



US Army Corps  
of Engineers  
St Paul District

**APPLICANT:** Lewis Ruder  
Burlington Northern  
Santa Fe Railroad

**REFER TO:** 2015-03903-CLJ

# **Public Notice**

**ISSUED:** January 21, 2016  
**EXPIRES:** February 22, 2016

**SECTION:404 - Clean Water Act**

1. APPLICATION FOR PERMIT TO discharge fill material into approximately 3.32 acres of fresh (wet) meadow wetlands, for the maintenance and repair of railroad track of the Noyes Subdivision (Milepost 40.3-41.0) located in Marshall County, Minnesota

2. SPECIFIC INFORMATION.

**APPLICANT'S ADDRESS:** 1624 First Street NW  
Albuquerque, New Mexico 87102

**AGENT:** Mark Aanenson,      **AGENT'S ADDRESS:** 1401 21<sup>st</sup> Avenue North  
Houston Engineering                      Fargo, North Dakota 58102

**PROJECT LOCATION:** The project site is located in Section 3, 4, and 10, T156N, R48W, Marshall County, Minnesota. The approximate UTM coordinates are 48.35840 North, -96.82635 West.

**DESCRIPTION OF PROJECT:** Original construction of the railway resulted in water pooling under the track bed with little to no drainage due to the clay subsoil. This has led to constant saturation of the track bed causing deterioration of the track bed along the saturated areas. Railway traffic has had to slow in these areas resulting in inefficiencies and continued maintenance.

The proposal includes reinforcing the embankment with new fill (widening), installing ballast drains, installing culverts, and constructing new ditches along them mainline for approximately 0.70 miles of the Subdivision. Creating drainage ditches and construction of ballast drains would convey water away from the track bed to reduce the current problems associated with saturation. All work areas would be stabilized with erosion control blankets, covered with topsoil, and seeded to stabilize the soils and prevent excess erosion. Riprap would be installed at culvert locations and all work would occur within the existing railway right of way.

**ALTERNATIVES CONSIDERED:** The applicant considered the no-build alternative, but rejected it as it does not address the project purpose and need, would result in increased railway hazards, and a threat to public safety. The existing line is the only route considered by the applicant, as it is currently serviceable. Redirecting the rail line would be cost prohibitive and would likely result in more environmental harm than maintaining an existing track.

## **Operations - Regulatory (2015-03903-CLJ)**

**QUANTITY, TYPE, AND AREA OF FILL:** The proposed work would impact a total of 3.32 of fresh (wet) meadow (Type 2) wetland. Of the 3.32 acres, 2.37 acres would be filled as a result of widening the embankment.

**DESCRIPTION OF DREDGING OR EXCAVATION:** Excavation of drainage ditches would impact approximately 0.95 acres of wetland.

**VEGETATION IN AFFECTED AREA:** The wet meadow wetlands in the area are dominated by Prairie cord grass, with occasional observations of Baltic rush, Big bluestem, Cattails, Kentucky bluegrass, Reed canary grass, Slim-stem reed grass, and Wheat sedge. Wooded wetland areas are dominated by Peachleaf willow, Green ash, Cottonwood, and Boxelder. Shrub species included Sandbar willow, Red osier dogwood, Chokecherry, and European buckthorn. Upland areas are dominated by Brome grass, Big bluestem, and Kentucky bluegrass.

**SOURCE OF FILL MATERIAL:** The applicant has indicated fill materials would consist of Class 3 aggregate that would be topped with Class 5 material. Fill material would be hauled from a commercial source.

**SURROUNDING LAND USE:** Much of the surrounding land is in cultivation and other agricultural uses.

**THE FOLLOWING POTENTIALLY TOXIC MATERIALS COULD BE USED AT THE PROJECT SITE:** Fuels, hydraulic fluid, lubricants, coolant and other fluids commonly used by heavy equipment would be expected to be present for construction of the project.

**THE FOLLOWING PRECAUTIONS TO PROTECT WATER QUALITY HAVE BEEN DESCRIBED BY THE APPLICANT:** The applicant would utilize standard construction best management practices, including temporary and permanent erosion control measures to contain disturbed soils at the work site.

**MITIGATION:** The applicant has indicated that all of the 3.31 total acres of wetlands impacted by the project were created as a result of constructing the railway and the saturated track bed serving as the source of hydrology to the wetlands within the project area. The applicant has not proposed compensatory mitigation for impacts to the wetland areas.

### **3. REPLIES/COMMENTS.**

Interested parties are invited to submit to this office written facts, arguments, or objections within 30 days of the date of this notice. These statements should bear upon the suitability of the location and the adequacy of the project and should, if appropriate, suggest any changes believed to be desirable. Comments received may be forwarded to the applicant.

Replies may be addressed to Regulatory Branch, St. Paul District, Corps of Engineers, 180 Fifth Street East, Suite 700, Saint Paul, MN 55101-1678.

Or, IF YOU HAVE QUESTIONS ABOUT THE PROJECT, call Craig Jarnot at the Bemidji Regulatory Field office of the Corps, telephone number (651) 290-5337.

**Operations - Regulatory (2015-03903-CLJ)**

To receive Public Notices by e-mail, go to: [http://mvp-extstp.mvp.usace.army.mil/list\\_server/](http://mvp-extstp.mvp.usace.army.mil/list_server/) and add your information in the New Registration Box.

