



CITY OF NORMAN, OK
BOARD OF ADJUSTMENT - SPECIAL MEETING
Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069
Wednesday, March 06, 2024 at 3:00 PM

AGENDA

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, relation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

ROLL CALL

Members: Brad Worster, Micky Webb, Ben Bigelow, James Howard, Curtis McCarty

ACTION ITEMS

1. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF BOA-2324-10: Raven Investments, L.L.C. appeals the approval of Floodplain Permits 684 and 685 for NextEra Energy Transmission Southwest, L.L.C.

MISCELLANEOUS COMMENTS

ADJOURNMENT



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 3/6/2024

REQUESTER: Raven Investments, L.L.C.

PRESENTER: Jason Murphy, Stormwater Program Manager

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF BOA-2324-10: Raven Investments, L.L.C. appeals the approval of Floodplain Permits 684 and 685 for NextEra Energy Transmission Southwest, L.L.C.

ACTION NEEDED: Approve, reject, amend, or postpone BOA-2324-10.

STAFF REPORT

01/02/2024

PERMIT #684

ITEM: Floodplain Permit Application is for the installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek, and Little River floodplains.

BACKGROUND:

APPLICANT: NextEra Energy Transmission Southwest (NEET), LLC

ENGINEER: Burns and McDonnell Engineering Co., Inc.

BUILDER: Brink Constructors, Inc.

This application is for a proposed construction of an overhead electric transmission line. The proposed alignment will begin at the west boundary of the City limit (approx. 0.45 miles south of W. Robinson St.) and extend to the north boundary of the City limit (approx. 0.15 miles east of 48th Ave. NE). A total of 35 overhead electric transmission line pole structures are proposed to be constructed in the Special Flood Hazard Areas (SFHA) of Norman. Structure foundations for the transmission poles are engineered based on the size of the structure and soil conditions encountered. In addition to the pole structure installation, tree clearing within the 150-foot right-of-way along with temporary access road construction consisting of drive and crushed rock access roads or installation of crane mats. Sediment controls will be installed as needed.

Typical poles will be spun concrete or steel monopoles approximately four feet in diameter at ground level. Two of the poles will be in the regulatory floodway of the Canadian River and the other 33 poles will be in the floodplains of Ten-Mile Flat and the Little River and its Tributaries. Hydraulic analyses using HEC-RAS modeling was submitted by the applicant for each of the locations. For the 2 poles in the Canadian River floodway report from February 28, 2023, it was determined that no rise in the BFE would occur. The hydraulic analysis report for the remaining 33 poles was submitted in the HEC-RAS model floodplain analysis report dated April 21, 2023. Of these, 17 are in the Ten-Mile Flat Creek floodplain and will cause no rise in the BFE. The remaining 16 are in the Little River floodplain or its tributaries. 2 of the poles in the Little River floodplain will cause a rise of 0.01 feet in the BFE according the applicant's report, the others will cause no rise.

The applicant included in their application a chart indicating a minimum volume of material to be removed from each pole location in the various floodplains in order to meet the compensatory storage requirement of the Flood Hazard Ordinance. Spoils from excavation and compensatory storage creation will be removed from the floodplain and spread in upland areas outside of the floodplain. Some of the installation locations in this application are themselves outside of the regulatory floodplain, but the access and tree clearing to reach the site require crossing the floodplain.

The applicant has indicated that tree clearing will take place prior to construction to create temporary access roads. Where conditions allow, overland travel will be utilized with no grading or road construction. If temporary construction of access roads or improvements to existing roads are needed within floodplains, crane mats will be temporarily placed on the access roads. Air-bridges will be constructed where underground pipelines are crossed by access roads. The applicant has also indicated that sediment controls will be installed during construction. Any temporary crane mats that are utilized will be removed following construction. Access roads will be removed and reclaimed, if necessary, to original contours. The applicant has also indicated that revegetation will occur where appropriate.

The applicant has submitted copies of their OKR10 general permit for construction, the stormwater pollution prevention plan (SWP3) and has obtained an Earth Change Permit from the City of Norman.

In addition to items related specifically to the City’s Flood Hazard Ordinance, the applicant submitted documentation of the easement grants for construction activities occurring on private property. City Legal staff has reviewed these materials to consider the status of NextEra’s rights of access to each parcel and will provide information to the Committee regarding the status of each parcel. The applicant provided environmental impact analyses related to threatened, endangered, and species of concern as it relates to construction, tree clearing and pathing of the project and information related to their permitting through US Fish and Wildlife services as it relates to these species. The applicant also provided information related to coordination with local Tribes with respect to construction of the transmission line and have indicated that no concerns have been raised by the interested Tribes.

Site located in Little River Basin or its Tributaries? yes no

STAFF ANALYSIS: According to the latest DFIRM, the project site is located in the floodplain of the Canadian River (Zone AE).

Applicable Ordinance Sections:	Subject Area:
36-533 e(2)(a)	Fill Restrictions in the Floodplain
e(2)(e)	Compensatory Storage
e(2)(o).....	Storage of Material or Equipment
f(3)(a)(8)	No Rise Considerations

e(2)(a) and e(2)(e) Fill Restrictions in the Floodplain and Compensatory Storage – The use of fill in the floodplain is restricted. However, the placement of fill is allowed to elevate structures if compensatory storage is provided. The applicant has indicated a minimum quantity of material to remove from each of the floodplains as compensatory storage for installation of base structures and transmission poles. In addition, the applicant has indicated that all spoils from excavations will be removed from the floodplain. This meets ordinance requirements.

e(3)(o) Storage of Material or Equipment – Storage of material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after the issuance of flood warning by The National Weather Service. Any stored material or equipment must be removable. The applicant is aware that materials and equipment must be removed from the floodplain if warning is given meeting this ordinance requirement.

f(3)(a)(8) No Rise Considerations – For proposed development within any flood hazard area (except for those designated as regulatory floodways), certification that a rise of no more than 0.05 ft. will occur in the BFE on any adjacent property as a result of the proposed work. The project engineer has certified that the project will cause no rise in the BFE at the any location in the regulatory floodway and no more than 0.01 feet rise at any other location, which meets this ordinance requirement.

RECOMMENDATION: Staff recommends that Floodplain Permit Application #684 be considered in separate parts: consideration of included parcels to which NextEra has established a present and unqualified access right AND a consideration of included parcels to which NextEra’s access is still qualified with outstanding legal objections or other impediments, as follows:

- 1) With respect to parcels with present and unqualified access, City Staff recommends approval of a permit;
- 2) With respect to parcels where NextEra’s access is still qualified, City Staff recommends approval of a permit with the following qualifications:
 - a. The permit shall only become active for NextEra’s utilization upon NextEra establishing to the satisfaction of City Staff, including legal staff, that its right of

access is no longer qualified by outstanding legal impediments or other objections;
and

b. If NextEra should be found by the City to have entered any of these parcels for the purposes of this permit without first having established an unqualified right of access in an agreed-upon manner, this entire permit shall be subject to immediate revocation at the discretion of the Chair of the Floodplain Permit Committee.

ACTION TAKEN: _____



CITY OF NORMAN, OK FLOODPLAIN PERMIT COMMITTEE MEETING

Development Center, Conference Room B, 225 N. Webster Avenue,
Norman, OK 73069

Tuesday, January 2, 2024 at 3:30 PM

MINUTES

ROLL CALL

The meeting was called to order by Mr. Sturtz at 3:31 p.m. Roll was called and all members were present. Others in attendance included, Beth Muckala, Assistant City Attorney; Todd McLellan, Development Engineer; Jason Murphy, Stormwater Program Manager; Kim Freeman, Staff; Jim Roth, Phillips Murrah; James Greer, Resident; Amanda Carpenter, Williams, Box, Forshee & Bullard; Peter Cocotos, NEE; Kara Wry, BMcD; Megan Carlin, BMcD; Brian Roh, BMcD; Leon Staab, BMcD; Aaron Tiffit, Hall Estill; Russ Lloyd, NEET; Manty ReveVolln, NEET; Jackie Blakley, NextEra; Nick Fuhr, NextEra; Richard McKown, Carrington, LLC; Gale Earles, Resident; Eric Davis, Phillips Murrah; Jacob Clouse, BMcD; Kim Austin, NEE; Scott Bethel, Resident.

MINUTES

1. Approval of minutes from the November 6, 2023 meeting

Mr. Sturtz called for a motion to approve the minutes from the meeting of November 6, 2023. The motion was made by Ms. Stansel and seconded by Mr. Scanlon. The minutes were approved 7-0.

ACTION ITEMS

2. Floodplain Permit No. 684

Mr. Sturtz said the Application is for proposed installation of an electrical transmission line across Norman through the Canadian River, Ten-Mile Flat Creek and Little River floodplains. Mr. Sturtz asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant for Permit 684 is NextEra Energy Transmission Southwest, LLC and the Engineer is Burns and McDonnell Engineering and the proposed Builder is Brink Constructors, Inc. The permit application is for the proposed construction of an overhead electric transmission line. The proposed alignment will begin at the west boundary of the City approx. 0.50 mile south of W. Robinson St. and extend to the north boundary exiting a little east of 48th Ave. NE. A total of 35 overhead electric transmission line pole structures are proposed to be constructed in the flood zone with this project. The pole type and the foundation types vary by location, soil types and different conditions. In addition to the pole structure installation, tree clearing within the 150-foot right-of-way along with temporary access road construction consisting of drive and crushed rock access roads and installation of crane mats as necessary. For all of this work, sediment controls will be installed as needed.

For the 35 poles being installed, 2 of the poles will be in the regulatory floodway of the Canadian River and the other 33 poles will be in the floodplains of Ten-Mile Flat Creek and the Little River and its Tributaries. The applicant has submitted hydraulic analyses using HEC-RAS modeling for each of the locations. For the 2 poles in the Canadian River floodway, the report from

February 28, 2023, states that there will be no rise in the BFE as a result of the installation of those 2 poles. The hydraulic analysis report for the remaining 33 poles was submitted in the HEC-RAS model dated April 21, 2023. 17 of those are in the Ten-Mile Flat Creek floodplain and will cause no rise in the BFE. The remaining 16 are in the Little River floodplain or its tributaries. 2 of the poles in the Little River floodplain will cause a rise of 0.01 feet in the BFE, the others will cause no rise.

Mr. Murphy reviewed documents submitted and aerial maps of the project locations provided to members in their packets. Mr. Murphy confirmed all ordinance requirements have been met.

Mr. Murphy said a similar application was submitted and denied by the committee on the basis of concerns related to right of access to private property. With this application, the Applicant submitted additional information related to those concerns and the City Legal Team is here to speak to those points. Mr. Murphy turned it over to Ms. Muckala, Assistant City Attorney with the City of Norman. Ms. Muckala said because of similar applications that raised access relating to ownership and eminent domain issues, she was asked to look specifically at all of the properties that were identified within the Floodplain Permit Application. She was asked to analyze the status of the ownership and the status of those eminent domain cases and determine if there was unqualified or unfettered access in NextEra’s hands at this time. Ms. Muckala said NextEra in their application provided a lot of that information and she received some additional information providing PIN and OK-CLE numbers so that we could accurately identify each individual parcel. There are 37 total parcels, and of those, she found that 23 are at a stage where NextEra has unqualified access, meaning ready access right now. Ms. Muckala said the list has been provided to Mr. Murphy and will be added to the official file. Ms. Muckala discussed with the committee the documents reviewed and verified to determine unqualified access at this time. Ms. Muckala said we are confident there’s access to 23 parcels based on either easement by agreement or litigations that have essentially concluded for the purposes of access. Ms. Muckala indicated there are 14 parcels that are not quite to the same point, which could lead in the future to a loss of access by NextEra under the law. Ms. Muckala said the Legal Team is not comfortable recommending that we grant an unqualified permit to these properties under the circumstances so the properties have been separated out as qualified properties. In the future, once the litigations move to a more mature status, they will eventually likely gain that access. Ms. Muckala said on the record, the Modified Staff Recommendation is listed incorrectly and will be corrected in the official documents. Ms. Muckala said City Staff proposes, including her own recommendations- 23 identified parcels with present and unqualified access, City Staff recommends approval as Permit #684. With respect to the 14 identified parcels where NextEra access is still qualified, City Staff recommends approval of a separate permit, Permit #685, subject to the following conditions- (a) The permit shall only become active for NextEra’s utilization upon NextEra establishing to the satisfaction of City Staff, including Legal Staff, that its right of access is no longer qualified by outstanding legal impediments or other objections. This proof of access may be established parcel-by-parcel; and (b) If NextEra should be found to have entered any of these parcels for the purposes of this permit without first having established an unqualified right of access in an agreed-upon manner, Permit #685 (and other wise identified as a separate permit within other administrative City systems) shall be subject to immediate revocation at the discretion of the Chair of the Floodplain Permit Committee.

Ms. Muckala said if this is what the committee wants to recommend, a motion needs to be made based on the City Attorney’s recommendations as were read into the record.

Mr. Sturtz asked for comments from NextEra or their representatives. Jim Roth, attorney with Phillips Murrah on behalf of NextEra Energy Transmission Southwest, LLC’s Floodplain Permit

Application, said NEET Southwest previously submitted a Floodplain Permit application which this committee heard on July 17, 2023. The previous application was recommended for approval by City of Norman Staff but there were some concerns primarily regarding access and possession of certain affected properties. Since the prior meeting, circumstances surrounding these properties have substantially changed. In particular, NEET Southwest has now obtained easements for private and public land owners on all parcels within floodplains within the City of Norman. With the acquisitions of the easements, NEET Southwest has legal right to access the land. As recommended by the City Attorney's Office, documentation of these easements are included as attachments 6 in the application within the packet. Mr. Roth said we are respectfully requesting approval of this application as described as it's satisfied the requirements of the Norman Flood Hazard District Ordinance. Nick Fuhr, NEET Southwest Project Director, provided background information regarding the project and presented on the documents included in the application.

Mr. Sturtz asked the committee for any comments or questions. Mr. Scanlon made a comment that several of the citizens' concerns last time had to do with wildlife and tribal issues, and appreciated NextEra's specificity in talking about the redemptive measures and would like to see the report given to the City along with any comments from the Tribes. Mr. Scanlon asked about the 23 parcels and will there be access whether it's based on a paid easement or threat of eminent domain. Mr. Roth confirmed those 23 are settled. Mr. Scanlon also asked if he could elaborate a little more on the issues with the 14 and where they are in terms of negotiation. Aaron Tifft, Hall Estill, said of those 14, 10 have currently reached an agreement in principal and anticipate those being closed in the next couple of weeks. The other 4, have at least reached an agreement as to money. 3 of those, filed an exception or objection to our report and their sole argument is that NextEra should be required to obtain a floodplain permit before having access. One other parcel has an objection they are hopeful to reach a negotiated settlement with. Mr. Roth said they would then come back to the City and provide that proof. Ms. Muckala added that she'll be looking for either a statement that's pretty unequivocal from the actual property owner of record or something filed in court showing unequivocally that it's done. Ms. Hudson asked for clarification on permit 685 and Ms. Muckala said it's an administrative designation. Mr. Scanlon asked about open meetings and the announcement of 684 and addressing 685. Ms. Muckala said we are addressing application 684 and it's an administrative suggestion that we divide into a separate permit to treat it administratively. Ms. Stansel asked if there was already a permit 685 and Mr. Sturtz said no.

Mr. Sturtz asked for public comments or questions. Amanda Carpenter, Williams, Box, Forshee & Bullard, said there is currently a pending appeal of this specific application. The application being heard today is the same exact application as was heard by the committee and denied and appealed to the Board of Adjustment and also denied and appealed by NextEra to the district court. The matter is pending appeal and has not been dismissed. There are 10 parties that are admitted into that litigation as property owners and are on the list of 23 and 14. Those parties that have a pending appeal should be on your list of 14. Specifically asking that Raven Investments be moved to the list of 14. Ms. Carpenter discussed the easements in negotiation. Ms. Carpenter asked for the committee to not consider and table this matter because it is already in pending litigation before the district court. She also asked that the 10 interveners in the pending litigation be moved from the list of 23 to the list of 14 to require specific approval as was discussed today.

Mr. Sturtz asked staff to respond regarding the application. Ms. Muckala said this application was presented with litigation at very different stages than it was previously and NextEra presented additional information regarding the status of ownership and easements,

environmental work and discussion with tribes. This was submitted and accepted as a separate application. It is going through the system as a separate application through the City of Norman. Any outcome of this application is subject to the same appeal rights as any others. It can be appealed to the BOA and the district court. As for the other recommendations, if the committee wants to consider any of their requests to move lists around, it should be made clear on the record what is what. Ms. Carpenter said the language of the application that was submitted with the public record does appear to be the same. Ms. Carpenter said she brought the one from July and it does appear to be the exact same. We would ask if you're going to move forward and not honor our request to be moved from one list to the other, that you specifically state the substantial differences in the application.

James Greer, resident, said the first problem I have with the application is, we've never been allowed to tie properties together using GPS. You can't cross 3 basins with BFE's and tie those together. The second thing is, has anybody looked at this data from the survey for cross sections for bringing the data back to the floodplain. There's no way this data could have been done from the office and get these numbers.

Richard McKown, Carrington, LLC, stated that this transmission line is going to take out all the trees that have grown up over the past 60-70 years over the channelized creek. The vegetation is being removed and all of these things really matter in terms of having a floodplain that functions. I would like you to deny the permit.

Kara Wry, BMcD, reviewed the maps in the committee's packet showing the tree clearing. Ms. Wry said one of the things that we looked at in the routing was tree clearing and trying to minimize tree clearing where we could.

Mr. Scanlon asked for clarification on a comment made about an agreement for tree replacement. Mr. Tiff, said in general there are clearance requirements for the power line. Mr. Tiff said he's not sure of what conversations took place, they didn't take place with me I don't believe with regard to any such agreement, but if you have any more information I'm happy to get back to you. Ms. Carpenter said they made agreements with some property owners to change the terms of their easement and that has not been done with Raven Investments and Franklin Business Park. Aaron Tiff, said if a landowner requests specific items in the agreement, we employ the services of the engineers to investigate whether or not that is workable.

Ms. Hudson, asked for clarification on one of the maps and the tree clearing indicated. Kim Austin, NEE, said access is also driven by landowners so we try to utilize existing access to the extent possible. Mr. Tiff and Mr. Fuhr went into further detail regarding how easements and access are determined.

Mr. Sturtz said he'd like to direct everyone back to the reason why we are here. Mr. Sturtz said he is not here to arbitrate and to fix land owner deals and easements and right of way discussions. Nowhere in our floodplain ordinance does it say that's part of a floodplain permit application. We try to do what we think is best to protect all parties by restricting permit application approval on those that our legal office has found are not currently totally resolved. Ms. Muckala said she wanted to make a comment on the request to move owners between lists. Ms. Muckala said the lists are of her creation based strictly on her review of the ownership status. Moving one from the list of 23 to the list of 14 really doesn't change anything. Ms. Muckala said she has already looked at them and established for legal purposes the access is there. It doesn't mean you can't consider their request, I'm just saying that if you wanted to consider that, you would need to do it another way to address their concerns. Mr. Roth said they concur with the

Municipal Counselor's decision and think it's fair that this committee would consider a qualified permit which actually strengthens those 14 land owners' hands in negotiation.

Ms. Carpenter asked the Chairman to consider a permit 686 with the 10 property owners who are subject to the current litigation that is pending on the first permit.

Mr. Scanlon asked why we should consider this at all with pending litigation.

Ms. Hoggatt asked what the radius is for tree clearance. Ms. Austin said its 150 feet wide. Ms. Hudson asked if the trees in the area were tall enough to fall on the lines. Ms. Austin said yes, there are some trees out there that are tall enough they would fall on the line. Ms. Hoggatt asked how tall the line is. Jacob Clouse, BMCD, responded the minimum ground clearance is 25 feet. Ms. Hoggatt asked about revegetation. Ms. Wry responded it's typically a native seed mix but it depends on what's there.

Mr. Sturtz asked for comments from the committee. Mr. Scanlon asked how 686 would be worded. Ms. Muckala said Ms. Carpenter would need to identify these 10 so they could be taken out of these respective lists and create a 3rd list. That can be done if the committee wishes to do that but we would need to know what's the nature of this permit. Ms. Carpenter said she happy to provide suggestive language if you all would like to give us the time to do that. Ms. Muckala said the reason Raven is on the 23 parcel list is because there were no objections except to the amount filed in the court and so legally there appears there has been an acquisition and how does 686 treated like 685 would be different for Raven. Ms. Carpenter said Raven Investments did file litigation and there is pending litigation in state court specifically related to this floodplain and the interest that Raven Investments has. Ms. Carpenter said the legal rights that we would have had the opportunity to present to the state court who would have jurisdiction of this matter, that is being taken away from us by you presenting a new application. Specifically, we would ask to be put on a separate list in order to address the legal rights that we have as part of that appeal. Ms. Muckala said at this point we need committee discussion to determine if that is a direction that the majority of the committee wishes to go in. Mr. Tiff said he does not believe Ms. Carpenter represents all or the majority of these 14. We have reached agreements in principal with many of those and they are not here, I don't believe, making objection and I don't believe Ms. Carpenter represents them and to the extent she's seeking some relief. These are folks we've already reached agreements with and we're working to get documents together to finalize those. We do not think it would be proper to move them to separate list given the circumstances. Ms. Carpenter said she represents Raven Investments, move them to a separate list please.

Mr. Scanlon said can we table this, I'll make a motion. Ms. Muckala said she'd like to make an overarching point, today we are not granting any land rights, if there are pending issues in court, if they don't actually have the legal access they say they have, there's nothing about this permit that actually gives them that legal right. If my legal review was wrong and I made a mistake about who should be included on which list, they would still have the legal right to protest and keep them off their property if they don't in fact have legal access. If we were to move Raven, whom appears to be legally concluded in court, to the other list, I'm not sure what that would entail but we would need to have support to create a separate application for them and know the terms.

Ms. Hoggatt asked if this is something we typically consider with a floodplain permit. Mr. Roth said the answer is no. It's rather unprecedented from our experience. We are here because this committee last July, raised concerns about access and so this is an application before you attempting to honor that sensitivity. We agree with the staff's time and recommendations. We

agree with the Municipal Counselor's approach to this. This application, if I can be clear for the record, meets the City of Norman's ordinance for approval today. We've gone additional steps of protections in respect for your land owners to suggest a conditioned permit for those 14. I appreciate the desire to push this off but this is right before you with the conditions you asked for last July and it is a timely request before you and meets the law and this does nothing to take away the rights of landowners.

Ms. Carpenter said that you currently have litigation pending for an appeal of this exact application and therefore are thwarting the system. Mr. Roth said the permit had a limited period of time under Oklahoma law for which the denied permit had to seek legal redress. This application is ready for your approval today.

Mr. Greer said if you go look at already done work, they built a pond in the floodplain at 48th and Franklin Road. Look at their work, and look at this permit data. There's no way to get to a thousandth of foot from a map. I wish you guys would run out there one day before you accept this permit and look at their work.

Mr. Roth said as a reminder the approvals of permits 684 and 685 can be appealed by landowners who are dissatisfied. NextEra would withdraw the appeal in district court if they can receive this permit conditioned as it is presented today.

Scott Bethel, Louis Jean Farms, I was on the list of some of the ones that you said you have an agreement in principal. I'm not sure what that means, is that truly an agreement, can you speak to that. Mr. Tiff, said he has been in communication with the attorney for Louis Jean Farms, I believe we've reached an agreement as to language and to compensation.

Mr. Sturtz brought it back to the committee. Ms. Hudson said going back to erosion control and removal of trees, in the ordinance it specifically says that we are to look at the concerns and our approval or denial is based on these factors. 5 years from now what is your guarantee that the flow of this flood has not changed substantially that will negatively impact the people downstream. A representative for NextEra said we provide the best engineering analysis that we can do as prescribed by your ordinance with FEMA. We did get the regulatory models from FEMA and we developed them in the manner that is prescribed by FEMA and National Flood Insurance Program to ensure that relatively speaking there's not going to be an adverse impact on the property owners. Ms. Hudson asked if a property owner contacts NextEra and says we've got erosion or something like that, you guys go out and check, you're reviewing your lines, and you'll go out and fix it. Ms. Austin said yes, we have operations and management protocols that we follow and inspections that are followed and if they find something that was part of our project, we work with landowners to figure out how we're going to address it. Mr. Murphy said Mr. Scanlon asked if the new Engineering Design Criteria that we adopted in February would apply here. Mr. Sturtz said the detention pond that was constructed was submitted and accepted by the Public Works Engineering department. Mr. Sturtz said he doesn't know how the Engineering Design Criteria would apply to this specific situation since it's not new development. Mr. Danner referenced a petroleum pipeline in east side Norman through the floodplain, and there was clearing for that pipeline. I don't know how you get out of it.

Ms. Hudson asked Mr. Sturtz if the committee wanted to consider moving property owners from one list to the other. Mr. Scanlon said I think we do but I'm not prepared to sit here on 20 minutes contemplation. I advocate we rework this and come back in 2 weeks. Ms. Hoggatt asked if she could make a motion to approve. Mr. Sturtz asked if Mr. Scanlon had made a motion and Mr. Scanlon confirmed he had made a motion. Mr. Sturtz asked for a motion to table permits 684 &

685 for 2 weeks for consideration. Ms. Stansel asked if Mr. Sturtz was looking for a second the motion. Mr. Sturtz confirmed. Mr. Sturtz said the motion dies for a lack of second.

Ms. Hoggatt made a motion to approve with modified staff recommendation for Permit 684 & 685 as presented during the meeting by Ms. Muckala. Mr. Danner seconded the motion. Mr. Sturtz asked for any comments from the committee. Ms. Hudson asked for clarification on if the approval today does not negate someone's access rights regardless of the list they are on. Ms. Muckala said if NextEra does not actually have the right to enter on the 23 properties for 684, property owners would have legal rights to take them to court and keep them off the properties.

The committee voted to approve the application 5-2.

MISCELLANEOUS COMMENTS

Ms. Hoggatt asked about the next meeting and Mr. Murphy said there is 1 application for the January 16th meeting. Ms. Hoggatt asked if the meeting would also be on a Tuesday and Mr. Murphy confirmed.

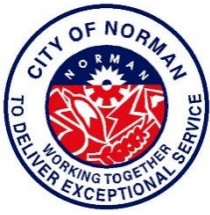
ADJOURNMENT

Mr. Sturtz called for a motion to adjourn. Ms. Hudson motioned to adjourn and was seconded by Ms. Stansel. The meeting adjourned at 5:06 p.m.

