



DEPARTMENT OF THE ARMY
FORT WORTH DISTRICT, CORPS OF ENGINEERS
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

REPLY TO
ATTENTION OF:

September 23, 2009

Planning, Environmental, and Regulatory Division
Regulatory Branch

SUBJECT: SWF-2008-00100

Mr. Rudi Reinecke
Integrated Environmental Solutions, Inc.
1651 North Collins Boulevard, Suite 170
Richardson, Texas 75080

Dear Mr. Reinecke:

The North Texas Tollway Authority (NTTA) is hereby authorized under Section 404 of the Clean Water Act to discharge dredged and fill material into waters of the United States associated with the construction of Section 4 of State Highway 121 – Southwest Parkway in accordance with Permit Number SWF-2008-00100. A copy of the permit is enclosed.

To use this permit, the person responsible for the project must ensure that the work is conducted in accordance with the terms and conditions of the permit. We caution you to submit revised drawings to us for approval prior to construction should any changes be found necessary in either the location or plans for the work. Approval of revised plans may be granted if they are found not contrary to the public interest.

This permit should not be considered as an approval of the design features of any structure authorized or an implication that such construction is considered adequate for the purpose intended. It does not authorize any damage to private property, invasion of private rights, or any infringement of federal, state, or local laws or regulations.

We appreciate your interest in our nation's water resources, and your cooperation in complying with our regulatory program. If you have questions in the future, please contact Barry Osborn at the address above or telephone 817-886-1734.

Sincerely,


Stephen L Brooks
Chief, Regulatory Branch

Enclosures

Copies Furnished / with enclosure:

Mr. Mark Fisher
Manager, Water Quality Assessment Section (MC-150)
Water Quality Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Mr. Rollin MacRae
Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744

Mr. Thomas J. Cloud, Jr.
Field Supervisor
U.S. Fish and Wildlife Service
Stadium Centre Building
711 Stadium Drive East, Suite 252
Arlington, Texas 76011

Ms. Sharon Parrish
Chief, Marine and Wetlands Section (6WQ-EM)
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, Texas 75202



DEPARTMENT OF THE ARMY
FORT WORTH DISTRICT, CORPS OF ENGINEERS
P. O. BOX 17300
FORT WORTH, TEXAS 76102-0300

REPLY TO
ATTENTION OF:

September 21, 2009

Planning, Environmental, and Regulatory Division
Regulatory Branch

SUBJECT: Project Number: SWF-2008-00100

Mr. Rudi Reinecke
Integrated Environmental Solutions, Inc.
1651 North Collins Boulevard, Suite 170
Richardson, Texas 75080

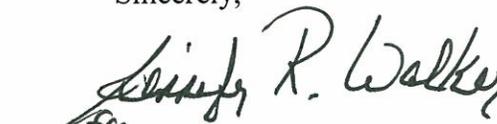
Dear Mr. Reinecke:

Enclosed are two copies of the draft Permit Number SWF-2008-00100. When issued, this permit will grant authority under Section 404 of the Clean Water Act to the North Texas Tollway Authority (NTTA) to discharge dredged and fill material into waters of the United States associated with the construction of Section 4 of State Highway 121 – Southwest Parkway (SWP) in the City of Fort Worth, Tarrant County, Texas.

The applicant may sign the permit or object to the permit and request the permit to be modified in accordance with the enclosed Notification of Administrative Appeal Options and Process and Request For Appeal (NAAOP-RFA). If the applicant elects to object to this permit, the applicant must complete Section II (Request For Appeal or Objections to an Initial Proffered Permit) of the enclosure and return to the District Engineer, ATTN: Chief, Regulatory Branch (CESWF-PER-R). If the applicant elects to sign the permit, please ensure that both copies are signed and dated and return them to the District Engineer, ATTN: Chief, Regulatory Branch (CESWF-PER-R). The applicant's signature on the permit indicates that the applicant accepts the permit in its entirety and forfeits all rights to appeal the permit or its terms and conditions and denotes the applicant's assurance that the work will be conducted in accordance with the plans, description, and all terms and conditions of the permit.

Please sign and return both signed copies of the permit to this office within 14 days of the date of this letter for signature. One copy will be promptly sent to you for retention. The permit is not valid until signed by the issuing officer.

Sincerely,


Stephen L Brooks
Chief, Regulatory Branch

Enclosures

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

Applicant: North Texas Tollway Authority

File Number: SWF-2008-00100

Date: September 21, 2009

| <u>Attached</u> | | <u>See section below</u> |
|-----------------|--|--------------------------|
| 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://www.usace.army.mil/inet/functions/cw/cecwo/reg/> or USACE 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 jurisdictional determination (JD) or provide new information.

- ACCEPT: You do not need to notify the USACE to accept an approved JD. Failure to notify the USACE 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

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the USACE 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 USACE district for further instruction. Also you may provide new information for further consideration by the USACE 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 USACE 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 USACE 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:

Mr. Barry Osborn at (817) 886-1734

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

Mr. Jim Gilmore at (469) 487-7061

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 authorized agent | Date: | Telephone number: |
|--|-------|-------------------|

DEPARTMENT OF THE ARMY PERMIT

Permittee: North Texas Tollway Authority

Permit Number: SWF-2008-00100

Issuing Office: Fort Worth District

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: To discharge approximately 3,100 cubic yards of dredged and fill material into approximately 3.1 acres of waters of the United States in conjunction with the construction of the Section 4 of State Highway (SH) 121, Southwest Parkway (SWP) in the City of Fort Worth, Tarrant County, Texas.

Project Location: The project site is located within approximately 170 acres of right-of-way (ROW) of undeveloped acreage for the proposed Section 4 of SH 121 (SWP). The proposed project begins at Overton Ridge Road and extends south to Dirks Road, approximately 14,300 feet, and ranges from 450 feet to 600 feet wide (Sheet 1 of 13). The project site is approximately 1,800 feet west of the intersection of Granbury Road and Dirks Road, in the City of Fort Worth, Tarrant County, Texas.

Permit Conditions: Texas Commission on Environmental Quality (TCEQ) water quality certification: This project complies with the TCEQ Tier I project criteria detailed in the Memorandum of Agreement between the USACE and the Texas Natural Resource Conservation Commission on Section 401 Certification Procedures dated 17 August 2000 (MOA). In accordance with the provisions of the MOA, the USACE presumes a waiver of 401 certification pursuant to 33 CFR 325.2(b).