**4. FEDERALLY-LISTED THREATENED OR ENDANGERED WILDLIFE OR PLANTS OR THEIR CRITICAL HABITAT.**

None were identified by the applicant or are known to exist in the permit area. However, Marshall County is within the known or historic range of the following Federally-listed threatened (T) and endangered (E) species:

<u>Species</u>	<u>Habitat</u>
Canada lynx (T)	Northern forest
Gray wolf (T)	Northern forest
Northern long-eared bat (T)	Upland forests, wooded areas, caves, mines
Dakota skipper (T)	Native prairie habitat

This application is being coordinated with the U.S. Fish and Wildlife Service. Any comments it may have concerning Federally-listed threatened or endangered wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

**5. JURISDICTION.**

This application is being reviewed in accordance with current practices for documenting Corps jurisdiction under Section(s) 9 & 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

We have made a preliminary determination that the aquatic resources that would be impacted by the proposed project are subject to Corps of Engineers jurisdiction under Section(s) 9 & 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. If an approved jurisdictional determination is completed as part of the review process for this application, a copy will be posted on the St. Paul District web page at the following link:  
<http://www.mvp.usace.army.mil/Missions/Regulatory.aspx>.

THE APPLICANT HAS STATED THAT THE FOLLOWING STATE, COUNTY, AND/OR LOCAL PERMITS HAVE BEEN APPLIED FOR/ISSUED:

**6. STATE SECTION 401 WATER QUALITY CERTIFICATION.**

Valid Section 404 permits cannot be issued for any activity unless state water quality certification for the activity is granted or waived pursuant to Section 401 of the Clean Water Act. The state Section 401 authority in Minnesota is the Minnesota Pollution Control Agency (MPCA). The St. Paul District has provided this public notice and a copy of the applicant’s Section 404 permit application form to the MPCA.

## **Operations - Regulatory (2015-03903-CLJ)**

If MPCA needs any additional information in order for the Section 401 application to be considered complete by MPCA, the MPCA has indicated that it will request such information from the applicant. It is the permit applicant's responsibility to ensure that the MPCA has received a valid, complete application for state Section 401 certification and to obtain a final Section 401 action from the MPCA.

The MPCA has indicated that this public notice serves as its public notice of the application for Section 401 water quality certification under Minnesota Rules Part 7001. The MPCA has also indicated that the Section 401 process shall begin to commence upon the issuance date of this public notice unless the MPCA notifies both the St. Paul District and the permit applicant to the contrary, in writing, before the expiration date of this public notice.

Any comments relative to MPCA's Section 401 Certification for the activity proposed in this public notice may be sent to:

Minnesota Pollution Control Agency, Resource Management and Assistance Division,  
Attention: 401 Certification, 520 Lafayette Road North, St. Paul, Minnesota 55155-4194.

### **7. HISTORICAL/ARCHAEOLOGICAL.**

This public notice is being sent to the National Park Service and the State Archaeologist for their comments. The Corps will review information on known cultural resources and/or historic properties within and adjacent to the project area. The Corps will also consider the potential effects of the project on any properties that have yet to be identified. The results of this review and the Corps' determination of effect will be coordinated with the State Historic Preservation Officer independent of this public notice. Any adverse effects on historic properties will be resolved prior to the Corps authorization, or approval, of the work in connection with this project.

### **8. PUBLIC HEARING REQUESTS.**

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, in detail, the reasons for holding a public hearing. A request may be denied if substantive reasons for holding a hearing are not provided or if there is otherwise no valid interest to be served.

