

---

# Public Notice

**U.S. Army Corps  
of Engineers**

Pittsburgh District

In Reply Refer to

Notice No. below

US Army Corps of Engineers, Pittsburgh District

1000 Liberty Avenue

Pittsburgh, PA 15222-4186

---

Application No. 200601190

Date: August 23, 2006

---

Notice No. 06-35

Closing Date: September 12, 2006

1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. APPLICANT: Backwater Properties, LLC.  
75 Lewellynn Road  
Morgantown, WV 26508
3. LOCATION: The applicant proposes the placement of fill for construction of a residential subdivision in Mannings Run and unnamed tributaries to Mannings Run which drains to the Cheat River, near Morgantown, Monongalia County, West Virginia
4. PURPOSE AND DESCRIPTION OF WORK: Fill would be required for the construction of roads for a housing development including: One stream crossing over Mannings Run and three crossings over tributaries to Mannings Run. The Mannings Run crossing will contain two 165 foot long 54 inch wide CMP culverts with winged end walls at each end. Crossings over tributaries to Mannings Run will be 44 feet long 42 inch wide and 190 feet long with 54 inch wide CMP culverts with winged end walls on each end. The third crossing will relocate the existing stream into one of the above mentioned culverts. Excavating and dozing equipment will be used to fill areas and install roads and culverts. Drawings of the proposed project are attached to this notice.
