

AGENDA REQUEST FORM

Return completed form and complete agenda item to the Clerk of the Board
Yakima County Commissioners' Office, Room 232

Prepared by:
Joel Freudenthal

Department: Public Services

Requested Agenda Date: 07/20/2021

Presenting: Joel Freudenthal

Document Title:

Board of County Commissioners Record Assigned
BOCC Agreement
179-2021

Yakima County, WA
APPROVED FOR AGENDA:
 Consent Regular
Board of County Commissioners Determined

License Agreement; Yakima County and Washington State Department of Transportation; In Furtherance of Section 1135 Yakima River Gap to Gap ecosystem Restoration Project.

Action Requested: *Check Applicable Box*

- PASS RESOLUTION EXECUTE or AMEND **AGREEMENT CONTRACT** or GRANT
 ISSUE PROCLAMATION PASS ORDINANCE OTHER _____

Describe Fiscal Impact:

N/A

Background Information:

This agreement allows the construction and maintenance of a setback levee and other floodplain restoration actions, on properties owned by WSDOT downstream from SR-24, which are components of the Section 1135 Gap to gap Ecosystem Restoration Project. The Project will be implemented by the Corps of Engineers in cooperation with Yakima County and the Flood Control Zone District. It has been reviewed and approved by attorneys for both parties.


Summary & Recommendation:

Agreement provides significant benefit to the County, the Cities of Yakima, Union Gap and Moxee, approval is recommended.

Motion:

Department Head/ Elected Official

AGREEMENT Attached Is Approved as to Form
Corporate Counsel Initial


Signature





Late Agenda Requests Require BOCC Chairman Signature:



LICENSE AGREEMENT

YAKIMA COUNTY AND WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

IN FURTHERANCE OF SECTION 1135 YAKIMA RIVER GAP TO GAP ECOSYSTEM RESTORATION PROJECT

THIS LICENSE AGREEMENT is entered into by and between YAKIMA COUNTY, a municipal corporation of the State of Washington, hereafter referred to as the "County" or as "Licensee," and the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, hereafter referred to as "WSDOT" or as "Licensor."

WITNESSETH:

1. LICENSE FOR USE OF PREMISES. Pursuant to the terms and conditions of this agreement, WSDOT as Licensor hereby agrees to allow the County as Licensee access to and upon the real property more fully set forth on **Exhibit A** attached hereto and incorporated herein by this reference, located in Yakima County, Washington (hereafter the "Property"). The intention of this License Agreement is to allow the County to proceed with the 1135 Yakima River Gap to Gap Ecosystem Restoration Project (the "Project").

2. ALLOWED USES. The County may enter upon the Property, subject to the conditions set forth below, and use the Property to the full extent compatible with the authorized purposes of the Project, as defined in that certain Project Partnership Agreement Between the Department of the Army and Yakima County, Washington, for Section 1135 Yakima River Gap to Gap Ecosystem Restoration Project, dated on or about June 25, 2019 (hereafter the "Project Agreement").

The County understands and agrees that WSDOT retains ownership and control of all rights of ingress and egress to, from, and between SR 24 and the parcels that are the subject of this License Agreement, including all rights of access, light, view and air, and access control as shown by the access prohibition symbol, as depicted on the right of way access plans marked as **Exhibit B**, attached hereto and incorporated herein by this reference. The County, its successors or assigns, shall have no right of direct ingress or egress between SR 24 and said parcels except as may be subsequently granted by WSDOT's access management office.

3. LICENSE TERM. This License Agreement shall have a term of five (5) years from the date of last signature, or shall terminate upon Project completion, whichever is sooner.

4. INDEMNIFICATION. The County shall protect, defend, indemnify, and hold harmless WSDOT and its employees and/or authorized agents while acting within the scope of their employment as such, from any and all costs, claims, judgments, and/or awards of damages (both to persons and/or property), arising out of, or in any way resulting from, the County's actions performed pursuant to this license. The County shall not be required to indemnify,

defend, or hold harmless WSDOT if the claim, suit, or action for injuries, death, or damages (both to persons and/or property) is caused by the sole negligence of WSDOT; provided that if such claims, suits, or actions result from the concurrent negligence of (a) WSDOT, its employees and/or authorized agents and (b) the County, its employees, authorized agents, and/or contractors, or involves those actions covered by RCW 4.24.115, the indemnity provisions provided herein shall be valid and enforceable only to the extent of the negligence of the County, its employees, authorized agents, and/or contractors.

5. RESTORATION. Consistent with the allowed uses of the Property as specified herein, the County shall commit no waste and shall restore the Property to its condition immediately prior to the County's exercise of the permissions granted herein.

