



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT
2488 EAST 81ST STREET
TULSA, OKLAHOMA 74137-4290

December 19, 2024

Regulatory Office

Mr. Kenneth Schwab
City of Broken Arrow
Assistant City Manager – Operations
485 N. Poplar Ave.
Broken Arrow, OK 74012

Dear Mr. Schwab:

Enclosed are two copies of the Department of the Army Permit No. SWT-2021-00533 for your proposal to install bank stabilization to facilitate the erosion control within a tributary of Covington Creek.

This letter contains an initial proffered permit for your proposed project. Please sign and return both copies as soon as possible. The permit will not be valid until signed by the District Engineer. The effective date will be the date the permit is signed by the District Engineer and a fully executed copy of the permit will then be sent to you.

Copies of the "Permittee Construction Schedule" and the "Permittee Compliance Certification" forms referenced in Special Conditions 1 and 2 will accompany the validated permit and final authorization letter.

If you object to this permit decision because of certain terms and conditions therein, you may request that the permit be modified accordingly under Corps regulations at 33 CFR 331. Enclosed is a copy of the combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form that explains your rights and options for this initial proffered permit. If you object to this permit decision you must submit a completed RFA form to the Tulsa District Office at:

Mr. Andrew R. Commer
Chief, Regulatory Office
Tulsa District Corps of Engineers
2488 East 81st Street
Tulsa, Oklahoma 74137-4290

Should you decide to submit a RFA form, it must be received at the above address by February 17, 2025 (within 60 days of the NAP). It is not necessary to submit a RFA form to the District Office if you do not object to the permit decision provided in this letter.

This project has been assigned the Identification No. SWT-2021-00533. Please refer to this number during future correspondence. If you have any questions, contact Ms. Eva Zaki-Dellitt at 918-669-7400.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew R. Commer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Andrew R. Commer
Chief, Regulatory Office

Enclosures

DEPARTMENT OF THE ARMY PERMIT

Permittee: Mr. Kenneth Schwab, City of Broken Arrow

Permit No.: SWT-2021-00533

Issuing Office: U.S. Army Corps of Engineers, Tulsa District, Regulatory Office

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: The project shall discharge approximately 53 cubic yards (cy) of permanent fill material into 1,355 linear feet (LF) of the left descending bank and 1,455 LF of the right descending bank of an unnamed tributary of Adams Creek (locally known as Covington Creek) for bank stabilization and erosion protection. The existing on-site material shall be used to regrade the banks at stable slopes, to maximum slope of 2: 1, including rip rap cover and slab sod. The rip rap would be approximately 24 inches thick, with the stone size of D50 \geq 18 inches, which has greater than or equal to 50% of the riprap stones with a diameter of 18 inches. Riprap shall be placed where the 100-year velocity of the tributary exceeds the erosive velocity of 6.0 feet per second.

A temporary low-water crossing shall be constructed, resulting in 8 cys of temporary fill into 16 LF of the tributary of Covington Creek, to provide access from the staging area on the left descending bank to the right descending bank. The temporary low-water crossing shall have 3-18" galvanized corrugated metal pipes with the D50 \geq 18-inch rip rap over it to allow equipment to pass without disturbing the tributary water. The pipes and rip rap will be laid on top of a geotextile to keep the materials from being embedded into the tributary bed and will also assist in the complete removal of the low water crossing at the completion of the project.

The proposed work, as described above and in Enclosures 1-8, will be accomplished by excavating and placing all material with a front-end loader and/or a tracked excavator. The staging area will be on the existing residential roadway next to the project access point at the end of the dead-end street stub adjacent to the tributary. All work will be coordinated and permitted with the local municipalities, which include the City of Broken Arrow and Wagoner County.