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2014. 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: See Page 5 below

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 of 1972 (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 non-permitted 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 non-permitted 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) 9/22/09
(DATE)
Richard E. Herrington
Deputy Executive Director
North Texas Tollway Authority

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



(FOR THE) 9-23-09
(DATE)
DISTRICT ENGINEER
Richard J. Muraski, Jr.
Colonel, Corps of Engineers

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.

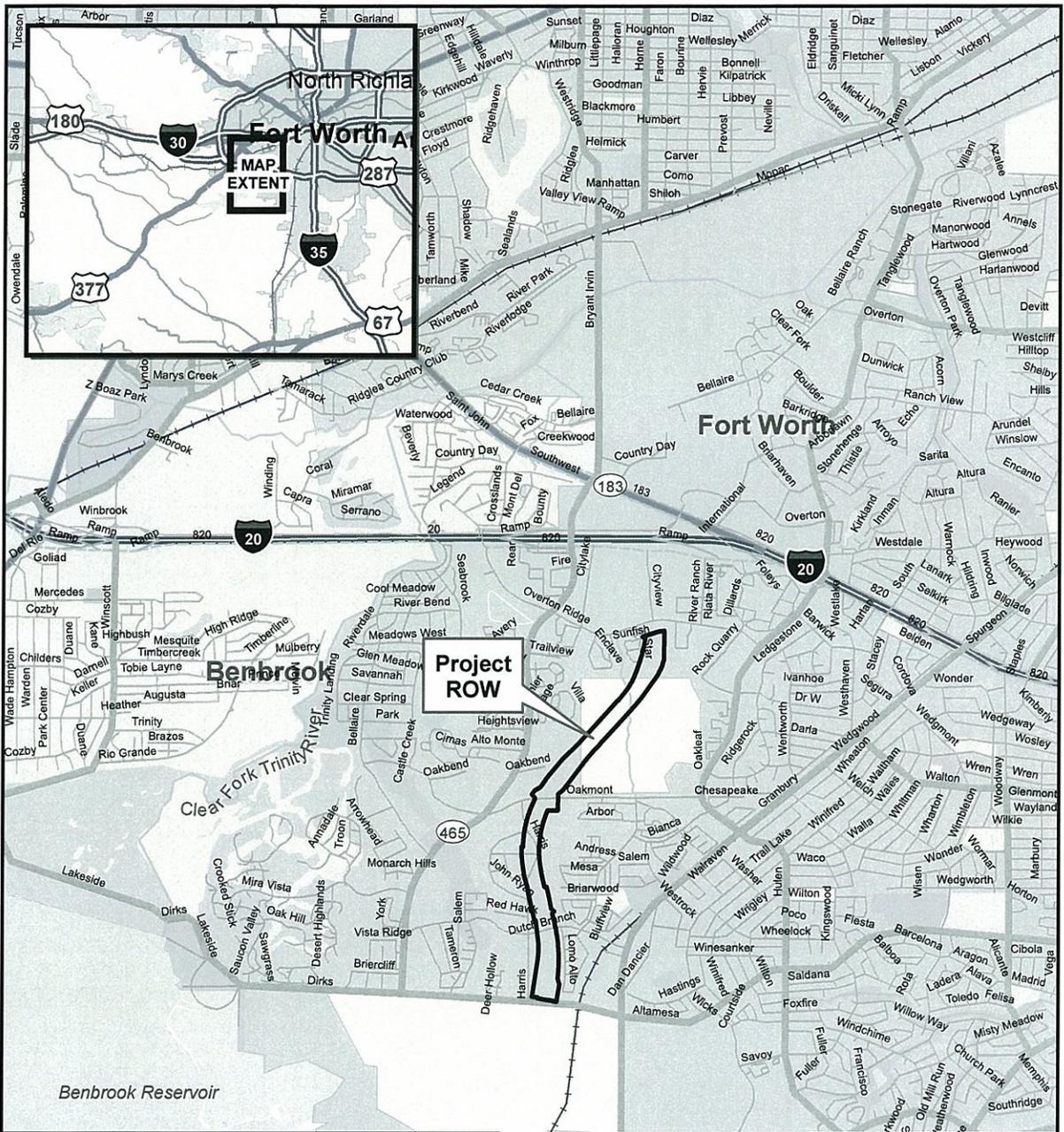
(TRANSFEREE) (DATE)

Special Conditions
Permit Number SWF-2007-00450

1. The permittee shall debit 23.2 credits from the Trinity River Mitigation Bank in compliance with the provisions of the "Mitigation Banking Instrument Agreement, Trinity River Mitigation Bank, Ltd., Tarrant County, Texas, Permit Application No.: 199800370," dated February 2001, revised August 2002, **or** 28.5 credits from the South Forks Trinity River Mitigation Bank in compliance with the provisions of the "Mitigation Banking Instrument, South Forks Trinity River Mitigation Bank, Ellis County, Texas," dated July 2006. This debit shall compensate off-site for unavoidable adverse project impacts that would not be compensated for by on-site mitigation. The permittee shall complete the mitigation bank transaction and provide documentation to the USACE that the transaction has occurred prior to commencing any ground-disturbing activity within waters of the United States.

2. The permittee shall not initiate activities in the permit area associated with this permit, which have not previously been evaluated by the U. S. Army Corps of Engineers (USACE) as part of the permit review for this project, until such work has been submitted to and approved by the USACE. Items to be submitted for review shall include the following:
 - A. USGS map depicting the limits of the site,
 - B. Acreage of the proposed site,
 - C. Depiction of the limits of all waters of the United States as defined in 33 CFR 328,
 - D. Ground photographs,
 - E. Brief description of site characteristics.

3. Due to the complexity associated with the identification and delineation of waters of the United States, it is highly recommended that this information be prepared by an environmental consultant with expertise in the delineation of waters of the United States. Such sites, also referred to as project specific locations (PSLs) include, but are not limited to, haul roads, equipment staging areas, and borrow and disposal sites. The permit area includes all waters of the United States affected by activities associated with the project, as well as any additional area(s) of non-waters of the United States in the immediate vicinity of, directly associated with, and/or affected by, activities in waters of the United States. Special restrictions may be required for such work. The permittee shall develop procedures to ensure that contractors are aware of this condition and encourage contractors to coordinate their selection of these sites with the permittee as soon as possible to avoid construction delays. The permittee, or its designated agent/contractor, may coordinate with the USACE on compliance with this special condition.