5. WEST VIRGINIA CERTIFICATION: This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the WVDEP for individual water quality certification. The WVDEP will also

consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws. Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:

West Virginia Department of Environmental Protection  
Division of Water & Waste Management  
401 Certification Program  
601 57th Street SE  
Charleston, West Virginia 25304  
Telephone: 304-926-0495

Re: Public Notice CELRP-OP-F No. 06-35

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U. S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has not been consulted. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. 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 proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal 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, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. 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 overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

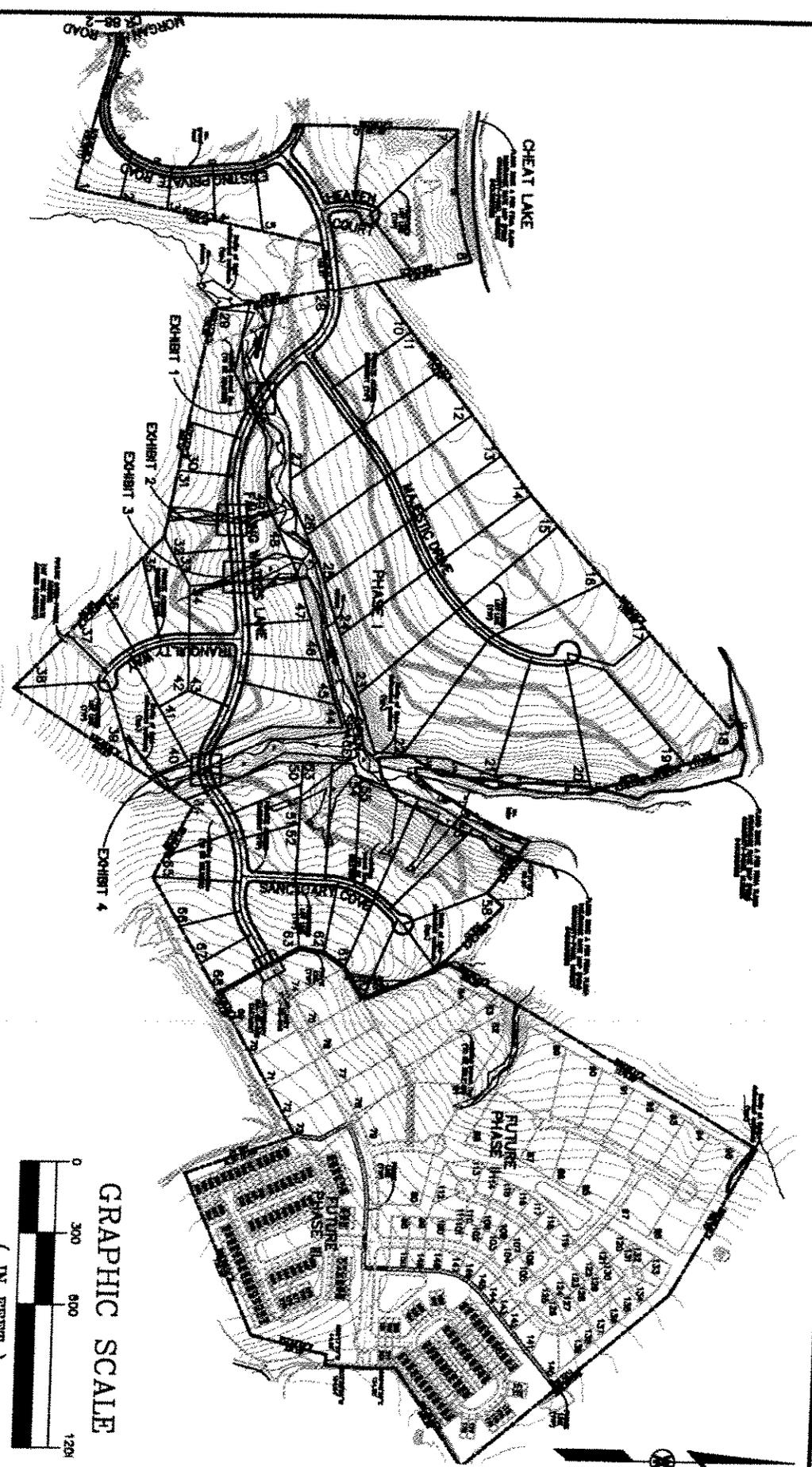
10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, attn Scott A. Hans, at the above address, by telephoning (412) 395-7154, or by e-mail at Scott.A.Hans@usace.army.mil. Please refer to CELRP-OP-F 200601190 in all responses.

