



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

REPLY TO  
ATTENTION OF:

February 9, 2005

Planning, Environmental, and Regulatory Division  
Regulatory Branch

SUBJECT: Project Number 200400475

Ms. Lindi Clayton  
Environmental Scientist  
Carter and Burgess, Incorporated  
777 Main Street  
P.O. Box 901058  
Fort Worth, Texas 76101-2058

Dear Ms. Clayton:

TRBP, L.P. 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 and operation of a large commercial and retail development located at the southwest corner of the intersection of U. S. Interstate Highway 35W and Interstate Loop 820 North in the City of Fort Worth, Tarrant County, Texas, in accordance with Permit Number 200400475. 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 Ms. Jessica Napier at the address above or telephone (817) 886-1745.

Sincerely,



Wayne A. Lea  
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 F. 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 PERMIT

Permittee TRBP, LP

Permit No. 200400475

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.

Project Description: Discharge of approximately 17,655 cubic yards of dredged and fill material into 3.27 acres of waters of the United States (3,013 linear feet of intermittent stream (1.90 acres) and 1.37 acres of adjacent wetlands) associated with the construction of a large commercial and retail development. Elements of the project include realigning 3,013-linear feet of ephemeral tributaries to Fossil Creek and adjacent wetlands and implementation of a mitigation plan concurrently with construction and operation of the project to offset adverse impacts to waters of the United States.

Project Location: The large commercial and retail development would be located on a 120-acre tract of land at the southwest corner of the intersection of U. S. Interstate Highway 35W (I-35-W) and Interstate Loop 820 North on three unnamed ephemeral tributaries of Fossil Creek and adjacent wetlands in the City of Fort Worth, Tarrant County, Texas. The proposed project would be located approximately at UTM coordinates 658320.39 East and 3634347.40 North (Zone 14) on the Haltom City 7.5-minute USGS quadrangle map in the USGS Hydrologic Unit 12030102.

Permit Conditions: In accordance with attached Sheets 1-10 of 10 and Texas Commission on Environmental Quality Section 401 Water Quality Certification, Pages 1-3 of 3, dated January 28, 2005.

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2010. 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 4 (Special Conditions)

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 unpermitted 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 unpermitted 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

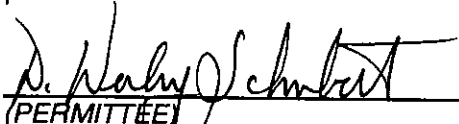
inaccurate (See 4 above).

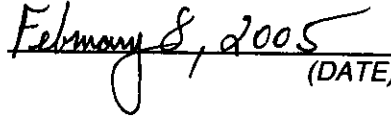
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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.

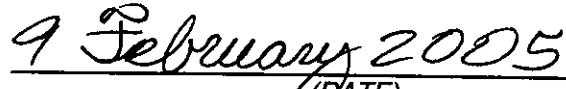
Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
\_\_\_\_\_  
(PERMITTEE)  
Wesley Schubert  
TRBP, L.P.

  
\_\_\_\_\_  
(DATE)

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

(FOR THE)   
\_\_\_\_\_  
(DISTRICT ENGINEER)  
John R. Minahan  
Colonel, Corps of Engineers

  
\_\_\_\_\_  
(DATE)

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.

\_\_\_\_\_  
(TRANSFEEE)

\_\_\_\_\_  
(DATE)

Special Conditions  
Permit Number 200400475

1. The permittee shall implement and abide by the mitigation plan titled "Northern Cross Development Natural Resources/Impacts Assessment and Mitigation Plan" by Carter and Burgess, Inc., dated January 4, 2005. The permittee shall implement the mitigation plan concurrently with the construction of the project and complete the initial construction and plantings associated with the mitigation work prior to completion of construction of the project. Completion of all elements of this mitigation plan is a requirement of this permit.
2. The permittee shall be responsible for maintaining the mitigation areas enhanced and created to comply with Special Condition 1 above until such time as the permittee provides documentation to, and receives verification from, the USACE, that areas within the mitigation area intended to become:
  - a. waters of the United States meet the definition of a waters of the United States under the Regulatory Program regulations applicable on the date of this letter;
  - b. wetlands that are waters of the United States meet the definition of a wetland under the Regulatory Program regulations applicable on the date of this letter;
  - c. waters of the United States are functioning as the intended type of waters of the United States and at an acceptable level of ecological performance; and
  - d. buffer and riparian zones and other areas integral to the enhancement of the aquatic ecosystem are functioning as the intended type of ecosystem component and at an acceptable level of ecological performance.
3. The permittee shall dedicate in perpetuity by deed restriction, as a wetland and stream mitigation area, the approximately 9.64 acre mitigation area identified in the mitigation referenced in special condition 1 above. The only exceptions to the deed restriction shall be easements in existence on the date of this permit. The mitigation area shall not be disturbed, except by those activities that would not adversely affect the intended extent, condition, and function of the mitigation area. Unless otherwise specified, livestock grazing, mowing, and similar activities are not allowed. The permittee shall survey the mitigation area, develop an appropriate deed restriction for the surveyed area, submit the draft deed restriction to the USACE for review and approval, and record the USACE approved deed restriction with the County Clerk. The permittee shall provide a copy of the recorded deed restriction to the USACE by May 1, 2005. The restriction shall not be removed from the deed or modified without written approval of the USACE and conveyance of any interest in the property must be subject to the deed restriction.
4. The permittee shall retain a qualified mitigation specialist (biologist, ecologist or other specialist qualified in wetland restoration, enhancement, and creation work), to oversee project construction to the extent necessary to ensure compliance with all mitigation requirements of this permit. The permittee shall have this mitigation specialist conduct all monitoring and produce any required monitoring reports.
5. The permittee shall establish and implement a self-monitoring program that includes the following actions:
  - a. designation, in writing, of a responsible party to coordinate with the USACE concerning on-site inspections and compliance with permit conditions;
  - b. notification to the USACE of the schedule of activities for each phase of the project at least 30 days prior to the start of soil-disturbing activities that would affect waters of the United States; and
  - c. implementation of a reporting program that shall include annual written compliance reports to the USACE, due October 1 for annual reporting each year, beginning in October 1, 2005. The permittee shall include in each report any schedule changes and a summary of all activities that occurred during the reporting period, including documentation of the permittee's compliance with the permit conditions and progress and/or completion of all authorized work, including mitigation activities. Each report shall address whether disturbed areas, such as borrow ditches, road embankments, stream banks, road crossings, and temporary impact areas are revegetating adequately

and not suffering erosion damage. The permittee shall detail in the first report the pre-construction conditions of the project area. The permittee shall include in each report photographs, maps, and a description of the impacts to waters of the United States. Compliance reports are required even if no work is conducted during the reporting period. The permittee shall submit compliance reports until the USACE verifies that the permittee has successfully completed all compensatory mitigation plan requirements, the mitigation areas have met the standards of special condition 1, and all authorized construction activities have been either completed or deleted from the project.