### **9. PUBLIC INTEREST REVIEW.**

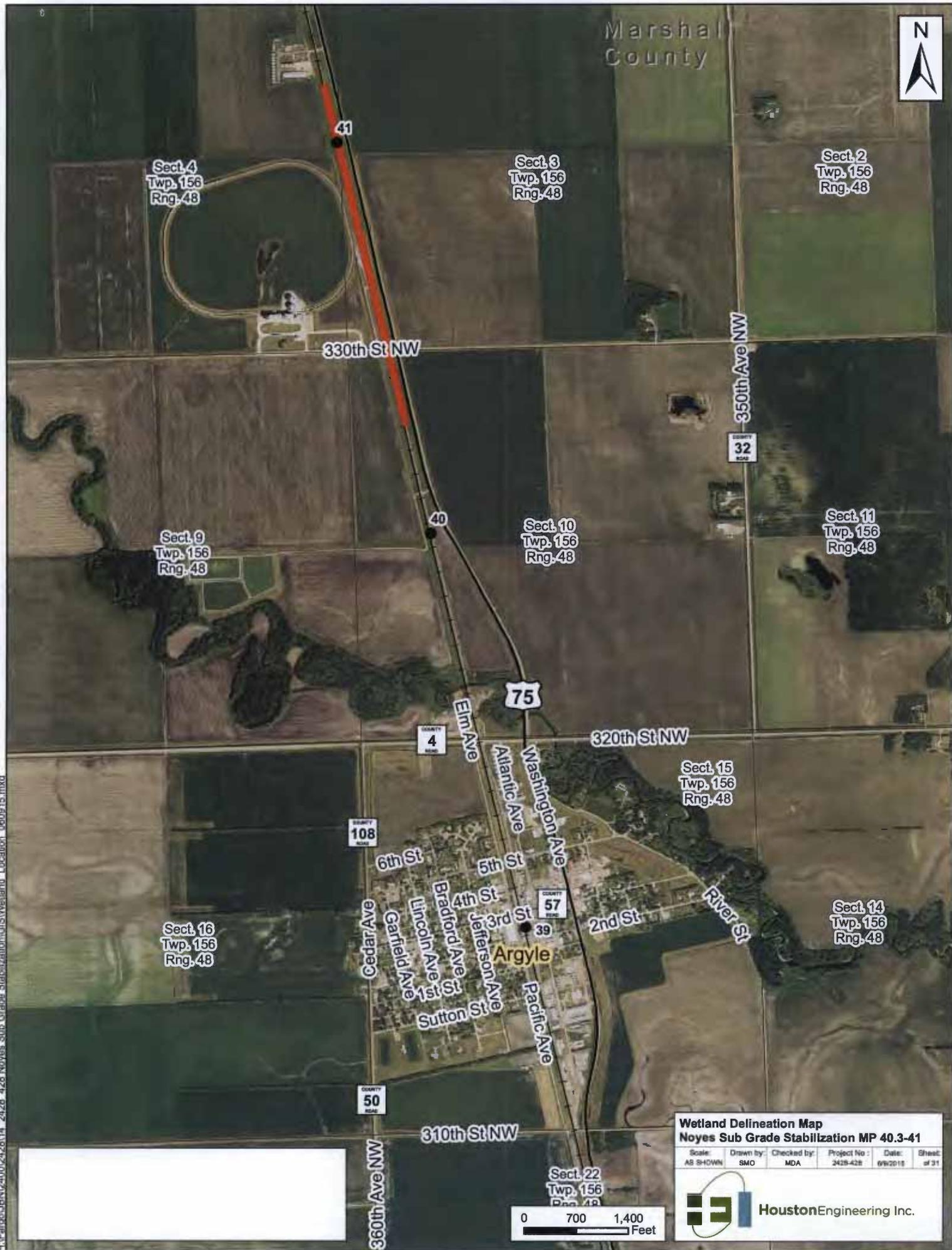
The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, 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 and, in general, the needs and welfare of the people. Environmental and other documents will be available for review in the St. Paul District Office.

## **Operations - Regulatory (2015-03903-CLJ)**

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Benjamin R. Cox  
Chief, Northwest Section

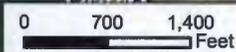
Enclosures

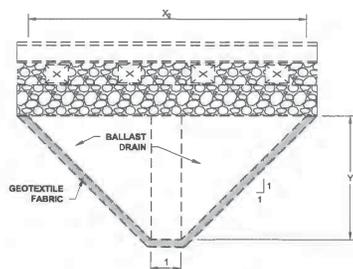


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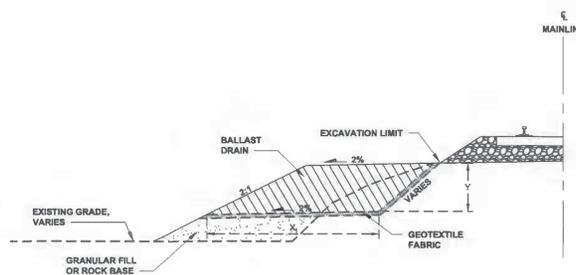
**Wetland Delineation Map**  
**Noyes Sub Grade Stabilization MP 40.3-41**

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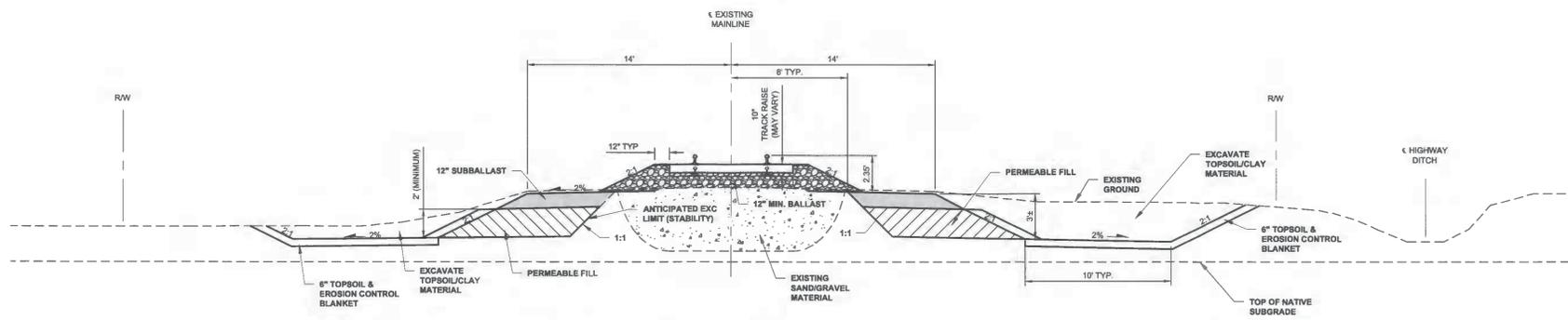
**BALLAST DRAIN CROSS SECTION**  
NOT TO SCALE



**BALLAST DRAIN**  
NOT TO SCALE

Ballast Drain					
X1 (Ft)	X2 (Ft)	Y ** (Ft)	Quantities		
			Ballast (CY)	Geotextile Fabric (SY)	
12.56	9	4	8.88	20.81	
13.06	11	5	13.05	26.36	
13.56	13	6	18.53	33.09	

