US Army Corps
of Engineers
Portland District

Joint Public Notice

Proposed Permits for Gravel Mining on the Chetco River

OREGON DEPARTMENT OF STATE LANDS

Issue Date: November 26, 2008
Expiration Date: December 26, 2008
Corps of Engineers Action ID: NWP-2008-71

Interested parties are hereby notified that, in accordance with 33 CFR 325.3(b), the U.S. Army Corps of Engineers, Portland District (Corps) proposes to develop a regional general permit (RGP) to authorize commercial gravel mining activities within the Chetco River, Curry County, Oregon, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C.) and Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). The Director, Oregon Department of State Lands (DSL) is also proposing to develop a General Permit (GP) for commercial gravel mining activities pursuant to ORS 196.795, 196.817, and OAR 141-85-0068.

BACKGROUND

A regional general permit (RGP) is a Department of the Army authorization that is issued on a regional (limited geographic scope) basis for a category of activities when those activities are substantially similar in nature and cause only minimal individual and cumulative impacts on the aquatic environment. Although termed a "regional general" permit, the evaluation of the proposed action can be quite specific, especially if the geographic scope is narrow. In general, RGPs have a number of terms and conditions that must be met in order for an applicant to conduct work under that permit instrument. Special conditions can be added to the RGP to address situations unique to the area included within the RGP authorization. The DSL General Permit provides similar coverage.

Both the Corps and DSL are coordinating with other federal, state, and local agencies, as well as the gravel industry to determine the appropriate thresholds of the RGP/GP. This notice serves as an opportunity for the public to provide input into the RGP/GP development process.

On July 24, 2008, the USGS was funded to conduct a study to evaluate sediment transport and gravel storage in the Chetco River between the mouth and river mile 11. This study is intended to support the RGP/GP effort on the Chetco River and to provide valuable input on the characteristics of the river system. Tasks conducted as part of this effort include 1) mapping trends in riparian vegetation based on historical photos, 2) conducting bathymetric surveys of the lower 3.5 miles of the Chetco River, 3) mapping bank material to help determine habitat conditions and potential for erosion, 4) field measurements of sediment transport and estimates of annual gravel recruitment, and 5) developing historical channel maps and evaluating bankline changes (erosion and sedimentation) through time. Studies are expected to be completed in January 2009, with a final report released to the public in May 2009.

PROJECT LOCATION

This RGP is geographically limited to the portion of the Chetco River from the mouth to river mile 11 in Curry County, Oregon. Specific project locations within this 11 mile stretch are identified below and shown on Figures 1 through 4.

1) Tidewater Bar site: Located on the south bank of the Chetco River at mile 2.0. This site is located within the estuary and is subject to diurnal tidal fluctuations during which the bar may be exposed or totally inundated. This site is located in Section 33 of Township 40 South, Range 13 West. (See Figure 1).

2) Freeman Bar site: Includes several sites which are located on the north and south banks of the Chetco River between river miles 4.5 and 5.5. The sites are located in Sections 34 and 35 of Township 40 South, Range 13 West. (See Freeman Bar Location Map, Figure 2).

3) South Coast Lumber site: This site includes two adjacent river bars (the lower bar on the north bank and the upper bar on the south bank) at about river mile 7.0 of the Chetco River. The site is located in Sections 24 and 25 of Township 40 South, Range 13 West. (See Figure 3).

4) 2nd Bridge Bar (aka Fitzhugh Bar) site: This site is located just upriver from the bridge that crosses over the Chetco River at about river mile 10.2. This site is located in Section 12 of Township 40 South, Range 13 West. (See Figure 4).

PROJECT PURPOSE: To obtain aggregate for industrial and commercial purposes.

PROJECT DESCRIPTION:

A. Extraction Methods. Under the RGP/GP, gravel mining would be authorized to occur over a five-year period at the identified project locations using one or more of the methods described below. Some methods may be altered or eliminated as a potential mining alternative based on the results of the studies being carried out by the USGS on the Chetco River and comments received in response to this notice. It is also possible the use of certain methods may be confined to specific locations in the Chetco River (for example, at an upriver location but not within the estuary). Individual mine methods are developed so as to minimize, eliminate or remediate impacts to the channel or adjacent properties. Such methods can and may be developed to enhance channel habitat conditions.

Unless otherwise stated, these methods may be used at any of the proposed project locations.

- Bar Removal. Sand and gravel removal would be located on large gravel bar adjacent to the river channel. The width, depth, and cross section shape would be based on adjacent river channels. (A Typical Diagram of the Bar Removal Technique is shown on Figure 5).
    a. Head of bar. Protect the upper 1/3 of the bar from any excavation activities.
    b. Lateral Buffer. The area between the low flow channel and the active mining area would be one foot elevational difference. Buffer widths (horizontal distance) will be set based on site specific conditions.
    c. Excavated length. The lower 2/3 of the gravel bar would be shaped with a slope towards the river plus a slope towards the downstream direction of the river.
    d. Excavated head slope. This portion of the excavated area would be no steeper than 10:1 (horizontal to vertical).

- Horseshoe. Horseshoe construction would be located on large gravel bar adjacent to the river channel. The width, depth, and cross section shape would be based on adjacent river channels. (A Typical Diagram of the Horeshoe Construction method is shown in Figure 6).
    a. Head of bar. Protect the upper 1/3 of the bar from any excavation activities.
    b. Lateral buffer. The set-back area between the low flow channel and the active mining area will be set based on site specific conditions.
    c. Excavated backwater length. Maximum excavated backwater length is 2/3 of the total length of the bar feature.
    d. Excavated backwater area. The area of the excavated backwater would be constrained by the established buffers except on the lower end where it would be designed to breach with over-topping during the fall and winter freshets. The depth of the backwater bottom would be above the low water level except for a narrow deep channel. This narrow deep channel would have a width of less than 10% of the width of the bar. The maximum depth of the narrow deep channel would be the same as the deepest part of the active river channel. The length of the narrow deep channel would have a maximum excavated length of 1/2 of the bar feature.
    e. Excavated backwater head slope. This portion of the excavated backwater area would be no steeper than 10:1 (horizontal to vertical).
    f. Excavated side slopes. This portion of the excavated backwater area would be no steeper than 4:1 (horizontal to vertical).

- Alcove. Alcove construction would be located on the downstream end of the North Fork Chetco Gravel Bar (see the Freeman Bar Location Map, Figure 1). The purpose would be to increase vertical structure or diversity to this reach of the river while relieving the hydrologic pressures of the confluence from the North Fork of the Checto with the mainstem of the River. The width, depth, and cross section shape will be based on the adjacent river channel. The maximum depth will be the same as the deepest part of the active river channel. The excavated side slopes will be no steeper than 4:1 (horizontal to vertical); the shape would curve along the alignment of the old channel. The downstream buffer of the alcove will have a portion that is designed to breach when over-topping occurs during the fall and winter freshets.