Project Location: The proposed project is located at Latitude: 36.053437, Longitude: -95.703304, in Broken Arrow, Wagoner County, Oklahoma. The project site can be found on the Oneta, Oklahoma 7.5 Minute USGS Quadrangle map.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2027. 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 above 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 archeological 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:

1. Permittee Construction Schedule: Prior to commencing construction, you shall complete and return the "Permittee Construction Schedule" form. Should construction be initiated prior to 30 days from validation of this permit, return the completed form as soon as possible. If you prefer, you may telephone 918-669-7400 to inform the U.S. Army Corps of Engineers regarding the construction start date. A copy of the "Permittee Construction Schedule" form will accompany the validated permit and final authorization letter. (Enclosure 2)
2. Compliance Certification: Following completion of the authorized activity, the permittee shall submit a signed certification regarding the completed work and any required mitigation. A copy of the "Permittee Compliance Certification" form will accompany the validated permit and final authorization letter. (Enclosure 3)
3. Aquatic Resource Protection Plan: Prior to the commencement of any work on the project site, the permittee must prepare and submit to the Corps a written Aquatic Resource Protection Plan. This plan will detail how aquatic areas in the project site and proximity that are not included in the permitted impacts will be protected from unintended disturbance and impacts by the permittee and contractors working on the project. This plan must be approved by the Corps prior to commencement of any work on site. All aquatic area boundaries where the permittee or their agent made commitments during the permit evaluation process to avoid impact (no disturbance) shall be temporarily marked during construction with 1) a conspicuous barrier or 2) durable posts (t-post or other like post), flagging and signs indicating the area is "Off Limits" to all construction activities. GPS controls on construction equipment may be included in the plan but are not a substitute for conspicuous onsite boundary markers. These disturbance boundaries will be identified and explained to all contractors, equipment operators and laborers employed on the project site. The temporary boundary shall include a vegetative buffer to help protect against unintended impacts of fill to the aquatic area(s). Once construction activities are completed, the temporary boundary markers may be removed, unless required to remain by other mitigation provisions of the permit special conditions. Once construction has commenced, you are required to submit photos of the in-place construction boundary protection markers to the Corps to verify proper implementation.
4. Section 401 Water Quality Certification: A conditioned water quality certification from the Oklahoma Department of Environmental Quality, dated July 22, 2023, has been issued for the project. The conditions specified in this certification are included as special conditions to this authorization. For your convenience, a copy of the certification is attached.

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 (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.