**Attachment 1 - Dredge and Fill Certification**  
**USACE Permit No. 200400475**  
**January 28, 2005**

**Page 1 of 3**

**WORK DESCRIPTION:** As described in the public notice dated September 17, 2004, and the January 24, 2005, Decision Document.

**SPECIAL CONDITIONS:** None

**GENERAL:** This certification, issued pursuant to the requirements of Title 30, Texas Administrative Code, Chapter 279, is restricted to the work described in the application or joint public notice and shall expire five years from the date of issuance of the Corps of Engineers (COE) permit. This certification may be extended to any minor revision of the COE permit when such change(s) would not result in an impact on water quality. The Texas Commission of Environmental Quality (TCEQ) reserves the right to require full joint public notice on a request for minor revision. The applicant is hereby placed on notice that any activity conducted pursuant to the COE permit which results in a violation of the state's surface water quality standards may result in an enforcement proceeding being initiated by the TCEQ or a successor agency.

**STANDARD PROVISIONS:** These following provisions attach to any permit issued by the Corps of Engineers and shall be followed by the permittee or any employee, agent, contractor, or subcontractor of the permittee during any phase of work authorized by a Corps permit.

1. The water quality of wetlands shall be maintained in accordance with all applicable provisions of the Texas Surface Water Quality Standards including the General, Narrative, and Numerical Criteria.
2. The applicant shall not engage in any activity which will cause surface waters to be toxic to man, aquatic life, or terrestrial life.
3. Permittee shall employ measures to control spills of fuels, lubricants, or any other materials to prevent them from entering a watercourse. All spills shall be promptly reported to the TCEQ, Emergency Spill Response, at (512) 463-7727.
4. Sanitary wastes shall be retained for disposal in some legal manner. Marinas and similar operations which harbor boats equipped with marine sanitation devices shall provide state/federal permitted treatment facilities or pump out facilities for ultimate transfer to a permitted treatment facility. Additionally, marinas shall display signs in appropriate locations advising boat owners that the discharge of sewage from a marine sanitation device to waters in the state is a violation of state and federal law.
5. Materials resulting from the destruction of existing structures shall be removed from the water or areas adjacent to the water and disposed of in some legal manner.
6. A discharge shall not cause substantial and persistent changes from ambient conditions of turbidity or color. The use of silt screens or other appropriate methods is encouraged to confine suspended particulates.
7. The placement of any material in a watercourse or wetlands shall be avoided and placed there only with the approval of the Corps when no other reasonable alternative is available. If work within a wetland is unavoidable, gouging or rutting of the substrate is prohibited. Heavy equipment shall be placed on mats to protect the substrate from gouging and rutting if necessary.