IN WITNESS WHEREOF, the PARTIES hereto have executed this agreement as of the date signed last below.

YAKIMA COUNTY,
a Washington municipal corporation

Agreement Number

BOCC Agreement

179 - 2021

Yakima County, WA

BOARD OF COUNTY COMMISSIONERS

Ron Anderson, Chairman

Amanda McKinney, Commissioner

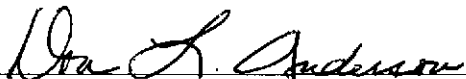
LaDon Linde, Commissioner

DATED: JUL 20 2021

Attest:

Julie Lawrence, Clerk of the Board
Linda Kay O'Hara, Deputy Clerk of the Board

Approved as to Form:



Deputy Prosecuting Attorney

WASHINGTON STATE DEPT.
OF TRANSPORTATION

By: _____

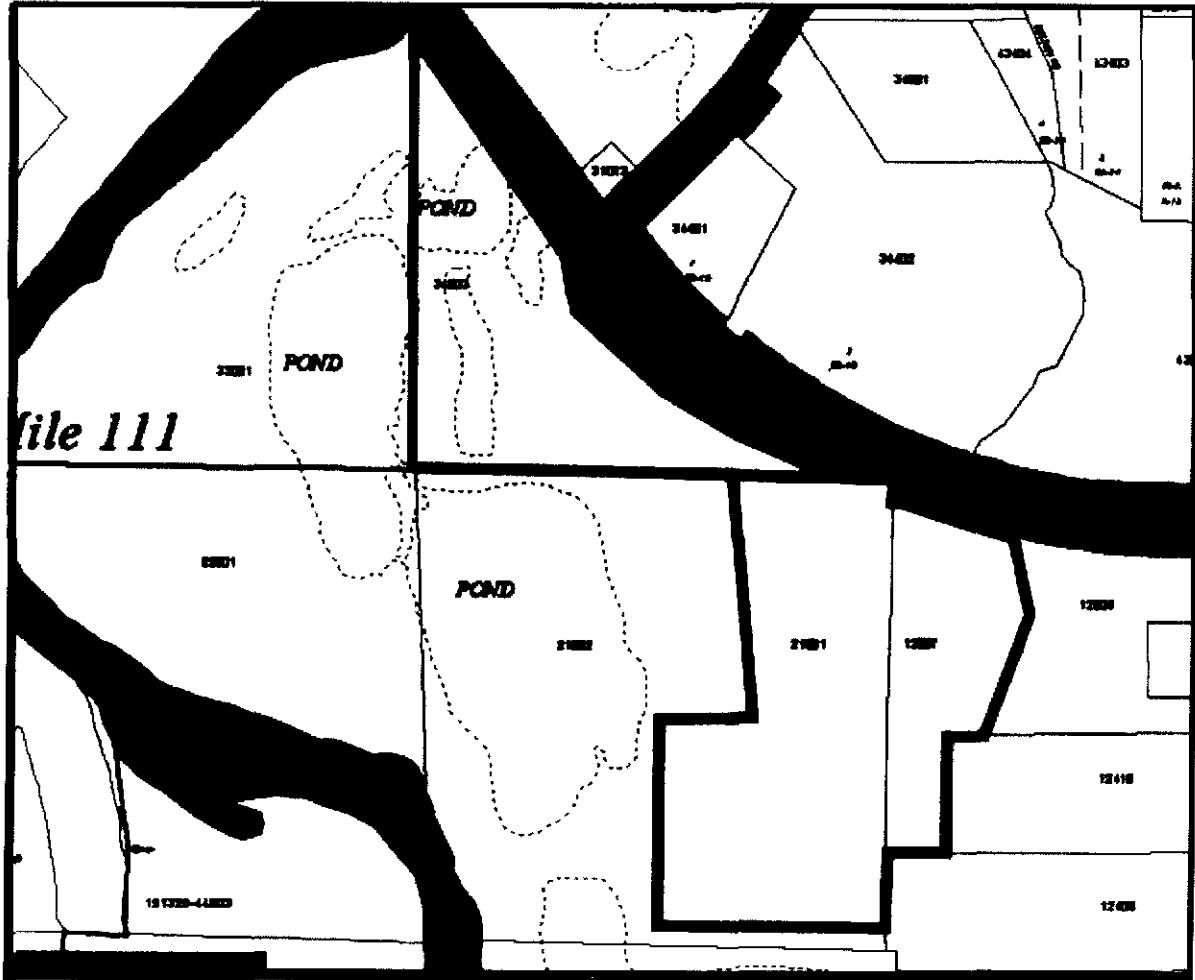
Print Name: _____

Its: _____ (title)

Dated:

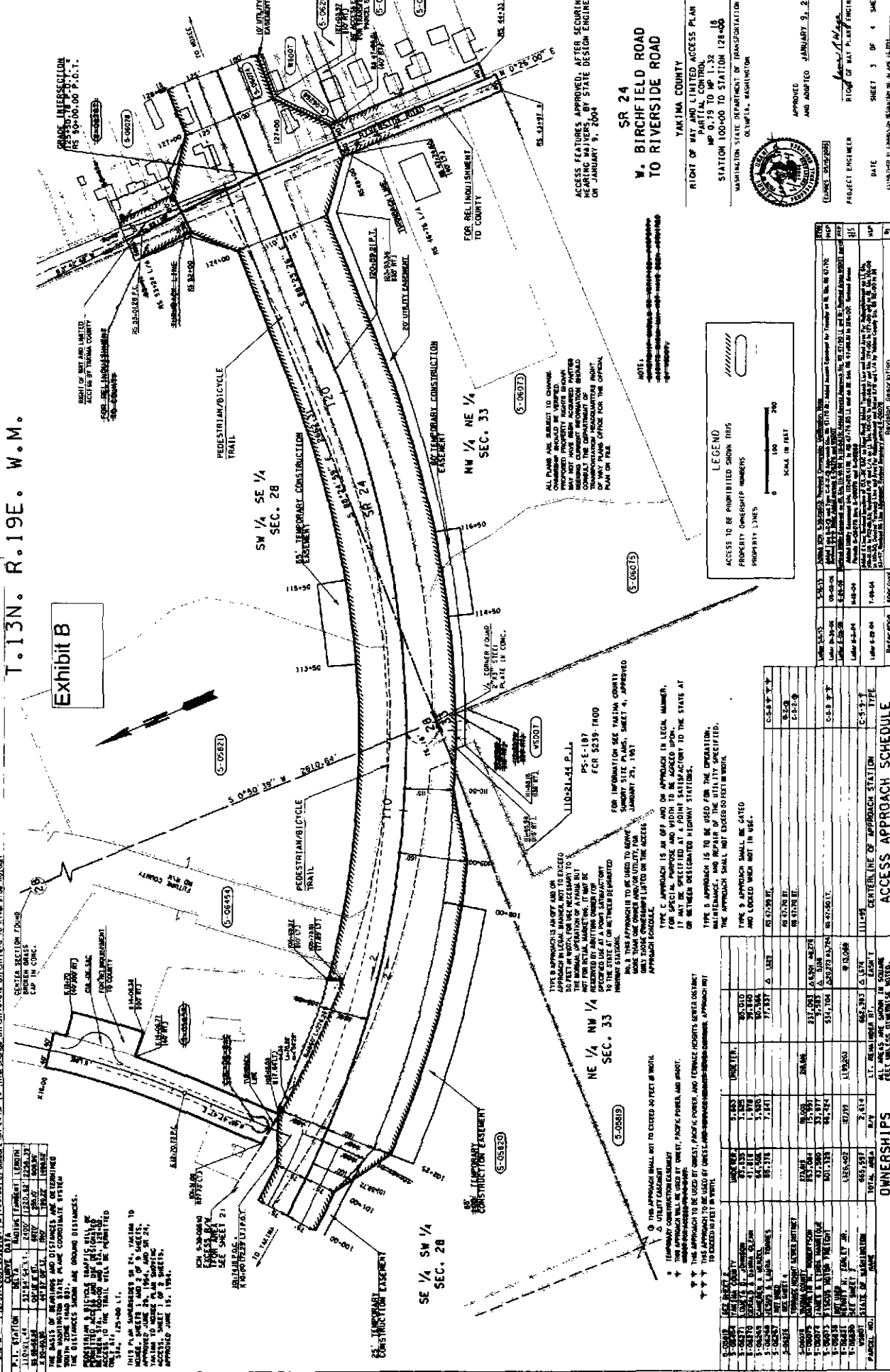
EXHIBIT A

Yakima County Assessor's Tax Parcel Numbers 19132834003; 19133321001; and 19133312007
as generally depicted below:



T.13N. R.19E. W.M.

Exhibit B



OWNER LIST

P.L. SECTION	OWNER	ADDRESS	PHONE	DATE
SW 1/4 SE 1/4 SEC. 28	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
NE 1/4 NW 1/4 SEC. 33	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
NW 1/4 NE 1/4 SEC. 33	W. BIRCHFIELD ROAD	YAKIMA COUNTY		

OWNER LIST OF APPROACH STATION

LINE	STATION	OWNER	ADDRESS	PHONE	DATE
1	1+00.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
2	1+10.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
3	1+20.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
4	1+30.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
5	1+40.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
6	1+50.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
7	1+60.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
8	1+70.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
9	1+80.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		
10	1+90.00	W. BIRCHFIELD ROAD	YAKIMA COUNTY		

APPROVED AND ADAPTED JANUARY 9, 2004

STATE ENGINEER

PROJECT ENGINEER: *James M. Ridge*

DATE: SHEET 3 OF 4 SHEETS

ROW SR 24 172

SR 24

W. BIRCHFIELD ROAD

TO RIVERSIDE ROAD

RIGHT OF WAY AND LIMITED ACCESS PLAN

FOR THE

SECTION 28 AND 33

STATION 100+00 TO STATION 129+00

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

OLYMPIA, WASHINGTON

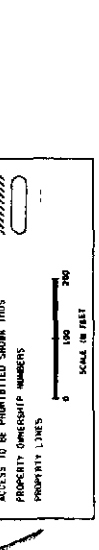
ACCESS FEATURES APPROVED AFTER SECURING PERMITS FROM THE STATE DESIGN ENGINEER ON JANUARY 9, 2004

NOTES

- ALL PLANS ARE SUBJECT TO CHANGE. CHANGES SHOULD BE VERIFIED. ANY CHANGES SHALL BE APPROVED BY THE STATE DESIGN ENGINEER. ANY CHANGES SHALL BE APPROVED BY THE STATE DESIGN ENGINEER. ANY CHANGES SHALL BE APPROVED BY THE STATE DESIGN ENGINEER.
- THIS APPROACH IS AN OFF AND ON APPROACH IN LEGAL MATTER. IT MAY BE SPECIFIED AT A POINT SATISFACTORY TO THE STATE AT OR NEAR THE DESIGNATED HIGHWAY STATION.
- TYPE B APPROACH IS TO BE USED FOR THE OPERATION, MAINTENANCE, AND REPAIR OF THE UTILITY SPECIFIED. THE APPROACH SHALL NOT EXCEED 50 FEET IN WIDTH.
- TYPE C APPROACH SHALL BE GATED AND LOCKED WHEN NOT IN USE.
- TYPE D APPROACH IS TO BE USED TO SERVE MORE THAN ONE OWNER AND/OR UTILITY, FOR THE APPROACH SHALL BE SPECIFIED BY THE OWNER'S APPROACH SCHEDULE.

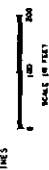
FOR INFORMATION SEE YAKIMA COUNTY SHORTLY SITE PLANS, SHEET 4, APPROVED JANUARY 24, 1987.

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SR 24
 WASHINGTON STATE PLANE COORD. SYSTEM (METERS)
 EASTING 400000.00
 NORTHING 500000.00
 PROPERTY LINES

LEGEND
 ACCESS TO BE PROHIBITED SHOW THIS PROPERTY OWNERSHIP NUMBERS
 PROPERTY LINES



THE BOUNDS OF RIGHTS AND DISTANCES ARE SHOWN BY THE PROPERTY LINES. THE DISTANCES SHOWN ARE MEASURED DISTANCES.
 THIS APPROACH IS AS SET OUT IN APPROXIMATE LEGAL MANNER, NOT TO EXCEED 50 FEET IN WIDTH, FOR USE NECESSARY TO THE NORMAL OPERATION OF A FARM, BUT NOT TO BE USED FOR ANY OTHER PURPOSES. THE DISTANCES SHOWN ARE MEASURED DISTANCES AT A POINT ADJACENT TO THE STATE AS SET OUT IN DESIGNATED POINTS SHOWN.

THIS PLAN SUPERSEDES SR 24, YAKIMA TO MOORE, SHEETS 1 AND 2 OF 3 SHEETS, APPROVED JUNE 15, 1984.
 FOR 1/4 EASTERN 1/4 SEC 33, YAKIMA TO MOORE, SHEET 3 OF 3 SHEETS, APPROVED JUNE 28, 1984.
 FOR 1/4 EASTERN 1/4 SEC 34, YAKIMA TO MOORE, SHEET 3 OF 3 SHEETS, APPROVED JUNE 28, 1984.

NOTE:
 OWNERSHIP SHOULD BE VERIFIED. PROPERTY LINES SHOWN ARE NOT NEARLY VERIFIED BY ROAD.