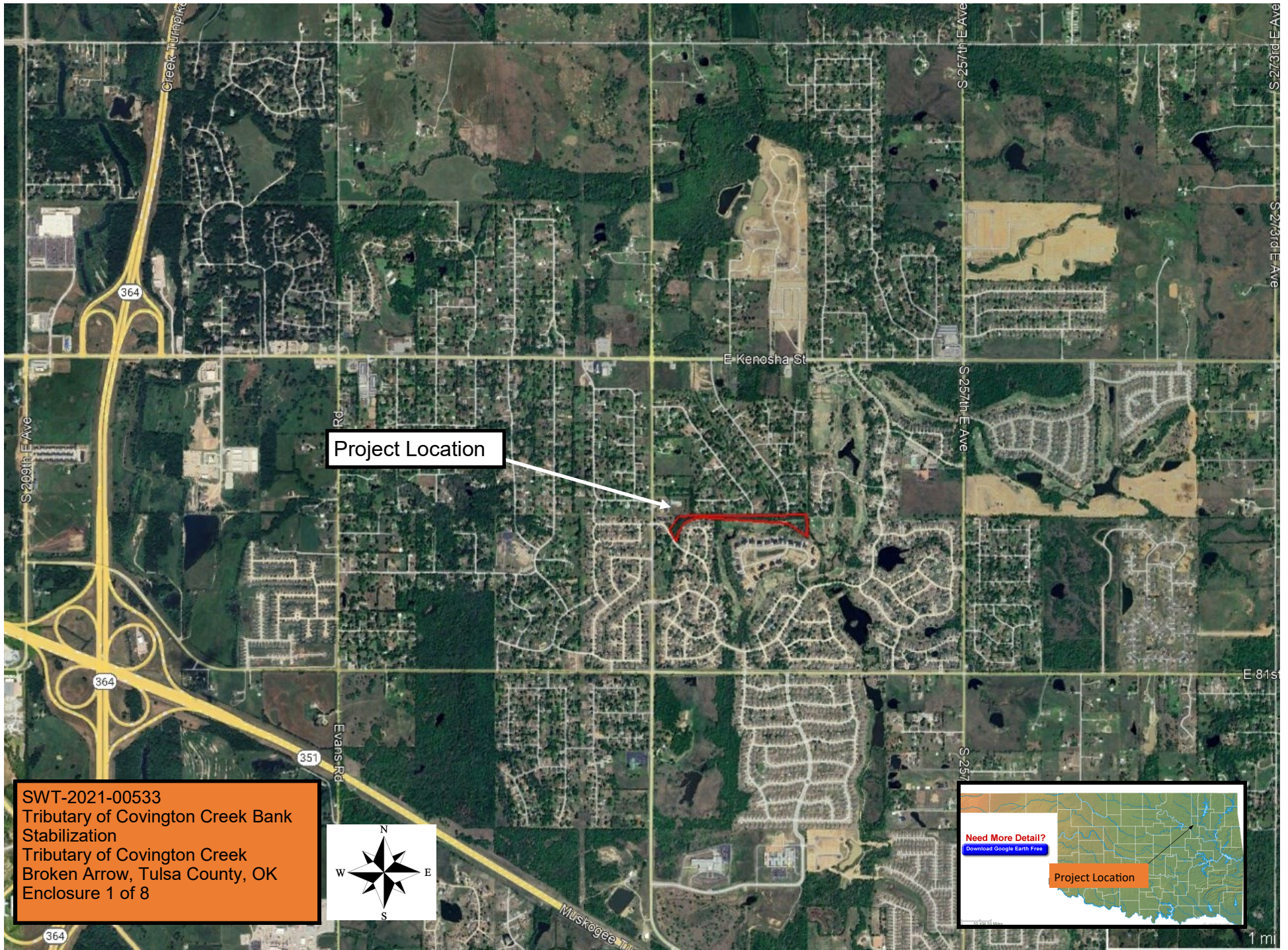
(PERMITTEE) (DATE)

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

(DISTRICT COMMANDER) (DATE)