**Attachment 1 - Dredge and Fill Certification**  
**USACE Permit No. 200400475**  
**January 28, 2005**

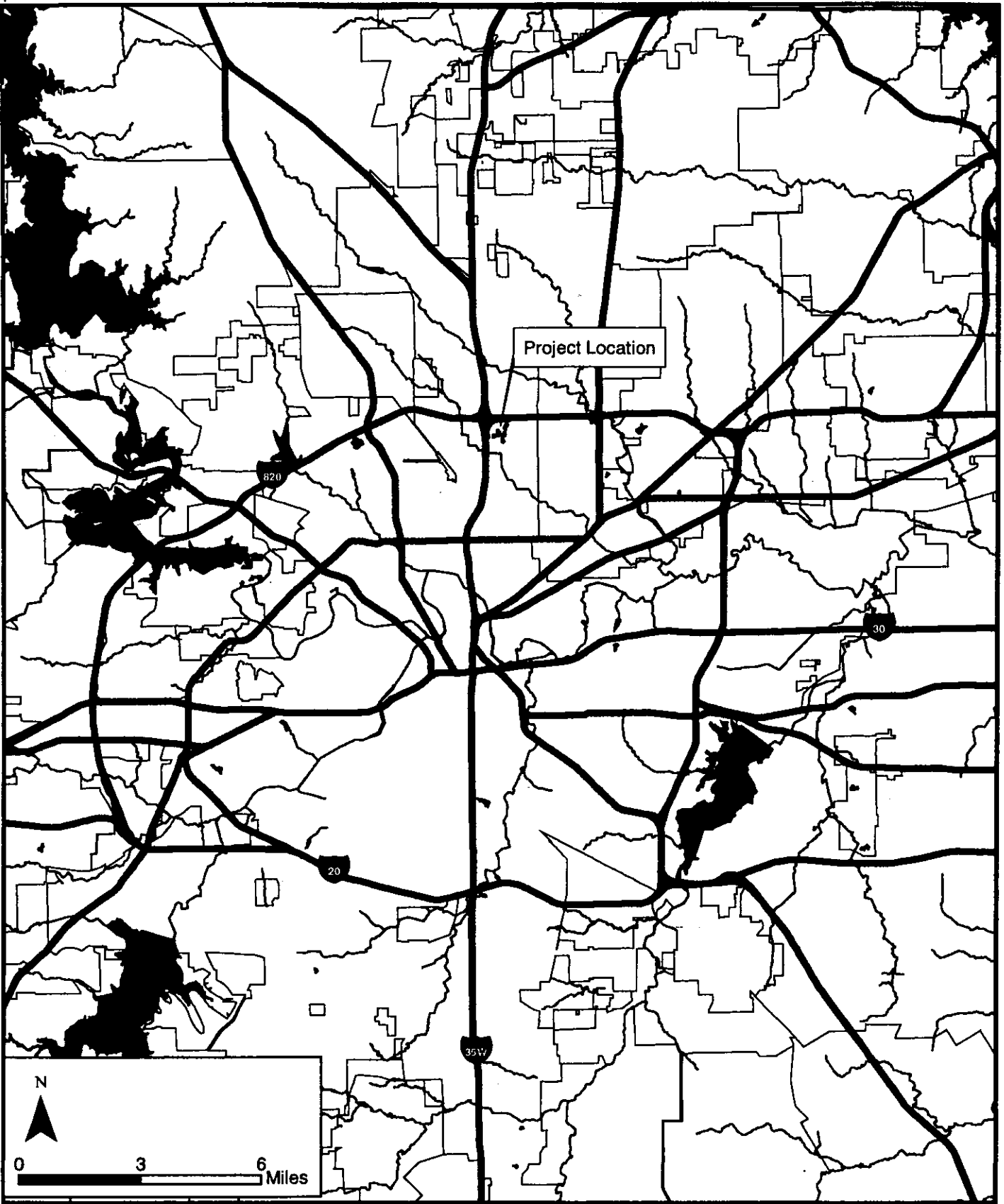
**Page 2 of 3**

8. Dredged Material Placement: Dredged sediments shall be placed in such a manner as to prevent any sediment runoff onto any adjacent property not owned by the applicant. Liquid runoff from the disposal area shall be retained on-site or shall be filtered and returned to the watercourse from which the dredged materials were removed. Except for material placement authorized by this permit, sediments from the project shall be placed in such a manner as to prevent any sediment runoff into waters in the state, including wetlands.
9. If contaminated spoil that was not anticipated or provided for in the permit application is encountered during dredging, dredging operations shall be immediately terminated and the TCEQ, Emergency Spill Response, shall be contacted at (512) 463-7727. Dredging activities shall not be resumed until authorized by the Commission.
10. Contaminated water, soil, or any other material shall not be allowed to enter a watercourse. Noncontaminated storm water from impervious surfaces shall be controlled to prevent the washing of debris into the waterway.
11. Storm water runoff from construction activities that result in a disturbance of one or more acres, or are a part of a common plan of development that will result in the disturbance of one or more acres, must be controlled and authorized under Texas Pollutant Discharge Elimination System (TPDES) general permit TXR150000. A copy of the general permit, application (notice of intent), and additional information is available at: <http://www.tnrcc.state.tx.us/permitting/waterperm/wwperm/construct.html> or by contacting the TCEQ Storm Water & Pretreatment Team at (512) 239-4433.
12. Upon completion of earthwork operations, all temporary fills shall be removed from the watercourse/wetland, and areas disturbed during construction shall be seeded, ripped, or given some other type of protection to minimize subsequent soil erosion. Any fill material shall be clean and of such composition that it will not adversely affect the biological, chemical, or physical properties of the receiving waters.
13. Disturbance to vegetation will be limited to only what is absolutely necessary. After construction, all disturbed areas will be revegetated to approximate the pre-disturbance native plant assemblage.
14. Where the control of weeds, insects, and other undesirable species is deemed necessary by the permittee, control methods which are nontoxic to aquatic life or human health shall be employed when the activity is located in or in close proximity to water, including wetlands.
15. Concentrations of taste and odor producing substances shall not interfere with the production of potable water by reasonable water treatment methods, impart unpalatable flavor to food fish including shellfish, result in offensive odors arising from the water, or otherwise interfere with reasonable use of the water in the state.
16. Surface water shall be essentially free of floating debris and suspended solids that are conducive to producing adverse responses in aquatic organisms, putrescible sludge deposits, or sediment layers which adversely affect benthic biota or any lawful uses.
17. Surface waters shall be essentially free of settleable solids conducive to changes in flow characteristics of stream channels or the untimely filling of reservoirs, lakes, and bays.

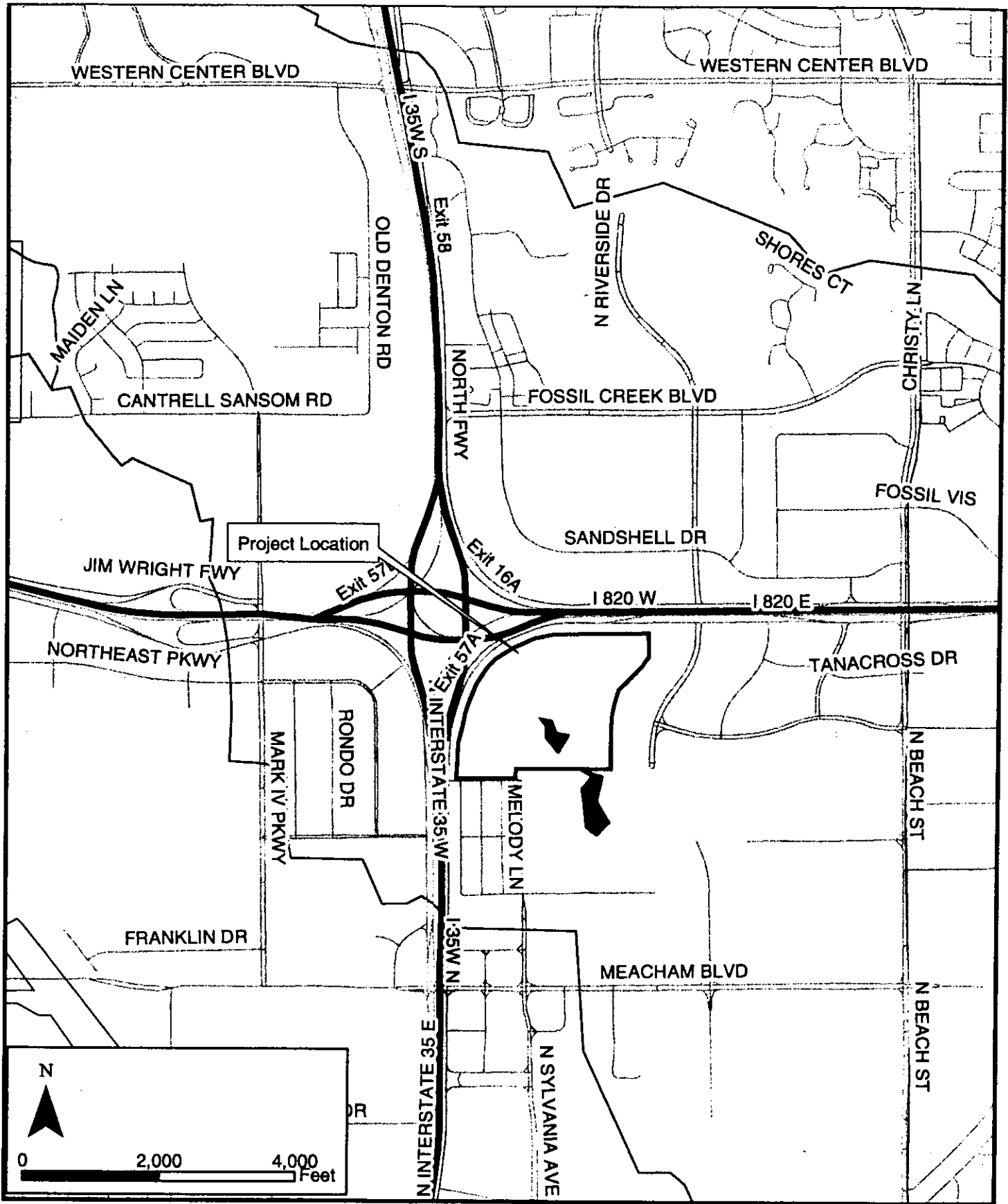
**Attachment 1 - Dredge and Fill Certification**  
**USACE Permit No. 200400475**  
**January 28, 2005**

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18. The work of the applicant shall be conducted such that surface waters are maintained in an aesthetically attractive condition and foaming or frothing of a persistent nature is avoided. Surface waters shall be maintained so that oil, grease, or related residue will not produce a visible film of oil or globules of grease on the surface or coat the banks or bottoms of the watercourse.
19. This certification shall not be deemed as fulfilling the applicant's/permittee's responsibility to obtain additional authorization/approval from other local, state, or federal regulatory agencies having special/specific authority to preserve and/or protect resources within the area where the work will occur.



<b>Carter=Burgess</b>	<b>Vicinity Map</b> Northern Cross Development Fort Worth, Texas August 2004 C&B Project No. 020832.020 USACE Project No 200400475	Source: NCTCOG	Sheet <b>1</b> of 10
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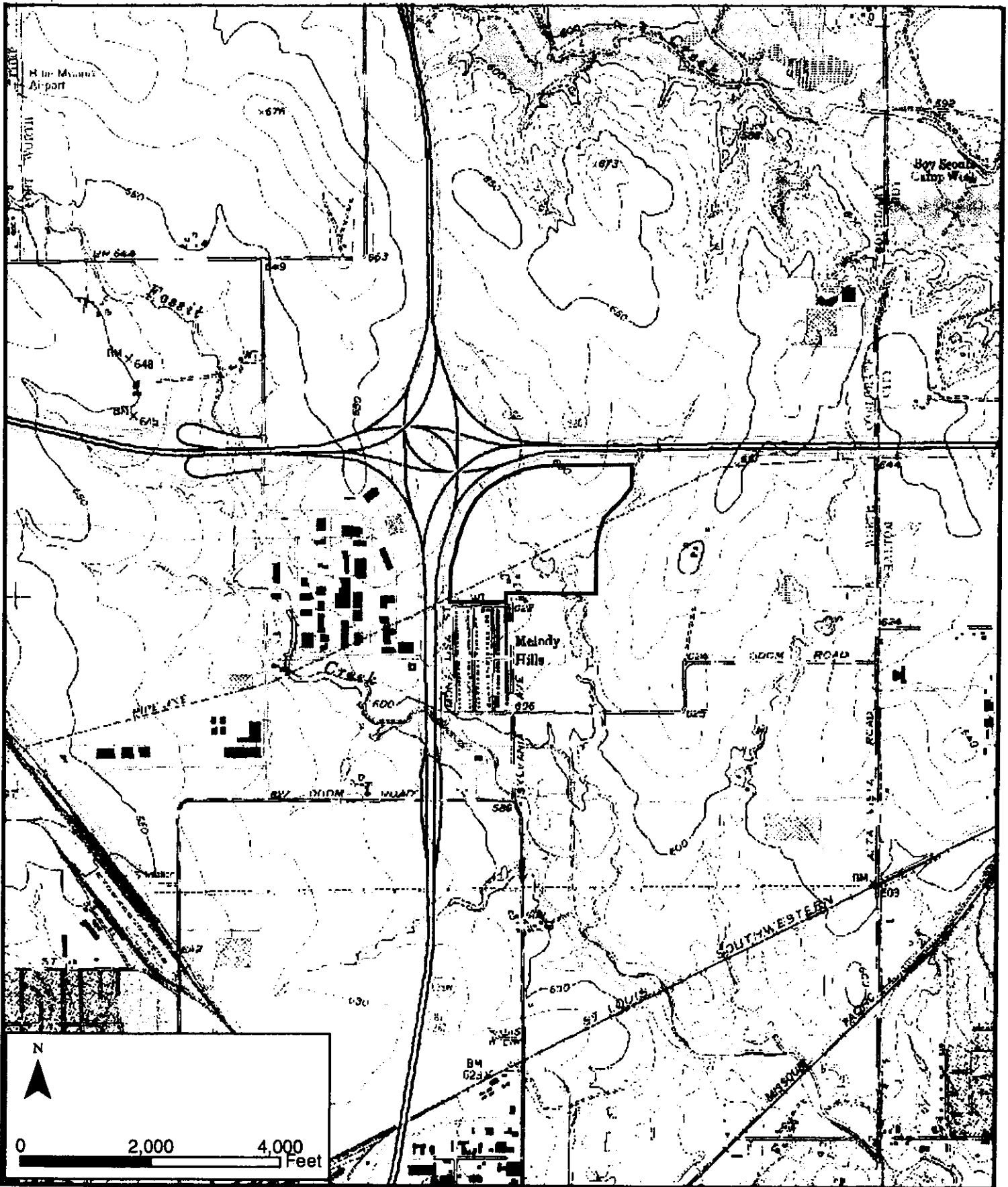


**Carter=Burgess**

**Local Area Map**  
 Northern Cross Development  
 Fort Worth, Texas  
 August 2004  
 C&B Project No. 020832.020  
 USACE Project No. 200400475


