DEPARTMENT OF THE ARMY PERMIT

New Hampshire Department of Transportation

Permit No
Issuing Office New England District
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:
discharge fill material into approximately 77 acres of wetlands and waters within the Spickett River watershed, the Golden Brook watershed, the Beaver Brook watershed, the Little Cohas Brook watershed, and the Cohas Brook watershed in the Merrimack River Basin, to improve the Interstate Route 93 between Salem and Manchester, New Hampshire. The project involves a combination of highway and related infrastructure improvements for the 19.8 mile segment. The main element of the improvement involves widening 193 from the existing limited access two – lane highway in each direction to a limited access four – lane highway in each direction. The project begins in the town of Salem, near the New Hampshire/Massachusetts state line and extends northerly through Salem, Windham, Derry, Londonderry, and into Manchester, ending at the I 93/I 293 interchange. The layout also includes the reconstruction and reconfiguration of the interchanges along I 93 at Exit 1 (Rockingham Boulevard), Exit 2 (Pelham Road), Exit 3 (NH Route 111), Exit 4 (NH Route 102) and Exit 5 (NH Route 28.) The project is further described on the attached plans entitled "Interstate 93 Improvements Salem To Manchester IM-IR-93-1(174)0,10418-C, in sheets 1 through 8, 1 through 6 and 1 through 29, and dated 8 June 2004.
Project Location:
Merrimack River Basin, Salem to Manchester, New Hampshire
Permit Conditions:
General Conditions:
1. The time limit for completing the work authorized ends on 29 MAR 2012. 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

of Historic Places.

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

- 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. The permit-tee shall ensure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers jurisdiction at the site of the work authorized by this permit. This shall be achieved by including the entire permit in the specifications for work.

(Special Conditions continued on Page 4)

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).
 - K 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. 141d).
- 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) Ass7. Birector of Project Development (DATE)

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

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Curtis L. Thalken

Colonel, Corps of Engineers

District Engineer

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)

(Special Conditions continued from Page 2)

If the permit is issued after the construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. If the permit is issued after receipt of bids or quotes, the entire permit shall be included in the contract or subcontract as a change order. The term "entire permit" includes permit amendments. Although the permit-tee may assign various aspects of the work to different contractors or subcontractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

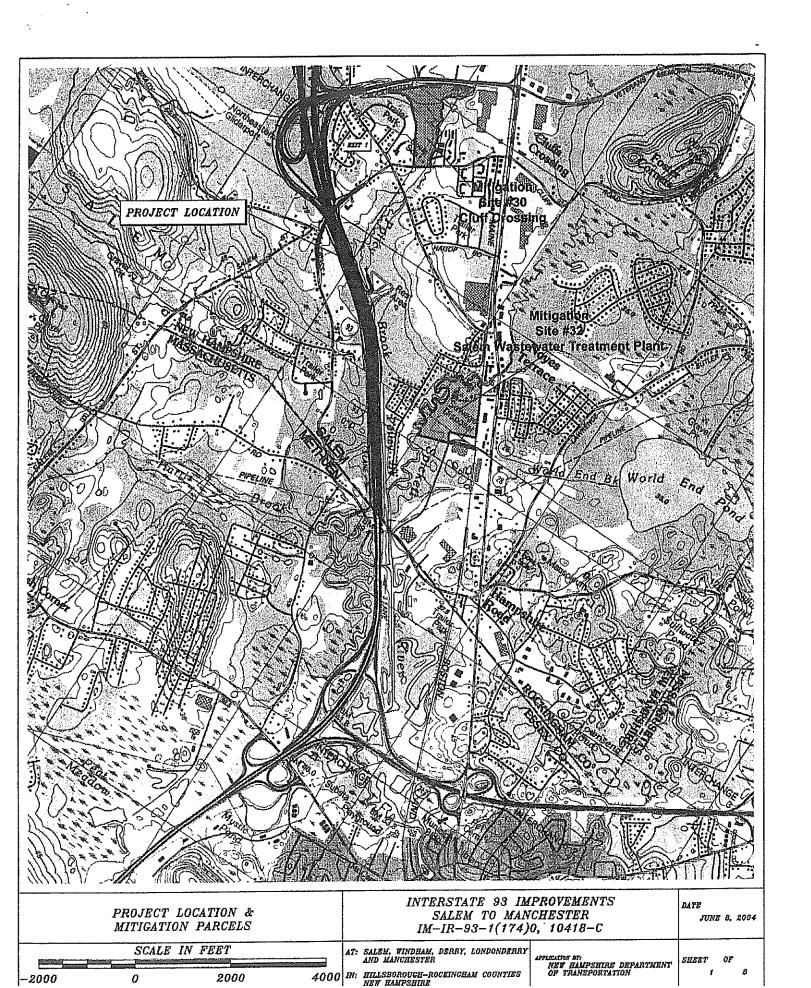
- 2. All areas of wetlands and/or waters, which are disturbed during construction, except those authorized herein for permanent impact, shall be restored to their approximate original elevation (but not higher) and condition by careful protection, and/or removal and replacement, of existing soil and vegetation. In addition, if upland clearing, grubbing, or other construction activity results in, or may result in, soil erosion with transport and deposition into a wetland or waterway, devices such as geotextile silt fences, sediment trenches, etc., shall be installed and properly maintained to minimize such impacts during construction. These devices must be removed upon completion of work and stabilization of disturbed areas. The sediment collected by these devices must also be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland.
- 3. Adequate sedimentation and erosion control devices, such as geotextile silt fences or other devices capable of filtering the fines involved, shall be installed and properly maintained to minimize adverse impacts on waters and wetlands during construction. These devices <u>must</u> be removed upon completion of work and stabilization of disturbed areas. The sediment collected by these devices must also be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland.
- 4. No temporary fill (e.g., access roads, cofferdams) may be placed in waters or wetlands unless specifically authorized by this permit. If temporary fill is used, it shall be disposed of at an upland site and suitably contained to prevent its subsequent erosion into a water of the U.S., and the area shall be restored to its original contours (but not higher). During use, such temporary fill must be stabilized to prevent erosion or, in the case of flowing water (rivers or streams), clean washed stone should be used. When temporary fill is placed in wetlands or waters for the purpose of supporting excavation equipment which will perform trenching operations, protective geotextile fabric shall first be placed in two parallel strips, separated by the location and width of the future trench. This does not apply to mats. No temporary fill (e.g. access roads, cofferdams) in any waters or wetlands is authorized by this permit.
- 5. Mitigation shall be performed in accordance with the attached mitigation plan entitled, "Wetland Mitigation Technical Reports and Plans, NH Interstate 93 Improvement Project Salem-Manchester 10418-C. "

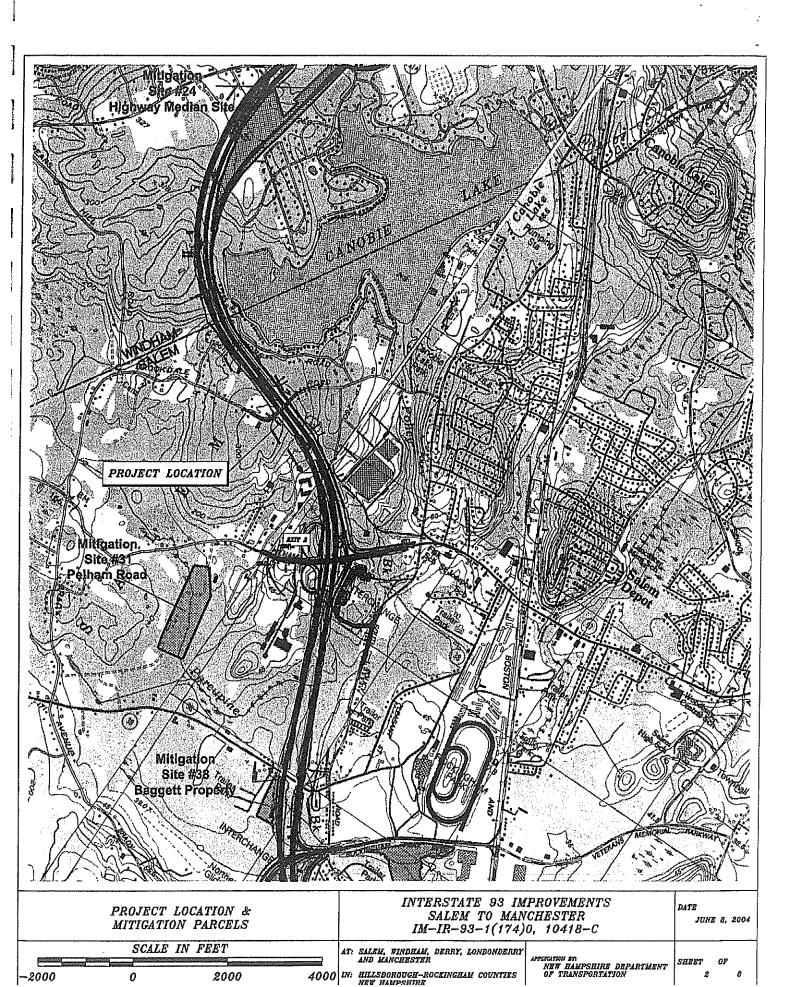
Your responsibility to complete the required compensatory mitigation as set forth in Special Condition 5 will not be considered fulfilled until you have demonstrated mitigation success and have received written verification from the U.S. Army Corps of Engineers. The term 'mitigation success' means success as defined in the mitigation plan this permit requires you to implement. Demonstration of success under this permit shall consist of the required

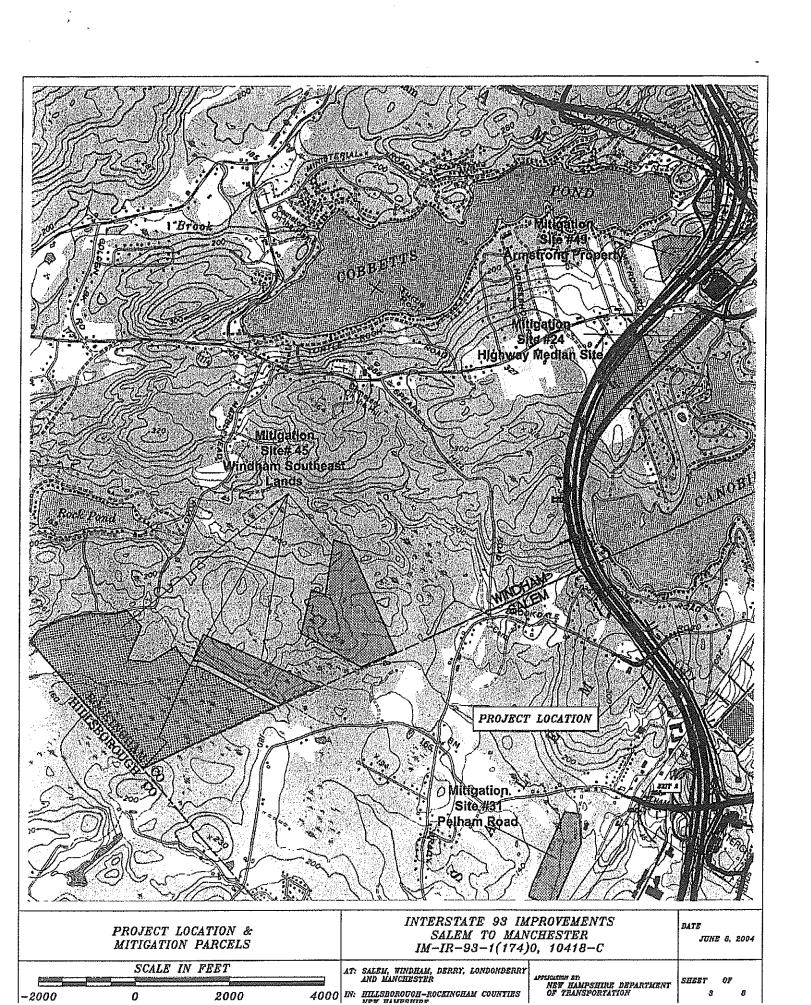
mitigation monitoring, corrective measures, submittal of mitigation monitoring reports, and a final wetland assessment.

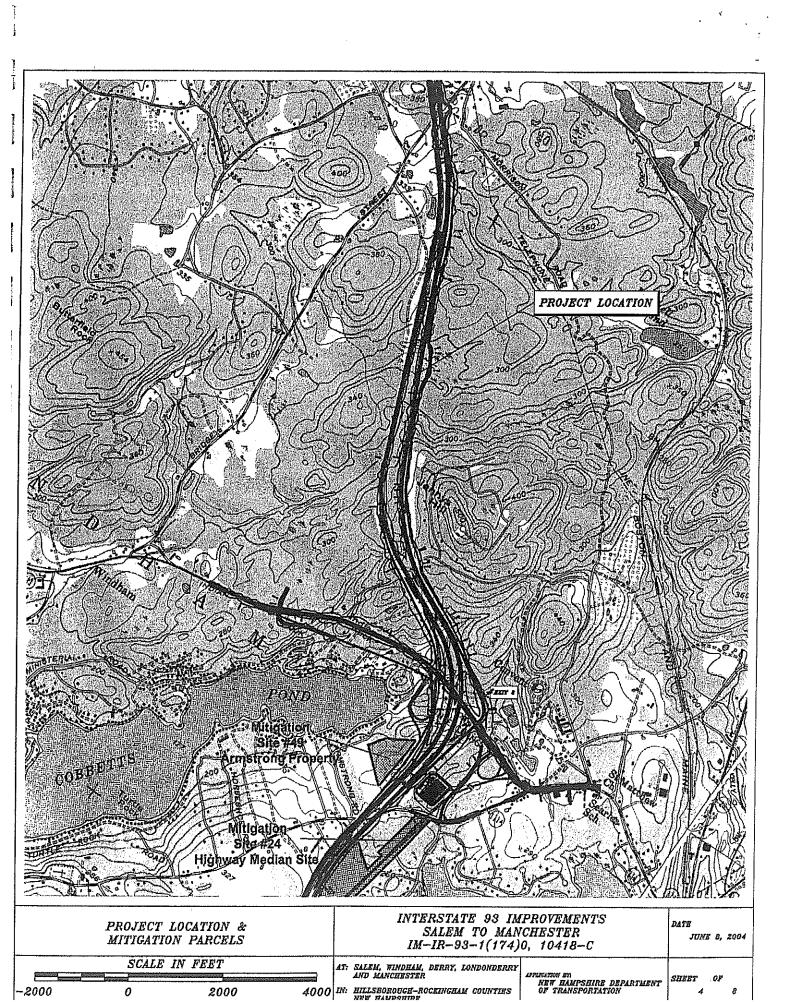
- 6. The MOA on historic properties between the New Hampshire Department of Transportation, the Federal Highway Administration, and the State Historical Preservation Officer and date signed August 8, 2002 is a special condition of this permit and shall be faithfully executed.
- 7. To demonstrate compliance with condition E-10 of the Water Quality Certification, WQC# 2002-007, approved May 2, 2006 (attached), the permit-tee shall record the levels of road salt used on I-93 and its interchanges between the Massachusetts border and Exit 6 on a monthly basis and shall report such monthly load information to the Corps, EPA and NHDES on a quarterly basis. The permittee shall include in each quarterly report a description of the adaptive management strategies it has implemented for the preceding quarter to optimize the use of de-icing compounds and/or anti-icing compounds and to maximize salt application efficiency.
- 8. Except where stated otherwise, reports, drawings, correspondence and any other submittals required by this permit shall be marked with the words "199201232/NAE-2004-233 and shall be addressed to "Policy Analysis and Technical Support Branch, CENAE-R-PT", U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751." Documents which are not marked and addressed in this manner may not reach their intended destination and do not comply with the requirements of this permit.
- 9. Special condition regarding areas to be protected from development: The NH DOT with the concurrence of the FHWA has agreed to protect approximately 1,000 acres of undeveloped land as part of the mitigation package for the proposed project and both have committed to this course of action in the FEIS and the FHWA ROD. The parcels proposed for protection are enumerated in Section 4.7 of the FHWA ROD at pp.14-15 and 11-12 respectively and depicted in the FEIS at table 4.6-5. The faithful implementation of these commitments is a condition of this authorization and failure to acquire and record conservation easements or restrictive covenants on the enumerated parcels shall be considered a violation of the conditions of this permit and subject the permittee to the enforcement provisions of our regulations. The NH DOT has already acquired interests in some of the parcels enumerated above but there are several remaining parcels yet to be acquired. The NH DOT shall comply with the following conditions:
- A. For those parcels already acquired in fee simple, the NH DOT shall place restrictive covenants on the land. For all other interests in land the NH DOT shall ensure that a conservation easement is placed on the parcel with the NH DOT as the grantee. The restrictive covenants or conservation easements shall be recorded in the Rockingham or Hillsborough County Registry of Deeds, as appropriate, and a copy of the recordation shall be sent to the Corps of Engineers within thirty (30) days. The language of the restrictive covenants or conservation easements shall be approved by the Corps, the FHWA and the NH DES before the restrictive covenants or conservation easements are recorded.
- B. The conservation easements or restrictive covenants shall enable the site or sites to be protected in perpetuity from future use or development. The conservation easement or restrictive covenants shall expressly allow for the creation, restoration, remediation and monitoring activities required by this permit on the site or sites. It shall prohibit all other filling, clearing, development and other disturbances (including unauthorized motorized vehicle access) on these sites except for activities consistent with the purposes of the conservation easements or restrictive covenants.
- C. There shall be no discharges pursuant to this permit until the restrictive covenants or conservation easements on the already acquired parcels have been recorded.

