



US Army Corps
of Engineers®
Little Rock District

PUBLIC NOTICE

CORPS OF ENGINEERS

Application Number: SWL-2021-00223

Date: May 22, 2024

Comments Due: June 17, 2024

TO WHOM IT MAY CONCERN: Comments are invited on the work described below. Please see the Public Involvement section for details on submitting comments.

Point of Contact. If additional information is desired, please contact the regulator, Johnny McLean, telephone number: (501) 324-5295, mailing address: Little Rock District Corps of Engineers, Regulatory Division, PO Box 867, Little Rock, Arkansas 72203-0867, email address: Johnny.L.McLean@usace.army.mil

Project Information. Pursuant to Section 404 of the Clean Water Act (33 U.S. Code 1344), notice is hereby given that

**Arkansas Department of Transportation (ArDOT)
PO Box 2261
Little Rock, AR 72203**

has requested authorization for work, including the placement of dredged and fill material, in waters of the United States associated with constructing an approximate 14.5-mile segment of future Interstate 49 (I-49) that will extend from Barling to Alma. The proposed project is located in section 3, T. 7 N., R. 31 W., in sections 8, 12, 14, 15, 22, 27, and 34, T. 8 N., R. 31 W., in section 6, T. 8 N., R. 30 W., in sections 6, 7, 17, 18, 20, 29, 31 and 32, T. 9 N., R. 30 W., and in sections 1 and 12, T. 9 N., R. 31 W., Sebastian and Crawford Counties, Arkansas. It should be noted that the proposed bridge over the Arkansas River at Navigation Mile 291.6 would be authorized by the U.S. Coast Guard under Section 9 of the Rivers and Harbors Act.

The project purpose is to improve system linkage for a north/south national interstate corridor, accommodate safe travel and improve modal connectivity. The proposed project is also needed to address safety issues associated with increasing volumes of vehicular traffic in northwest Arkansas. The proposed project would provide an alternate route around Fort Smith, Arkansas, for those traveling north/south through the area. Traffic diverted to the new interstate would experience less congestion than it would in the no-build condition using the existing transportation network, and existing facilities that traffic is diverted from, including Interstate 40 between Interstate 540 and Interstate 49, would also experience less congestion.

The project would be constructed entirely on new location beginning at Highway 22 in Barling, extending northward and terminating with a new interchange at Interstate 540 just west of Alma. The new roadway would be four-lane fully controlled access with an 80-foot-wide median. Construction would occur in four phases as funding allows and as follows: Highway 22 to Gun Club Road (3.2 miles) (includes a new bridge over the Arkansas River at Navigation Mile 291.6), Gun Club Road to Clear Creek Road (5.4 miles), Clear Creek Road to Interstate 40 (4.2 miles) and I-40/I-49 Interchange (1.7 miles). ArDOT plans to begin construction on the first phase in late 2024 or early 2025.

This project was originally part of a larger environmental study known as the U.S. 71 Relocation DeQueen to Interstate 40. That study extended from Highway 70 in DeQueen, Arkansas to Interstate 40 near Alma, Arkansas, a distance of approximately 125 miles. The relocation of U.S. 71 in Arkansas is part of the Congressionally designated High Priority Corridor, extending from Shreveport, Louisiana to Kansas City, Missouri. An Environmental Impact Statement (EIS) was prepared for the U.S. 71 Relocation Project and a Record of Decision (ROD) was issued in December 1997 approving the general alignment of a new location, four-lane highway in western Arkansas. Interstate 49 has been under construction since the early 1990s, with several sections fully constructed in parts of Missouri, Arkansas and Louisiana. As a priority project for ARDOT, a National Environmental Policy Act (NEPA) Re-evaluation was initiated for the section of Interstate 49 from Highway 22 to Interstate 40, with funding allocated in the current Statewide Transportation Improvement Program (STIP). This Re-evaluation discussed design refinements and environmental analyses of impacts and benefits of the preliminary design presented at the public meeting in September 2022, to determine whether any additional NEPA documentation is warranted or if the previous findings described in the ROD remain valid. The Re-evaluation described the proposed project, purpose and need, environmental impacts, commitments and public involvement. The Re-evaluation was completed in November 2023, and the Federal Highway Administration concluded that all previous findings and decisions from the 1997 EIS remain valid and that no new or additional significant impacts would result from the project.

The terrain of the project footprint consists of generally level ground that slopes towards the Arkansas River, with an area of low broken hills separated by creeks at and south of Kibler. The project footprint consists primarily of forested areas from Highway 22 to the levee north of the Arkansas River. North of the levee, there is a large section of the project footprint that has been plowed and contains row crops. North of the row crops, the project footprint is primarily agricultural land with some developed areas. This section of the project footprint is considered prior converted croplands. Based on historic aerials, the area has been farmed continuously since before 1985. The project would require the acquisition of approximately 1,544 acres of right-of-way. The Re-evaluation identified 97.2 acres of Important Farmland for Sebastian County and 870.4 acres for Crawford County. The project would adversely impact 22 streams, 32 wetlands and 2 ponds. All of the waters are located within the Frog-Mulberry watershed. Perennial streams include the Arkansas River, Frog Bayou, Little Vache Grasse Creek, Flat Rock Creek and Mays Branch. Stream channel relocation for embankment construction and the construction of culverts and bridges will permanently impact a total of approximately 9,253 linear feet of stream, requiring the discharge of approximately 9,723.8 cubic yards of fill. Temporary stream impacts are estimated at 1,743 linear feet, primarily due to work road construction. A total of 23.93 acres of wetlands will also be permanently impacted for the construction of the new roadway embankment, requiring approximately 74,160 cubic yards of fill material. ArDOT proposes to mitigate for the unavoidable wetland and stream impacts by purchasing 267.67 wetland credits and 58,459.4 stream credits from approved banks that service the area. The Re-evaluation identified approximately 651.5 acres of 100-year floodplains within the project footprint. The Arkansas River and its tributaries in Sebastian and Crawford Counties, Frog Bayou in Crawford County, and Mays Branch in Crawford County are the locations with the largest floodplains and highest potential for impacts. To ensure no rise in the 100-year floodplain at the Arkansas River, removal of trees is needed, and a tree removal area has been identified on property owned by Fort Chaffee. The proposed project would be in compliance with 23 Code of Federal Regulations (CFR) 650 regarding location and hydraulic design of highway encroachments within the floodplains.

The Re-evaluation assessed the potential impacts to wildlife by classifying habitat types within the highway right-of-way into eight broad categories with approximate acreages (#) as follows: Agriculture (712.6), Forest (413.3), Developed (215.5), Herbaceous (69.5), Sapling/Shrub (56.6), Wetlands (45.9), Streams (26.7), Open Water (5.9). Furthermore, the Re-evaluation provided the approximate acreages (#) that would be impacted by the footprint of the project as follows: Agriculture (360.1), Forest (136.4) Developed (90.8), Wetlands (31.0), Sapling/Shrub (22.8), Herbaceous (15.7), Open Water (8.8) and Streams (2.8). Since streams are linear, the Re-evaluation also listed linear feet with approximately 43,824 linear feet within the right-of-way and approximately 10,966 linear of feet impacted by the footprint.

The Re-evaluation evaluated 53 structures for potential inclusion in the National Register of Historic Places (NRHP). ArDOT determined that none of these structures were eligible and the State Historic Preservation Officer concurred in December 2021. One property, Old Wire Road, was determined eligible for inclusion in the NRHP and a Memorandum of Agreement (MOA) was developed to resolve the adverse effect. For archeological resources, 3 sites were completely avoided and designated as environmentally sensitive, 46 sites were determined as not eligible for the NRHP and 18 sites were identified as requiring further work before construction could begin. Further work could include additional surveys, testing and/or monitoring.

Section 4(f) of the Department of Transportation Act of 1966 protects publicly owned and accessible parks, recreation areas, wildlife and waterfowl refuges, and historic sites, regardless of ownership and accessibility. ArDOT completed Section 4(f) evaluations for the U.S. Army Corps of Engineers (USACE) Springhill Park and for Old Wire Road since it is historic. The new I-49 bridge would span approximately 900 feet through Springhill Park and require approximately 10 acres of USACE property, of which approximately 6 acres would be cleared. The four abandoned campsites and currently unused water fountain identified in the 1997 EIS are within the project footprint. Tree and vegetation clearing would be limited to 150-feet east and west of the roadway centerline, for a total width of 300-feet across Springhill Park. Since the 1997 EIS, Springhill Park Trail, a mountain bike/hiking trail, was constructed and would be impacted by the construction of the proposed project. Approximately 2,000 feet of the trail is located within the proposed highway right-of-way, of which approximately 583 feet is located under the proposed bridge deck. Portions of the trail under the bridge deck would need to be re-routed to avoid the proposed bridge substructure. ArDOT has agreed to the USACE requested mitigation for the impacts to Springhill Park. The proposed project crosses Old Wire Road. Accordingly, Old Wire Road is proposed to be rerouted approximately 400 feet to the north, would be at grade and would cross under the elevated Interstate 49 main lane. As stated previously, a MOA was developed to mitigate for this adverse effect.

The Re-evaluation concluded that air quality impacts are not anticipated, and it is not anticipated that emissions from construction of this proposed project would have any significant impact on air quality in the region. ArDOT determined that the proposed project would result in traffic noise impacts and there would be a total of 33 impacted receivers. Therefore, traffic noise barriers were analyzed. Noise barriers must be both feasible and reasonable to be deemed likely for construction. A total of nine noise barriers were analyzed and ArDOT concluded none of the barriers were feasible and reasonable. In regard to visual impacts/aesthetics, the EIS and Re-evaluation stated the Selected Alignment would affect the rural setting, and would result in nearby residents having a view of the roadway. Also, in general, visual impacts anticipated from the construction of the

proposed project are neutral. The proposed project would not cause disproportionately high and adverse effects on any minority or low-income populations in accordance with the provisions of Executive Order (EO) 12898 and FHWA Order 6640.23A.

ArDOT determined that eight Federally listed threatened and endangered species may be affected by the proposed project, but are not likely to be adversely affected, including Gray Bat (*Myotis grisescens*), Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Ozark Big-eared Bat (*Corynorhinus* (= *Plecotus*) *townsendii ingens*), Piping Plover (*Charadrius melodus*), Eastern Black Rail (*Laterallus jamaicensis ssp. jamaicensis*), Red Knot (*Calidris canutus rufa*) and American Burying Beetle (*Nicrophorus americanus*). Additionally, ArDOT has determined the proposed project would have no effect on the Missouri Bladderpod (*Physaria filiformis*). Lastly, ARDOT determined the project may affect but is not likely to adversely affect the proposed Alligator Snapping Turtle (*Macrochelys temminckii*) and Tricolored Bat (*Perimyotis subflavus*), and the candidate Monarch Butterfly (*Danaus plexippus*).

The project will cross the USACE Springhill Park, the McClellan-Kerr Arkansas River Navigation System (MKARNS) and the Crawford County Levee System. A full Section 408 review is currently underway as part of the overall approval process for the highway project. This requirement was established in Section 14 of the Rivers and Harbors Act and verifies that changes to authorized USACE Civil Works projects will not be injurious to the public interest and will not impair the usefulness of the aforementioned projects.

The location and general plan for the proposed work are shown on the enclosed sheets 1 through 5 of 5.

Water Quality Certification. The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 Code of Federal Regulations (CFR) Part 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a Federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying agency. As of the date of this public notice, the applicant has not submitted a certification request to the Arkansas Department of Energy and Environment, Division of Environmental Quality (certifying authority). In accordance with Certification Rule Part 121.6, once the applicant submits a certification request the Corps will determine the reasonable period of time for the certifying agency to act upon the certification and provide written notification. In accordance with Certification Rule Part 121.12, the Corps will notify the U.S. Environmental Protection Agency Administrator when it has received the subject certification. The Administrator is responsible for determining if the discharge may affect water quality in a neighboring jurisdiction. The DA permit may not be issued pending the conclusion of the Administrator's determination of effects on neighboring jurisdictions.

Cultural Resources. ArDOT staff archeologists have reviewed topographic maps and the National Register of Historic Places, and one property, Old Wire Road, was determined eligible for inclusion in the NRHP. To mitigate impacts, ARDOT will produce archival documentation for the property that meets the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation* set forth in 48 FR 44716 and AHPP's 2016 *Survey Procedures Manual: Guidelines for Historic and Architectural Surveys in Arkansas*. The FHWA has completed coordination with

all associated Native American Nations and tribal governments. Following the completion of Phase I archaeological investigations of previously unsurveyed portions of the proposed project between Highway 22 and Interstate 40, and previously recommended Phase II significance testing of two sites, a combined Phase I/II report will provide a record of investigated resources with appropriate NRHP recommendations. Any sites which were recommended for significance testing and/or mitigation from prior survey reporting and from recommendations developed in consultation between ARDOT and the SHPO in approved management summaries will then be conducted and reported in a separate Phase II/III report.

Endangered Species. ArDOT determined that eight Federally listed threatened and endangered species may be affected by the proposed project, but are not likely to be adversely affected, including Gray Bat, Indiana Bat, Northern Long-eared Bat, Ozark Big-eared Bat, Piping Plover, Eastern Black Rail, Red Knot and American Burying Beetle. Additionally, ArDOT has determined the proposed project would have no effect on the Missouri Bladderpod. Lastly, ARDOT determined the project may affect but is not likely to adversely affect the proposed Alligator Snapping Turtle and Tricolored Bat, and the candidate Monarch Butterfly. A copy of this notice is being furnished to the U.S. Fish and Wildlife Service and appropriate state agencies and constitutes a request to those agencies for information 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 proposed activity.

Floodplain. ArDOT determined that the project will impact the 100-year floodplain. We are providing copies of this notice to appropriate floodplain officials in accordance with 44 Code of Federal Regulations (CFR) Part 60 (Floodplain Management Regulations Criteria for Land Management and Use) and Executive Order 11988 on Floodplain Management.

Section 404(b)(1) Guidelines. The evaluation of activities to be authorized under this permit, which involves the discharge of dredged or fill material will include application of guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act. These guidelines are contained in 40 Code of Federal CFR 230.

Public Involvement. Any interested party is invited to submit to the above-listed POC written comments or objections relative to the proposed work on or before **June 17, 2024**. Substantive comments, both favorable and unfavorable, will be accepted and made a part of the record and will receive full consideration in determining whether this work would be in the public interest. 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 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, 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 need for a public hearing and to determine the overall public interest of the proposed activity.

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, with particularity, the reasons for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision.

NOTE: The mailing list for this Public Notice is arranged by state and county(s) where the project is located, and includes any addressees who have asked to receive copies of all public notices. Please discard notices that are not of interest to you. If you have no need for any of these notices, please advise us so that your name can be removed from the mailing list.

Enclosures

Approximate Coordinates of Project Center

Latitude: **35.372412°** Longitude: **-94.274588°**

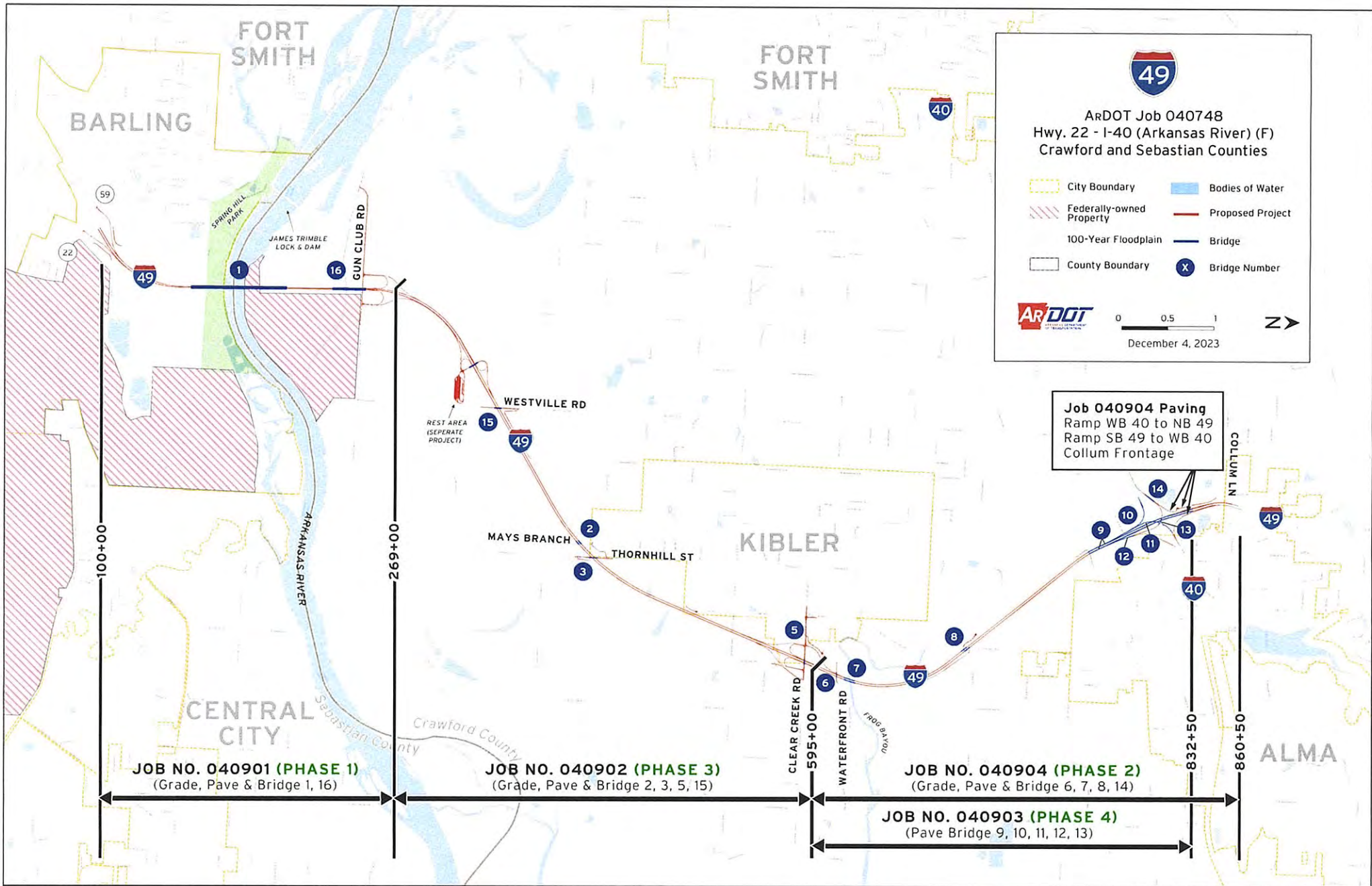
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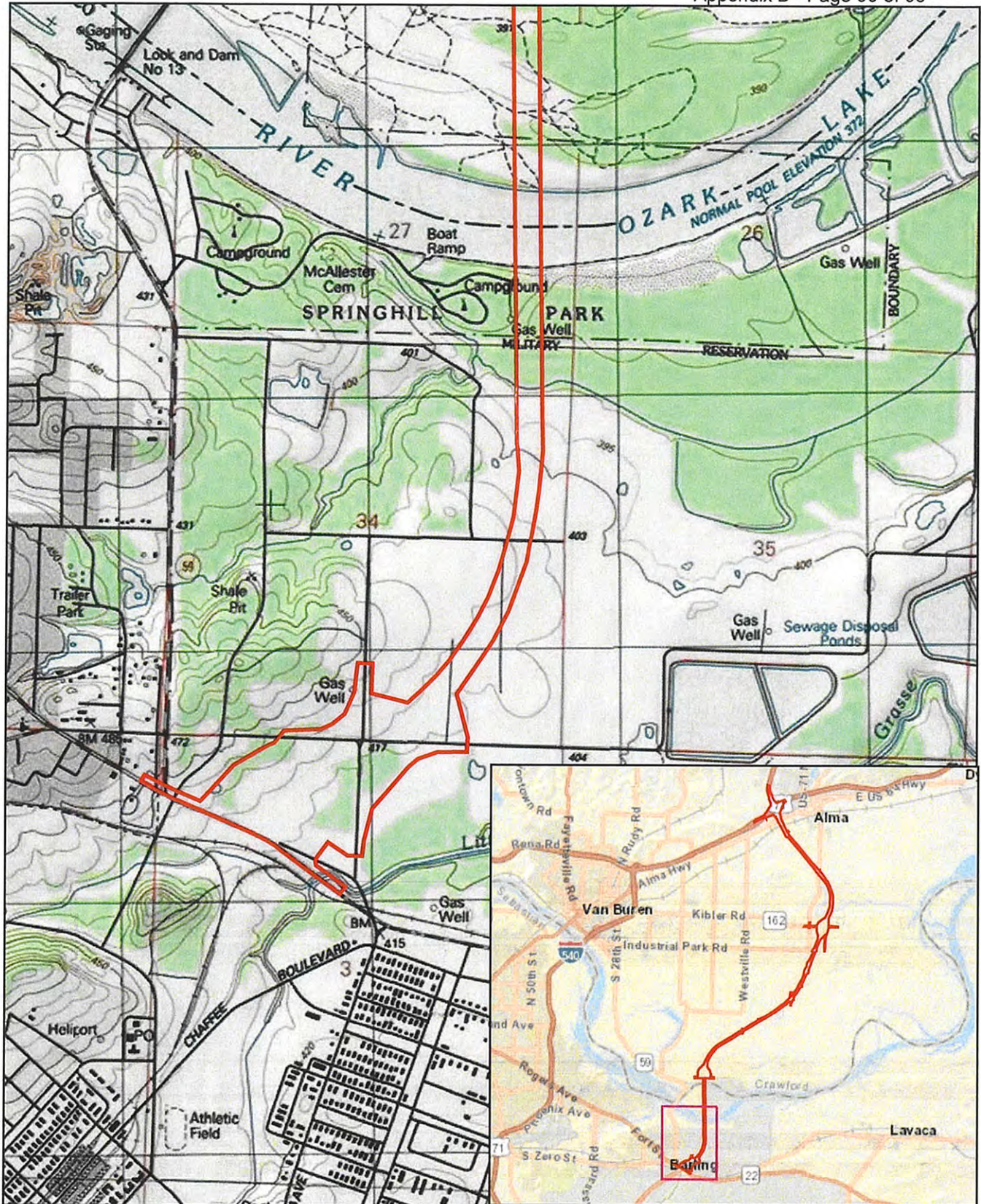