Passed and approved this 16th day of January, 2024



City of Norman Floodplain Administrator, Scott Sturtz



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 03/06/2024

REQUESTER: Raven Investments, LLC

PRESENTER: Elisabeth Muckala, Asst. City Attorney

ITEM TITLE: City Attorney Staff Report for BOA-2324-10

BACKGROUND:

This appeal by Raven Investments, LLC (“Raven”) relates to Floodplain Permit Nos. 684 and 685, which were approved by the Norman Floodplain Permit Committee (“FP Committee”) on January 2, 2024. These two permits originated from one application submitted by NextEra Energy Transmission Southwest, LLC (“NextEra”) on December 14, 2023 (“December Application”).

Notably, NextEra has previously applied for a permit from the FP Committee in July 2023 (“July Application”) for the same project and was denied, which denial was appealed to this Board and heard on August 23, 2023. At the BOA meeting, protestors cited a number of issues with permit application, the primary argument being that NextEra lacked ownership/access (based on pending eminent domain actions).¹ At that time, this Board again denied the permit with a vote of 3-2, and NextEra filed its appeal of the BOA denial in the District Court in and for Cleveland County, Oklahoma, Case No. CV-2023-3288. Several protesting landowners were permitted to intervene in that action, and that appeal is still pending.

NextEra’s December Application contained much of the same project and floodplain calculation information as its July Application. In addition, NextEra provided supplemental tribal and environmental regulatory information, as well as detailed information regarding ownership and access, including easements, permits and court filings from related eminent domain actions for the subject parcels. The December Application also clearly identified the 37 different parcels implicated by its Application, as well as the specifics of record ownership for each parcel.

The City of Norman Public Works Director, who serves as the Floodplain Administrator and chair of the FP Committee, accepted the application for consideration and Public Works staff proceeded in evaluating the project and floodplain calculation information as well as the supplemental tribal and environmental regulatory information. City Public Works staff requested that City legal staff review and evaluate the information provided by NextEra regarding ownership and access for the 37 impacted parcels.

¹ Environmental concerns, project placement, and floodplain rise issues were also voiced at the August 2023 BOA meeting.

Upon review, City legal staff was able to identify two categories in which to place each of the 37 impacted parcels. The first category was those properties for which matters of NextEra’s present right of access appeared to be satisfactorily confirmed. The properties placed in this category were subject to any one of the following: (a) an approved regulatory permit; (b) an easement signed by record owners and filed of record in Cleveland County; or (c) a Commissioners’ Report filed of record in Cleveland County WHERE IT WAS ALSO DETERMINED THAT:

- i) The Commissioners’ just compensation award amount had been deposited with the Court Clerk by Next Era; AND
- ii) No exceptions to the Commissioners’ Report and no requests for Stay of Proceedings were filed and/or pending before the applicable court.

With respect to projects pursued by eminent domain authorities, Oklahoma statute provides that where said eminent domain authority “shall, at any time before it enters upon said real property for the purpose of constructing said road, pay to said clerk for the use of said owner the sum so assessed and reported to him as aforesaid, it **shall thereby be authorized to construct and maintain** its road over and across said premises.” 66 Okla. Stat. § 53(C) (emphasis supplied).² Further, once the Commissioners’ Report has been filed in county records, the condemning authority’s right to the property interest is considered “without further acknowledgement or proof, in the manner and **with like force and effect as is provided for the recording of deeds.**” *Id.* (emphasis supplied).

City Legal Staff confirmed this status for the following 23 of the 37 total impacted properties:

No.	Owner of Record	PIN	OK-CLE
1	Raven Investments, LLC	68780	OK-CLE-013
2	Comm’rs of the Land Office	68650	OK-CLE-018
3	West Franklin Sod Farm, LLC	191103	OK-CLE-028
4	Raven Investments, LLC	76360	OK-CLE-073
5	William L. and Jean Ann Baskett;	52528	OK-CLE-74
6		189834	OK-CLE-075
7		104269	OK-CLE-076
8	James R. and Amy Greer	104268	OK-CLE-077
9	Oklahoma Dept. of Transportation	76353	OK-CLE-080
10	Moore Norman Technology Center	190590	OK-CLE-103
11	Moore Norman Technology Center; School District No. 17	190591	OK-CLE-104
12	Oklahoma Turnpike Authority	188042	OK-CLE-131
13	City of Norman	76290	OK-CLE-132
14	Shaz Investment Group, L.L.C.	76286	OK-CLE-133
15		76281	OK-CLE-138

² Though this title of Oklahoma Statutes applies to railroads and the applicable language refers to “roads,” this process applies statutorily to eminent domain authorities which provide electrical power. See 27 Okla. Stat. § 7(A) (“... any ... corporation ... authorized to do business in this state, to furnish light, heat or power by electricity ... shall have and exercise the right of eminent domain in the same manner and by like proceedings as provided for railroad corporations by laws of this state.”).

No.	Owner of Record	PIN	OK-CLE
16	Jennings Living Trust; Teresa and George Dotson; Jake J. and Mary Anne Tullius; Jeff and Ellen Tullius; Betty Jane Tullius and Jeffrey Rose; Jeannine Zachery	76282	OK-CLE-139
17	Mayhew & Buckmaster Living Trust	76284	OK-CLE-140
18	Jennings Living Trust; Teresa and George Dotson; Jake J. and Mary Anne Tullius; Jeff and Ellen Tullius; Betty Jane Tullius and Jeffrey Rose; Jeannine Zachery	76283	OK-CLE-141
19	Carl Gilbert Williams	191196	OK-CLE-145
20	James H. Little Trust; Janet Bradford Living Trust	66889	OK-CLE-149
21	Reneau Revocable Living Trust	118061	OK-CLE-154
22	Frank Lynn and Jannie Matlock	66881	OK-CLE-156
23	L.R. Ranch Operating Company, L.P.	66877	OK-CLE-159

For the remaining properties impacted by the December Application, it was determined that: a) NextEra had not produced a filed easement; AND b) exceptions to the Commissioners' Report and/or a Request for Stay had been filed or were pending before the applicable court.

City legal staff determined that for these properties, NextEra could only claim a "qualified" right of access, one that could later be affected by an adverse ruling of the court in that eminent domain action. These remaining 14 of the 37 total impacted properties are as follows:

No.	Owner of Record	PIN	OK-CLE
1	Louis Jean Farm LLC;	139438	OK-CLE-002
2	Dana Collins	68814	OK-CLE-003
3	Bird Ranch, L.L.C.	150714	OK-CLE-003.010
4		150166	OK-CLE-003.020
5	Allen Holdings LLC; Allen Farms, Inc.	147711	OK-CLE-003.030
6	Eisen-Sturmer I, LLC	68584	OK-CLE-020
7	Leo & Gloria Calvert Revocable Trust	68583	OK-CLE-023
8	Calvert Trust (Shirley Calvert)	68582	OK-CLE-024
9		159700	OK-CLE-025
10	Jerry Don Calvert and Belinda Sue Calvert Rev. Trust	159699	OK-CLE-026
11	Jeremy S. Calvert; Samantha A. Calvert	68580	OK-CLE-027
12	Franklin Business Park, LLC	188425	OK-CLE-081
13	O'Brien Farms, LLC	137123	OK-CLE-152
14	Don L. and Lentisa C. Wilkerson	101725	OK-CLE 155

City legal staff, utilizing the recommendation provided by City Public Works Staff in its Staff Report to the FP Committee, presented the following modified recommendations to the FP Permit Committee at its January 2, 2024 meeting:

- 1) With respect to **the twenty-three (23) identified** parcels with present and unqualified access, City Staff recommends approval **as Permit #684**.
- 2) With respect to **the fourteen (14) identified** parcels where NextEra's access is still qualified, City Staff recommends approval of a separate permit, **Permit #685**, subject to the following **conditions**:
 - a) The permit shall only become active for NextEra's utilization upon NextEra establishing to the satisfaction of City Staff, including legal staff, that its right of access is no longer qualified by outstanding legal impediments or other objections. **This proof of access may be established parcel-by-parcel**; and
 - b) If NextEra should be found to have entered any of these parcels for the purposes of this permit without first having established an unqualified right of access in an agreed-upon manner, **Permit #685 (and otherwise identified as a separate permit within other administrative City systems)** shall be subject to immediate revocation at the discretion of the Chair of the Floodplain Permit Committee.³

City legal staff's recommended modifications included: (a) a severance of the FP Committee's consideration of the application into two groups, to be issued with two separate permit numbers; (b) a specific identification of those parcels to which NextEra appeared to have unqualified rights of access under Oklahoma law, including Oklahoma eminent domain law, for inclusion in the first group where an unconditional permit could be granted; (c) a specific identification of those parcels to which NextEra had failed to establish unqualified access, for inclusion in a conditionally-granted permit.

City Public Works Staff, as well as City legal staff, presented analysis and recommendations to the FP Committee. Accepting both, a motion was made and seconded on the City's Staff's recommendations, as modified in the presentation by City legal staff. The motion passed with a vote of 5-2. As a result of the vote, permit #684 was approved and issued to NextEra for the 23 properties identified above. Permit #685 was conditionally approved, but not issued until such time as NextEra provided documentation of its unqualified rights of access to all or any of the 14 properties covered by that permit. As of the date Raven filed its appeal, no such documentation had been provided by NextEra.⁴

³ The language in **bold print** is that specifically added by City Legal Staff in order to modify the original recommendation by City Public Works Staff on the December Application.

⁴ An appeal of an administrative official or body (such as the FP Committee) "stays all proceedings in furtherance of the action appealed from...." NMC 36:570(f)(3). Therefore, no such issuance can now be considered or occur with respect to Permit #685.

DISCUSSION:

In its appeal, Raven poses several arguments, some of which specifically reference City legal staff's presentation to the FP Committee at its January 2, 2024 meeting, including the procedures applied in that consideration and decision. City legal staff hereby provides analysis and response to those arguments, as well as explanation of generally applicable standards in this proceeding.

A. BOA's Standard of Review

An appeal of a decision of the FP Committee is an appeal of an administrative decision, as addressed in NMC 36-570(c)(1) & (f). Generally, "[a]n appeal stays all proceedings in furtherance of the action appealed from" and the BOA is charged to "decide the same within a reasonable time." *Id.* at (f)(2)-(3). In exercising its administrative appeal power, the BOA:

[S]hall reverse or affirm, wholly or in part, shall modify the order, requirement, decision, or determination appealed from, shall make such order, requirement, decision, or determination as ought to be made, so long as such action is in conformity with the terms of this chapter, and to that end shall have the powers of an administrative official from whom the appeal is taken.

Id. The above standard allows the BOA broad authority in considering the administrative appeals before it. The BOA may make any decision about the application and permits that the FP Committee could have made. The BOA may approve, deny, request additional information, and send the permit back to the FP Committee with instructions (as has occurred with other FP appeals in the past). The BOA is permitted to look at the entire application afresh and "to that end shall have the power of" the FP Committee itself in considering the application.

B. Raven as Property Owner and Appellant

Raven owns two of the 37 parcels impacted by NextEra's application, parcels 1 and 4 on the first list. Because all acquisition portions of Raven's eminent domain action have concluded, Raven's parcels were included in Permit #684, those parcels in which NextEra had a present ownership interest. Raven was also included within the notice area for the application as a whole, and appeared through counsel to protest the December Application, and the FP Committee's consideration and grant of both Permit #684 and #685.

C. Stay Applicable to July Application and Pending District Court Appeal

Rather than jurisdiction, this argument by Raven actually speaks to the FP Committee's discretion, and this BOA's discretion, in considering permit applications. Raven argues that the FP Committee lacked jurisdiction to consider NextEra's December Application. Raven bases its argument upon Norman Municipal Code ("NMC") 36-570, the code provision establishing the parameters of the BOA's authority over all matters, including this appeal. Raven argues that NMC 36-570's application to the July Application prevents the FP Committee's consideration of the December Application due to the stay imposed by 36-570.

The stay upon which Raven bases its argument arose from the denied July Application. However, it is the substance of the December Application at issue, so a jurisdictional bar does not arise. However, the BOA's authority to evaluate and either accept or reject the December

Application is just as broad in this proceeding as was the FP Committee's in its own consideration of the December Application. Upon receipt and review of the December Application, the FP Committee (through its FP Administrator or otherwise) was free to deny or otherwise reject it – if it was indeed viewed as the same as the July Application the FP Committee previously denied. However, the FP Committee, in its discretion, opted to consider the December Application and grant two separate permits, #684 and #685. As set forth above, the BOA is endowed with the same breadth of discretion as the FP Committee in its consideration of this appeal.

D. Severance of December Application into Two Approved Permits

The FP Committee's decision to create two permits from the December Application⁵ was also within its administrative discretion. Raven argues that the FP Committee lacked the authority to separate the December Application, and the parcels impacted by the December Application, into two separate permits. First, Raven argues the separation exceeded the FP Committee's authority under NMC 36-570(f). As cited by Raven, this provision requires that the FP Committee "prior to rendering a decision thereon, obtain and study essential information..." *Id.* Importantly, and again, the BOA is vested with the same authority as the FP Committee, and thus is also subject to this requirement. In addition to appeal information, the entirety of the December Application, including all information regarding the 37 impacted parcels upon which Permits #684 and #685 were based, are before this BOA for its review and consideration. No substantive elements of the December Application were altered by administratively applying different conditions to the parcels affected by the application.

Further, the FP Committee (and by extension this BOA) may divide a motion into two for its consideration of a proposed action item. "When a motion relating to a single subject contains several parts, each of which is capable of standing as a complete proposition if the others are removed, the parts can be separated to be considered..." Henry M. Robert III, et al., Robert's Rules of Order § 27 (10th Ed., 2000). Here the FP Committee divided the proposed application within its motion relating to the December Application. To do so, no information outside the application was utilized or referenced and no properties were impacted that were not already included within the application, and to which notice had been sent (including Raven's parcels).

Secondly, the administrative assignment of the two permit numbers, rather than one, has no legal significance. The two permits may just as easily have been named Permit #684(a) and #684(b). The number 685 was assigned only to ensure the two groups of properties were appropriately handled by City staff according to the conditions imposed by the FP Committee. The authority to grant a FP permit subject to conditions is explicitly set forth in NMC 36-533(f)(6).

Raven also argues that the division of the application parcels under two permit numbers violates the Oklahoma Open Meetings Act by failing to identify "all items of business." Raven argues that the FP Committee "propose[d] an additional application." Raven Brief, p. 8. This did not occur. The December Application was properly noticed to the public for all affected properties and was publicly posted by the Norman City Clerk on December 15, 2023 at 8:35 a.m. The agenda stated that the following would be considered:

⁵ The December Application was identified in the 1/2/24 FP Committee Agenda as "Application No. 684."

“Floodplain Permit Application No. 684 – This permit application for the proposed installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek and Little River Floodplains.”

See *Attachment A*. As noticed, the FP Committee considered “Application No. 684,” the December Application, in exactly the form it was submitted. Based on its consideration, the FP Committee determined to grant the application under two permits - Permit Nos. 684 and 685. These actions are not at odds with the posted notice. The *Fraternal Order of Police, Bratcher/Miner Mem’l Lodge, Lodge No. 122* case (“FOP Case”) cited by Raven is not controlling here. The FOP Case involved amendments to the actual items considered, whereas here the matter considered was the same as stated in the notice: the December Application.

Further, the FOP Case, and the existence of two permits, assigned different numbers, does not impact this BOA’s authority and discretion to consider the matters raised by the December Application afresh, as provided by NMC 36-570.

E. Ownership of and Access to the Impacted Properties

Finally, Raven argues that NextEra lacks standing to file its application where it does not have an “ownership interest to all of the properties” implicated by the application. NMC 36-533 does not contain a requirement that an applicant own a property to which it seeks a regulatory permission. Certainly it is axiomatic that the applicant be able to gain legal access soon after applying for a floodplain permit because the permit itself does not grant legal access to a property and only lasts for two years beyond its issuance. See NMC 36-533(g). To protect property owners, including adjacent owners, and in some cases, the FP Committee has deemed it necessary to attach a condition of showing access prior to a permit becoming “active.” While such conditions are properly considered within the FP Committee’s authority, the applicant’s access is only one of many considerations that may go into the FP Committee’s consideration of a permit, and does not impact the FP Committee’s discretion to either deny or grant a permit.

Permit #684 was granted outright to properties to which it had been determined that NextEra had a present and unqualified right of access as of January 2, 2024. Among these properties are the two parcels (#1 and #4) owned by the applicant, Raven. Raven argues to this BOA that it “shall [not] be required to surrender possession of real property before the agreed purchase price is paid or deposited with the state court...” See Raven Appeal, p. 8; 27 Okla. Stat. § 13(4). In the relevant eminent domain action filed by NextEra against Raven, the Report of Commissioners was filed on September 1, 2023 awarding Raven \$2,470,000.00 for property implicated by the December Application. NextEra deposited the \$2,470,000.00 with the Court on October 6, 2023 and Raven withdrew it from the Court on November 13, 2023, more than seven weeks prior to the FP Committee meeting on January 2. Raven filed no exceptions to the Report of Commissioners and has requested no stay of proceedings in the applicable eminent domain action. To the extent Raven argues its property was improperly identified as one to which NextEra has present and unqualified access, and thus improperly included within Permit #684, City legal staff is unable to identify facts to support this position. Regardless, even if Raven was improperly included within Permit #684, the permit itself cannot grant NextEra access to or possession of Raven’s property. The same is true of any action taken by the BOA on this appeal.

CONCLUSION:

The BOA is vested with the same broad authority to consider and grant, subject to conditions and in the administrative format it deems proper, or deny, or even direct the FP Committee's reconsideration of the December Application at issue before it in this appeal.

[ATTACHMENT]



CITY OF NORMAN, OK
FLOODPLAIN PERMIT COMMITTEE MEETING
Development Center, Room B, 225 N. Webster Ave., Norman, OK 73069
Tuesday, January 02, 2024 at 3:30 PM

AGENDA

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, relation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

ROLL CALL

MINUTES

- 1. Approval of minutes from the November 6, 2023 meeting.

ACTION ITEMS

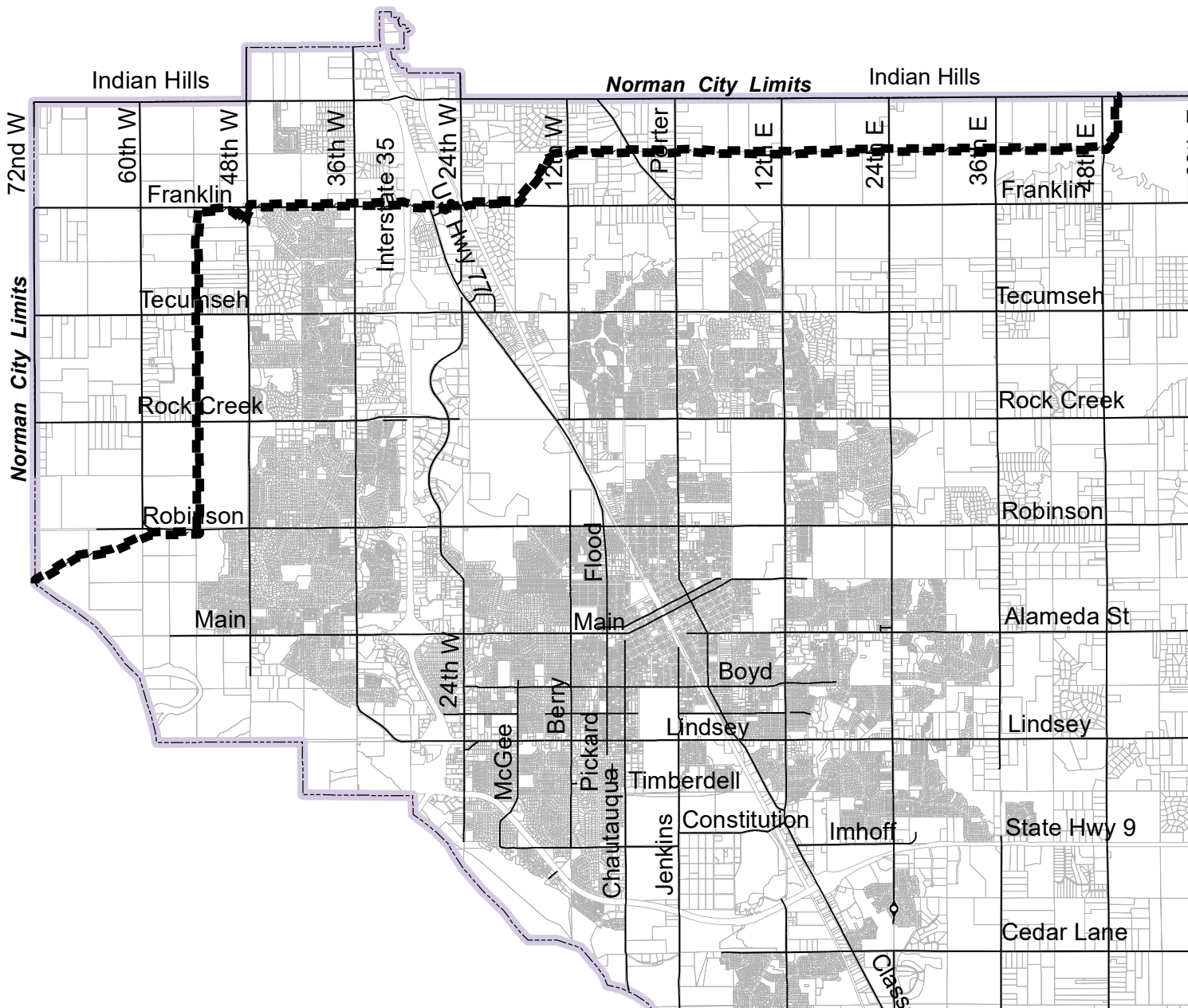
- 2. **Floodplain Permit Application No. 684** - This permit application is for the proposed installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek and Little River floodplains.

MISCELLANEOUS COMMENTS

ADJOURNMENT

This agenda was posted in prominent public view at the Municipal Building, 201 West Gray, in Norman, Oklahoma, on:

DATE: 12.15.23
TIME: 8:35 am
SIGNATURE Jennifer Mangham
City Clerk's Office

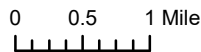
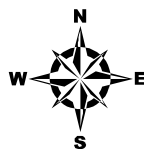




Location Map



Map Produced by the City of Norman
 Geographic Information System.
 The City of Norman assumes no
 responsibility for errors or omissions
 in the information presented.

February 8, 2024



-  Transmission Line
-  Parcels



Appeal of Administrative Decision
BOARD OF ADJUSTMENT

Case No. BOA

Item 1.

City of Norman Planning & Community Development - 225 N. Webster Avenue - Norman, OK 73069 — (405) 307-7112 Phone

APPLICANT(S) Raven Investments, LLC	ADDRESS OF APPLICANT c/o Austin L. Hamm 522 Colcord Drive Oklahoma City, OK 73102
---	---

NAME AND PHONE NUMBER OF CONTACT PERSON(S) Austin L. Hamm 405-516-6931	EMAIL ADDRESS ahamm@wbfbllaw.com
---	--

Legal Description of Property: See attached appeal

Requests Hearing for:

APPEAL of Administrative Decision

Detailed Justification for above appeal (refer to attached memorandum and justify request according to classification and essential requirements therefor):

See attached appeal

(Attach additional sheets for your justification, as needed.)

SIGNATURE OF PROPERTY OWNER(S): <hr/> s/ Austin L. Hamm <hr/>	ADDRESS AND TELEPHONE: <hr/> 522 Colcord Drive <hr/> Oklahoma City, OK 73102 <hr/> 405-516-6931 <hr/>
--	--

OFFICE USE ONLY

Application

Filing Fee of \$150.00

Date Submitted: _____

Checked by: _____

THE CITY OF OKLAHOMA CITY BOARD OF ADJUSTMENT

RAVEN INVESTMENTS, LLC,)
)
)
)
Appellant.)

BOA Case No. _____

**APPELLANT RAVEN INVESTMENTS, LLC’S
APPEAL OF THE CITY OF NORMAN FLOODPLAIN
PERMIT COMMITTEE’S APPROVAL OF PERMIT NO. 684 AND PERMIT NO. 685**

Appellant, Raven Investments, LLC, hereby submits its Appeal to the Board of Adjustment for the City of Norman from the decision of the Floodplain Permit Committee of the City of the Norman to grant Permit No. 684 and Permit No. 685 in favor of NextEra Energy Transmission Southwest, LLC. In support, Appellant states as follows:

I. Factual and Procedural Background.

1. In early 2023, NextEra Energy Transmission Southwest, LLC (“NextEra”) began condemnation proceedings across several counties, including Cleveland County, to construct a new transmission line across the region.

2. On or about April 28, 2023, NextEra initiated condemnation proceedings against Appellant Raven Investments, LLC (“Raven”) to acquire an interest in property owned by Raven.

3. Several of the properties NextEra has sought to condemn, including the property owned by Raven, in Cleveland County lay within a floodplain necessitating the issuance of a floodplain permit from the City of Norman before NextEra can begin construction of its transmission line in those regions.

4. Accordingly, on July 17, 2023, NextEra submitted its first floodplain permit application to the Floodplain Permit Committee for the City of Norman (the “Committee”). *See*, Ex. “A”, Permit No. 675 Application.

5. On or about July 17, 2023, NextEra's application for Permit No. 675, was heard, and denied, by the Committee. *See* Ex. "B," July 17, 2023 Floodplain Permit Committee for the City of Norman Meeting Minutes.

6. The Committee denied Permit 675 because NextEra failed to submit all the necessary information for consideration by the Committee to address residents' concerns and NextEra did not have an ownership interest in all of the properties included in the permit location. *See* Ex. "B," July 17, 2023 Floodplain Permit Committee for the City of Norman Meeting Minutes; *See also* Ex. "C," July 17, 2023 Permit Denial Letter.

7. NextEra appealed the Committee's denial of Permit 675 to the City of Norman Board of Adjustment (the "BOA"), which upheld the Committee's denial after a public hearing on August 23, 2023. *See* Ex. "D," Aug. 23, 2023 Board of Adjustment Meeting Minutes.

8. As the BOA is aware, at the time of the public hearing on August 23rd, NextEra did not have an ownership interest in all the properties subject to the proposed floodplain, including the property owned by Raven.¹

9. Indeed, the BOA specifically addressed the concern that NextEra was pursuing permits for properties that NextEra had no legal right to enter at the time the permits were sought. *See* Ex. "D," Aug. 23, 2023 Board of Adjustment Meeting Minutes p. 8.