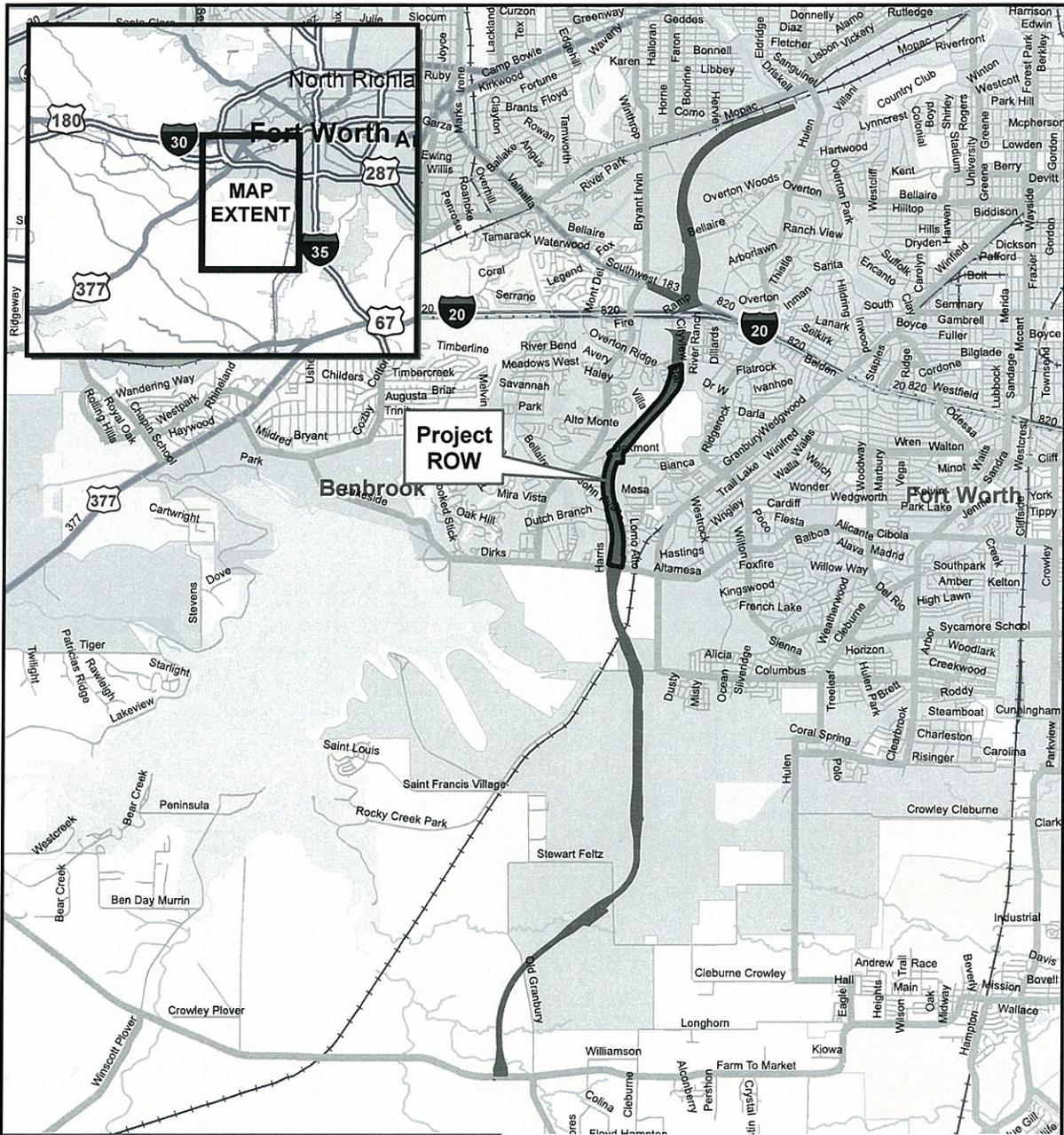
General Location of Project Site
Sheet 1 of 13

County : Tarrant
 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008



Project Right-of-Way





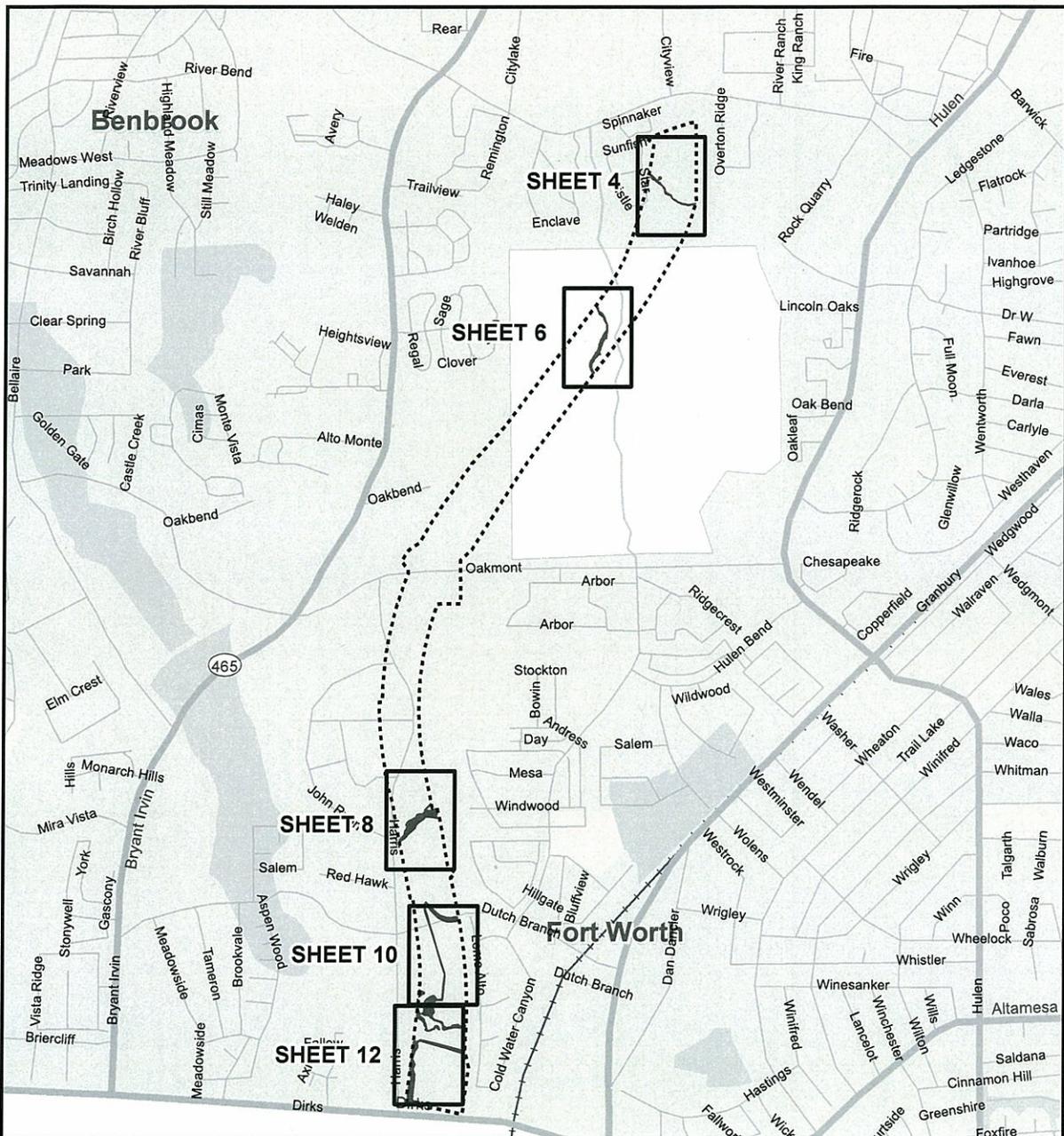
**Southwest Parkway Extension
Sheet 2 of 13**