Source:  
 NCTCOG

Sheet  
**2**  
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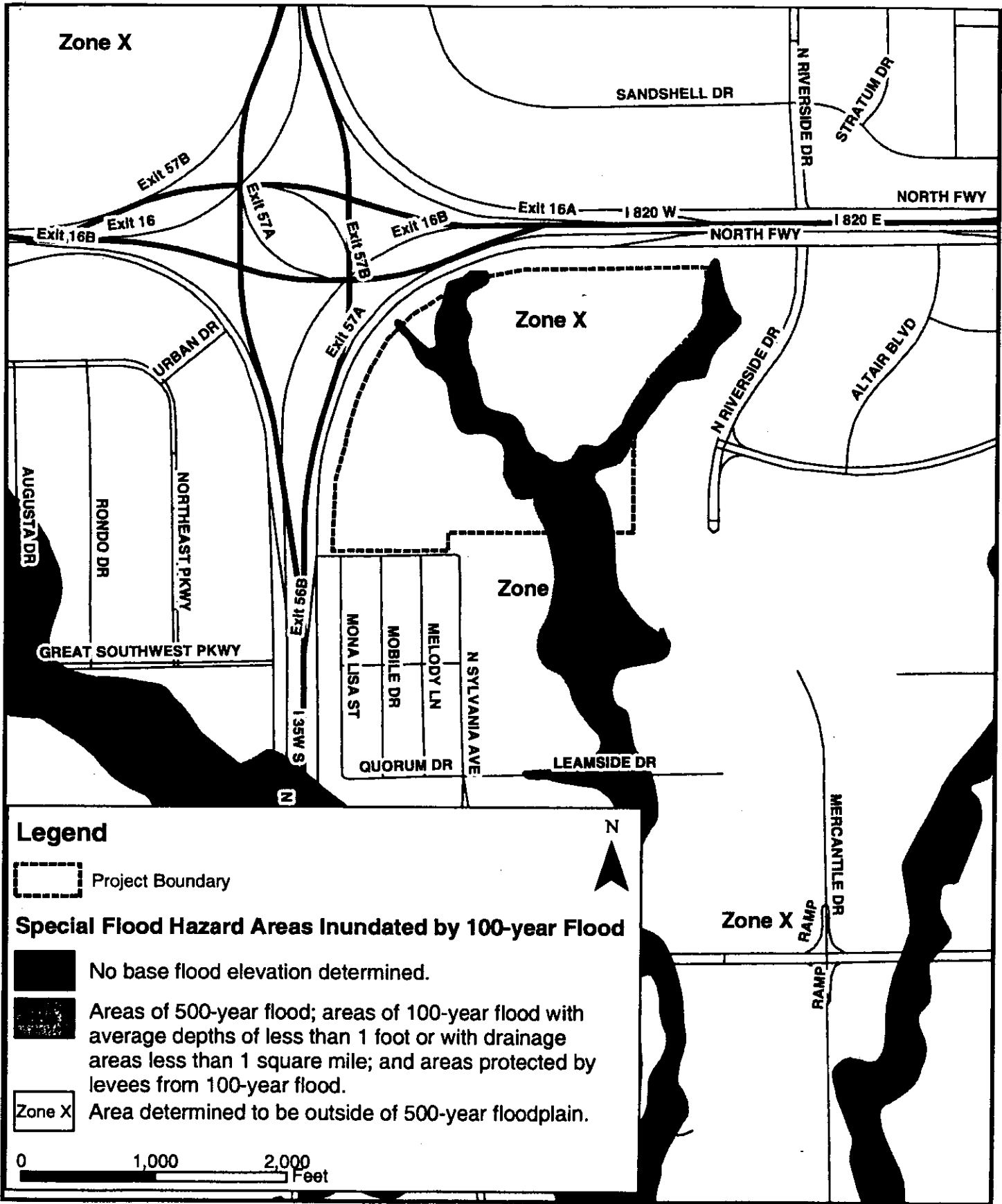


**Carter=Burgess**

**U.S.G.S Topographic Map**  
 Northern Cross Development  
 Fort Worth, Texas  
 August 2004  
 C&B Project No. 020832.020  
 7.5 Minute Series - Haltom City  
 Quadrangle 1981

**Legend**  
 Project Boundary  
 Source: TNRS  
 USACE Project No. 200400475

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**Carter=Burgess**

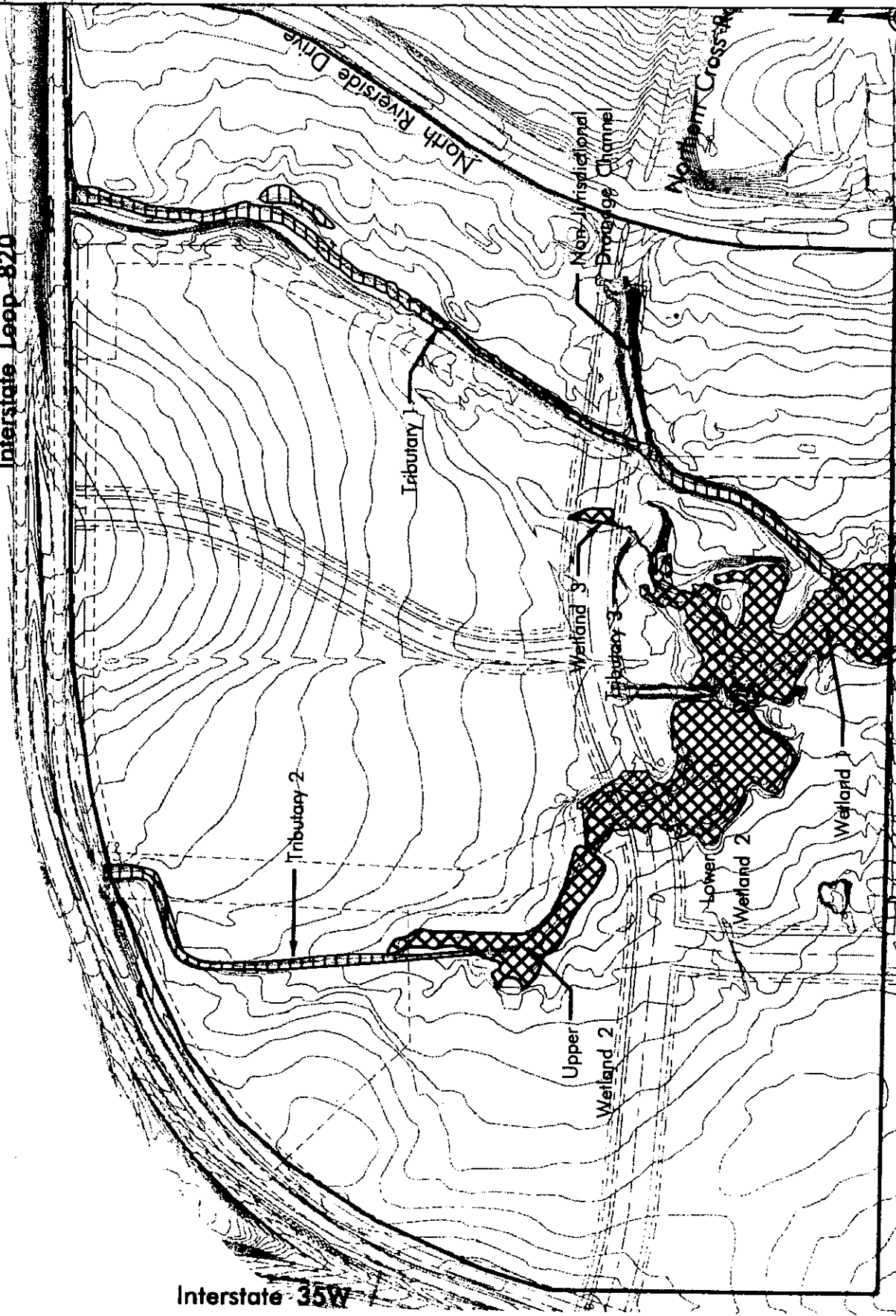
**Flood Insurance Rate Map**  
 Northern Cross Development  
 Fort Worth, Texas  
 August 2004  
 C&B Project No. 020832.020  
 USACE Project No. 200400475