- Backwater or trench construction. The width, depth, and cross section shape would be based on adjacent river channels. The maximum depth would be no more than six feet below the deepest part of the active river channel. (A Typical Diagram of the Backwater/Trench Construction Method is shown in Figure 7).
    a. Lateral buffers. The set-back area between the low flow channel and the active mining area would be no less than 20 feet from the active channel. Other lateral buffers may be set based on site specific conditions.
    b. Excavated backwater length. Maximum excavated backwater length would be within 20' of the head of bar.
    c. Excavated backwater area. The area of the excavated backwater would be constrained by the established buffers except on the lower end where it would be designed to breach with over-topping during the fall and winter freshets.
    d. Excavated backwater head slope. This portion of the excavated backwater area would be no steeper than 4:1 (horizontal to vertical).
    e. Excavated side slopes. This portion of the excavated backwater area would be no steeper than 4:1 (horizontal to vertical).

- Small ponds. Two small ponds of approximately three acres each could be constructed near the high-water mark on the south side of upper Freeman Bar (see Freeman Bar Location Map, Figure

1). Because of the elevation/location of these small ponds the location would be on lands where DOGAMI and DSL both have jurisdiction. Volume removed would be around 20,000 CY per pond.

The intent is to use this method only during times of extreme drought periods, when the annual return of sand and gravel is not adequate to supply the needs of the local communities. The ponds would be constructed well away from the wetted channel and as such would not interfere with low flow habitat. The maximum depth would be the no more than five feet deeper than the deepest part of the active river channel. The shape would curve along the alignment of the old channel. Excavated side slopes would be no steeper than 4H:1V and any vegetation cleared during construction of the ponds would be placed in the ponds.

- Pit Extraction behind Protective Berm. This method has been used at Tidewater's estuary site for over 35 years. The general procedure is to construct a protective berm during low tide events on the river side of the extraction site. The berm is at a height sufficient to keep water from flowing into the extraction area during high tide events. Once the berm is in place, the extraction process can take place safely, even during tidal fluctuations. The area behind the protective berm is dug to a depth of no greater than six feet below the deepest part of the river channel. After the extraction is complete and the turbidity in the pool settles, the berm is removed and the pit is opened to the river at both ends.

  This described extraction plan is similar to the backwater or trench construction method. The excavation is confined to the lower 2/3 of the gravel bar length where naturally occurring alcoves generally form. These alcoves provide a deep, slow water refuge for juvenile salmonids during moderate to high velocity flows.

  See Figures 8 through 11 for a Typical Diagram of the Pit Extraction Method.

B. Equipment and Access. The type of equipment used to excavate the sand and gravel would include paddlewheel scrapers, excavators, front-end loaders, and dump trucks. Approved temporary crossings of the Chetco River with a flatcar bridge would be used to access the opposite side of the river at some locations. The only in-water river crossing would be for installation of the temporary bridge. Temporary crossings of dry channels would require a stabilized low water ford or the installation of culverts that would allow for fish passage if the water level rose during the removal season.

ADAPTIVE MANAGEMENT

An interagency technical team is discussing the concept of including adaptive management into the RGP/GP. Adaptive management would allow the above list of project design features to be modified if site specific conditions warrant and if there is common agreement between the regulatory and resource agencies and the permittee. The determination of whether modifications to the project design are appropriate would be based on the evaluation of a pre-harvest plan and any changes that have occurred to the physical and biological characteristics of the river in the vicinity of the extraction site. Adaptive management helps maintain flexibility by recognizing uncertainties exist and gives the agencies latitude to improve the project design features by moving towards the desired outcome of minimal effects to the aquatic and terrestrial ecosystem.

SPECIAL CONDITIONS

Special conditions will be added to the RGP and GP based on a number of factors associated with the evaluation of the proposed action including the results of studies being conducted on the Chetco River, coordination with state and federal resource agencies, and comments received in response to the public review process. Actual conditions have not yet been developed; however, special conditions may include requirements such as those listed below.

1. Removal operations will be limited to the daylight hours.

2. No removal of vegetation will occur outside the designated work area on gravel bars. The only removal of vegetation will be for operational reasons.

3. During removal operations, gravel bars will be constantly graded and sloped to avoid fish entrapment.

4. Monitoring.
   - A pre-harvest (spring) and post-harvest (fall) survey will be conducted by the operator.
   - Vehicle staging areas will be designated for cleaning, maintenance, refueling, and monitoring for petroleum leaks and repairs. This staging area will be no closer than 150' from any water. All equipment will be cleaned before starting the removal season. Daily inspection will be preformed on all vehicles for fluid leaks. Any leaks detected will be repaired before leaving the staging area to perform removal activities. Documented inspections will be logged in a record that will become part of the post-harvest report.
   - Established photo points with pictures being taken once a week during the removal season. The photo points with pictures will become part of the post-harvest report.
   - Turbidity monitoring will be conducted and recorded every four hours either visually or with a turbidimeter during the removal operations. (*Specific turbidity monitoring requirements will be developed as part of the RGP process and are expected to be contained in any water quality certification issued by the Oregon Department of Environmental Quality*).
   - A post-harvest report will be completed by the end of December following the removal season.

5. Pollution and Erosion Control Plans. Such plans may require following Best Management Practices to minimize pollution from being introduced into the river. Such BMPs may include:
   - Sequence/Phasing of work – work will be scheduled so as to minimize potential turbidity in the water.
   - Equipment control – all excavation and relocation of material by machinery will be completed so as to minimize turbidity.
   - Machinery will not drive into the active flowing channel except for one crossing to place a temporary bridge and one crossing for the removal of the temporary bridge.
   - Excavated material will be placed so that it is isolated from the water edge and not placed where it could re-enter the river or natural drainage to the river.
   - Use of containment measures such as silt curtains, geoblocks, geotextile fabric, and silt fence will be implemented where needed and properly maintained to minimize instream sediment suspension and resulting turbidity.

Other conditions may include in-water work restrictions, post-construction site restoration (such as the planting of vegetation), and requirements to comply with a) the terms and conditions of a biological opinion issued by the National Marine Fisheries Service, b) the conditions of a water quality certification issued by the Oregon Department of Environmental Quality, and c) any conditions associated with a concurrence by the Oregon Department of Land Conservation and Development that the activity meets the requirements of the Coastal Zone Management Program.

WATER QUALITY CERTIFICATION

The Corps is requesting certification of this RGP from the Oregon Department of Environmental Quality (DEQ) as required by Section 401 of the Clean Water Act. DEQ will provide public involvement opportunities during the certification process as per OAR 340-048-0027.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION

Concurrence from the Oregon Department of Land Conservation and Development (DLCD) that the activities to be authorized by this RGP, which may affect land or water uses in the Coastal Zone, will be in compliance with the State Coastal Zone Management Program, is required by Section 307(c) of the Coastal Zone Management Act of 1972, as amended by 16 USC 1456(c)(3). The Corps is working closely with DLCD as part of the development of this RGP.

ENDANGERED SPECIES

Preliminary determinations indicate that the proposed activity may affect listed salmon or designated critical habitat. Consultation under Section 7 of the Endangered Species Act of 1973 (87 Stat. 844) will be initiated with the National Marine Fisheries Service. This consultation will also include an evaluation of the impacts to essential fish habitat as required by the Magnuson-Stevens Fishery Conservation and Management Act. A permit for the proposed activity will not be issued until the consultation process is completed.