PROJECT LOCATION MAP

I-49 Project from Highway 22 to I-40
Crawford and Sebastian Counties, Arkansas



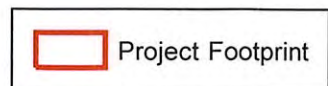




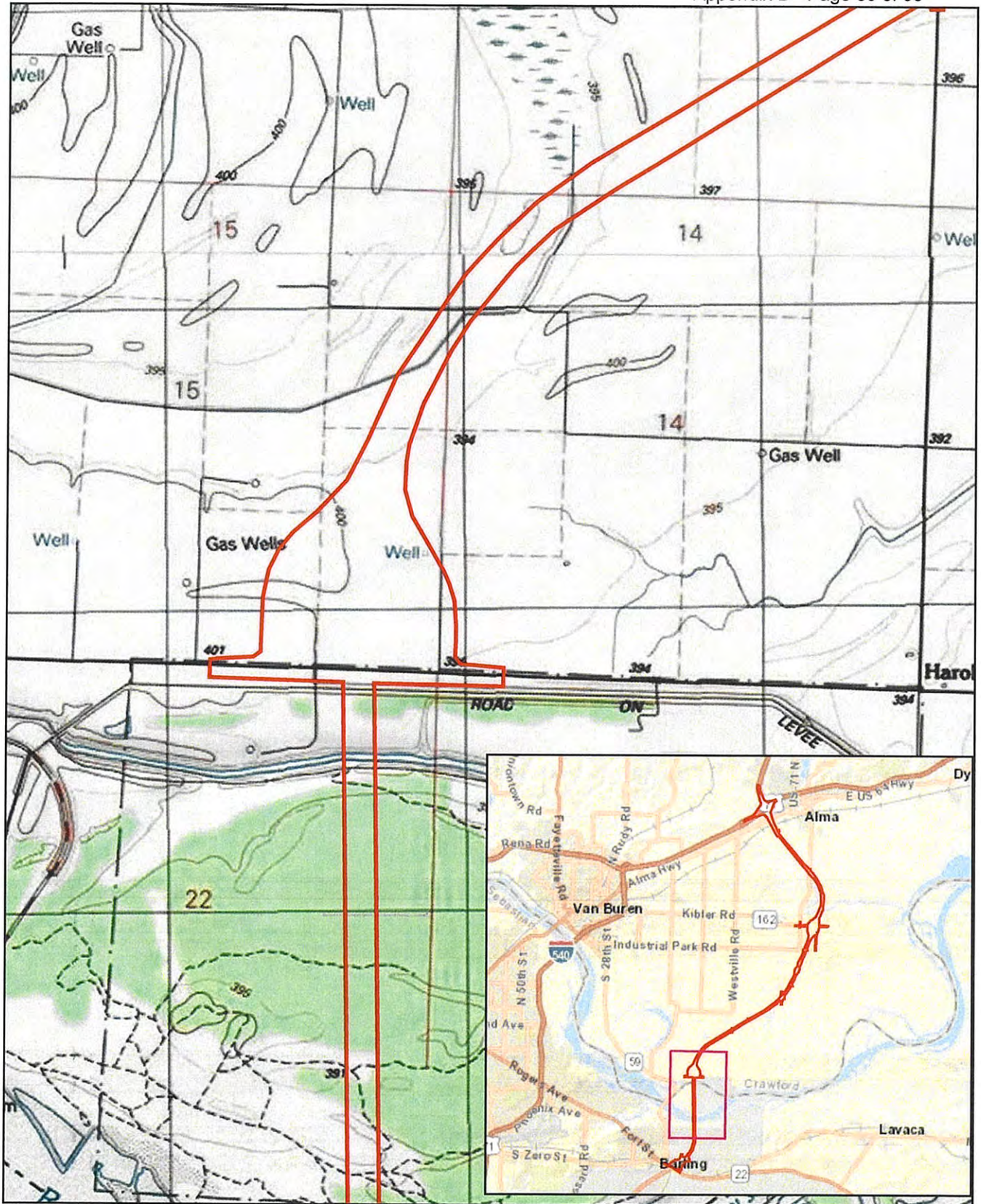
I-49 PROJECT RE-EVALUATION
 From SH 22 to I-40
 Crawford and Sebastian Counties, Arkansas
 Sheet 5 of 5

Project Footprint
 Job No. 040748

Scale: 1:24,000



USGS Topographic Map:
 Barling 1987



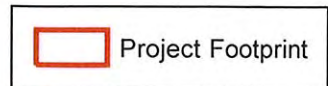
I-49 PROJECT RE-EVALUATION
 From SH 22 to I-40
 Crawford and Sebastian Counties, Arkansas
 Sheet 4 of 5

Scale: 1:24,000

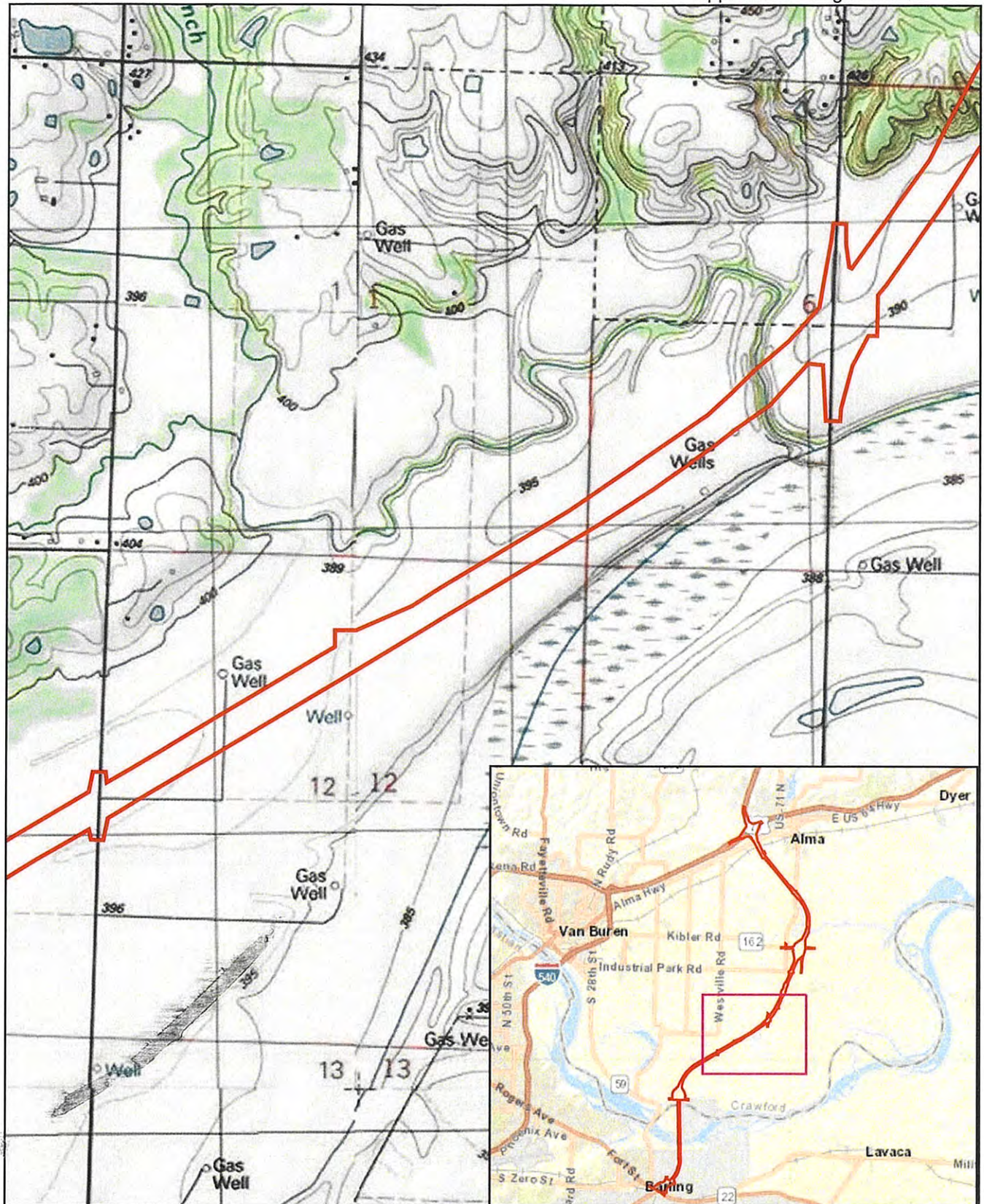


Project Footprint

Job No. 040748



USGS Topographic Map:
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Scale: 1:24,000



I-49 PROJECT RE-EVALUATION
 From SH 22 to I-40
 Crawford and Sebastian Counties, Arkansas
 Sheet 3 of 5

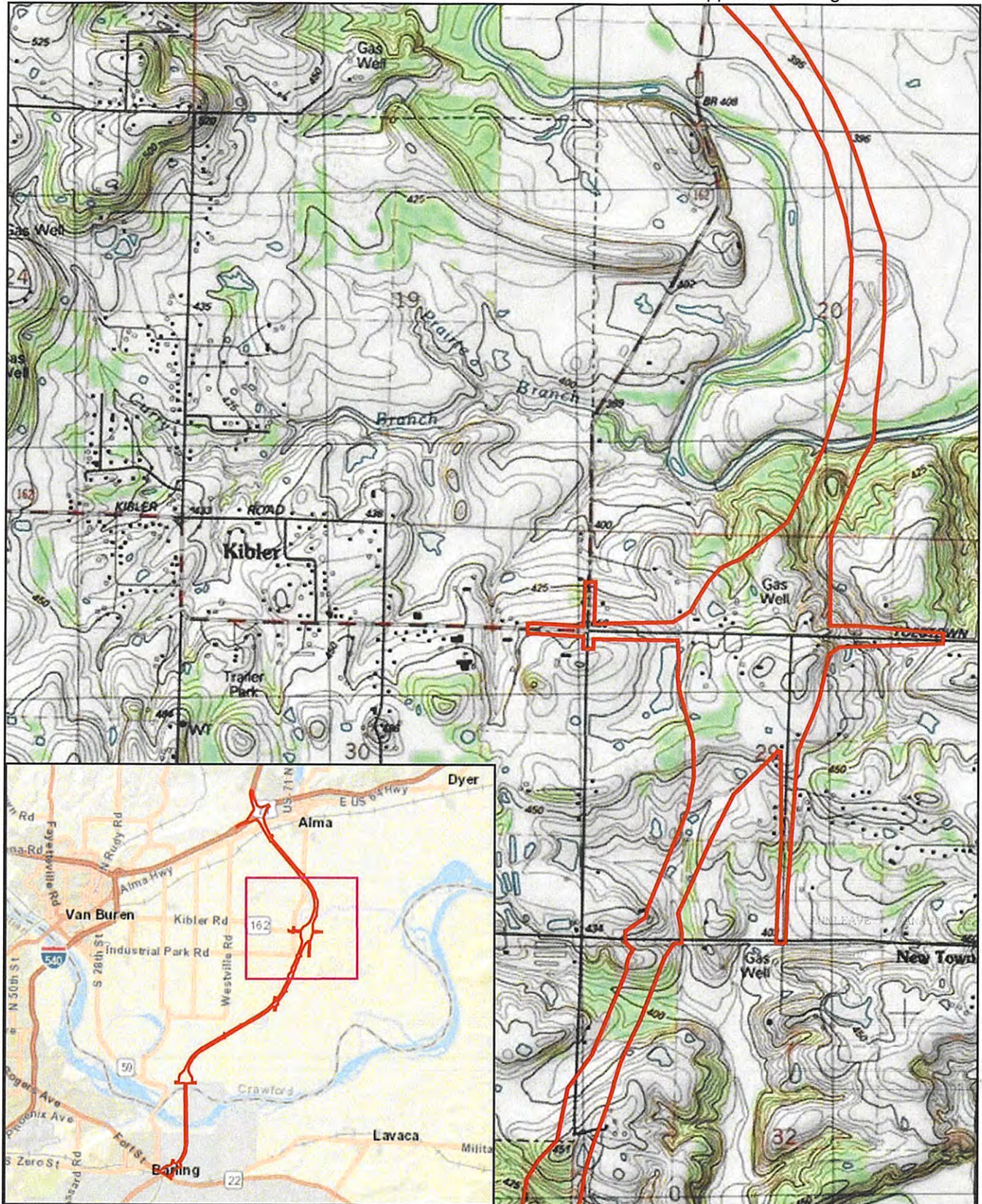


Project Footprint

Job No. 040748

 Project Footprint

USGS Topographic Map:
 Van Buren 1987
 Barling 1987



Scale: 1:24,000



I-49 PROJECT RE-EVALUATION
 From SH 22 to I-40
 Crawford and Sebastian Counties, Arkansas
 Sheet 2 of 5

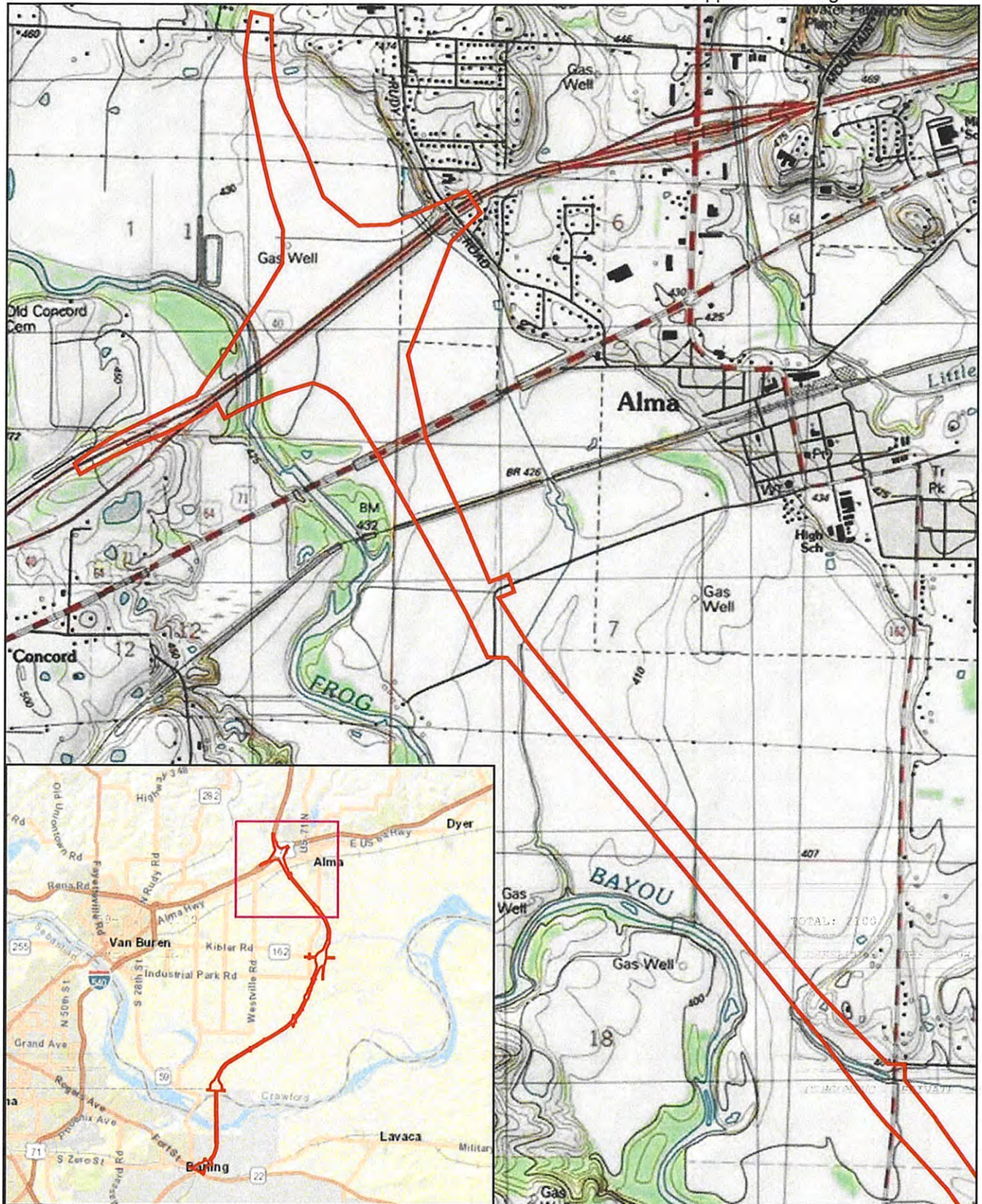


Project Footprint

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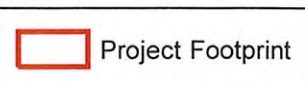
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I-49 PROJECT RE-EVALUATION
 From SH 22 to I-40
 Crawford and Sebastian Counties, Arkansas
 Sheet 1 of 5

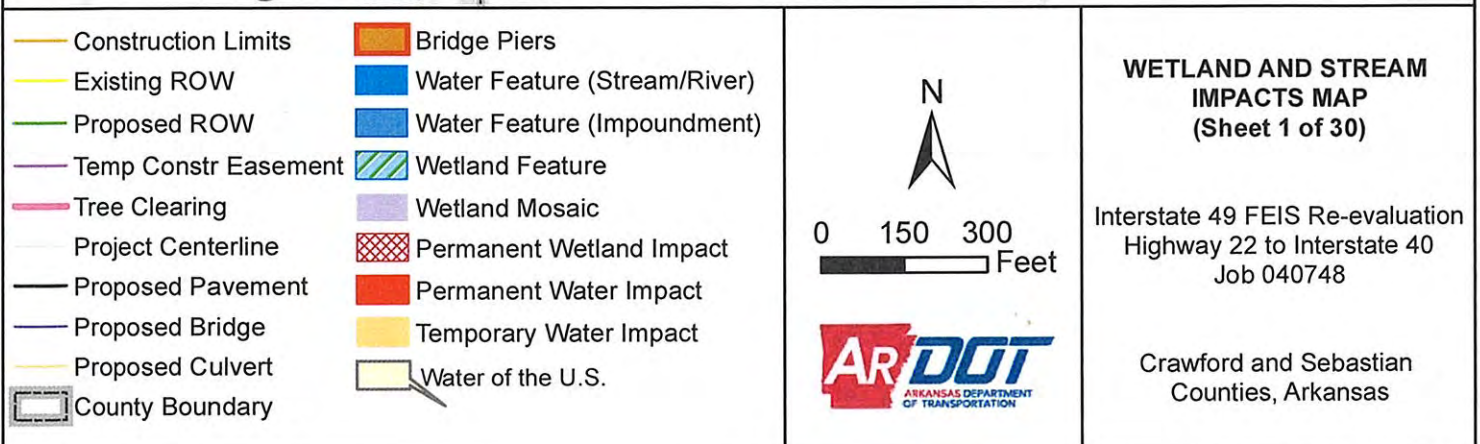
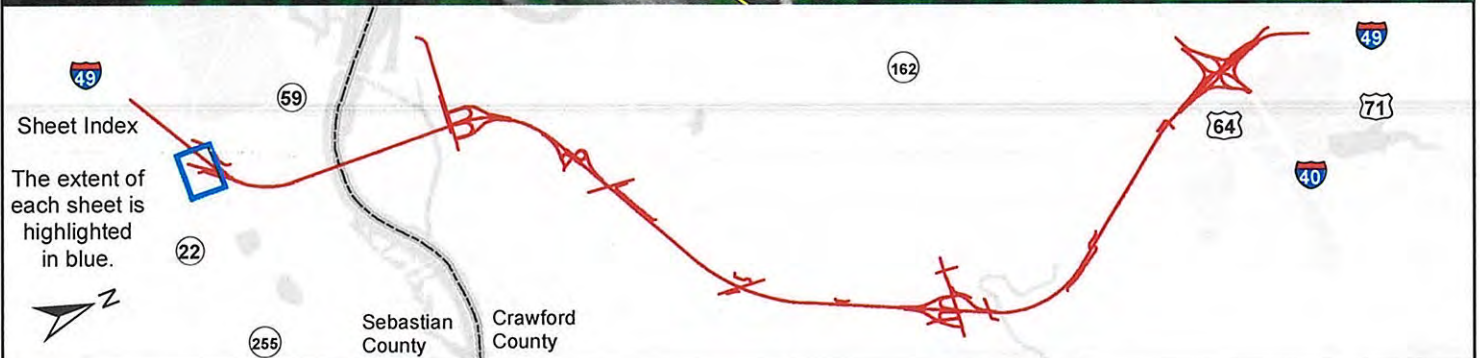
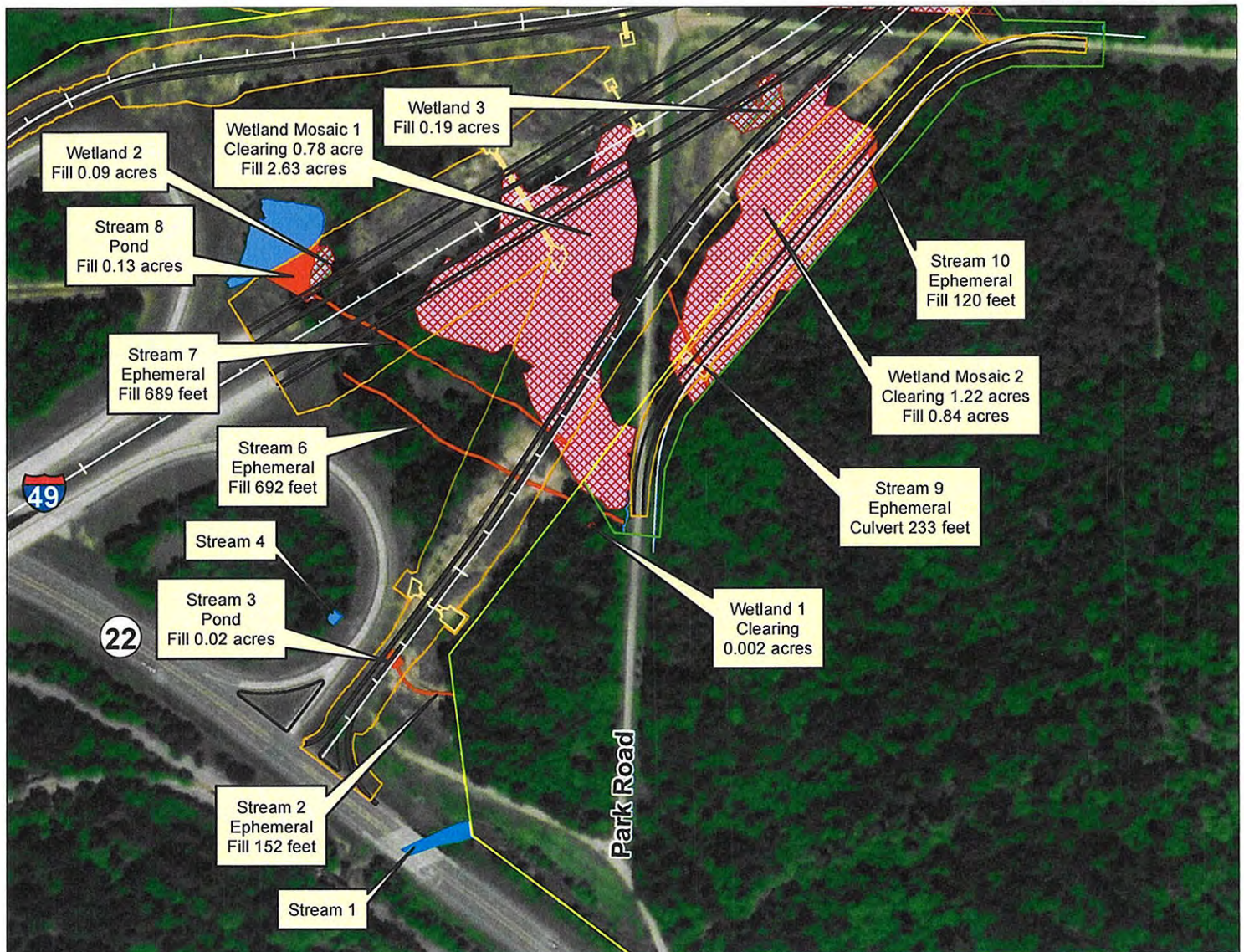
Project Footprint