ACCESS FEATURES APPROVED, NEAR BEARING HEADING MARKERS, BY STATE DESIGN ENGINEER ON JANUARY 9, 2004

SR 24
 W. BIRCHFIELD ROAD
 TO RIVERSIDE ROAD

YAKIMA COUNTY
 RIGHT OF WAY AND LIMITED ACCESS PLAN
 PARTIAL CONTROL
 MP 1.12 TO MP 1.50
 STATION 1371+00 TO STATION 1371+52.10
 WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
 TUMPLA, WASHINGTON



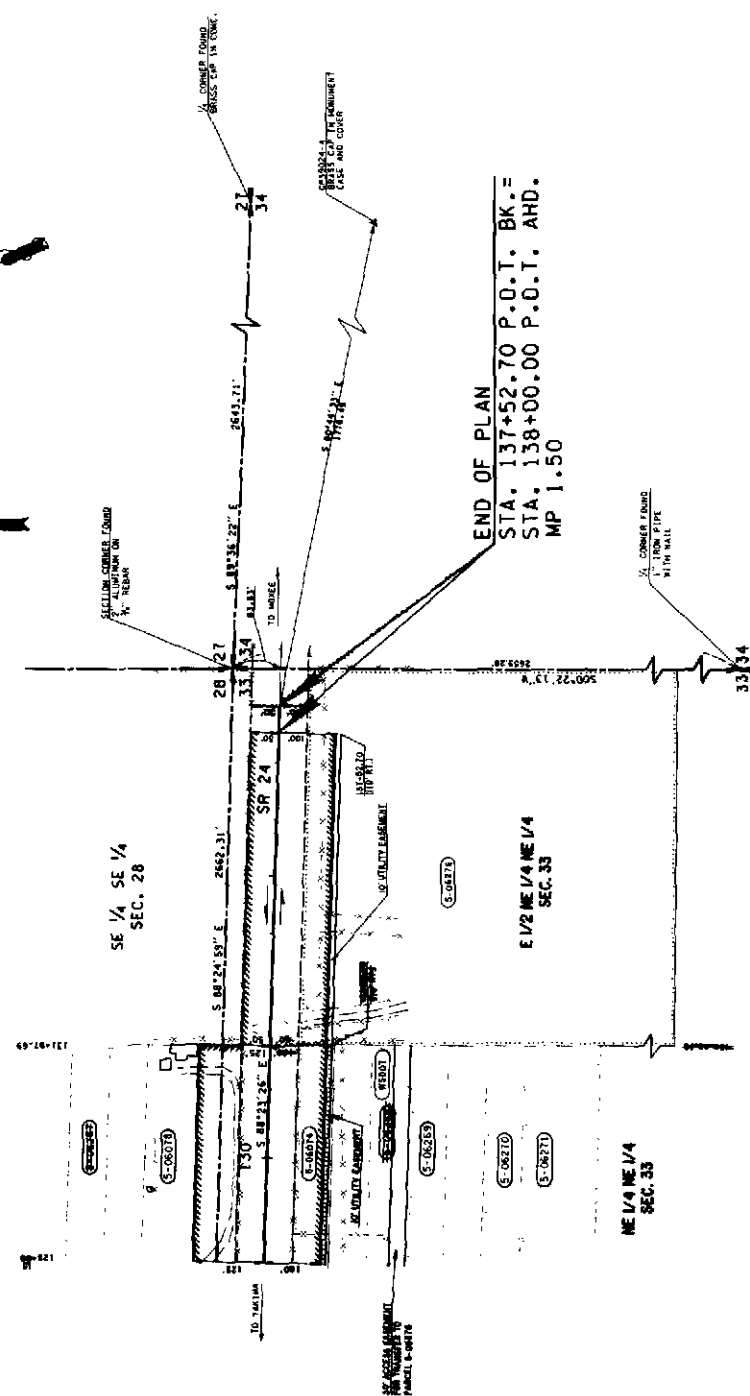
APPROVED AND ADAPTED JANUARY 9, 2004

PROJECT ENGINEER
 W. J. JONES

DATE SHEET 4 OF 6 SHEETS

T.13N. R.19E. W.M.

Exhibit B



END OF PLAN
 STA. 137+52.70 P.O.T. BK.=
 STA. 138+00.00 P.O.T. AHD.
 MP 1.50

OWNER	ACRES	SECTION	TOWNSHIP	RANGE	SECTION	ACRES	DATE
W. J. JONES	1.50	33	19E	13N	33	1.50	2004
...

ACCESS APPROACH SCHEDULE

SR 24/72

SCANNED