CULTURAL RESOURCES

This notice has been provided to the State Historic Preservation Office, interested Native American Indian Tribes, and other interested parties. If you have information pertaining to cultural resources within the permit area, please provide this information to the Corps project manager (identified on page 7 of this notice) to assist in a complete evaluation of potential affects.

EVALUATION

The ultimate decision whether to issue the RGP will be based on an evaluation of the probable impacts including cumulative impacts of the described activities on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the described activities must be balanced against their reasonably foreseeable detriments. All factors, which may be relevant to the described activities will be considered including the cumulative effects thereof; among 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, consideration of property ownership and, in general, the needs and welfare of the people.

The Corps and DSL are soliciting comments from the public; Federal, state, and local agencies and officials; Native American Tribes; and other interested parties in order to consider and evaluate the impacts of the activities proposed to be authorized by this RGP and GP. Any comments received will be considered by the Corps of Engineers in its decision on the RGP and by DSL in its decision on the GP. Comments received by the Corps during the development of the RGP will be considered in the preparation of an Environmental Assessment pursuant to the National Environmental Policy Act. Comments will also be used by both the Corps and DSL to determine the need for a public hearing and to determine the overall public interest of the proposed activities. Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this proposal. Requests for a public hearing must specifically state the reasons for holding the hearing.

The evaluation of the likely impact of the proposed RGP on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. This evaluation will include an alternatives analysis.

COMMENTS

The Corps and DSL are requesting comments to assist in refining the RGP and GP. Comments may be submitted to either the Corps or DSL at the addresses given below. Comments should be received no later than December 26, 2008.

Please provide comments to:

Ms. Judy Linton
Portland District, Corps of Engineers
CENWP-OD-G
P.O. Box 2946
Portland, OR 97208
Telephone: (503) 808-4382
Email: judy.l.linton@usace.army.mil

OR

Mr. Robert Lobdell
Oregon Department of State Lands
775 Summer Street NE
Salem, OR 97301-1279
Telephone: (503) 986-5282
Email: robert.lobdell@dsl.state.or.us

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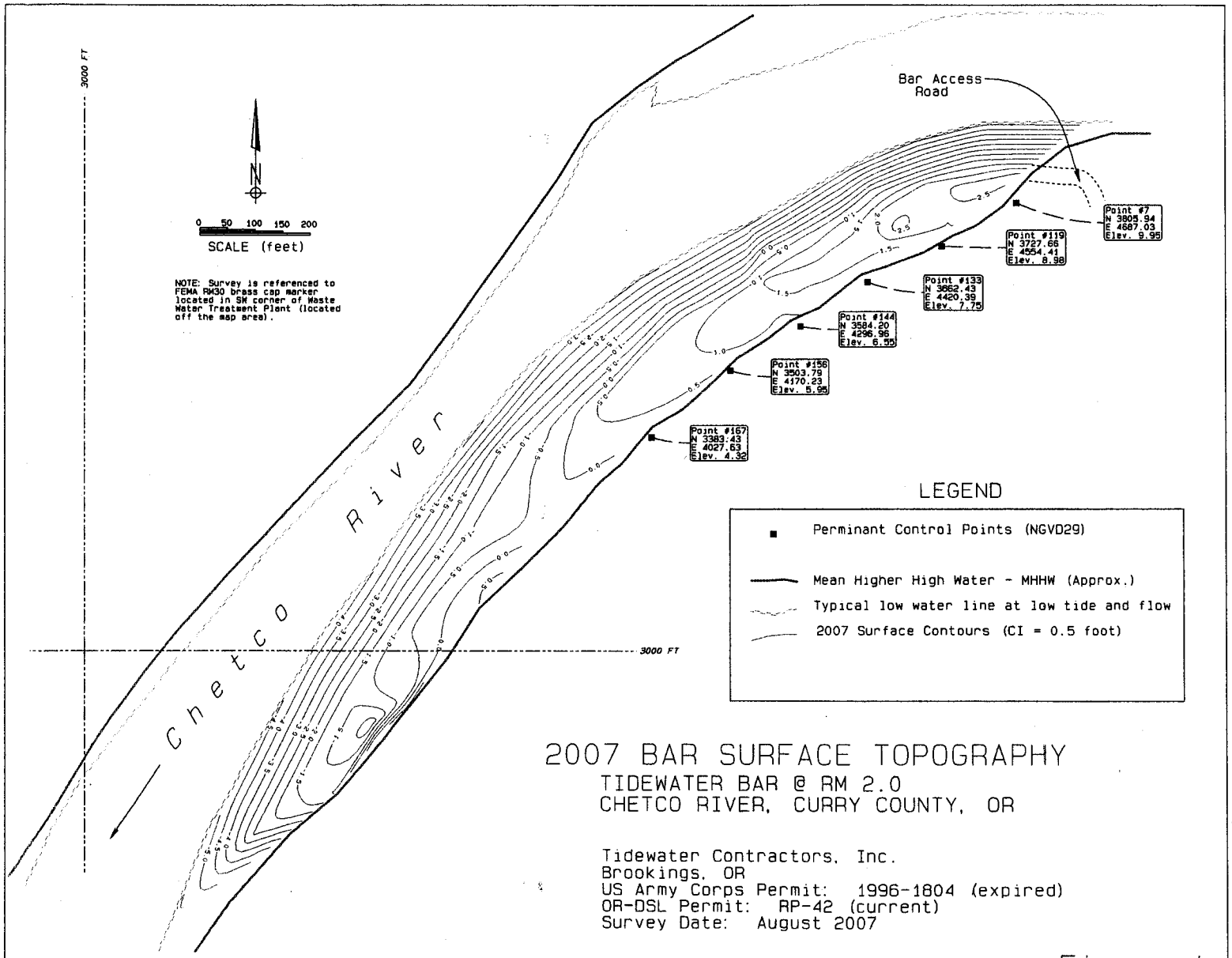
The Corps issued an initial public notice on February 8, 2008, describing the RGP concept for gravel mining on the Chetco River. Comments submitted in response to this notice are still valid and will be considered throughout the evaluation of this proposed RGP. The Corps has developed a website specific to the Chetco River Gravel RGP proposal: http://www.nwp.usace.army.mil/op/g/chetco_background.asp. This site will be updated as new information becomes available, so please check it frequently.