10. NextEra appealed the BOA's decision to the District Court for Cleveland County, Case No. CV-2023-3288 (the "District Court Appeal").

11. The District Court Appeal is still pending determination on the merits.

12. In a clear effort to circumvent the jurisdiction of the District Court, NextEra resubmitted its permit application to the Committee, seeking issuance of Permit No. 684, which

¹ NextEra did not acquire an ownership interest in Raven's property until October 6, 2023.

sought the same permit requested as part of Permit No. 675. *See* Ex. “E,” NextEra Floodplain Permit Application No. 684.

13. At the time of submission of the application for Permit 684, NextEra **still** did not possess a legal ownership to all of the properties included in the permit location. *See* Ex. “F,” Jan. 2, 2024 Floodplain Permit Committee for the City of Norman Meeting Minutes p. 2.

14. On January 2, 2024, the Committee considered NextEra’s application for Permit 684 and granted not only Permit 684, but an additional permit identified as Permit No. 685. *See* Ex. “F,” Jan. 2, 2024 Floodplain Permit Committee for the City of Norman Meeting Minutes p. 7.

15. There was no application filed for Permit 685 and no reference to such a permit appeared on the Committee agenda. *See*, Ex. “G,” Jan. 2, 2024 Floodplain Committee Agenda.

16. Permit 684 was modified to grant NextEra’s request for a floodplain permit as to 23 of the 37 properties requested. These were properties which the municipal counselor’s office determined NextEra had obtained an ownership interest in. *See* Ex. “F,” Jan. 2, 2024, Floodplain Permit Committee for the City of Norman Meeting Minutes p. 2.

17. Permit 685 was a new permit created by the Committee, without any application submitted for the same, to grant conditional permission for the remaining 14 properties, to which NextEra still did not possess an ownership interest in. The condition for Permit 685 is NextEra must obtain an ownership interest in those 14 properties for the permit to be valid. *See* Ex. “F,” Jan. 2, 2024, Floodplain Permit Committee for the City of Norman Meeting Minutes pp.2 & 7.

II. Argument.

The Committee erred when it granted Permit 684 and Permit 685. First, the Committee lacked jurisdiction to grant the permits as the District Court Appeal is still pending and a stay is in effect. Second, the Committee’s creation and issuance of Permit 685 was improper as it violated

the City of Norman’s Municipal Code and the Oklahoma Open Meeting Act. Third, NextEra still lacks an ownership interest in all of the properties covered by its application for Permit 684 and therefore lacks standing to seek permitting for the same. For the foregoing reasons, and as explained below, the Board of Adjustment should reverse the Committee’s approval of Permit 684 and Permit 685.

A. The Pending District Court Appeals Stays these Proceedings.

After the Committee denied NextEra’s application for approval for Permit 675, and the BOA refused to overturn that denial, NextEra appealed the BOA decision to Cleveland County District Court. The District Court Appeal (Case No. CV-2023-3288) is currently pending resolution on the merits and has not been dismissed by NextEra. The Municipal Code for the City of Norman provides that appeals from the Board of Adjustment may be taken to District Court, and that:

An appeal to the District Court from the Board of Adjustment stays all proceedings and the action appealed from unless the Chairman of the Board of Adjustment, from which the appeal is taken, certifies to the Court Clerk after the notice of appeal has been filed, that by reason of fact Stated in the certificate a stay would in his opinion cause imminent peril to life or property.

Norman, OK., Municipal Code § 36-570(e)(2) (emphasis added).

Section 36-570(e)(2) operates as an automatic stay on all related proceedings to which an appeal is made from. Here, NextEra appealed after the BOA refused to overturn the Committee’s denial of Permit 675. As of September 5, 2023, the date of filing the District Court Appeal, the stay was in effect and the Floodplain Committee no longer had jurisdiction to consider such matter. The only exception to the stay is if the Chairman of the BOA certifies to the District Court Clerk that a stay would “cause imminent peril to life or property.” Norman, OK., Municipal Code § 36-570(e)(2). No such certification has occurred which would prevent application of the stay to these

proceedings. Therefore, the BOA should enforce the stay against all proceedings and reverse the approval of Permits 684 and 685.

It is likely NextEra will attempt to assert its application for Permit 684 was a substantially different application due to the fact that NextEra submitted the necessary supporting documentation. This would be disingenuous as the application language for Permit 684 is nearly the exact same as Permit 675 and the information submitted should have been submitted with the application for Permit 675, and one of the reasons for denial of that application. *See Ex. "H," Comparison of Application for Permit 675 and Application for Permit 684 and Identification of Modifications in Permit 684 in Highlight and Textbox.* If an applicant is allowed to circumvent the stay by resubmitting its application a few months later, the stay provided for in the Municipal Code would be meaningless and have no effect. Section 36-570(e)(2) provides for the stay to grant a District Court time to determine and resolve the dispute on the merits and prevent duplicate proceedings from occurring. If NextEra is allowed to circumvent the ordinances, at its choosing, it puts the entire appeal system at risk of procedural abuse for an applicant to strong arm its way through the process without the checks and balances created by the system. Therefore, the stay should be enforced, and all floodplain permits sought by NextEra should be stayed until the merits are adjudicated by the District Court.

B. The Floodplain Committee did not Comply with the Municipal Code or the Oklahoma Open Meeting Act.

The City of Norman's Municipal Code (the "Code") provides the process for submittal and consideration of a floodplain permit application. *See Norman, OK., Municipal Code § 36-570(f).* The Code clearly considers that the Committee's power to issue a floodplain permit is enabled once an application for a permit is submitted to the Committee:

Floodplain permit application forms shall be furnished by the Department of Public Works. **Upon receiving an application for the special permit** involving the use of fill, construction of structures, or storage of materials, the Committee shall, prior to rendering a decision thereon, obtain and study essential information and request technical advice as appropriate. Such information and technical advice becomes a part of the application and is retained with the application.

Norman, OK., Municipal Code § 36-570(f)(2) (emphasis added).

Nothing in the Code contemplates the Committee’s ability or power to unilaterally create and approve permits of the Committee’s own creation. Indeed, should the Committee have such power, it would be contrary to the Code’s requirement that the Committee post public notice of its meetings and the items to be considered. Norman, OK., Municipal Code § 36-570(f)(2) (“The Floodplain Permit Committee shall meet on an as-needed basis the first and third Monday of each month and **shall post public notice accordingly.**”) (emphasis added). No such notice of consideration of Permit 685 was provided ahead of the meeting, such that the public was not reasonably informed. *See*, Ex. “G,” Jan. 2, 2024 Floodplain Committee Agenda.

Further, the consideration and approval of Permit 685 violates the Oklahoma Open Meeting Act (the “OMA”). All meetings of public bodies, which includes the Committee, “shall be preceded by advance public notice specifying the time and place of each such meeting to be convened as well as the subject matter or matters to be considered at such meeting, as hereinafter provided.” 25 O.S. § 303. The advance notice required for regularly scheduled meetings of public bodies shall be provided at least twenty-four (24) hours before such meeting and shall include the agenda of items to be considered at the meeting. 25 O.S. § 311(9). “All agendas required pursuant to the provisions of this section shall **identify all items of business to be transacted by a public body at a meeting....**” 25 O.S. § 311(B)(1) (emphasis added). Willful violations of the Open Meetings Act are invalid. 25 O.S. § 313. The Oklahoma Supreme Court has clarified that in the context of the OMA “willful” means:

Willfulness does not require a showing of bad faith, malice, or wantonness, but rather, encompasses conscious, purposeful violations of the law or blatant or deliberate disregard of the law by those who know, or should know the requirements of the Act. Notice of meetings of public bodies which are deceptively vague and likely to mislead constitute a wilful violation.

Fraternal Order of Police, Bratcher/Miner Mem'l Lodge, Lodge No. 122 v. City of Norman, 2021 OK 20, ¶ 18, 489 P.3d 20, 26.

Fraternal Order of Police, Bratcher/Miner Mem'l Lodge, Lodge No. 122 v. City of Norman is instructive to this matter. In *The City of Norman*, the Oklahoma Supreme Court held the City Council for the City of Norman violated the OMA when the council's agenda failed to sufficiently advise the public of actions the council may take at a special council meeting. *City of Norman*, 2021 OK 20, ¶ 20, 489 P.3d 20, 26. Ahead of a special city council meeting in June, the posted agenda informed the public the council was taking up "[c]onsideration of adoption of the FYE 2021 City of Norman proposed operating and capital budgets...." *Id.* 2021 OK 20, ¶ 4, 489 P.3d 20, 22. At the special meeting, instead of approving or denying the budget, the city council revised the budget multiple times to reallocate a portion of the budget elsewhere. *Id.* 2021 OK 20, ¶ 5, 489 P.3d 20, 23. The Oklahoma Supreme Court held that the agenda failed to inform the public that the council may consider other options outside of strict approval or denial of the budget and such agenda was "deceptively vague and likely to mislead, therefore it was a wilful [sic] violation of the Open Meeting Act." *Id.* 2021 OK 20, ¶ 19, 489 P.3d 20, 26. Accordingly, the actions taken by the City Council at the special meeting were invalid. *Id.*

Here, the Committee violated both the City's own Code and the OMA. The agenda posted before the meeting only provided notice of consideration of Permit 684 and provided no notice whatsoever as to any consideration for Permit 685. *See* Ex. "G," Jan. 2, 2024 Floodplain Committee Agenda. It was well known that the Assistant Municipal Counselor was going to

propose an additional application; in fact a powerpoint presentation identifying the two permits was created and presented at the Committee meeting. The agenda failed to meet the requirements of the OMA by failing to provide sufficient notice of the Committee's consideration of Permit 685. Just as in *The City of Norman*, because the Committee's January 2nd agenda failed to reasonably inform the public of the items to be considered by the Committee, the actions taken by the Committee at the January 2nd meeting are invalid and should be overturned.

C. NextEra Still Lacks Standing to Request a Floodplain Permit.

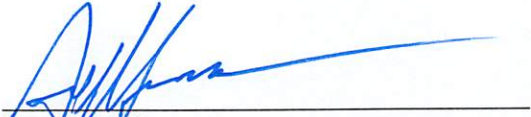
Finally, as the Committee clearly recognized, NextEra still lacks ownership of all the properties covered by NextEra's floodplain permit application. Indeed, the Committee and the Municipal Counselor's office specifically created Permit 685 to circumvent NextEra's lack of ownership interest to all of the properties covered by NextEra's application. It is violative of Oklahoma law that a condemner be allowed to seek permits for properties to which the condemner has no legal right to enter upon. Oklahoma law clearly states "[n]o owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with the state court...." 27 O.S. § 13(4).

Fourteen (14) of the thirty-seven (37) properties included as part of NextEra's application for Permit No. 684 are still in condemnation proceedings before the District Court. The Committee's approval of permits as to properties not owned by NextEra violates Oklahoma law and robs landowners of their rights to proceed in District Court on these matters. The Committee's approval must be overturned to protect the landowners' rights until resolution of their respective disputes in District Court.

III. Conclusion.

Based on the foregoing, Appellant Raven Investments, LLC respectfully requests this Board overturn the Committee's approval of Permits 684 and 685.

Respectfully submitted,



David M. Box
Amanda Carpenter
Austin L. Hamm
Attorneys for Appellant



City of Norman

Floodplain Permit Application

Floodplain Permit No. 675

Building Permit No. _____

Date 7/17/2023

FLOODPLAIN PERMIT APPLICATION (\$100.00 Application Fee Required)

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Occupancy is issued.
5. The permit will expire if no work is commenced within 2 years of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements and must be included with this floodplain permit application.
7. Applicant hereby gives consent to the City of Norman or his/her representative to access the property to make reasonable inspections required to verify compliance.
8. The following floodplain modifications require approval by the City Council:
 - (a) A modification of the floodplain that results in a change of ten percent (10%) or more in the width of the floodplain.
 - (b) The construction of a pond with a water surface area of 5 acres or more.
 - (c) Any modifications of the stream banks or flow line within the area that would be regulatory floodway whether or not that channel has a regulatory floodplain, unless the work is being done by the City of Norman staff as part of a routine maintenance activity.
9. All supporting documentation required by this application is required along with the permit fee by the submittal deadline. Late or incomplete applications will not be accepted.
10. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT.)

APPLICANT: NextEra Energy Transmission Southwest, LLC c/o Kim Austin ADDRESS: 700 University Blvd, Juno Beach FL 33408

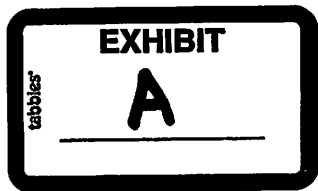
TELEPHONE: 316-775-8503 SIGNATURE: [Signature]
Natalie F. Smith, Assistant Vice President

BUILDER: TBD ADDRESS: _____

TELEPHONE: _____ SIGNATURE: _____

ENGINEER: Burns & McDonnell Engineering Co., Inc. c/o Jacob Clouse ADDRESS: 9400 Ward Parkway, Kansas City, MO 64114

TELEPHONE: 816-7 6849 SIGNATURE: [Signature]



C. ATTACHMENTS WHICH ARE REQUIRED WITH EVERY APPLICATION:

The applicant must submit the documents listed below before the application can be processed. If the requested document is not relevant to the project scope, please check the Not Applicable box and provide explanation.

A. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel, floodway, and the regulatory flood-protection elevation.

B. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high-water information.

Not Applicable:

See Attached Plan and Profile (Attachment 2)

C. Subdivision or other development plans (If the subdivision or other developments exceeds 50 lots or 5 acres, whichever is the lesser, the applicant **must** provide 100-year flood elevations if they are not otherwise available).

Not Applicable:

Project does not involve a subdivision or other development.

D. Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream, soil types and other pertinent information.

Not Applicable:

See Attached Plan and Profile (Attachment 2)

E. A profile showing the slope of the bottom of the channel or flow line of the stream.

Not Applicable:

See Attached Plan and Profile (Attachment 2)

F. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.

Not Applicable:

No occupiable structures are proposed as part of this project.

G. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

Not Applicable:

No watercourse or natural drainage will be altered or relocated as a result of this project.

- H. For proposed development within any flood hazard area (except for those areas designated as regulatory floodways), certification that a rise of no more than five hundredths of a foot (0.05') will occur on any adjacent property in the base flood elevation as a result of the proposed work. For proposed development within a designated regulatory floodway, certification of no increase in flood levels within the community during the occurrence of the base flood discharge as a result of the proposed work. All certifications shall be signed and sealed by a Registered Professional Engineer licensed to practice in the State of Oklahoma.
- I. A certified list of names and addresses of all record property owners within a three hundred fifty (350) foot radius of the exterior boundary of the subject property not to exceed 100 feet laterally from the Special Flood Hazard Area. The radius to be extended by increments of one hundred (100) linear feet until the list of property owners includes not less than fifteen (15) individual property owners of separate parcels or until a maximum radius of one thousand (1,000) feet has been reached.
- J. A copy of all other applicable local, state, and federal permits (i.e. U.S. Army Corps of Engineers 404 permit, etc).

After completing SECTION 2, APPLICANT should submit form to Permit Staff for review.

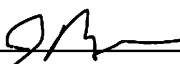
SECTION 3: FLOODPLAIN DETERMINATION (To be completed by Permit Staff.)

The proposed development is located on FIRM Panel No.: varies, Dated: varies

The Proposed Development:

- Is NOT located in a Special Flood Hazard Area
(Notify the applicant that the application review is complete and NO FLOODPLAIN PERMIT IS REQUIRED).
- Is located in a Special Flood Hazard Area.
- The proposed development is located in a floodway.
- 100-Year flood elevation at the site is _____ Ft. NGVD (MSL) Unavailable

See Section 4 for additional instructions.

SIGNED:  DATE: 7/13/2023

See attached location list with WSEL values.

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by Permit Staff.)

The applicant must also submit the documents checked below before the application can be processed.

- Flood proofing protection level (non-residential only) _____ Ft. NGVD (MSL). For flood proofed structures applicant must attach certification from registered engineer.
- Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the 100-year flood (Base Flood Elevation). A copy of all data and calculations supporting this finding must also be submitted.
- Certification from a registered engineer that the proposed activity in a regulatory flood plain will result in an increase of no more than 0.05 feet in the height of the 100-year flood (Base Flood Elevation). A copy of all data and calculations supporting this finding must also be submitted.
- All other applicable federal, state, and local permits have been obtained.

Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by Floodplain Chairman.)

The proposed activity: (A) **Is**; (B) **Is Not** in conformance with provisions of Norman's City Code Chapter 22, Section 429.1. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED: _____ DATE: _____

If BOX A is checked, the Floodplain committee chairman may issue a Floodplain Permit.

If BOX B is checked, the Floodplain committee chairman will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Floodplain committee or may request a hearing from the Board of Adjustment.

APPEALS: Appealed to Board of Adjustment: Yes No
Hearing date: _____

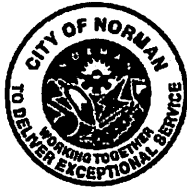
Board of Adjustment Decision - Approved: Yes No

Conditions:

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Occupancy is issued.)

1. FEMA Elevation Certificate
and/or
2. FEMA Floodproofing Certificate

NOTE: The completed certificate will be reviewed by staff for completeness and accuracy. If any deficiencies are found it will be returned to the applicant for revision. A Certificate of Occupancy for the structure will not be issued until an Elevation and /or Floodproofing Certificate has been accepted by the City.



CITY OF NORMAN, OK
FLOODPLAIN PERMIT COMMITTEE MEETING
Development Center, Conference Room B, 225 N. Webster Avenue,
Norman, OK 73069
Monday, July 17, 2023 at 3:30 PM

Item 1.

Item 4.

MINUTES

ROLL CALL

The meeting was called to order by Mr. Shawn O'Leary at 3:30 p.m. Roll was called and 6 members were present, one was absent. Mr. Scott Sturtz was absent. Others in attendance included, Jason Murphy, Stormwater Program Manager; Todd McLellan, Development Engineer; Amy Shepard, Staff; Kim Freeman, Staff; Kim Austin, NextEra Energy Transmission Southwest, LLC (NEET Southwest); Megan C., BMed; Mark Banner, Hall Estill; Gunner Joyce, Rieger Law Group; Libby Smith, Rieger Law Group; Nick Fuhr, NextEra Energy Transmission Southwest, LLC (NEET Southwest); Chris Lira, Resident; Leo Calvert, Resident; Paul Snow, Resident; Don Wilkerson, Resident; Lynn Wilkerson, Resident; Shyla Slay, Resident; Charla Bird, Resident; Inger Giuffrida, Resident; Bob Crumrine, Resident; G. Ben, Resident.

MINUTES

1. Approval of minutes from the June 20, 2023 meeting

Mr. O'Leary called for a motion to approve the minutes from the meeting of June 20, 2023. Ms. Stansel asked for a correction to page 1 specifying the location as 60th Ave NW. The motion was made by Ken Danner and seconded by Bill Scanlon. The minutes were approved 6-0.

ACTION ITEMS

2. Floodplain Permit No. 675

Mr. O'Leary said this Application is for the proposed installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek, and Little River Floodplains. Mr. O'Leary asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant is NextEra Energy Transmission Southwest and the Engineer is Burns and McDonnell Engineering Company. Mr. Murphy said the application is for proposed construction of an overhead electric transmission line. The proposed alignment will begin at the west boundary of the City limit (approx. 0.45 miles south of W. Robinson St.) and extend to the north boundary of the City limit (approx. 0.15 miles east of 48th Ave. NE). A total of 35 overhead electric transmission line pole structures are proposed to be constructed in the Special Flood Hazard Areas (SFHA) of Norman. Structure foundations for the transmission poles are engineered based on the size of the structure and soil conditions encountered. In addition to the pole structure installation, tree clearing within the 150-foot right-of-way along with temporary access road construction consisting of drives and crushed rock access roads or installation of crane mats will be performed. Sediment controls will be installed as needed.

Mr. Murphy said typical poles will be spun concrete or steel monopoles approximately four feet in diameter at ground level. Two of the poles will be in the regulatory floodway of the Canadian River and the other 33 poles will be in the floodplains of Ten-Mile Flat Creek and the Little



River and its Tributaries. Hydraulic analyses using HEC-RAS modeling was submitted by the Applicant for each of the locations. For the 2 poles in the Canadian River floodway report from February 28, 2023, it was determined that no rise in the BFE would occur. The hydraulic analysis report for the remaining 33 poles was submitted in the HEC-RAS model floodplain analysis report dated April 21, 2023. Of these, 17 are in the Ten-Mile Flat Creek floodplain and will cause no rise in the BFE. The remaining 16 are in the Little River floodplain or its tributaries. 2 of the poles in the Little River floodplain will cause a rise of 0.01 feet in the BFE according the applicant's report, the rest will cause no rise.

Mr. Murphy said the Applicant included in their application a chart indicating a minimum volume of material to be removed from each pole location in the various floodplains in order to meet the compensatory storage requirement of the Flood Hazard Ordinance. Spoils from excavation and compensatory storage creation will be removed from the floodplain and spread in upland areas outside of the floodplain. Some of the installation locations in this application are themselves outside of the regulatory floodplain, but the access and tree clearing to reach the site require crossing the floodplain.

Mr. Murphy said the Applicant has indicated that tree clearing will take place prior to construction to create temporary access roads. Where conditions allow, overland travel will be utilized with no grading or road construction. If temporary construction of access roads or improvements to existing roads are needed within floodplains, crane mats will be temporarily placed on the access roads. Air-bridges will be constructed where underground pipelines are crossed by access roads. The Applicant has also indicated that sediment controls will be installed during construction. Any temporary crane mats that are utilized will be removed following construction. Access roads will be removed and reclaimed, if necessary, to original contours. The Applicant has also indicated that revegetation will occur where appropriate.

Mr. Murphy reviewed plans and aerial maps of the project locations provided to members in their packets.

Mr. Murphy confirmed all ordinance requirements have been met and said staff recommends Floodplain Permit Application No. 675 be approved.

Mr. O'Leary asked for comments or additions from the Applicant. Hearing none, Mr. O'Leary asked for any comments from the public. Mr. Crumrine, resident, has 2 properties close to the line and asked for clarification on the location of the line on the Little River. Mr. Crumrine also asked for a copy of the packet presented by Mr. Murphy. Mr. Murphy offered his business card with his contact information.

Ms. Giuffrida, resident, expressed concern about homeowners being unaware of how they are affected and adequate notification. Ms. Giuffrida asked for a pause on the application for the public to be duly informed. Ms. Giuffrida also expressed concern regarding the runoff and environmental impact to Lake Thunderbird. Additionally, Ms. Giuffrida expressed concern for the impact to migratory birds.

Mr. Lira, resident, is currently in litigation with NextEra and asked for the committee to consider postponing the application to prevent NextEra from entering his property prior to the merits of his case being heard.

Mr. Wilkerson, resident, expressed concern with changing the elevation and how that will affect the drainage. Mr. Wilkerson also expressed concern if the Little River floods and if the poles were to fall, having live wires in the water. Additionally, Mr. Wilkerson expressed concern

about the integrity of NextEra due to a subpoena for eminent domain and requesting underground mineral rights.

Mr. Snow, resident, expressed concern with erosion of the river due to tree clearing. Mr. Snow also expressed concern with lack of notification. Additionally, Mr. Snow expressed concern with the negative impact on the agriculture, animals and his children.

Ms. Wilkerson, resident, asked why the utility easement isn't being utilized. Ms. Wilkerson, expressed concern with receiving a one-time payment for the easement purchase.

Ms. Giuffrida, expressed concern again about the timeline of the notification to the property owners. Ms. Giuffrida asked if the Applicant has consulted any Eagle Aviaries or tribal nations regarding eagle impacts. Ms. Austin, with NextEra Energy Transmission Southwest, LLC (NEET Southwest), responded that a number of studies have been done on the project and they have a tribal relations team who engages with the tribes and she is unable to respond to tribal relations questions but offered to follow up with team members. Ms. Austin spoke about the environmental studies completed to satisfy the need for federal, state and local permits. Ms. Giuffrida encouraged Ms. Austin to consult with the Eagle Aviaries. Mr. Crumrine, indicated he had 2 eagles and babies in eyesight of his acreage. Mr. Snow also indicated they have eagles, falcons, hawks, owls and cranes that live in the trees that would be impacted.

Mr. Wilkerson said he hopes the City will start looking out for the citizens as he stands to lose almost everything between this and the turnpike. Mr. Snow asked why the applicant isn't using an existing easement and if the power lines already in the area could be utilized.

Mr. O'Leary brought the discussion back to the committee. Mr. O'Leary reminded the committee of their role pertaining to the floodplain ordinance. Mr. Wilkerson expressed concern with building a road, even temporary, would impact his property. Ms. Hoggatt asked about the use of the easements acquired from property owners and Mr. O'Leary directed the question to the Applicant and the impact to the land within the floodplain. Ms. Austin responded that all of the impacts associated with this project are temporary impacts except for the poles. Ms. Austin also responded the poles have gone through a number of floodplain studies and engineers have looked at the area and completed the analysis to satisfy floodplain regulations for stabilizing and revegetating the land.

Ms. Stansel inquired if the homeowners would have another meeting prior to approval. Mr. O'Leary responded there have been multiple meetings with City Council regarding easements and access. Mr. O'Leary asked the NextEra representatives who regulates this project from an energy standpoint. Mr. Banner, Hall Estill, responded there have been several meetings and items under consideration with City Council. Mr. Banner said this project is a result of analysis for energy needs in the area from the Southwest Power Pool and could result in lower energy costs for residents. Mr. Banner said the project was advertised by the Southwest Power Pool and NextEra bid on that project. Ms. Stansel expressed her concern for the residents affected by this project and their route to express their concerns. Mr. O'Leary said he believes the Oklahoma Corporation Commission would be the regulatory agency at the state level.

Mr. O'Leary said the majority of the overhead power lines would be located on private property, which is why NextEra is requesting easements from property owners. Mr. O'Leary said as far as he is aware the city or state do not have any regulatory authority over land acquisition or easement agreements on private property. The process is a negotiation between the company and the landowner. Ms. Stansel expressed concern for the residents in attendance who said they are already in lawsuits with the applicant.

Mr. Scanlon said the application answers the technical requirements and inquired about other considerations in the floodplain ordinance. Mr. Scanlon said the committee is allowed to weigh other considerations and he hears lots of unanswered questions that fall into the scope of the other considerations. Mr. Scanlon said he is not prepared to support the application and would like answers to the questions that came up during the meeting. Ms. Stansel inquired who would be responsible if there is flooding in these areas and Mr. O'Leary confirmed it's the landowner's responsibility. Ms. Austin said within a NextEra easement, they are responsible for the operation and maintenance of the easement. Ms. Austin said it is NextEra's intent to disturb the minimum area possible.