CELRP-OP-F  
Public Notice No. 06-35

FOR THE DISTRICT ENGINEER:

Michael J. Cummings, Jr.  
Chief, Regulatory Branch



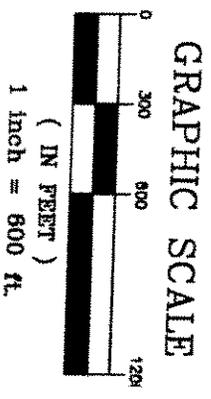


CONSTRUCTION PLANS  
& PROFILES - PHASE 1  
OVERALL LAYOUT  
**FALLING WATERS**  
AUGUST 15, 2006



ASSOCIATES LLP

Engineers  
Architects  
Landscape Architects  
Surveyors  
Planners

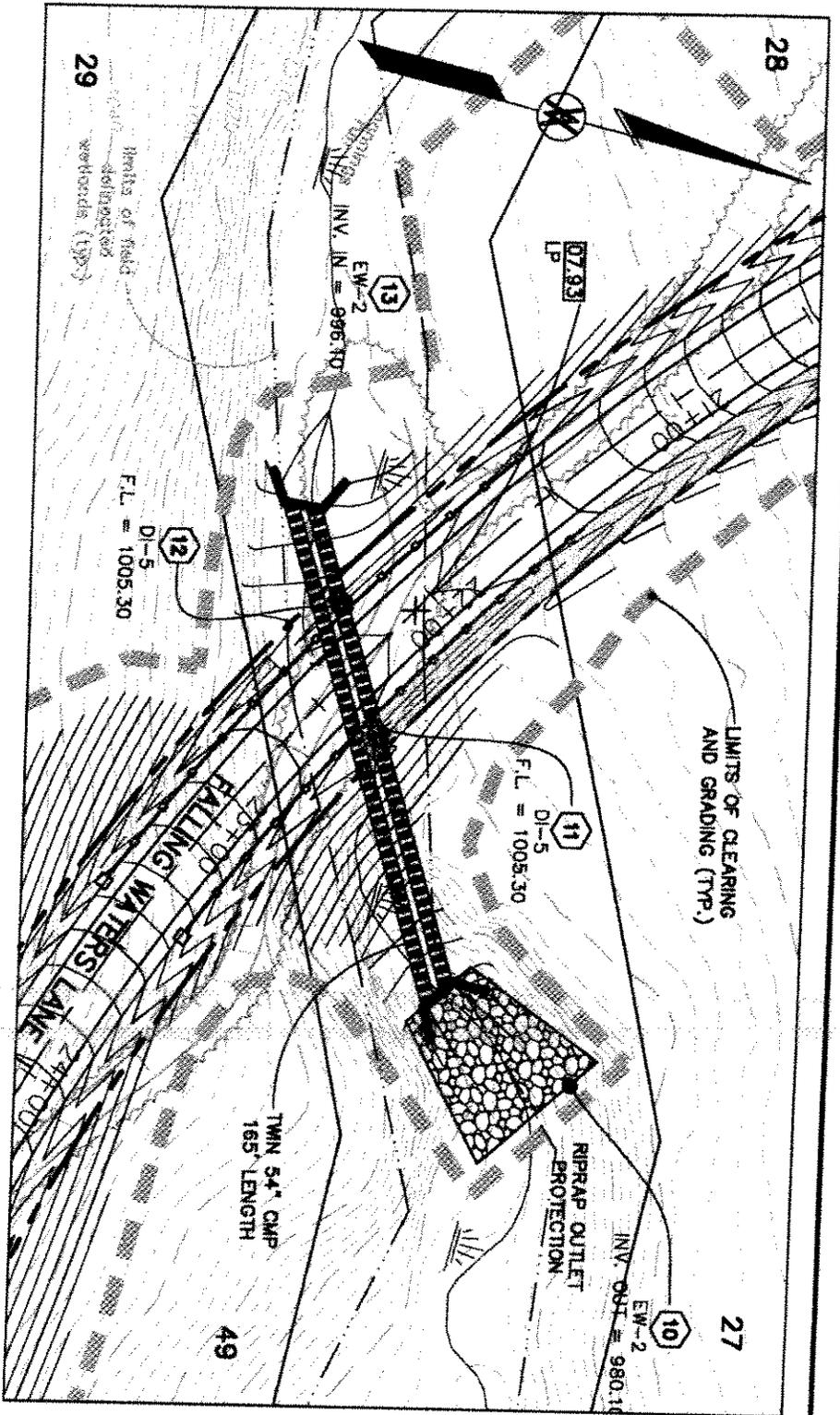


104 Church Street, SE  
Leesburg, VA 20175-3003  
Tel: 703.777.006  
Fax: 703.777.248

116 North Braddock Street  
Winchester, VA 22601-3914  
Tel: 540.545.405  
Fax: 540.545.405

2587 University Avenue, Suite 4020  
Morgantown, WV 26505-4503  
Tel: 304.292.523  
Fax: 304.292.500

www.vollmer.com



**EXHIBIT 1**  
**CONSTRUCTION PLANS**  
**& PROFILES - PHASE 1**  
**FALLING WATERS**

AUGUST 15, 2006



ASSOCIATES LLP

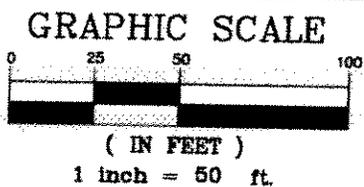
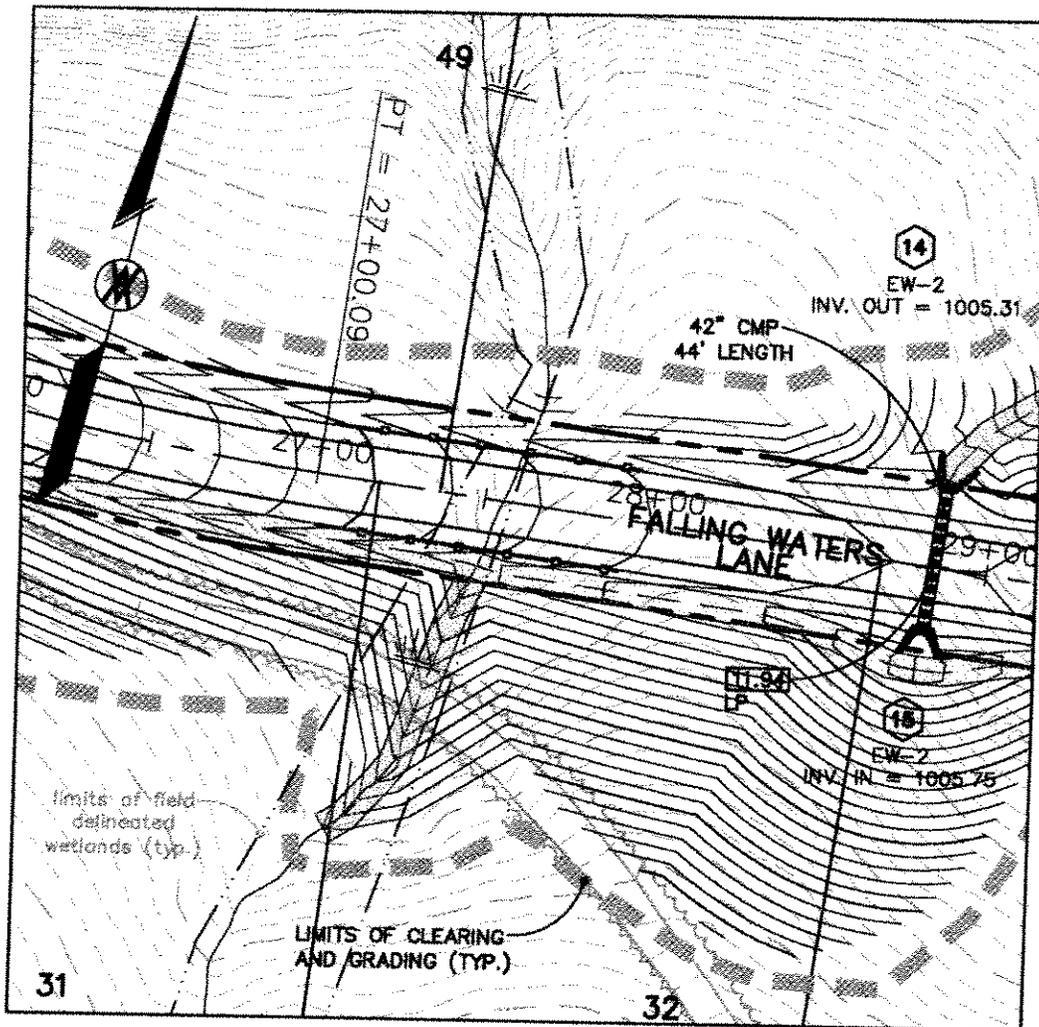
Engineers  
 Architects  
 Landscape Architects  
 Surveyors  
 Planners

104 Church Street, SE  
 Leesburg, VA 20175-3003  
 Tel: 703.777.0083  
 Fax: 703.777.2480

116 North Braddock Street  
 Winchester, VA 22801-5814  
 Tel: 540.545.4056  
 Fax: 540.545.4056

2587 University Avenue, Suite 4020  
 Morgantown, WV 26505-4503  
 Tel: 304.292.8230  
 Fax: 304.292.8008

www.volinier.com



**EXHIBIT 2**  
**CONSTRUCTION PLANS**  
**& PROFILES – PHASE 1**  
**FALLING WATERS**

AUGUST 15, 2006



Engineers  
Architects  
Landscape Architects  
Surveyors  
Planners

104 Church Street, SE  
Leesburg, VA 20175-3003

Tel: 703.777.0063  
Fax: 703.777.2480

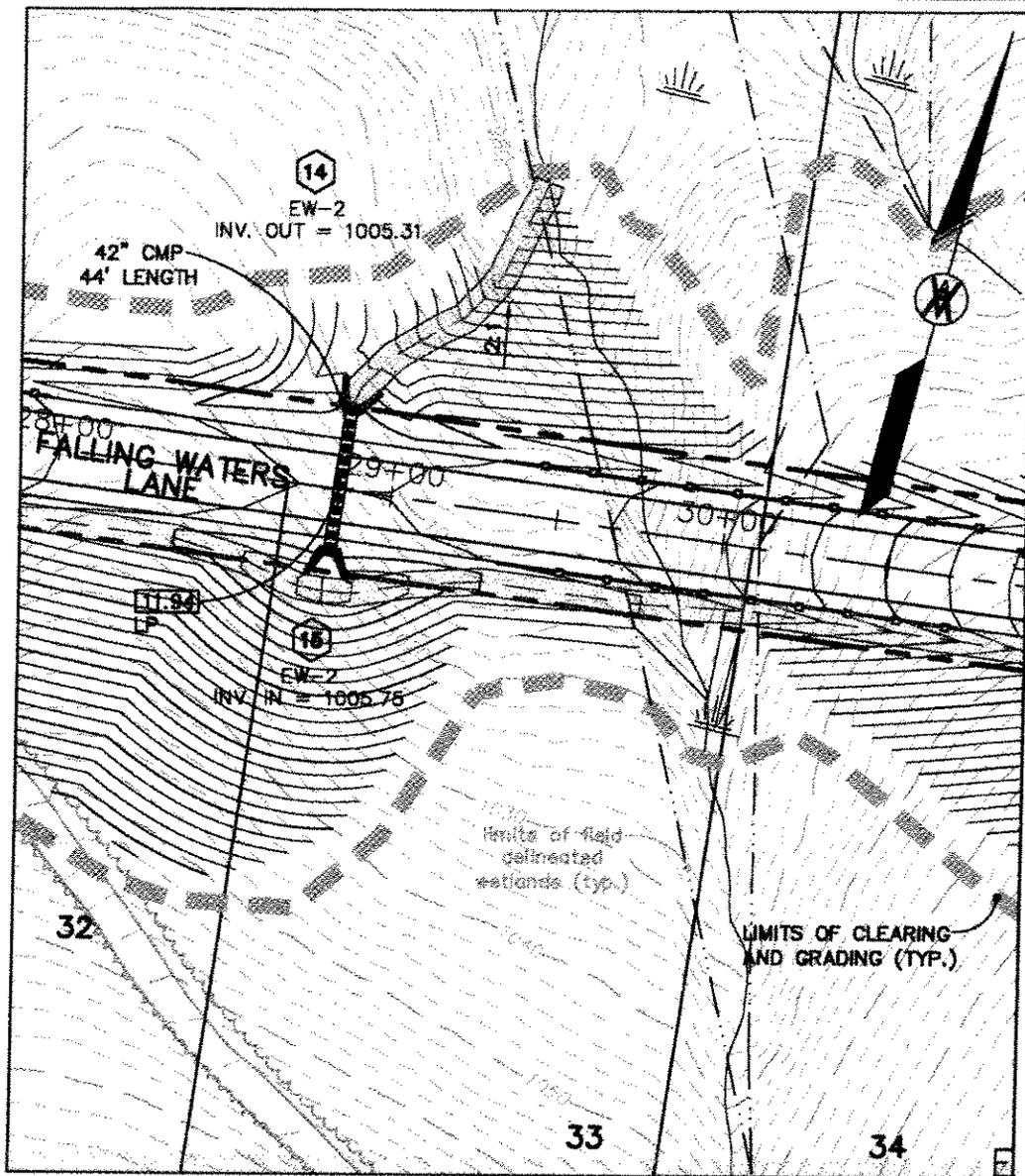
116 North Braddock Street  
Winchester, VA 22601-3814

Tel: 540.545.4056  
Fax: 540.545.4059

2567 University Avenue, Suite 4020  
Morgantown, WV 26505-4503

Tel: 304.292.5230  
Fax: 304.292.5008

[www.volmer.com](http://www.volmer.com)



**GRAPHIC SCALE**



( IN FEET )  
1 inch = 50 ft.

**EXHIBIT 3  
CONSTRUCTION PLANS  
& PROFILES – PHASE 1  
FALLING WATERS**

AUGUST 15, 2006



Engineers  
Architects  
Landscape Architects  
Surveyors  
Planners

104 Church Street, SE  
Leesburg, VA 20175-3003

Tel: 703.777.0083  
Fax: 703.777.2480

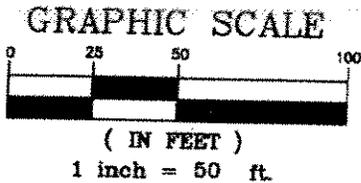
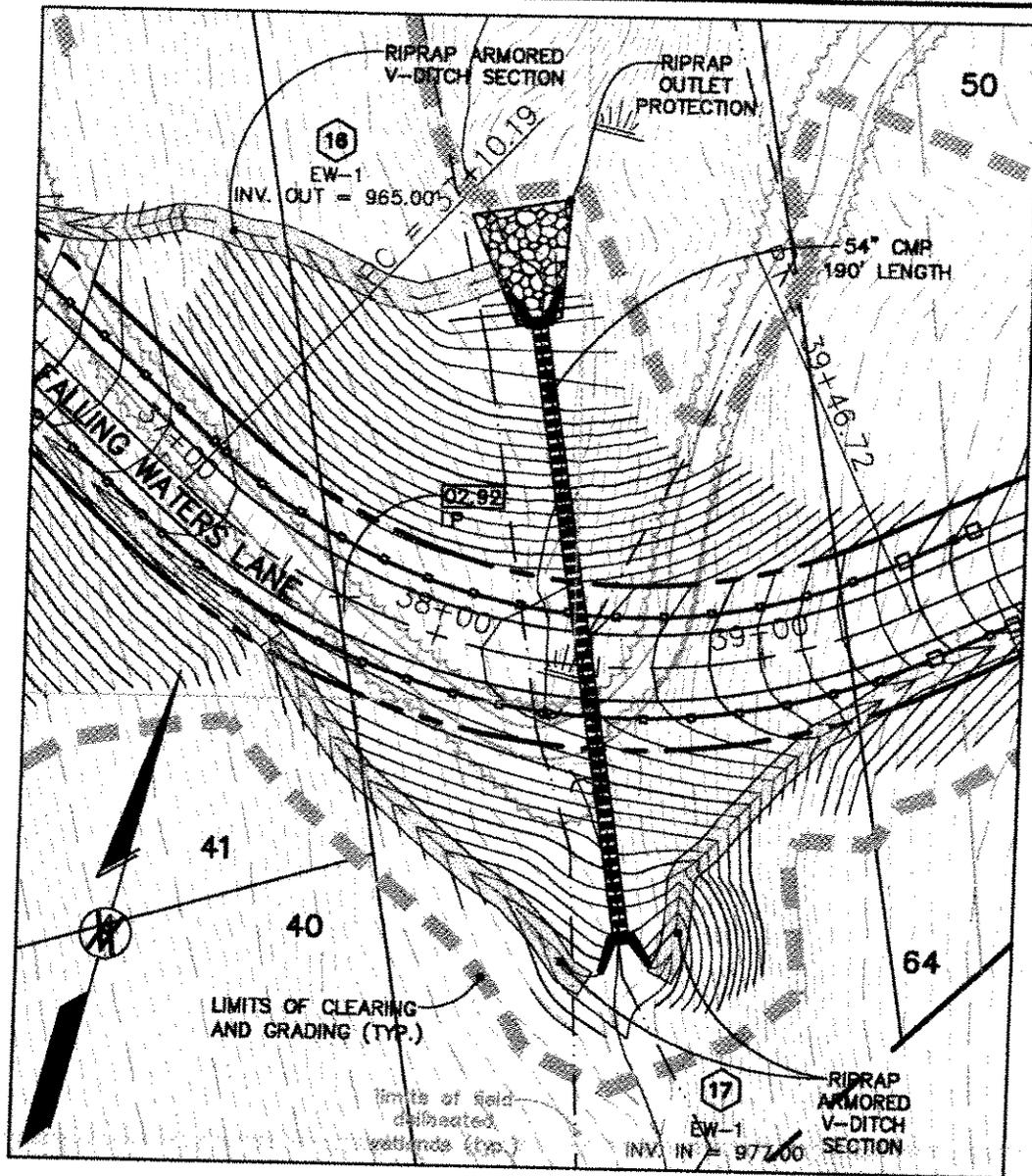
116 North Braddock Street  
Winchester, VA 22601-3914

Tel: 540.545.4056  
Fax: 540.545.4059

2567 University Avenue, Suite 4020  
Morgantown, WV 26505-4503

Tel: 304.292.5230  
Fax: 304.292.5008

[www.vollner.com](http://www.vollner.com)



**EXHIBIT 4**  
**CONSTRUCTION PLANS**  
**& PROFILES – PHASE 1**  
**FALLING WATERS**

AUGUST 15, 2006



Engineers  
Architects  
Landscape Architects  
Surveyors  
Planners

104 Church Street, SE  
Leesburg, VA 20175-3003

Tel: 703.777.0003  
Fax: 703.777.2480

116 North Braddock Street  
Winchester, VA 22601-3914

Tel: 540.545.4056  
Fax: 540.545.4059

2587 University Avenue, Suite 4020  
Morgantown, WV 26505-4503

Tel: 304.292.5230  
Fax: 304.292.5008

[www.vollmer.com](http://www.vollmer.com)