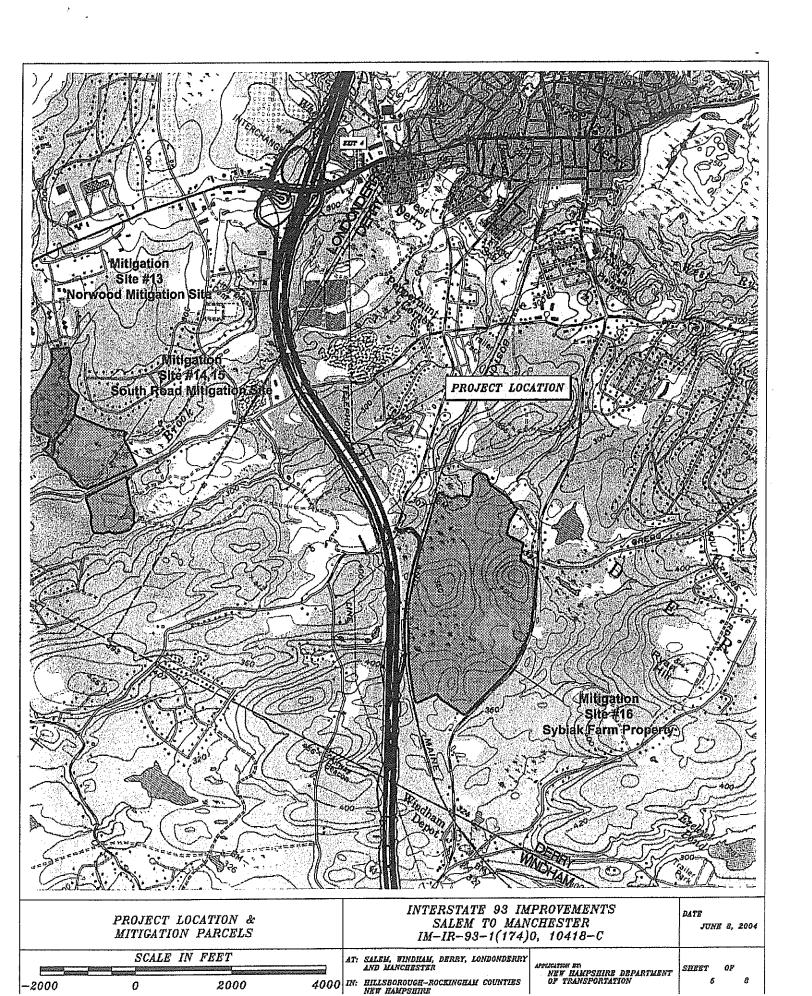
- D. Within five (5) years of the issuance of this permit, the NH DOT shall place restrictive covenants or conservation easements on the remaining parcels enumerated in the above referenced documents. A copy of the executed documents shall be provided to the Corps of Engineers within (30) day of recording.
- E. All subsequent property transfers are to be made subject to said restrictions or easements. The NH DOT shall reference the restrictive covenants or easements in all transfer deeds. The NH DOT shall provide a copy of the transfer deeds to the Corps of Engineers within thirty (30) days of recording.
- F. The NH DOT shall not transfer any fee owned property to another person or entity unless a conservation easement is placed on the property prior to transfer and made subject to the existing restrictive covenant. The Corps of Engineers shall approve the language of the conservation easement.
- G. All copies of the executed and recorded easements or restrictive covenants and any subsequent transfer deeds shall be sent to the Corps of Engineers, Regulatory Division, attn: Chief, Policy Analysis and Technical Support Branch, 696 Virginia Road, Concord, MA 01742-2751.