Ms. Stansel asked if any City bridges are impacted by the project. Mr. O'Leary responded that a thorough evaluation has already been done for any road or bridge impacted by the project as part of the Road Use Agreement already authorized by the City Council to protect the integrity of our road system.

Mr. Scanlon asked for a start date and period of performance for the project. Mr. Fuhr, NextEra Energy Transmission Southwest, LLC (NEET Southwest), responded the construction date is set for November 15, 2023 through July of 2024. Mr. Danner inquired if the dates are subject to easement negotiations and Mr. Fuhr confirmed. Ms. Scanlon asked the dates are for Norman construction only and Mr. Fuhr responded the dates are for the entirety of the project.

Mr. Danner inquired about the width of the easement. Mr. Fuhr responded the easement is 150 ft. Mr. Danner also inquired about the area parallel with and north of Franklin Rd and near 48th Ave. if any of the easement acquired is in the statutory right of way or future City right of way. Mr. Fuhr responded they would need to review in detail and get back to Mr. Danner. Mr. Danner said he is inquiring related to a proposed future development in the area.

Ms. Hoggatt inquired about how a change in elevation would impact the lake and the effect on possible flooding. Mr. Murphy referred to the packet and the data submitted. Mr. Murphy said after careful review the application meets the requirements and the hydraulic analysis appear to be sound. Mr. O'Leary confirmed with Mr. Murphy that our review of the application is more on the permanent structures. Mr. Murphy said the permit includes locations for the disruption of the floodplain for temporary access for installation of the poles. Mr. Murphy said the Canadian River has a wide floodplain and the impact on the BFE is very minimal.

Ms. Hudson asked about the concerns related to the access road for the project. Mr. Wilkerson confirmed a road is being proposed gate to gate and the area would need to be raised because the ground is too soft to drive on between 36th and 48th. Ms. Austin responded in cases where the ground is soft, temporary mats would be used and they pay attention to the weather and know their responsibilities while they are out there during construction. Mr. Wilkerson expressed concern about drainage in the area during and after construction due to the fragility of the area. Ms. Hoggatt asked for the applicant's definition of a temporary road. Ms. Austin responded once the poles are in the ground, they will restore everything to the same condition including removing temporary access. Ms. Hudson inquired if temporary access is needed in the future, would a new permit be required. Mr. Murphy responded that a permit is good for 2 years and anything outside of that would require a new Floodplain permit.

Ms. Hoggatt asked if Stormwater permits had been issued for the project. Mr. Murphy confirmed the packet includes Earth Change Permits from the City of Norman and Department of Environmental Quality. Mr. Murphy said the Stormwater Pollution Prevention Plan was reviewed and accepted. Mr. O'Leary confirmed Stormwater Quality division administered the

permit. Ms. Hoggatt inquired if there are issues could Stormwater Quality be contacted and M Murphy confirmed.

Ms. Stansel asked if Mr. Danner's questions had been satisfied. Mr. Danner said his questions are related to a proposed development in the area not regarding the floodplain permit. Ms. Stansel inquired if this permit would be sent to the Planning Commission and Mr. O'Leary responded it would not because there are no other City actions pending.

Mr. Danner inquired if there are any proposed underground utility burials and Mr. Fuhr confirmed it is only above ground poles. Mr. Scanlon inquired about utility lines and pipelines and how that will be mitigated. Mr. Fuhr responded they have conducted multiple utility surveys throughout the project to identify pipelines and overhead and underground utilities and currently finalizing crossing agreements with different entities and working with the owners to make sure they are mitigating per their requirements.

Mr. O'Leary called for a motion or further questions. Mr. Danner motioned to approve Floodplain Application No. 675 on the condition the Applicant acquires all easements according to the route contained in the application. Ms. Hudson seconded the motion. Ms. Hoggatt inquired about the length of the permit, Mr. O'Leary confirmed it's for 2 years. Mr. Murphy confirmed the Applicant must provide proof of all easements acquired prior to the permit being issued. Ms. Stansel inquired about the notification of the Floodplain Permit Committee Meeting to the property owners. Mr. Murphy responded the Floodplain notices were mailed more than a month prior to the meeting. Ms. Stansel asked how many requests for the packet and information about this application were received. Mr. Murphy responded he did not receive any requests for the meeting packet prior to the meeting.

Ms. Stansel said she still had concerns about the application due to the comments from homeowners. The committee discussed the section of the Floodplain Ordinance where other considerations can be cited for health and safety concerns. Mr. O'Leary encouraged the committee to make sure when applying other considerations that they are specifically related to the floodplain. Mr. O'Leary clarified this vote requires supermajority 5 out of 7. Mr. Danner inquired if the permit is not approved, and the Applicant wants to pursue an appeal, where it would go. Ms. Hudson confirmed any appeals from the Floodplain Committee decision by any person can be taken to the Board of Adjustment. Ms. Stansel said at least two members of the Board of Adjustment must be trained on floodplain regulations to hear the appeal and asked if that was available. Ms. Hudson said she believed there are two members trained but would verify. The committee voted to approve the application 4-2; however the motion failed because a super majority of the votes were not received. Mr. O'Leary advised the Applicant of the appeal process if they choose to appeal. Ms. Hudson said the process for Board of Adjustment will include notification of all property owners within 300 feet of the proposed location.

ADJOURNMENT

Mr. O'Leary called for a motion to adjourn. Mr. Danner motioned to adjourn and was seconded by Ms. Hoggatt. The motion was approved 6-0. The meeting adjourned at 4:31 p.m.

Passed and approved this _____ day of _____, 2023

City of Norman Floodplain Administrator, Shawn O'Leary



The City of
NORMAN

225 N. Webster
Norman, Oklahoma 73069

Item 1.

Item 4.

July 17, 2023

NextEra Energy Transmission Southwest, LLC
c/o Kim Austin
700 University Blvd.
Juno Beach, FL 33408

Re: Floodplain Permit Application #675

Dear Ms. Austin:

Floodplain Permit Application #675 was denied by the Floodplain Permit Committee by a vote of 4 for 2 against and 1 absent. The no votes indicated that not enough information was provided by the applicant to properly address the concerns of the property owners whom expressed concern with rights of access and potential negative impacts of installation of the transmission line. Per City of Norman Flood Hazard Ordinance 36-533:(f)2 referenced below, at least five (5) members of the committee are required to approve a floodplain permit application.

(f)Floodplain permit administration.

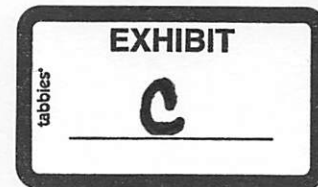
(2)Uses listed above requiring a floodplain permit may be allowed only upon issuance of a special permit by a super majority vote of five or more of the Floodplain Permit Committee composed of the Director of Planning and Community Development, the Director of Public Works, City Engineer, the Subdivision Development Manager, the Planning Services Manager and two citizens appointed by the Mayor with advice and consent of the Council. The citizen members of the Floodplain Permit Committee shall serve staggered three-year terms. All members shall have successfully completed the basic floodplain training offered by the State Water Resource Board or equivalent training or education, and at least one member shall be a Certified Floodplain Manager. The Floodplain Permit Committee shall meet on an as-needed basis the first and third Monday of each month and shall post public notice accordingly. Floodplain permit application forms shall be furnished by the Department of Public Works. Upon receiving an application for the special permit involving the use of fill, construction of structures, or storage of materials, the Committee shall, prior to rendering a decision thereon, obtain and study essential information and request technical advice as appropriate. Such information and technical advice becomes a part of the application and is retained with the application.

You may request a hearing from the City's Board of Adjustment to appeal this decision. Please contact the City's Planning and Community Development Department at (405) 366-5433

If you have further questions about the floodplain permit application or the City's Flood Hazard Ordinance, please contact City Public Works staff at (405) 366-5455.

Respectfully,

Shawn O Leary, P.E., C.F.M.
Director of Public Works – Floodplain Administrator



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44

cc: **Jane Hudson, Director of Planning and Development**
Scott Sturtz, City Engineer
Ken Danner, Subdivision Development Manager
Lora Hoggatt, Planning Services Manager
Bill Scanlon, Citizen Member
Sheri Stansel, Citizen Member
Jason Murphy, Stormwater Program Manager
Todd McLellan, Development Engineer



CITY OF NORMAN, OK
BOARD OF ADJUSTMENT MEETING
Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069
Wednesday, August 23, 2023 at 4:30 PM

MINUTES

The Board of Adjustment of the City of Norman, Cleveland County, Oklahoma, met in Regular Session in City Council Chambers of the Norman Municipal Complex, 201 West Gray Street, at 4:30 p.m., on Wednesday, July 26, 2023. Notice and agenda of said meeting were posted in the Municipal Building at the above address and at [Agendas/Minutes | City of Norman Oklahoma Meetings \(municodem meetings.com\)](#) in excess of 24 hours prior to the beginning of the meeting.

Chair Curtis McCarty called the meeting to order at 4:32 p.m.

ROLL CALL

PRESENT

- Brad Worster
- Micky Webb
- Ben Bigelow
- James Howard (arrived at 4:40 p.m.)
- Curtis McCarty

A quorum was present.

STAFF PRESENT

- Lora Hoggatt, Planning Services Manager
- Melissa Navarro, Planner II
- Roné Tromble, Admin. Tech. IV
- Beth Muckala, Assistant City Attorney
- Jason Murphy, Stormwater Program Manager
- Shawn O'Leary, Director of Public Works
- Todd McLellan, Development Engineer

MINUTES

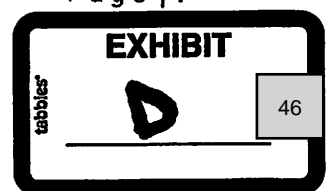
1. Consideration of Approval, Rejection, Amendment, and/or Postponement of the Minutes of the July 26, 2023 Board of Adjustment Meeting.

Motion made by Worster, seconded by Bigelow, to approve the Minutes of the July 26, 2023 Board of Adjustment meeting as presented.

Voting Yea: Worster, Webb, Bigelow, McCarty

The motion to adopt the July 26, 2023 Minutes as presented passed by a vote of 4-0.

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ACTION ITEMS

2. Consideration of Approval, Rejection, Amendment, and/or Postponement of BOA-2324-4: Jerry Mowdy and Mikal Eddlemon request a Special Exception to permit a mobile home to serve as a temporary second dwelling to relieve a medical hardship for property located at 6655 Alameda Street.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. Application with Attachments
4. Protest Map and Letter

PRESENTATION BY STAFF:

Mr. McCarty read a letter of support into the record that was received just prior to the meeting from Jeffery and Laura Blosser at 6610 Alameda Street.

Lora Hoggatt reviewed the staff report, a copy of which is filed with the minutes.

PRESENTATION BY THE APPLICANT:

Jerry Mowdy, 6655 Alameda Street, the applicant, provided comments regarding the allegations in the protest letter that was submitted. The mobile home will be a brand new mobile home.

AUDIENCE PARTICIPATION:

Jeffrey Mark Skiba, 6707 Alameda Street, lives next door to the applicant on the east. The Mowdys have been exemplary neighbors. They would not have any problem with the second mobile home. Over the past year Mr. Mowdy has had some health problems with his foot. It would be good for Mr. and Mrs. Mowdy to have their daughter living on the property.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Motion made by Worster, seconded by Bigelow, to approve BOA-2324-4 as presented.

Voting Yea: Worster, Bigelow, Howard, McCarty

Voting Nay: Webb

The motion to approve BOA-2324-4 as presented passed by a vote of 4-1.

Mr. McCarty noted that there is a 10-day appeal period before the decision is final.

*

3. Consideration of Approval, Rejection, Amendment, and/or Postponement of BOA-2324-5: Brenda Tommey Dean LLC Five requests a Variance to 36-514(c)(4) of 5' to the 50' lot width requirement, and a Variance to 36-544(e) of 6' to the 20' side setback, for property located at 820 S. Pickard Avenue.

ITEMS SUBMITTED FOR THE RECORD:

- 1. Location Map
- 2. Staff Report
- 3. Application with Attachments
- 4. Protest Map and Letter

PRESENTATION BY STAFF:

Lora Hoggatt reviewed the staff report, a copy of which is filed with the minutes.

PRESENTATION BY THE APPLICANT:

Michael Dean, 1128 Caddell Lane, the applicant, stated that the new buildings that are being proposed will be more in compliance than the existing buildings. It will be a single family home, replacing a single family home.

AUDIENCE PARTICIPATION:

Milton Castillo, 1002 McFarland Street, lives across the street from the property. He objects to the variance because they have trouble getting up and down the street. There are no sidewalks on the street, which is a dead end.

Rudy Castillo said the new construction will not be more in compliance than the existing house. The old house is not in compliance, but it's there and it's solid. The new house will be too close to the street on a too narrow lot.

Mr. Dean acknowledged that there may be a little more restricted access on McFarland, but there will be a garage with a driveway, which is not currently existing.

Ms. Castillo commented that there is currently a garage, but they don't use it.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Motion made by Worster, seconded by Howard, to approve BOA-2324-5 as presented.

Voting Yea: Worster, Webb, Bigelow, Howard, McCarty

The motion to approve BOA-2324-5 as presented passed by a vote of 5-0.

Mr. McCarty noted that there is a 10-day appeal period before the decision is final.

*

4. Consideration of Approval, Rejection, Amendment, and/or Postponement of BOA-2324-3: NextEra Energy Transmission Southwest, L.L.C. appeals the denial of a Floodplain Permit (Floodplain Permit Application No. 675) on July 17, 2023.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. NextEra Transmission Line Rejection Letter
4. 7-17-2023 Floodplain Permit Committee Meeting Minutes
5. Floodplain Permit Committee Staff Report
6. NEET SW Appeal Form
7. Board of Adjustment Appeal
8. Attachment 1 – NEET SW Supplement
9. Attachment 2 – July 17, 2023 Agenda Packet
10. Attachment 3 – OCC Final Order No. 733782
11. Attachment 4 – SPP 2020 ITP Recommendations
12. Protest Maps and Letters

PRESENTATION BY STAFF:

Lora Hoggatt reviewed the staff report, a copy of which is filed with the minutes.

Jason Murphy reviewed the Floodplain permit application process. The Committee entertained a motion to approve the permit application with the condition that the permit would not be released until the applicant provided proof that they had legal right to perform the work on the properties in the floodplain, i.e., that the lawsuits were settled between NextEra and individual property owners. The motion failed.

Mr. Bigelow asked why the appeal is coming to the Board of Adjustment rather than back to the Floodplain Permit Committee. Mr. Murphy responded that the ordinance says a decision can be appealed to the Board of Adjustment. Ms. Muckala further explained that appeals from administrative decisions are directly within the Board's purview. It is written in the Floodplain ordinance that appeals come to the Board, but that's because they're considered an administrative decision that would come to the Board anyway.

Mr. Bigelow asked if the Board can vote to send it back to the Floodplain Permit Committee. Ms. Muckala responded that is a request that has been made by the applicant, that if the Board opts not to vote on the substance, that it be sent back to them with instructions. That is an appellate mechanism that you typically see in a court when there is a written opinion issued with instructions. She has not seen it done by the Board; it is not specifically within the powers allotted to the Board, but the BOA, because it acts on motions, and under Robert's Rules they are drafting their own motions, could technically and theoretically make that motion.

Mr. Howard asked whether there was a record showing that NextEra had made the proper applications to other governing agencies, such as State and County. Mr. Murphy responded that question was brought up in the Floodplain Permit Committee, and the applicant indicated they had reached out to Fish and Wildlife and the Tribes, etc.

PRESENTATION BY THE APPLICANT:

Jim Roth, Phillips Murrah Law Firm in Oklahoma City, representing the applicant NextEra Energy Transmission Southwest, L.L.C., introduced the appeal and the project. They asked that the Board assess the application solely on its responsiveness to the specific requirements of the City of Norman's ordinance. They ask that the Board approve the application because NEET SW's application satisfied the requirements per the ordinance. The NEET SW team has provided detailed information, supported by extensive analyses, demonstrating that the transmission line is a suitable use in relation to the flood hazard. It will be built to industry standards to withstand floods, to not adversely affect the floodplain, and to meet the requirements of Norman's floodplain ordinance. In developing this application, the NEET SW team communicated with City staff, and are thankful for the original recommendation for approval at the committee meeting and for the four committee votes approving the project, which did constitute a majority, but not sufficient under the ordinance. Other jurisdictions along the route where floodplains are impacted, including Cleveland County and Newcastle, have already issued floodplain permits for the line.

When the Board of Adjustment hears appeals it must make its decision based upon the suitability of the proposed use in relation to the flood hazard (36-533(f)(7)). The Board of Adjustment has the power to reverse or affirm the decision below, wholly or in part, or to modify it, and otherwise can make such decisions as "ought to be made" in conformity with the City of Norman's zoning law and "to that end shall have the powers of an administrative official from whom the appeal is taken." (36-570(d)) This board is not required to give deference to the decision of the committee below.

The NEET SW team will further introduce you to the company, this project, the project's background, routing considerations, floodplain analyses undertaken, and minimal impacts of the project on the floodplain.

Nick Fuhr, NEET SW, introduced the company, the Southwest Power Pool (SPP) and their goals, the project from the Minco substation to the Draper substation, project benefits, and routing considerations.

Leon Staub, Burns McDonnell Engineering Company, Kansas City, Missouri, worked on the floodplain analysis for the transmission line. There were 7 different streams and rivers that had to be crossed. They use standard engineering procedures to quantify for risks. They also make sure the project is going to meet the City's ordinance for development in the floodplain. They must address compensatory storage, and they have to make sure the poles will remain in place. Part of the overall design is to address erosion and sediment control during construction, and to make sure that during a flood event the scour, by water moving around the poles, doesn't erode the foundation.

Jim Roth spoke regarding some of the benefits that will come with this transmission line. He asked that audience members who speak provide their name, address, and relation to the application.

Mr. Bigelow asked for more explanation of the compensatory storage. Mr. Staub explained further.

Mr. Howard asked about maintenance of the compensatory storage areas. Kim Austin, NextEra, responded that no maintenance is required for those areas. The scour analysis determines how the pole has to be specifically put in the foundation to keep scour from causing any additional removal or deposition.

Mr. Bigelow asked the reason for the funny jog in the alignment at 48th and Franklin. Mr. McCarty said that is where the OG&E substation is going in.

AUDIENCE PARTICIPATION:

Sean Rieger, 136 Thompson Drive, is representing many property owners. The letter sent to NextEra by City staff said "The no votes indicated that not enough information was provided by the applicant to properly address the concerns of the property owners whom expressed concern" about various functions. NextEra applied for one permit to do work in all of the flood plains across all of the properties; nothing property specific, nothing soil specific, nothing water flow specific, velocity specific, contour specific. What they've told the City is not what they've told the Court or the property owners. They said the spoils from excavation will be spread in upland areas outside the floodplain, but they have not negotiated that with any of his clients. They told the Courts that they're going to take the property for the construction and installation of "transformers, overhead and underground electrical transmission lines, interconnection facilities, guys, anchors, wires, towers ... and other structures." They also said "The width of the Easement shall not exceed 150 feet in width except in the area of appurtenances (e.g. guy wires), in which case the easement area may be extended up to an additional 50 feet". They only applied for 150 feet but they're going to put guy wires and other facilities beyond the 150 feet. To the Courts they said "the right of vehicular and pedestrian ingress and egress over, across and along the property". Property is a defined term of the entire property. And "routes as shown on the easement tract". They go on and say the "construction and installation of the facilities and the storage of material and equipment during construction of the facilities." Then they say they're going to put in access gates. I've sat in front of the Flood Committee before when they've said that if you're going to put any kind of a fence, you better have a swing gate and significant provisions for that. So which is it? What did they apply for? They tell you they're doing three things. In Court they tell the Court they're going to do a whole host of things. And it's absolutely going to obstruct flood water, absolutely going to obstruct the flow of water through this area. The Floodplain Committee was right in denying this, because they didn't have enough information. NextEra's documents even say that all of their work is preliminary, it's not for construction, not a final sealed document. They don't know what they're building yet. They are way premature in their efforts to do this. They've made a representation that they own all of these properties or have title to them or have ownership rights of some kind to them. That is false. There are multiple properties here, and condemnation is a very specific thing, but you don't actually gain all of those rights. You don't have standing until you have reached a particular point in the process of condemnation. Some of these tracts they have, but not all of them. They have left out significant information across the board on this application. Deny the permit; it's premature. Wait until they have all the properties at the right time, at the right procedure, and then come back to us with real information on what they're going to do on these properties. How are they going to put an access gate up that doesn't flood my client's property when the rain waters come? How are they going to put guy wires out there that don't affect the flood waters when the trees come down with the flood? We request that you deny their permit.

Jake Calvert, 4100 48th Avenue N.W., asked if anybody on the Board resides in the areas affected? Has anybody on the Board walked a hay field in rubber boots with a shovel so that water will drain? You can imagine my amusement at an engineering firm out of Kansas City telling me how water runs across my place. A half inch rise in that particular area changes everything. To remove the spoils from the hole is about a 1600 foot trek across an area that is not in their easement to get those spoils back onto my land upland out of the floodplain. This is an SPP approved project, and there is no doubt in my mind that we cannot stop this. What we want is to make sure that we are left whole when the process is over. Per the contract they presented, there will be future leases and sublets. If you talk to the attorneys, we don't have any plans for that now but that temporary road becomes very permanent when you add 5 or 6 telecommunication companies as underbuild, as well as an OG&E underbuild, and whatever else they see fit to lease their poles to. That road changes the water on my place. Fortunately for them, I don't farm hay anymore, but my cows don't like wearing floaties, either. We ask that you postpone this permit until we have a chance to negotiate and settle with them so that we can be made whole on this process.

Don Wilkerson, 4200 E. Indian Hills Road. The engineer said that the poles will be at the edge of the floodplain where at most there will be 1' of water. I have pictures to show you 3 times in the last 20 years that water down there has been 7' deep. They say this is for power lines. In the document I got to go to the Courts, they talk more about the oil lines, gas lines, pipelines, and so forth, so at some point they have plans for doing something else that goes along with those subleases. The engineering reports are not correct.

Richard McKown, 4409 Cannon Drive, representing Raven Investments and West Franklin Sod Farm. I've got a lot of experience working with water, particularly in Norman. I'd like to start off by talking about the issue around vertical rise. It's not really about the displacement by each pole that's being installed; it's really about the clear-cutting of the trees. The land that Raven Investments has represents the mile between Robinson Street to Rock Creek Road between 48th and 60th and West Franklin Sod has another ¼ mile further to the north all along the stream channel that was channelized in the 1940s. There are mature cottonwood trees all along that route that do multiple things. A tree that size will evapotranspire about 40,000 gallons of water a year. There are probably more than 1,000 trees along 10 Mile Flats. Grass really can't evapotranspire much and it can't do much to slow the flow of water down. Once all of this gets transformed, the concentration and vertical rise at Robinson Street is going to be tremendous, and it's really hard to calculate.

David Box, 522 Colcord Drive, represents OG&E across the state. They condemned approximately 786 miles of transmission line from 2007 to present. NextEra is not telling us what's really happening here. I can't imagine any company as sophisticated as NextEra would come before a committee without physical and legal access rights to the tracts that they're seeking permits for. They have absolutely no rights whatsoever to the Raven Investments property. Through the Court process there is a point in time when you have those rights. They have no rights on his clients' property to seek any permit. I don't know what standing they have to be here on the appeal for any tracts for which they don't have legal access rights. This Board of Adjustment needs to defer this, perhaps indefinitely, until they actually have all the access rights needed to submit for a permit.

Robert Gum, 406 N. Gregory Rd., Tuttle, represents about 20 families on this line. I support what Sean and David have said. I think everyone assumes this is a fait accompli, that it's going to go through. We have challenges filed in the Court that haven't been heard yet to challenge the right of this company to take this by condemnation because they haven't met the precondition of fair and reasonable negotiation prior to the time they tried to take it by condemnation.

Jim Roth thanked the citizens that took time to appear. Sadly, three citizens spoke and you heard as many attorneys. I share that with you because the distinction happening with this floodplain permit is that people in District Court are attempting to contaminate this administrative request with their litigation. We are not doing that. In fact, NextEra has separated those issues so significantly that their condemnation issues in District Court are handled by another attorney, Mark Banner, who is here if you have questions for him. I regret that Mr. Rieger didn't describe the parcels at issue within the quotes that he was comparing the differences, but I want to clarify that, since it felt like we were accused of lying to this Board of Adjustment and we certainly are not. Secondly, we are only seeking what the permit application seeks of you. The allegations of what District Court is contested over is not what we're asking for, nor what we could do legally if we were to obtain your permit. It is those limited purposes. Thirdly, access rights was a condition that the committee had suggested, which we have agreed to, and even added in our appeal to you. We are not asking to go on any private land without permission. We wouldn't do that. I wanted to clarify that point. Also, your ordinance does not require easement in hand before seeking administrative approval to get the permit required ultimately of the project, which is why Cleveland County granted the flood permit, and Newcastle, while there are also condemnation actions within those jurisdictions. Those points I think are important.

Mr. Howard asked for verification on statements made regarding our ordinance and having the easements in hand before or after. Ms. Muckala stated that we expect an applicant to have a legal right to execute the actions with which they are requesting that permit. Before action could be taken on a floodplain permit that was granted, they would have to have it, which is why at the floodplain level it is not uncommon, and it has happened before on other applications, that our Floodplain Permit Committee has conditioned their approval upon the obtaining of proof of that legal access and that legal right. There is a point in eminent domain where you get to move forward with the project even though there may be some legal issues outstanding in the case. That point is the earlier of two things: either a filed journal entry of judgment that completely concludes that case; or a commissioner's report that has been taken from the Court records and then filed in the County land records. With regard to an easement in hand, without the legal right to enter the property, they would not be able to act upon any permit that is given in a legal manner.

Mr. Bigelow asked if the Board's decision would have any impact on the other proceedings; would it give an advantage to one side or the other. Ms. Muckala responded that the proceedings here are entirely separate from the proceedings in District Court. Here today we're referencing the floodplain ordinance in particular which, outside of making sure that they do have the legal right to execute their plans within the floodplain, actually doesn't enter onto the concerns regarding just compensation or any of those matters addressed there.