Source: Federal Emergency Management Agency

**Sheet**  
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Interstate Loop 820

Interstate 35W



**LEGEND**

- Project Boundary
- Ephemeral Stream Channel - Waters of the U.S.
- Herbaceous Wetland - Waters of the U.S.
- Topographic Contours

**Carter::Burgess**

**Waters of the U.S.**  
 Northern Cross Development  
 Fort Worth, Texas  
 August 2004  
 USACE Project No. 200400475

Project No. 020832

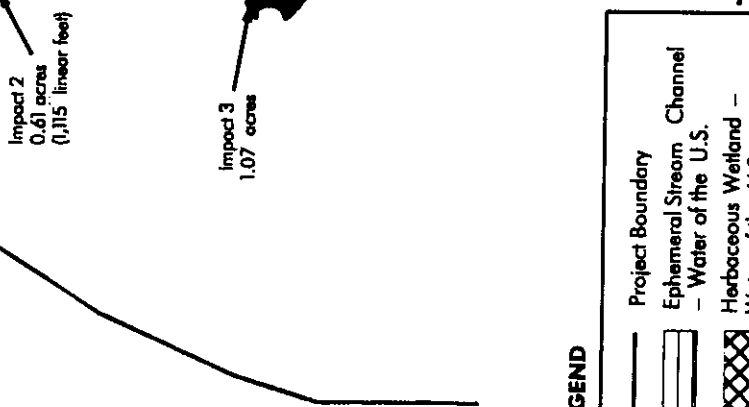
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Interstate Loop 820

North Riverside

Northern Cross Blvd.

Non-Jurisdictional  
Drainage Channel



Impact 2  
0.61 acres  
(1,115 linear feet)

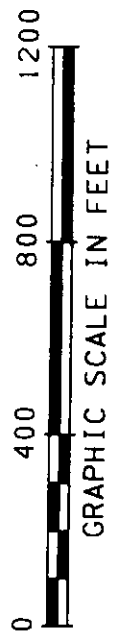
Impact 3  
1.07 acres

Impact 4  
0.25 acres

Impact 5  
0.02 acres

Impact 7  
0.51 acres  
668 linear feet

Impact 6  
0.03 acres



**LEGEND**

	Project Boundary
	Ephemeral Stream Channel - Water of the U.S.
	Herbaceous Wetland - Water of the U.S.
	Drainage Channel - Not a Water of the U.S.
	Impacts to Ephemeral Stream Channel - Waters of the U.S.
	Impacts to Herbaceous Wetland - Waters of the U.S.

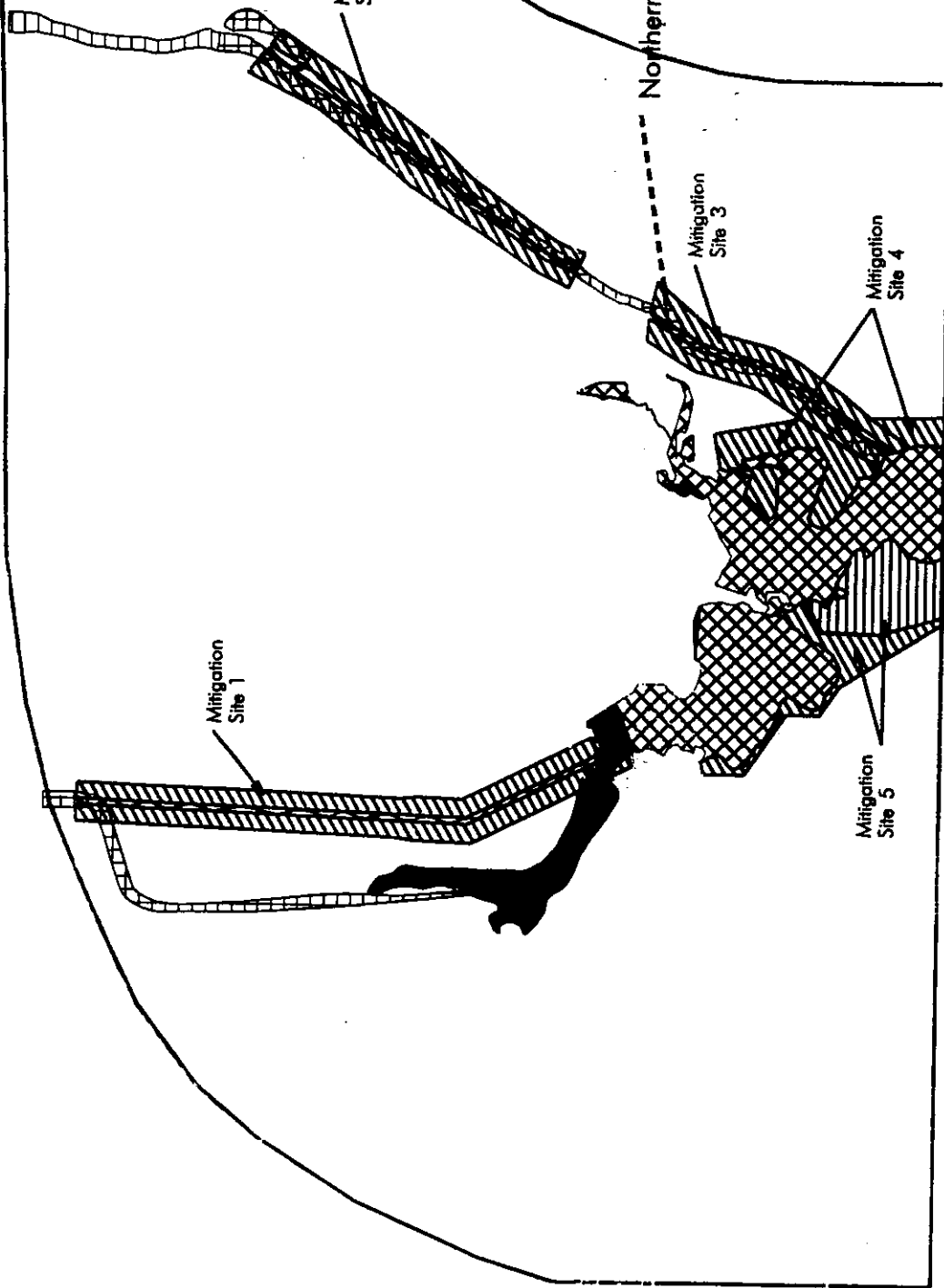
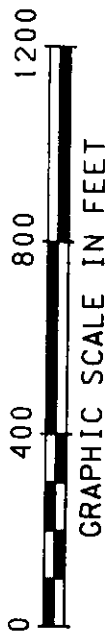
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Interstate Loop 820