County : Tarrant
 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008



-  Project Right-of-Way
-  Entire Southwest Parkway Extension Right-of-Way





Project Sheet Map
Sheet 3 of 13

County : Tarrant
 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008

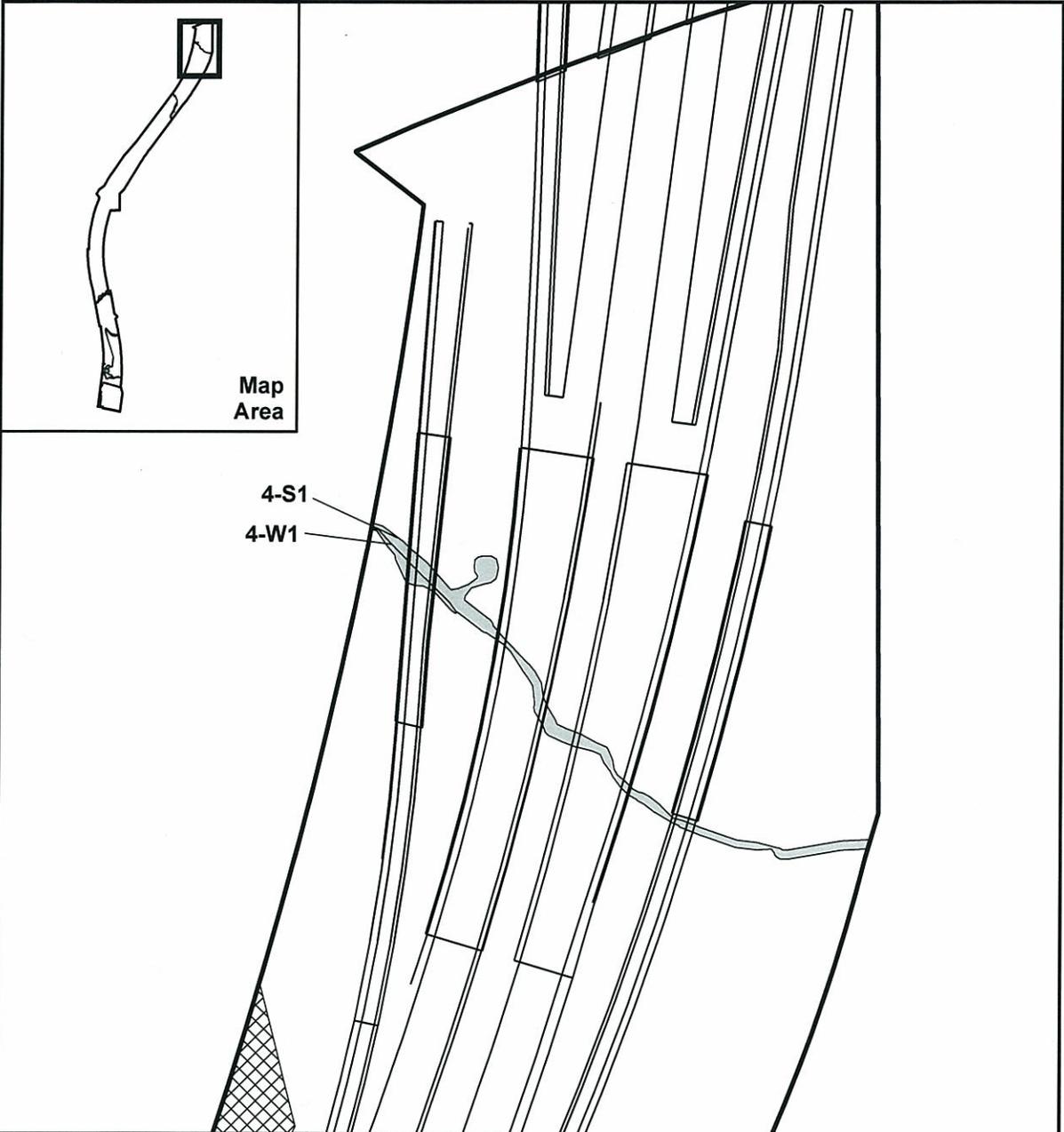


 Project Right-of-Way
 Hydrology

0 1,000 2,000 3,000 Feet

0 250 500 750 Meters





Crossing 1
Sheet 4 of 13

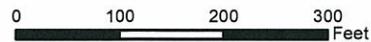
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 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008