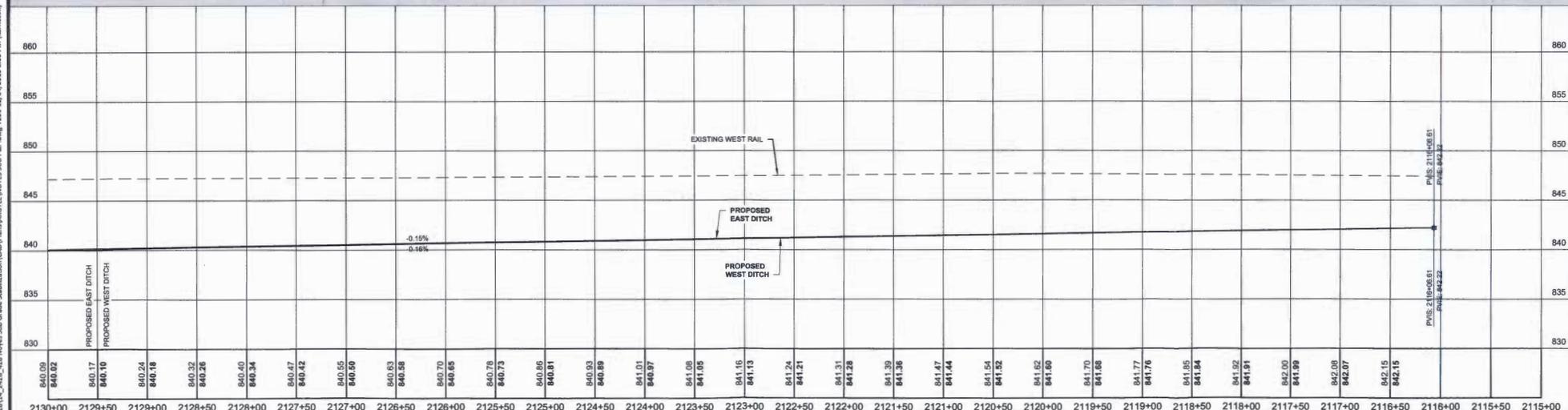
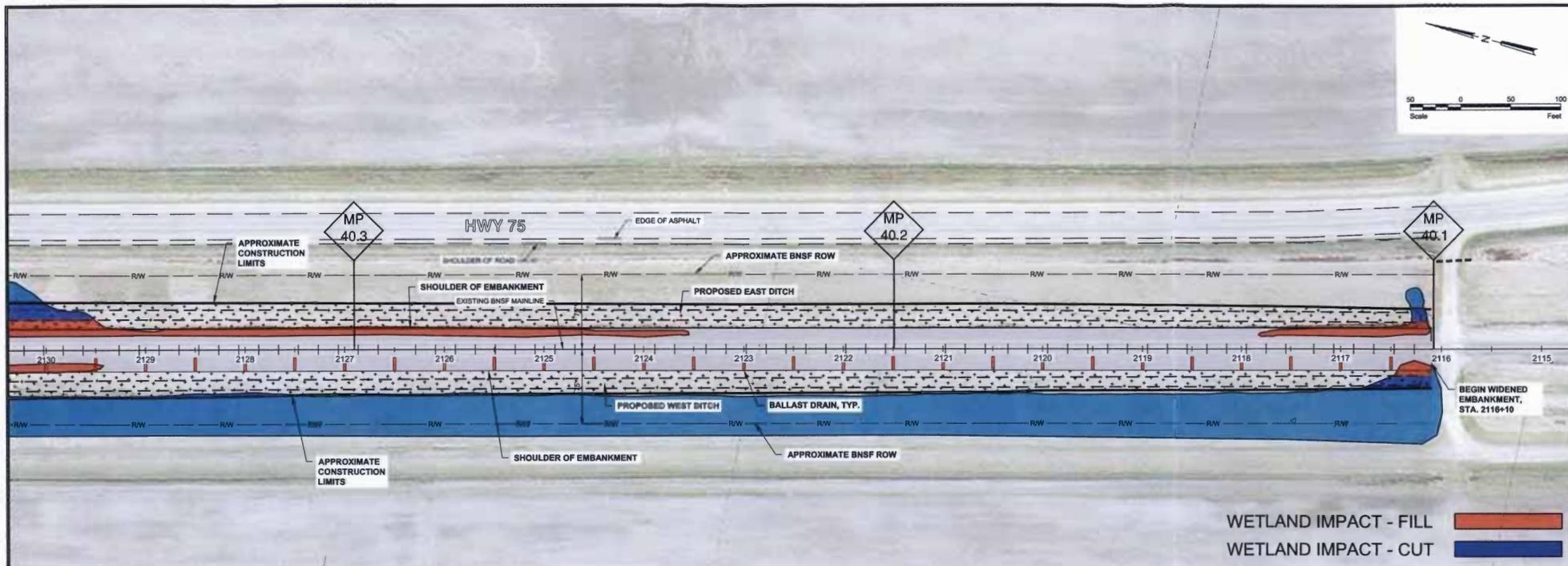
\*Ballast drains to be installed every 25', alternating from the east and west side of the track  
\*\* Depth of ballast drains will vary with depth of ballast.