North Riverside

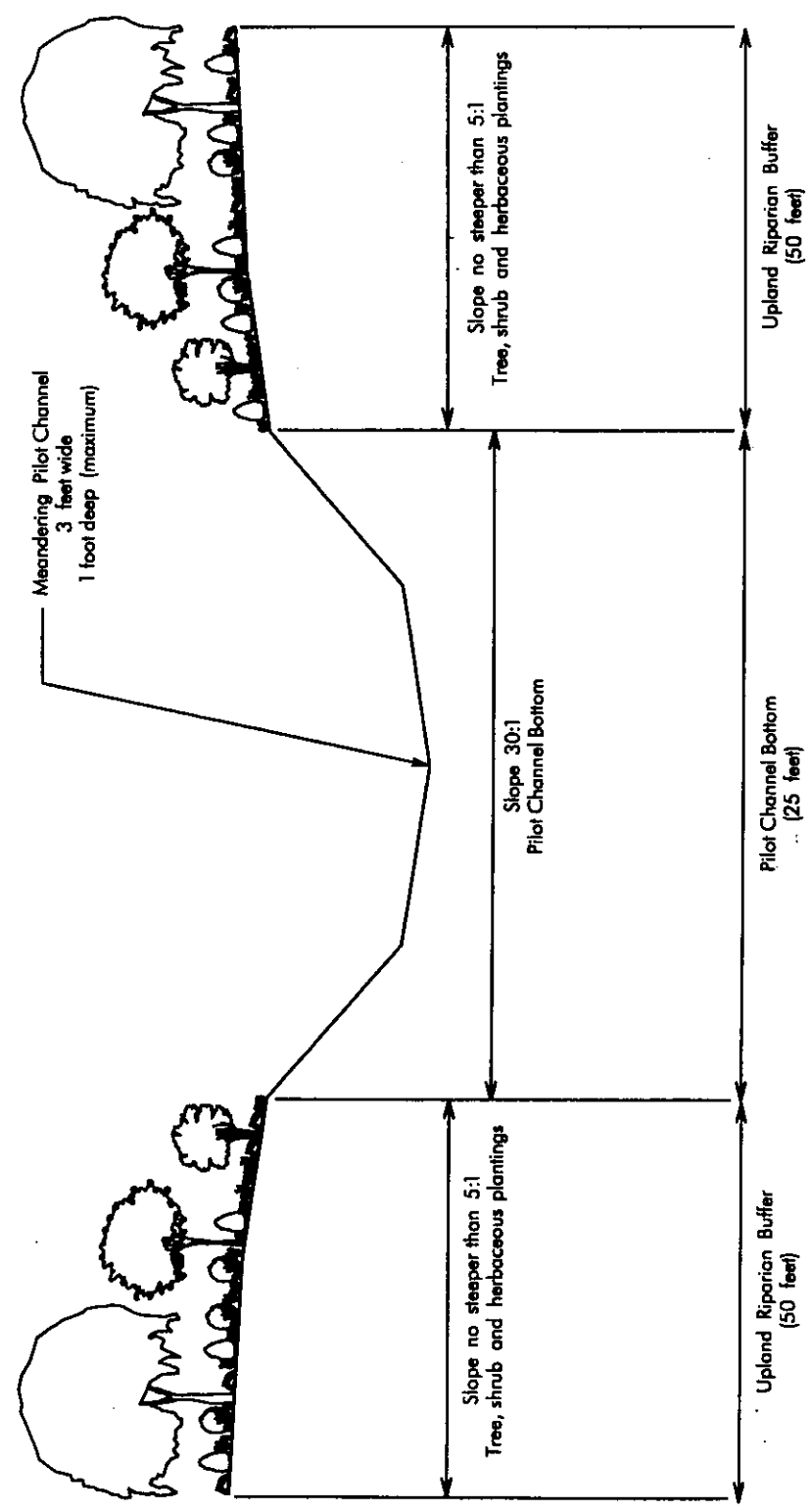
Northern Cross Blvd.



**LEGEND**

Project Boundary	Drainage Channel Not a Waters of U.S.	Upland Riparian Buffer
Ephemeral Stream Channel - Waters of the U.S.	Impacts Channel - Waters of the U.S.	Created Wetland
Herbaceous Wetland - Waters of the U.S.	Impacts Herbaceous Wetland - Waters of the U.S.	

# Typical Section A Mitigation Areas 1, 2, and 3: Pilot Channel & Upland Riparian Buffer



Not to Scale

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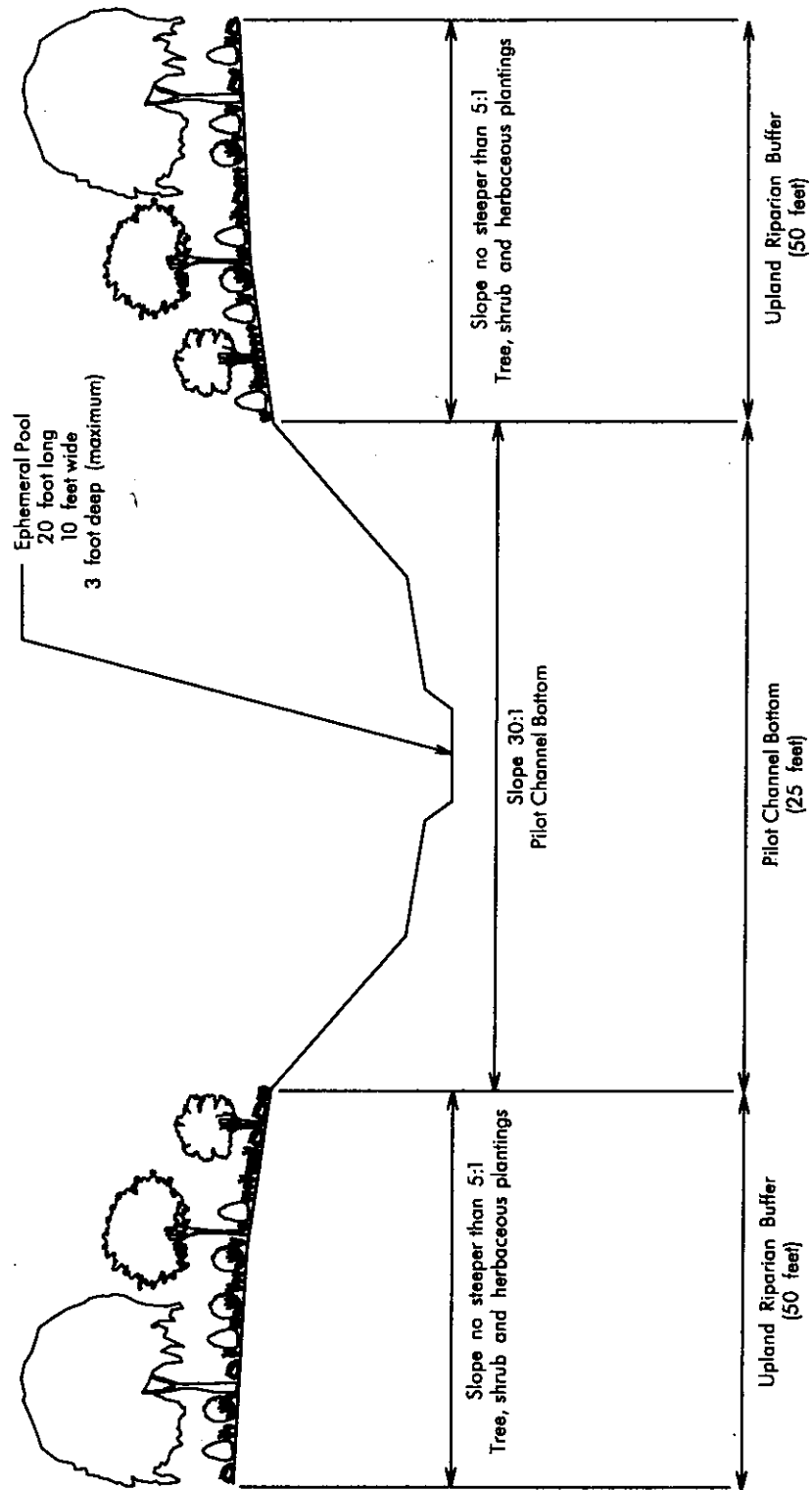
# Carter=Burgess