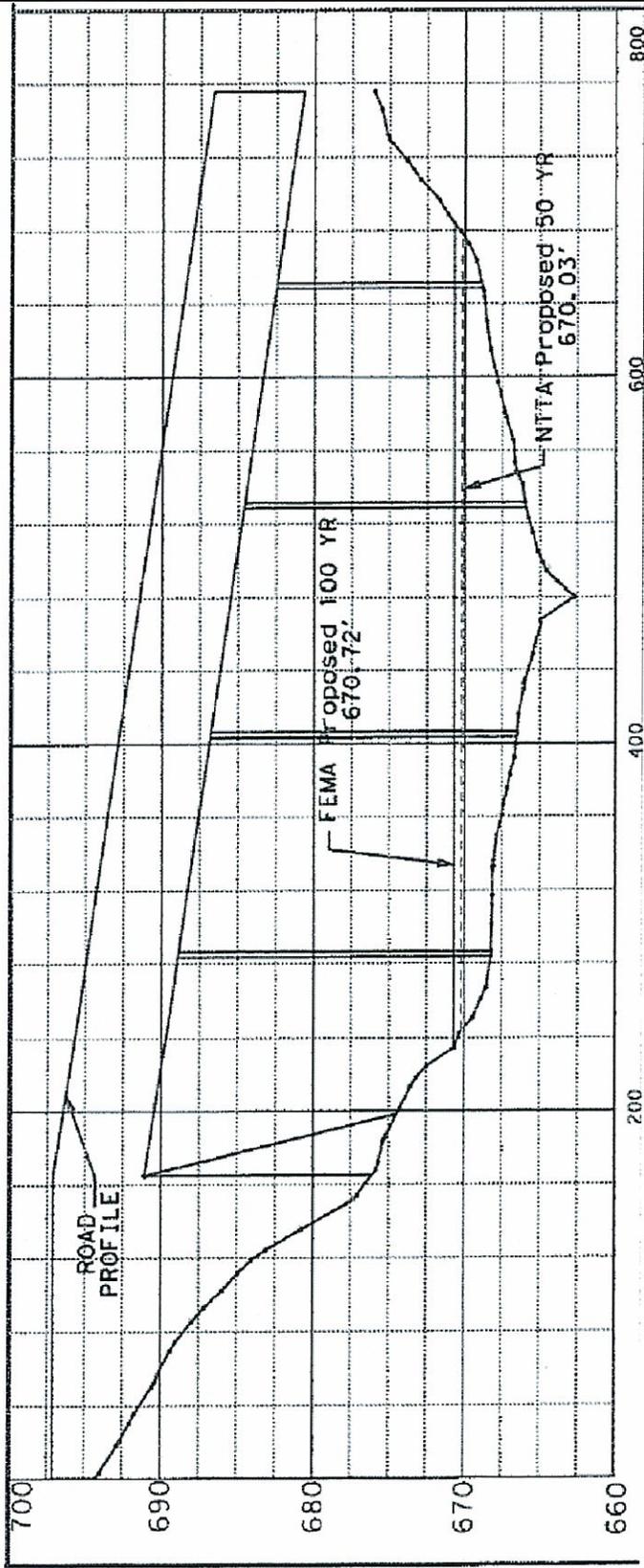


Proposed Developments

- Rip Rap
- ==== Proposed Culverts and Grassy Swales
- - - - Cross-section
- Proposed Roadway Limits
- ▨ Unimpacted Areas

- ▭ Right-of-Way Limits
- Impacted Hydrology
- Unimpacted Hydrology

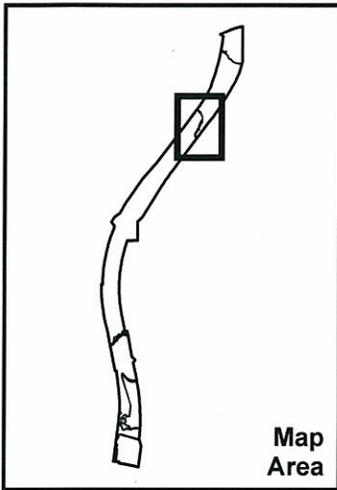
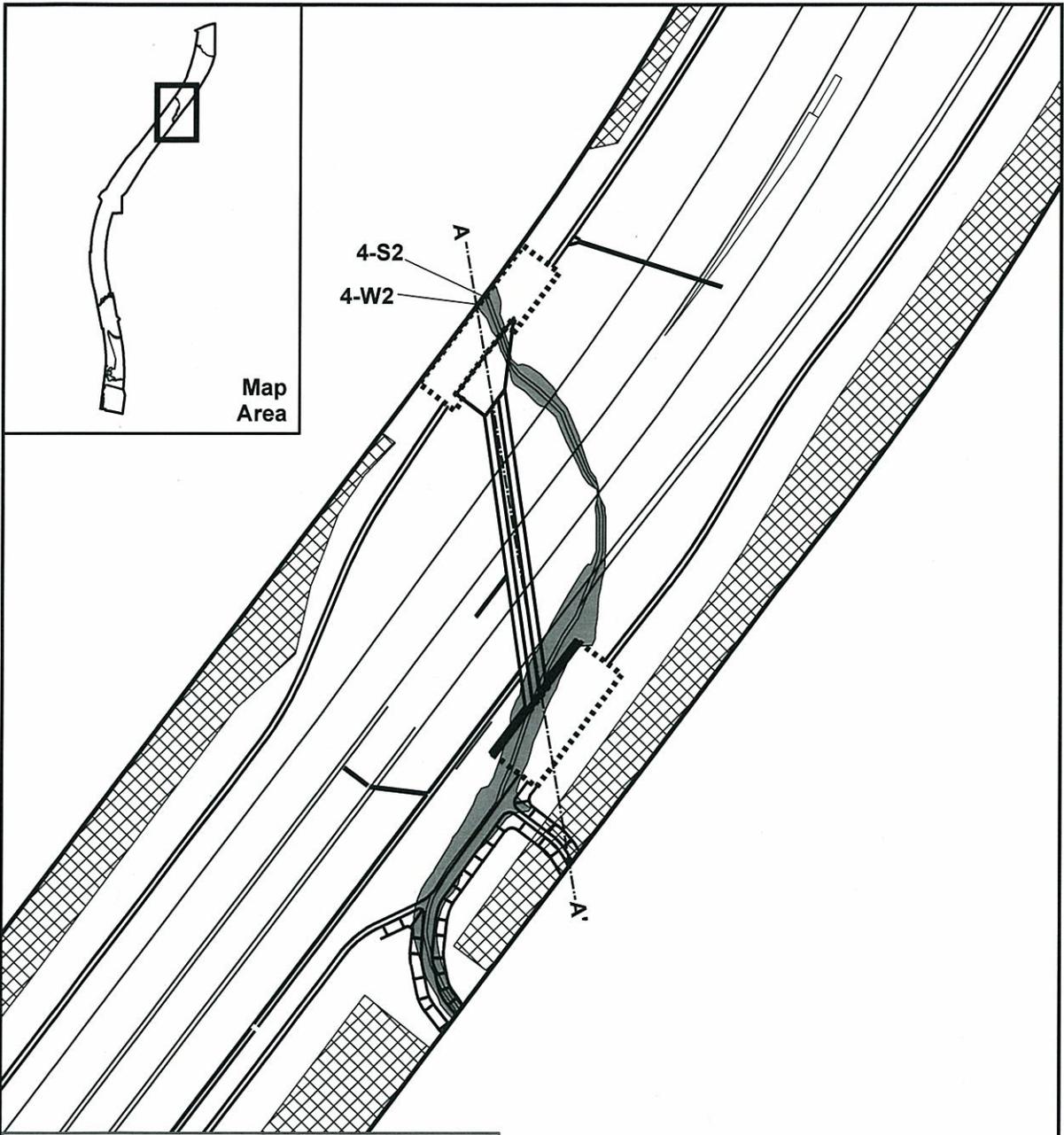