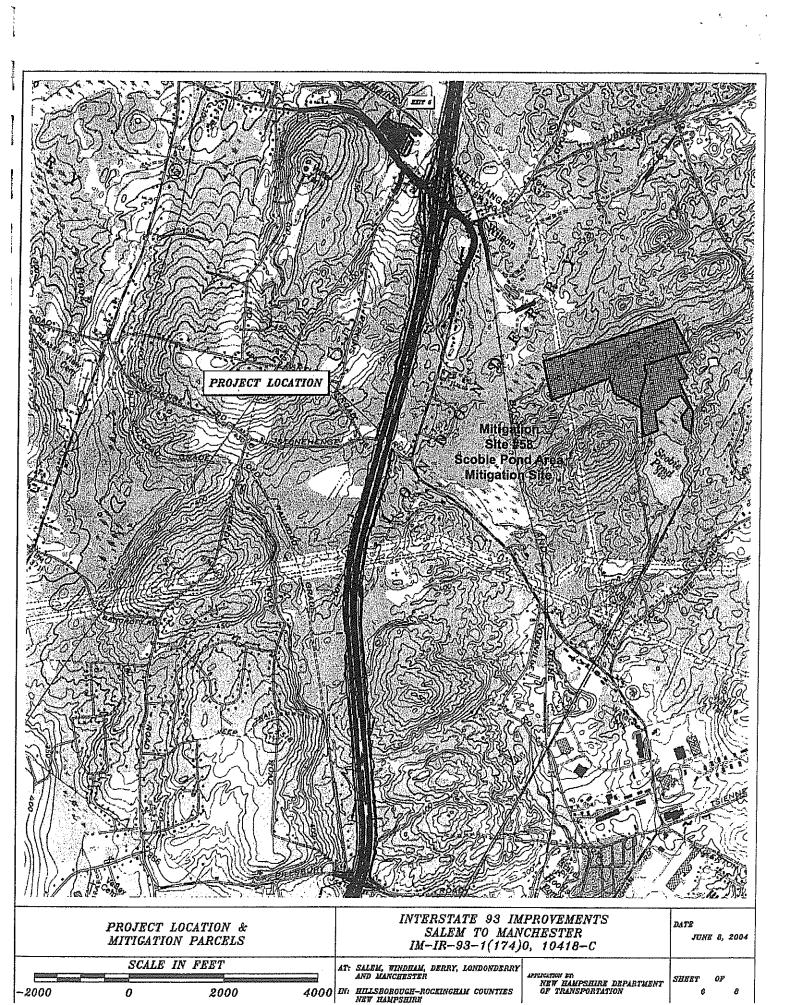


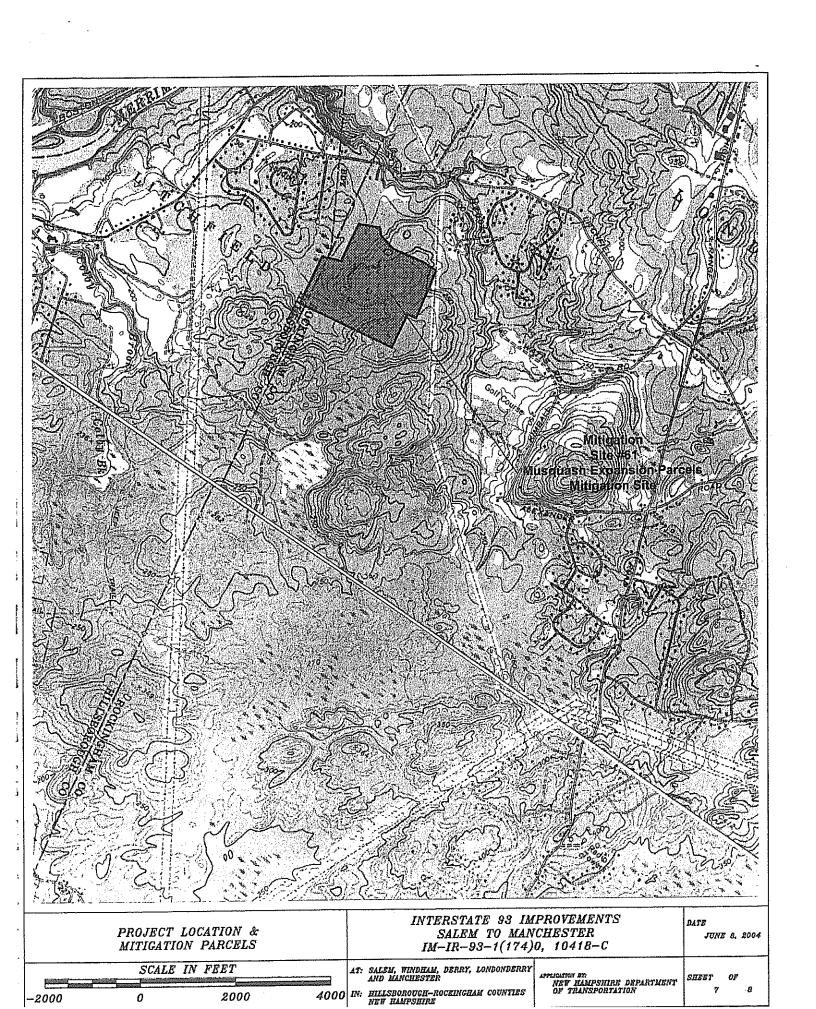


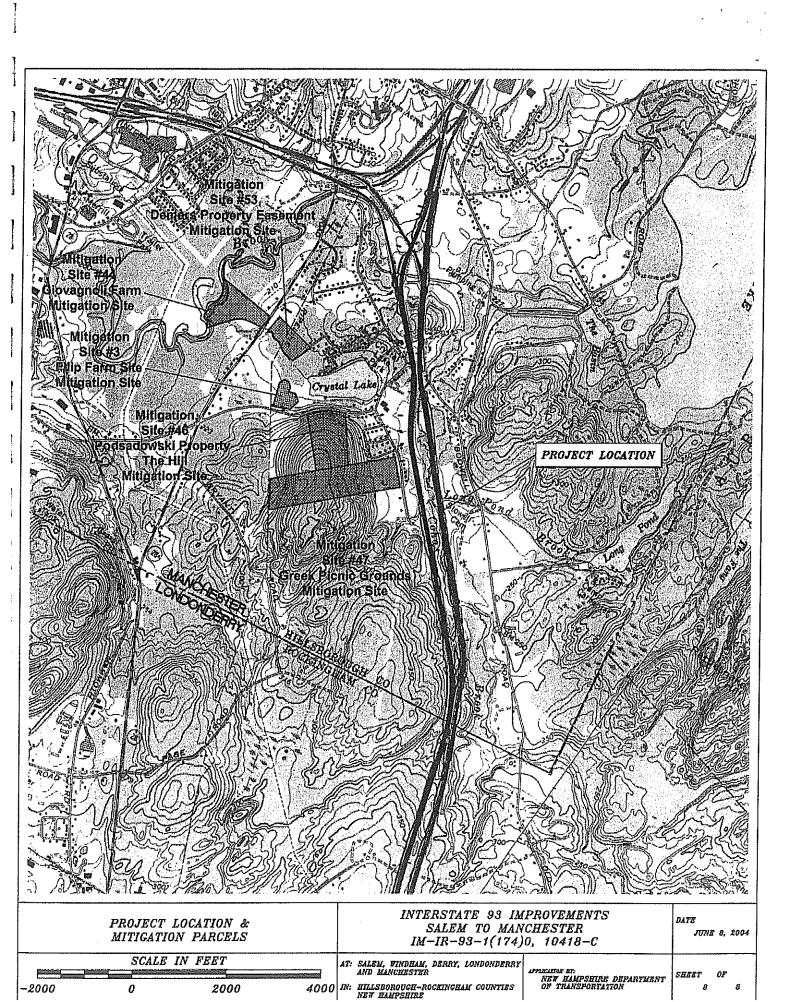


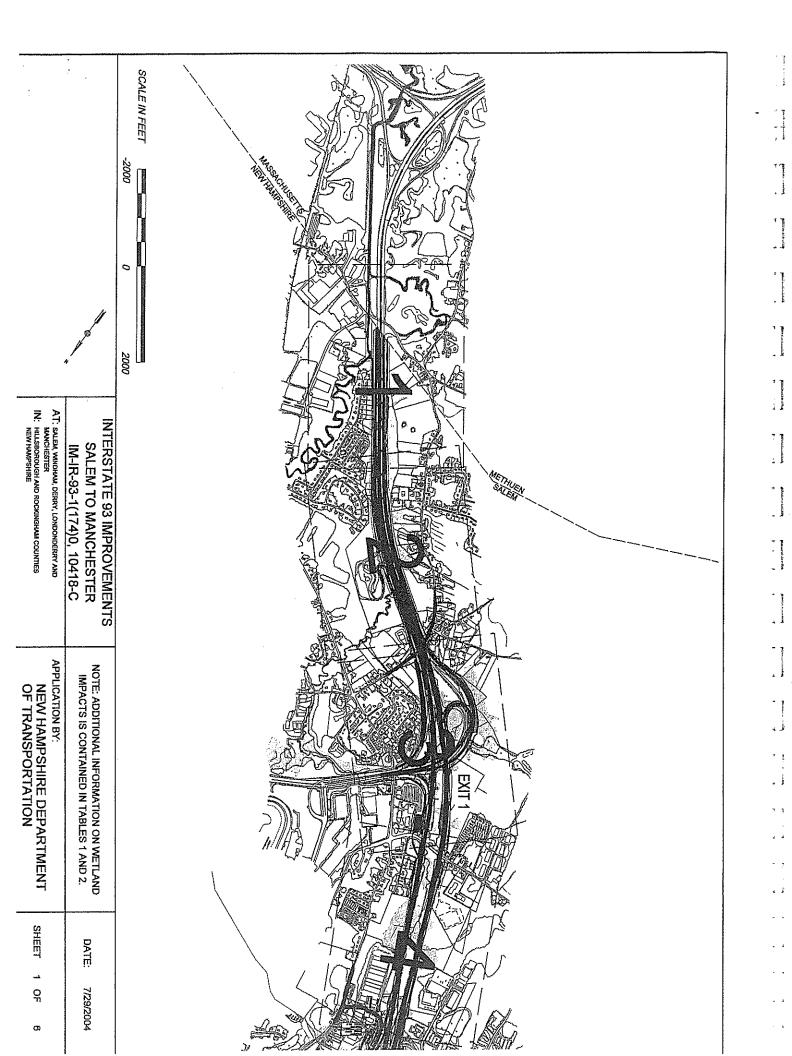


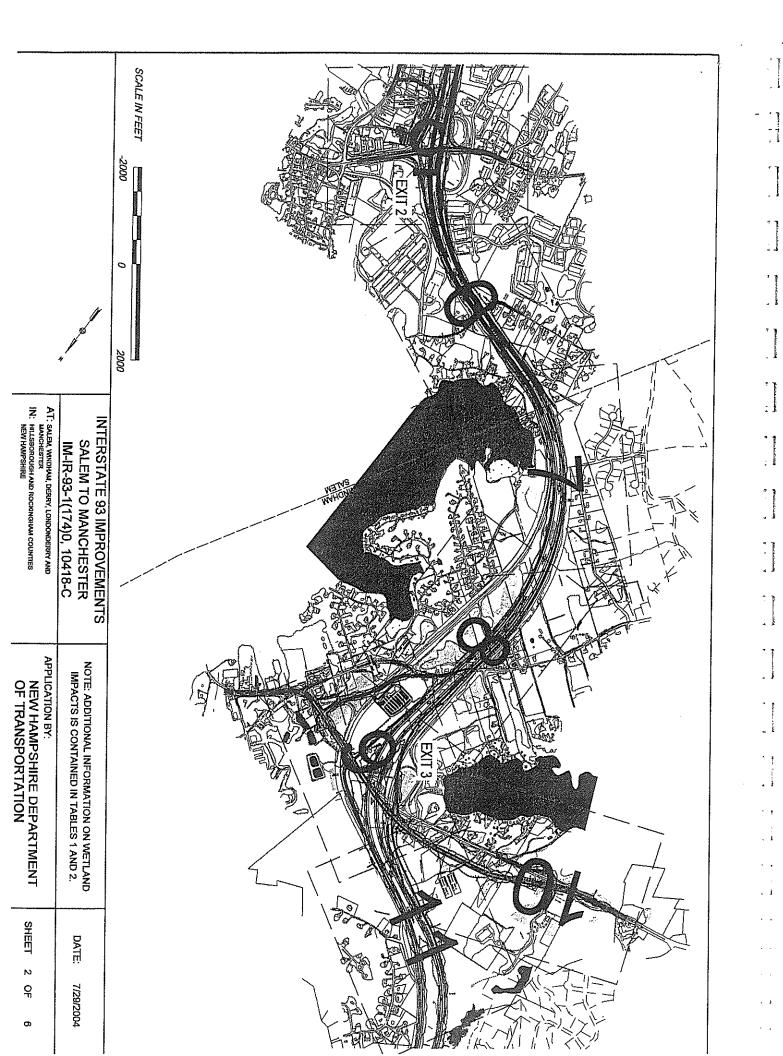


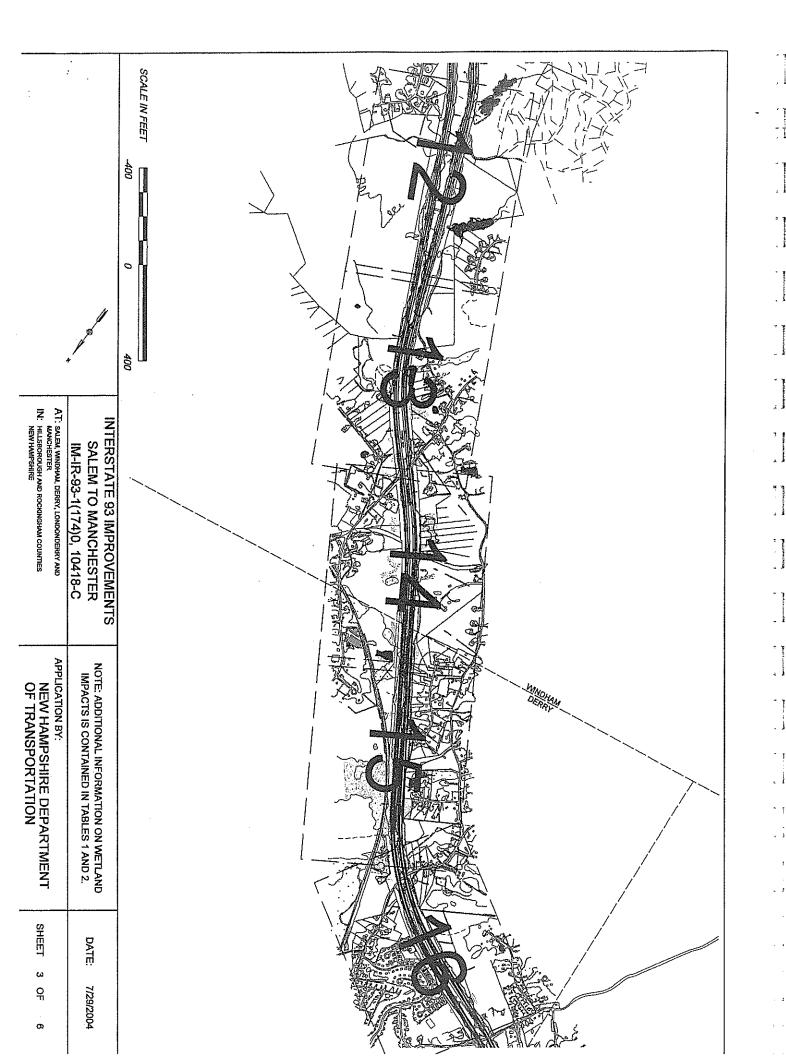


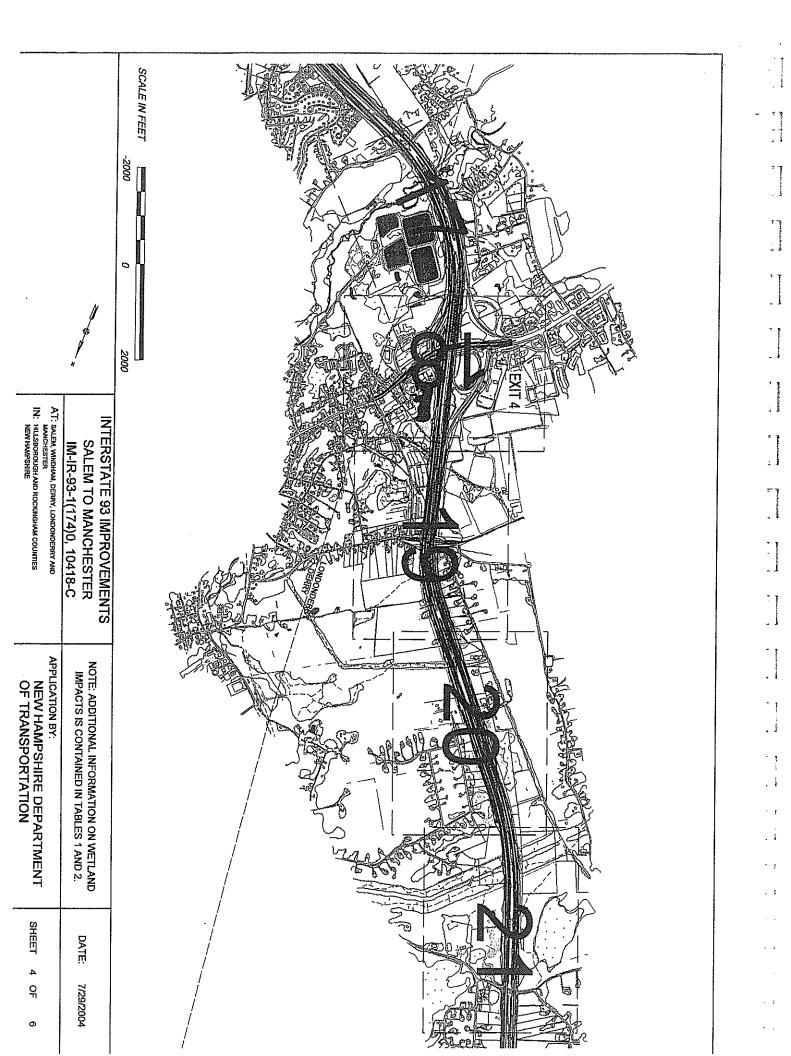