**TYPICAL SLOPE STABILIZATION SECTION**  
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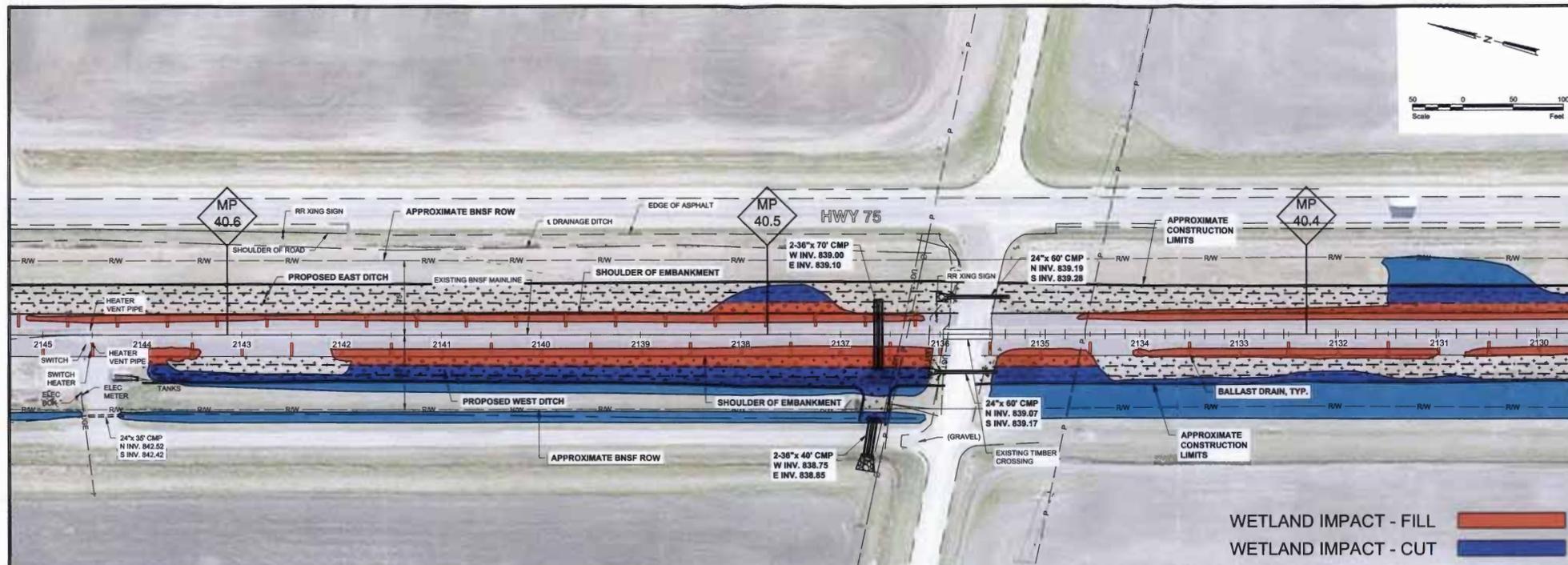
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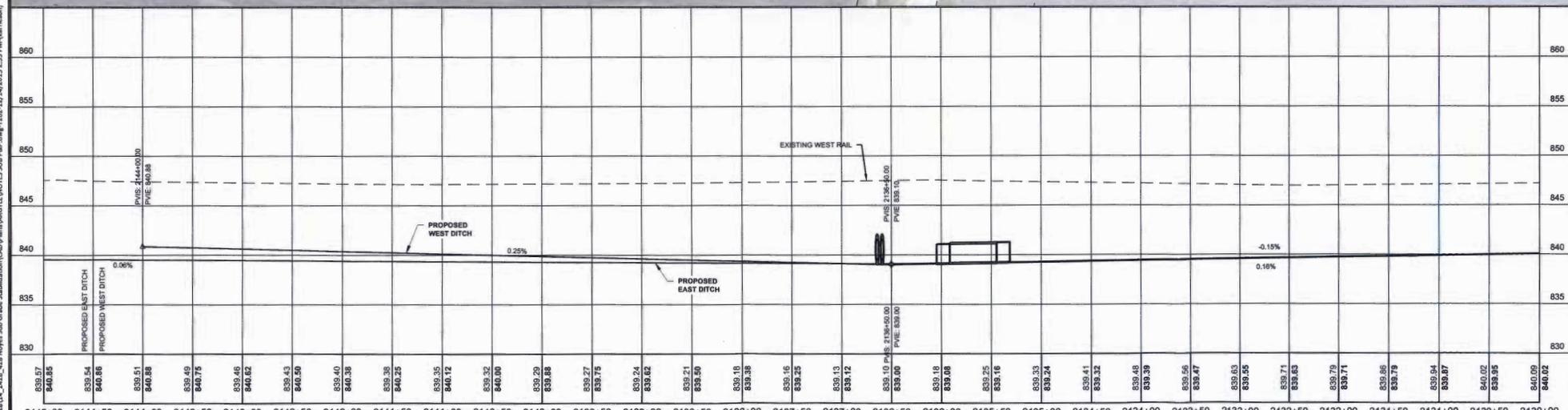
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 NOYES SUBDIVISION, LINE SEGMENT 245  
 BNSF RAILWAY COMPANY