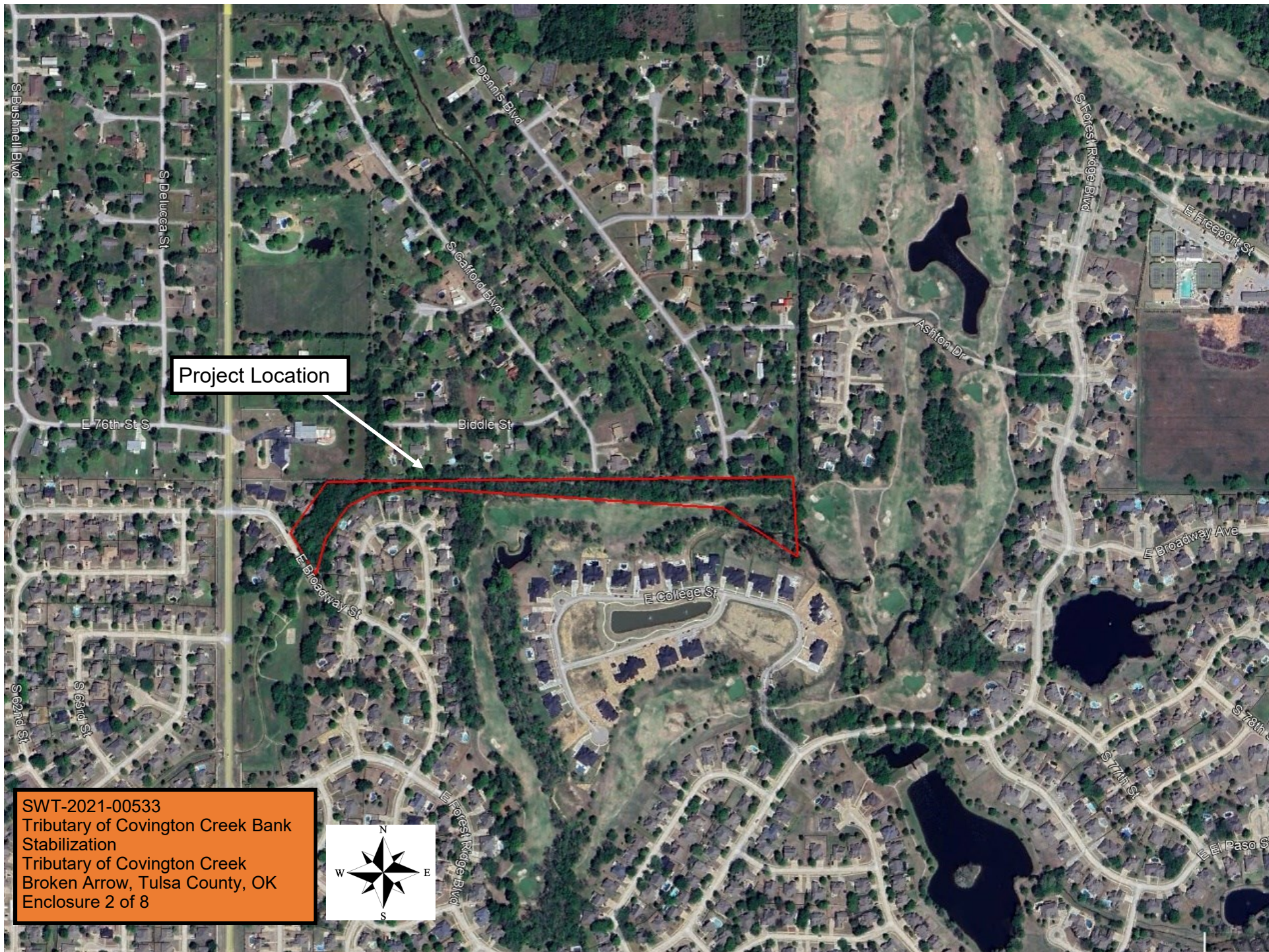
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE) (DATE)