Mr. Bigelow asked about Mr. Rieger's questions of good faith, whether we have been presented with all of the information as a Board. Ms. Muckala responded that to some extent we do accept all applications on the basis of good faith. There are requirements in the condemnation action to engage in good faith negotiations prior to completing that. That's an issue for the eminent domain that they're addressing. The other part about presenting different facts to Floodplain versus the Court, you are only giving permission for literally what is in this floodplain permit application. If they want to do more, you're not saying yes to that; you're only saying yes or no to whatever is in that application. If they want to do something later, they would have to come seek that separate permission later.

Mr. McCarty asked, in choosing the path of the lines, why not look at less habitable area, like Western and 60th all the way to Indian Hills, potentially where there could be a turnpike some day, versus adversely affecting all these landowners. Kim Austin responded routing is hundreds, thousands of different constraints that they're up against: distances, existing utilities (underground, above, overhead), numerous land ownerships and jurisdictions. They try to find a route that is the least impactful path between Point A and Point B. We try to avoid impact to the greatest extent possible across all of these constraints. Where can we find ways to minimize the impacts? And for those impacts that could not be avoided or minimized, how do we mitigate for those impacts? Is that mitigation through various things for the environment, or for landowners, or further negotiations? When we shift the line in routing, it's not as easy as just shifting a pole; every time you make an angle change or a turn, that complicates the engineering behind the pole structure. We try very hard to keep it as linear as we can for the shortest route.

Mr. Bigelow asked what happens if the Board says no. Ms. Muckala responded that our ordinance provides that any decision of the Board can be appealed to District Court.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Motion made by Howard, seconded by Worster, to approve the appeal in BOA-2324-3 as presented.

Mr. Worster commented that this application is somewhat unique for the Board. From the right of ownership perspective, if they don't get one they can't build it. They can't starting building it until they have all of the easements.

Voting Yea: Worster, Howard

Voting Nay: Webb, Bigelow, McCarty

The motion to approve the appeal as presented failed by a vote of 2-3.

Mr. McCarty noted that there is a 10-day appeal period before the decision is final.

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RECESS 6:05 to 6:12 p.m.

Mr. McCarty asked to be allowed to recuse for Item 5, BOA-2324-1, and Item 6, BOA-2324-2.

Motion made by Howard, seconded by Bigelow, to allow Mr. McCarty to recuse for BOA-2324-1 and BOA-2324-2.

Voting Yea: Worster, Webb, Bigelow, Howard, McCarty

The motion to allow Mr. McCarty to recused passed by a vote of 5-0.

Mr. McCarty vacated his seat.

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5. Consideration of Approval, Rejection, Amendment, and/or Postponement of BOA-2324-1: Rhonda and David Hermanski request a Variance to 36-514(c)(2)(c) of 4'5" on the west edge of the garage, tapering to 1/2" on the east edge of the garage door, for property located at 2023 Ithaca Drive.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. Application with Attachments
4. Protest Maps and Letters

PRESENTATION BY STAFF:

Melissa Navarro reviewed the staff report, a copy of which is filed with the minutes.

PRESENTATION BY THE APPLICANT:

Curtis McCarty, C.A. McCarty Construction at 717 26th Avenue N.W., presented the project. The subject lot in Section 4 of Hallbrooke Addition shows a platted 15' building line on the north along Burning Tree. The property to the east has a platted 20' building line on the north. The lot is pretty heavily wooded. The protest letters indicate the house is too big for the lot. The house is 2,600 sq. ft., single story, average size for the community. Houses adjacent, both north and east, are both larger in square footage than the one proposed. The lot is 10,794 sq. ft.; the coverage with house and impervious surface area is 44.19%. Mr. Hermanski wanted the house to be architecturally pleasing to both street frontages. He wants to leave as many trees as possible, and the back yard view is important to them.

Mr. Bigelow asked if the garage door extends in front of the storage area in the garage. Mr. McCarty said it does, and the concrete area beyond the garage door is all in compliance.

David Hermanski, currently residing in Dallas, but future resident at 2023 Ithaca Drive. He is from Enid and his wife is from Tulsa; they met at OU. Both of their kids also graduated from OU. They both have elderly parents in Oklahoma, so they are moving back to retire. They are building on a corner lot and it's very important to them that the driveway side on Burning Tree looks like a front elevation from an architectural perspective, with brick and stone. He wanted to be able to meet any neighbors that might be protesting.

Mr. Bigelow asked what kind of cars they drive. Mr. Hermanski responded he drives a Tundra and his wife drives a Mini, so she will be on the short side. They have a dog and walk the neighborhood and use the sidewalks. He doesn't want his neighbors parking across the sidewalk. They won't do that, and keep the cars in the garage.

AUDIENCE PARTICIPATION:

Steve Ingels, 2020 Hallbrooke Drive, lives on the corner of Hallbrooke Drive and Burning Tree just to the east of the Hermanski property. It looks like it will be a nice house, and he thinks he would enjoy having them as neighbors. He was really unclear about what was being proposed, and the distinction between setback lines and building lines. His concern was that there be more room for trees on the street side of the house, and that there not be parking across the sidewalk.

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Motion made by Webb, seconded by Worster, to approve BOA-2324-1 as presented.

Voting Yea: Worster, Webb, Bigelow, Howard

The motion to approve BOA-2324-1 as presented passed by a vote of 4-0.

Mr. Howard noted that there is a 10-day appeal period before the decision is final.

*

- 6. Consideration of Approval, Rejection, Amendment, and/or Postponement of BOA-2324-2: Heather and Mike Beckham request a Variance to 36-514(c)(1) of 5' to the 25' front yard setback for property located at 4415 Bellingham Lane.

ITEMS SUBMITTED FOR THE RECORD:

- 1. Location Map
- 2. Staff Report
- 3. Application with Attachments

PRESENTATION BY STAFF:

Melissa Navarro reviewed the staff report, a copy of which is filed with the minutes.

PRESENTATION BY THE APPLICANT:

Curtis McCarty, C.A. McCarty Construction at 717 26th Avenue N.W., presented the project. This is a corner lot, with a funny shape. The house will be facing the corner (west). They either can't meet the front yard setback or they can't meet the rear yard setback. The house is within the building lines. The driveway meets all the requirements. They are just asking for a variance to the front yard setback from 25' to 20'.

Mr. Bigelow asked if they had to get approval from the HOA. Mr. McCarty responded that they approved it.

AUDIENCE PARTICIPATION: None

DISCUSSION AND ACTION BY THE BOARD OF ADJUSTMENT:

Motion made by Webb, seconded by Bigelow, to approve BOA-2324-2 as presented.

Voting Yea: Worster, Webb, Bigelow, Howard

The motion to approve BOA-2324-2 as presented passed by a vote of 4-0.

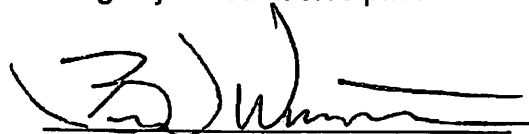
Mr. Howard noted that there is a 10-day appeal period before the decision is final.

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MISCELLANEOUS COMMENTS - None

ADJOURNMENT

There being no further business and no objection, the meeting adjourned at 6:36 p.m.



Secretary, Board of Adjustment



City of Norman

Floodplain Permit Application

Floodplain Permit No. 684

Building Permit No. _____

Date 1/2/2024

FLOODPLAIN PERMIT APPLICATION (\$100.00 Application Fee Required)

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Occupancy is issued.
5. The permit will expire if no work is commenced within 2 years of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements and must be included with this floodplain permit application.
7. Applicant hereby gives consent to the City of Norman or his/her representative to access the property to make reasonable inspections required to verify compliance.
8. The following floodplain modifications require approval by the City Council:
 - (a) A modification of the floodplain that results in a change of ten percent (10%) or more in the width of the floodplain.
 - (b) The construction of a pond with a water surface area of 5 acres or more.
 - (c) Any modifications of the stream banks or flow line within the area that would be regulatory floodway whether or not that channel has a regulatory floodplain, unless the work is being done by the City of Norman staff as part of a routine maintenance activity.
9. All supporting documentation required by this application is required along with the permit fee by the submittal deadline. Late or incomplete applications will not be accepted.
10. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT.)

APPLICANT: NextEra Energy Transmission Southwest, LLC ADDRESS: 700 University Blvd, Juno Beach FL 33408

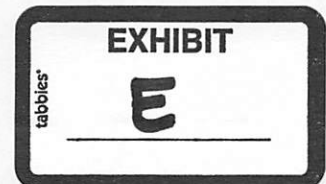
TELEPHONE: 561-427-4308 SIGNATURE: [Signature]
Natalie F. Smith, Assistant Vice President

BUILDER: Brink Constructors, Inc. ADDRESS: 2950 N Plaza Drive, Rapid City, South Dakota 57702

TELEPHONE: 605-342-6966 SIGNATURE: [Signature]
Paul L. Lennox, Senior Project Manager

ENGINEER: Burns & McDonnell Engineering Co., Inc. c/o Jacob Clouse ADDRESS: 9400 Ward Parkway, Kansas City, MO 64114

TELEPHONE: 816-780-2408 SIGNATURE: [Signature]



C. ATTACHMENTS WHICH ARE REQUIRED WITH EVERY APPLICATION:

The applicant must submit the documents listed below before the application can be processed. If the requested document is not relevant to the project scope, please check the Not Applicable box and provide explanation.

- A. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel, floodway, and the regulatory flood-protection elevation.
- B. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high-water information.

Not Applicable:
See attached plan and profile.

- C. Subdivision or other development plans (If the subdivision or other developments exceeds 50 lots or 5 acres, whichever is the lesser, the applicant **must** provide 100-year flood elevations if they are not otherwise available).

Not Applicable:
Project does not involve a subdivision or other development.

- D. Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream, soil types and other pertinent information.

Not Applicable:
See attached plan and profile.

- E. A profile showing the slope of the bottom of the channel or flow line of the stream.

Not Applicable:
See attached plan and profile.

- F. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.

Not Applicable:
No occupiable structures are proposed as part of this project.

- G. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

Not Applicable:
No watercourse or natural drainage will be altered or relocated as a result of this project.

- H. For proposed development within any flood hazard area (except for those areas designated as regulatory floodways), certification that a rise of no more than five hundredths of a foot (0.05') will occur on any adjacent property in the base flood elevation as a result of the proposed work. For proposed development within a designated regulatory floodway, certification of no increase in flood levels within the community during the occurrence of the base flood discharge as a result of the proposed work. All certifications shall be signed and sealed by a Registered Professional Engineer licensed to practice in the State of Oklahoma.
- I. A certified list of names and addresses of all record property owners within a three hundred fifty (350) foot radius of the exterior boundary of the subject property not to exceed 100 feet laterally from the Special Flood Hazard Area. The radius to be extended by increments of one hundred (100) linear feet until the list of property owners includes not less than fifteen (15) individual property owners of separate parcels or until a maximum radius of one thousand (1,000) feet has been reached.
- J. A copy of all other applicable local, state, and federal permits (i.e. U.S. Army Corps of Engineers 404 permit, etc).

After completing SECTION 2, APPLICANT should submit form to Permit Staff for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by Permit Staff.)

The proposed development is located on FIRM Panel No.: X, Dated: _____

The Proposed Development:

Is NOT located in a Special Flood Hazard Area
(Notify the applicant that the application review is complete and NO FLOODPLAIN PERMIT IS REQUIRED).

Is located in a Special Flood Hazard Area.

The proposed development is located in a floodway.

100-Year flood elevation at the site is _____ Ft. NGVD (MSL) Unavailable

See Section 4 for additional instructions.

SIGNED: [Signature] DATE: 12/14/2023

** see attachment 3 of application for each pole location and respective floodplain information*

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by Permit Staff.)

The applicant must also submit the documents checked below before the application can be processed.

- Flood proofing protection level (non-residential only) _____ Ft. NGVD (MSL). For flood proofed structures applicant must attach certification from registered engineer.
- Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the 100-year flood (Base Flood Elevation). A copy of all data and calculations supporting this finding must also be submitted.
- Certification from a registered engineer that the proposed activity in a regulatory flood plain will result in an increase of no more than 0.05 feet in the height of the 100-year flood (Base Flood Elevation). A copy of all data and calculations supporting this finding must also be submitted.
- All other applicable federal, state, and local permits have been obtained.

Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by Floodplain Chairman.)

The proposed activity: (A) **Is**; (B) **Is Not** in conformance with provisions of Norman's City Code Chapter 22, Section 429.1. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED: _____ DATE: _____

If BOX A is checked, the Floodplain committee chairman may issue a Floodplain Permit.

If BOX B is checked, the Floodplain committee chairman will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Floodplain committee or may request a hearing from the Board of Adjustment.

APPEALS: Appealed to Board of Adjustment: Yes No
Hearing date: _____

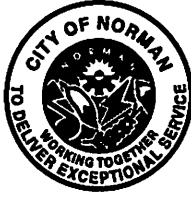
Board of Adjustment Decision - Approved: Yes No

Conditions:

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Occupancy is issued.)

1. FEMA Elevation Certificate
and/or
2. FEMA Floodproofing Certificate

NOTE: The completed certificate will be reviewed by staff for completeness and accuracy. If any deficiencies are found it will be returned to the applicant for revision. A Certificate of Occupancy for the structure will not be issued until an Elevation and /or Floodproofing Certificate has been accepted by the City.



CITY OF NORMAN, OK

FLOODPLAIN PERMIT COMMITTEE MEETING

Development Center, Conference Room B, 225 N. Webster Avenue,
Norman, OK 73069

Tuesday, January 2, 2024 at 3:30 PM

MINUTES

ROLL CALL

The meeting was called to order by Mr. Sturtz at 3:31 p.m. Roll was called and all members were present. Others in attendance included, Beth Muckala, Assistant City Attorney; Todd McLellan, Development Engineer; Jason Murphy, Stormwater Program Manager; Kim Freeman, Staff; Jim Roth, Phillips Murrah; James Greer, Resident; Amanda Carpenter, Williams, Box, Forshee & Bullard; Peter Cocotos, NEE; Kara Wry, BMcD; Megan Carlin, BMcD; Brian Roh, BMcD; Leon Staab, BMcD; Aaron Tiff, Hall Estill; Russ Lloyd, NEET; Manty ReveVolln, NEET; Jackie Blakley, NextEra; Nick Fuhr, NextEra; Richard McKown, Carrington, LLC; Gale Earles, Resident; Eric Davis, Phillips Murrah; Jacob Clouse, BMcD; Kim Austin, NEE; Scott Bethel, Resident.

MINUTES

1. Approval of minutes from the November 6, 2023 meeting

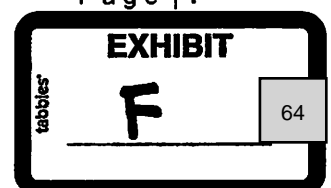
Mr. Sturtz called for a motion to approve the minutes from the meeting of November 6, 2023. The motion was made by Ms. Stansel and seconded by Mr. Scanlon. The minutes were approved 7-0.

ACTION ITEMS

2. Floodplain Permit No. 684

Mr. Sturtz said the Application is for proposed installation of an electrical transmission line across Norman through the Canadian River, Ten-Mile Flat Creek and Little River floodplains. Mr. Sturtz asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant for Permit 684 is NextEra Energy Transmission Southwest, LLC and the Engineer is Burns and McDonnell Engineering and the proposed Builder is Brink Constructors, Inc. The permit application is for the proposed construction of an overhead electric transmission line. The proposed alignment will begin at the west boundary of the City approx. 0.50 mile south of W. Robinson St. and extend to the north boundary exiting a little east of 48th Ave. NE. A total of 35 overhead electric transmission line pole structures are proposed to be constructed in the flood zone with this project. The pole type and the foundation types vary by location, soil types and different conditions. In addition to the pole structure installation, tree clearing within the 150-foot right-of-way along with temporary access road construction consisting of drive and crushed rock access roads and installation of crane mats as necessary. For all of this work, sediment controls will be installed as needed.

For the 35 poles being installed, 2 of the poles will be in the regulatory floodway of the Canadian River and the other 33 poles will be in the floodplains of Ten-Mile Flat Creek and the Little River and its Tributaries. The applicant has submitted hydraulic analyses using HEC-RAS modeling for each of the locations. For the 2 poles in the Canadian River floodway, the report from



February 28, 2023, states that there will be no rise in the BFE as a result of the installation of those 2 poles. The hydraulic analysis report for the remaining 33 poles was submitted in the HEC-RAS model dated April 21, 2023. 17 of those are in the Ten-Mile Flat Creek floodplain and will cause no rise in the BFE. The remaining 16 are in the Little River floodplain or its tributaries. 2 of the poles in the Little River floodplain will cause a rise of 0.01 feet in the BFE, the others will cause no rise.

Mr. Murphy reviewed documents submitted and aerial maps of the project locations provided to members in their packets. Mr. Murphy confirmed all ordinance requirements have been met.

Mr. Murphy said a similar application was submitted and denied by the committee on the basis of concerns related to right of access to private property. With this application, the Applicant submitted additional information related to those concerns and the City Legal Team is here to speak to those points. Mr. Murphy turned it over to Ms. Muckala, Assistant City Attorney with the City of Norman. Ms. Muckala said because of similar applications that raised access relating to ownership and eminent domain issues, she was asked to look specifically at all of the properties that were identified within the Floodplain Permit Application. She was asked to analyze the status of the ownership and the status of those eminent domain cases and determine if there was unqualified or unfettered access in NextEra's hands at this time. Ms. Muckala said NextEra in their application provided a lot of that information and she received some additional information providing PIN and OK-CLE numbers so that we could accurately identify each individual parcel. There are 37 total parcels, and of those, she found that 23 are at a stage where NextEra has unqualified access, meaning ready access right now. Ms. Muckala said the list has been provided to Mr. Murphy and will be added to the official file. Ms. Muckala discussed with the committee the documents reviewed and verified to determine unqualified access at this time. Ms. Muckala said we are confident there's access to 23 parcels based on either easement by agreement or litigations that have essentially concluded for the purposes of access. Ms. Muckala indicated there are 14 parcels that are not quite to the same point, which could lead in the future to a loss of access by NextEra under the law. Ms. Muckala said the Legal Team is not comfortable recommending that we grant an unqualified permit to these properties under the circumstances so the properties have been separated out as qualified properties. In the future, once the litigations move to a more mature status, they will eventually likely gain that access. Ms. Muckala said on the record, the Modified Staff Recommendation is listed incorrectly and will be corrected in the official documents. Ms. Muckala said City Staff proposes, including her own recommendations- 23 identified parcels with present and unqualified access, City Staff recommends approval as Permit #684. With respect to the 14 identified parcels where NextEra access is still qualified, City Staff recommends approval of a separate permit, Permit #685, subject to the following conditions- (a) The permit shall only become active for NextEra's utilization upon NextEra establishing to the satisfaction of City Staff, including Legal Staff, that its right of access is no longer qualified by outstanding legal impediments or other objections. This proof of access may be established parcel-by-parcel; and (b) If NextEra should be found to have entered any of these parcels for the purposes of this permit without first having established an unqualified right of access in an agreed-upon manner, Permit #685 (and other wise identified as a separate permit within other administrative City systems) shall be subject to immediate revocation at the discretion of the Chair of the Floodplain Permit Committee.

Ms. Muckala said if this is what the committee wants to recommend, a motion needs to be made based on the City Attorney's recommendations as were read into the record.

Mr. Sturtz asked for comments from NextEra or their representatives. Jim Roth, attorney with Phillips Murrah on behalf of NextEra Energy Transmission Southwest, LLC's Floodplain Permit

Application, said NEET Southwest previously submitted a Floodplain Permit application which this committee heard on July 17, 2023. The previous application was recommended for approval by City of Norman Staff but there were some concerns primarily regarding access and possession of certain affected properties. Since the prior meeting, circumstances surrounding these properties have substantially changed. In particular, NEET Southwest has now obtained easements for private and public land owners on all parcels within floodplains within the City of Norman. With the acquisitions of the easements, NEET Southwest has legal right to access the land. As recommended by the City Attorney's Office, documentation of these easements are included as attachments 6 in the application within the packet. Mr. Roth said we are respectfully requesting approval of this application as described as it's satisfied the requirements of the Norman Flood Hazard District Ordinance. Nick Fuhr, NEET Southwest Project Director, provided background information regarding the project and presented on the documents included in the application.

Mr. Sturtz asked the committee for any comments or questions. Mr. Scanlon made a comment that several of the citizens' concerns last time had to do with wildlife and tribal issues, and appreciated NextEra's specificity in talking about the redemptive measures and would like to see the report given to the City along with any comments from the Tribes. Mr. Scanlon asked about the 23 parcels and will there be access whether it's based on a paid easement or threat of eminent domain. Mr. Roth confirmed those 23 are settled. Mr. Scanlon also asked if he could elaborate a little more on the issues with the 14 and where they are in terms of negotiation. Aaron Tift, Hall Estill, said of those 14, 10 have currently reached an agreement in principal and anticipate those being closed in the next couple of weeks. The other 4, have at least reached an agreement as to money. 3 of those, filed an exception or objection to our report and their sole argument is that NextEra should be required to obtain a floodplain permit before having access. One other parcel has an objection they are hopeful to reach a negotiated settlement with. Mr. Roth said they would then come back to the City and provide that proof. Ms. Muckala added that she'll be looking for either a statement that's pretty unequivocal from the actual property owner of record or something filed in court showing unequivocally that it's done. Ms. Hudson asked for clarification on permit 685 and Ms. Muckala said it's an administrative designation. Mr. Scanlon asked about open meetings and the announcement of 684 and addressing 685. Ms. Muckala said we are addressing application 684 and it's an administrative suggestion that we divide into a separate permit to treat it administratively. Ms. Stansel asked if there was already a permit 685 and Mr. Sturtz said no.

Mr. Sturtz asked for public comments or questions. Amanda Carpenter, Williams, Box, Forshee & Bullard, said there is currently a pending appeal of this specific application. The application being heard today is the same exact application as was heard by the committee and denied and appealed to the Board of Adjustment and also denied and appealed by NextEra to the district court. The matter is pending appeal and has not been dismissed. There are 10 parties that are admitted into that litigation as property owners and are on the list of 23 and 14. Those parties that have a pending appeal should be on your list of 14. Specifically asking that Raven Investments be moved to the list of 14. Ms. Carpenter discussed the easements in negotiation. Ms. Carpenter asked for the committee to not consider and table this matter because it is already in pending litigation before the district court. She also asked that the 10 interveners in the pending litigation be moved from the list of 23 to the list of 14 to require specific approval as was discussed today.

Mr. Sturtz asked staff to respond regarding the application. Ms. Muckala said this application was presented with litigation at very different stages than it was previously and NextEra presented additional information regarding the status of ownership and easements,

environmental work and discussion with tribes. This was submitted and accepted as a separate application. It is going through the system as a separate application through the City of Norman. Any outcome of this application is subject to the same appeal rights as any others. It can be appealed to the BOA and the district court. As for the other recommendations, if the committee wants to consider any of their requests to move lists around, it should be made clear on the record what is what. Ms. Carpenter said the language of the application that was submitted with the public record does appear to be the same. Ms. Carpenter said she brought the one from July and it does appear to be the exact same. We would ask if you're going to move forward and not honor our request to be moved from one list to the other, that you specifically state the substantial differences in the application.

James Greer, resident, said the first problem I have with the application is, we've never been allowed to tie properties together using GPS. You can't cross 3 basins with BFE's and tie those together. The second thing is, has anybody looked at this data from the survey for cross sections for bringing the data back to the floodplain. There's no way this data could have been done from the office and get these numbers.

Richard McKown, Carrington, LLC, stated that this transmission line is going to take out all the trees that have grown up over the past 60-70 years over the channelized creek. The vegetation is being removed and all of these things really matter in terms of having a floodplain that functions. I would like you to deny the permit.

Kara Wry, BMcD, reviewed to maps in the committee's packet showing the tree clearing. Ms. Wry said one of the things that we looked at in the routing was tree clearing and trying to minimize tree clearing where we could.

Mr. Scanlon asked for clarification on a comment made about an agreement for tree replacement. Mr. Tiff, said in general there are clearance requirements for the power line. Mr. Tiff said he's not sure of what conversations took place, they didn't take place with me I don't believe with regard to any such agreement, but if you have any more information I'm happy to get back to you. Ms. Carpenter said they made agreements with some property owners to change the terms of their easement and that has not been done with Raven Investments and Franklin Business Park. Aaron Tiff, said if a landowner requests specific items in the agreement, we employ the services of the engineers to investigate whether or not that is workable.

Ms. Hudson, asked for clarification on one of the maps and the tree clearing indicated. Kim Austin, NEE, said access is also driven by landowners so we try to utilize existing access to the extent possible. Mr. Tiff and Mr. Fuhr went into further detail regarding how easements and access are determined.

Mr. Sturtz said he'd like to direct everyone back to the reason why we are here. Mr. Sturtz said he is not here to arbitrate and to fix land owner deals and easements and right of way discussions. Nowhere in our floodplain ordinance does it say that's part of a floodplain permit application. We try to do what we think is best to protect all parties by restricting permit application approval on those that our legal office has found are not currently totally resolved. Ms. Muckala said she wanted to make a comment on the request to move owners between lists. Ms. Muckala said the lists are of her creation based strictly on her review of the ownership status. Moving one from the list of 23 to the list of 14 really doesn't change anything. Ms. Muckala said she has already looked at them and established for legal purposes the access is there. It doesn't mean you can't consider their request, I'm just saying that if you wanted to consider that, you would need to do it another way to address their concerns. Mr. Roth said they concur with the

Municipal Counselor's decision and think it's fair that this committee would consider a qualified permit which actually strengthens those 14 land owners' hands in negotiation.

Ms. Carpenter asked the Chairman to consider a permit 686 with the 10 property owners who are subject to the current litigation that is pending on the first permit.

Mr. Scanlon asked why we should consider this at all with pending litigation.

Ms. Hoggatt asked what the radius is for tree clearance. Ms. Austin said its 150 feet wide. Ms. Hudson asked if the trees in the area were tall enough to fall on the lines. Ms. Austin said yes, there are some trees out there that are tall enough they would fall on the line. Ms. Hoggatt asked how tall the line is. Jacob Clouse, BMcD, responded the minimum ground clearance is 25 feet. Ms. Hoggatt asked about revegetation. Ms. Wry responded it's typically a native seed mix but it depends on what's there.