NOYES SUB - MP 40  
 PLAN AND PROFILE  
 PROJECT NO. 2428-428  
 SHEET T201



WETLAND IMPACT - FILL █  
 WETLAND IMPACT - CUT █



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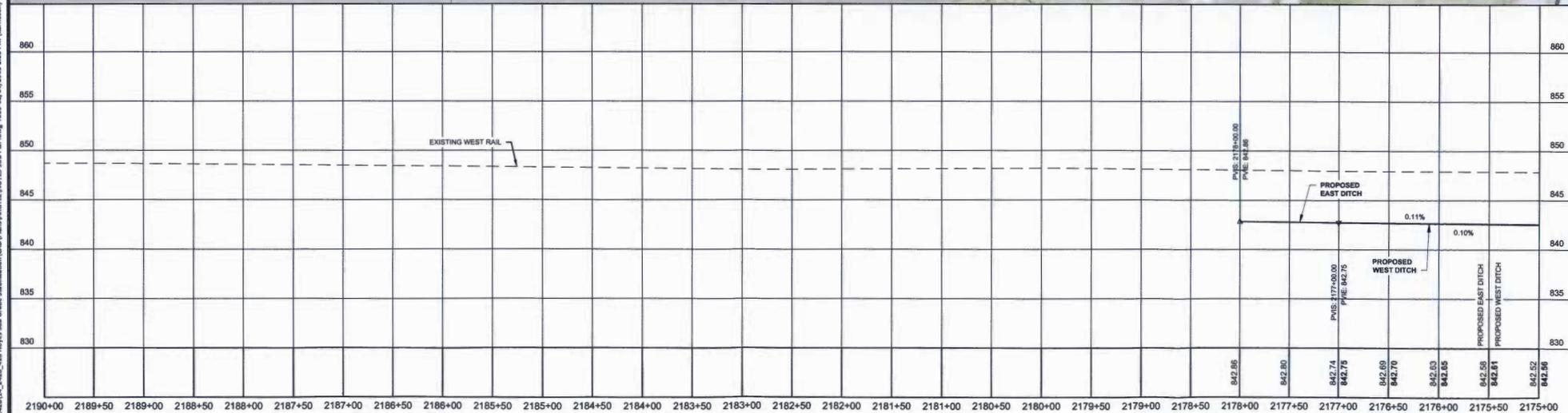
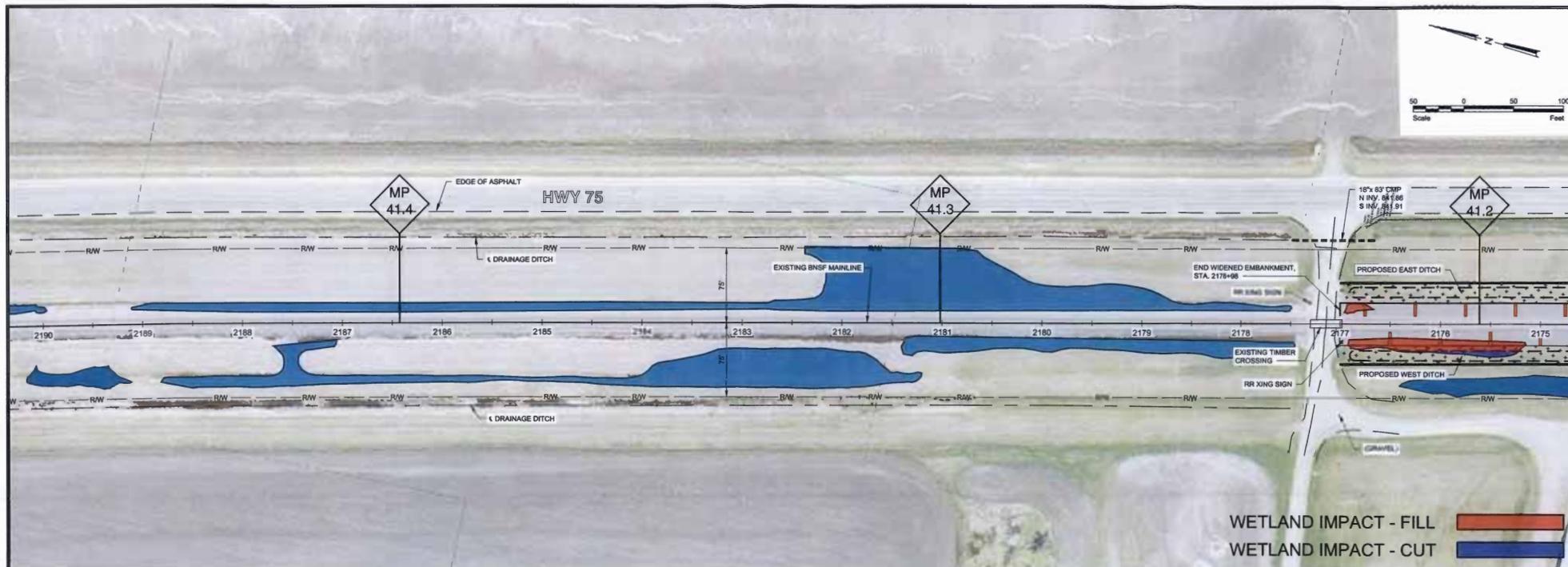
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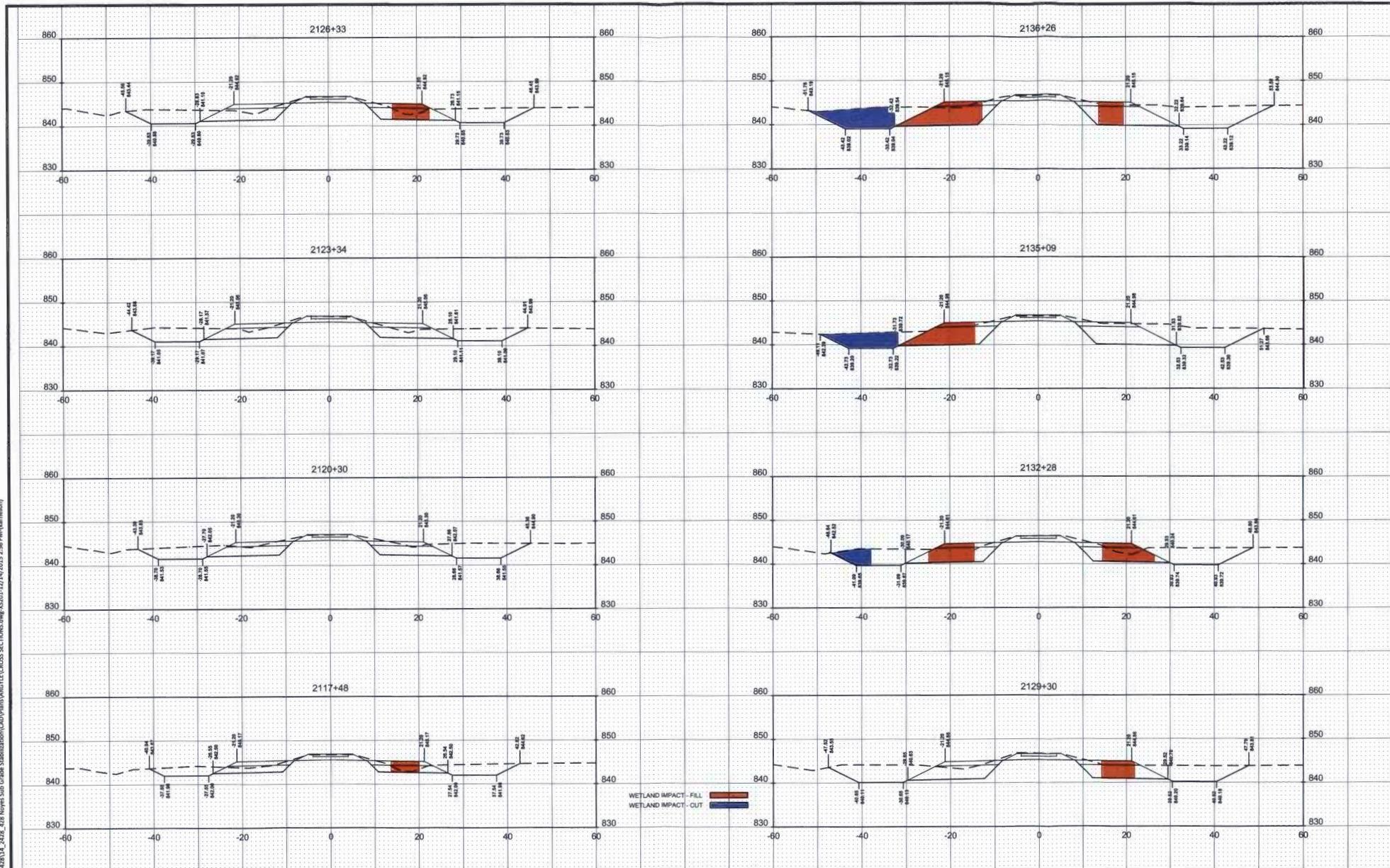