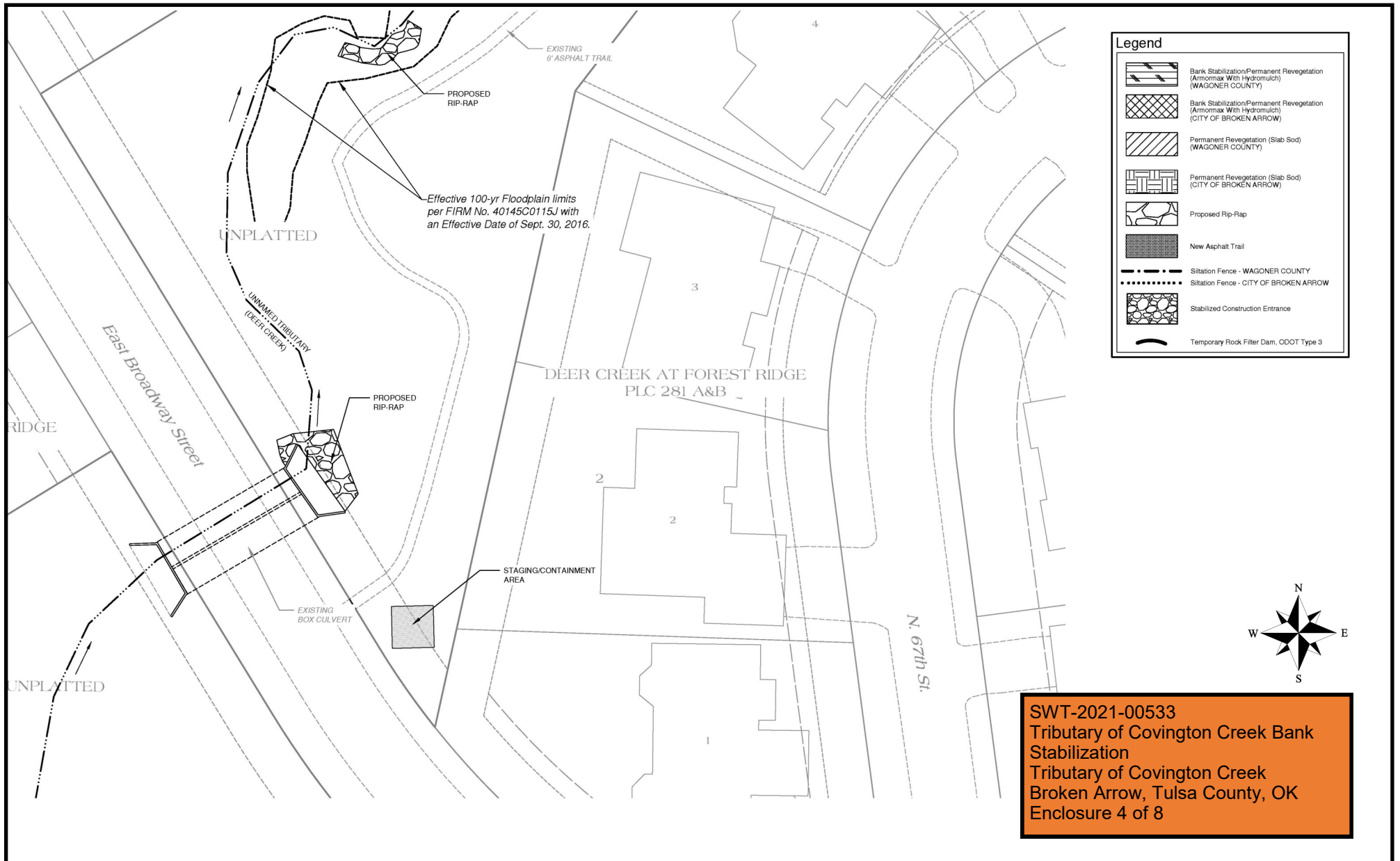
SWT-2021-00533
Tributary of Covington Creek Bank
Stabilization
Tributary of Covington Creek
Broken Arrow, Tulsa County, OK
Enclosure 1 of 8





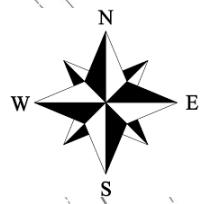
SWT-2021-00533
Tributary of Covington Creek Bank
Stabilization
Tributary of Covington Creek
Broken Arrow, Tulsa County, OK
Enclosure 2 of 8





Legend

- Bank Stabilization/Permanent Revegetation (Armormax With Hydromulch) (WAGONER COUNTY)
- Bank Stabilization/Permanent Revegetation (Armormax With Hydromulch) (CITY OF BROKEN ARROW)
- Permanent Revegetation (Slab Sod) (WAGONER COUNTY)
- Permanent Revegetation (Slab Sod) (CITY OF BROKEN ARROW)
- Proposed Rip-Rap
- New Asphalt Trail
- Siltation Fence - WAGONER COUNTY
- Siltation Fence - CITY OF BROKEN ARROW
- Stabilized Construction Entrance
- Temporary Rock Filter Dam, ODOT Type 3



