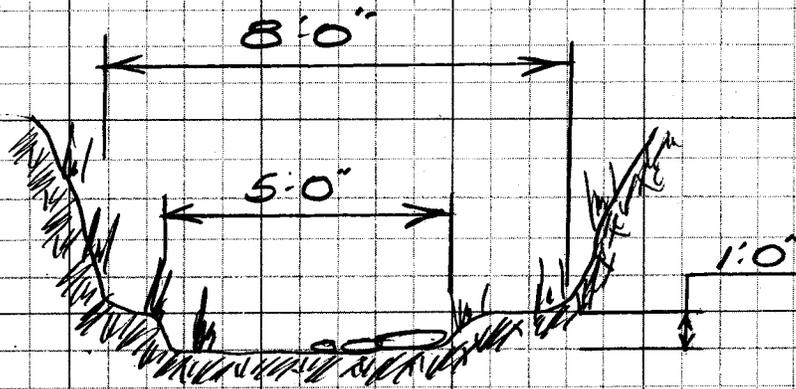
STREAM No. 1

NTS

Job. No: 0404-0538 Item: STREAM CROSS SECTIONS By: DJR Date: Nov. 2005

Project: EARLING TO RICH CREEK Sheet 2 of 2 Check: Date:

WASTE AREA No. 1



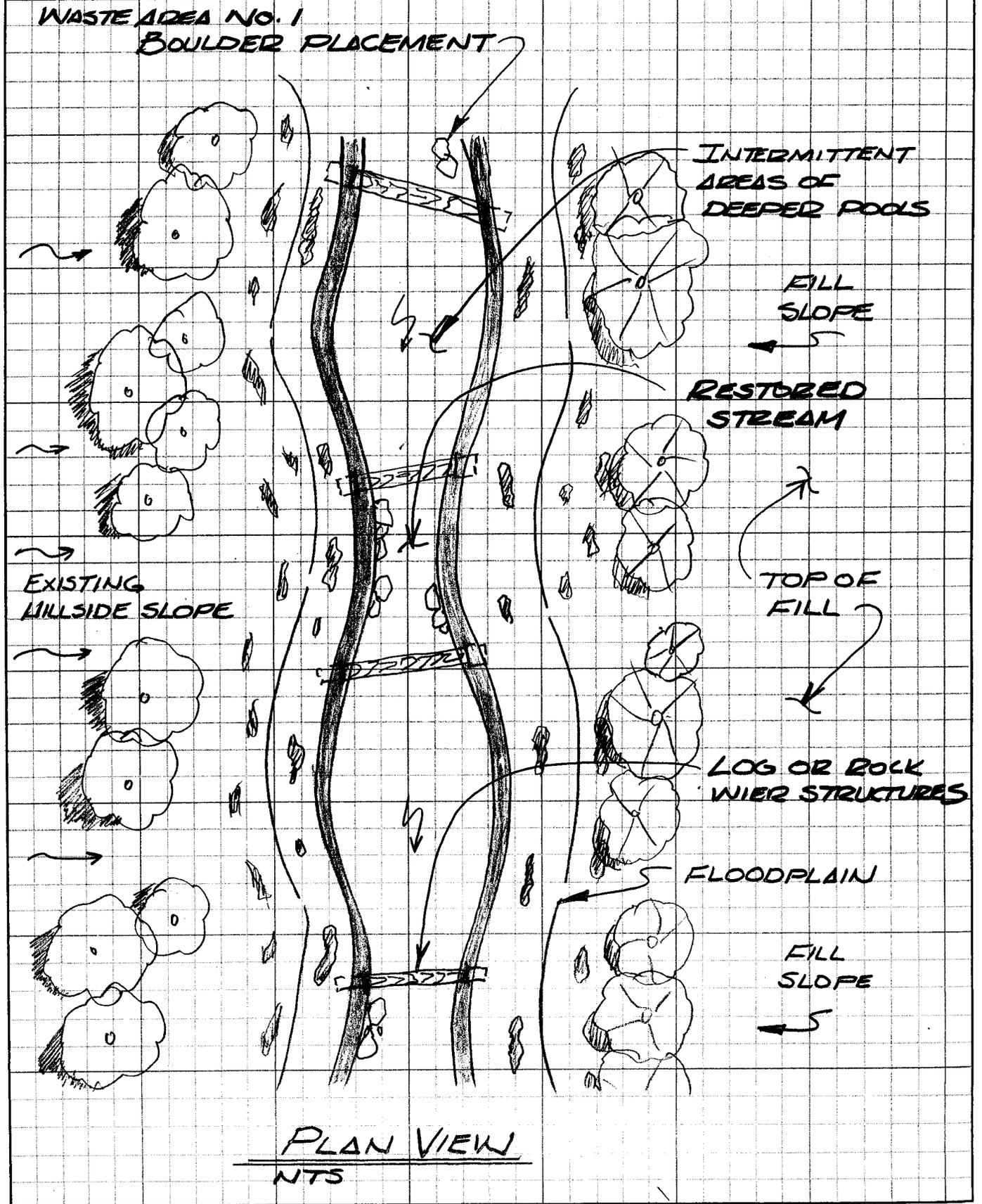
AVERAGE CROSS SECTION

STREAM No. 2

NTS

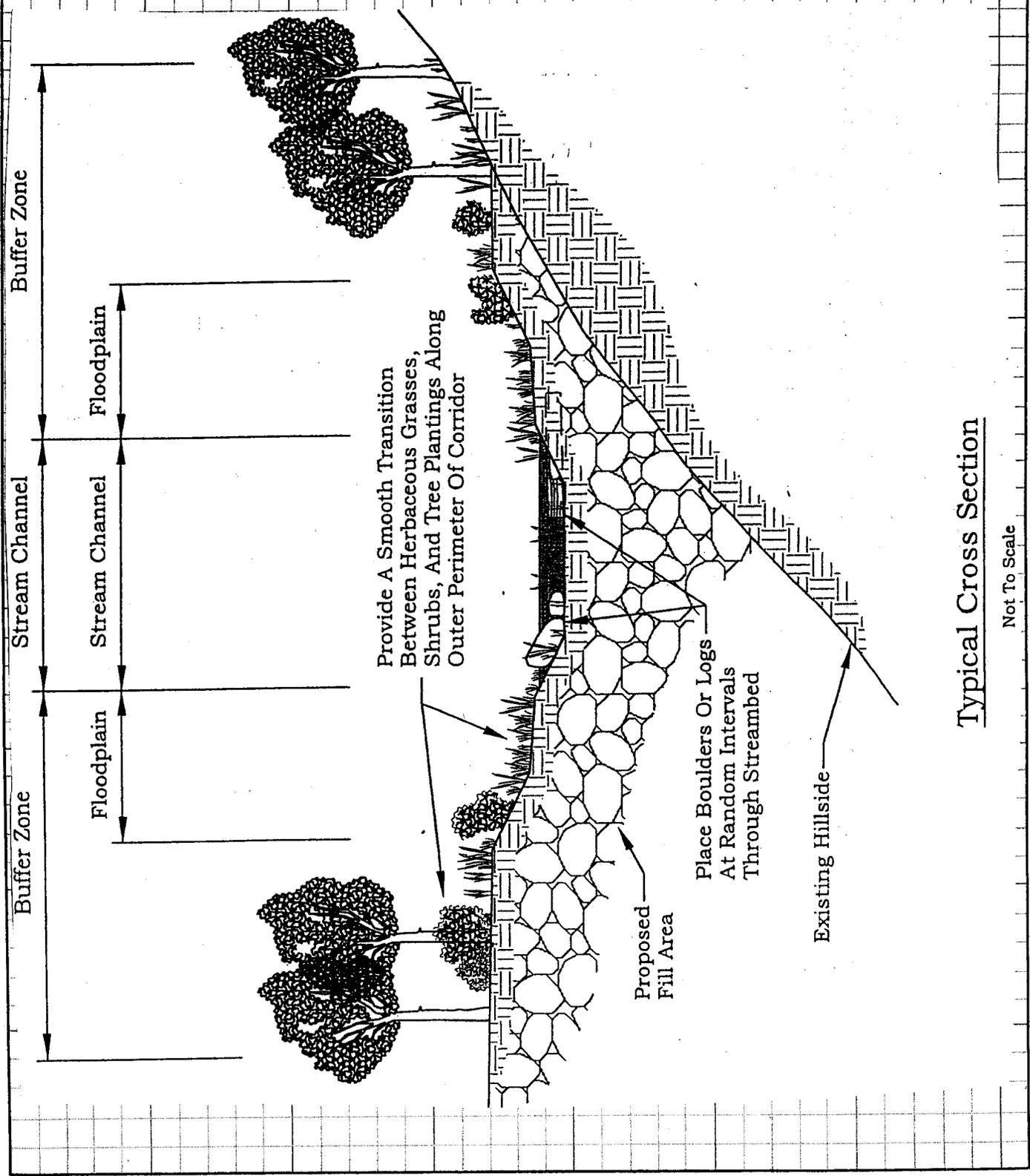
TYPICAL STREAM

Job. No: 04-04-0538	Item: RESTORATION DETAILS	By: DJR	Date: OCT. 2005
Project: EARLING TO RKL CREEK	Sheet 1 of 3	Check:	Date:



TYPICAL STREAM

Job No: 04-04-0538	Item: RESTORATION DETAILS	By: DJR	Date: OCT, 2006
Project: EARLING TO RUIECREEK	Sheet 2 of 3	Check:	Date:
WASTE AREA NO. 1			