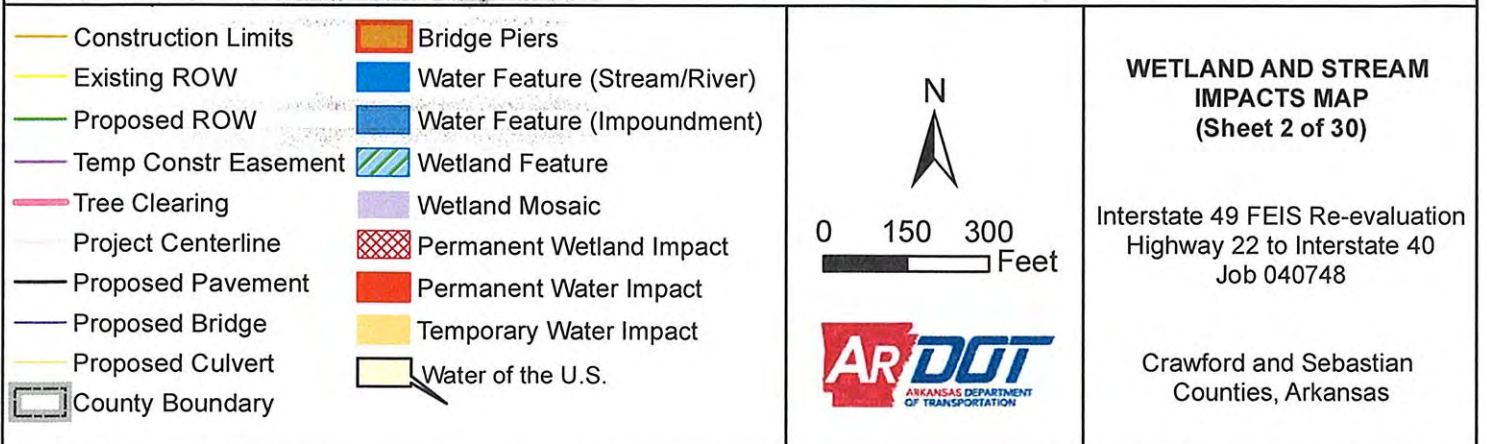
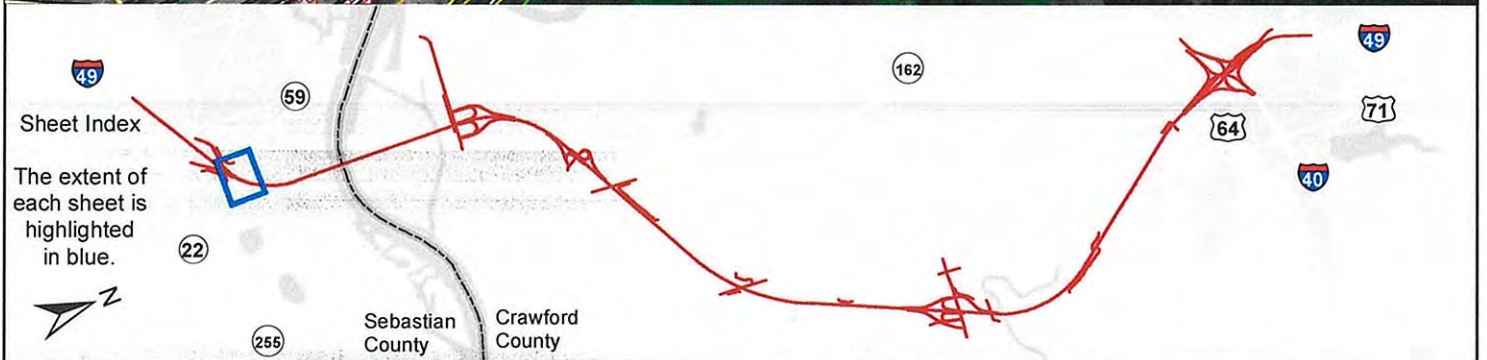
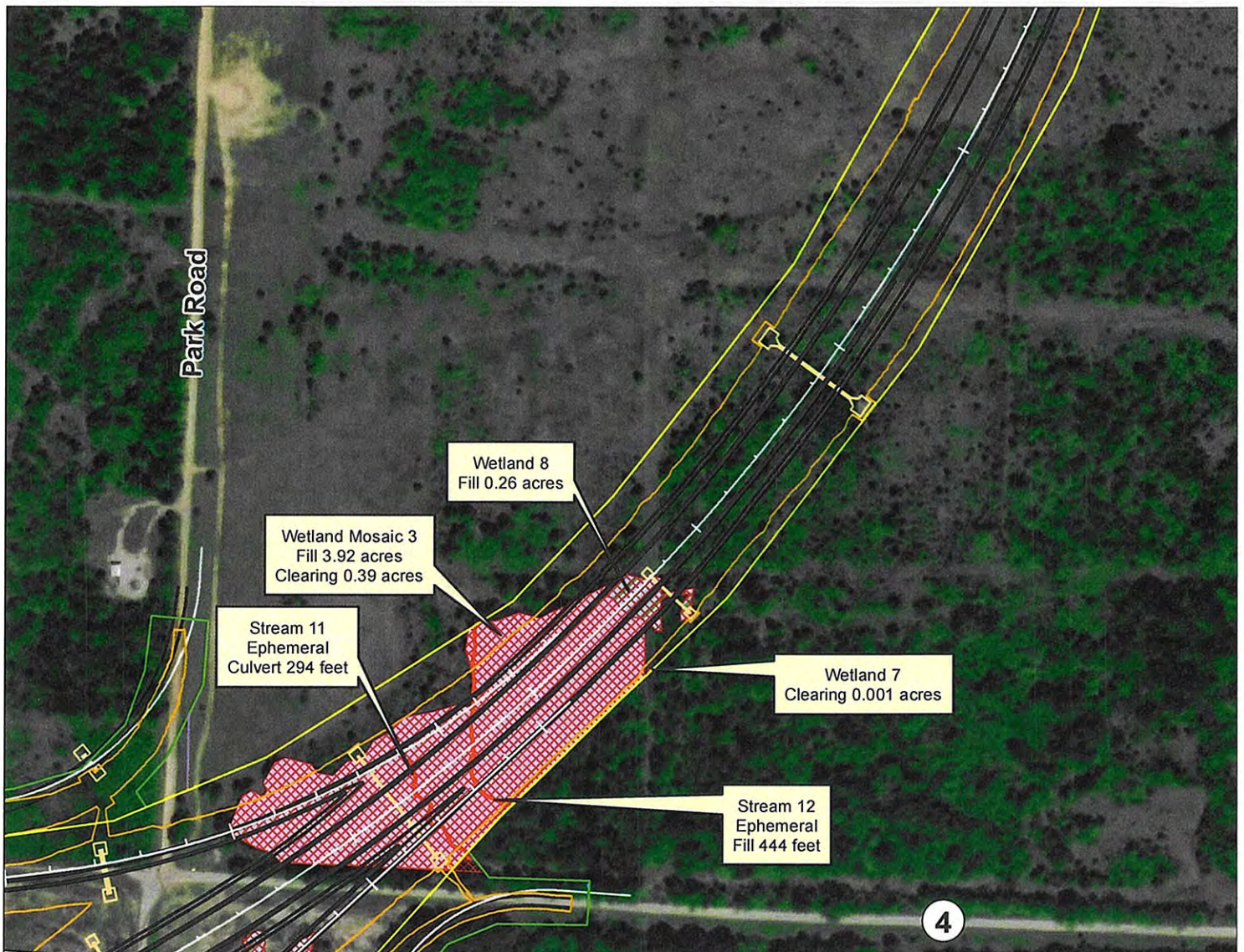
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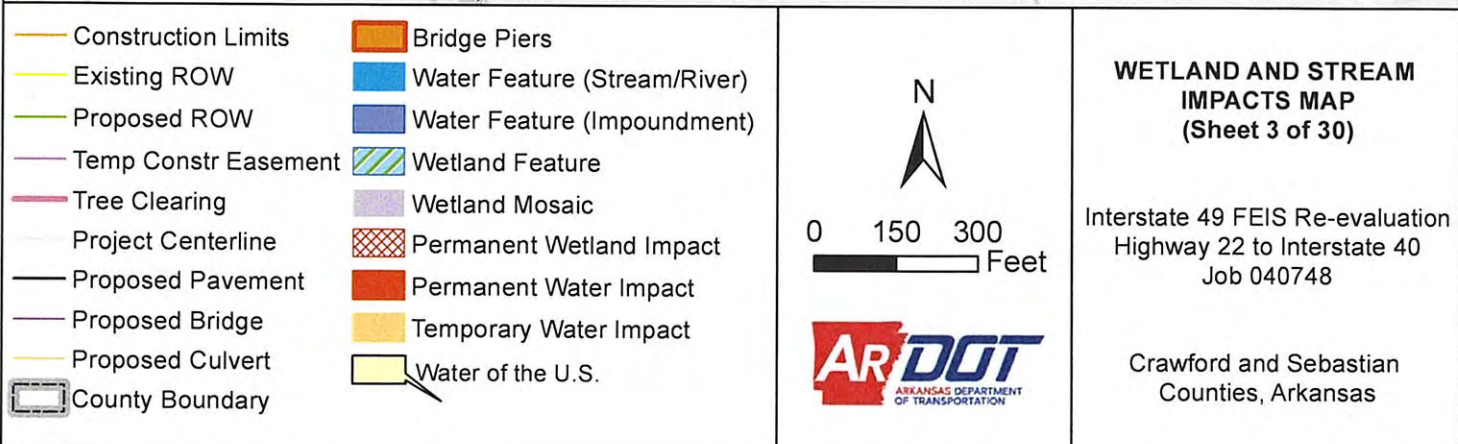
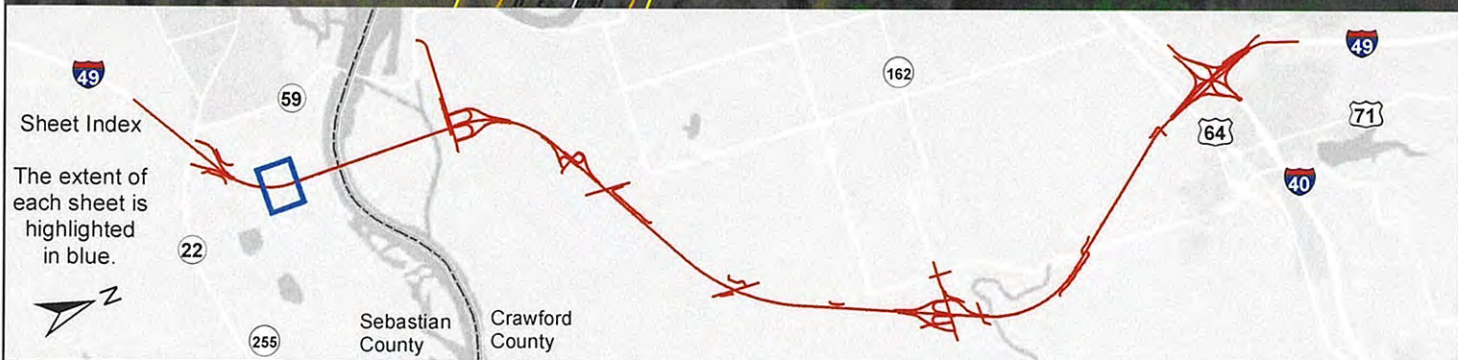
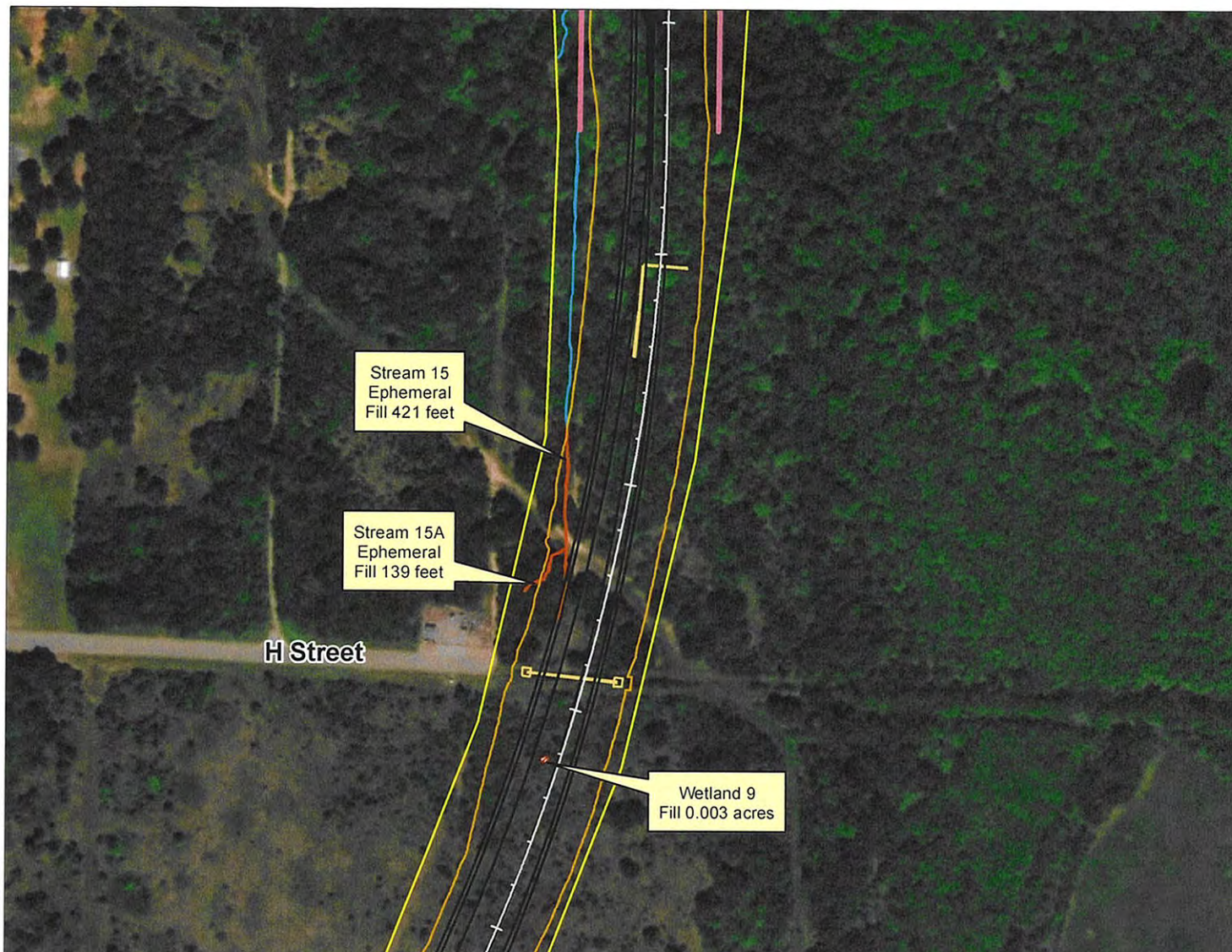


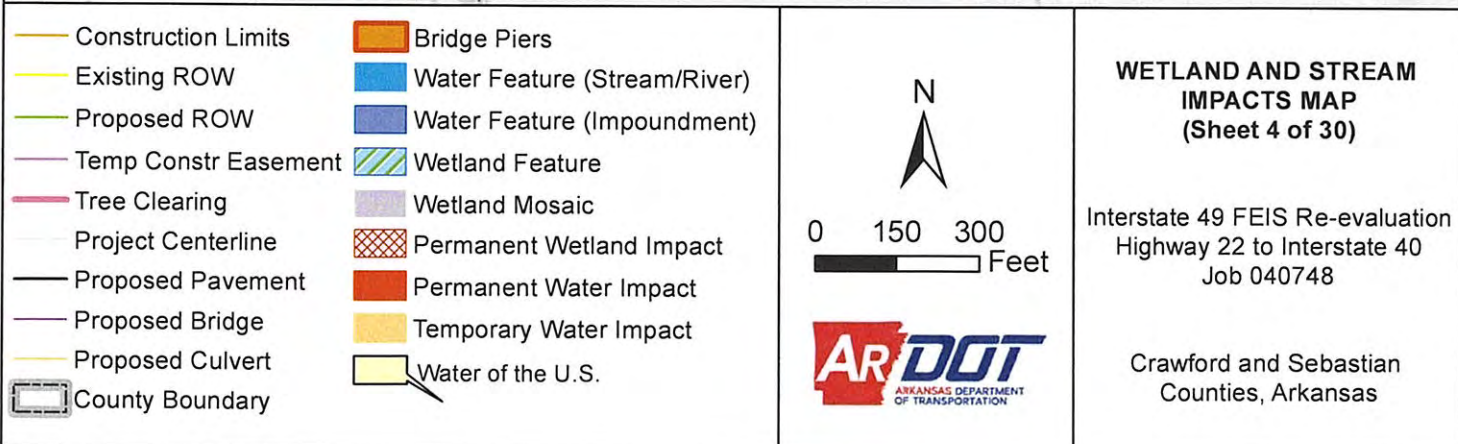
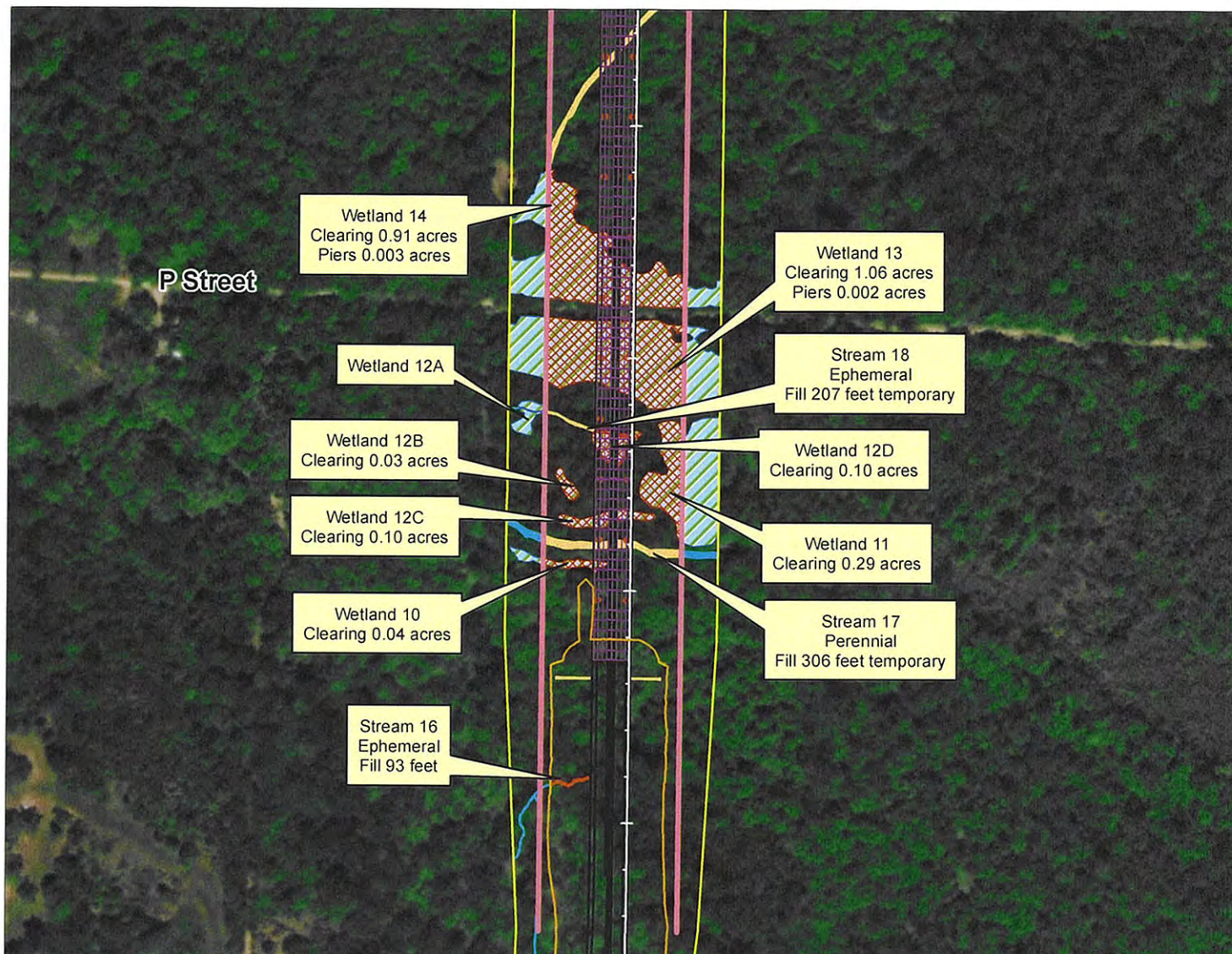
USGS Topographic Map:
 Van Buren 1995