2007 BAR SURFACE TOPOGRAPHY

TIDEWATER BAR @ RM 2.0
CHETCO RIVER, CURRY COUNTY, OR

Tidewater Contractors, Inc.
Brookings, OR
US Army Corps Permit: 1996-1804 (expired)
OR-DSL Permit: RP-42 (current)
Survey Date: August 2007

NWP-2008-71

Figure 1

Freeman Bar Location Map

Alcove & Pond Locations

SECTION 35&34, T40S, R13W W.M. CURRY COUNTY, OREGON

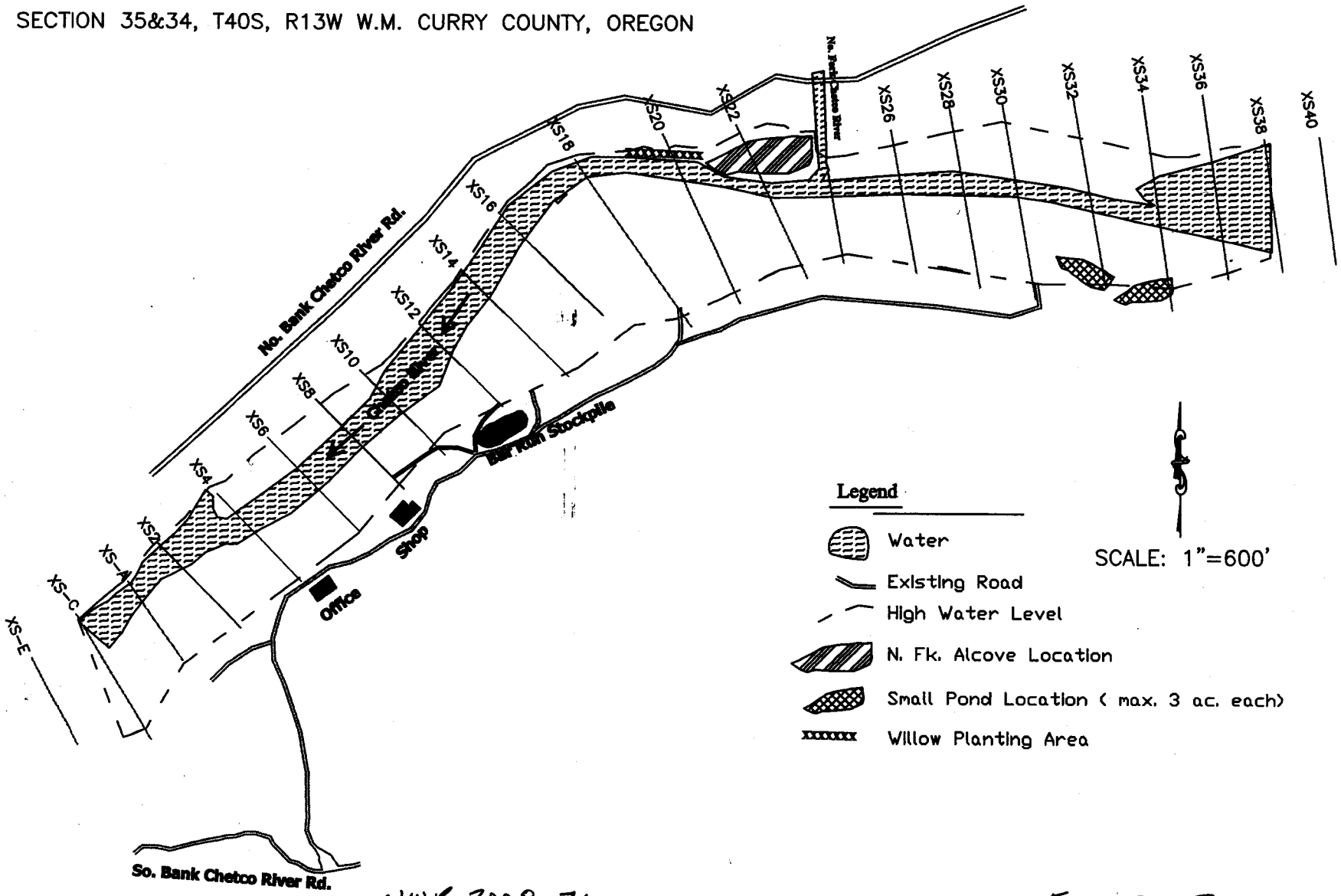


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FIGURE 2

10/08 WHY

South Coast Lumber Company

Removal Area Map - 40' Contour Interval

Section 24, T.40S., R.13W., W.M.