DEER CREEK AT FOREST RIDGE
PLC 281 A&B

UNPLATTED

DEER CREEK AT FOREST RIDGE
PLC 281 A&B

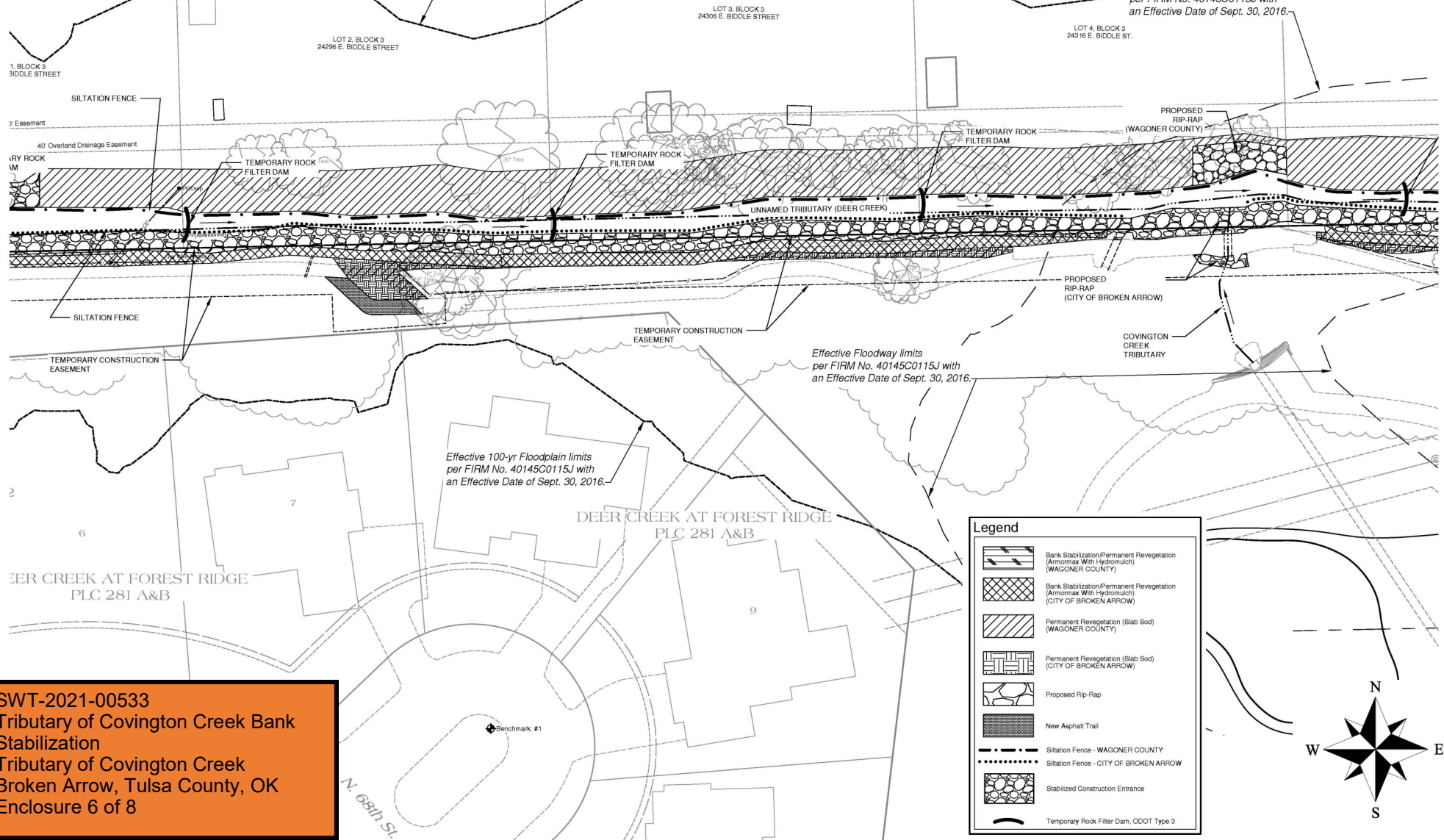
WARNING!!!
EXISTING OVERHEAD ELECTRIC,
POWER POLES, AND GUY WIRES
WITHIN THE VICINITY OF PROJECT.
PROCEED WITH CAUTION!

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EXISTING OVERHEAD ELECTRIC,
POWER POLES, AND GUY WIRES
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PROCEED WITH CAUTION!