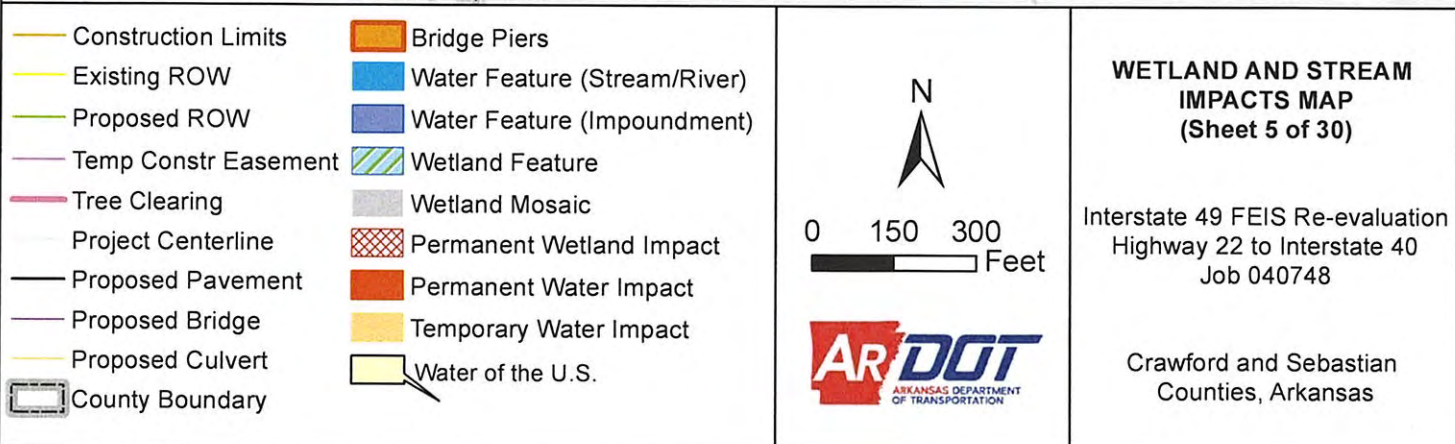
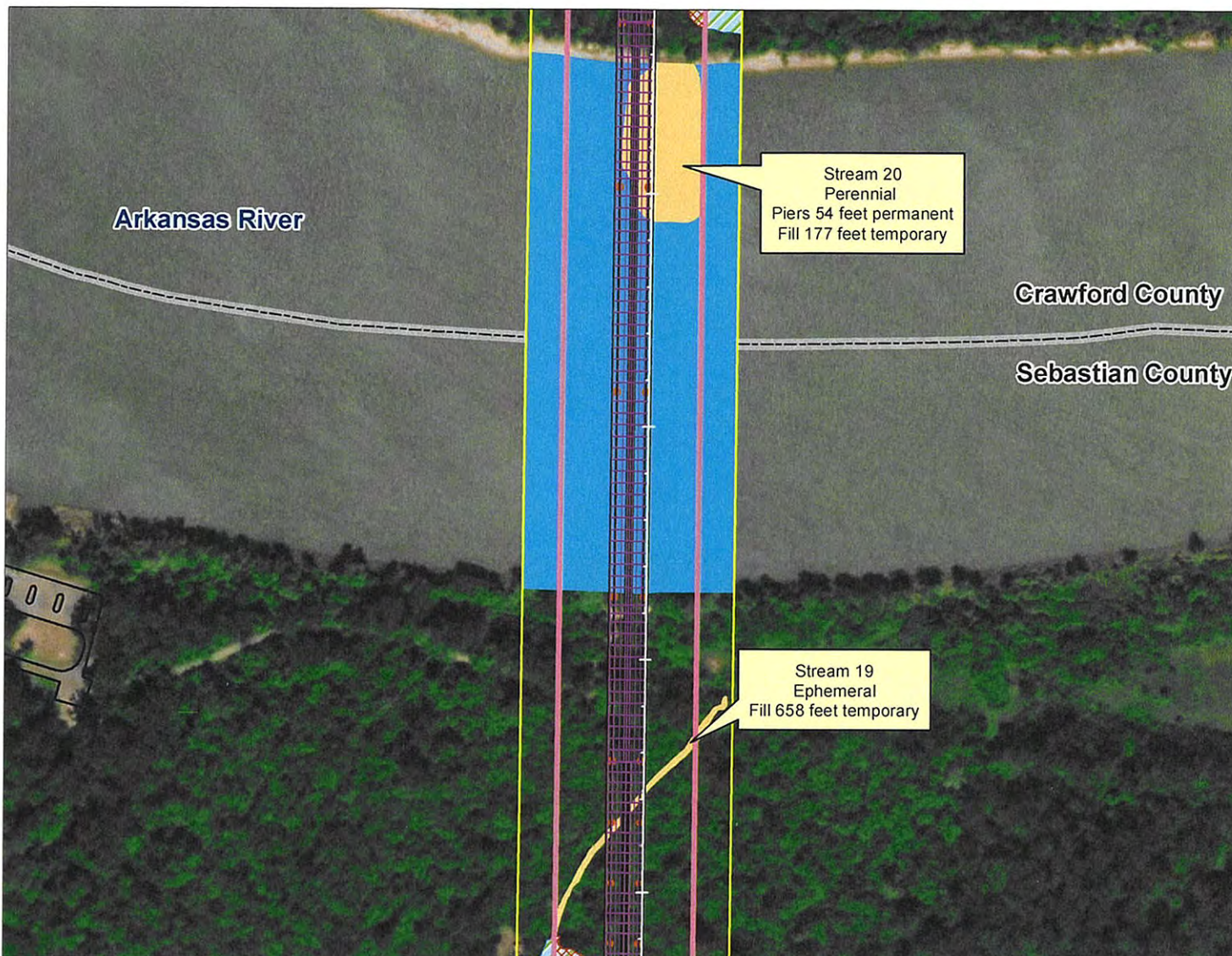
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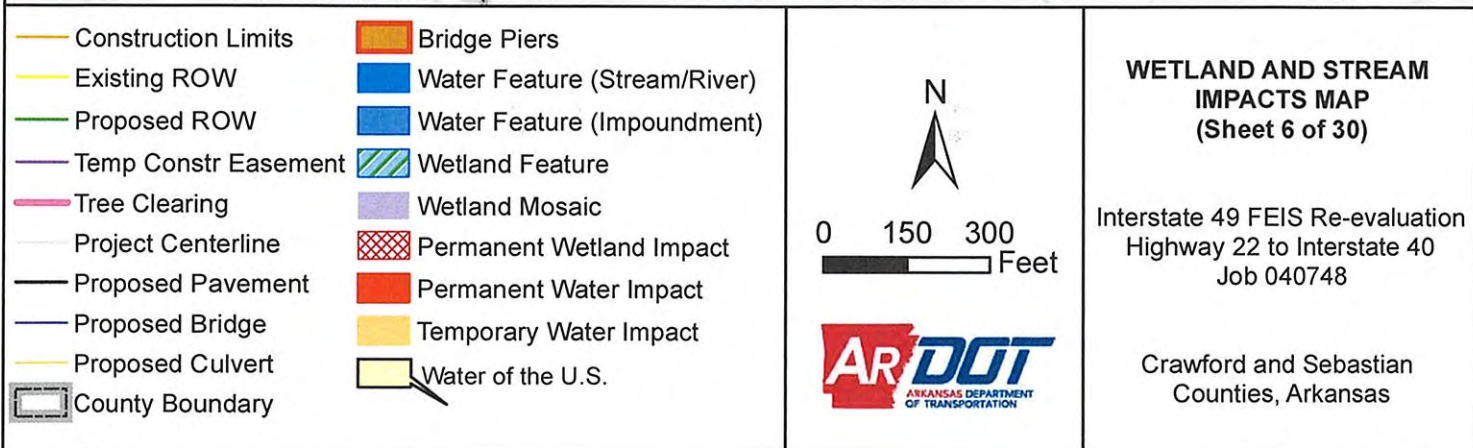


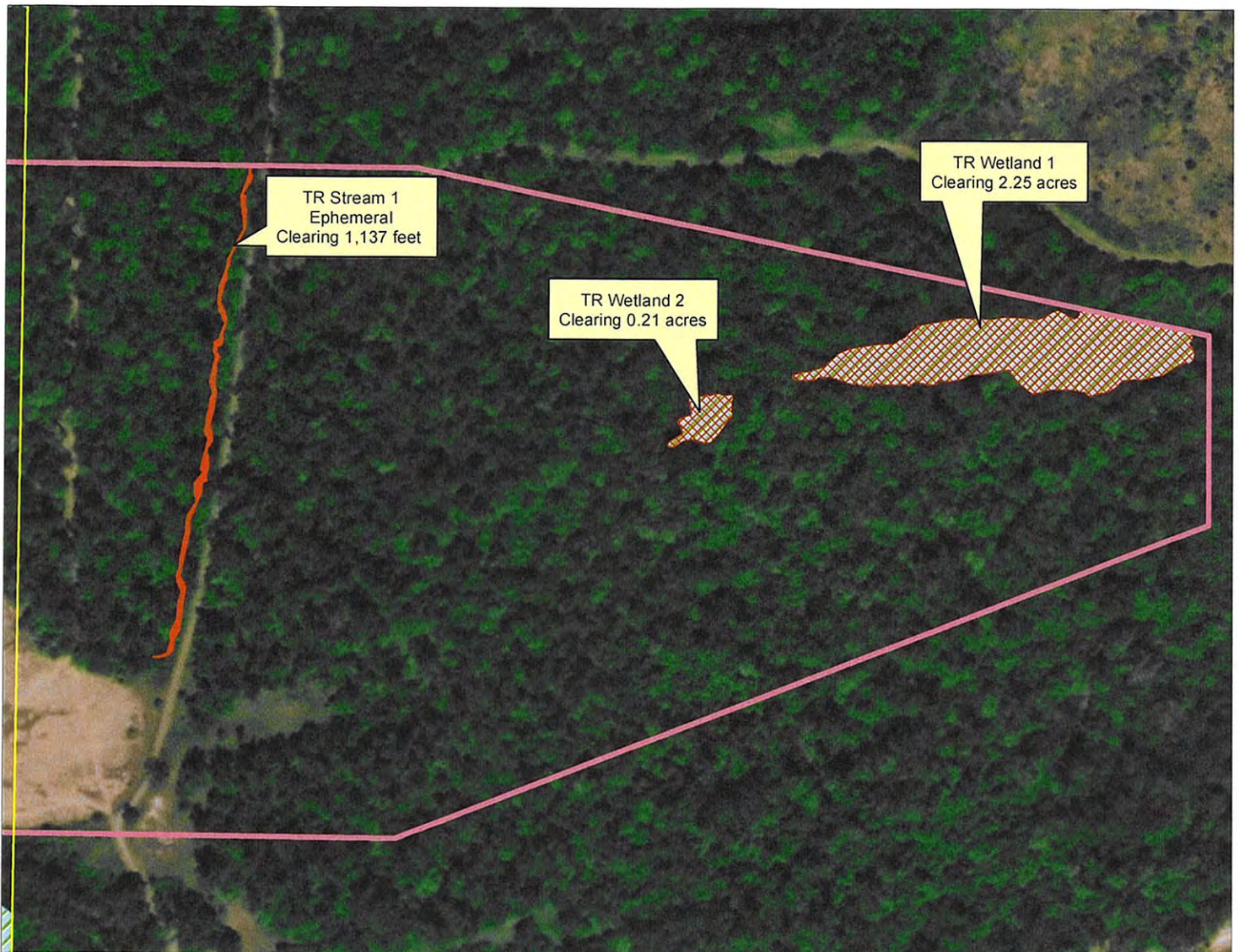




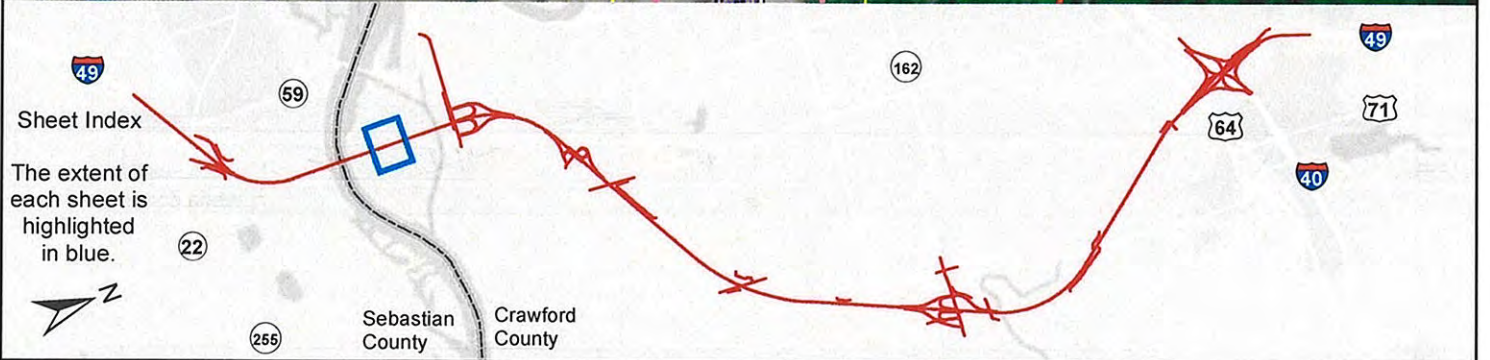




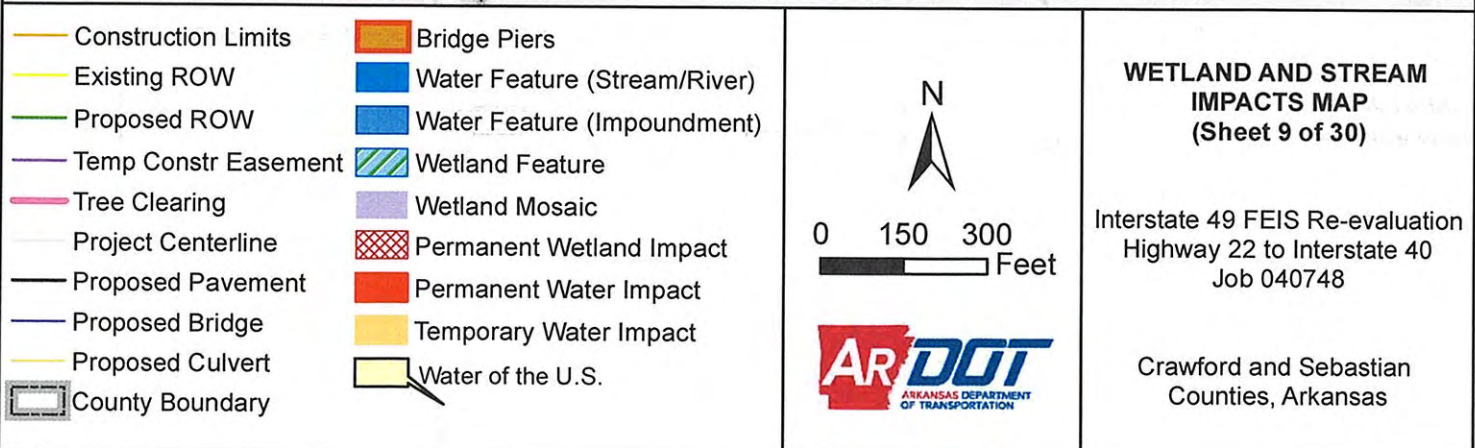
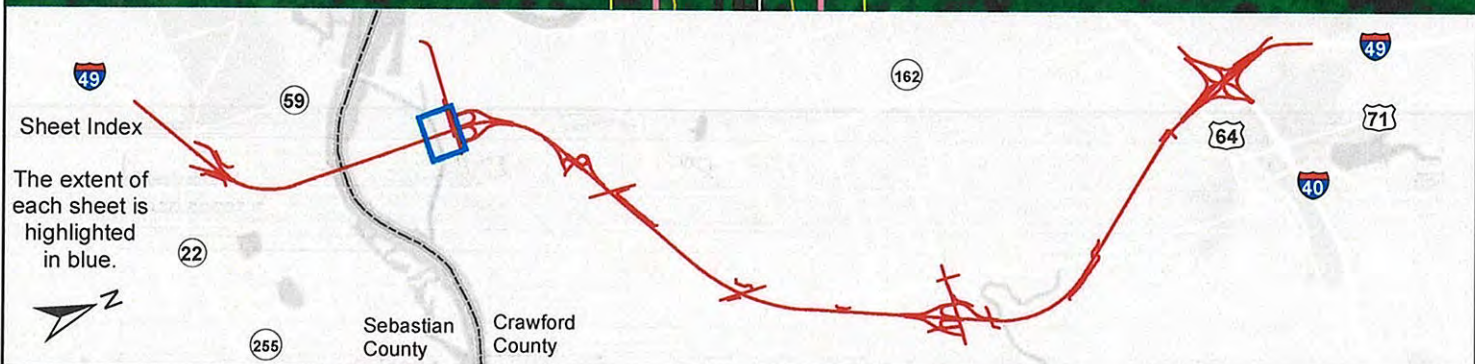
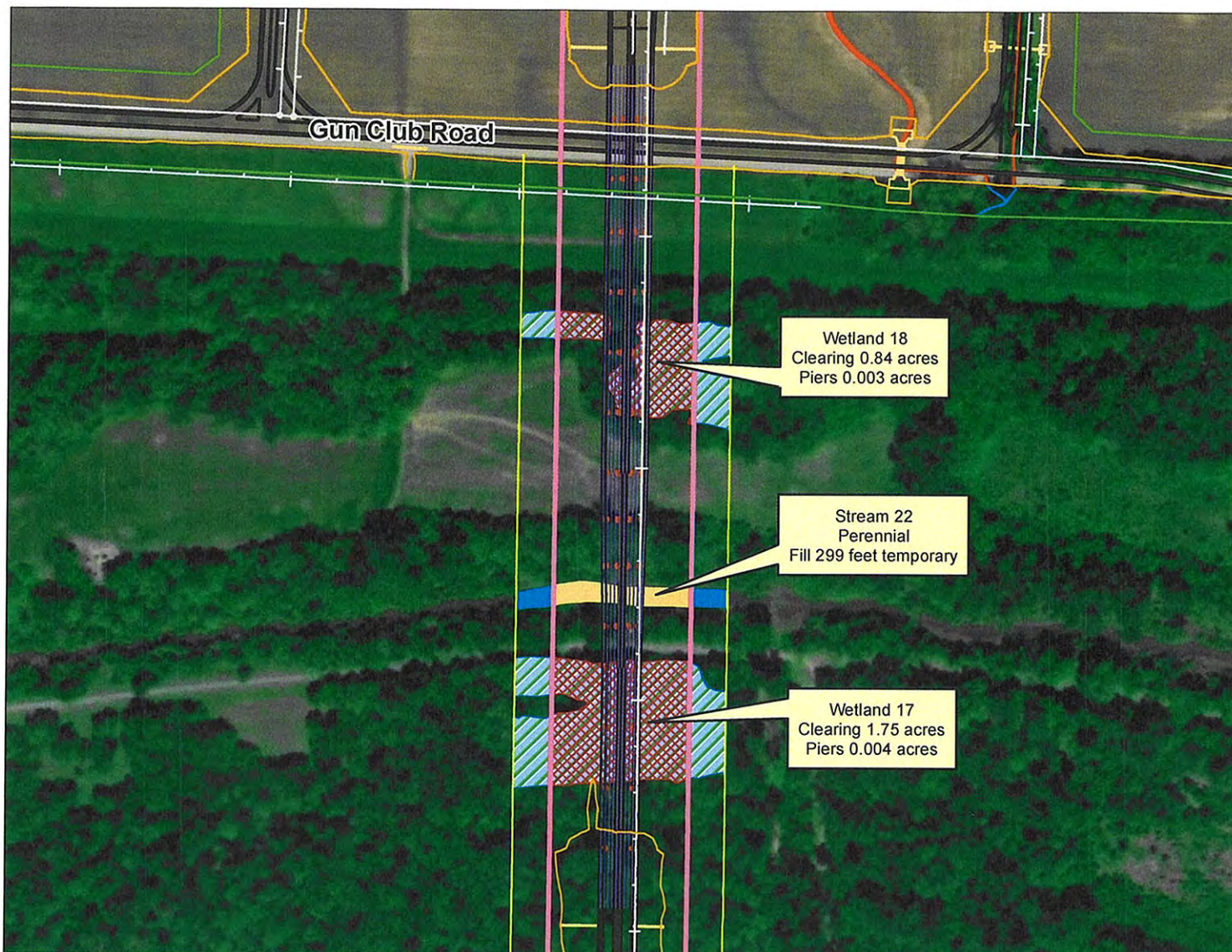


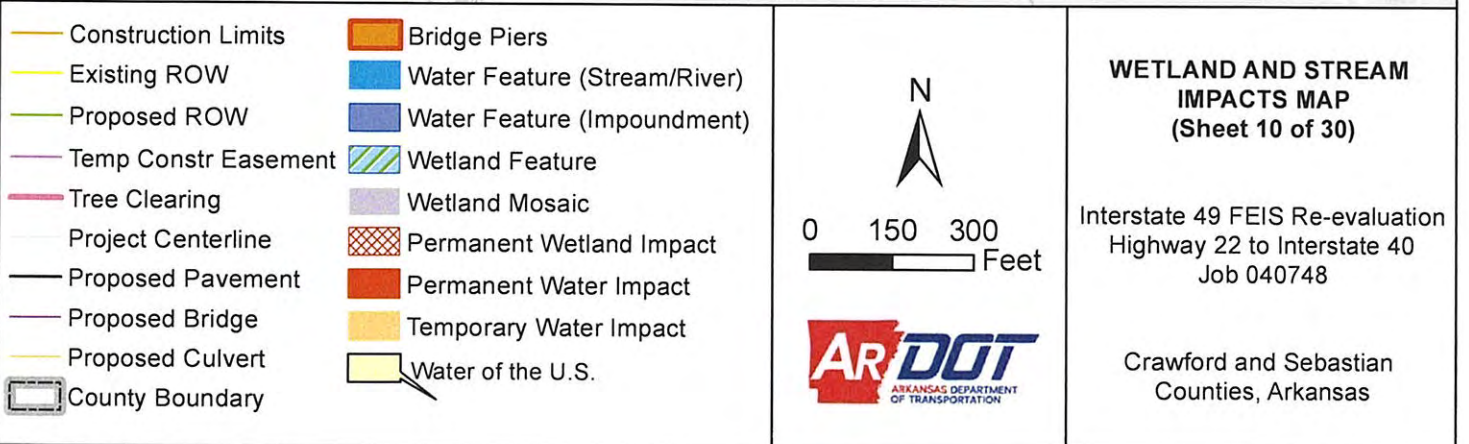


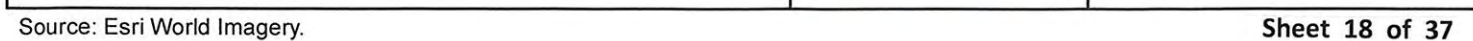
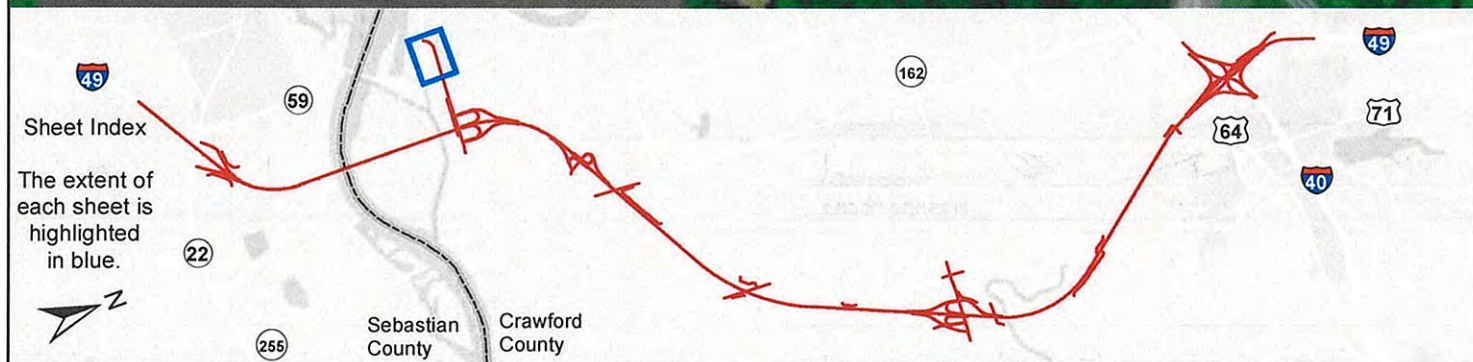
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| <ul style="list-style-type: none"> Construction Limits Existing ROW Proposed ROW Temp Constr Easement Tree Clearing Project Centerline Proposed Pavement Proposed Bridge Proposed Culvert County Boundary | <ul style="list-style-type: none"> Bridge Piers Water Feature (Stream/River) Water Feature (Impoundment) Wetland Feature Wetland Mosaic Permanent Wetland Impact Permanent Water Impact Temporary Water Impact Water of the U.S. | <div style="text-align: center;"> <p>N</p> </div> <div style="text-align: center;"> <p>0 150 300</p> <p>Feet</p> </div> <div style="text-align: center;"> </div> | <p>WETLAND AND STREAM IMPACTS MAP (Sheet 7 of 30)</p> <p>Interstate 49 FEIS Re-evaluation Highway 22 to Interstate 40 Job 040748</p> <p>Crawford and Sebastian Counties, Arkansas</p> |
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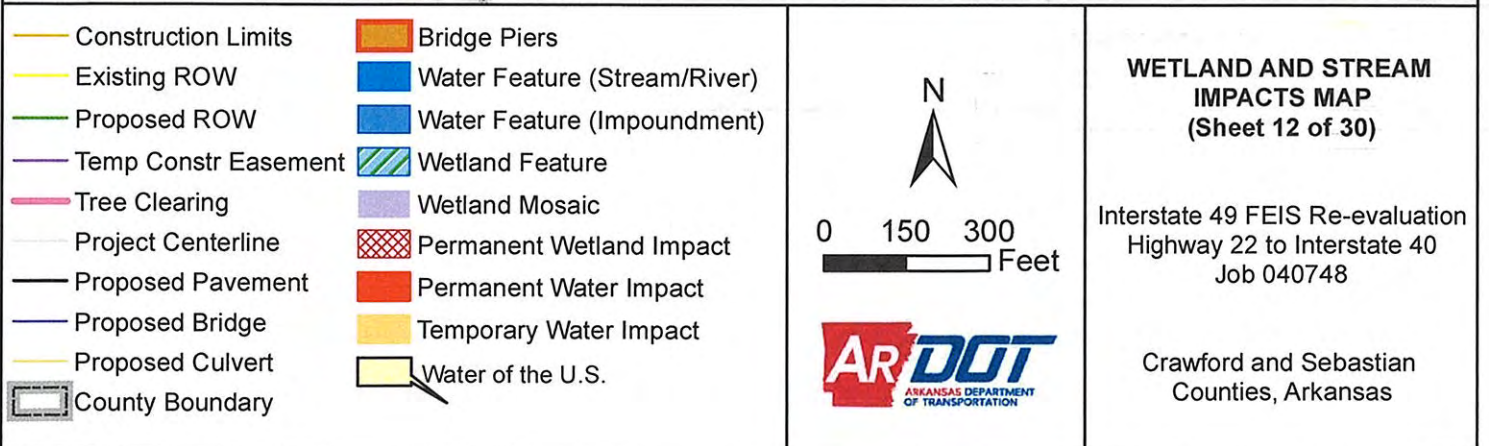
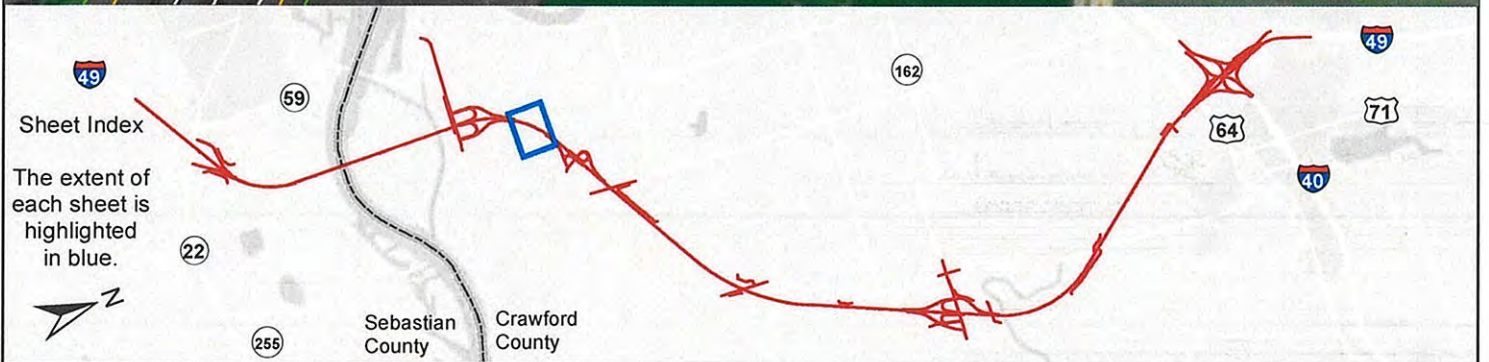
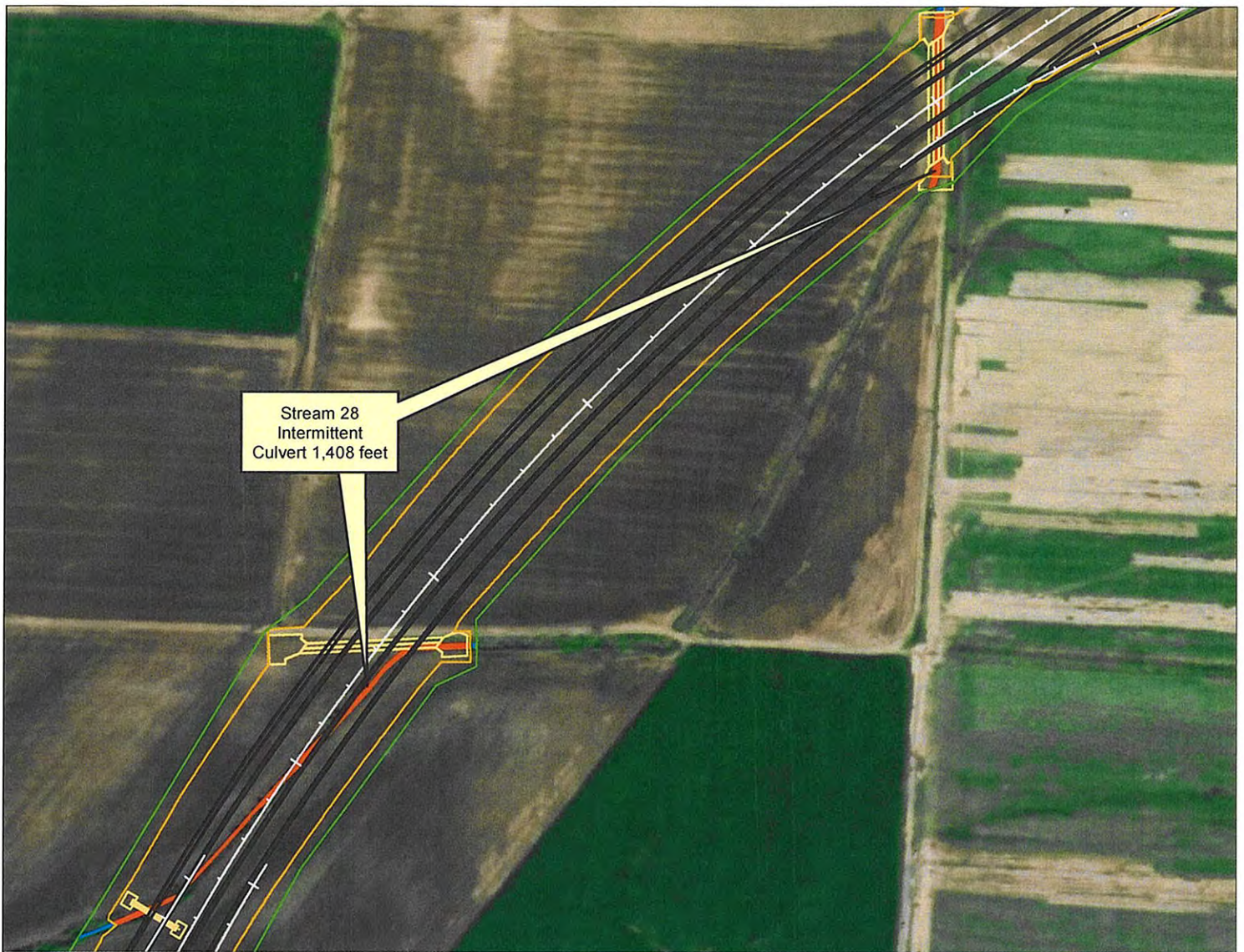


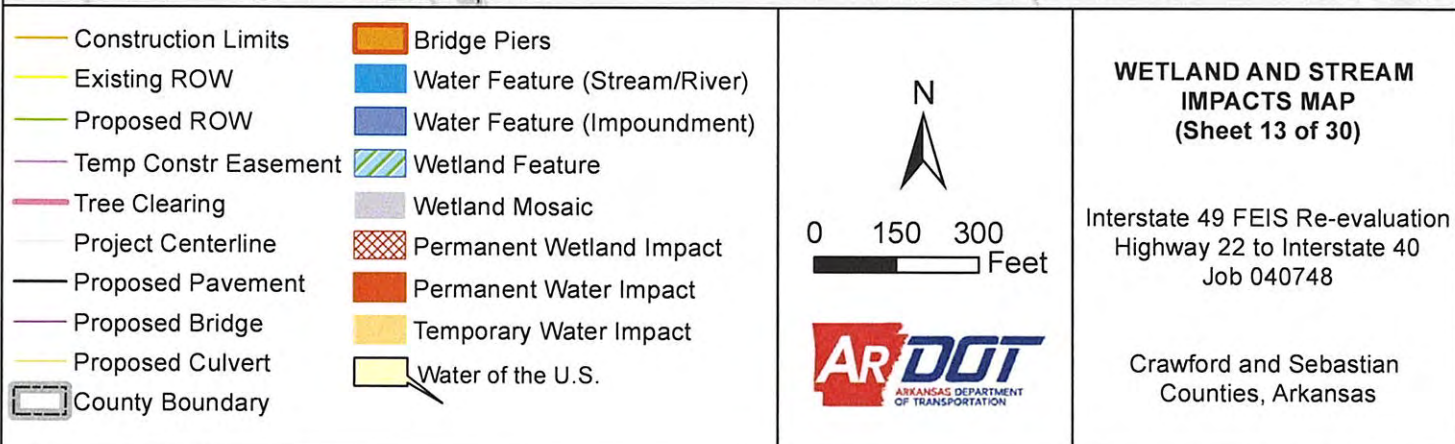
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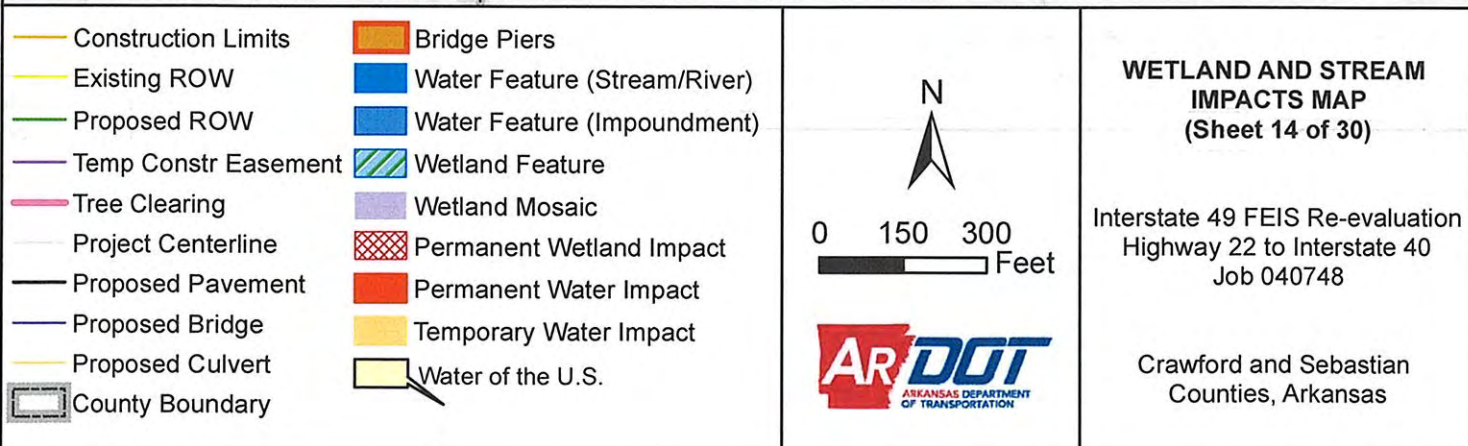
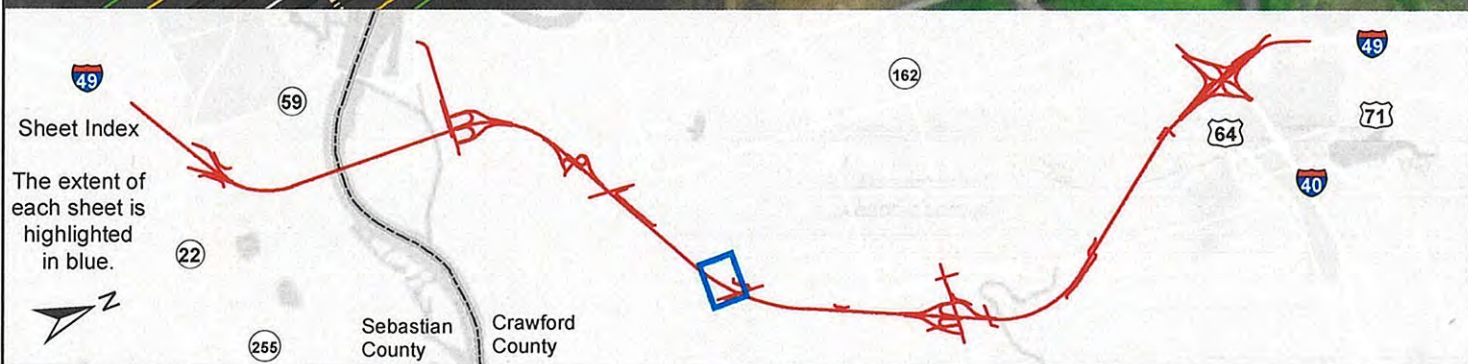


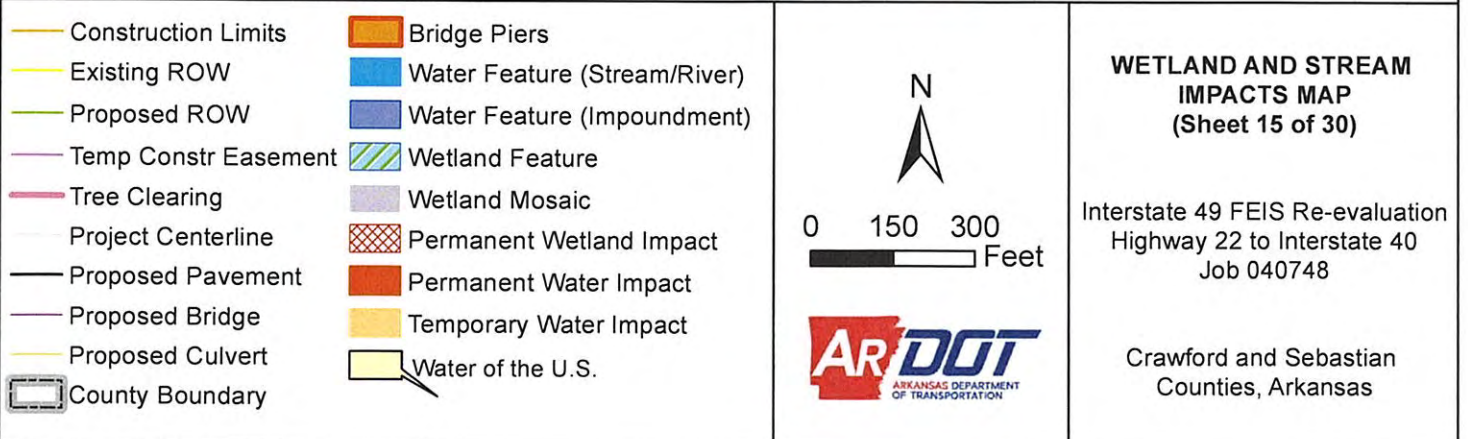


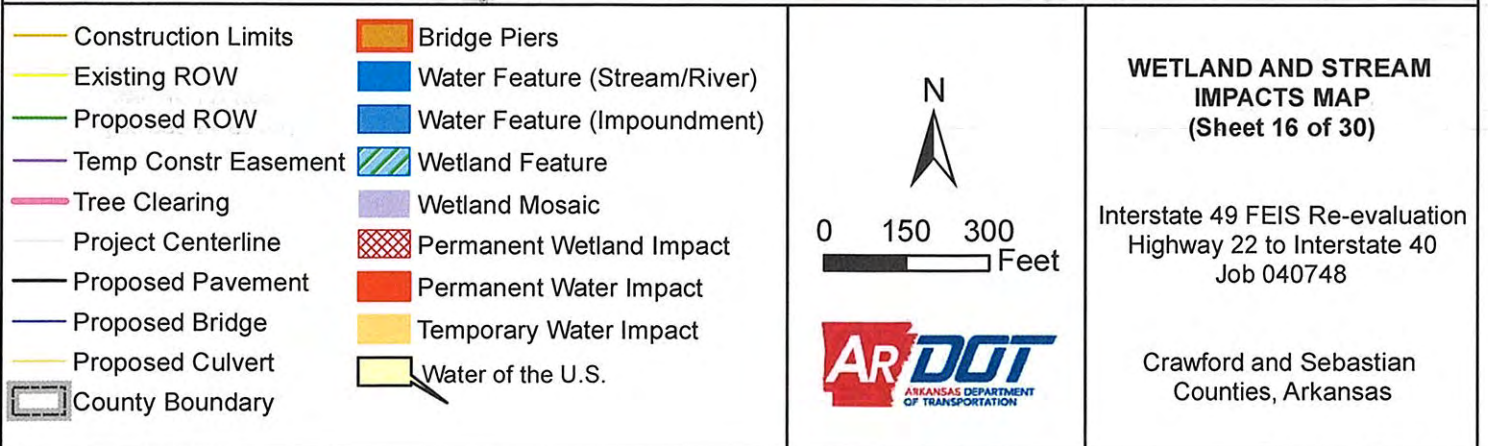
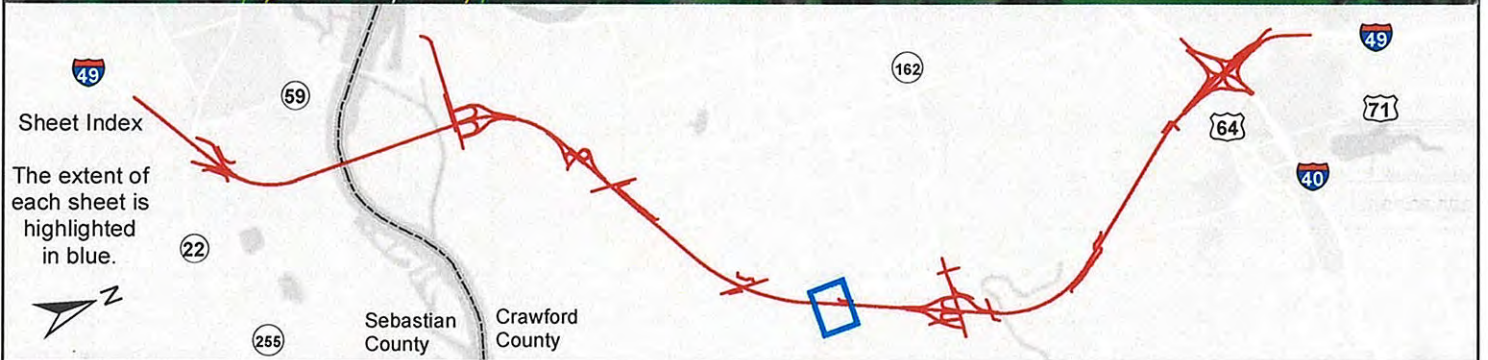
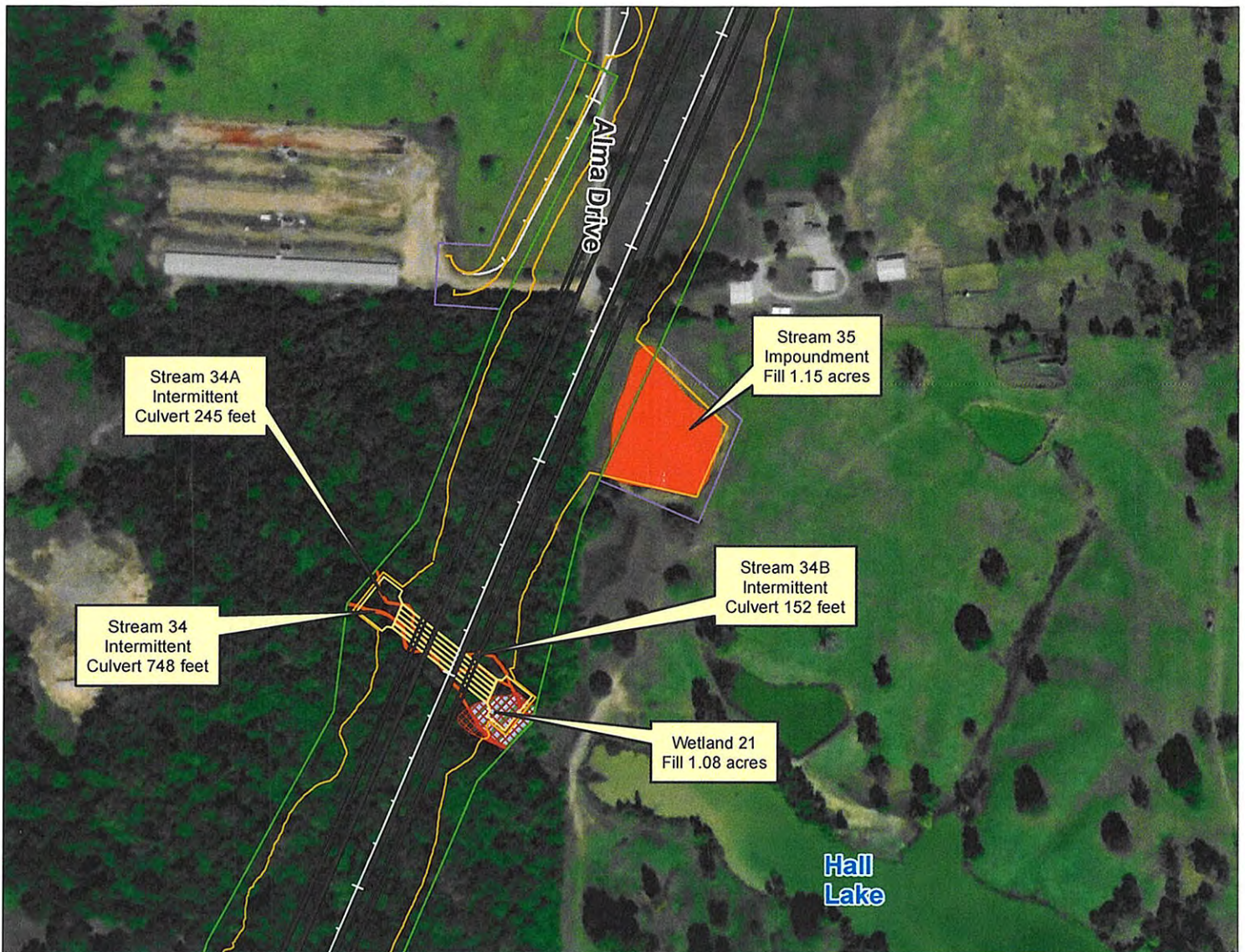