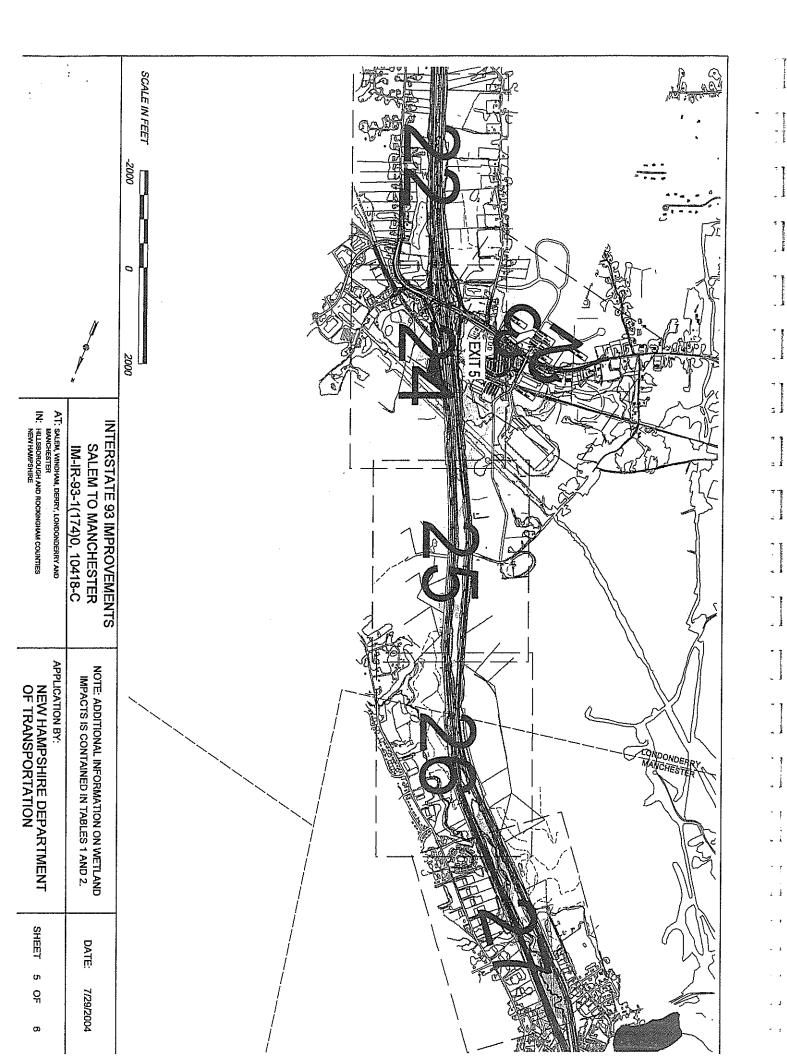


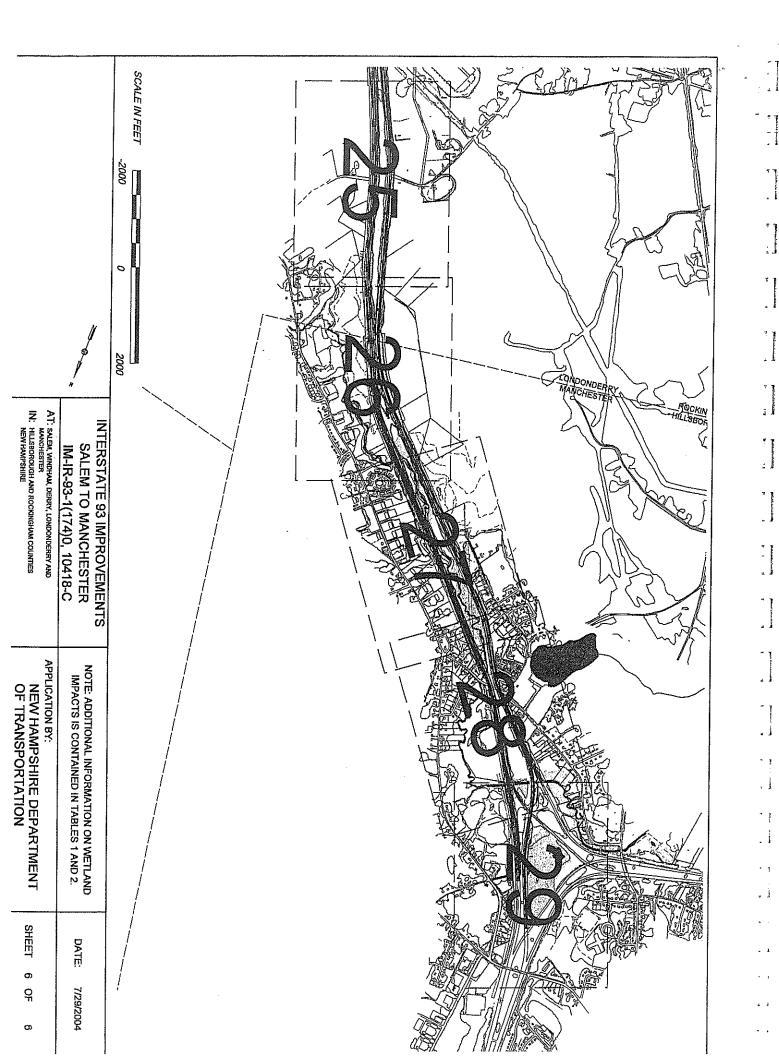


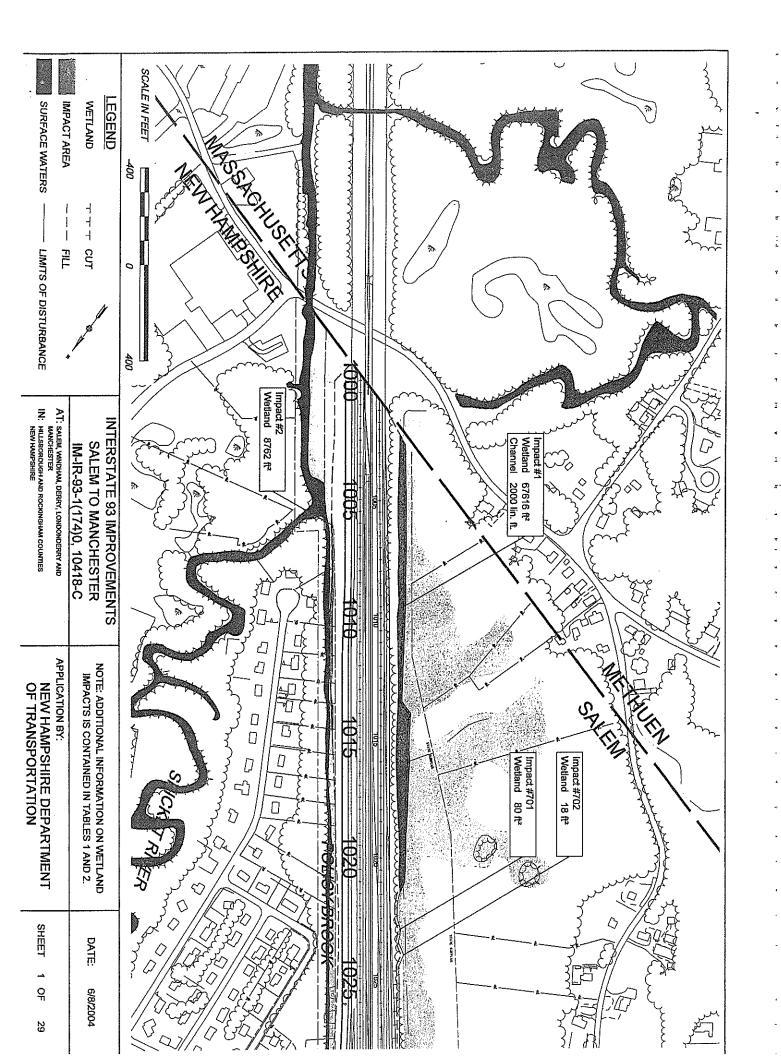


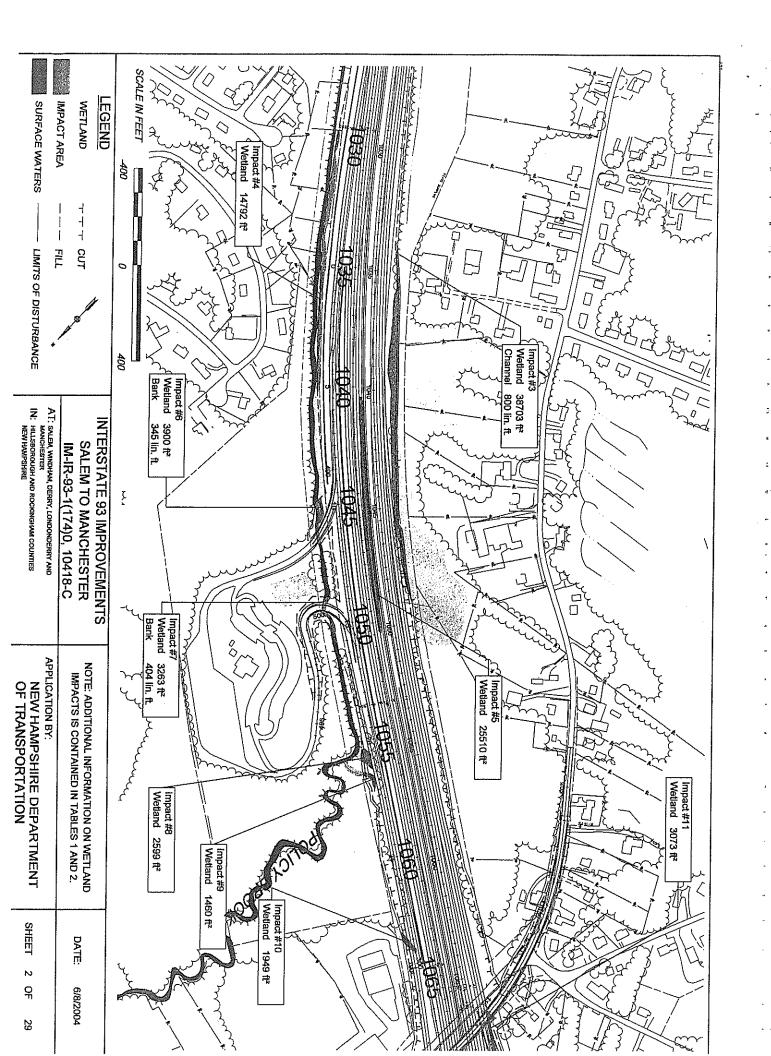


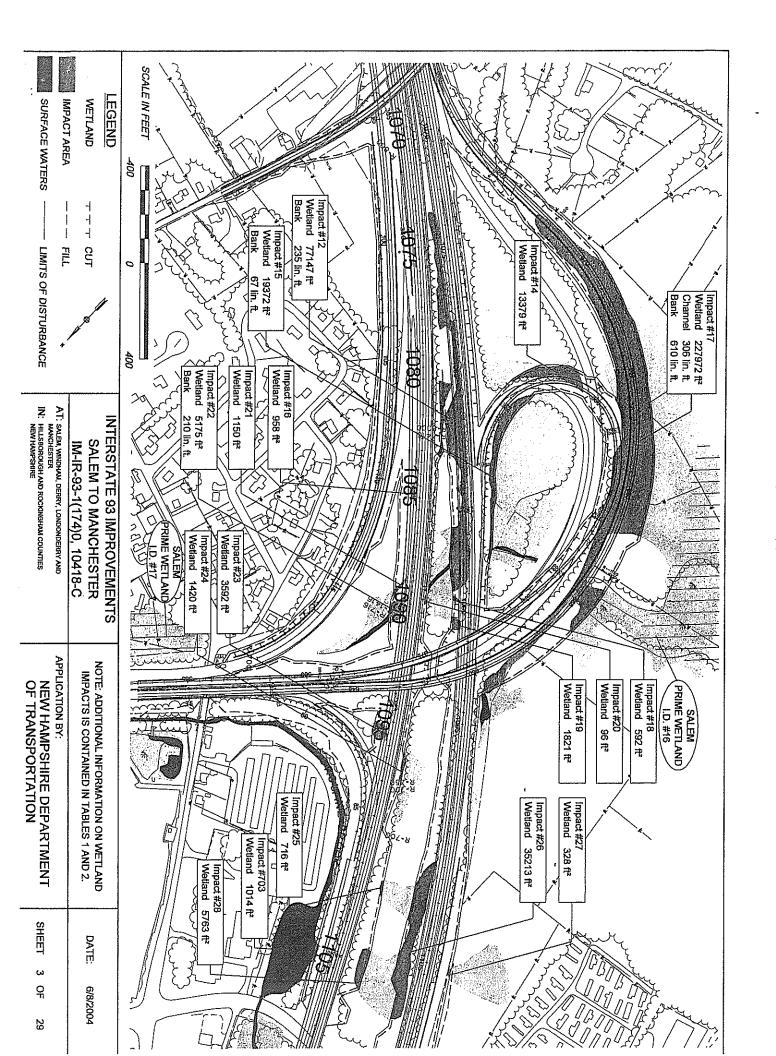


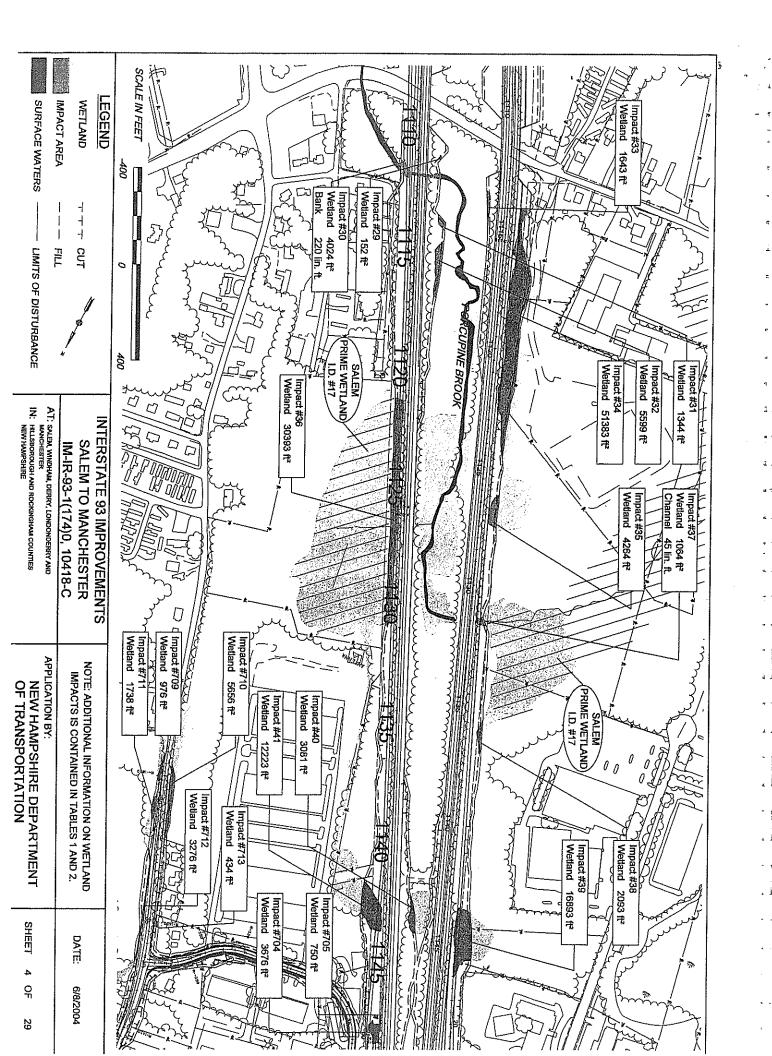