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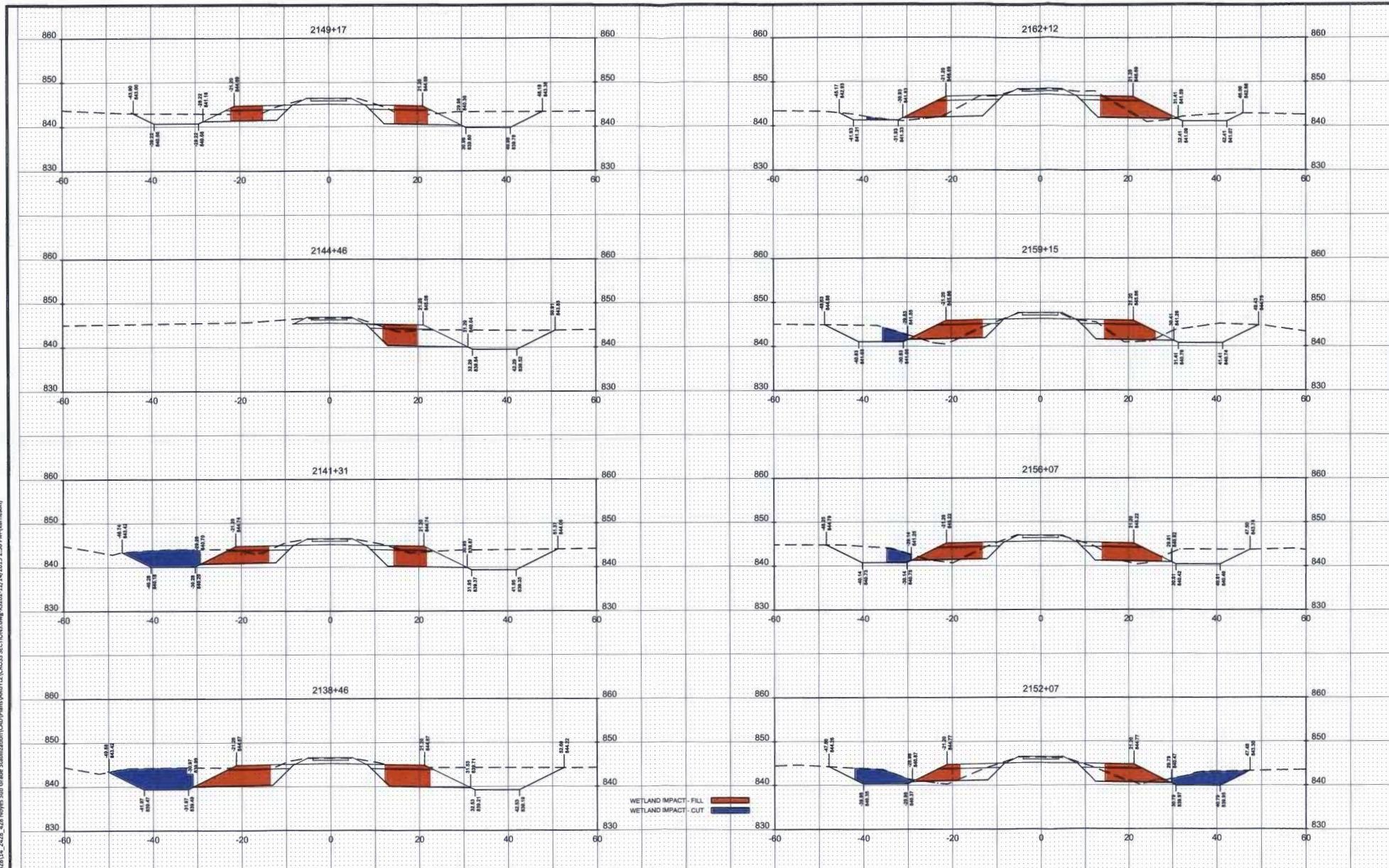