Mr. Sturtz asked for comments from the committee. Mr. Scanlon asked how 686 would be worded. Ms. Muckala said Ms. Carpenter would need to identify these 10 so they could be taken out of these respective lists and create a 3rd list. That can be done if the committee wishes to do that but we would need to know what's the nature of this permit. Ms. Carpenter said she happy to provide suggestive language if you all would like to give us the time to do that. Ms. Muckala said the reason Raven is on the 23 parcel list is because there were no objections except to the amount filed in the court and so legally there appears there has been an acquisition and how does 686 treated like 685 would be different for Raven. Ms. Carpenter said Raven Investments did file litigation and there is pending litigation in state court specifically related to this floodplain and the interest that Raven Investments has. Ms. Carpenter said the legal rights that we would have had the opportunity to present to the state court who would have jurisdiction of this matter, that is being taken away from us by you presenting a new application. Specifically, we would ask to be put on a separate list in order to address the legal rights that we have as part of that appeal. Ms. Muckala said at this point we need committee discussion to determine if that is a direction that the majority of the committee wishes to go in. Mr. Tiff said he does not believe Ms. Carpenter represents all or the majority of these 14. We have reached agreements in principal with many of those and they are not here, I don't believe, making objection and I don't believe Ms. Carpenter represents them and to the extent she's seeking some relief. These are folks we've already reached agreements with and we're working to get documents together to finalize those. We do not think it would be proper to move them to separate list given the circumstances. Ms. Carpenter said she represents Raven Investments, move them to a separate list please.

Mr. Scanlon said can we table this, I'll make a motion. Ms. Muckala said she'd like to make an overarching point, today we are not granting any land rights, if there are pending issues in court, if they don't actually have the legal access they say they have, there's nothing about this permit that actually gives them that legal right. If my legal review was wrong and I made a mistake about who should be included on which list, they would still have the legal right to protest and keep them off their property if they don't in fact have legal access. If we were to move Raven, whom appears to be legally concluded in court, to the other list, I'm not sure what that would entail but we would need to have support to create a separate application for them and know the terms.

Ms. Hoggatt asked if this is something we typically consider with a floodplain permit. Mr. Roth said the answer is no. It's rather unprecedented from our experience. We are here because this committee last July, raised concerns about access and so this is an application before you attempting to honor that sensitivity. We agree with the staff's time and recommendations. We

agree with the Municipal Counselor's approach to this. This application, if I can be clear for the record, meets the City of Norman's ordinance for approval today. We've gone additional steps of protections in respect for your land owners to suggest a conditioned permit for those 14. I appreciate the desire to push this off but this is right before you with the conditions you asked for last July and it is a timely request before you and meets the law and this does nothing to take away the rights of landowners.

Ms. Carpenter said that you currently have litigation pending for an appeal of this exact application and therefore are thwarting the system. Mr. Roth said the permit had a limited period of time under Oklahoma law for which the denied permit had to seek legal redress. This application is ready for your approval today.

Mr. Greer said if you go look at already done work, they built a pond in the floodplain at 48th and Franklin Road. Look at their work, and look at this permit data. There's no way to get to a thousandth of foot from a map. I wish you guys would run out there one day before you accept this permit and look at their work.

Mr. Roth said as a reminder the approvals of permits 684 and 685 can be appealed by landowners who are dissatisfied. NextEra would withdraw the appeal in district court if they can receive this permit conditioned as it is presented today.

Scott Bethel, Louis Jean Farms, I was on the list of some of the ones that you said you have an agreement in principal. I'm not sure what that means, is that truly an agreement, can you speak to that. Mr. Tiff, said he has been in communication with the attorney for Louis Jean Farms, I believe we've reached an agreement as to language and to compensation.

Mr. Sturtz brought it back to the committee. Ms. Hudson said going back to erosion control and removal of trees, in the ordinance it specifically says that we are to look at the concerns and our approval or denial is based on these factors. 5 years from now what is your guarantee that the flow of this flood has not changed substantially that will negatively impact the people downstream. A representative for NextEra said we provide the best engineering analysis that we can do as prescribed by your ordinance with FEMA. We did get the regulatory models from FEMA and we developed them in the manner that is prescribed by FEMA and National Flood Insurance Program to ensure that relatively speaking there's not going to be an adverse impact on the property owners. Ms. Hudson asked if a property owner contacts NextEra and says we've got erosion or something like that, you guys go out and check, you're reviewing your lines, and you'll go out and fix it. Ms. Austin said yes, we have operations and management protocols that we follow and inspections that are followed and if they find something that was part of our project, we work with landowners to figure out how we're going to address it. Mr. Murphy said Mr. Scanlon asked if the new Engineering Design Criteria that we adopted in February would apply here. Mr. Sturtz said the detention pond that was constructed was submitted and accepted by the Public Works Engineering department. Mr. Sturtz said he doesn't know how the Engineering Design Criteria would apply to this specific situation since it's not new development. Mr. Danner referenced a petroleum pipeline in east side Norman through the floodplain, and there was clearing for that pipeline. I don't know how you get out of it.

Ms. Hudson asked Mr. Sturtz if the committee wanted to consider moving property owners from one list to the other. Mr. Scanlon said I think we do but I'm not prepared to sit here on 20 minutes contemplation. I advocate we rework this and come back in 2 weeks. Ms. Hoggatt asked if she could make a motion to approve. Mr. Sturtz asked if Mr. Scanlon had made a motion and Mr. Scanlon confirmed he had made a motion. Mr. Sturtz asked for a motion to table permits 684 &

685 for 2 weeks for consideration. Ms. Stansel asked if Mr. Sturtz was looking for a second to the motion. Mr. Sturtz confirmed. Mr. Sturtz said the motion dies for a lack of second.

Ms. Hoggatt made a motion to approve with modified staff recommendation for Permit 684 & 685 as presented during the meeting by Ms. Muckala. Mr. Danner seconded the motion. Mr. Sturtz asked for any comments from the committee. Ms. Hudson asked for clarification on if the approval today does not negate someone’s access rights regardless of the list they are on. Ms. Muckala said if NextEra does not actually have the right to enter on the 23 properties for 684, property owners would have legal rights to take them to court and keep them off the properties.

The committee voted to approve the application 5-2.

MISCELLANEOUS COMMENTS

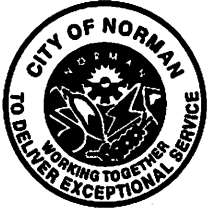
Ms. Hoggatt asked about the next meeting and Mr. Murphy said there is 1 application for the January 16th meeting. Ms. Hoggatt asked if the meeting would also be on a Tuesday and Mr. Murphy confirmed.

ADJOURNMENT

Mr. Sturtz called for a motion to adjourn. Ms. Hudson motioned to adjourn and was seconded by Ms. Stansel. The meeting adjourned at 5:06 p.m.

Passed and approved this _____ day of _____, 2024

City of Norman Floodplain Administrator, Scott Sturtz



CITY OF NORMAN, OK
FLOODPLAIN PERMIT COMMITTEE MEETING
Development Center, Room B, 225 N. Webster Ave., Norman, OK 73069
Tuesday, January 02, 2024 at 3:30 PM

AGENDA

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, relation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

ROLL CALL

MINUTES

- 1. Approval of minutes from the November 6, 2023 meeting.

ACTION ITEMS

- 2. **Floodplain Permit Application No. 684** - This permit application is for the proposed installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek and Little River floodplains.

MISCELLANEOUS COMMENTS

ADJOURNMENT





City of Norman

Floodplain Permit Application

Floodplain Permit No. 684

Building Permit No. _____

Date 1/2/2024

FLOODPLAIN PERMIT APPLICATION (\$100.00 Application Fee Required)

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Occupancy is issued.
5. The permit will expire if no work is commenced within 2 years of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements and must be included with this floodplain permit application.
7. Applicant hereby gives consent to the City of Norman or his/her representative to access the property to make reasonable inspections required to verify compliance.
8. The following floodplain modifications require approval by the City Council:
 - (a) A modification of the floodplain that results in a change of ten percent (10%) or more in the width of the floodplain.
 - (b) The construction of a pond with a water surface area of 5 acres or more.
 - (c) Any modifications of the stream banks or flow line within the area that would be regulatory floodway whether or not that channel has a regulatory floodplain, unless the work is being done by the City of Norman staff as part of a routine maintenance activity.
9. All supporting documentation required by this application is required along with the permit fee by the submittal deadline. Late or incomplete applications will not be accepted.
10. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT.)

APPLICANT: NextEra Energy Transmission Southwest, LLC ADDRESS: 700 University Blvd, Juno Beach FL 33408
 TELEPHONE: 561-427-4308 SIGNATURE: [Signature]
 Natalie F. Smith, Assistant Vice President

BUILDER: Brink Constructors, Inc. ADDRESS: 2950 N Plaza Drive, Rapid City, South Dakota 57702
 TELEPHONE: 605-342-6966 SIGNATURE: [Signature]
 Paul L. Lennox, Senior Project Manager

NextEra added Builder information.

ENGINEER: Burns & McDonnell Engineering Co., Inc. c/o Jacob Clouse ADDRESS: 9400 Ward Parkway, Kansas City, MO 64114
 TELEPHONE: 816-882-409 SIGNATURE: [Signature]

tabbies® EXHIBIT H

PROJECT LOCATION

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, subdivision addition, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well known landmark. A sketch attached to this application showing the project location would be helpful.

Proposed construction of overhead electric transmission line. Within the City of Norman, Oklahoma, the proposed alignment will begin at the west boundary of the city limit (approx. 0.45 miles south of W. Robinson St.) and extend to the north boundary of the City limit (approx 0.15 miles east of 48th Ave NE). See attached figure for proposed alignment through the City of Norman, Oklahoma. A total of 35 overhead electric transmission line poles are proposed to be constructed in Special Flood Hazard Areas (SFHA) within the City of Norman, Oklahoma. See attached table for the coordinates of each of these poles.

In the previous application the word was "structures" instead of "poles".

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

- | <u>ACTIVITY</u> | <u>STRUCTURE TYPE</u> |
|---|--|
| <input checked="" type="checkbox"/> New Structure | <input type="checkbox"/> Residential (1-4 Family) |
| <input type="checkbox"/> Addition | <input type="checkbox"/> Residential (More than 4 Family) |
| <input type="checkbox"/> Alteration | <input checked="" type="checkbox"/> Non-Residential (Flood proofing? <input type="checkbox"/> Yes) |
| <input type="checkbox"/> Relocation | <input type="checkbox"/> Combined Use (Residential & Commercial) |
| <input type="checkbox"/> Demolition | <input type="checkbox"/> Manufactured (Mobile) Home |
| <input type="checkbox"/> Replacement | <input type="checkbox"/> In Manufactured Home Park? <input type="checkbox"/> Yes |

ESTIMATED COST OF PROJECT \$ 7.9 million Work that involves substantial damage/substantial improvement requires detailed cost estimates and an appraisal of the structure that is being improved.

B. OTHER DEVELOPMENT ACTIVITIES:

- Fill Mining Drilling Grading
- Excavation (Beyond the minimum for Structural Development)
- Watercourse Alteration (Including Dredging and Channel Modifications)
- Drainage Improvements (Including Culvert Work) Road, Street or Bridge Construction
- Subdivision (New or Expansion) Individual Water or Sewer System

In addition to items A. and B. provide a complete and detailed description of proposed work (failure to provide this item will be cause for the application to be rejected by staff). Attach additional sheets if necessary.

Tree clearing within the right-of-way along with temporary access road construction consisting of drive and crush access roads or installation of construction mats. Sediment controls will be installed as needed. Installation of overhead electric transmission poles. Pole foundations are engineered based on the size of the pole and the soil conditions encountered. Please refer to the plan & profile drawings (MPV-00101sh21-25 - PVD00101sh1-6) in Attachment 2 and foundations schedules (MNC-FND-001sh01 - MNC-FND-004sh02) for foundation diameter, depth and backfill material in Attachments 4 and 5.

NextEra removed the reference to the width of the right-of-way and refers to "construction" mats rather than "crane" mats. NextEra uses the term "pole" in place of "structures". Lastly, the first application refers to "Attachment 2" and the second application refers to "Attachments 4 and 5".

C. ATTACHMENTS WHICH ARE REQUIRED WITH EVERY APPLICATION:

The applicant must submit the documents listed below before the application can be processed. If the requested document is not relevant to the project scope, please check the Not Applicable box and provide explanation.

A. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel, floodway, and the regulatory flood-protection elevation.

B. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high-water information.

The first application referred to Attachment 2 in Sections B, D, and E.

Not Applicable:

See attached plan and profile. [Redacted]

C. Subdivision or other development plans (If the subdivision or other developments exceeds 50 lots or 5 acres, whichever is the lesser, the applicant **must** provide 100-year flood elevations if they are not otherwise available).

Not Applicable:

Project does not involve a subdivision or other development.

D. Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream, soil types and other pertinent information.

Not Applicable:

See attached plan and profile. [Redacted]

E. A profile showing the slope of the bottom of the channel or flow line of the stream.

Not Applicable:

See attached plan and profile. [Redacted]

F. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.

Not Applicable:

No occupiable structures are proposed as part of this project.

G. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

Not Applicable:

No watercourse or natural drainage will be altered or relocated as a result of this project.

- H. For proposed development within any flood hazard area (except for those areas designated as regulatory floodways), certification that a rise of no more than five hundredths of a foot (0.05') will occur on any adjacent property in the base flood elevation as a result of the proposed work. For proposed development within a designated regulatory floodway, certification of no increase in flood levels within the community during the occurrence of the base flood discharge as a result of the proposed work. All certifications shall be signed and sealed by a Registered Professional Engineer licensed to practice in the State of Oklahoma.
- I. A certified list of names and addresses of all record property owners within a three hundred fifty (350) foot radius of the exterior boundary of the subject property not to exceed 100 feet laterally from the Special Flood Hazard Area. The radius to be extended by increments of one hundred (100) linear feet until the list of property owners includes not less than fifteen (15) individual property owners of separate parcels or until a maximum radius of one thousand (1,000) feet has been reached.
- J. A copy of all other applicable local, state, and federal permits (i.e. U.S. Army Corps of Engineers 404 permit, etc).

After completing SECTION 2, APPLICANT should submit form to Permit Staff for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by Permit Staff.)

The proposed development is located on FIRM Panel No.: X, Dated: _____

The Proposed Development:

The first application included the word "varies" in these spaces.

Is NOT located in a Special Flood Hazard Area
(Notify the applicant that the application review is complete and NO FLOODPLAIN PERMIT IS REQUIRED).

Is located in a Special Flood Hazard Area.

The proposed development is located in a floodway.

This box was not previously marked.

100-Year flood elevation at the site is _____ Ft. NGVD (MSL) Unavailable

See Section 4 for additional instructions.

SIGNED: [Signature] DATE: 12/14/2023

* see attachment 3 of application for each pole location and respective floodplain information

The first application referred to a "location list with WSEL values".

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by Permit Staff.)

The applicant must also submit the documents checked below before the application can be processed.

Flood proofing protection level (non-residential only) _____ Ft. NGVD (MSL). For flood proofed structures applicant must attach certification from registered engineer.

These boxes were previously marked

Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the 100-year flood (Base Flood Elevation). A copy of all data and calculations supporting this finding must also be submitted.

Certification from a registered engineer that the proposed activity in a regulatory flood plain will result in an increase of no more than 0.05 feet in the height of the 100-year flood (Base Flood Elevation). A copy of all data and calculations supporting this finding must also be submitted.

All other applicable federal, state, and local permits have been obtained.

Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by Floodplain Chairman.)

The proposed activity: (A) **Is**; (B) **Is Not** in conformance with provisions of Norman's City Code Chapter 22, Section 429.1. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED: _____ DATE: _____

If BOX A is checked, the Floodplain committee chairman may issue a Floodplain Permit.

If BOX B is checked, the Floodplain committee chairman will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Floodplain committee or may request a hearing from the Board of Adjustment.

APPEALS: Appealed to Board of Adjustment: Yes No
Hearing date: _____

Board of Adjustment Decision - Approved: Yes No

Conditions:

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Occupancy is issued.)

1. FEMA Elevation Certificate
and/or
2. FEMA Floodproofing Certificate

NOTE: The completed certificate will be reviewed by staff for completeness and accuracy. If any deficiencies are found it will be returned to the applicant for revision. A Certificate of Occupancy for the structure will not be issued until an Elevation and /or Floodproofing Certificate has been accepted by the City.

THE CITY OF NORMAN BOARD OF ADJUSTMENT

RAVEN INVESTMENTS, LLC,)	
)	
Appellant,)	
)	
v.)	BOA Case No.
)	
CITY OF NORMAN FLOODPLAIN)	
PERMIT COMMITTEE,)	
)	
Appellee,)	
)	
and)	
)	
NEXTERA ENERGY TRANSMISSION)	
SOUTHWEST, LLC,)	
)	
Permit Applicant.)	

PERMIT APPLICANT AND PERMIT HOLDER NEXTERA ENERGY TRANSMISSION SOUTHWEST, LLC’S RESPONSE IN OPPOSITION TO APPELLANT RAVEN INVESTMENTS, LLC’S APPEAL OF THE CITY OF NORMAN FLOODPLAIN PERMIT COMMITTEE’S APPROVAL OF PERMIT NO. 684 AND PERMIT NO. 685

Permit applicant and permit holder, NextEra Energy Transmission Southwest, LLC (“NEET SW”), submits this Response in Opposition to Appellant Raven Investments, LLC’s (“Appellant”) Appeal of the City of Norman Floodplain Permit Committee’s approval of Permit Nos. 684 and 685. In support, NEET SW states as follows:

I. INTRODUCTION

The Floodplain Permit Committee’s decision should be affirmed because: (1) NEET SW has legal access to all parcels subject to its Floodplain Permit (though such access is not a prerequisite to submitting a Floodplain Permit Application), and NEET SW obtaining this access amounted to a substantial and material change affecting the subject properties and thus authorized the Floodplain Permit Committee to accept and approve the New Floodplain Permit Application; (2) NEET SW enjoys present and unqualified access to Appellant’s Properties; (3) Appellant’s

appeal is an abuse of the City’s floodplain appeal process because it has nothing to do with floodplain management and instead Appellant is using the appeal as a bargaining chip in unrelated condemnation proceedings; (4) the Floodplain Permit Committee acted within its authority when it assigned two permit numbers to NEET SW’s New Floodplain Permit Application; and (5) the Floodplain Permit Committee complied with Oklahoma’s Open Meeting Act.

As set forth in detail below, Appellant’s actions amount to an abuse of the City’s floodplain appeal process, wasting the City’s time and resources. This appeal has nothing to do with floodplain management and everything to do with maximizing Appellant’s bargaining position in completely unrelated Condemnation Proceedings. Accordingly, this appeal should be rejected.

II. FACTUAL BACKGROUND

1. NEET SW seeks a Floodplain Permit as part of its planned construction of a new 345 kV transmission line in central Oklahoma between the Minco, Pleasant Valley, and Draper substations running through Grady, McClain, and Cleveland Counties (the “Transmission Line Project”).

2. NEET SW’s Transmission Line Project will increase electric reliability in central Oklahoma, reduce electric transmission congestion, defer electric reliability upgrades, lower costs for electric customers, and move energy from western Oklahoma to the higher population areas in central Oklahoma, including the City of Norman.

3. NEET SW is building the Transmission Line Project on behalf of the Southwest Power Pool (“SPP”), the regional transmission organization that oversees the operation of Oklahoma’s electric grid.

4. In April 2023, NEET SW initiated the proper legal actions to obtain legal access to and possession of certain portions of privately owned parcels of land crossed by the Transmission

Line Project (the “Condemnation Proceedings”), including the parcels owned by Appellant (“Appellant’s Properties”).

5. In July 2023, the Court in the Condemnation Proceedings against Appellant appointed Commissioners to inspect Appellant’s Properties and determine the damage Appellant may sustain as a result of the taking of a right-of-way easement for the construction of the Transmission Line Project.

6. In July 2023, NEET SW submitted a Floodplain Permit Application for the portion of the Transmission Line Project that will cross the Canadian River, Ten-Mile Flat Creek, and Little River floodplains, including unnamed streams, in the City of Norman (the “July 2023 Floodplain Permit Application”).

7. The Transmission Line Project’s path in the City of Norman begins at the western boundary of the City of Norman near W. Robinson Street and extends to the northern boundary approximately 0.15 miles east of 48th Avenue N.E. Infrastructure within the floodplain includes 35 overhead electric transmission poles and temporary access roads.

8. On July 17, 2023, the July 2023 Floodplain Permit Application received four votes of approval from the Floodplain Permit Committee, failing to obtain the super majority (five votes) required for a permit to be granted despite the Staff Report’s recommendation for approval.

9. On August 21, 2023, Appellant Raven Investments, LLC requested, and the Floodplain Permit Committee granted, Permit No. 678 for construction of a sewer extension and manhole in the Little River floodplain near the intersection of 36th Ave. NW and Franklin Road, one of Appellant’s Properties that will be crossed by the Transmission Line Project. NEET SW did not object to Appellant’s Floodplain Permit.

10. On August 23, 2023, NEET SW's July 2023 Floodplain Permit Application was denied by the Board of Adjustment by a vote of two to three. The City of Norman has subsequently stated the July 2023 Floodplain Permit Application was "denied by the committee on the basis of concerns related to right of access to private property." *See Floodplain Permit Committee Meeting Minutes from January 2, 2024, at p. 2, attached as Exhibit 1.*

11. Subsequently, NEET SW appealed the Board of Adjustment decision to the district court to preserve its right to challenge the denial.

12. NEET SW continued to pursue legal access to the relevant parcels of land via the Condemnation Proceedings, including Appellant's Properties, to ensure just compensation to the landowners and timely prosecution of the construction plans.

13. On September 1, 2023, the Report of Commissioners was filed with the district court, estimating the just compensation due to Appellant in the amount of \$2,470,000.00. *See Report of Commissioners, attached as Exhibit 2.*

14. On September 5, 2023, Appellant Raven Investments, LLC requested, and the Floodplain Permit Committee granted, Permit No. 681 for the construction of a road across the Little River floodplain between 36th Ave. NW and 48th Ave. NW and between Franklin Road and Indian Hills Road, one of Appellant's Properties that will be crossed by the Transmission Line Project. NEET SW did not object to Appellant's Floodplain Permit.

15. On September 11, 2023, Appellant filed a demand for jury trial in the Condemnation Proceedings against it in order to challenge the amount of compensation awarded to it by the assigned Commissioners. Appellant did not and can no longer challenge NEET SW's authority to exercise eminent domain, meaning NEET SW now has unqualified access to Appellant's Property. *See Demand for Jury Trial, attached as Exhibit 3.*

16. On October 16, 2023, Appellant requested and received the disbursement of the Commissioners' Award, in the amount of \$2,470,000.00. *See* Application and Order Disbursing Commissioners' Award, attached as Exhibit 4. NEET SW did not object to Appellant's request.

17. NEET SW and Appellant continue to negotiate the just compensation for NEET SW's easement on Appellant's Properties, with Appellant requesting more than the \$2,470,000.00 it has already received as a result of the Commissioners' Award.

18. On December 13, 2023, NEET SW submitted a new Floodplain Permit Application to the Floodplain Permit Committee including the substantial changes to NEET SW's legal access to the relevant parcels of land (the "New Floodplain Permit Application"). *See* New Floodplain Permit Application, at p. 7 and Attachment "E".¹

19. At the January 2, 2024 Floodplain Permit Committee Meeting, counsel for Appellant "asked the Chairman to consider a permit 686 with the 10 property owners who are subject to the current litigation that is pending on the first permit." *See* Ex. 1. at p. 5.

20. Upon consideration of the relevant factors set out in the Flood Hazard District Ordinance and all materials and information presented on January 2, 2024, a supermajority of the Floodplain Permit Committee voted to approve NEET SW's New Floodplain Permit Application, as modified by the Staff recommendation. *See* Ex. 1, at p. 7.

21. On January 15, 2024, prior to filing this appeal, Appellant offered to refrain from filing this appeal should NEET SW pay Appellant \$8,800,000.00 in settlement of the Condemnation Proceedings – significantly more than the \$2,470,000.00 Appellant was awarded by the appointed Commissioners.

¹ In the interest of efficiency, the New Floodplain Permit Application is not attached to this Response as an exhibit, as it is 611 pages and already part of the Record of materials that were before the Floodplain Permit Committee on January 2, 2024.

III. ARGUMENT AND AUTHORITIES

Appellant challenges the validity of the Floodplain Permit Committee granting the New Floodplain Permit Application arguing that: (1) NEET SW lacks standing to request a floodplain permit; (2) The Floodplain Permit Committee violated the Flood Hazard District Ordinance and Open Meeting Act; and (3) NEET SW's appeal of the Board of Adjustment's denial of the July 2023 Floodplain Permit Application stays these proceedings.

The Floodplain Permit Committee's decision should be affirmed because: (1) NEET SW has legal access to all parcels subject to its Floodplain Permit (though such access is not a prerequisite to submitting a Floodplain Permit Application), and NEET SW obtaining this access amounted to a substantial and material change affecting the subject properties and thus authorized the Floodplain Permit Committee to accept and approve the New Floodplain Permit Application; (2) NEET SW enjoys present and unqualified access to Appellant's Properties; (3) Appellant's appeal is an abuse of the City's floodplain appeal process because it has nothing to do with floodplain management and instead Appellant is using the appeal as a bargaining chip in unrelated condemnation proceedings; (4) the Floodplain Permit Committee acted within its authority when it assigned two permit numbers to NEET SW's New Floodplain Permit Application; and (5) the Floodplain Permit Committee complied with Oklahoma's Open Meeting Act.

a. NEET SW's New Floodplain Permit Application was properly submitted and approved after substantial and material changes affecting the subject properties.

Appellant argues that NEET SW's district court appeal of the July 2023 Floodplain Permit Application stays NEET SW's New Floodplain Permit Application. Appellant is incorrect, as NEET SW's New Floodplain Permit Application was filed after a substantial change from the July

2023 Floodplain Permit Application and its related proceedings.² It is common practice for local zoning officials to consider a second application after an initial denial where circumstances have substantially changed. See 3 Rathkopf’s *The Law of Zoning & Planning*, § 57:73 (4th Ed.) (Apr. 2023) (“After an application for a variance or a special permit has been denied, the board may consider a new application with respect to the same property, and even for the same relief, if either the plans submitted or the conditions affecting the property have substantially changed”); see e.g. *Rosedale-Skinker Imp. Ass’n v. Bd. of Adjustment of City of St. Louis*, 425 S.W.2d 929 (Mo. 1968) (affirming board of adjustment had authority to grant a second hearing on a building permit application where the second application was based on the acquisition of additional property to resolve initial concerns regarding sufficient parking); *Rocchi v. Zoning Bd. of Appeals*, 248 A.2d 922 (Conn. 1968) (granting second application after initial denial where access road was revised in second plan, resolving adjacent landowner concerns); *Fiscal Ct. of Jefferson Cty. v. Ogden*, 556 S.W.2d 899 (Ky. App 1977) (overruled on other grounds in *Kaelin v. City of Louisville*, 643 S.W.2d 590 (Ky. 1982)) (affirming city had authority to accept second application after substantial change in circumstances, which was the adoption of a comprehensive plan); *Bentley v. Valco, Inc.*, 741 P.2d 1266 (Colo. Ct. App., Div III 1987) (substantial changes in second application included applicant’s other required permits granted; second application was granted with conditions based upon obtaining the other required permits); *Grasso v. Zoning Bd. of Appeals of Groton Long Point*

² Appellant provided an Exhibit H to its Appeal in support of its proposition that “the application language for Permit 684 [the New Floodplain Permit Application] is nearly the exact same as Permit 675 [the July 2023 Floodplain Permit Application] and the information submitted should have been submitted with the application for Permit 675 [the July 2023 Floodplain Permit Application]. This assertion fails to acknowledge that the substantial change regarded NEET SW’s access to the subject properties and not the impact the Transmission Line Project would have on the floodplain. Appellant ignores (and apparently misunderstands) the fact that NEET SW now has legal access to all parcels subject to its Floodplain Permit, constituting a substantial change from the July 2023 Floodplain Permit Application to the New Floodplain Permit Application.

Ass'n, 794 A.2d 1016 (Conn. App. Ct. 2002) (explaining the board of adjustment may grant a permit based on a second application that “bring[s] a prior application into compliance with applicable regulations[.]”).

Moreover, ongoing collateral proceedings in district court do not prevent a municipality from considering a new request for development permission when a substantial change has occurred. *See* 4 Rathkopf's *The Law of Zoning and Planning* §§ 68:9, 15 (4th ed.) (citing cases). A change in circumstances may be deemed particularly substantial where, as here, the change is directly related to the reason for the previous denial. *Id.* (noting courts that have “held that the change in circumstances must be a change in the particular circumstances that induced the prior denial”). The municipal board need not wait for a district court to determine if a substantial change has occurred. 4 Rathkopf's *The Law of Zoning and Planning* § 68:10 (4th ed.) (“it is up to the board to determine” whether principles of *res judicata* prevent the filing of a new application). A zoning board’s ability to determine if a substantial change has occurred aligns with common sense, given it would be wasteful to require an applicant and zoning officials to litigate the denial of a previous permit application when the reasons for the denial no longer exist.

NEET SW’s July 2023 Floodplain Permit Application was denied based on the Floodplain Permit Committee’s (and the Board of Adjustment’s) concerns that NEET SW lacked access to the subject parcels. This is so even though Norman’s Flood Hazard District Ordinance does not list present property access as a condition precedent for receipt of a permit. In any case, since the denial of the July 2023 Floodplain Permit Application, NEET SW secured easements with private and public landowners across *all* parcels within Norman’s floodplains. *See* Attachment 6 to NEET SW’s New Floodplain Permit Application. As described below, with the acquisition of the

easements, NEET SW secured legal right to access the land and construct the Project. 66 O.S. §§ 53, 55.

Notably, easements for some of the tracts in the Norman floodplain were acquired through NEET SW's exercise of eminent domain, as the company has the right of eminent domain under Oklahoma law. *See, e.g.,* 27 Okla. Stat. § 7(A) (granting the power of eminent domain to companies who furnish electricity for public use). The statute that prescribes the process for eminent domain, 66 O.S. § 53, provides that the county district court, upon petition, will appoint three disinterested freeholders of the county to be commissioners to determine the just compensation for the taking of the easement. Those commissioners inspect the property and file with the district court a report stating the amount of just compensation for the easement. *Id.* The statute further provides that those Commissioner Reports can then be recorded in the land records of the county. *Id.* Copies of the recorded Commissioner Reports for the tracts in the Norman floodplain are included within Attachment 6 of the New Floodplain Permit Application. Upon payment of the amount of just compensation in each of the Commissioner Reports to the district court clerk, NEET SW, as the condemning party, is allowed to take possession of (i.e., access) the easements and begin construction. 66 O.S. § 53(C); *see State ex rel. Dept. of Transp. v. Cole*, 2009 OK 40, ¶ 11, 236 P.3d 49, 52 (“Upon the payment of the amount assessed by the commissioners, the taking occurs, and the condemnor is entitled to enter upon the land.” (internal citations omitted)). NEET SW deposited with the clerk of the district court the amount in the Commissioner Reports for each of the tracts in the Norman floodplain where eminent domain was exercised. As a result, NEET SW obtained access to all parcels. Given the July 2023 Floodplain Permit Application was denied due to NEET SW's purported lack of access, NEET SW obtaining access

to all parcels amounted to a substantial change, thereby allowing NEET SW to file a new application.

Two ways a condemnee may challenge aspects of a condemnation proceeding include: (1) a challenge to the amount of just compensation and (2) a challenge to the condemnor’s underlying use of eminent domain. *See* 66 O.S. § 55 (distinguishing a demand for a jury trial to challenge the amount of compensation from written exceptions to challenge the underlying validity of the taking). Notably, a challenge to the amount of just compensation, alone, ultimately will not impact the condemnor’s authority to use eminent domain or its right of legal access upon depositing the Commissioners’ Award with the district court clerk. *See Blankenship v. Bone*, 1974 OK CIV APP 54, ¶ 5, 350 P.2d 578-79 (finding condemnee waived any constitutional or other challenge to condemnor’s right of condemnation by failing to include any such objections as a written exception to the commissioners’ report). On the other hand, a challenge to the condemnor’s underlying use of eminent domain may *potentially* impact the condemnor’s authority to access the property *at some point in the future* if the condemnee is able to successfully prosecute the objection.

Here, the Floodplain Permit Committee identified 23 parcels where NEET SW enjoys present, *unqualified* access. This group of 23 parcels was inclusive of parcels where condemnation actions were filed, but landowners only challenged the amount of just compensation, not the validity of the underlying taking. Meaning landowners did not, and now cannot, challenge NEET SW’s access to the property. Appellant’s Properties fell into this group of 23 parcels.

The Floodplain Permit Committee also identified 14 parcels where it determined that NEET SW enjoys present, *qualified* access. These 14 parcels included ones where condemnation actions were filed, and NEET SW deposited the amount of the Commissioners’ awards with the district court clerk, but the landowners filed objections challenging the underlying use of eminent

domain, meaning it is possible at some point in the future, should a landowner successfully prosecute the objection, that NEET SW will be required to restart the condemnation process with respect to the challenged parcel.

While NEET SW now enjoys present access to all floodplain parcels, the Floodplain Permit Committee decided to divide the permit into two categories. For the 23 parcels over which NEET SW has unqualified legal access, the Floodplain Permit Committee approved Permit No. 684. For the remaining 14 parcels where landowners filed exceptions in the condemnation proceedings that function as objections to NEET SW's use of eminent domain, the Norman Floodplain Permit Committee, out of an abundance of consideration for the rights of property owners, approved a separate Permit No. 685, which permit is conditioned on NEET SW resolving outstanding objections and verifying the resolution of those objections with the City of Norman. *See* Floodplain Permit Committee Minutes from January 2, 2024, at p. 2, attached as Exhibit 1.

b. NEET SW enjoys unqualified access to Appellant's Properties

Appellant's assertion that NEET SW "lacks standing" to request a floodplain permit because it does not have "ownership of all the properties covered by [NEET SW's] floodplain permit application" is incorrect. As described above, NEET SW now enjoys access across *all* parcels in the floodplain. The access is *unqualified* in 23 of the parcels, meaning no landowner objections can take away NEET SW's access pursuant to the condemnation statutes. Appellant's Property falls within these 23 parcels, meaning NEET SW's legal access to Appellant's Properties is not subject to challenge pursuant to the condemnation statutes. *See* CV-2023-1529 filed in the District Court of Cleveland County, Oklahoma, on April 27, 2023. Appellant did not contest the validity of NEET SW's authority to exercise the power of eminent domain, or NEET SW's right to access and possess the relevant portion of Appellant's Properties. Appellant only challenged the

fair market value determined by the appointed Commissioners. *See* Ex. 3. Moreover, Appellant has already requested and received the disbursement of the Commissioners’ Award in the condemnation proceedings. *See* Ex. 4, citing 66 O.S. § 54 (“When possession is taken of property condemned, as provided herein, the owner shall be entitled to the immediate receipt of the compensation awarded, without prejudice to the right of either party to prosecute further proceedings for the judicial determination of the sufficiency or insufficiency of said compensation.”).³

NEET SW gained lawful access to Appellant’s Properties months before filing its New Floodplain Permit Application, and Appellant’s Properties are subject to Permit No. 684.⁴ There is no legal or factual question regarding NEET SW’s right to access Appellant’s Properties. To the extent that Appellant seeks to present challenges on behalf of other property owners (i.e., the 14 parcels covered by Permit No. 685 to which NEET SW enjoys present but *qualified* access), Appellant lacks “standing” to do so. The proper standard for appealing a Floodplain Permit Committee decision is set out in the Norman Municipal Code – any person “aggrieved” by a decision, may submit an appeal to the Board of Adjustment. Norman Municipal Code Section 36-533(f)(7). Aggrieved means “having suffered loss or injury[.]” Black’s Law Dictionary (2d. Ed.). Appellant has made no argument that it may be injured by the issuance of floodplain permits as they relate to parcels Appellant does not own.⁵

³ Appellant, quoting 27 O.S. § 13(4), states “Oklahoma law clearly states ‘[n]o owner shall be required to surrender possession of real property before the agreed purchase price is paid or deposited with the state court...’” without acknowledging that NEET SW deposited the Commissioners’ Award with the state court and Appellant has already received those funds, in the amount of \$2,470,000.00.

⁴ *See* Section III(a), *above*, explaining NEET SW’s condemnation proceedings.

⁵ The doctrine of standing does not operate to prevent an applicant from filing a new permit application in the event of a substantial change in circumstances which brought about the initial

The material facts upon which the Board of Adjustment affirmed the denial of NEET SW's July 2023 Floodplain Permit Application in August 2023 have changed significantly in that NEET SW presently has access across all parcels;⁶ and accordingly, the Floodplain Permit Committee has the authority to consider and grant NEET SW's separate New Floodplain Permit Application.

c. Appellant is abusing the City's floodplain permit appeal process.

Appellant argues the City's floodplain permit process is being misused by NEET SW by virtue of NEET SW filing the New Floodplain Permit Application when the July 2023 Permit Application remains on appeal. In fact, the opposite is true. NEET SW is conserving resources, including the City's, by not litigating a permit application that was denied for reasons that are now moot – in that NEET SW now has access to all subject parcels. To litigate a permit application that was denied for reasons that no longer exist is nonsensical and illustrates why municipalities are authorized to consider new applications based on changed circumstances in the first place.

Ironically, it is Appellant whose cynical use of the Board of Adjustment's floodplain appeal process is wasting the City and NEET SW's time and resources. Indeed, prior to filing this appeal, Appellant offered to refrain from filing the appeal should NEET SW pay Appellant \$8,800,000.00 in settlement of the condemnation action – \$6,330,000.00 more than Appellant was awarded for its property by the appointed Commissioners. NEET SW did not accept Appellant's demand, and sought instead to negotiate the merits of the Condemnation Proceedings alone. Appellant then filed

denial. Otherwise, parties could never bring new applications following changed circumstances. Appellant's argument that NEET SW lacked "standing" to submit the New Floodplain Permit Application is meritless.

⁶ The 14 parcels subject to Permit No. 685 have filed objections in the Condemnation Proceedings that have not been set for hearing by the objecting landowner. NEET SW is in ongoing negotiations with these landowners to resolve the objections; however, NEET SW has legal access to these 14 parcels at this time.

this appeal. Appellant’s appeal has nothing to do with floodplain management in the City of Norman and everything to do with maximizing Appellant’s bargaining power in unrelated condemnation proceedings.⁷

d. The Floodplain Permit Committee acted well within its authority when it assigned two permit numbers to NEET SW’s New Floodplain Permit Application.

Oklahoma law delegates the authority to manage floodplain permit programs to municipalities. 82 O.S. § 1604(A); Norman Municipal Code Section 36-533(a). The City of Norman’s “police power... is comprehensive and is exercised to promote the health, comfort, safety or welfare of society. In the enactment of ordinances and regulations much must be left to the discretion of municipal authorities.” *Utility Supply Co., Inc. v. City of Broken Arrow*, 1975 OK 106, ¶ 14, 1975 OK 740, 743. The City of Norman created its Floodplain Permit Committee to enforce its Flood Hazard District Ordinance through a permitting process. Norman Municipal Code Section 36-533(f). In addition to the comprehensive plan adopted in the Norman Municipal Code, the Floodplain Permit Committee or the Board of Adjustment has “discretion to impose reasonable conditions in addition to those created by the relevant ordinances.” *Mustang Run Wind Project, LLC v. Osage Cty. Bd. of Adjustment*, 2016 OK 113, ¶¶ 36-38, 387 P.3d 333, 347; Norman Municipal Code Section 36-533(6).

Not only did the Legislature delegate the management of floodplain permit programs to municipalities, the State also authorized municipal boards of adjustment to adopt their own rules to carry out each city’s enacted floodplain ordinance. 11 O.S. § 44-102. The City of Norman has

⁷ Indeed, Appellant has obtained permits from the Floodplain Committee to construct infrastructure, including sewer infrastructure, within the same floodplain. *See, e.g.*, Permit Nos. 678, 681.

discretion in carrying out these administrative and quasi-judicial tasks. *See* MCQUILLIN MUN. CORP. § 25:343 (3d Ed.) (June 2023); *see also* *Mustang Run Wind Project, LLC*, 2016 at ¶ 23, 387 P.3d at 343 (“an adjudication in equity values substance over form”). Moreover, local floodplain boards are required to take into account the needs of industries, such as long-distance transmission companies, whose business necessitates crossing floodplains. 82 O.S. § 1614 (local floodplain boards must give “due consideration” to the needs of an industry whose business requires that it be located within a floodplain”). Where the New Floodplain Permit Application included all the substance necessary for the Floodplain Permit Committee to adjudicate NEET SW’s request, Appellant’s position that the Committee lacked the authority to assign two permit numbers to Appellant’s request, as opposed to one permit number, is nonsensical. The Floodplain Permit Committee, acting within its authority, carved out 14 parcels subject to NEET SW’s New Floodplain Permit Application to which it chose to attach additional requirements regarding NEET SW providing final documentation evidencing its *unqualified* access to such parcels. *See* Floodplain Permit Committee Meeting Minutes from January 2, 2024, attached as Exhibit 1. The Floodplain Permit Committee acted well within its authority when it assigned a separate permit number to these 14 parcels.

Nonetheless, Appellant points to the following bolded language in the Floodplain Hazard District Ordinance to argue that the Floodplain Permit Committee was limited to only assigning one permit number:

Upon receiving an application for the special permit involving the use of fill, construction of structures, or storage of materials, the Committee shall, prior to rendering a decision thereon, obtain and study essential information and request technical advice as appropriate. Such information and technical advice becomes a part of the application and is retained with the application.

Norman Municipal Code Section 36-533(f)(2). Appellant argues this language demonstrates that the Floodplain Permit Committee is without jurisdiction “to unilaterally create and approve permits of the Committee’s own creation.” Appellant mischaracterizes the Floodplain Permit Committee’s actions.

The Floodplain Permit Committee acted within its authority when it issued its relief in the form of Permit Nos. 684 and 685. First, all relief granted by the Floodplain Permit Committee was requested in the underlying application; no new relief was created. Second, nothing in the Flood Hazard District Ordinance language highlighted by Appellant purports to limit the Floodplain Permit Committee from assigning two permit numbers. If Appellant is arguing that the Flood Hazard District Ordinance language speaks to a singular “permit,” instead of multiple “permits,” then Appellant’s semantical argument is undone simply by looking elsewhere in the Flood Hazard District Ordinance. *See, e.g.*, Norman Municipal Code Section 36-533(f)(6):

Upon consideration of the factors of the specific floodplain permit use and the purposes of this chapter, the Floodplain Permit Committee may attach such conditions to the granting of such **permits** as it deems necessary to further the purposes of this chapter.”)

(emphasis added). Appellant’s attempt to artificially limit the authority of Norman’s Floodplain Permit Committee to functionally administer its floodplain program is wrongheaded. The Floodplain Permit Committee acted well within its authority when it assigned two permit numbers to NEET SW’s New Floodplain Permit Application.⁸

⁸ Appellant’s argument that the Floodplain Permit Committee lacked authority to assign two permit numbers is rich given Appellant’s counsel requested that the Floodplain Permit Committee should assign *three* numbers during the January 2, 2024 meeting. *See* Meeting Minutes of the Floodplain Permit Committee (Jan. 2, 2023), Ex. 1 at p. 5 (counsel for Appellant “asked the Chairman to consider a permit 686 with the 10 property owners who are subject to the current litigation that is pending on the first permit”).

e. The City of Norman Floodplain Permit Committee complied with Oklahoma's Open Meeting Act

The Floodplain Permit Committee's issuance of Permit Nos. 684 and 685, in connection with its posted agenda, complied with the Open Meeting Act. The Open Meeting Act requires a public body's agenda to "identify all items of business to be transacted by [the] public body at a meeting" 25 O.S. § 311(B)(1). Such notice ensures the public can be informed of the government's business. 25 O.S. § 302.⁹ The language in a public body's agenda should be worded in "plain language, directly stating the purpose of the meeting . . . [and] the language used should be simple, direct and comprehensible to a person of ordinary education and intelligence." *Fraternal Ord. of Police, Bratcher/Miner Mem'l Lodge, Lodge No. 122 v. City of Norman*, 2021 OK 20, ¶ 9, 489 P.3d 20, 24 (quoting *Andrews v. Indep. Sch. Dist. No. 29 of Cleveland Cty.*, 1987 OK 40, ¶ 7, 737 P.2d 929, 931). The Open Meeting Act is to be construed liberally in favor of the public (*id.*), however its requirements should not be interpreted to be so exacting "as to interfere with the ability of public bodies to freely conduct business. *Fraternal Ord. of Police, Bratcher/Miner Mem'l Lodge, Lodge No. 122 v. City of Norman*, 2021 OK 20, ¶ 7, 489 P.3d 20, 27 (Rowe, V.C.J., concurring).

Appellant takes issue with the fact that the permit was divided into two permit numbers – Permit Nos. 684 and 685. Appellant does not challenge notice as to the underlying relief granted by the Floodplain Permit Committee within the permits, or as to the conditions imposed on NEET SW. Instead, without alleging any resulting harm, Appellant argues that the Committee's

⁹ Notably, Appellant has brought its Open Meeting Act challenge in the wrong forum. The Open Meeting Act contemplates citizen challenges in district court, not before a municipal board of adjustment. See 25 O.S. § 314. The Legislature has not conferred upon the City of Norman, in its administration of the floodplain permit program, judicial authority to hear and decide claims under the Open Meeting Act.

administrative assignment of two permit numbers, instead of one, somehow offended notice. Appellant is wrong. No reading of the Open Meeting Act requires such a rigid and absurd elevation of form over substance.

Appellant's reliance on *Fraternal Order of Police, Bratcher/Miner Mem'l Lodge, Lodge No. 122 v. City of Norman* illustrates its confusion. In *Fraternal Order of Police*, the agenda failed to provide notice of a substantive action in that the agenda stated that Council would either *adopt* or *reject* the city's proposed budget, which budget was available in the City's agenda packet. *Id.* at ¶ 5. However, Council instead voted to *amend* the budget, thus creating a different budget altogether by allocating funding differently. *Id.* at ¶ 10. Council proceeded to approve the amended budget, contrary to the notice provided. *Id.* This amended budget was not included in the agenda packet. *Id.* at ¶ 11. As a result, the public lacked notice that Council would ultimately reallocate \$865,000 of funding in three amendments, as opposed to simply approving or disapproving the original budget to which the public had access. *See id.* at ¶ 5.

Here, the Agenda for the Floodplain Permit Committee Meeting on January 2, 2024 stated: "This permit application is for the proposed installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek and Little River floodplains." *See* Ex. 5 at p. 1. The City of Norman Staff Report and NEET SW's New Floodplain Permit Application (in part) were included as Item 2. *Id.* at pp. 5-63. The City of Norman Staff Report expressly stated its recommendation to the Floodplain Permit Committee that "Floodplain Permit Application No. 684 be considered in separate parts: consideration of included parcels to which NextEra has established a present and unqualified access right AND a consideration of included parcels to which NextEra's access is still qualified with outstanding legal objections or other impediments...." *Id.* at pp. 6-7.

The Floodplain Permit Committee Agenda, clearly and in plain language, stated all items of business to be transacted at the meeting. The Agenda was simple, direct, and comprehensible to any person – and the Floodplain Permit Committee’s actions were foreseeable based on the recommendations set out in the Staff Report. The Floodplain Permit Committee’s assignment of two permit numbers, instead of one, had no impact whatsoever on the rights granted to NEET SW under the City of Norman’s floodplain program. Indeed, there would have been no difference had all relief granted in Permit Nos. 684 and 685 been combined into Permit No. 684. There is no doubt the Floodplain Permit Committee complied with the Open Meeting Act and gave proper notice, notwithstanding Appellant’s quibbling with the Floodplain Permit Committee’s administrative assignment of two permit numbers.

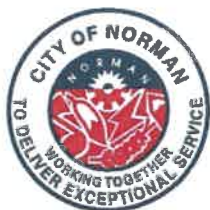
IV. CONCLUSION

For the foregoing reasons, NextEra Energy Transmission Southwest, LLC respectfully requests the Board of Adjustment affirm the Floodplain Permit Committee’s decision to grant Floodplain Permit Nos. 684 and 685.

Respectfully submitted,

Natalie McMahan

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CITY OF NORMAN, OK FLOODPLAIN PERMIT COMMITTEE MEETING

Development Center, Conference Room B, 225 N. Webster Avenue,
Norman, OK 73069

Tuesday, January 2, 2024 at 3:30 PM

MINUTES

ROLL CALL

The meeting was called to order by Mr. Sturtz at 3:31 p.m. Roll was called and all members were present. Others in attendance included, Beth Muckala, Assistant City Attorney; Todd McLellan, Development Engineer; Jason Murphy, Stormwater Program Manager; Kim Freeman, Staff; Jim Roth, Phillips Murrah; James Greer, Resident; Amanda Carpenter, Williams, Box, Forshee & Bullard; Peter Cocotos, NEE; Kara Wry, BMcD; Megan Carlin, BMcD; Brian Roh, BMcD; Leon Staab, BMcD; Aaron Tiffitt, Hall Estill; Russ Lloyd, NEET; Manty ReveVolln, NEET; Jackie Blakley, NextEra; Nick Fuhr, NextEra; Richard McKown, Carrington, LLC; Gale Earles, Resident; Eric Davis, Phillips Murrah; Jacob Clouse, BMcD; Kim Austin, NEE; Scott Bethel, Resident.

MINUTES

1. Approval of minutes from the November 6, 2023 meeting

Mr. Sturtz called for a motion to approve the minutes from the meeting of November 6, 2023. The motion was made by Ms. Stansel and seconded by Mr. Scanlon. The minutes were approved 7-0.

ACTION ITEMS

2. Floodplain Permit No. 684

Mr. Sturtz said the Application is for proposed installation of an electrical transmission line across Norman through the Canadian River, Ten-Mile Flat Creek and Little River floodplains. Mr. Sturtz asked Mr. Murphy to present the staff report. Mr. Murphy said the Applicant for Permit 684 is NextEra Energy Transmission Southwest, LLC and the Engineer is Burns and McDonnell Engineering and the proposed Builder is Brink Constructors, Inc. The permit application is for the proposed construction of an overhead electric transmission line. The proposed alignment will begin at the west boundary of the City approx. 0.50 mile south of W. Robinson St. and extend to the north boundary exiting a little east of 48th Ave. NE. A total of 35 overhead electric transmission line pole structures are proposed to be constructed in the flood zone with this project. The pole type and the foundation types vary by location, soil types and different conditions. In addition to the pole structure installation, tree clearing within the 150-foot right-of-way along with temporary access road construction consisting of drive and crushed rock access roads and installation of crane mats as necessary. For all of this work, sediment controls will be installed as needed.

For the 35 poles being installed, 2 of the poles will be in the regulatory floodway of the Canadian River and the other 33 poles will be in the floodplains of Ten-Mile Flat Creek and the Little River and its Tributaries. The applicant has submitted hydraulic analyses using HEC-RAS modeling for each of the locations. For the 2 poles in the Canadian River floodway, the report from

February 28, 2023, states that there will be no rise in the BFE as a result of the installation of those 2 poles. The hydraulic analysis report for the remaining 33 poles was submitted in the HEC-RAS model dated April 21, 2023. 17 of those are in the Ten-Mile Flat Creek floodplain and will cause no rise in the BFE. The remaining 16 are in the Little River floodplain or its tributaries. 2 of the poles in the Little River floodplain will cause a rise of 0.01 feet in the BFE, the others will cause no rise.

Mr. Murphy reviewed documents submitted and aerial maps of the project locations provided to members in their packets. Mr. Murphy confirmed all ordinance requirements have been met.

Mr. Murphy said a similar application was submitted and denied by the committee on the basis of concerns related to right of access to private property. With this application, the Applicant submitted additional information related to those concerns and the City Legal Team is here to speak to those points. Mr. Murphy turned it over to Ms. Muckala, Assistant City Attorney with the City of Norman. Ms. Muckala said because of similar applications that raised access relating to ownership and eminent domain issues, she was asked to look specifically at all of the properties that were identified within the Floodplain Permit Application. She was asked to analyze the status of the ownership and the status of those eminent domain cases and determine if there was unqualified or unfettered access in NextEra’s hands at this time. Ms. Muckala said NextEra in their application provided a lot of that information and she received some additional information providing PIN and OK-CLE numbers so that we could accurately identify each individual parcel. There are 37 total parcels, and of those, she found that 23 are at a stage where NextEra has unqualified access, meaning ready access right now. Ms. Muckala said the list has been provided to Mr. Murphy and will be added to the official file. Ms. Muckala discussed with the committee the documents reviewed and verified to determine unqualified access at this time. Ms. Muckala said we are confident there’s access to 23 parcels based on either easement by agreement or litigations that have essentially concluded for the purposes of access. Ms. Muckala indicated there are 14 parcels that are not quite to the same point, which could lead in the future to a loss of access by NextEra under the law. Ms. Muckala said the Legal Team is not comfortable recommending that we grant an unqualified permit to these properties under the circumstances so the properties have been separated out as qualified properties. In the future, once the litigations move to a more mature status, they will eventually likely gain that access. Ms. Muckala said on the record, the Modified Staff Recommendation is listed incorrectly and will be corrected in the official documents. Ms. Muckala said City Staff proposes, including her own recommendations- 23 identified parcels with present and unqualified access, City Staff recommends approval as Permit #684. With respect to the 14 identified parcels where NextEra access is still qualified, City Staff recommends approval of a separate permit, Permit #685, subject to the following conditions- (a) The permit shall only become active for NextEra’s utilization upon NextEra establishing to the satisfaction of City Staff, including Legal Staff, that its right of access is no longer qualified by outstanding legal impediments or other objections. This proof of access may be established parcel-by-parcel; and (b) If NextEra should be found to have entered any of these parcels for the purposes of this permit without first having established an unqualified right of access in an agreed-upon manner, Permit #685 (and other wise identified as a separate permit within other administrative City systems) shall be subject to immediate revocation at the discretion of the Chair of the Floodplain Permit Committee.