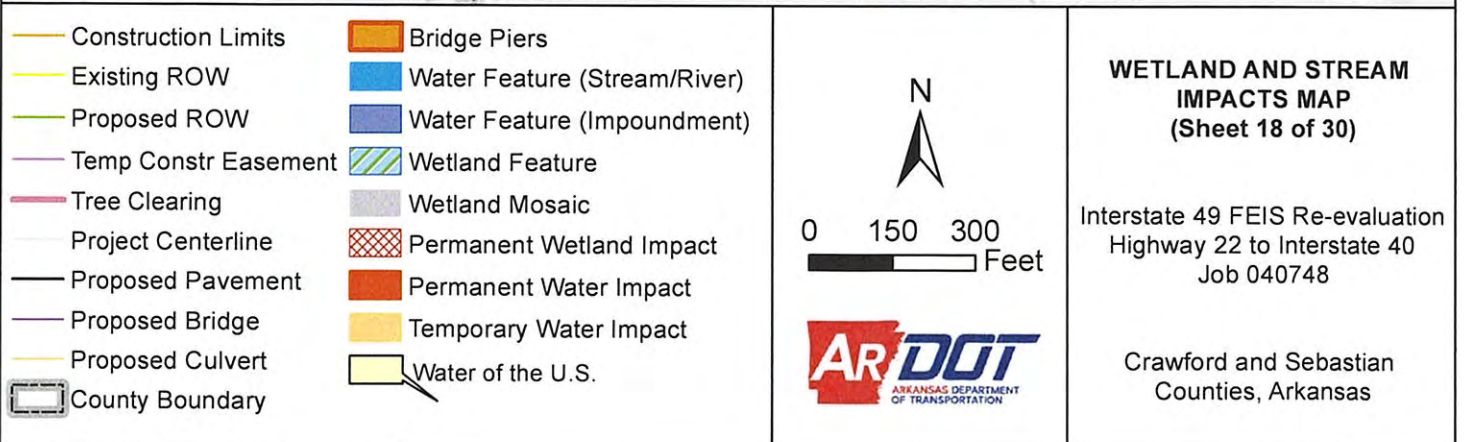
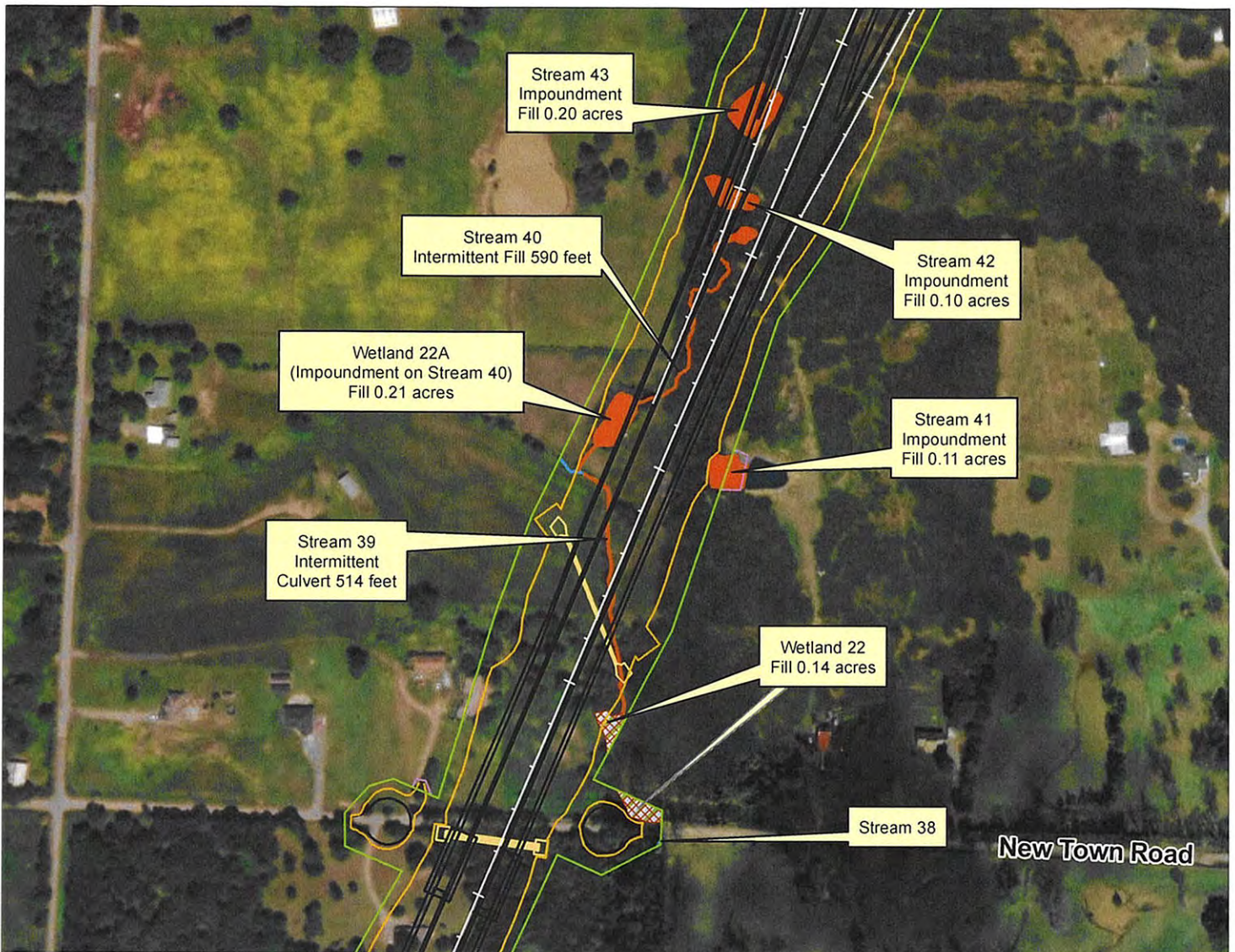






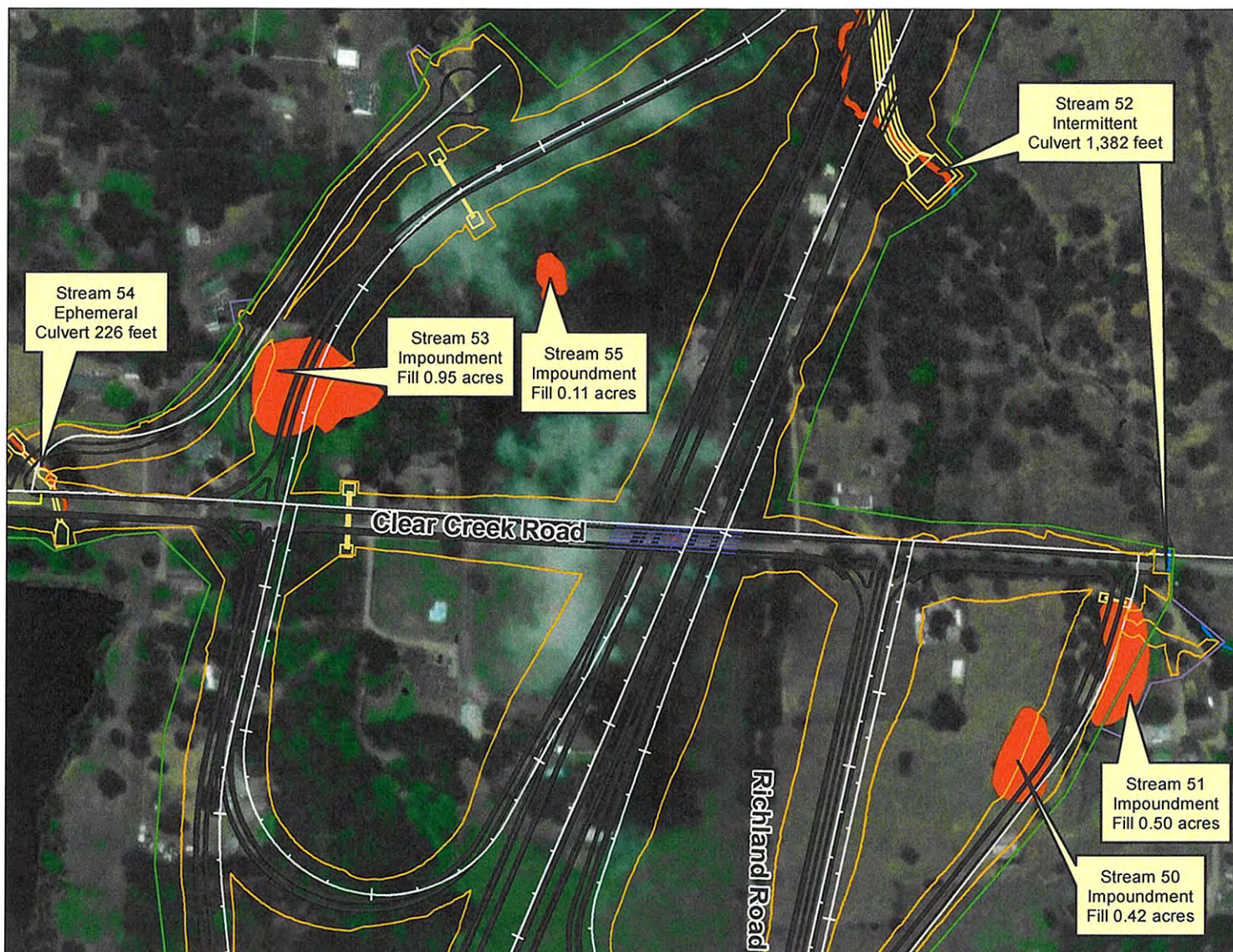


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|---|---|---|---|
| <ul style="list-style-type: none"> Construction Limits Existing ROW Proposed ROW Temp Constr Easement Tree Clearing Project Centerline Proposed Pavement Proposed Bridge Proposed Culvert County Boundary | <ul style="list-style-type: none"> Bridge Piers Water Feature (Stream/River) Water Feature (Impoundment) Wetland Feature Wetland Mosaic Permanent Wetland Impact Permanent Water Impact Temporary Water Impact Water of the U.S. | <p>N</p> <p>0 150 300 Feet</p> <p>AR DOT ARKANSAS DEPARTMENT OF TRANSPORTATION</p> | <p>WETLAND AND STREAM IMPACTS MAP (Sheet 17 of 30)</p> <p>Interstate 49 FEIS Re-evaluation Highway 22 to Interstate 40 Job 040748</p> <p>Crawford and Sebastian Counties, Arkansas</p> |
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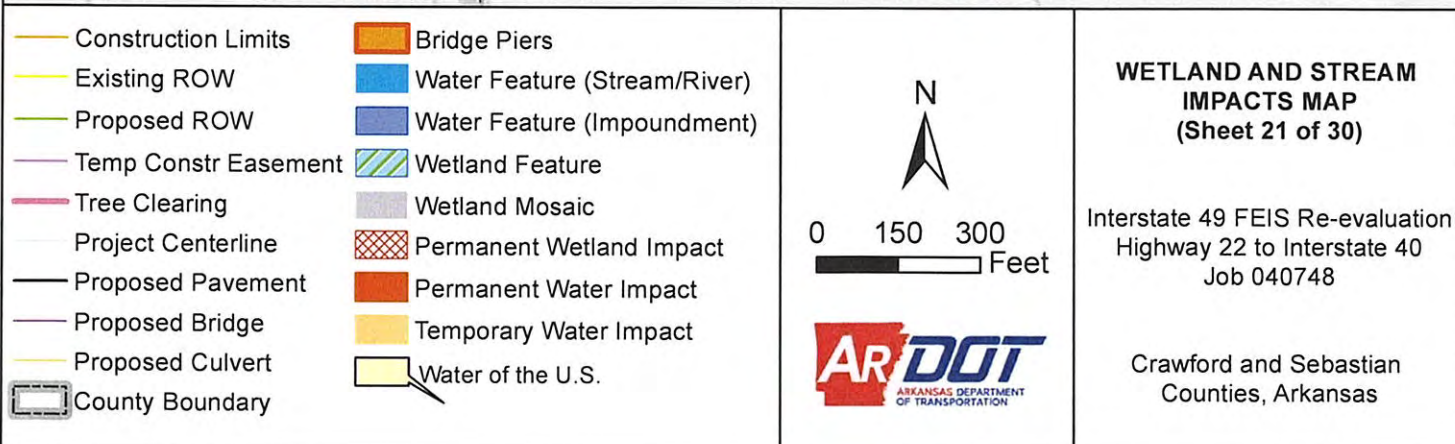
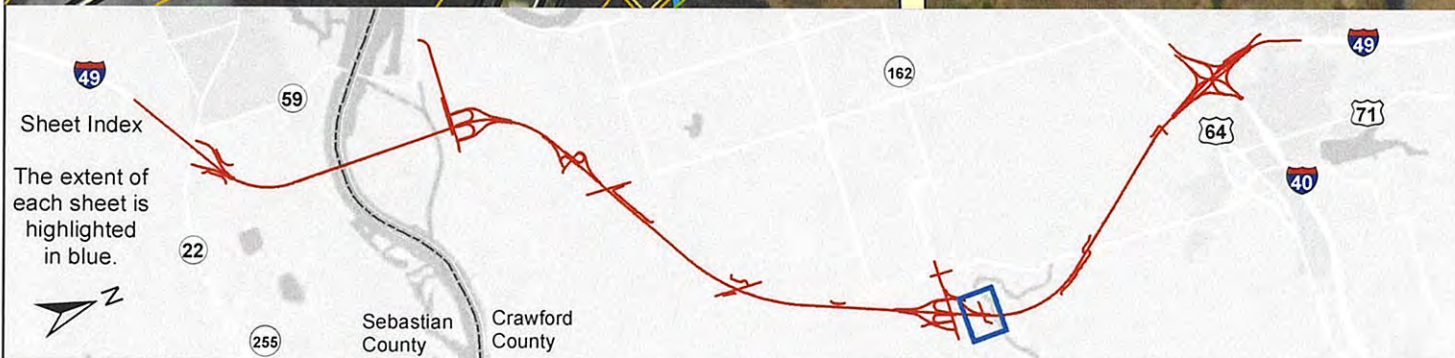
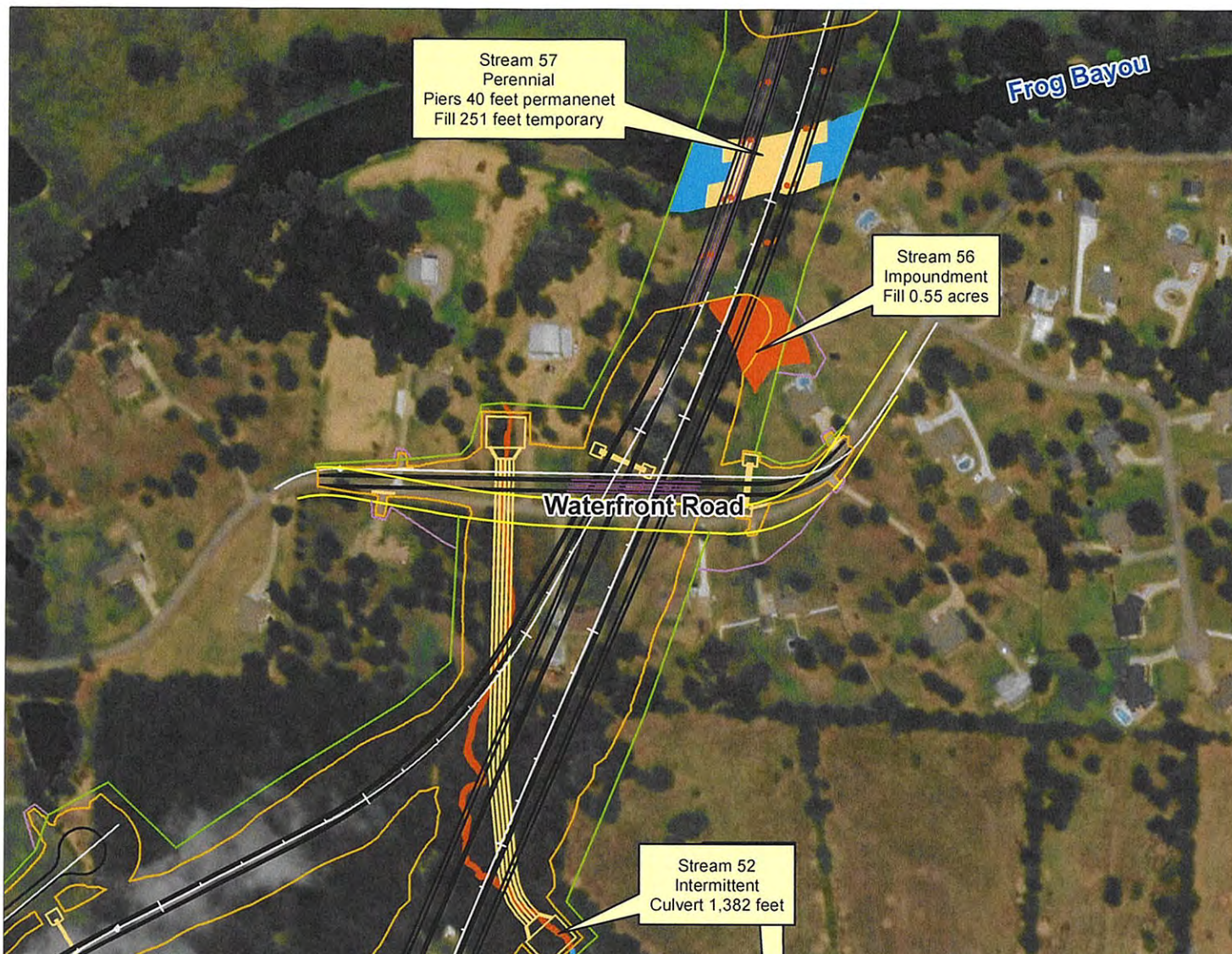


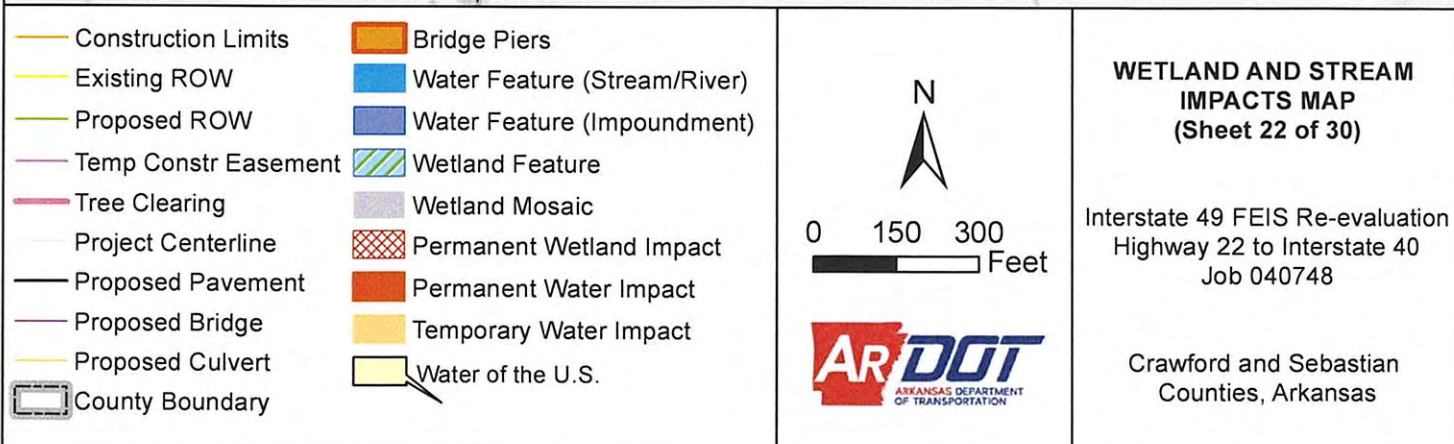
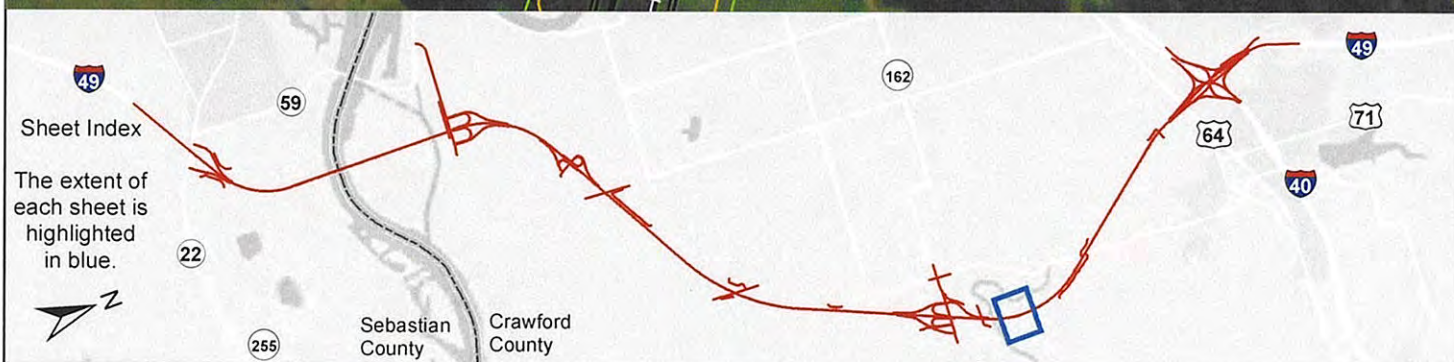
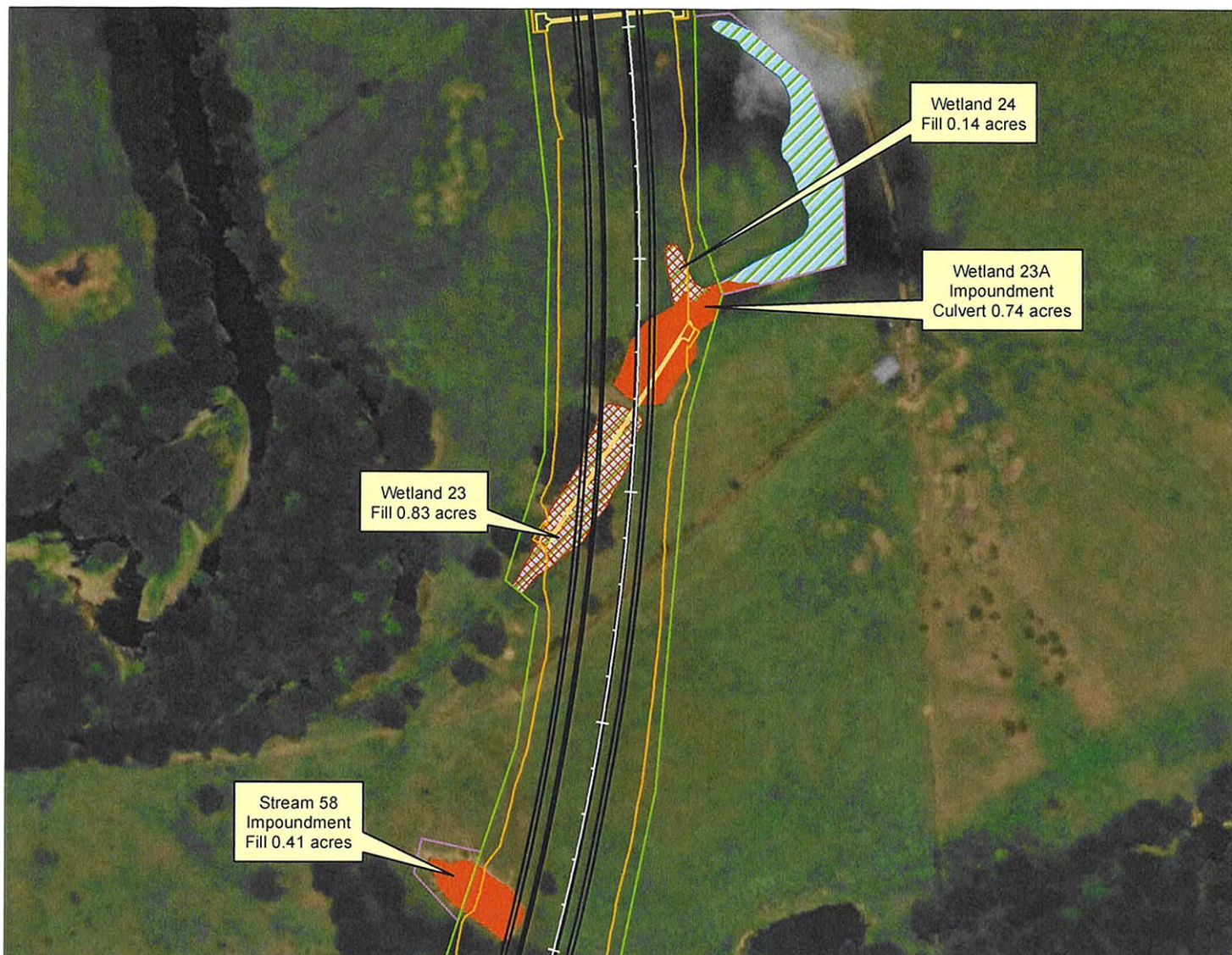


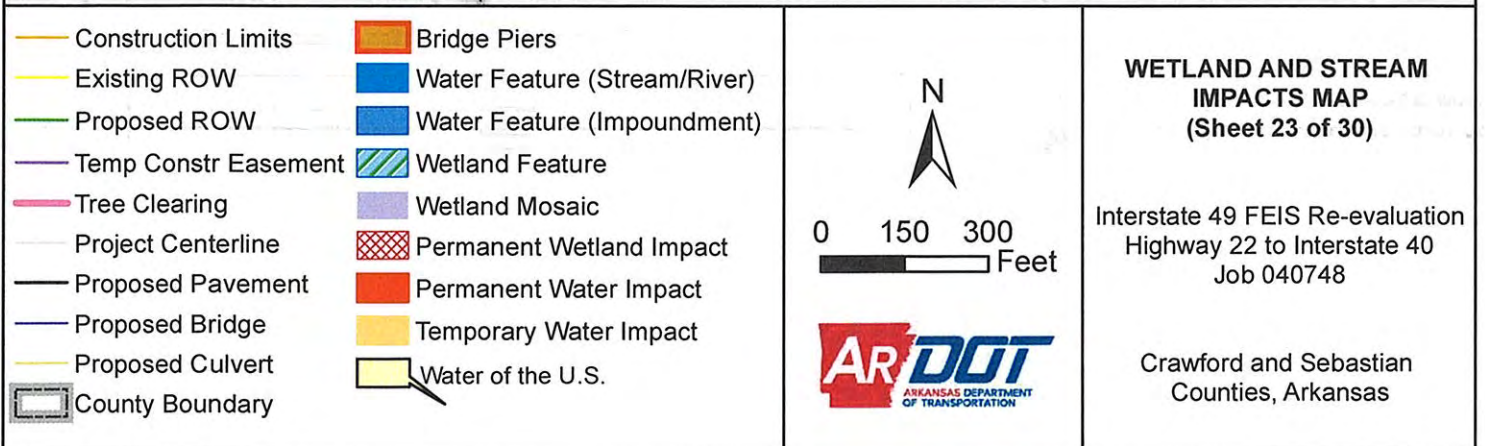
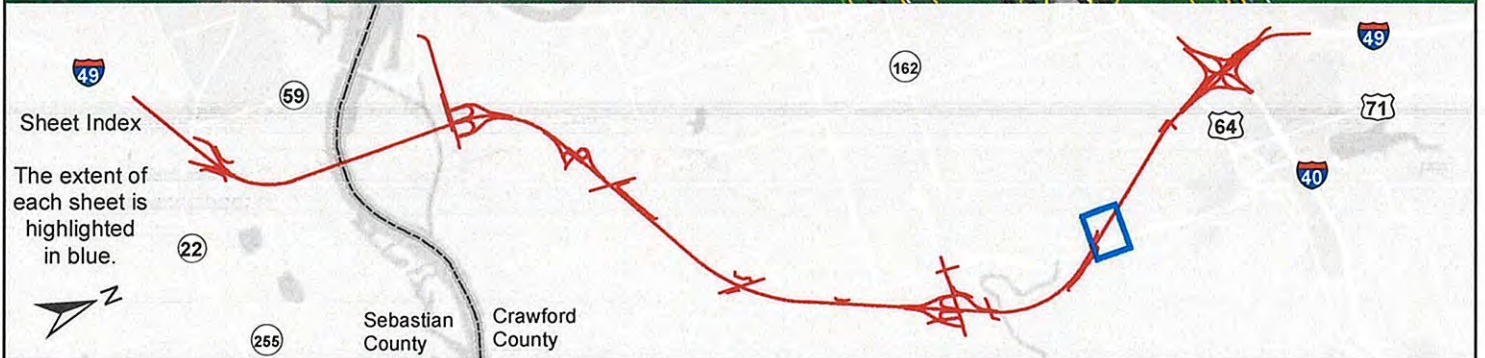
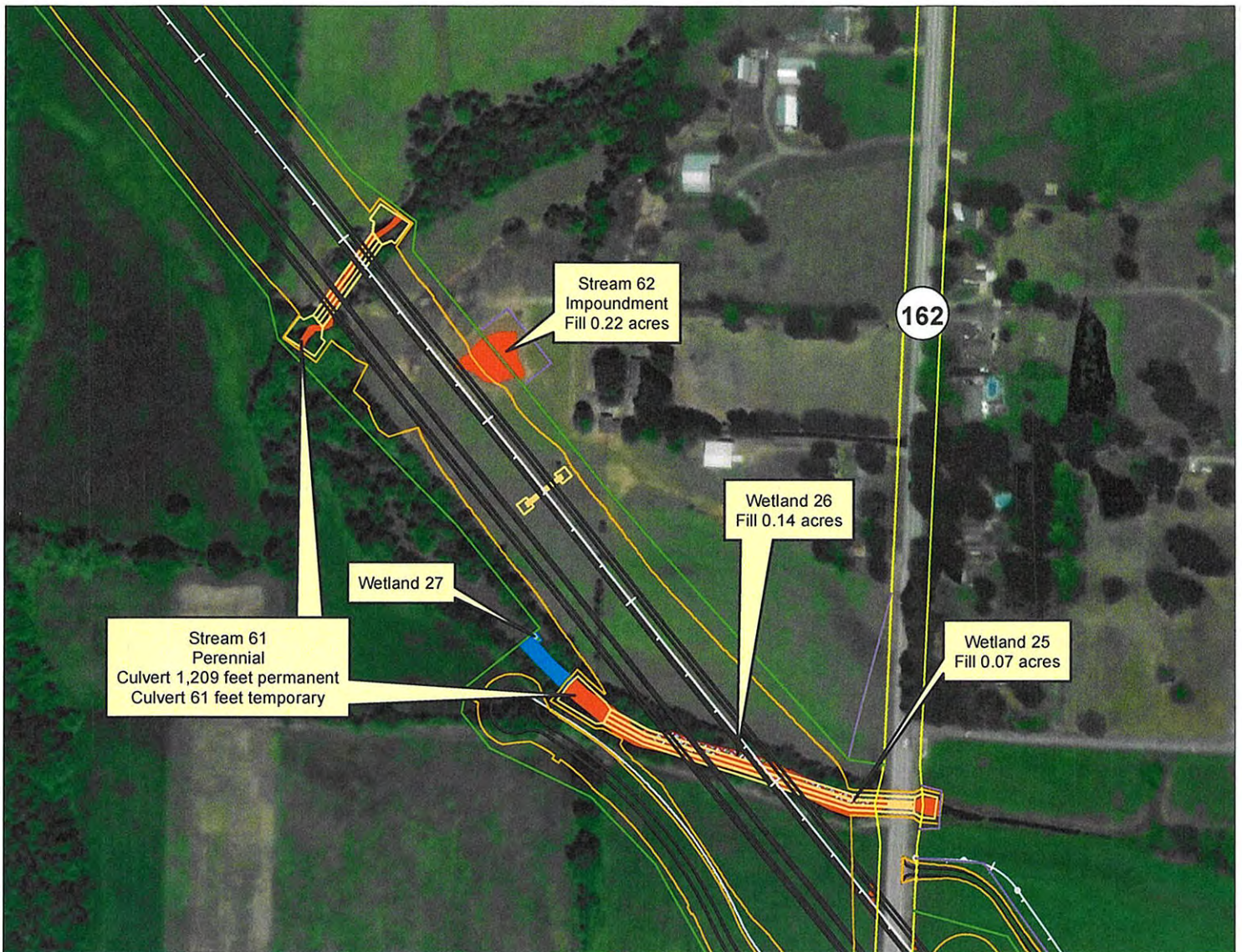
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|---|---|--|---|
| <ul style="list-style-type: none"> Construction Limits Existing ROW Proposed ROW Temp Constr Easement Tree Clearing Project Centerline Proposed Pavement Proposed Bridge Proposed Culvert County Boundary | <ul style="list-style-type: none"> Bridge Piers Water Feature (Stream/River) Water Feature (Impoundment) Wetland Feature Wetland Mosaic Permanent Wetland Impact Permanent Water Impact Temporary Water Impact Water of the U.S. | <p>0 150 300 Feet</p> <p>AR DOT ARKANSAS DEPARTMENT OF TRANSPORTATION</p> | <p>WETLAND AND STREAM IMPACTS MAP (Sheet 19 of 30)</p> <p>Interstate 49 FEIS Re-evaluation Highway 22 to Interstate 40 Job 040748</p> <p>Crawford and Sebastian Counties, Arkansas</p> |
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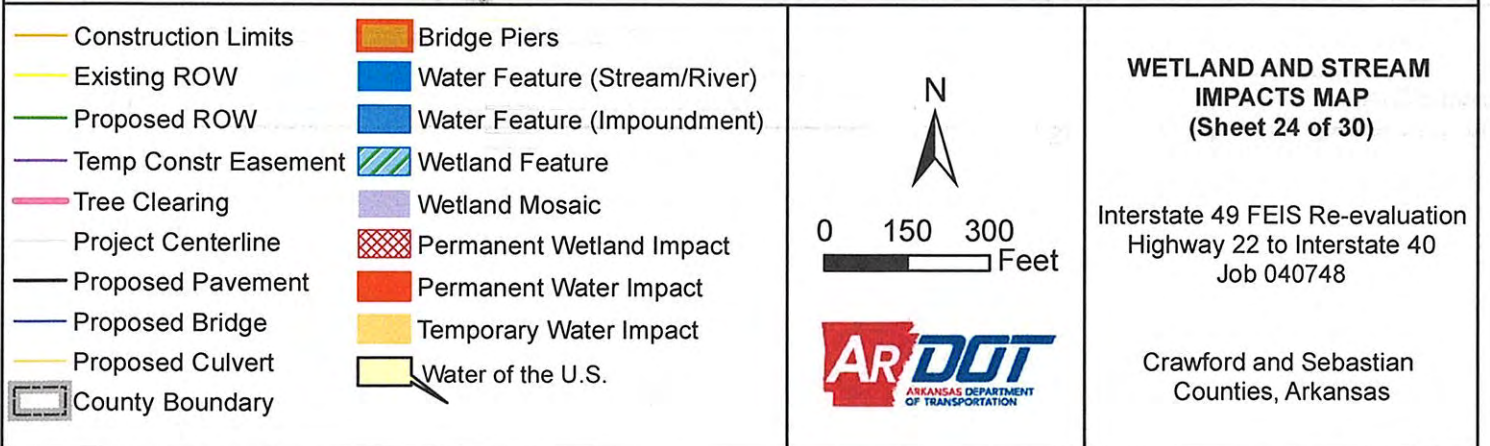
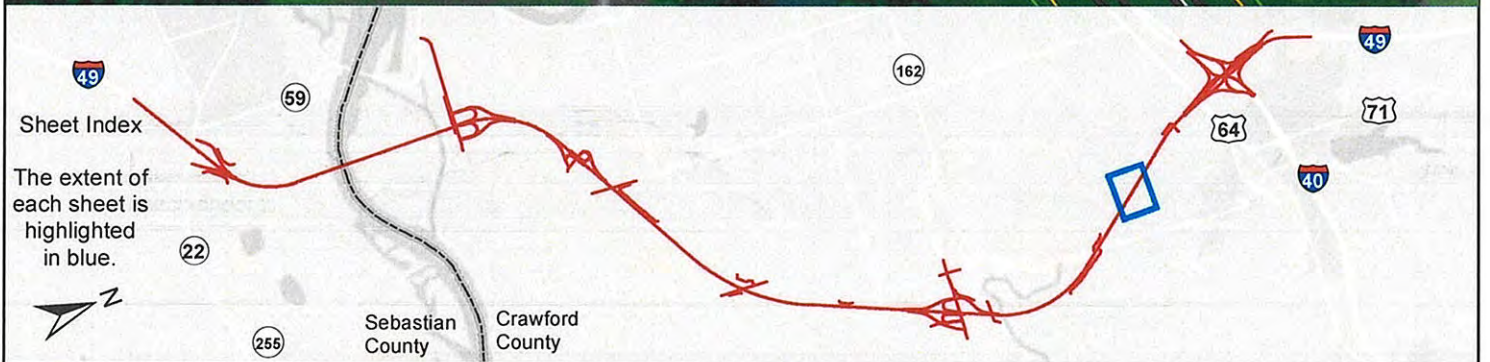


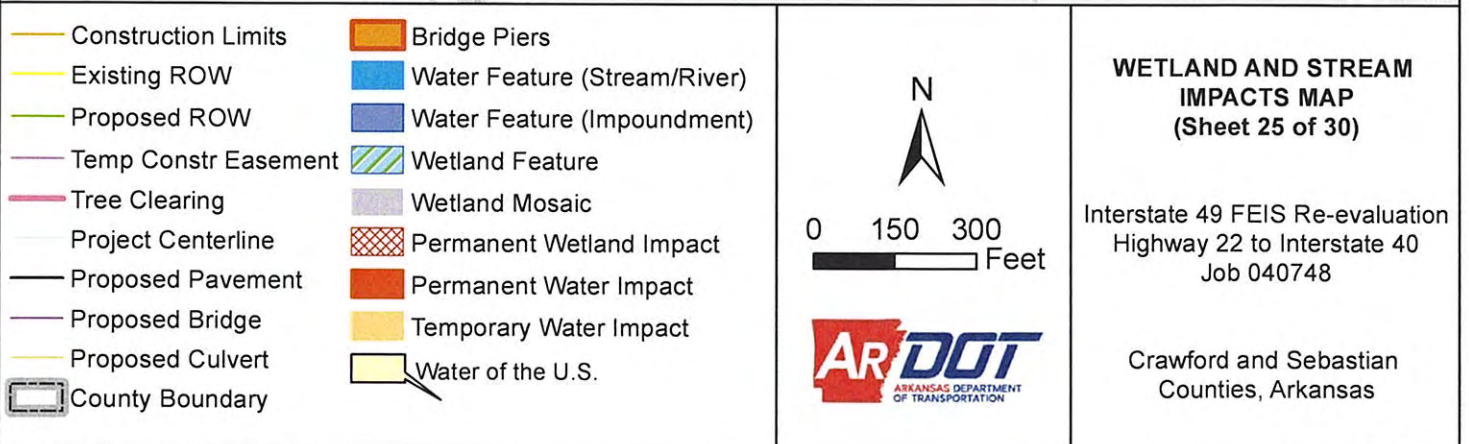
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| <ul style="list-style-type: none"> Construction Limits Existing ROW Proposed ROW Temp Constr Easement Tree Clearing Project Centerline Proposed Pavement Proposed Bridge Proposed Culvert County Boundary | <ul style="list-style-type: none"> Bridge Piers Water Feature (Stream/River) Water Feature (Impoundment) Wetland Feature Wetland Mosaic Permanent Wetland Impact Permanent Water Impact Temporary Water Impact Water of the U.S. | <p>0 150 300 Feet</p> <p>AR DOT ARKANSAS DEPARTMENT OF TRANSPORTATION</p> | <p>WETLAND AND STREAM IMPACTS MAP (Sheet 20 of 30)</p> <p>Interstate 49 FEIS Re-evaluation Highway 22 to Interstate 40 Job 040748</p> <p>Crawford and Sebastian Counties, Arkansas</p> |
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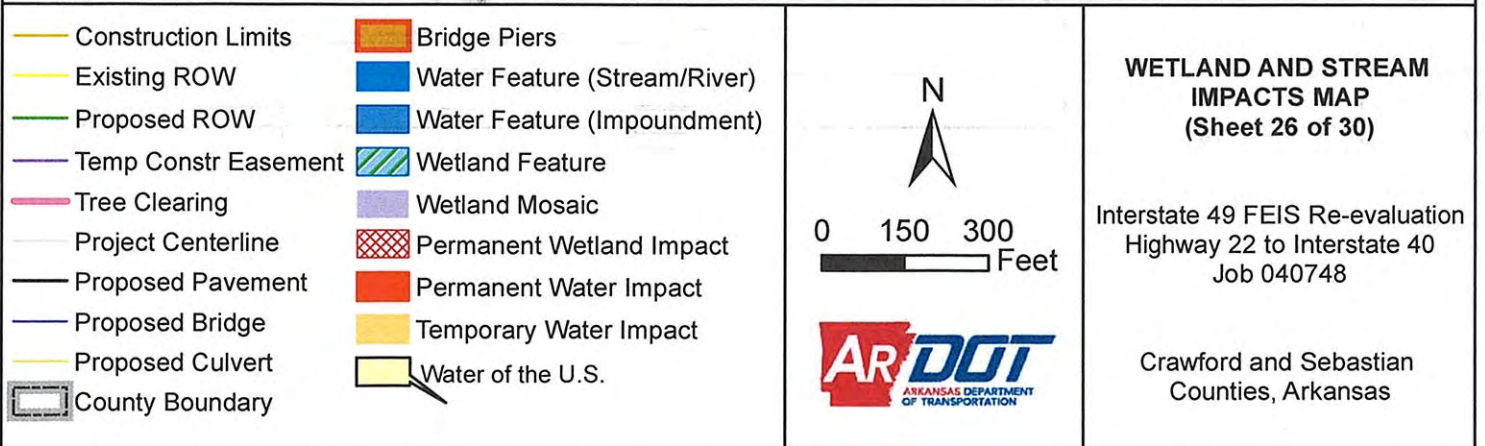
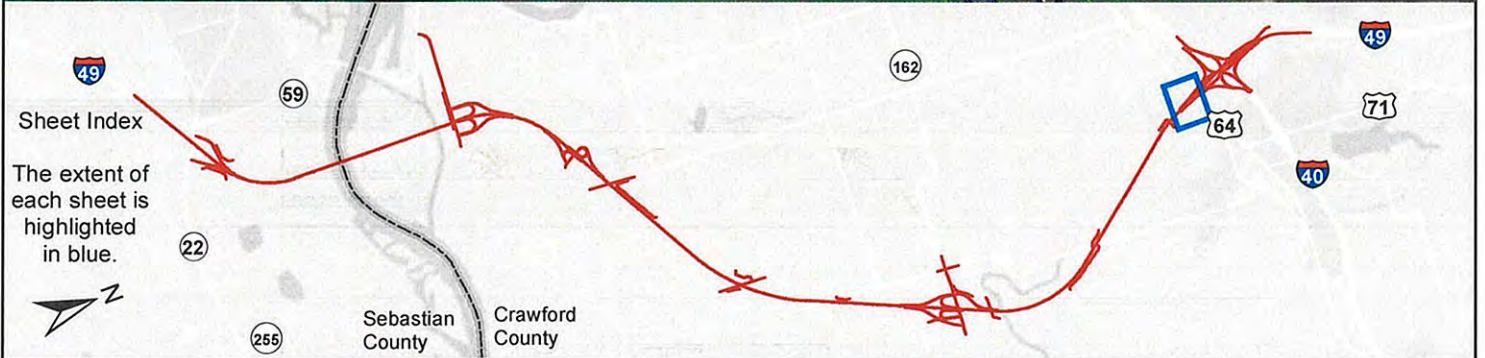
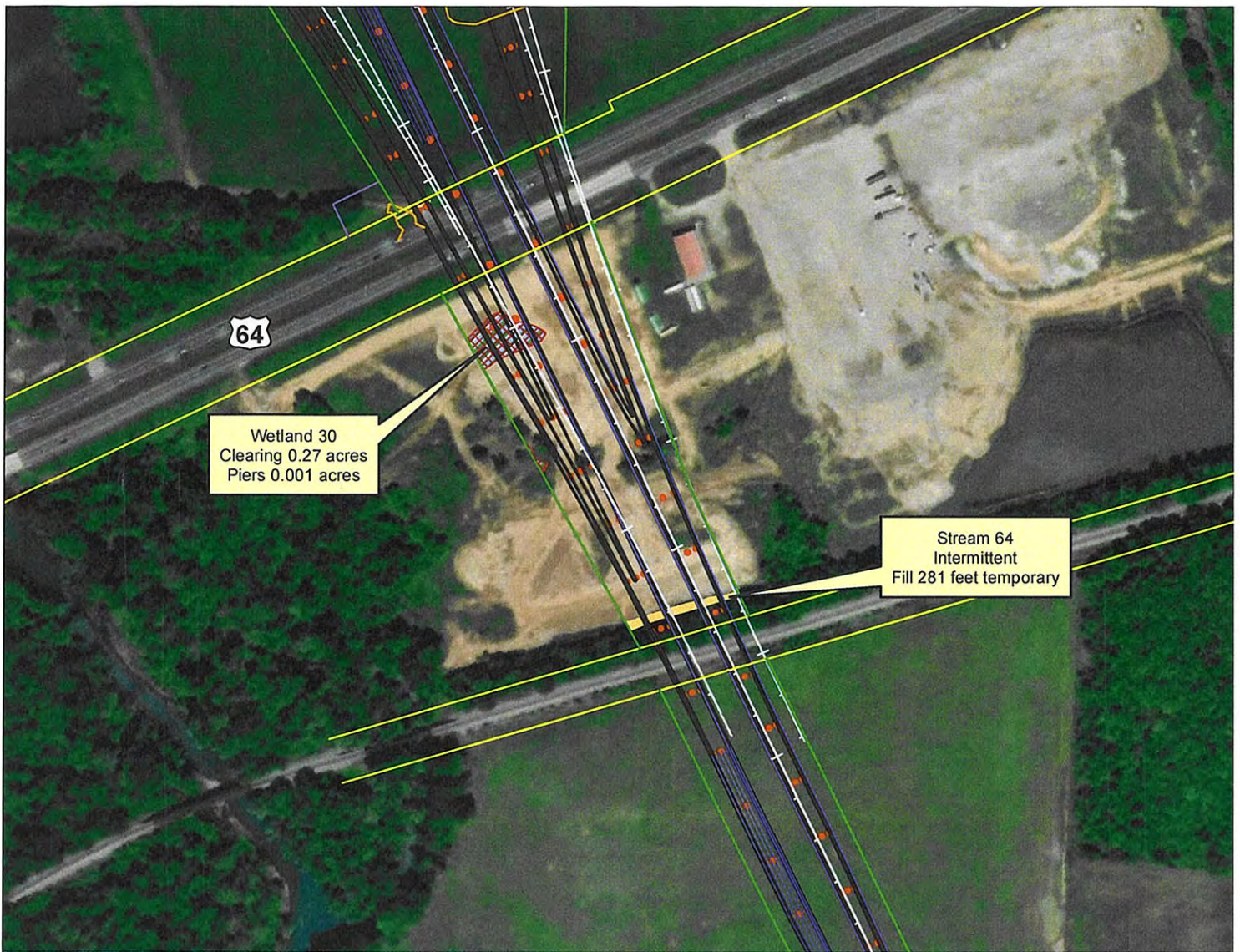


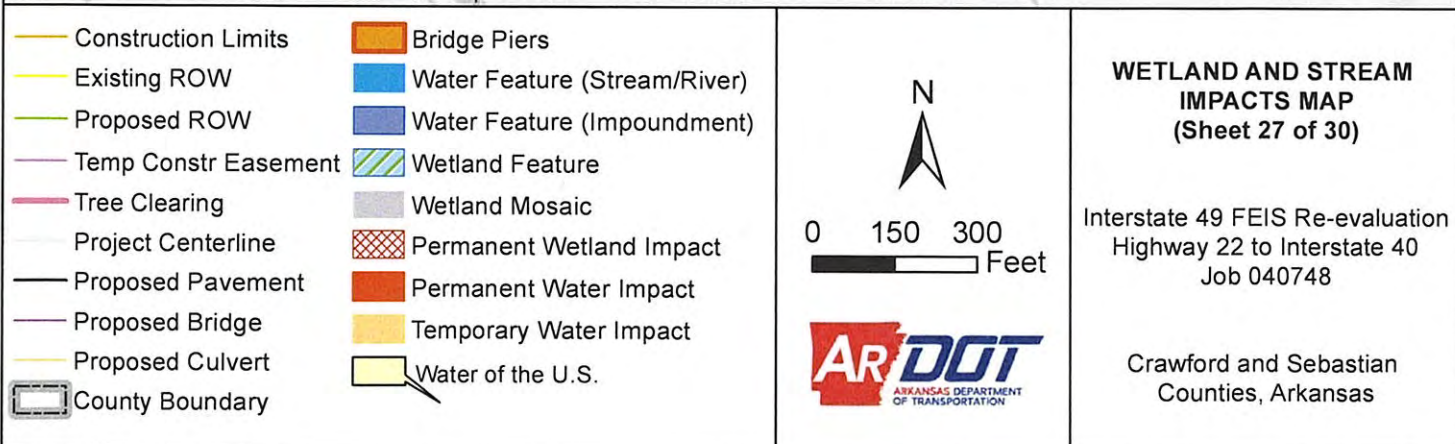
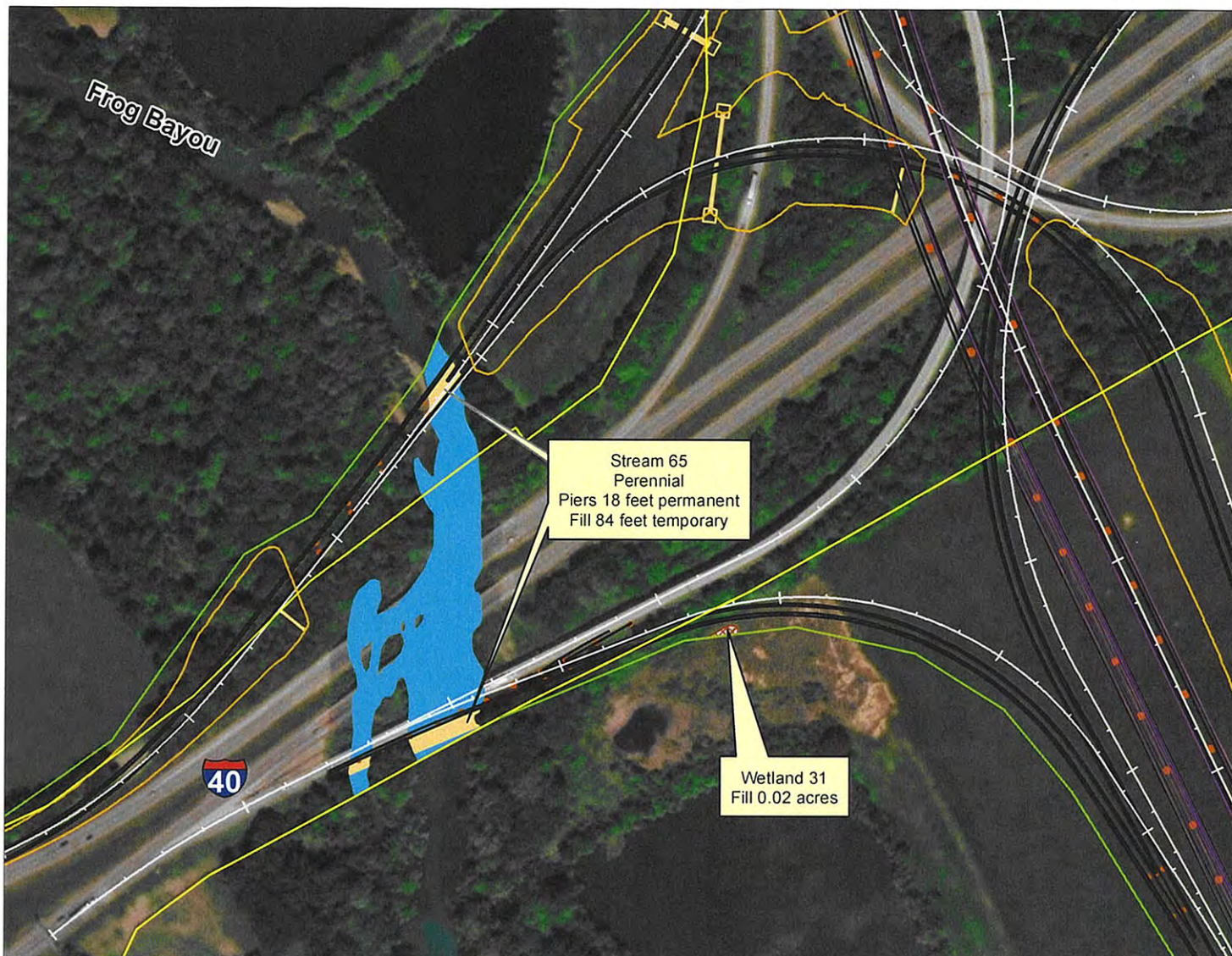


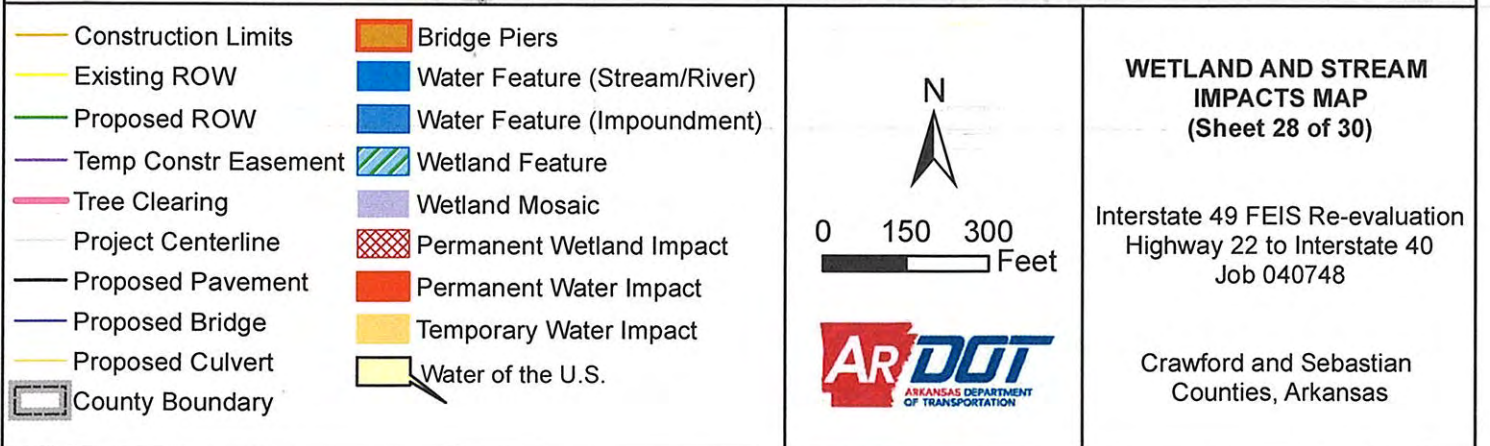
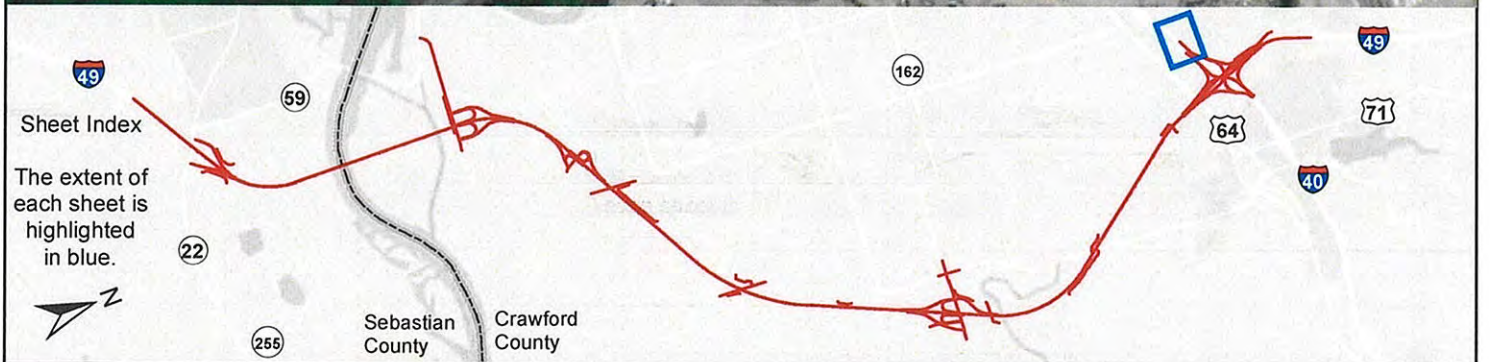
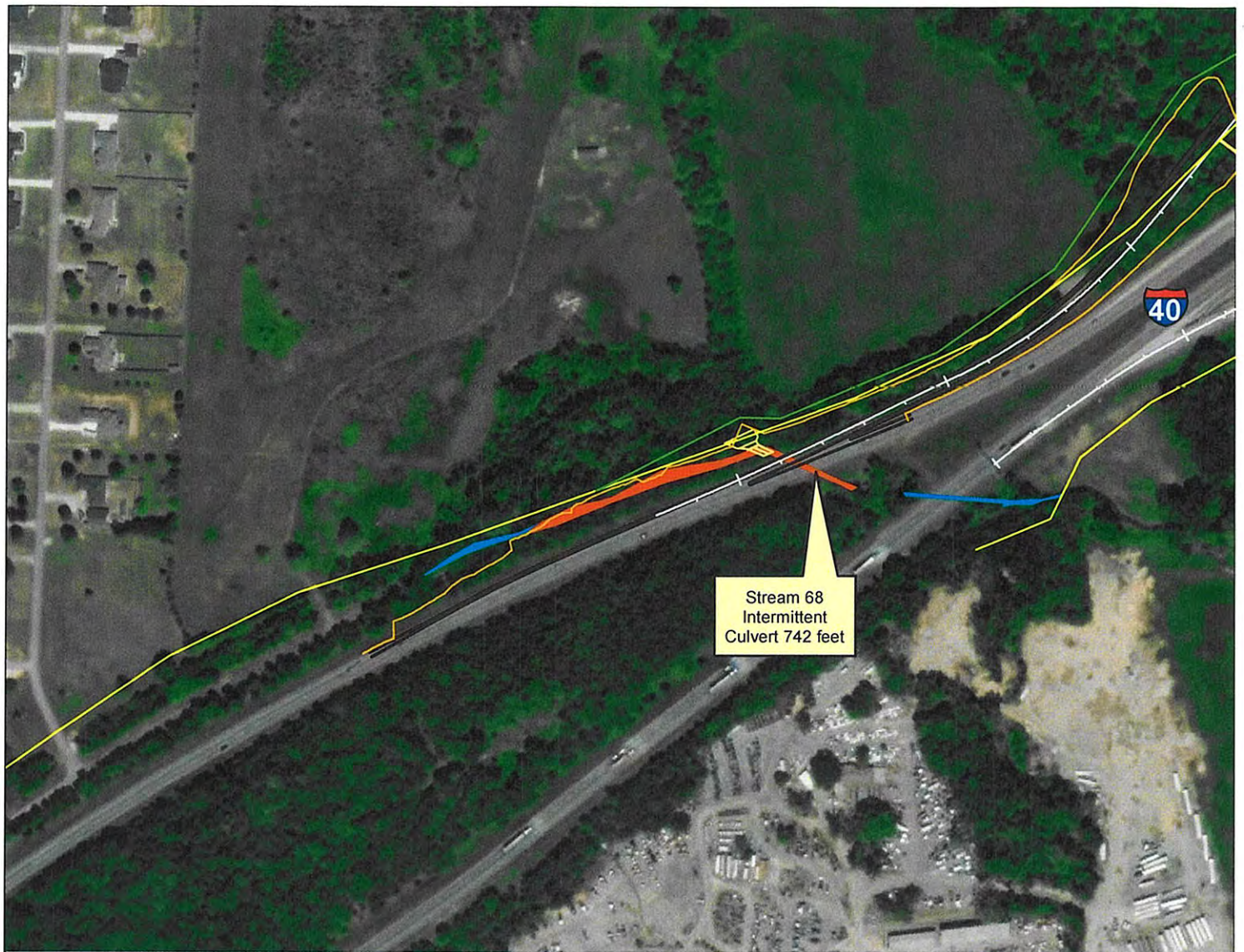


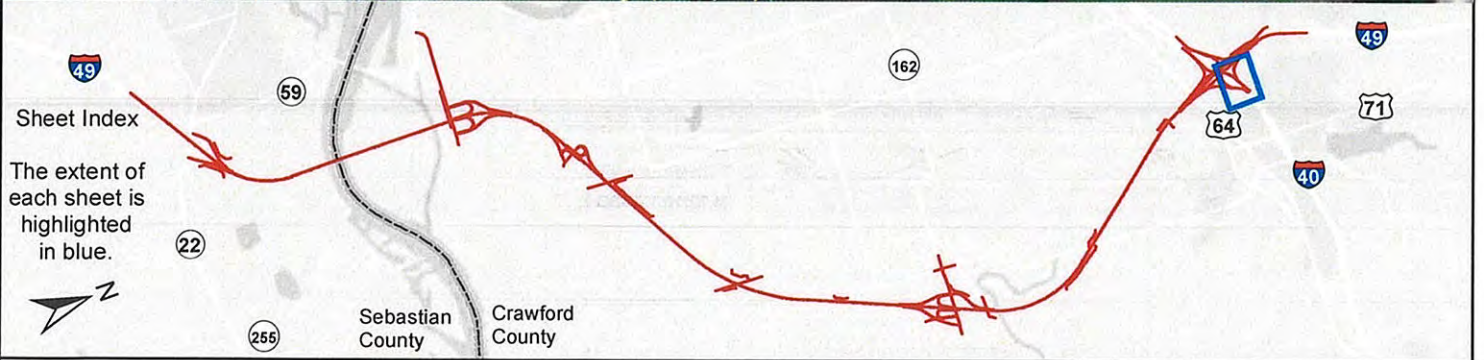
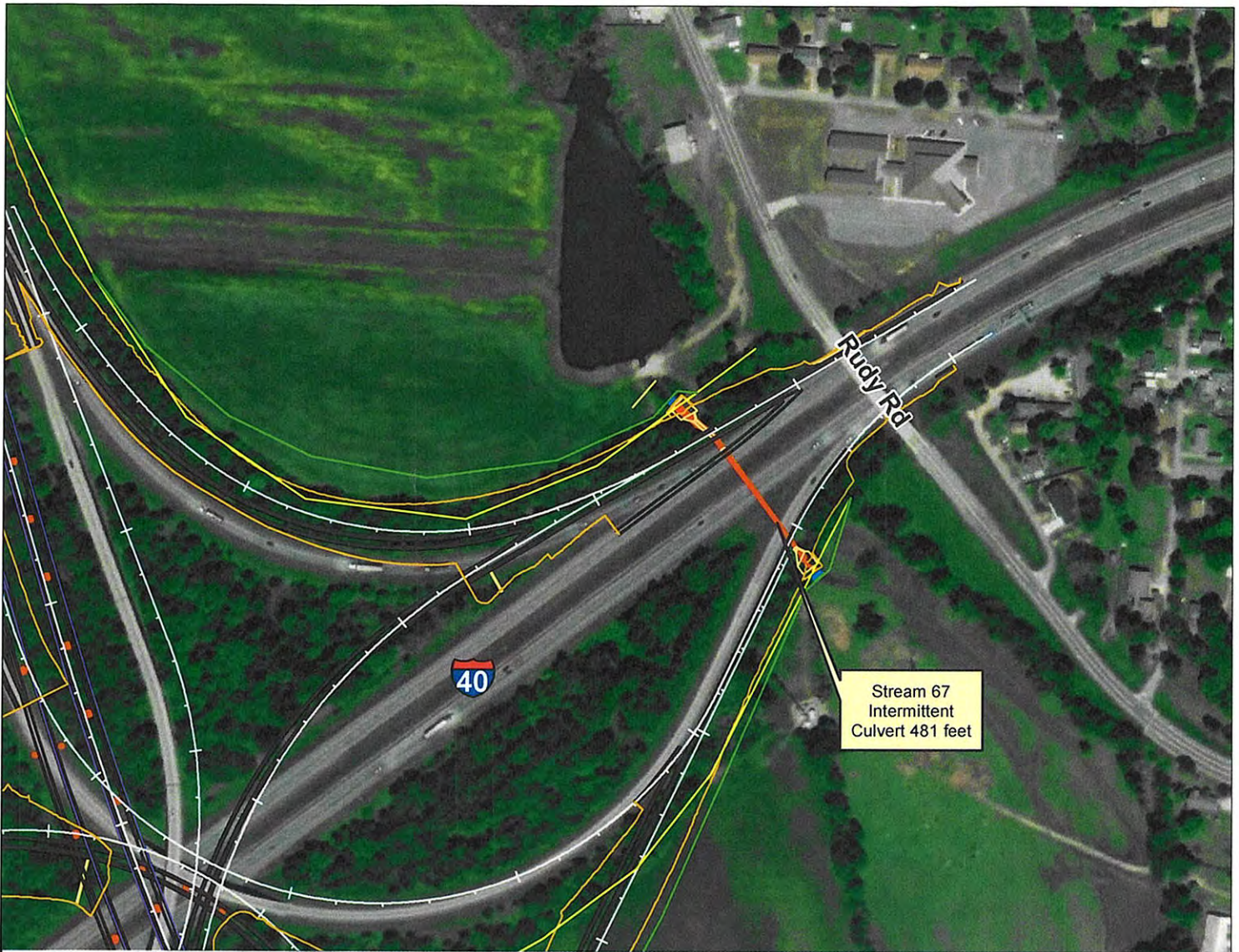












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| <ul style="list-style-type: none"> Construction Limits Existing ROW Proposed ROW Temp Constr Easement Tree Clearing Project Centerline Proposed Pavement Proposed Bridge Proposed Culvert County Boundary | <ul style="list-style-type: none"> Bridge Piers Water Feature (Stream/River) Water Feature (Impoundment) Wetland Feature Wetland Mosaic Permanent Wetland Impact Permanent Water Impact Temporary Water Impact Water of the U.S. | <p>WETLAND AND STREAM IMPACTS MAP (Sheet 29 of 30)</p> <p>Interstate 49 FEIS Re-evaluation Highway 22 to Interstate 40 Job 040748</p> <p>Crawford and Sebastian Counties, Arkansas</p> |
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