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 BNSF RAILWAY COMPANY

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 PROJECT NO. 2428-428

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WETLAND IMPACT - FILL  
 WETLAND IMPACT - CUT

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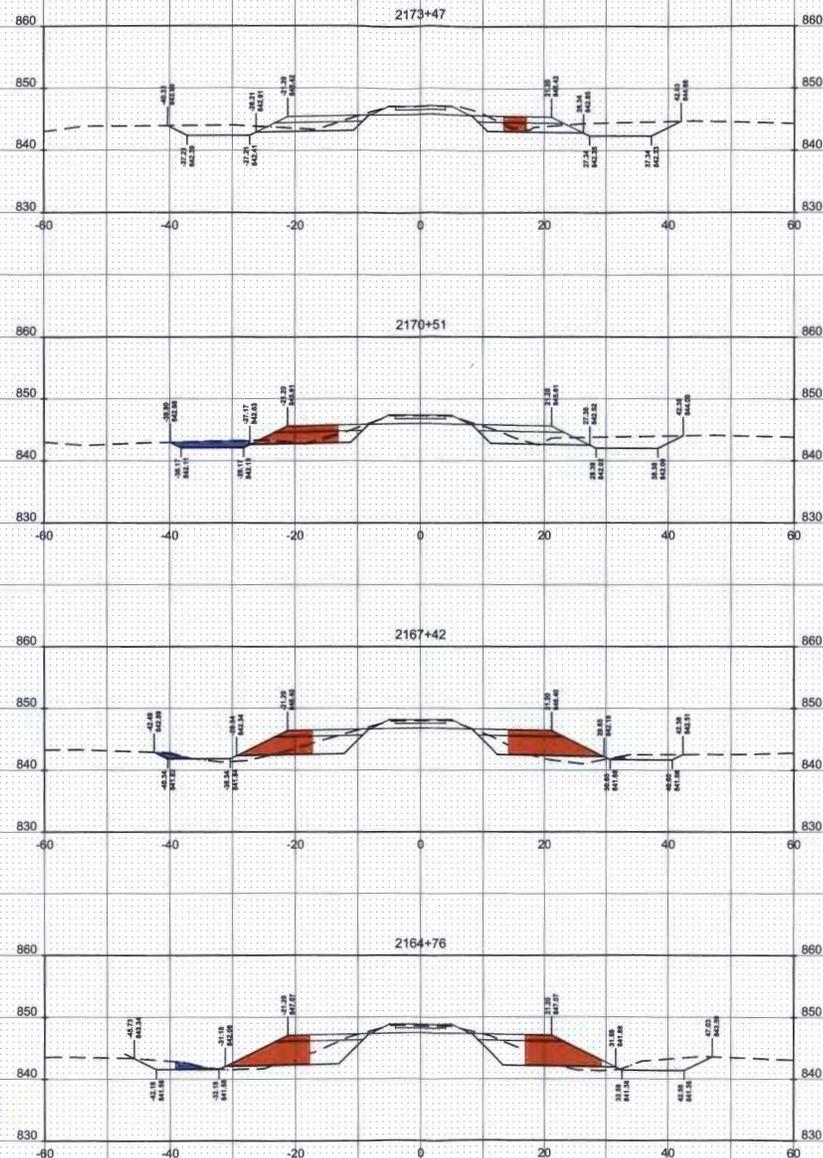
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 BNSF RAILWAY COMPANY

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