Crossing 1
Sheet 5 of 13

County : Tarrant
 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008





**Crossing 2
Sheet 6 of 13**

County : Tarrant
 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008

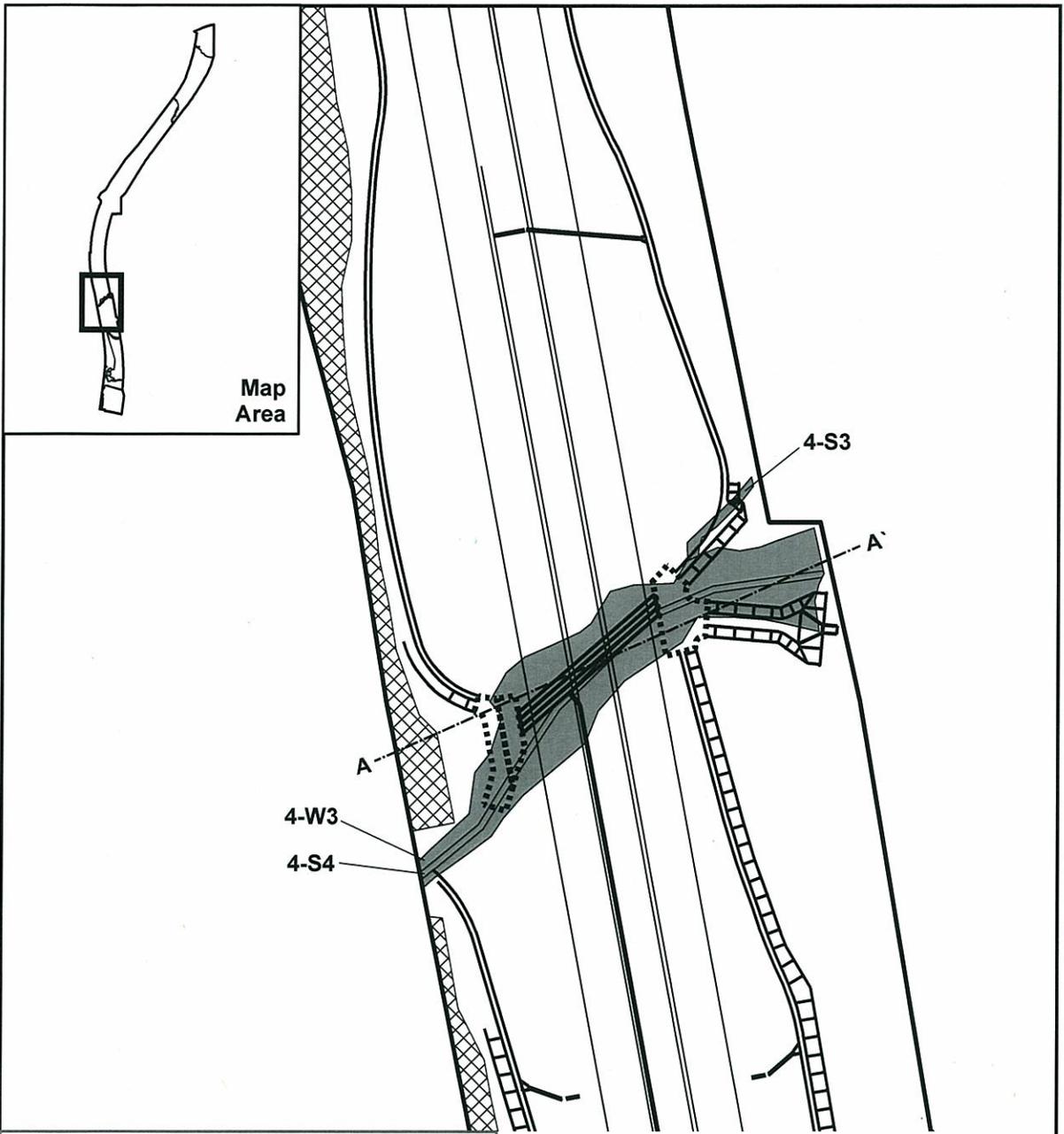


Proposed Developments

- Rip Rap
- ==== Proposed Culverts and Grassy Swales
- - - - Cross-section
- Proposed Roadway Limits
- ⊗ Unimpacted Areas

- ▭ Right-of-Way Limits
- Impacted Hydrology





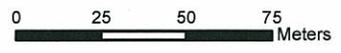
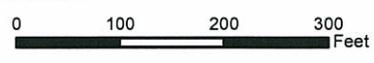
**Crossing 3
Sheet 8 of 13**