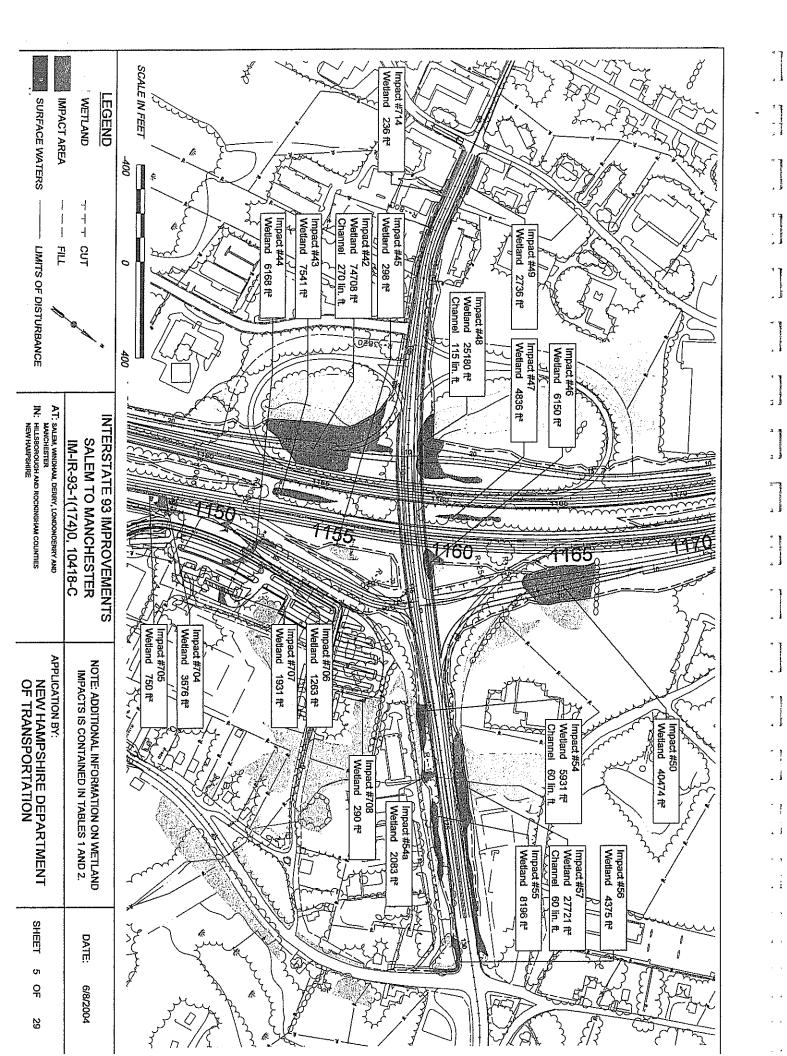


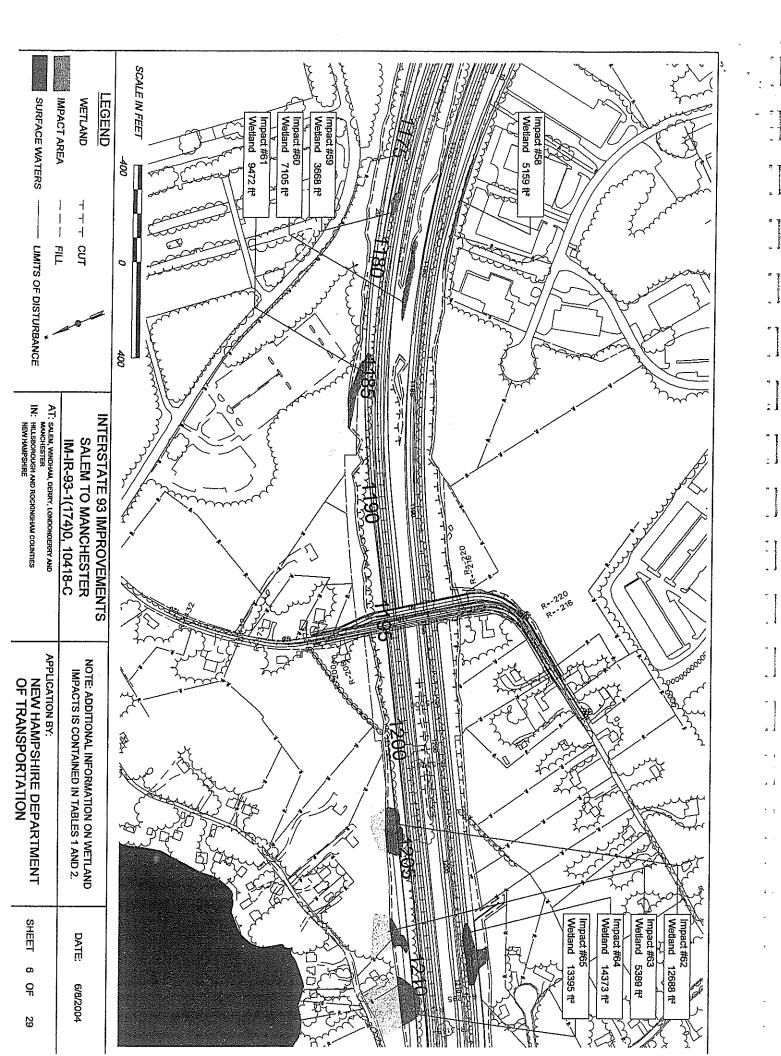


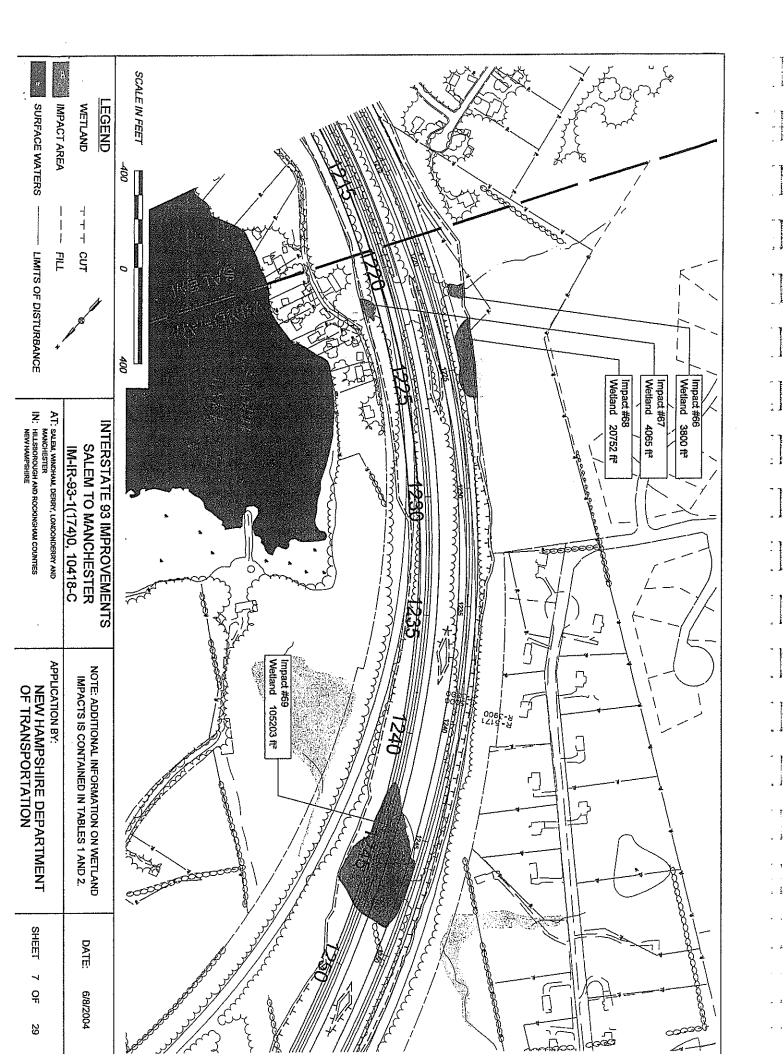


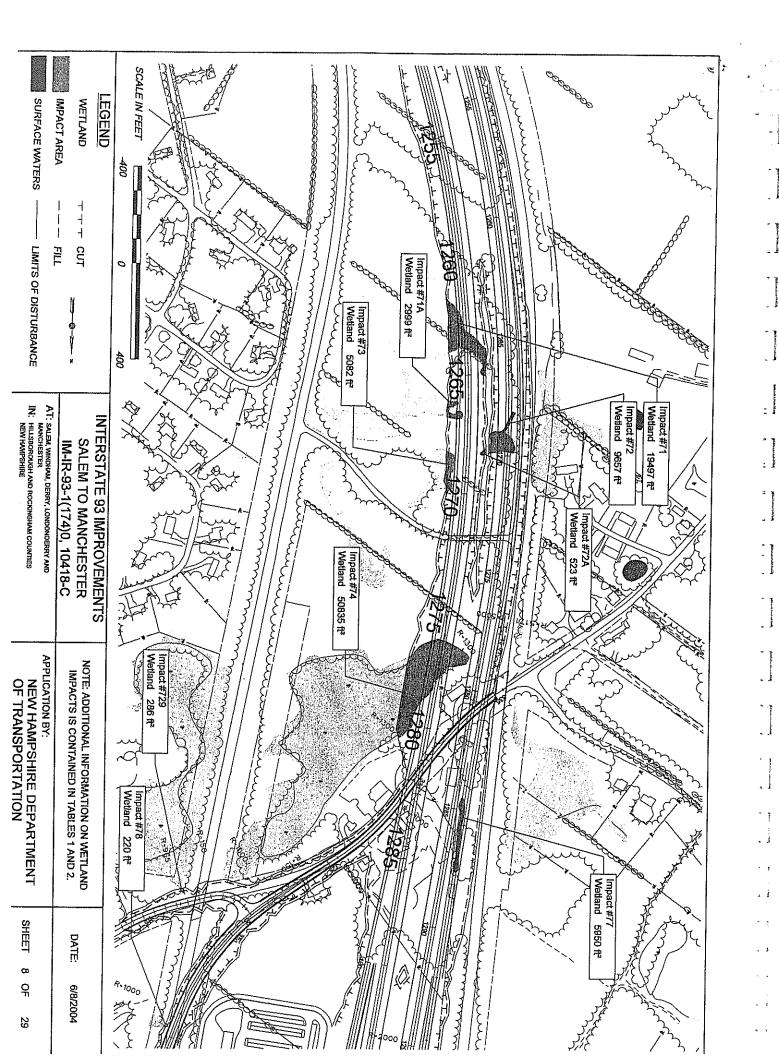


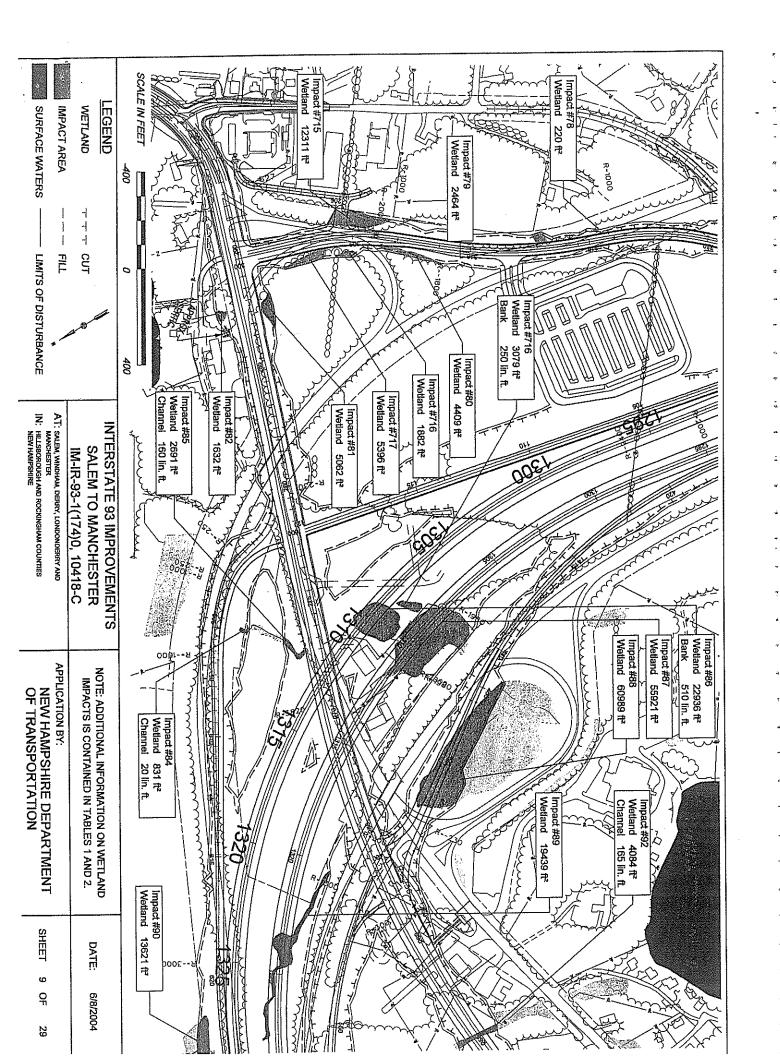


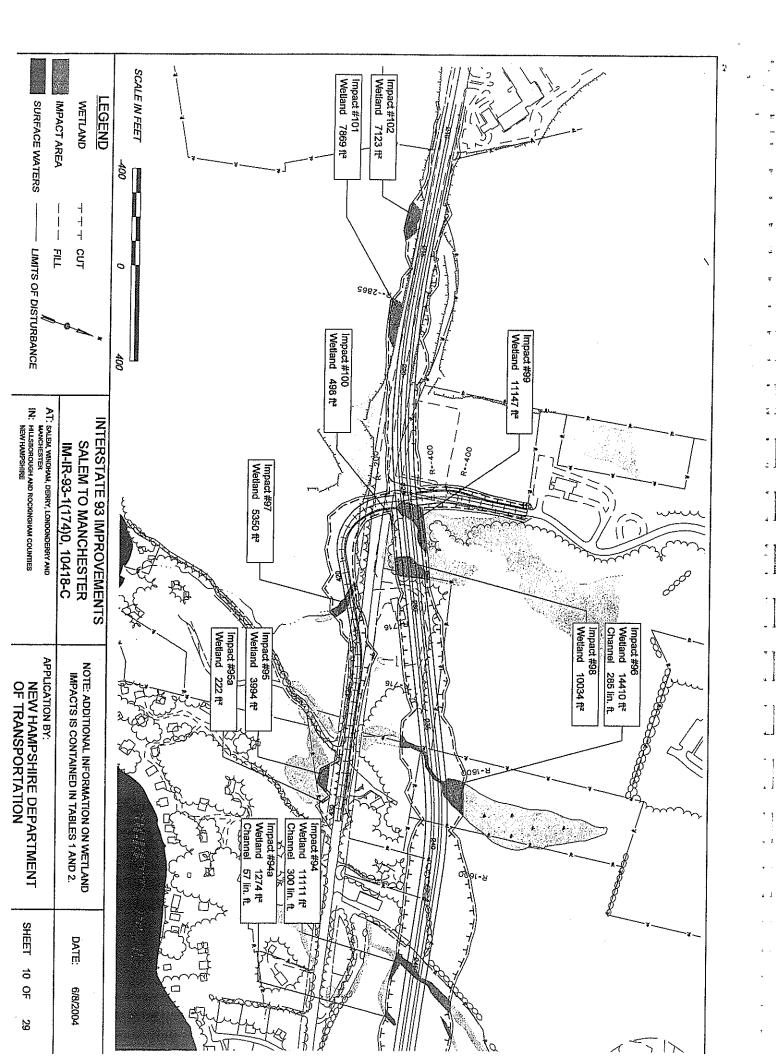


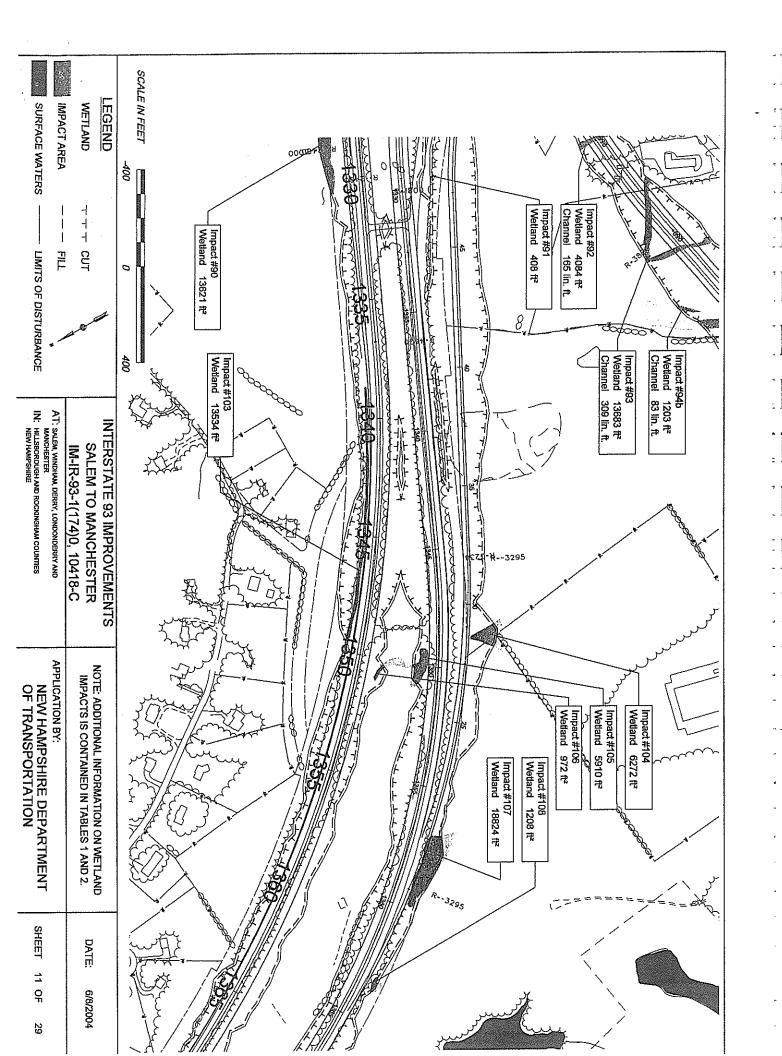