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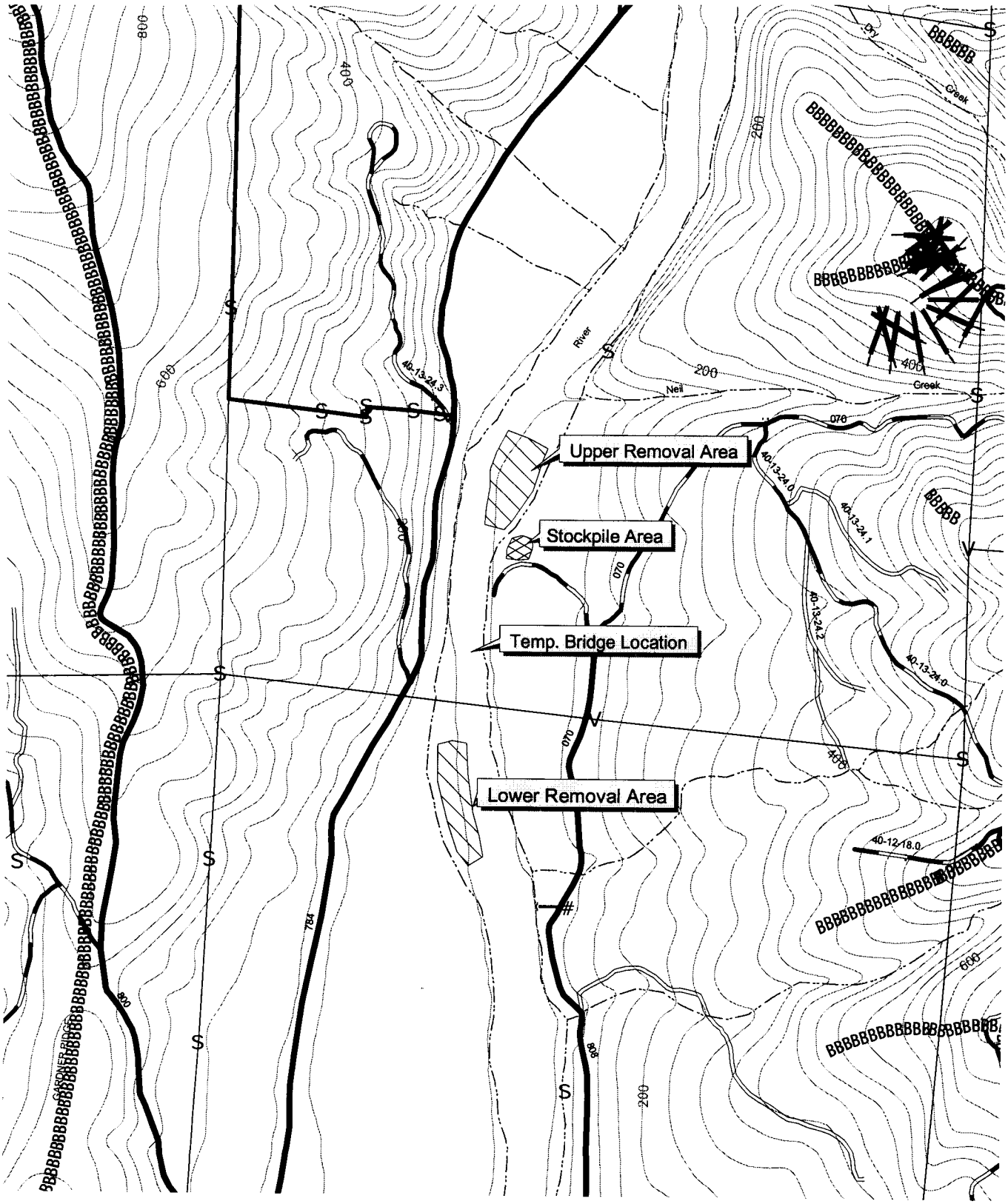
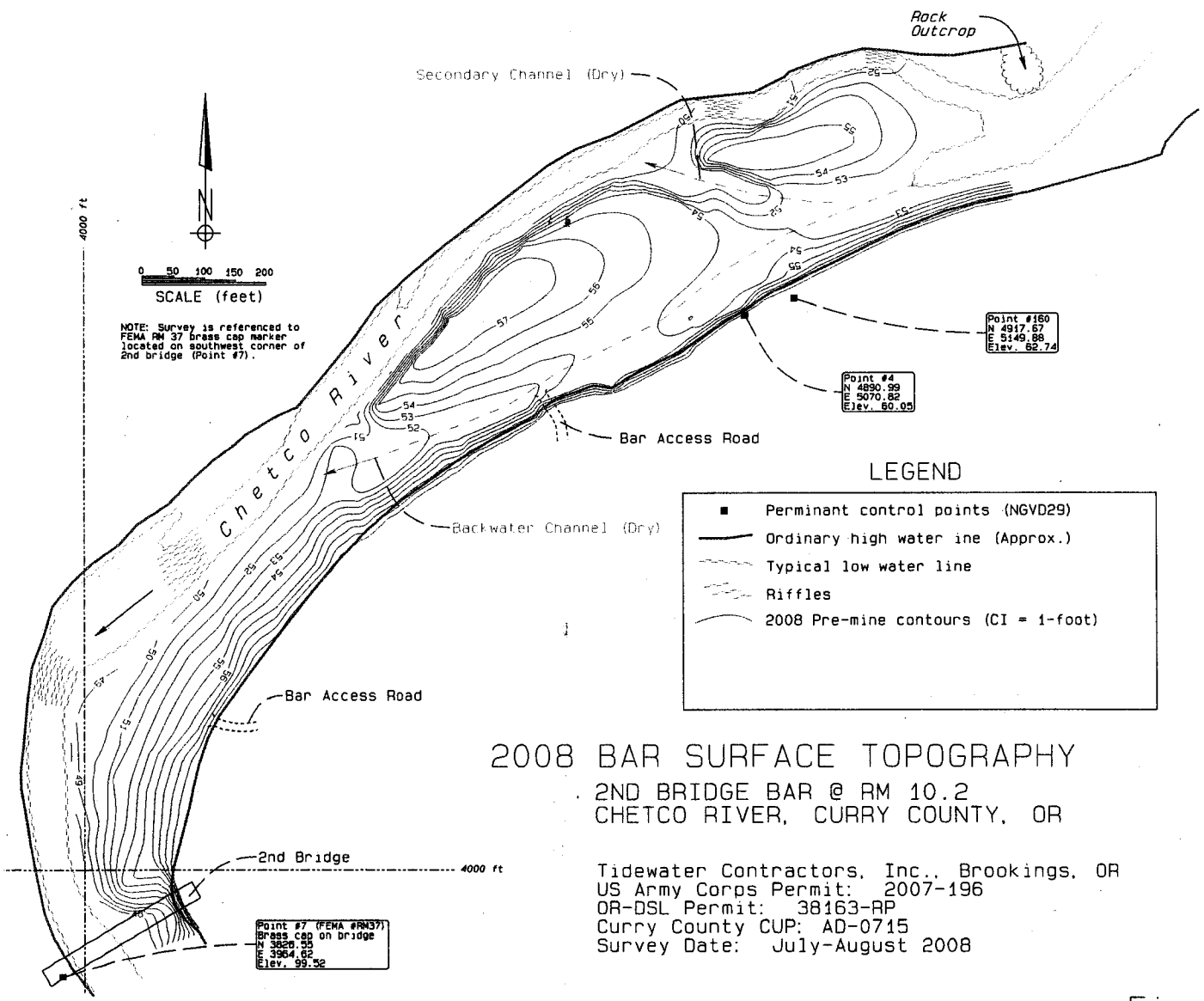


FIGURE 3

NWP-2008-71

Scale: 1 inch = 1000 feet



2008 BAR SURFACE TOPOGRAPHY

2ND BRIDGE BAR @ RM 10.2
CHETCO RIVER, CURRY COUNTY, OR

Tidewater Contractors, Inc., Brookings, OR
US Army Corps Permit: 2007-196
OR-DSL Permit: 38163-RP
Curry County CUP: AD-0715
Survey Date: July-August 2008

NWP-2008-71

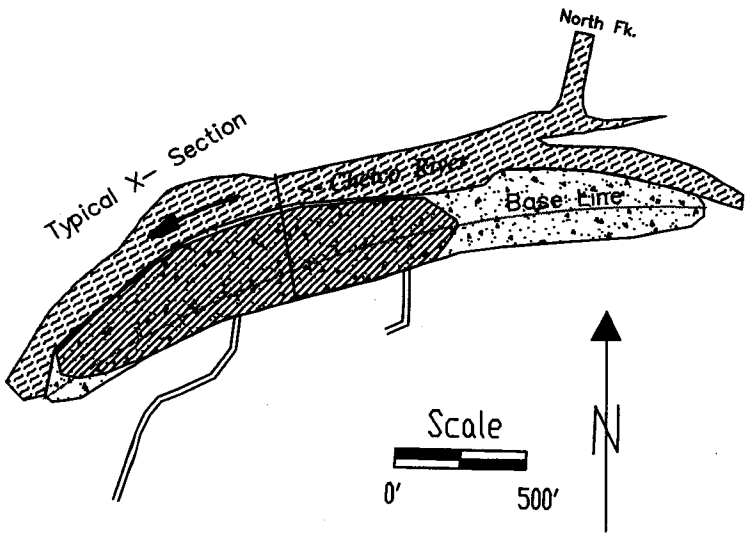
Figure 4

Freeman Rock Chetco River Operation

Bar Removal: Typical Diagram

SECTION 35&34, T40S, R13W W.M. CURRY COUNTY, OREGON

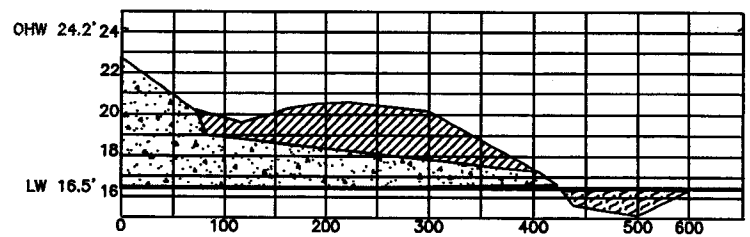
Typical Plan View



Legend

- Gravel Bar
- Removal Area
- Water
- Haul Route

Typical Cross Section View



Exaggerated Scale: Vertical Scale is 1"=24'
Horizontal Scale is 1"=180'