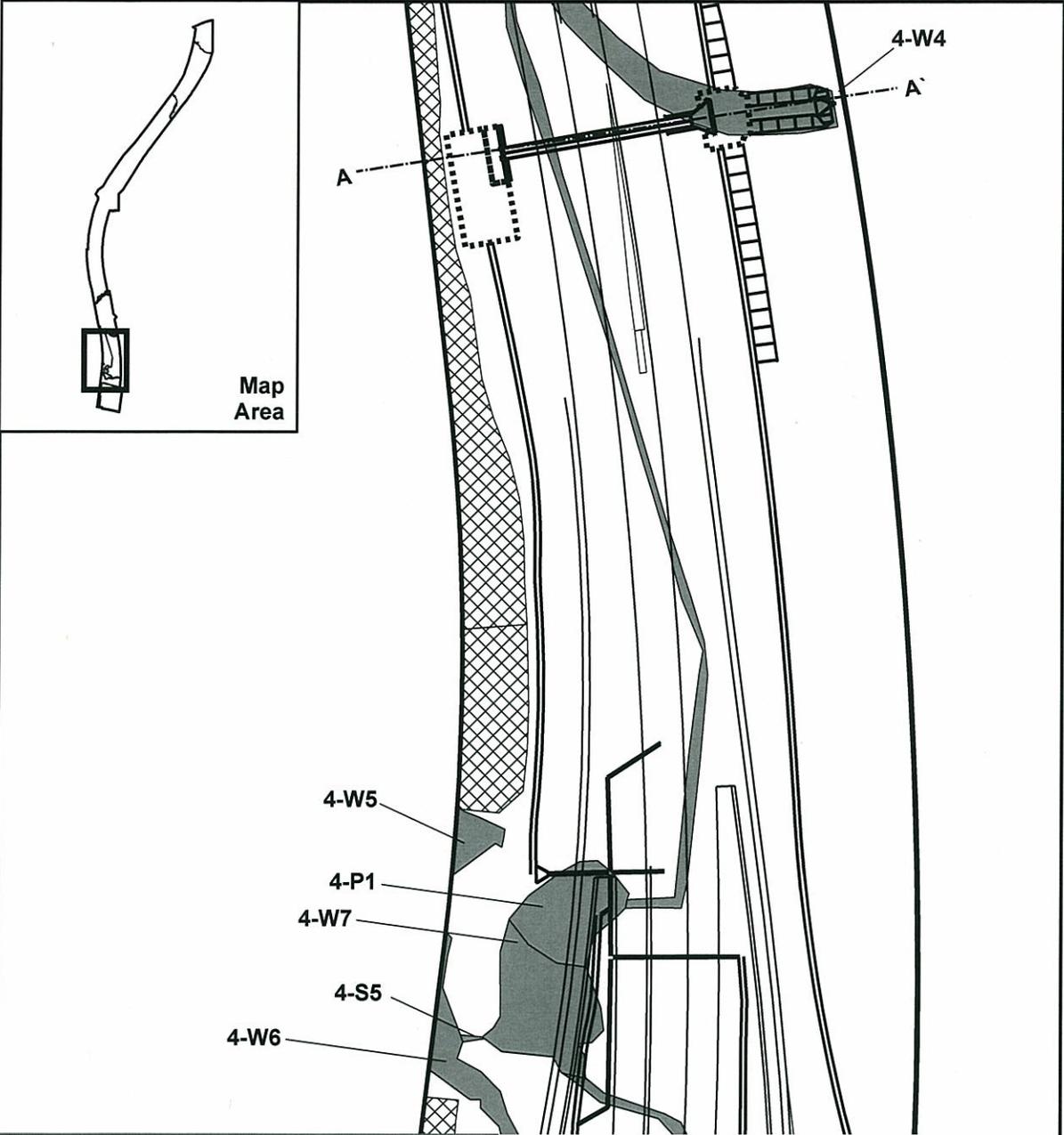
County : Tarrant
 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008



Proposed Developments

- Rip Rap
- ==== Proposed Culverts and Grassy Swales
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- Impacted Hydrology





Map Area

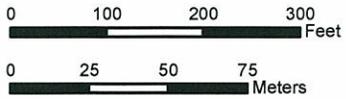
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Sheet 10 of 13**

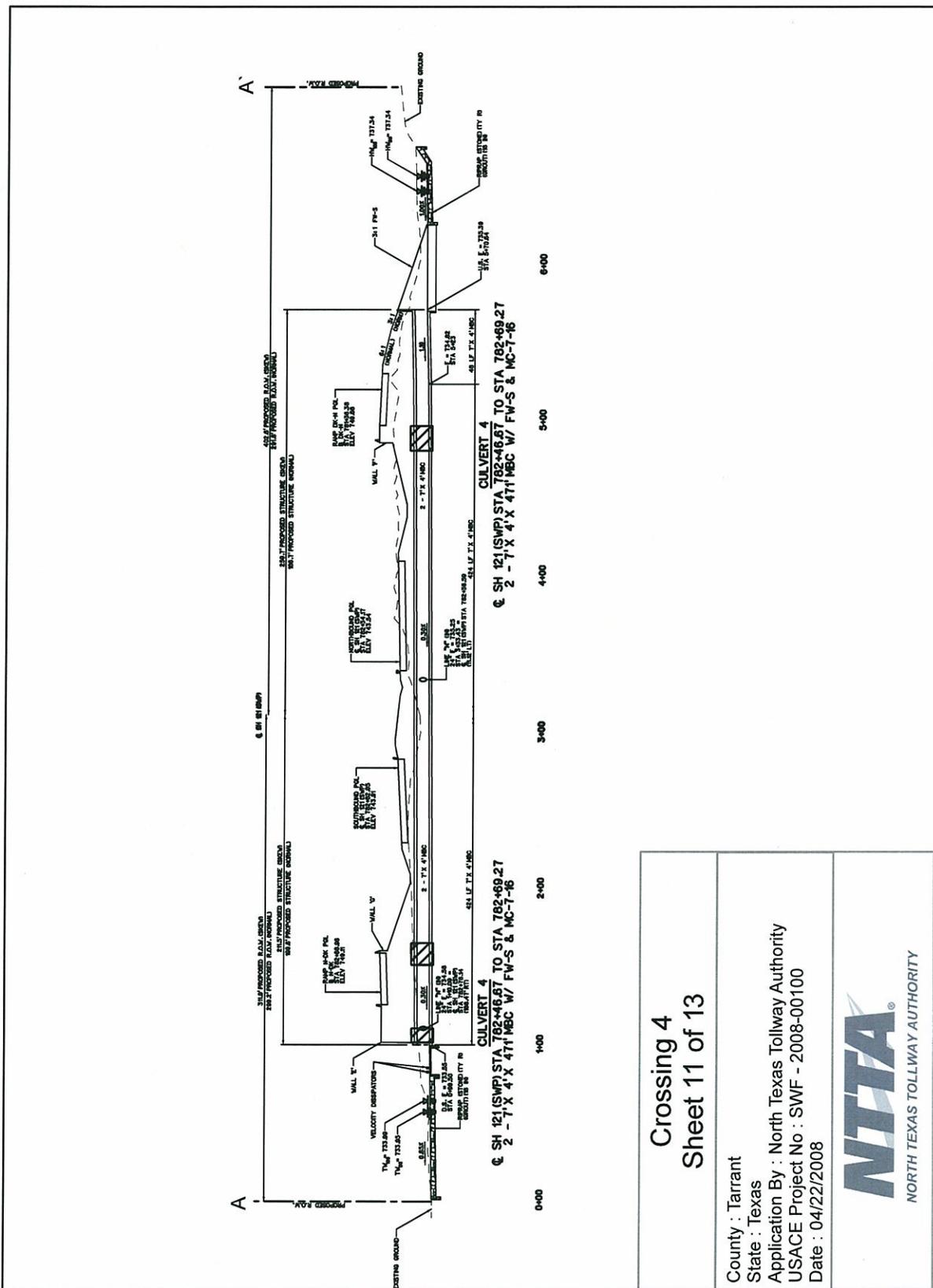
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 State : Texas
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Proposed Developments

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- ==== Proposed Culverts and Grassy Swales
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- ⊗ Unimpacted Areas
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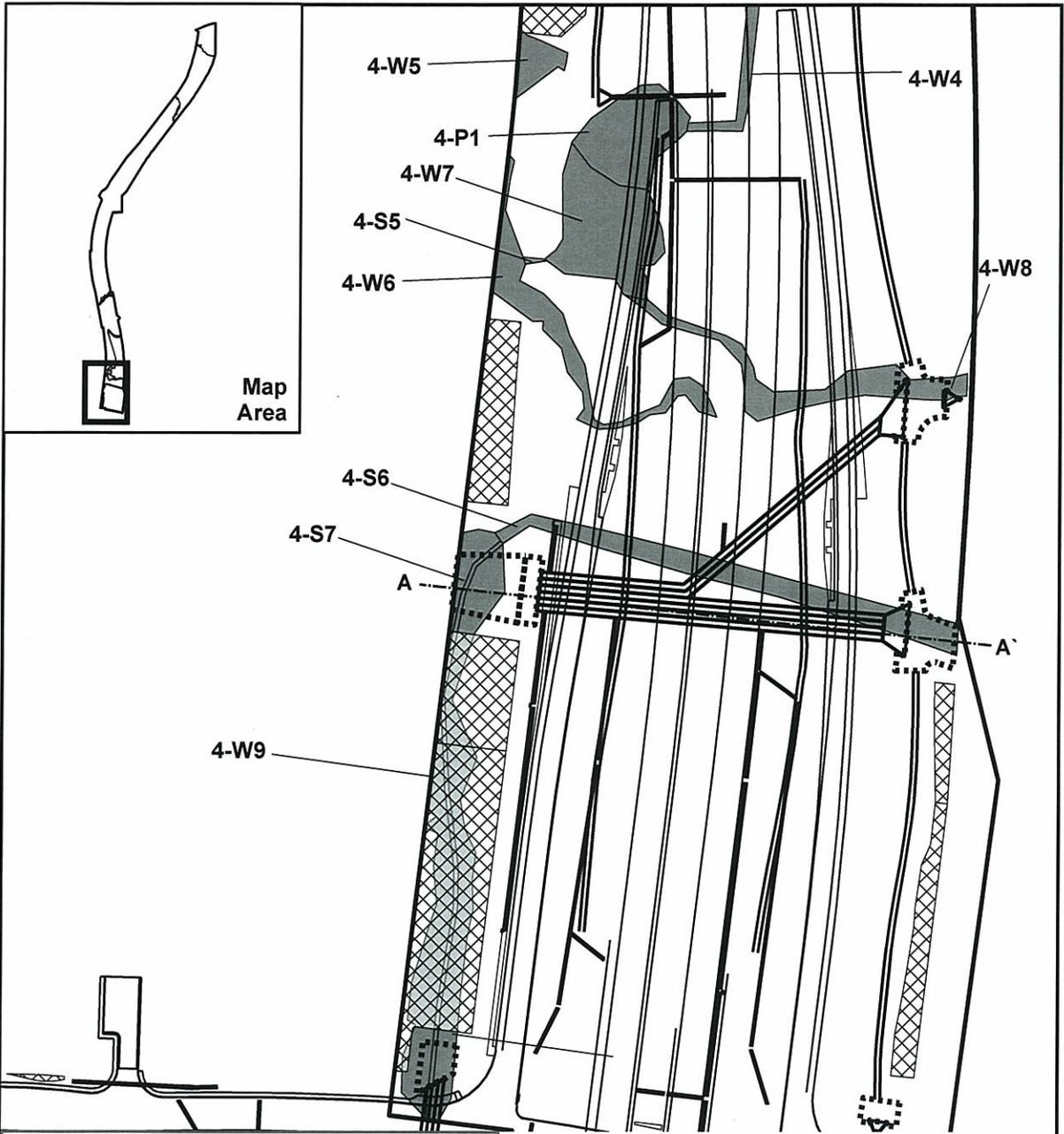




Crossing 4
Sheet 11 of 13

County : Tarrant
 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008


 NORTH TEXAS TOLLWAY AUTHORITY



Crossing 5
Sheet 12 of 13

County : Tarrant
 State : Texas
 Application By : North Texas Tollway Authority
 USACE Project No : SWF - 2008-00100
 Date : 04/22/2008



Proposed Developments

- Rip Rap
- ==== Proposed Culverts and Grassy Swales
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