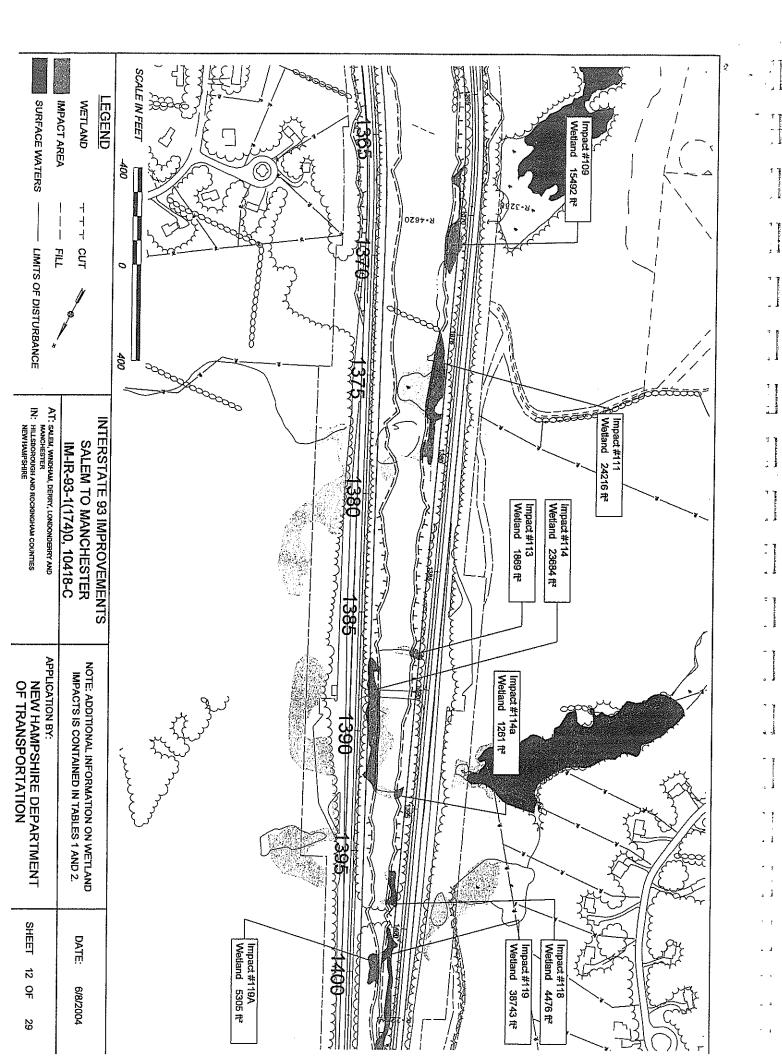


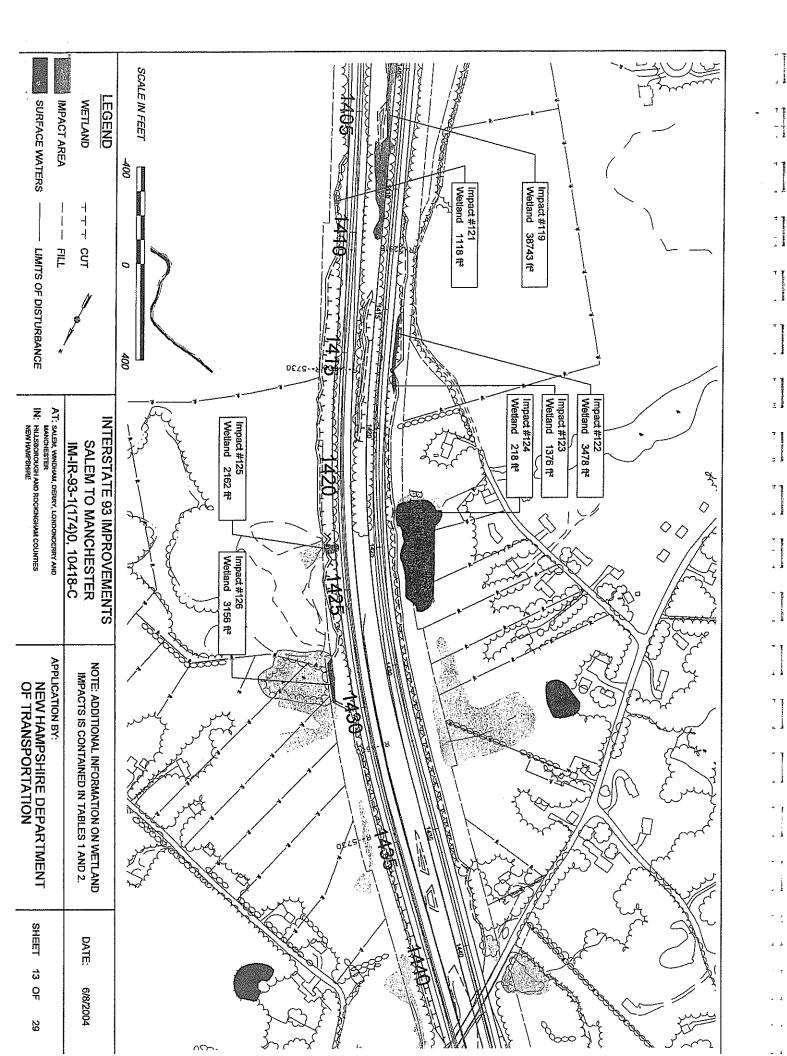


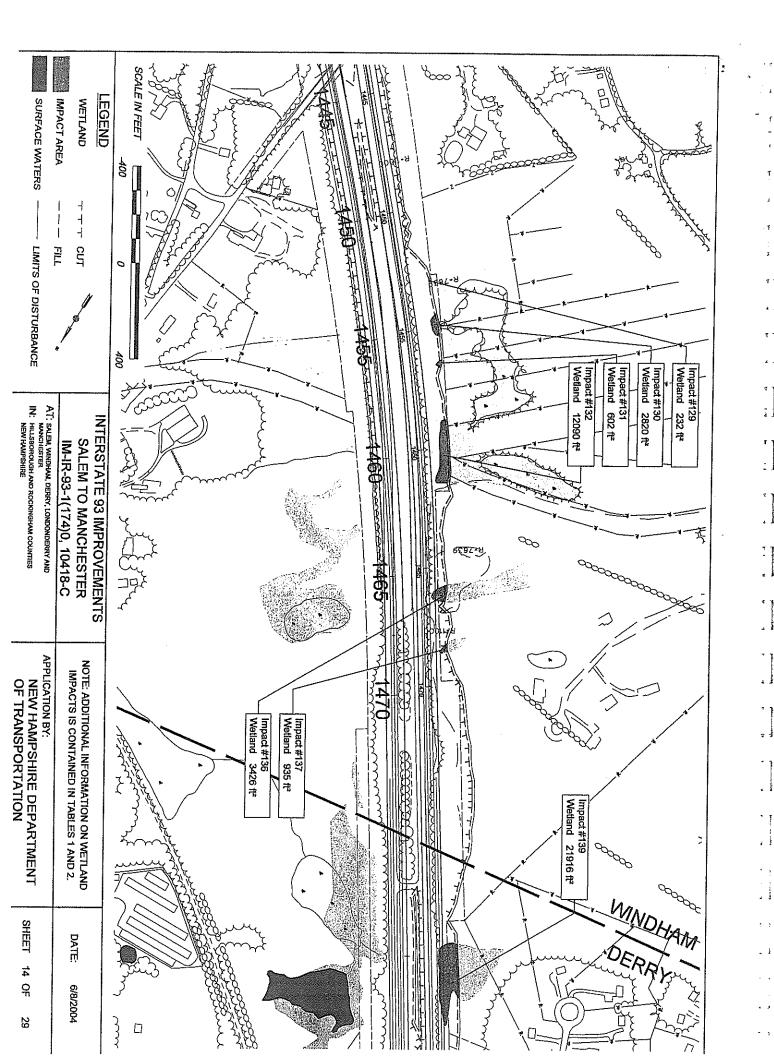


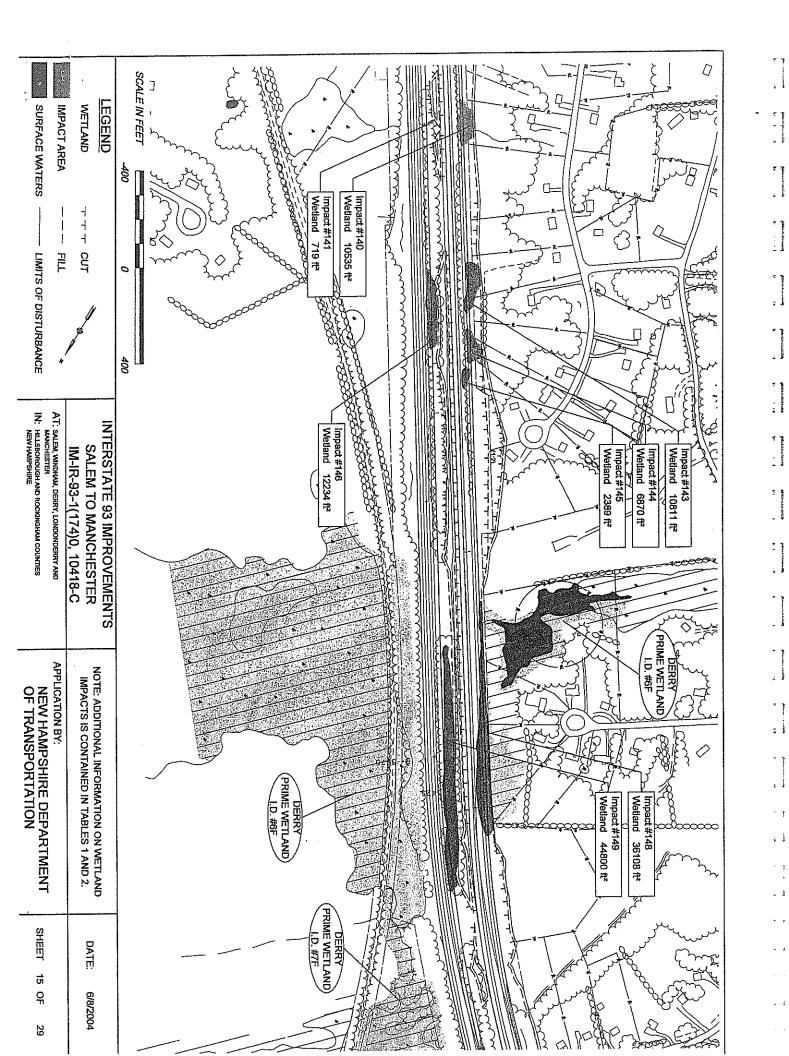


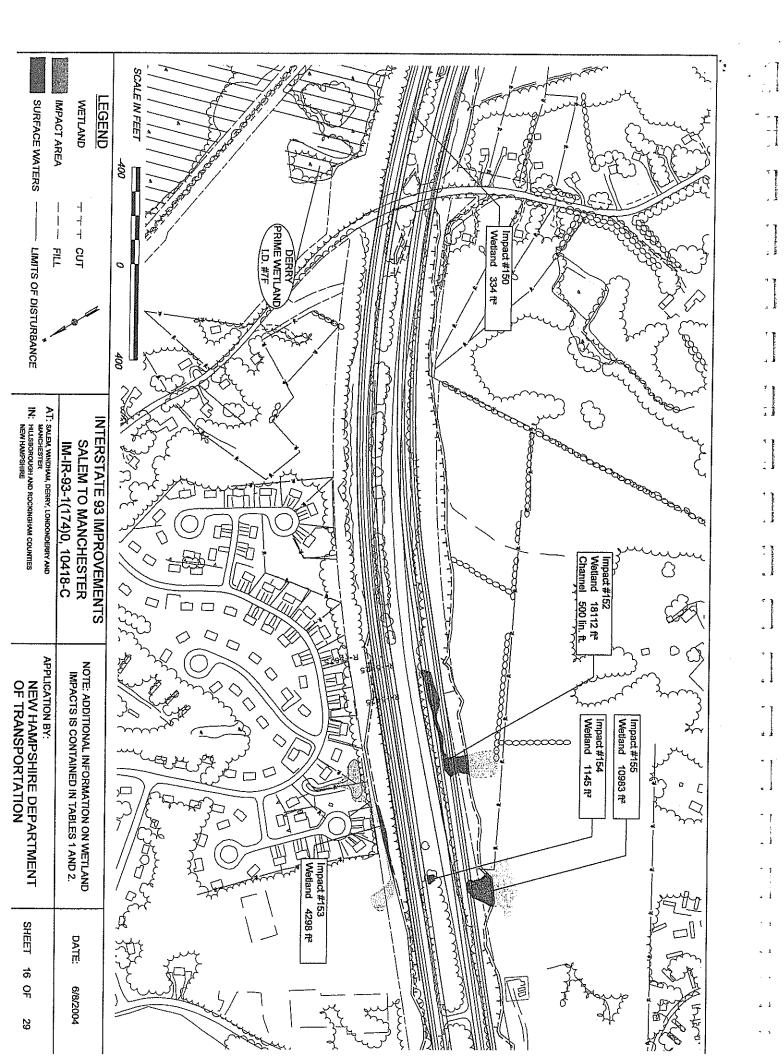


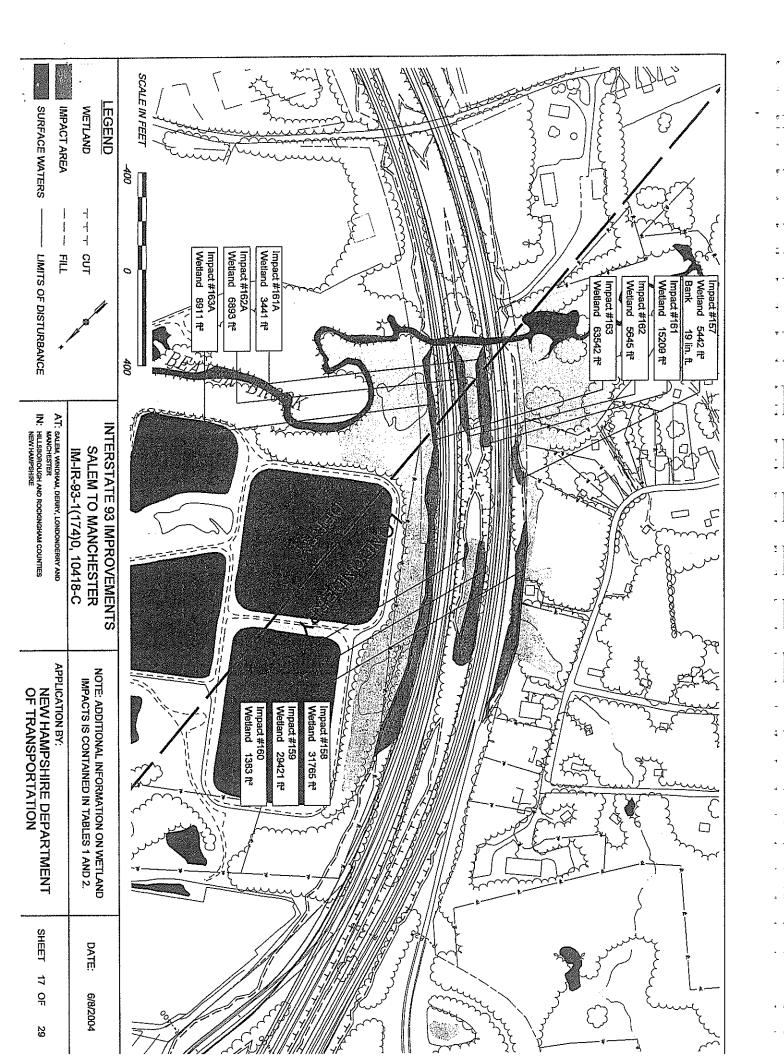


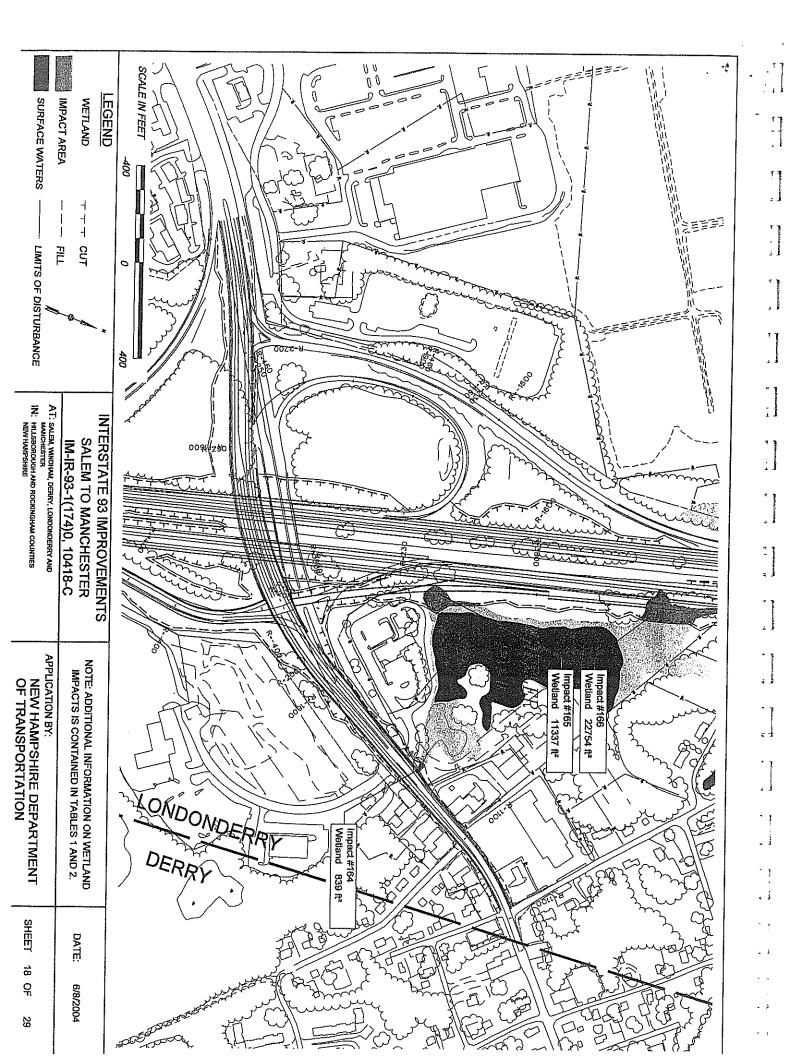


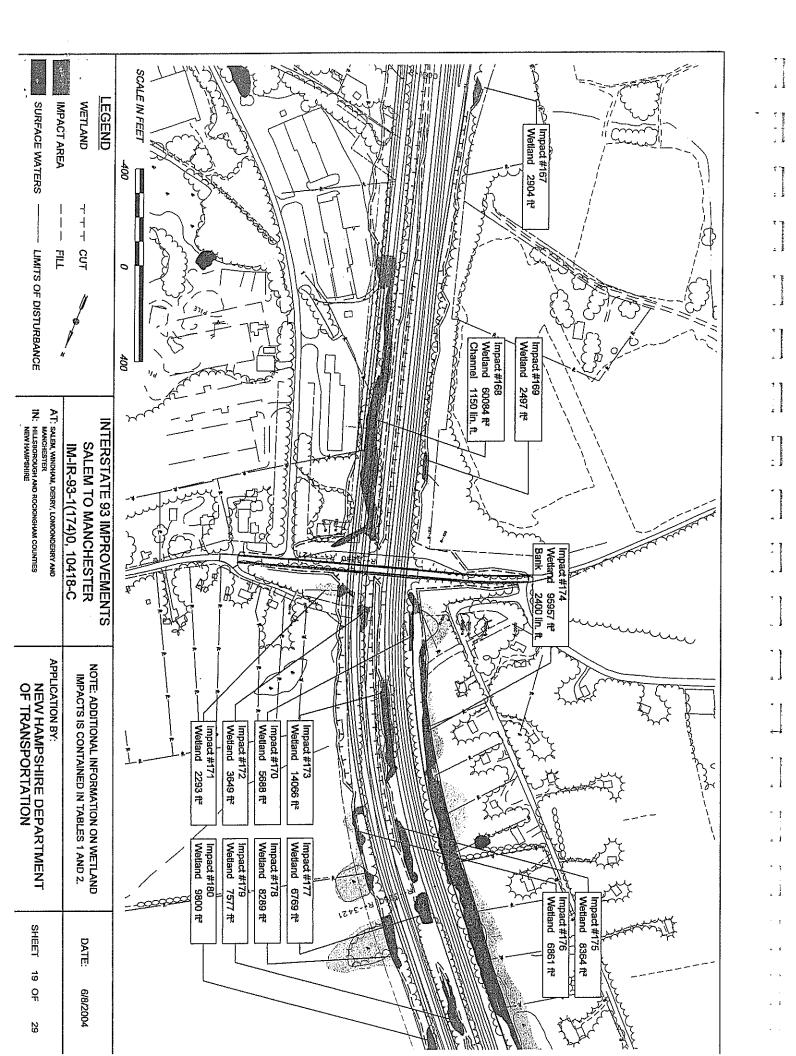


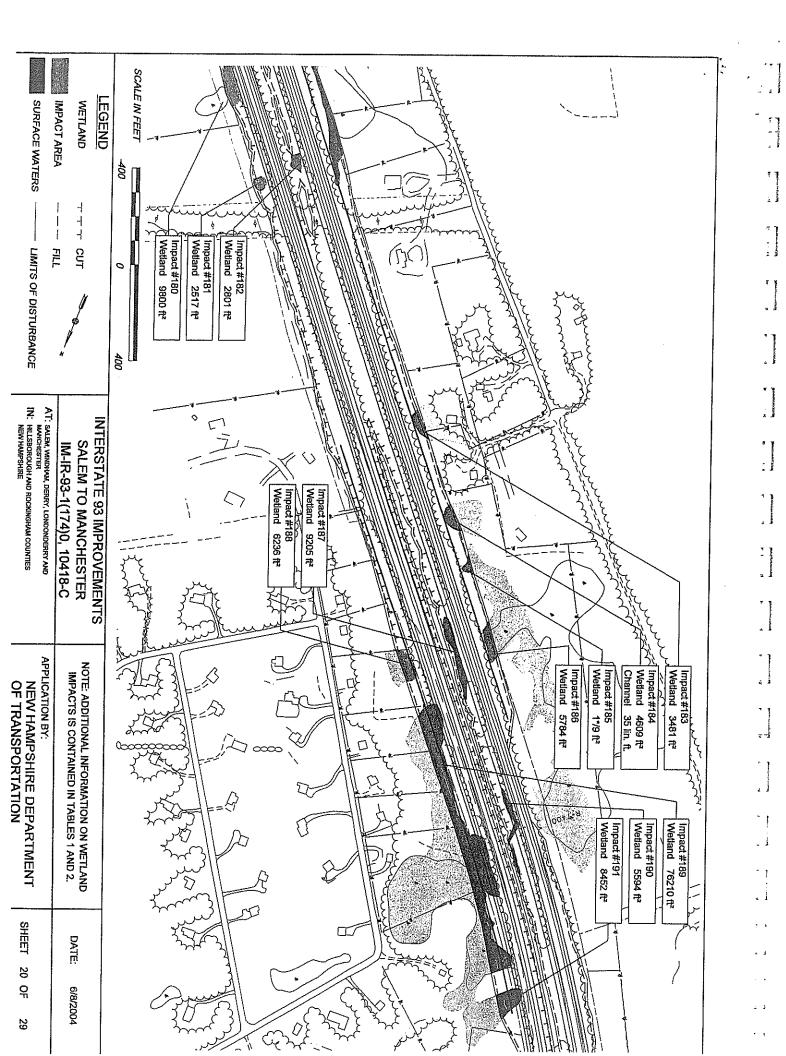


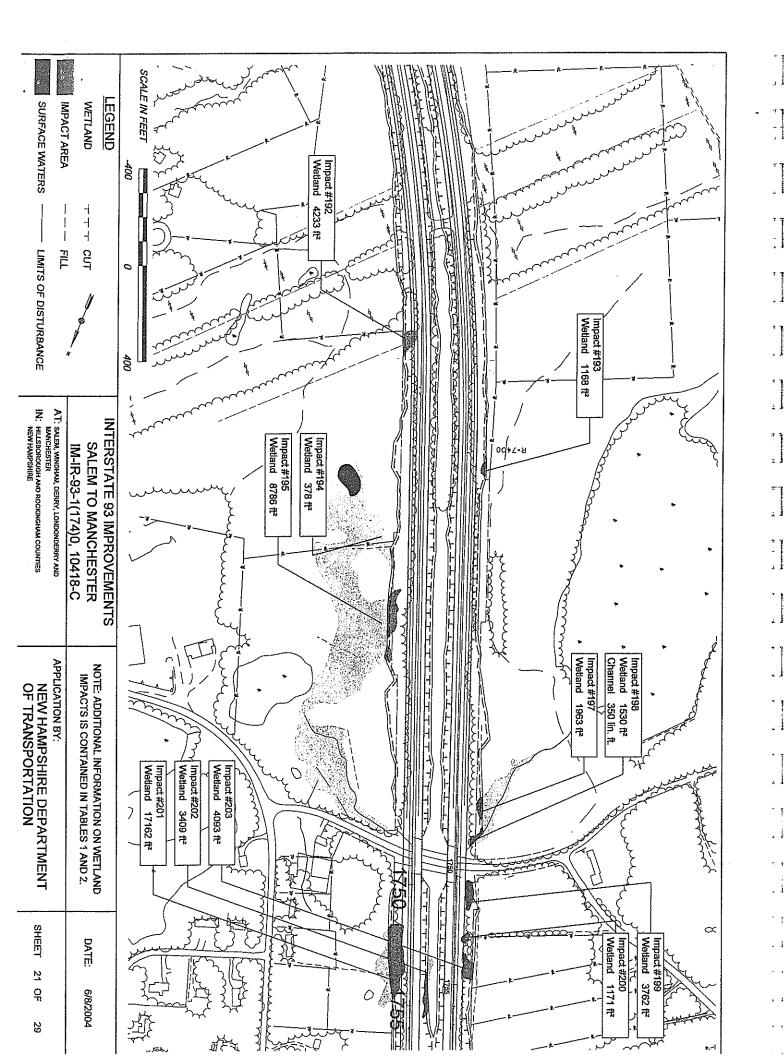


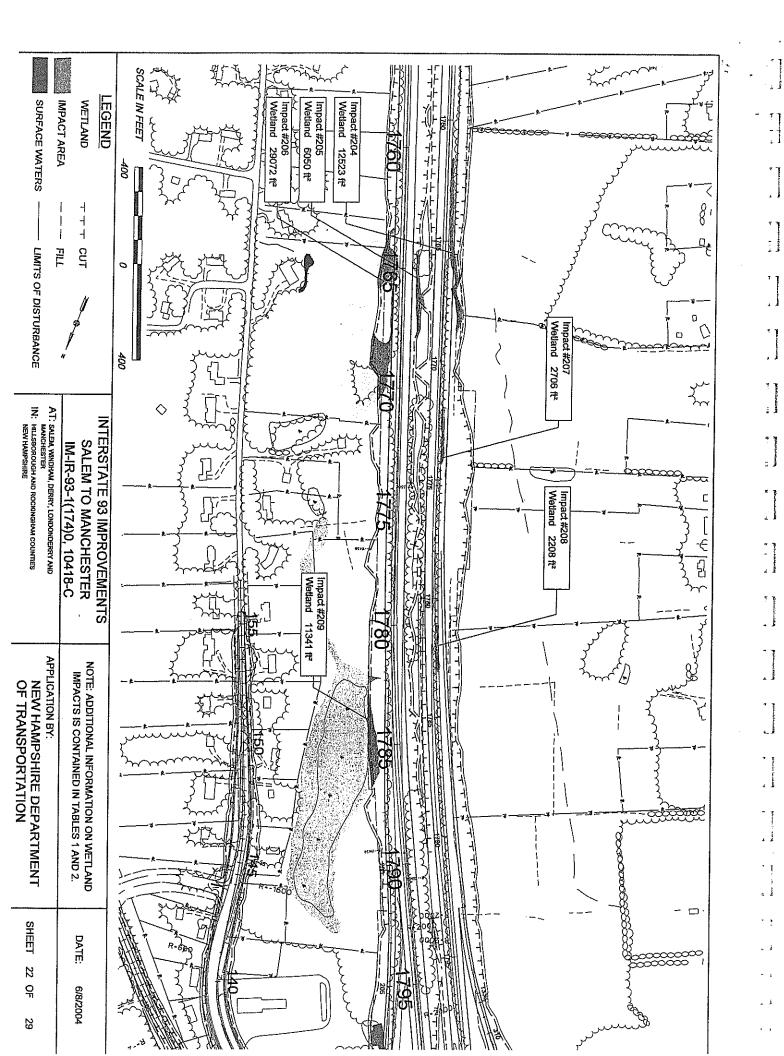


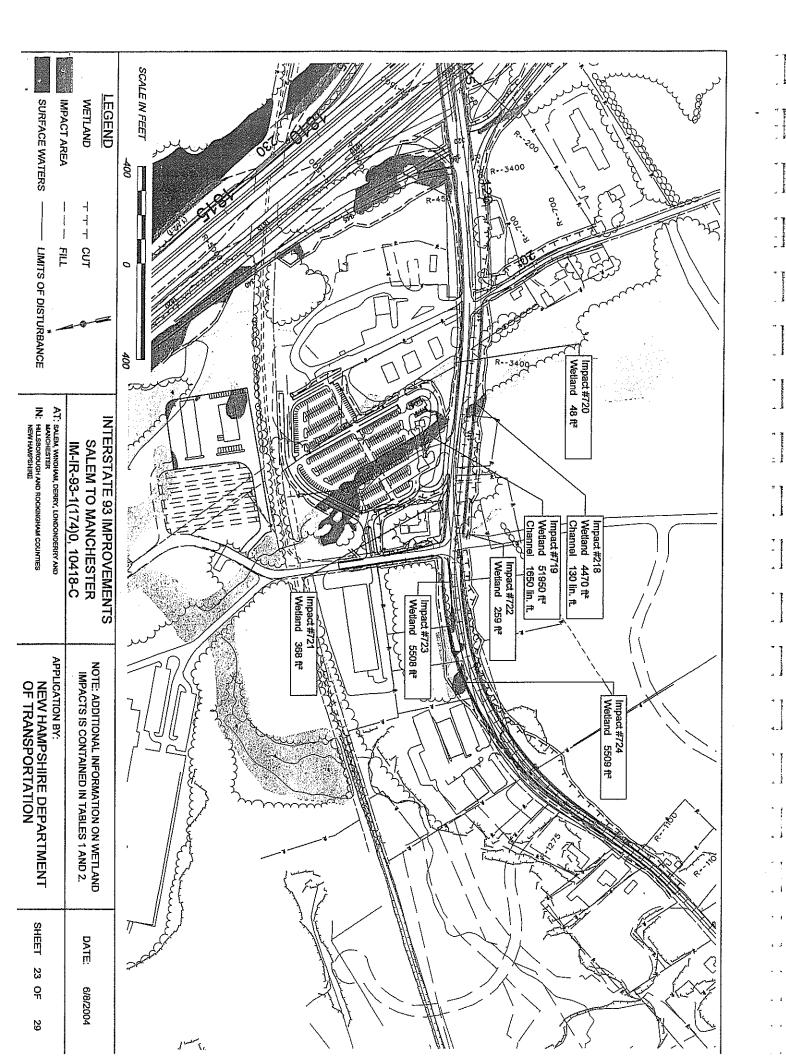


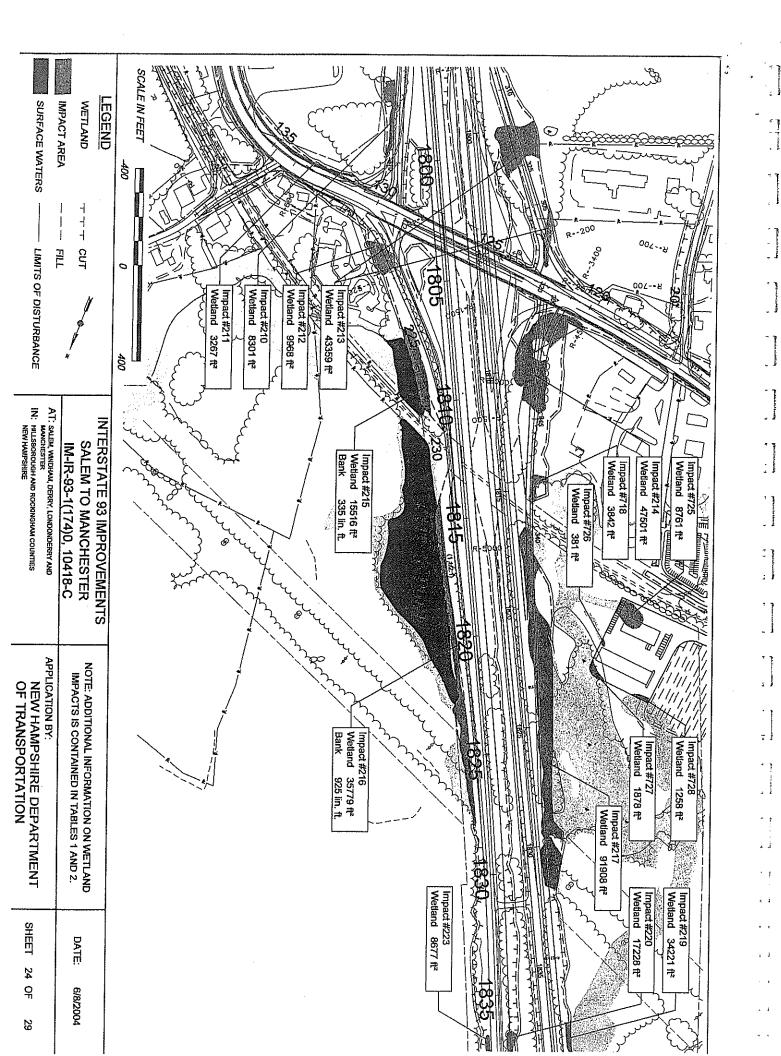


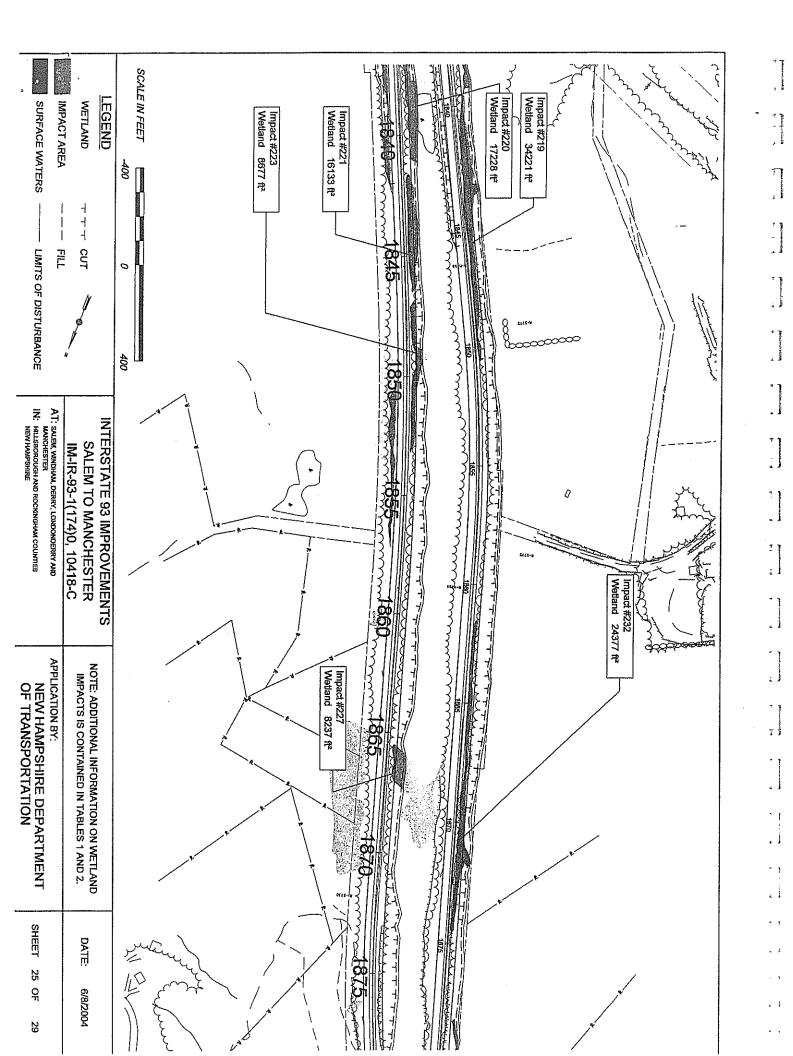


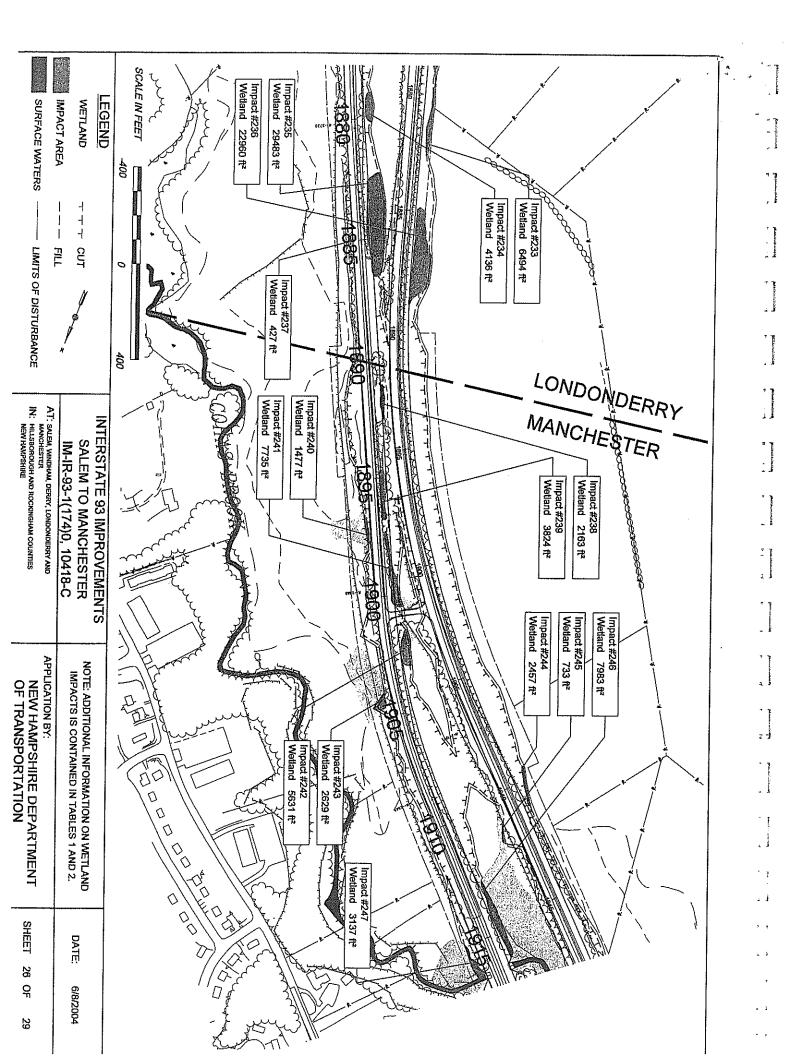


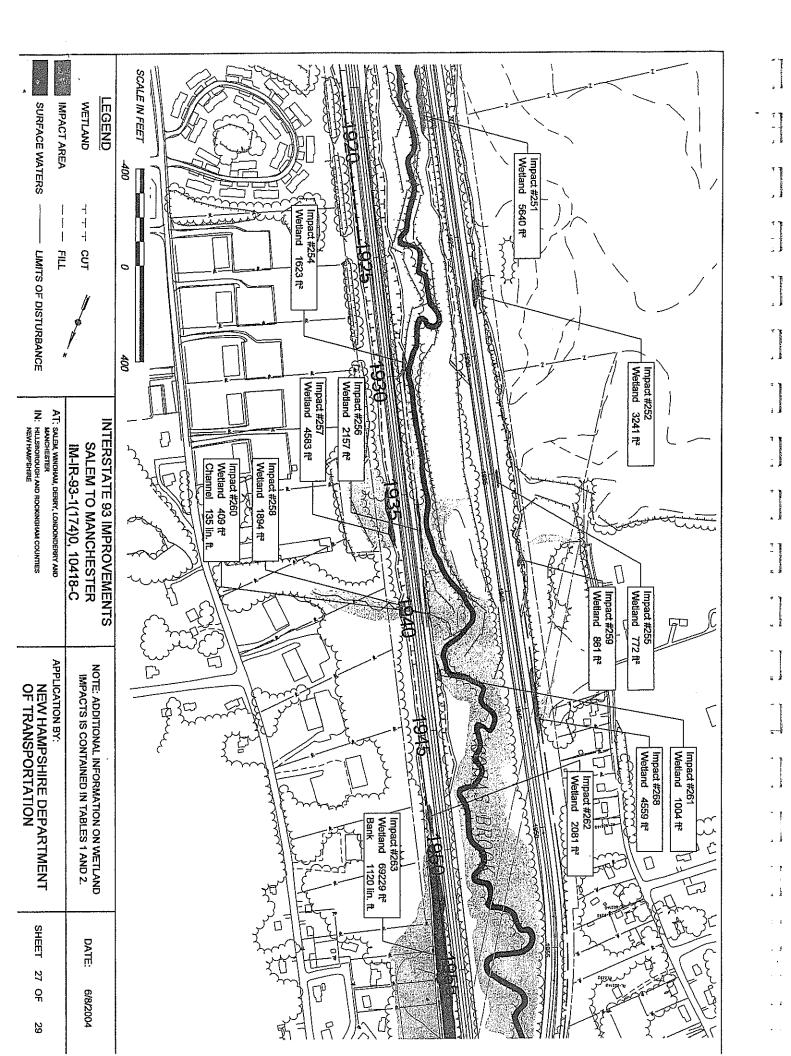


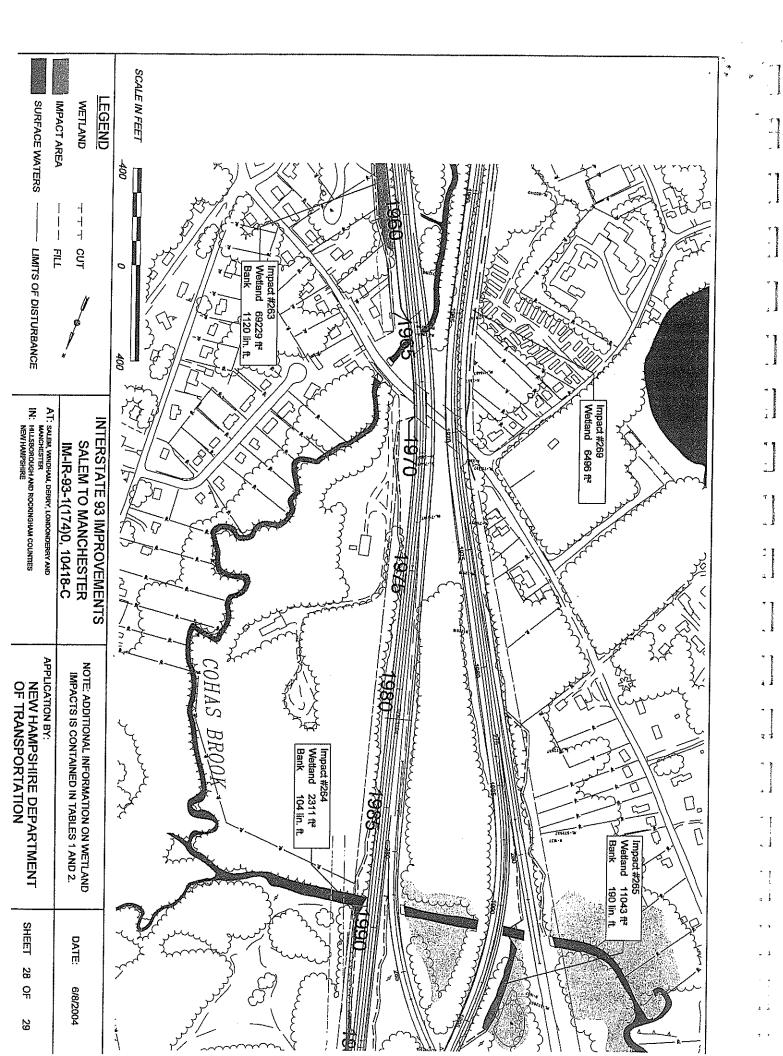


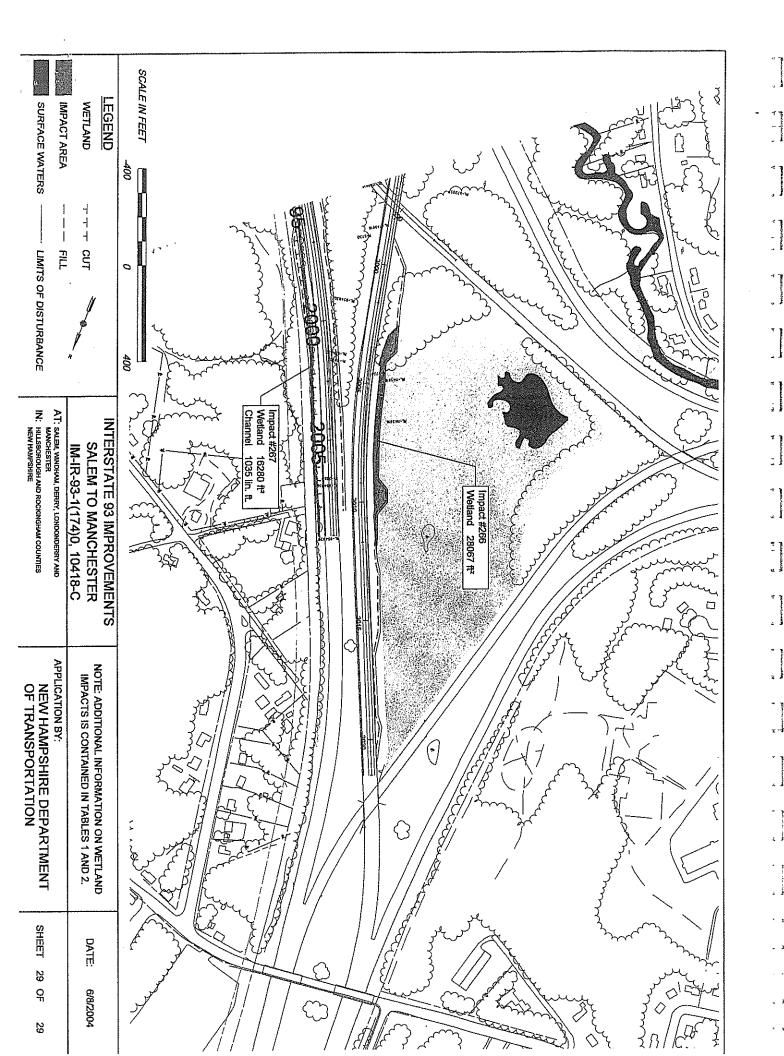












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