Effective 100-yr Floodplain limits
per FIRM No. 40145C0115J with
an Effective Date of Sept. 30, 2016.

SWT-2021-00533
Tributary of Covington Creek Bank
Stabilization
Tributary of Covington Creek
Broken Arrow, Tulsa County, OK
Enclosure 5 of 8

1 Estates
Pg. 41)



SWT-2021-00533
Tributary of Covington Creek Bank
Stabilization
Tributary of Covington Creek
Broken Arrow, Tulsa County, OK
Enclosure 6 of 8

Covington Estates
(Bk. 6, Pg. 41)

Covington Est
(Bk. 6, Pg. 4)

LOT 8, BLOCK 3
24326 E. BIDDLE STREET

LOT 7, BLOCK 3
7514 S. GAFFORD BLVD.

LOT 19, BLOCK 1
7523 S. GAFFORD BLVD.

Effective Floodway limits
per FIRM No. 40145C0115J with
an Effective Date of Sept. 30, 2016.

25'X50' STABILIZED CONSTRUCTION
ENTRANCE
(WAGONER COUNTY)

PROPOSED
RIP-RAP
(WAGONER COUNTY)

RELOCATED
CONCRETE BLOCK
TOE WALL
(WAGONER COUNTY)

10' Easement

SILTATION FENCE

TEMPORARY ROCK
FILTER DAM

PROPOSED
RIP-RAP
(WAGONER COUNTY)

PROPOSED
RIP-RAP
(WAGONER COUNTY)

TEMPORARY ROCK
FILTER DAM

40' Overland Drainage Easement

40' Overland Drainage Easement

30' Overland Drainage Easement

15' Easement

TEMPORARY ROCK
FILTER DAM

COVINGTON CREEK TRIBUTARY

COVINGTON CREEK TRIBUTARY

SILTATION FENCE

TEMPORARY CONSTRUCTION
EASEMENT

RELOCATED
CONCRETE BLOCK
TOE WALL
(CITY OF BROKEN ARROW)

Effective Floodway limits
per FIRM No. 40145C0115J with
an Effective Date of Sept. 30, 2016.

Effective 100-yr Floodplain limits
per FIRM No. 40145C0115J with
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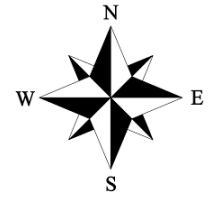
Effective Floodway limits
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UNPLATTED

4

Legend

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- Relocated Concrete Block Toe Wall
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SWT-2021-00533
Tributary of Covington Creek Bank
Stabilization
Tributary of Covington Creek
Broken Arrow, Tulsa County, OK
Enclosure 7 of 8

Covington Estates
(Bk. 6, Pg. 41)

Covington Estates
(Bk. 6, Pg. 41)












Effective Floodway limits
per FIRM No. 40145C0115J with
an Effective Date of Sept. 30, 2016.

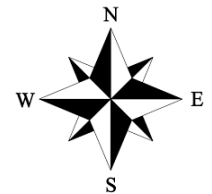
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SWT-2021-00533
Tributary of Covington Creek Bank
Stabilization
Tributary of Covington Creek
Broken Arrow, Tulsa County, OK
Enclosure 8 of 8

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Mr. Kenneth Schwab		File Number: SWT-2021-00533	Date: 19 December 2024
Attached is:			See Section below
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/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps 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 JD or provide new information.

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

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

Ms. Eva Zaki-Dellitt
Regulatory Project Manager (CESWT-RO)
U.S. Army Corps of Engineers
2488 E. 81st Street
Tulsa, OK 74137-4290
918-669-7400
Email: david.w.carraway@usace.army.mil

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

Mr. Andrew R. Commer
Chief, Regulatory Office
Tulsa District Corps of Engineers
2488 East 81st Street
Tulsa, Oklahoma 74137-4290
918-669-7616
Email: andrew.commer@usace.army.mil

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 agent.

Date:

Telephone number: