

Kenton C. Ward, CFM
Surveyor of Hamilton County
Phone (317) 776-8495
Fax (317) 776-9628

Suite 188
One Hamilton County Square
Noblesville, Indiana 46060-2230

September 14, 2012

TO: Hamilton County Drainage Board

RE: Hinkle Creek Estates

Attached is a partial vacation request and plans submitted by HCE, LLC. The request is for that portion of the storm drain that will be within the limits of the proposed wetland mitigation area on Lots 14, 26 and 27.

Hinkle Creek Estates is a regulated drain subdivision located in Section 21, Township 19N, Range 4E of Noblesville Township. The Hinkle Creek Drain Section 2 Arm was approved at hearing in January of 2008 (see Hamilton County Drainage Board Minutes Book 11, pages 7-8).

The portion of the Hinkle Creek Estates Drain to be vacated is that portion of 12" storm pipe between Structures 225 and 142 in Section 2. (See plans by Earth Source, Inc. dated August 28, 2012).

The vacation is being proposed due to requirements of IDEM to finalize the final plans and complete the wetland mitigation area in Hinkle Creek Estates.

The proposed vacation will remove 125+/- feet of 12" RCP.

I believe that the requested partial vacation meets the requirements for vacation as set out in IC 36-9-27-34(d). I recommend the Board set a hearing for this item as set out in IC 36-9-27-37 for October 22, 2012.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

KCW/pll

Hinkle Creek Estates Drain

(Combined with Sly Run)

Vacate 125' of 12" storm pipe between Str. 225 & 142 in Section 2.

Hearing: 10/22/12

Parcel	Owner	Address	City	Description	Benefit MntAsmt	Total	% of
10-06-21-00-01-014.000	HCE LLC	12401 Old Meridian St	Carmel, IN 46032	Hinkle Creek Estates 1st Lot 14	One Lot *	*	*
10-06-21-00-02-009.000	HCE LLC	12401 Old Meridian St	Carmel, IN 46032	Hinkle Creek Estates 2nd Lot 26	One Lot *	*	*
10-06-21-00-02-010.000	HCE LLC	12401 Old Meridian St	Carmel, IN 46032	Hinkle Creek Estates 2nd Lot 27	One Lot *	*	*

**HCE, LLC
12401 OLD MERIDIAN STREET
CARMEL, INDIANA 46032
317-844-1131**

September 10, 2012

Hamilton County Drainage Board
One Hamilton County Square
Suite 188
Noblesville, Indiana 46060-2230

Re: Hinkle Creek Estates

Hamilton County Drainage Board:

I am now the owner of the remaining unsold lots in a subdivision known as Hinkle Creek Estates. I am in the process of working with the Indiana Department of Environmental Management (IDEM) in finalizing the final plans to complete the wetland mitigation and wetland restoration area to complete this requirement in Hinkle Creek Estates. The final plans for the mitigation and restoration have been completed by Earth-Source Inc. out of Fort Wayne, Indiana. These final plans have been submitted to IDEM and we are waiting for their comments and or final approval.

At the time the development work was completed for the lots, a section of storm sewer pipe and a yard drain was installed by the previous owners and this section of storm sewer pipe and yard drain are now within the wetland mitigation area. As part of the mitigation approval process, it will be necessary to remove approximately 125 +/- linear feet of 12 inch storm sewer pipe and an inlet structure which is designated as structure 225 on the as built drawing prepared by Miller Surveying. The storm pipe to be removed runs from structure 225 to structure 142 per the as built drawings. Thus, to be able to complete the wetland mitigation work, we are requesting your approval to remove structure 225, the storm sewer pipe running from structure 225 to 142 and sealing off structure 142 where the storm sewer pipe will be removed.

The Hamilton County Surveyors Office is aware of and as been provided a set of final wetland mitigation plans which show the above removal as requested to take the structure 225 and the storm pipe out of the final mitigated wetlands.

I thank you for your consideration of this request and if there is any additional information you require, please contact me at the above address.

HCE, LLC


Craig A. Kaiser



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels Jr.
Governor

Thomas W. Easterly
Commissioner

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

September 7, 2012

VIA CERTIFIED MAIL 91 7190 0005 2710 0023 2946

Mr. Craig Kaiser, HCE, LLC
c/o Robert Becker
Richards, Boje, Pickering, Benner & Becker
1312 Maple Avenue
Noblesville, IN 46060

Dear Mr. Kaiser:

Re: After-the-Fact Section 401 Water Quality
Certification Modification and Time Extension
Project: Hinkle Creek Estates
Subdivision
IDEM No.: 2009-053-29-EMP-A
COE No.: LRL-2008-637-cmh
County: Hamilton

This letter is in response to a request received from Eric Ellingson, Earth Source, Inc., dated August 16, 2012, and received August 21, 2012, for a modification to a Section 401 Water Quality Certification No. 2009-053-29-EMP-A, dated June 29, 2009. The original certification was transferred to you via the Transfer Agreement dated June 28, 2012. The project is located east of Hinkle Road, and north of SR 38 (NW ¼ Section 21, Township 19 North, Range 4 East), near Noblesville, Hamilton County.

The certification granted after-the-fact approval to impact several wetlands to facilitate the construction of the Hinkle Creek Estates subdivision. Documented impacts to federally jurisdictional wetlands are as follows:

- Discharge of fill material into approximately 0.91 acre of Wetland "Section V" (1.19 acre total size). Approximately 0.32 acre was impacted in 2003 and an additional 0.59 acre was impacted in 2007.
- Proposed discharge of fill material into an additional 0.05 acre of Wetland "Section V" (1.19 acre total size) for an upland buffer to surround the home that has been constructed on Lot 22.

To minimize impacts to Wetland "**Section V**" you propose to restore 0.36 acre of current wetland violation of which 0.28 acre will be emergent wetland restoration and 0.08 acre will be scrub-shrub restoration. The proposed permanent acreage of impact to Wetland "**Section V**" is 0.33 acre of emergent wetland and 0.27 acre of scrub-shrub for a total of 0.60 acre of permanent wetland impact.

As mitigation for impacts to federally jurisdictional wetlands you propose to construct 0.66 acre of emergent wetland (2:1 ratio), and 0.81 acre of scrub-shrub wetland (3:1 ratio) for a total of 1.47 acres.

You also propose impacts to State Regulated Wetlands (SRWs). SRWs are regulated separately under the State Isolated Wetlands law (Indiana Code 13-18-22). *Impacts to SRWs are not authorized under the after-the-fact Section 401 Water Quality Certification or this modification.*

In the modification request dated August 16, 2012 you propose the following changes to the original permit:

- The required wetland mitigation and upland prairie buffer will be constructed on Lots 14, 26 and 27 of the Hinkle Creek Subdivision, adjacent to existing isolated Wetland "**Section IV.**" Originally, the wetland mitigation and upland prairie buffer was to be constructed on lots 26-29.

Based on available information, it is the judgment of this office that the proposed modification(s) will comply with the applicable provisions of 327 IAC 2 and Sections 301, 302, 303, 306, and 307 of the Clean Water Act. Therefore, subject to the following condition(s), the Indiana Department of Environmental Management (IDEM) hereby modifies the Section 401 Water Quality Certification originally issued on June 26, 2009. Any changes in project design or scope not detailed in the request described above or modified by the condition(s) below are not authorized by this certification.

MODIFIED CONDITIONS OF THE SECTION 401 WATER QUALITY CERTIFICATION:

Project Specific Condition 6 is hereby modified to read as follows:

- 6) Implement the mitigation and restoration plan as described in the application received February 9, 2009, and revised figures received from Mr. Eric Ellingson of Earth Source, Inc., dated August 16, 2012, (referred to collectively hereinafter as the "mitigation and restoration plan"), and as modified by the conditions of this certification. The wetlands created and restored pursuant to the mitigation and restoration plan shall be referred to hereinafter as the "mitigation wetlands."

All other conditions of the Section 401 Water Quality Certification originally issued on June 26, 2009 not affected by this modification remain in full force as written.

This letter will also serve as an extension of the 401 Water Quality Certification issued June 26, 2009. The extension is granted to allow for implementation of the aforementioned mitigation and restoration plan. This extension will expire one year from the date of this letter, or on the date your U.S. Army Corps of Engineers Permit expires, whichever occurs first.

This certification modification does not relieve you of the responsibility of obtaining any other permits or authorizations that may be required for this project or related activities from IDEM or any other agency or person. You may wish to contact the Indiana Department of Natural Resources at 317-232-4160 (toll free at 877-928-3755) concerning the possible requirement of natural freshwater lake or floodway permits. In addition, you may wish to contact IDEM's Storm Water Permits Section at 317-233-1864 concerning the possible need for a 327 IAC 15-5 (Rule 5) permit if you plan to disturb greater than one (1) acre of soil during construction.

This certification does not:

- (1) authorize impacts or activities outside the scope of this certification modification;
- (2) authorize any injury to persons or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations;
- (3) convey any property rights of any sort, or any exclusive privileges;
- (4) preempt any duty to obtain federal, state or local permits or authorizations required by law for the execution of the project or related activities; or
- (5) authorize changes in the plan design detailed in the application.

Failure to comply with the terms and conditions of this Section 401 Water Quality Certification may result in enforcement action against you. If an enforcement action is pursued, you could be assessed up to \$25,000 per day in civil penalties. You may also be subject to criminal liability if it is determined that the Section 401 Water Quality Certification was violated willfully or negligently.

This certification is effective eighteen (18) days from the mailing of this notice unless a petition for review and a petition for stay of effectiveness are filed within this 18-day period. If a petition for review and a petition for stay of effectiveness are filed within this period, any part of the certification within the scope of the petition for stay is stayed for fifteen (15) days, unless or until an Environmental Law Judge further stays the certification in whole or in part.

This decision may be appealed in accordance with IC 4-21.5, the Administrative Orders and Procedures Act. The steps that must be followed to qualify for review are:

1. You must petition for review in writing that states facts demonstrating that you are either the person to whom this decision is directed, a person who is aggrieved or adversely affected by the decision, or a person entitled to review under any law.
2. You must file the petition for review with the Office of Environmental Adjudication (OEA) at the following address:

Office of Environmental Adjudication
100 North Senate Avenue
IGCN Room N501
Indianapolis, IN 46204

3. You must file the petition within eighteen (18) days of the mailing date of this decision. If the eighteenth day falls on a Saturday, Sunday, legal holiday, or other day that the OEA offices are closed during regular business hours, you may file the petition the next day that the OEA offices are open during regular business hours. The petition is deemed filed on the earliest of the following dates: the date it is personally delivered to OEA; the date that the envelope containing the petition is postmarked if it is mailed by United States mail; or, the date it is shown to have been deposited with a private carrier on the private carrier's receipt, if sent by private carrier.

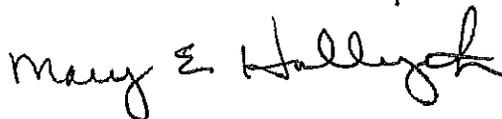
Identifying the certification, decision, or other order for which you seek review by number, name of the applicant, location, or date of this notice will expedite review of the petition.

Note that if a petition for review is granted pursuant to IC 4-21.5-3-7, the petitioner will, and any other person may, obtain notice of any prehearing conferences, preliminary hearings, hearings, stays, and any orders disposing of the proceedings by requesting copies of such notices from OEA.

If you have procedural questions regarding filing a petition for review you may contact the Office of Environmental Adjudication at 317-232-8591.

If you have any questions about this modified certification, please contact Mr. Aaron McMahan, Project Manager, of my staff at 317-234-6351, or you may contact the Office of Water Quality through the IDEM Environmental Helpline (1-800-451-6027).

Sincerely,



Mary E. Hollingsworth, Branch Chief
Surface Water, Operations & Enforcement Branch
Office of Water Quality

cc: Max Hagan, USACE- Louisville District
Mike Litwin, USFWS
Brian Boszor, Regional Env. Biologist, IDNR
Eric Ellingson, Earth Source, Inc.
Steve C. Earnhart, Esq., Thrasher, Buschman, and Voelker, P.C.

HINKLE CREEK ESTATES SECTION 2

EXHIBIT
PART OF THE N.W. 1/4, SECTION 21-19-4
NOBLESVILLE TWP., HAMILTON CO. INDIANA

LAND DESCRIPTION

A PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 19 NORTH, RANGE 4 EAST LOCATED IN NOBLESVILLE TOWNSHIP, HAMILTON COUNTY, INDIANA BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 19 NORTH, RANGE 4 EAST; THENCE NORTH 00 DEGREES 11 MINUTES 20 SECONDS WEST (ASSUMED BEARING) 1325.41 FEET TO THE NORTHWEST CORNER OF THE SOUTH HALF OF SAID NORTHWEST QUARTER; THENCE NORTH 88 DEGREES 50 MINUTES 50 SECONDS WEST 50 SECONDS EAST 1304.38 FEET ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID NORTHWEST QUARTER TO THE NORTHEAST CORNER OF LOT #35 IN HINKLE CREEK ESTATES, SECTION 1 (THE PLAT OF HINKLE CREEK ESTATES, SECTION 1 BEING RECORDED AS INSTRUMENT #200300112298 IN PLAT CABINET 3, SLIDE 282 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA) AND THE POINT OF BEGINNING OF THIS DESCRIPTION (THE FOLLOWING 8 COURSES ARE ALONG THE EASTERLY BOUNDARY OF HINKLE CREEK ESTATES, SECTION 1); (1) THENCE SOUTH 01 DEGREES 14 MINUTES 50 SECONDS EAST 427.43 FEET; (2) THENCE NORTH 67 DEGREES 02 MINUTES 56 SECONDS EAST 15.84 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, SAID POINT OF CURVATURE BEING NORTH 22 DEGREES 57 MINUTES 04 SECONDS WEST 1440.00 FEET FROM THE RADIUS POINT OF SAID CURVE TO THE LEFT; (3) THENCE NORTHEASTERLY AN ARC DISTANCE OF 125.11 FEET ON AND ALONG SAID CURVE; (4) THENCE SOUTH 15 DEGREES 20 MINUTES 49 SECONDS EAST 320.48 FEET; (5) THENCE SOUTH 29 DEGREES 59 MINUTES 07 SECONDS WEST 321.47 FEET; (6) THENCE SOUTH 04 DEGREES 20 MINUTES 18 SECONDS WEST 50.00 FEET TO A POINT ON A CURVE TO THE RIGHT, SAID POINT BEING SOUTH 04 DEGREES 20 MINUTES 18 SECONDS WEST 425.00 FEET FROM THE RADIUS POINT OF SAID CURVE TO THE RIGHT; (7) THENCE NORTHWESTERLY AN ARC DISTANCE OF 45.98 FEET ON AND ALONG SAID CURVE; (8) THENCE SOUTH 01 DEGREE 24 MINUTES 57 SECONDS WEST 317.44 FEET TO THE SOUTHEAST CORNER OF LOT 18 IN HINKLE CREEK ESTATES, SECTION 1; THENCE NORTH 88 DEGREES 53 MINUTES 03 SECONDS EAST 1347.45 FEET ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 19 NORTH, RANGE 4 EAST; THENCE NORTH 00 DEGREES 04 MINUTES 46 SECONDS EAST 1327.25 FEET TO THE NORTHEAST CORNER OF THE SOUTH HALF OF SAID NORTHWEST QUARTER; THENCE SOUTH 88 DEGREES 50 MINUTES 50 SECONDS WEST 1357.34 FEET TO THE POINT OF BEGINNING, CONTAINING 38.955 ACRES, MORE OR LESS.

LEGEND

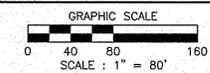
- 00 LOT NUMBER
- L.M.E. LANDSCAPE MAINTENANCE EASEMENT
- D. & U.E. DRAINAGE & UTILITY EASEMENT
- B.L. BUILDING LINE
- N.R. NON RADIAL
- METAL PLUG TO BE SET AFTER CONSTRUCTION

INST# 9301347
 DONALD J. HOLLENBCK &
 JANET K. HOLLENBACK
 ZONED: R1
 USE: AGRICULTURAL

FILED

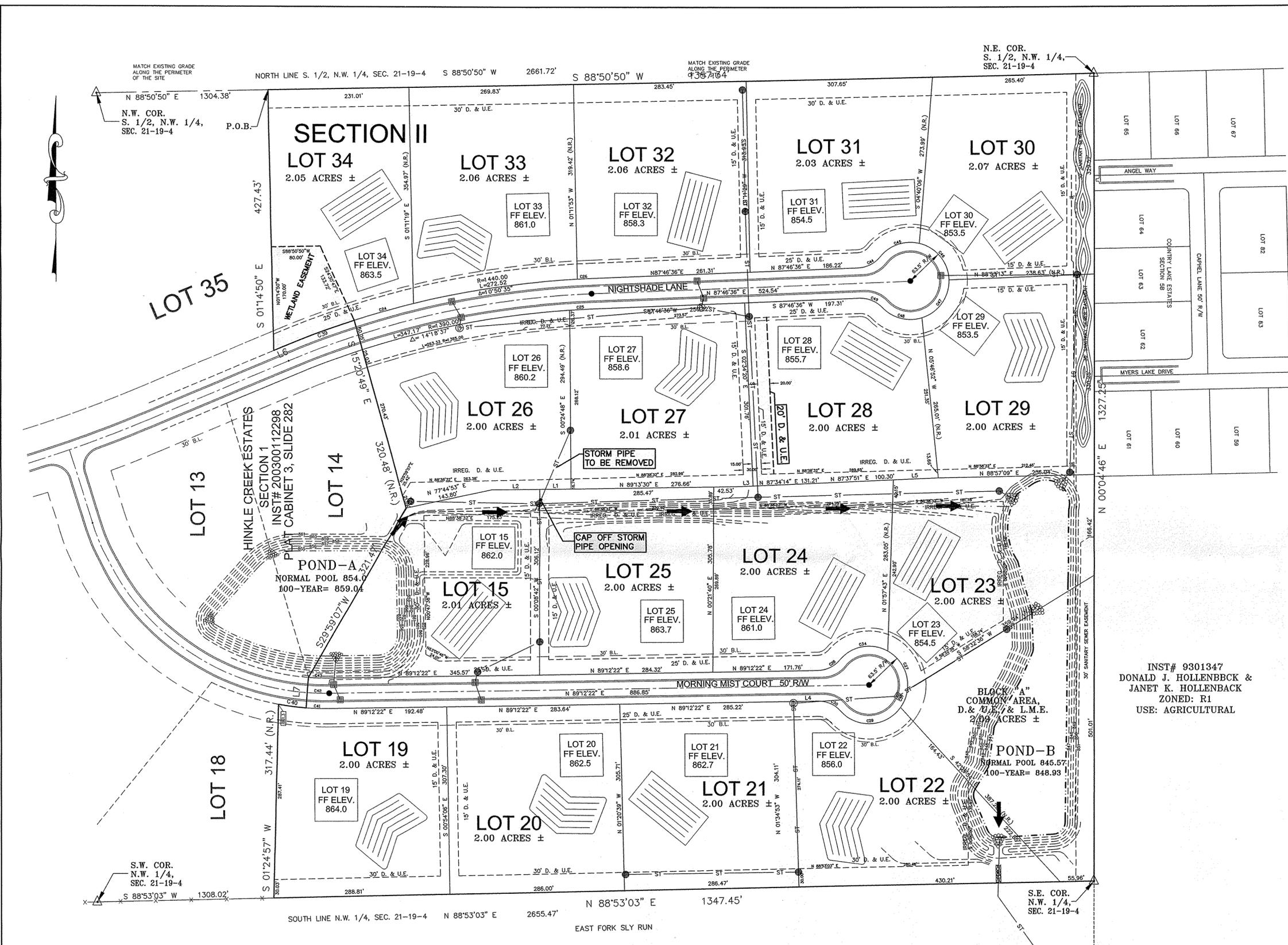
AUG 28 2012

OFFICE OF HAMILTON COUNTY SURVEYOR



REV. DATE		BY	DESCRIPTION

R.L.S. LS20400007 DATE: 8/27/2012	DRAWN BY: KNA CHK'D BY: KNA SCALE: 1" = 100' FIELD BOOK: DC
LOCATION: HINKLE CREEK ESTATES SECTION 2 PART OF THE N.W. 1/4, SECTION 21-19-4 NOBLESVILLE TWP., HAMILTON CO. INDIANA	DATE: 8/27/12 PAGE: DC
FIELD WORK COMPLETED: NA CLIENT: LARRY CRONKLETON	JOB NUMBER: B34164 SURVEY 4 FILE: NA
DESCRIPTION: EXHIBIT	MILLER SURVEYING INC. 948 CONNER STREET NOBLESVILLE INDIANA 46060 PH. # (317) 773-2644 FAX 773-2694



N.W. COR.
 S. 1/2, N.W. 1/4,
 SEC. 21-19-4

MATCH EXISTING GRADE
 ALONG THE PERIMETER
 OF THE SITE

N.E. COR.
 S. 1/2, N.W. 1/4,
 SEC. 21-19-4

S.W. COR.
 N.W. 1/4,
 SEC. 21-19-4

S.E. COR.
 N.W. 1/4,
 SEC. 21-19-4