**Typical Cross Section**  
 Northern Cross Development  
 Fort Worth, Texas  
 August 2004  
 USACE Project No. 200400475

Project No. 020832.020

Sheet  
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Typical Section B  
 Mitigation Areas 1, 2 and 3:  
 Ephemeral Pool & Upland Riparian Buffer



Not to Scale

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**Carter::Burgess**

**Typical Cross Section**  
 Northern Cross Development  
 Fort Worth, Texas  
 August 2004  
 USACE Project No. 200400475

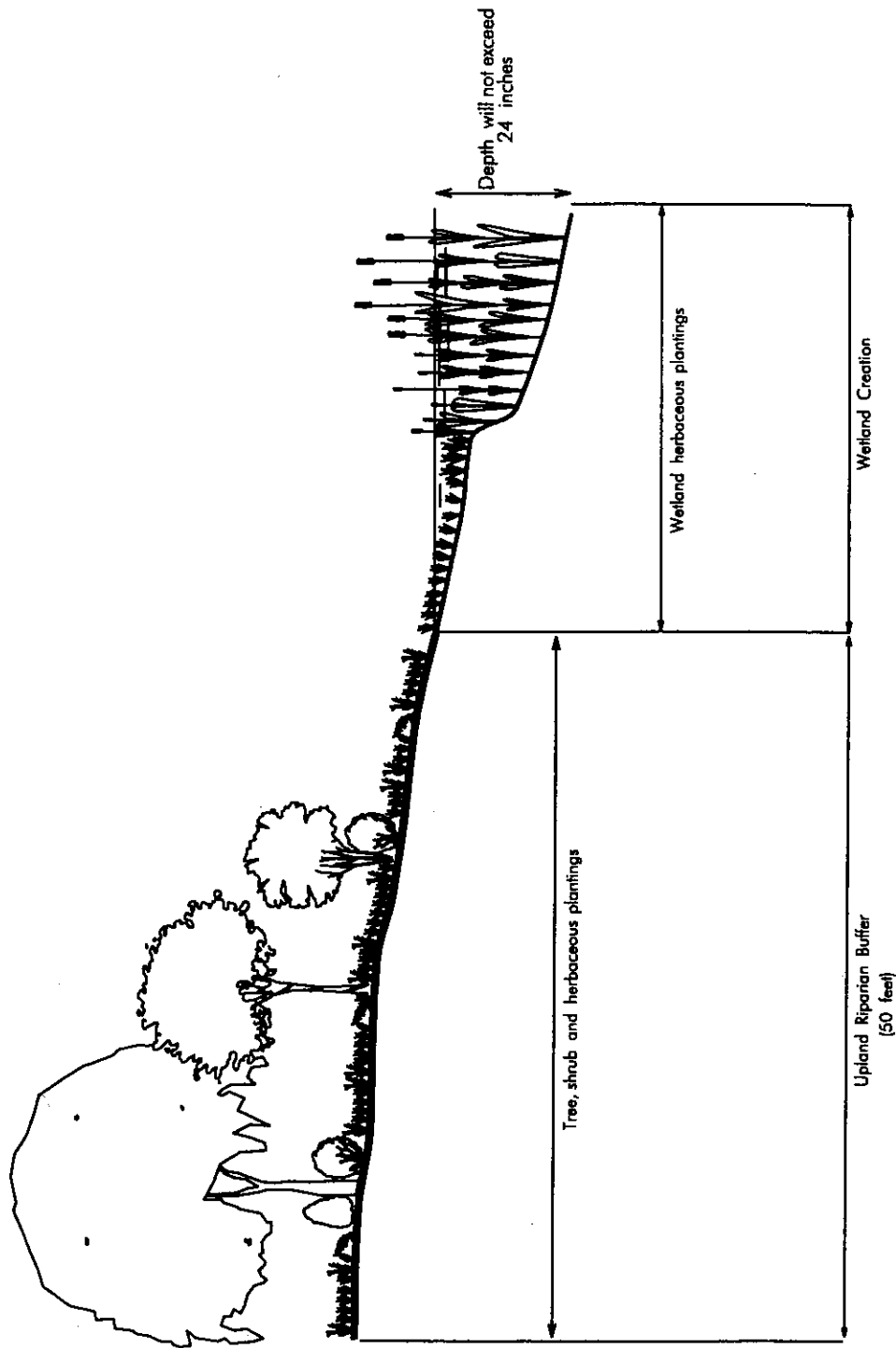
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Sheet

9

of 10

# Typical Section C Mitigation Area 5: Wetland Creation & Wooded Upland Buffer



Not to Scale

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**Carter=Burgess**

**Typical Cross Section**  
 Northern Cross Development  
 Fort Worth, Texas  
 August 2004  
 USACE Project No. 200400475

Project No. 020832.020

Sheet  
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