Legend

- Removal Area
- Water
- OHW High Water Level
- LW Low Water Level

NWP-2008-71

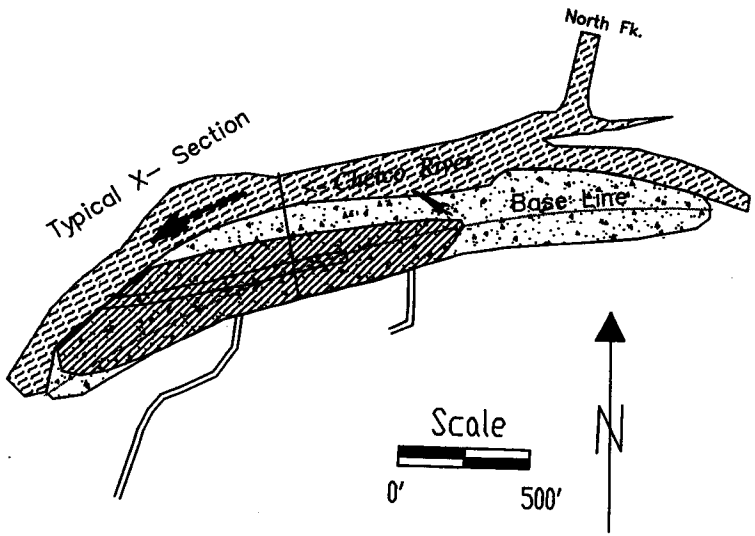
10/2008 WHY

FIGURE 5

Freeman Rock Chetco River Operation
Backwater or Horseshoe Construction: Typical Diagram

SECTION 35&34, T40S, R13W W.M. CURRY COUNTY, OREGON

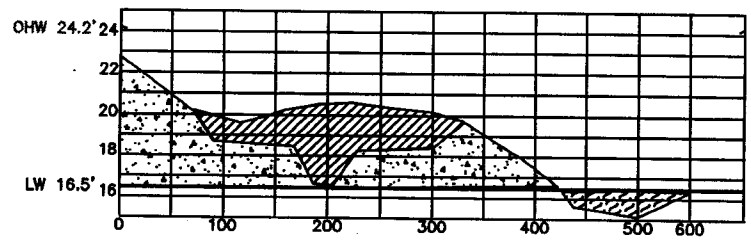
Typical Plan View



Legend

- Gravel Bar
- Removal Area
- Water
- Haul Route

Typical Cross Section View



Exaggerated Scale: Vertical Scale is 1"=24'
Horizontial Scale is 1"=180'