Typical Cross Section

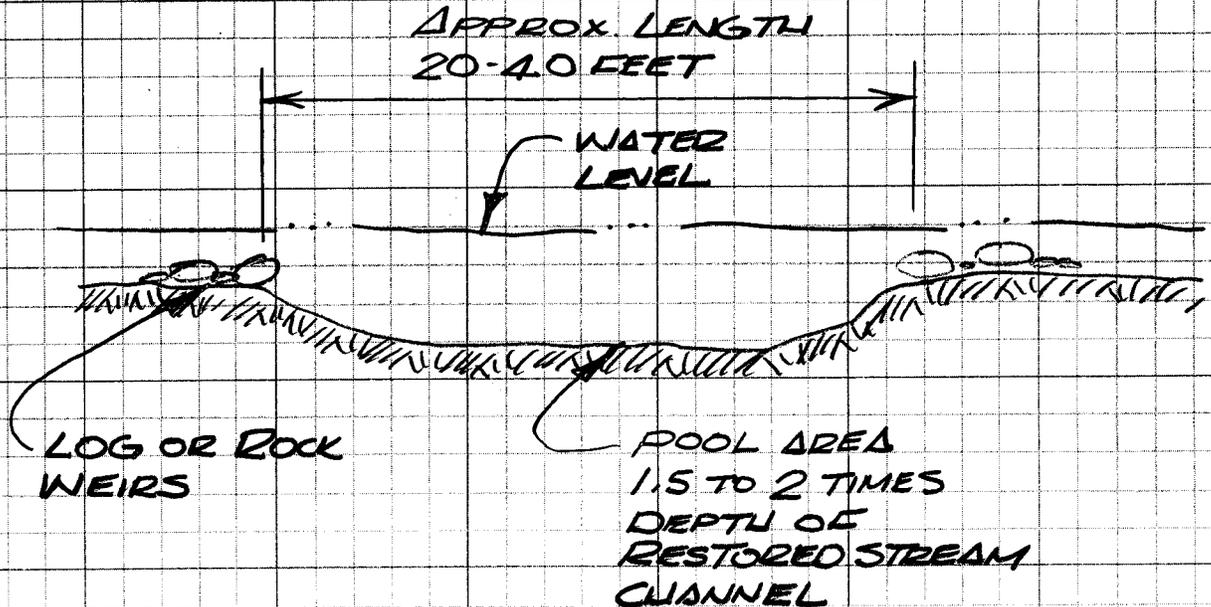
Not To Scale

TYPICAL STREAM

Job. No: 04-04-0538	Item: RESTORATION DETAILS	By: DUR	Date: OCT 2005
Project: EARLING TO RICH CREEK	Sheet 3 of 3	Check:	Date:

WASTE AREA No. 1

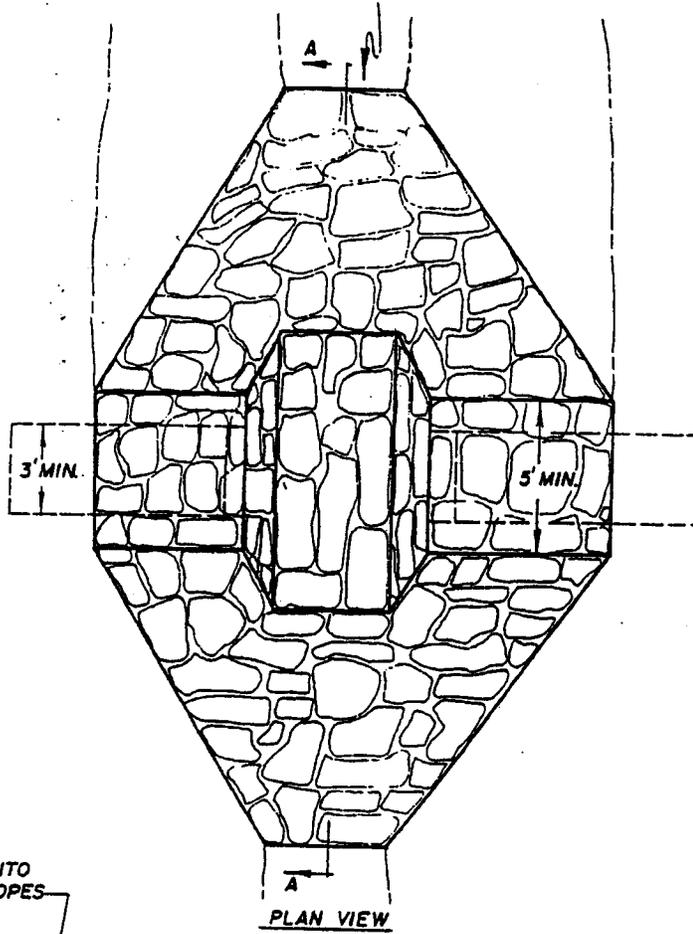
NOTE: IN ORDER TO PROVIDE AQUATIC HABITAT, AND PROVIDE RETENTION POOLS DURING PERIODS OF LOW RAINFALL, INTERMITTENT DEEPEE POOL AREAS WILL BE CONSTRUCTED ALONG THE LENGTH OF THE STREAM RESTORATION. THESE POOLS WILL BE CONSTRUCTED IN THE STREAM IN THE TOP OF THE FILL AREAS ONLY. SPACE POOLS APPROX. 100 TO 150 FT. APART.



TYPICAL PROFILE VIEW

NTS

STONE CHECK DAM



KEY 3' INTO
SIDE SLOPES