Legend

- Removal Area
- Water
- OHW High Water Level
- LW Low Water Level

NWP-2008-71

FIGURE 6

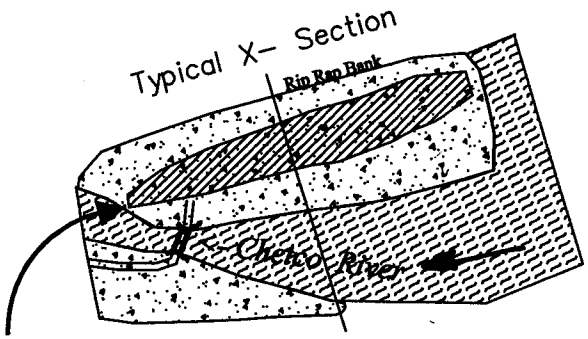
10/2008 WHY

Freeman Rock Chetco River Operation

Backwater or Trench Construction: Typical Diagram

SECTION 35&34, T40S, R13W W.M. CURRY COUNTY, OREGON

Typical Plan View



Lower end to be designed to breach with over-topping from the fall freshet

Scale

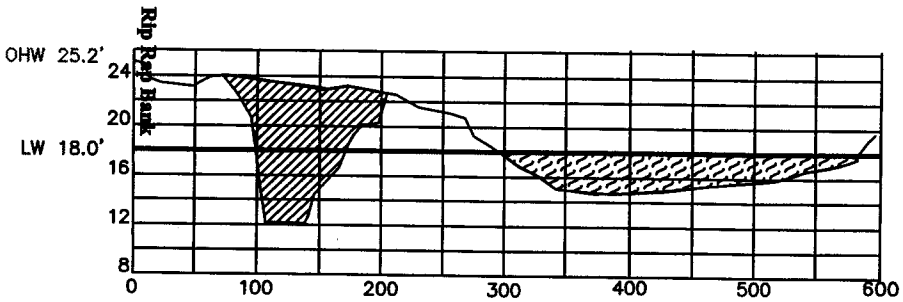
0′ 500′

N

Legend

- Gravel Bar
- Removal Area
- Water
- Haul Route
- Temporary Bridge Crossing

Typical Cross Section View



Exaggerated Scale: Vertical Scale is 1″=16′
Horizontal Scale is 1″=160′

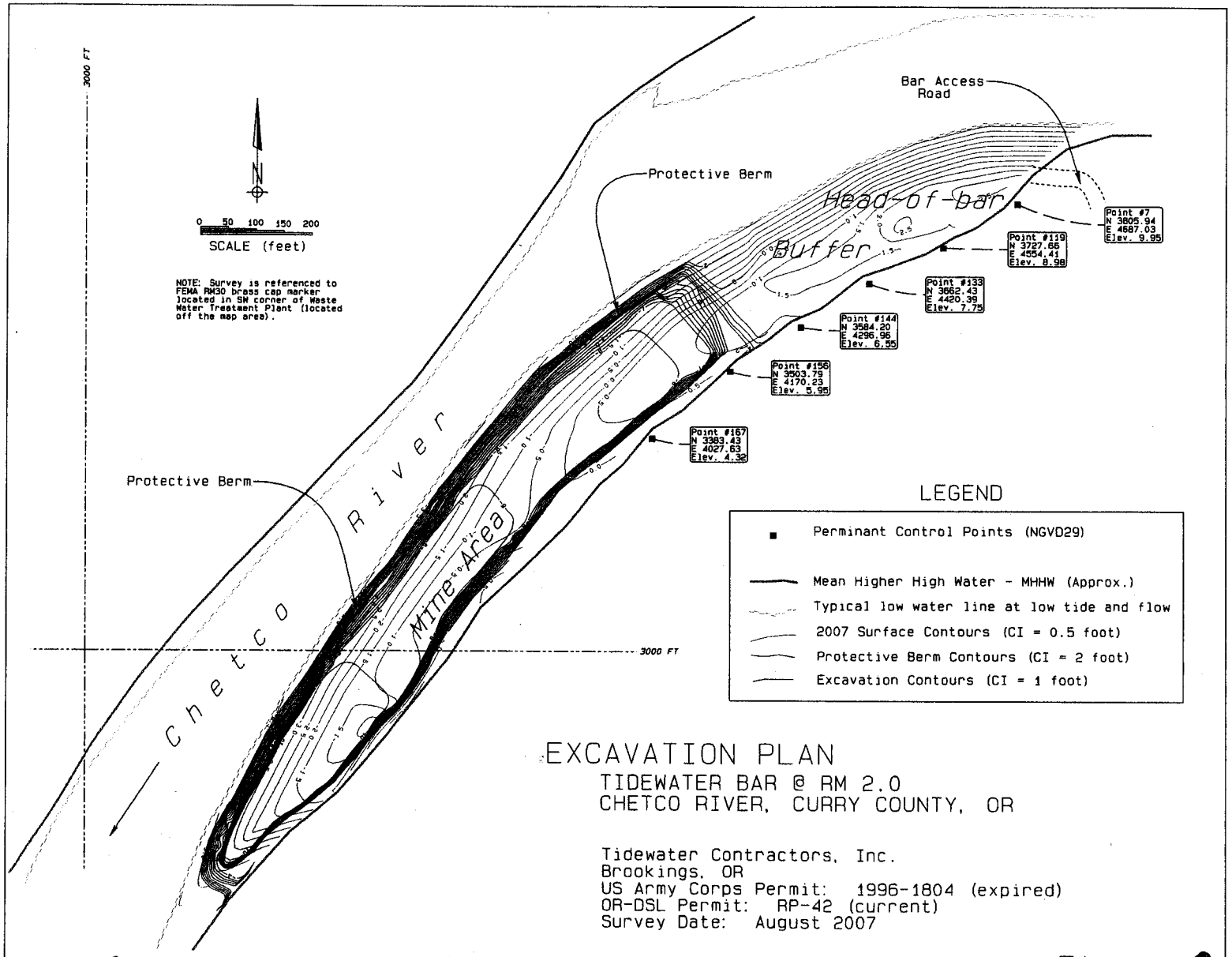
Legend

- Removal Area
- Water
- OHW High Water Level
- LW Low Water Level

2007, WHY

NWP-2008-71

FIGURE 7



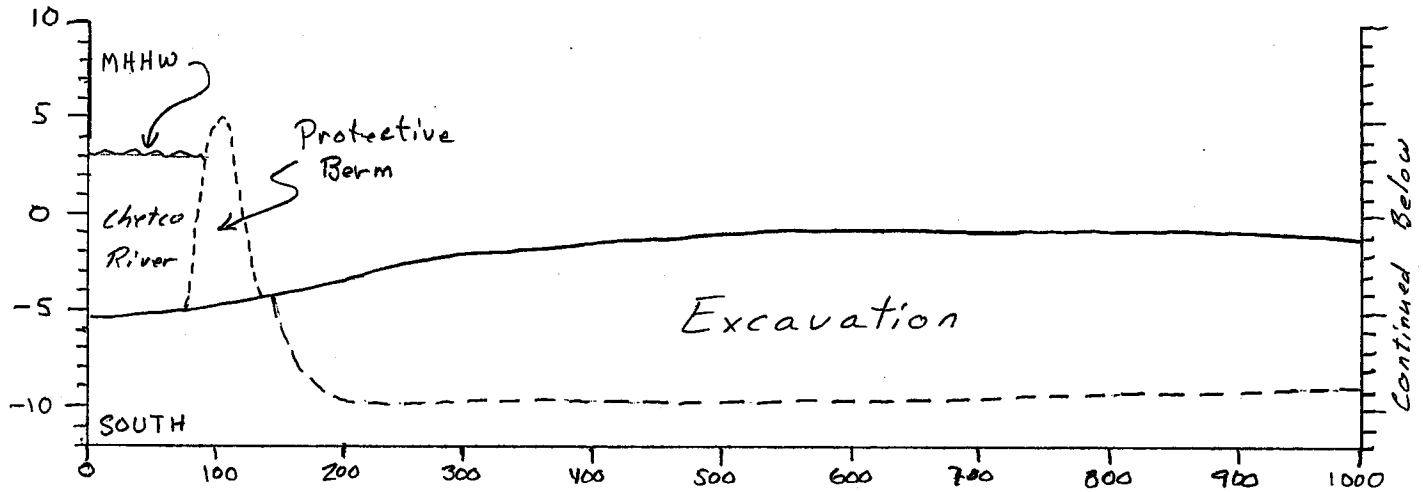
EXCAVATION PLAN

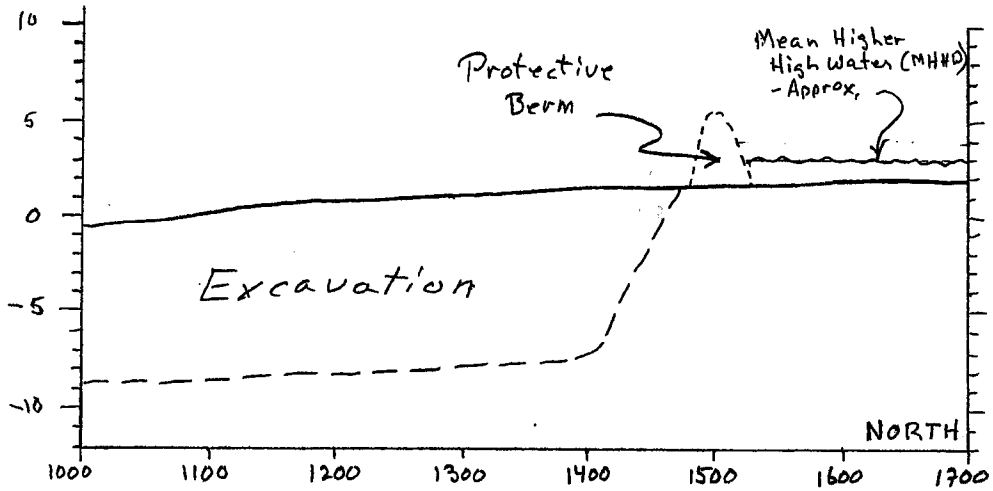
TIDEWATER BAR @ RM 2.0
CHETCO RIVER, CURRY COUNTY, OR

Tidewater Contractors, Inc.
Brookings, OR
US Army Corps Permit: 1996-1804 (expired)
OR-DSL Permit: RP-42 (current)
Survey Date: August 2007

NWP-2008-71

Figure 8





Scale (1:15)::
Vertical 1 in = 10 ft
Horizontal 1 in = 150 ft
Section Units = Feet

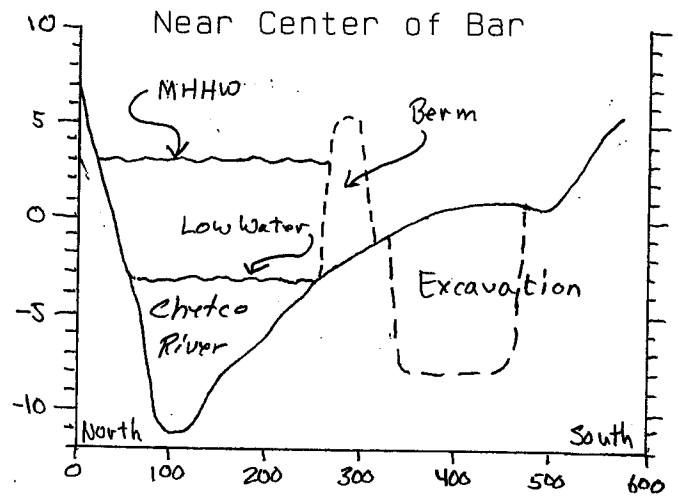
TYPICAL LONGITUDINAL PROFILE THROUGH EXCAVATION

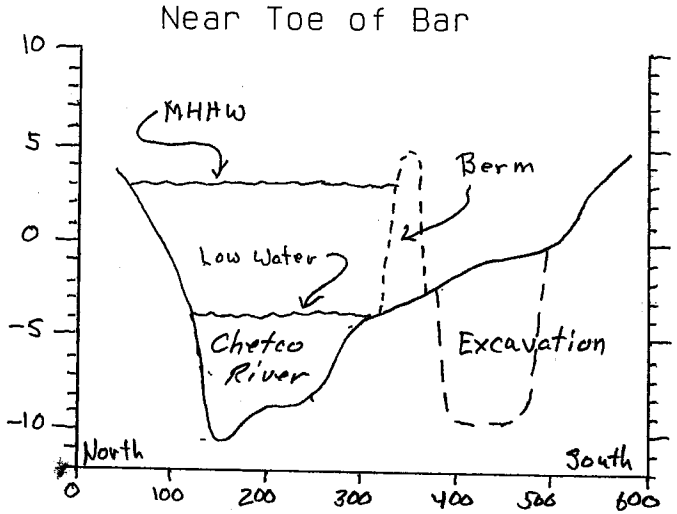
TIDEWATER BAR @ RM 2.0
CHETCO RIVER, CURRY COUNTY, OR

Tidewater Contractors, Inc.
Brookings, OR
US Army Corps Permit: 1996-1804 (expired)
OR-DSL Permit: RP-42 (current)
Survey Date: August 2007

NWP-2008-71

Figure 9





Scale (1:10):
Vertical: 1 in = 10 ft
Horizontal: 1 in = 100 ft
Section Units = Feet

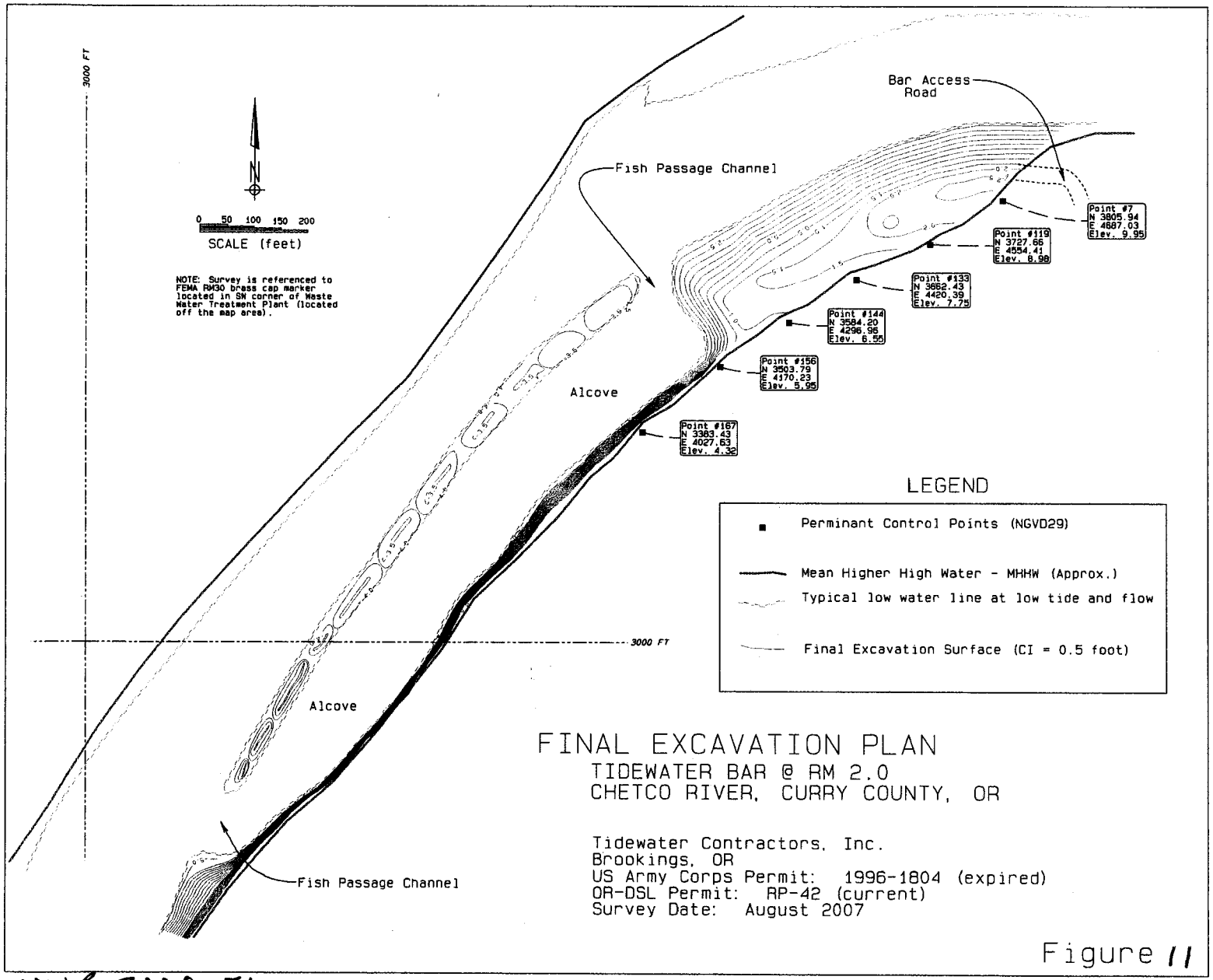
TYPICAL TRANSVERSE PROFILES ACROSS EXCAVATION

TIDEWATER BAR @ RM 2.0
CHETCO RIVER, CURRY COUNTY, OR

Tidewater Contractors, Inc.
Brookings, OR
US Army Corps Permit: 1996-1804 (expired)
OR-DSL Permit: RP-42 (current)
Survey Date: August 2007

Figure 10

NWP-2008-71



FINAL EXCAVATION PLAN

TIDEWATER BAR @ RM 2.0
CHETCO RIVER, CURRY COUNTY, OR

Tidewater Contractors, Inc.
Brookings, OR
US Army Corps Permit: 1996-1804 (expired)
OR-DSL Permit: RP-42 (current)
Survey Date: August 2007

Figure 11

NWP-2008-71