Ms. Muckala said if this is what the committee wants to recommend, a motion needs to be made based on the City Attorney’s recommendations as were read into the record.

Mr. Sturtz asked for comments from NextEra or their representatives. Jim Roth, attorney with Phillips Murrah on behalf of NextEra Energy Transmission Southwest, LLC’s Floodplain Permit

Application, said NEET Southwest previously submitted a Floodplain Permit application which this committee heard on July 17, 2023. The previous application was recommended for approval by City of Norman Staff but there were some concerns primarily regarding access and possession of certain affected properties. Since the prior meeting, circumstances surrounding these properties have substantially changed. In particular, NEET Southwest has now obtained easements for private and public land owners on all parcels within floodplains within the City of Norman. With the acquisitions of the easements, NEET Southwest has legal right to access the land. As recommended by the City Attorney's Office, documentation of these easements are included as attachments 6 in the application within the packet. Mr. Roth said we are respectfully requesting approval of this application as described as it's satisfied the requirements of the Norman Flood Hazard District Ordinance. Nick Fuhr, NEET Southwest Project Director, provided background information regarding the project and presented on the documents included in the application.

Mr. Sturtz asked the committee for any comments or questions. Mr. Scanlon made a comment that several of the citizens' concerns last time had to do with wildlife and tribal issues, and appreciated NextEra's specificity in talking about the redemptive measures and would like to see the report given to the City along with any comments from the Tribes. Mr. Scanlon asked about the 23 parcels and will there be access whether it's based on a paid easement or threat of eminent domain. Mr. Roth confirmed those 23 are settled. Mr. Scanlon also asked if he could elaborate a little more on the issues with the 14 and where they are in terms of negotiation. Aaron Tifft, Hall Estill, said of those 14, 10 have currently reached an agreement in principal and anticipate those being closed in the next couple of weeks. The other 4, have at least reached an agreement as to money. 3 of those, filed an exception or objection to our report and their sole argument is that NextEra should be required to obtain a floodplain permit before having access. One other parcel has an objection they are hopeful to reach a negotiated settlement with. Mr. Roth said they would then come back to the City and provide that proof. Ms. Muckala added that she'll be looking for either a statement that's pretty unequivocal from the actual property owner of record or something filed in court showing unequivocally that it's done. Ms. Hudson asked for clarification on permit 685 and Ms. Muckala said it's an administrative designation. Mr. Scanlon asked about open meetings and the announcement of 684 and addressing 685. Ms. Muckala said we are addressing application 684 and it's an administrative suggestion that we divide into a separate permit to treat it administratively. Ms. Stansel asked if there was already a permit 685 and Mr. Sturtz said no.

Mr. Sturtz asked for public comments or questions. Amanda Carpenter, Williams, Box, Forshee & Bullard, said there is currently a pending appeal of this specific application. The application being heard today is the same exact application as was heard by the committee and denied and appealed to the Board of Adjustment and also denied and appealed by NextEra to the district court. The matter is pending appeal and has not been dismissed. There are 10 parties that are admitted into that litigation as property owners and are on the list of 23 and 14. Those parties that have a pending appeal should be on your list of 14. Specifically asking that Raven Investments be moved to the list of 14. Ms. Carpenter discussed the easements in negotiation. Ms. Carpenter asked for the committee to not consider and table this matter because it is already in pending litigation before the district court. She also asked that the 10 interveners in the pending litigation be moved from the list of 23 to the list of 14 to require specific approval as was discussed today.

Mr. Sturtz asked staff to respond regarding the application. Ms. Muckala said this application was presented with litigation at very different stages than it was previously and NextEra presented additional information regarding the status of ownership and easements,

environmental work and discussion with tribes. This was submitted and accepted as a separate application. It is going through the system as a separate application through the City of Norman. Any outcome of this application is subject to the same appeal rights as any others. It can be appealed to the BOA and the district court. As for the other recommendations, if the committee wants to consider any of their requests to move lists around, it should be made clear on the record what is what. Ms. Carpenter said the language of the application that was submitted with the public record does appear to be the same. Ms. Carpenter said she brought the one from July and it does appear to be the exact same. We would ask if you're going to move forward and not honor our request to be moved from one list to the other, that you specifically state the substantial differences in the application.

James Greer, resident, said the first problem I have with the application is, we've never been allowed to tie properties together using GPS. You can't cross 3 basins with BFE's and tie those together. The second thing is, has anybody looked at this data from the survey for cross sections for bringing the data back to the floodplain. There's no way this data could have been done from the office and get these numbers.

Richard McKown, Carrington, LLC, stated that this transmission line is going to take out all the trees that have grown up over the past 60-70 years over the channelized creek. The vegetation is being removed and all of these things really matter in terms of having a floodplain that functions. I would like you to deny the permit.

Kara Wry, BMcD, reviewed the maps in the committee's packet showing the tree clearing. Ms. Wry said one of the things that we looked at in the routing was tree clearing and trying to minimize tree clearing where we could.

Mr. Scanlon asked for clarification on a comment made about an agreement for tree replacement. Mr. Tiff, said in general there are clearance requirements for the power line. Mr. Tiff said he's not sure of what conversations took place, they didn't take place with me I don't believe with regard to any such agreement, but if you have any more information I'm happy to get back to you. Ms. Carpenter said they made agreements with some property owners to change the terms of their easement and that has not been done with Raven Investments and Franklin Business Park. Aaron Tiff, said if a landowner requests specific items in the agreement, we employ the services of the engineers to investigate whether or not that is workable.

Ms. Hudson, asked for clarification on one of the maps and the tree clearing indicated. Kim Austin, NEE, said access is also driven by landowners so we try to utilize existing access to the extent possible. Mr. Tiff and Mr. Fuhr went into further detail regarding how easements and access are determined.

Mr. Sturtz said he'd like to direct everyone back to the reason why we are here. Mr. Sturtz said he is not here to arbitrate and to fix land owner deals and easements and right of way discussions. Nowhere in our floodplain ordinance does it say that's part of a floodplain permit application. We try to do what we think is best to protect all parties by restricting permit application approval on those that our legal office has found are not currently totally resolved. Ms. Muckala said she wanted to make a comment on the request to move owners between lists. Ms. Muckala said the lists are of her creation based strictly on her review of the ownership status. Moving one from the list of 23 to the list of 14 really doesn't change anything. Ms. Muckala said she has already looked at them and established for legal purposes the access is there. It doesn't mean you can't consider their request, I'm just saying that if you wanted to consider that, you would need to do it another way to address their concerns. Mr. Roth said they concur with the

Municipal Counselor's decision and think it's fair that this committee would consider a qualified permit which actually strengthens those 14 land owners' hands in negotiation.

Ms. Carpenter asked the Chairman to consider a permit 686 with the 10 property owners who are subject to the current litigation that is pending on the first permit.

Mr. Scanlon asked why we should consider this at all with pending litigation.

Ms. Hoggatt asked what the radius is for tree clearance. Ms. Austin said its 150 feet wide. Ms. Hudson asked if the trees in the area were tall enough to fall on the lines. Ms. Austin said yes, there are some trees out there that are tall enough they would fall on the line. Ms. Hoggatt asked how tall the line is. Jacob Clouse, BMCD, responded the minimum ground clearance is 25 feet. Ms. Hoggatt asked about revegetation. Ms. Wry responded it's typically a native seed mix but it depends on what's there.

Mr. Sturtz asked for comments from the committee. Mr. Scanlon asked how 686 would be worded. Ms. Muckala said Ms. Carpenter would need to identify these 10 so they could be taken out of these respective lists and create a 3rd list. That can be done if the committee wishes to do that but we would need to know what's the nature of this permit. Ms. Carpenter said she happy to provide suggestive language if you all would like to give us the time to do that. Ms. Muckala said the reason Raven is on the 23 parcel list is because there were no objections except to the amount filed in the court and so legally there appears there has been an acquisition and how does 686 treated like 685 would be different for Raven. Ms. Carpenter said Raven Investments did file litigation and there is pending litigation in state court specifically related to this floodplain and the interest that Raven Investments has. Ms. Carpenter said the legal rights that we would have had the opportunity to present to the state court who would have jurisdiction of this matter, that is being taken away from us by you presenting a new application. Specifically, we would ask to be put on a separate list in order to address the legal rights that we have as part of that appeal. Ms. Muckala said at this point we need committee discussion to determine if that is a direction that the majority of the committee wishes to go in. Mr. Tiff said he does not believe Ms. Carpenter represents all or the majority of these 14. We have reached agreements in principal with many of those and they are not here, I don't believe, making objection and I don't believe Ms. Carpenter represents them and to the extent she's seeking some relief. These are folks we've already reached agreements with and we're working to get documents together to finalize those. We do not think it would be proper to move them to separate list given the circumstances. Ms. Carpenter said she represents Raven Investments, move them to a separate list please.

Mr. Scanlon said can we table this, I'll make a motion. Ms. Muckala said she'd like to make an overarching point, today we are not granting any land rights, if there are pending issues in court, if they don't actually have the legal access they say they have, there's nothing about this permit that actually gives them that legal right. If my legal review was wrong and I made a mistake about who should be included on which list, they would still have the legal right to protest and keep them off their property if they don't in fact have legal access. If we were to move Raven, whom appears to be legally concluded in court, to the other list, I'm not sure what that would entail but we would need to have support to create a separate application for them and know the terms.

Ms. Hoggatt asked if this is something we typically consider with a floodplain permit. Mr. Roth said the answer is no. It's rather unprecedented from our experience. We are here because this committee last July, raised concerns about access and so this is an application before you attempting to honor that sensitivity. We agree with the staff's time and recommendations. We

agree with the Municipal Counselor’s approach to this. This application, if I can be clear for the record, meets the City of Norman’s ordinance for approval today. We’ve gone additional steps of protections in respect for your land owners to suggest a conditioned permit for those 14. I appreciate the desire to push this off but this is right before you with the conditions you asked for last July and it is a timely request before you and meets the law and this does nothing to take away the rights of landowners.

Ms. Carpenter said that you currently have litigation pending for an appeal of this exact application and therefore are thwarting the system. Mr. Roth said the permit had a limited period of time under Oklahoma law for which the denied permit had to seek legal redress. This application is ready for your approval today.

Mr. Greer said if you go look at already done work, they built a pond in the floodplain at 48th and Franklin Road. Look at their work, and look at this permit data. There’s no way to get to a thousandth of foot from a map. I wish you guys would run out there one day before you accept this permit and look at their work.

Mr. Roth said as a reminder the approvals of permits 684 and 685 can be appealed by landowners who are dissatisfied. NextEra would withdraw the appeal in district court if they can receive this permit conditioned as it is presented today.

Scott Bethel, Louis Jean Farms, I was on the list of some of the ones that you said you have an agreement in principal. I’m not sure what that means, is that truly an agreement, can you speak to that. Mr. Tiff, said he has been in communication with the attorney for Louis Jean Farms, I believe we’ve reached an agreement as to language and to compensation.

Mr. Sturtz brought it back to the committee. Ms. Hudson said going back to erosion control and removal of trees, in the ordinance it specifically says that we are to look at the concerns and our approval or denial is based on these factors. 5 years from now what is your guarantee that the flow of this flood has not changed substantially that will negatively impact the people downstream. A representative for NextEra said we provide the best engineering analysis that we can do as prescribed by your ordinance with FEMA. We did get the regulatory models from FEMA and we developed them in the manner that is prescribed by FEMA and National Flood Insurance Program to ensure that relatively speaking there’s not going to be an adverse impact on the property owners. Ms. Hudson asked if a property owner contacts NextEra and says we’ve got erosion or something like that, you guys go out and check, you’re reviewing your lines, and you’ll go out and fix it. Ms. Austin said yes, we have operations and management protocols that we follow and inspections that are followed and if they find something that was part of our project, we work with landowners to figure out how we’re going to address it. Mr. Murphy said Mr. Scanlon asked if the new Engineering Design Criteria that we adopted in February would apply here. Mr. Sturtz said the detention pond that was constructed was submitted and accepted by the Public Works Engineering department. Mr. Sturtz said he doesn’t know how the Engineering Design Criteria would apply to this specific situation since it’s not new development. Mr. Danner referenced a petroleum pipeline in east side Norman through the floodplain, and there was clearing for that pipeline. I don’t know how you get out of it.

Ms. Hudson asked Mr. Sturtz if the committee wanted to consider moving property owners from one list to the other. Mr. Scanlon said I think we do but I’m not prepared to sit here on 20 minutes contemplation. I advocate we rework this and come back in 2 weeks. Ms. Hoggatt asked if she could make a motion to approve. Mr. Sturtz asked if Mr. Scanlon had made a motion and Mr. Scanlon confirmed he had made a motion. Mr. Sturtz asked for a motion to table permits 684 &

685 for 2 weeks for consideration. Ms. Stansel asked if Mr. Sturtz was looking for a second the motion. Mr. Sturtz confirmed. Mr. Sturtz said the motion dies for a lack of second.

Ms. Hoggatt made a motion to approve with modified staff recommendation for Permit 684 & 685 as presented during the meeting by Ms. Muckala. Mr. Danner seconded the motion. Mr. Sturtz asked for any comments from the committee. Ms. Hudson asked for clarification on if the approval today does not negate someone's access rights regardless of the list they are on. Ms. Muckala said if NextEra does not actually have the right to enter on the 23 properties for 684, property owners would have legal rights to take them to court and keep them off the properties.

The committee voted to approve the application 5-2.

MISCELLANEOUS COMMENTS

Ms. Hoggatt asked about the next meeting and Mr. Murphy said there is 1 application for the January 16th meeting. Ms. Hoggatt asked if the meeting would also be on a Tuesday and Mr. Murphy confirmed.

ADJOURNMENT

Mr. Sturtz called for a motion to adjourn. Ms. Hudson motioned to adjourn and was seconded by Ms. Stansel. The meeting adjourned at 5:06 p.m.

Passed and approved this 16th day of January, 2024



City of Norman Floodplain Administrator, Scott Sturtz



IN THE DISTRICT COURT OF CLEVELAND COUNTY } S.S.
STATE OF OKLAHOMA }
CLEVELAND COUNTY }
FILED

SEP 01 2023

In the office of the
Court Clerk MARILYN WILLIAMS

**NEXTERA ENERGY TRANSMISSION
SOUTHWEST, LLC,**

Plaintiff,

v.

RAVEN INVESTMENTS, LLC,

Defendant.

**Case No. CV-2023-01529
(Judge Thad Balkman)**

REPORT OF COMMISSIONERS

COME NOW the undersigned Commissioners appointed by the Judge of this Court to inspect the Defendant's property located in

Section 21, Township 9 North, Range 3 West, I.M., Cleveland County, Oklahoma;
Section 3, Township 9 North, Range 3 West, I.M., Cleveland County, Oklahoma; and
Section 2, Township 9 North, Range 3 West, I.M., Cleveland County, Oklahoma,

referred to herein as "Defendant's Property," and to determine the amount of just compensation due the Defendant by reason of the taking of certain right-of-way easements over and across Defendant's Property by Plaintiff under its power of eminent domain for public purposes. We, the undersigned, respectfully submit the following Report, to-wit:

The undersigned Commissioners were and are disinterested freeholders of Cleveland County, Oklahoma, not interested in this or any like questions. On the 16 day of August, 2023, we took the oath prescribed by law, and proceeded to inspect the Defendant's Property.

Plaintiff, a limited liability company organized under the laws of the State of Delaware, as part of its system of electric transmission lines, seeks a right-of-way easement to construct an electric transmission line on that portion of Defendant's Property, more fully described on the Exhibits attached to the Petition for Condemnation, which was provided for our review pursuant

to the Court's Order dated July 20, 2023, along with ingress and egress to that right-of-way easement.

We further report that we have considered and determined the just compensation to which the Defendant is entitled by reason of the condemnation of said right-of-way easement over and across said property by Plaintiff. We do hereby assess the just compensation due said Defendant by reason of the taking of said right-of-way easements and in accordance with the Instructions to Commissioners, we find:

ESTIMATE OF JUST COMPENSATION

\$ 2,470,000.⁰⁰

STATE OF OKLAHOMA)
) SS:
COUNTY OF CLEVELAND)

IN WITNESS WHEREOF, we have hereunto set our hands on this 1st day of September, 2023.

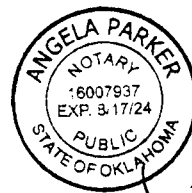
COMMISSIONERS:

Blake Rambo (1)
Blake Rambo

Jerry Bethea (2)
Jerry Bethea

Craig Nolen (3)
Craig Nolen

Notary
Angela Parker
16007937
Exp. 8-17-24
Angela Parker





STATE OF OKL
CLEVELAND COUNTY

**IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA**

SEP 11 2023

In the office of the
Court Clerk MARILYN WILLIAMS

NEXTERA ENERGY TRANSMISSION)
SOUTHWEST, LLC,)
)
Plaintiff,)
)
v.)
)
RAVEN INVESTMENTS, LLC,)
)
Defendants.)

Case No. CV-2023-1529
Judge Thad Balkman

DEFENDANT'S DEMAND FOR JURY TRIAL

COMES NOW Defendant, Raven Investments, LLC, and pursuant to 66 O.S. § 55 hereby demand a trial by jury in these proceedings. This demand is procedural and not meant as a Motion to Enter Cause upon the Jury Docket.

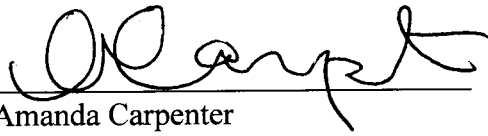
Respectfully Submitted,

David M. Box, OBA #21943
Amanda Carpenter, OBA #20965
WILLIAMS, BOX, FORSHEE & BULLARD, PC
522 Colcord Drive
Oklahoma City, Oklahoma 73102
Telephone: (405) 232-0080
Facsimile: (405) 232-5814
dmbox@wbflaw.com
acarpenter@wbflaw.com
Attorneys for Defendant

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing document was mailed this 7th day of September, 2023 by depositing it in the U.S. Mail, postage prepaid to:

Mark Banner
Aaron C. Tiff
Blake H. Gerow
Mason B. McMillan
HALL, ESTILL, HARADWICK, GABLE,
GOLDEN & NELSON, P.C.
521 East 2nd Street, Suite 1200
Tulsa, OK 74120


Amanda Carpenter



Item 1.

IN THE DISTRICT COURT OF CLEVELAND COUNTY } STATE OF OKLAHOMA } S.S.
STATE OF OKLAHOMA } CLEVELAND COUNTY }

FILED
OCT 16 2023

NEXTERA ENERGY TRANSMISSION)
SOUTHWEST, LLC,)
)
Plaintiff,)
)
v.)
)
RAVEN INVESTMENTS, LLC,)
)
Defendant.)

In the office of the
Court Clerk MARILYN WILLIAMS
Case No. CV-2023-1529
Judge Thad Balkman

APPLICATION FOR DISBURSAL OF COMMISSIONERS' AWARD

COMES NOW Defendant, Raven Investments, LLC, (hereinafter "Defendant"), and apply to this Court for an order directing the Court Clerk to pay to Defendant the sum of Two Million Four Hundred Seventy Thousand and no/Dollars (\$2,470,000.00) as hereinafter set forth, and in support thereof would show the Court the following:

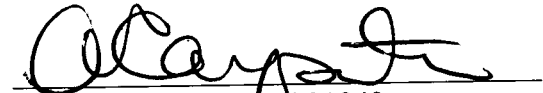
1. That on July 20, 2023, the Commissioners were duly appointed herein.
2. That on September 1, 2023, the Commissioners filed their report assessing damages in the amount of Two Million Four Hundred Seventy Thousand and no/Dollars (\$2,470,000.00) for the property condemned herein.
3. That on October 6, 2023, Plaintiff deposited the Two Million Four Hundred Seventy Thousand and no/Dollars (\$2,470,000.00) into the Court.
4. That Defendant is the fee owner of the property condemned herein.
5. That all ad valorem taxes, special assessments and personal property taxes due and owing against the subject property at the time of condemnation have been paid in full.
6. That Defendant is therefore entitled to an order directing the Court Clerk to disburse the Commissioners' Award.

WHEREFORE, Defendant prays that the Court issue an order directing the Court clerk to disburse the Commissioners' Award in the above-styled case in the amount of Two Million Four Hundred Seventy Thousand and no/Dollars (\$2,470,000.00) as follows:

<u>Defendant</u>	<u>Interest</u>	<u>Award</u>
Raven Investments, LLC c/o Amanda Carpenter Williams, Box, Forshee & Bullard, P.C. 522 Colcord Drive Oklahoma City, OK 73102	100% fee title	\$2,470,000.00

**WILLIAMS, BOX, FORSHEE
& BULLARD, P.C.**

By:

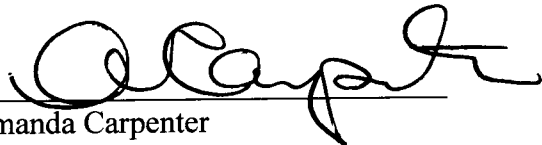


David M. Box, OBA# 21943
Amanda Carpenter, OBA#20965
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Oklahoma City, OK 73102-2202
Telephone: (405) 232-0080
Facsimile: (405) 236-5814
dmbox@wbflaw.com
acarpenter@wbflaw.com
Attorneys for Defendant

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing document was mailed this 11th day of October, 2023 by depositing it in the U.S. Mail, postage prepaid to:

Mark Banner
Aaron C. Tiff
Blake H. Gerow
Mason B. McMillan
HALL, ESTILL, HARADWICK, GABLE,
GOLDEN & NELSON, P.C.
521 East 2nd Street, Suite 1200
Tulsa, OK 74120
Attorneys for Plaintiff


Amanda Carpenter

copy to: [handwritten]



Item 1.

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY }

FILED

OCT 19 2023

In the office of the
Court Clerk MARILYN WILLIAMS

NEXTERA ENERGY TRANSMISSION)
SOUTHWEST, LLC,)
)
Plaintiff,)
)
v.)
)
RAVEN INVESTMENTS, LLC,)
)
Defendant.)

Case No. CV-2023-1529
Judge Thad Balkman

ORDER DISBURSING COMMISSIONERS' AWARD

NOW on this 16 day of October 2023, this matter comes for consideration on the Application of the Defendant, Raven Investments, LLC, (hereinafter "Defendant"), for an Order authorizing and directing the Court Clerk to disburse the Commissioners' Award as just compensation for the property condemned herein.

The Court, being duly advised of the premises, finds as follows:

1. That the Defendant is the record fee owner of the property condemned in the above styled matter ("Property").
2. That on July 20, 2023 this Court appointed three (3) disinterested freeholders in Cleveland County as Commissioners in order to assess just compensation owed to the Defendant occasioned by the appropriation of the Property for public purposes as described in the Petition filed herein.
3. That on September 1, 2023, the Commissioners filed their report herein, fixing the award of just compensation for the appropriation of the property for public purposes in the amount of Two Million Four Hundred Seventy Thousand and no/Dollars (\$2,470,000.00), which amount has been deposited into the Court by the Plaintiff.


4. That Defendant is entitled to draw the award affixed in the Report of the Commissioners without prejudice to the right or the rights of the parties hereto to trial by jury as provided by 66 O.S. §54.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Court Clerk, subject to the rights of either party to request a trial by jury in this matter, is hereby authorized and directed to issue its check payable as follows:

<u>Defendant</u>	<u>Interest</u>	<u>Award</u>
Raven Investments, LLC c/o Amanda Carpenter Williams, Box, Forshee & Bullard, P.C. 522 Colcord Drive Oklahoma City, OK 73102	100% fee title	\$2,470,000.00
	TOTAL:	\$2,470,000.00


CHAD BALLER
JUDGE OF THE DISTRICT COURT

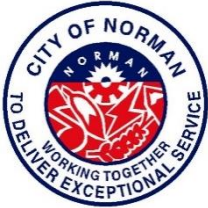
APPROVED:



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Mark Banner, OBA #13243
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Blake H. Gerow, OBA #34414
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bgerow@hallestill.com
mmcmillan@hallestill.com
Attorneys for Plaintiff



CITY OF NORMAN, OK
FLOODPLAIN PERMIT COMMITTEE MEETING
Development Center, Room B, 225 N. Webster Ave., Norman, OK 73069
Tuesday, January 02, 2024 at 3:30 PM

AGENDA

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, relation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

ROLL CALL

MINUTES

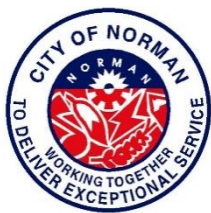
1. Approval of minutes from the November 6, 2023 meeting.

ACTION ITEMS

2. **Floodplain Permit Application No. 684** - This permit application is for the proposed installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek and Little River floodplains.

MISCELLANEOUS COMMENTS

ADJOURNMENT



CITY OF NORMAN, OK
FLOODPLAIN PERMIT COMMITTEE MEETING
Development Center, Conference Room B, 225 N. Webster Avenue,
Norman, OK 73069
Monday, November 6, 2023 at 3:30 PM

MINUTES

ROLL CALL

The meeting was called to order by Mr. Scott Sturtz at 3:30 p.m. Roll was called and 6 members were present with 1 absent, Shawn O’Leary. Others in attendance included, Todd McLellan, Development Engineer; Joseph Hill, Streets Program Manager; Jason Murphy, Stormwater Program Manager; Kim Freeman, Staff; Sallie Kennedy, Resident; Jim Allen, Resident; Lollie Lenker, Resident; Maureen Magovern, Resident; Jim Magovern, Resident; Sue Matheny, Resident.

MINUTES

1. Approval of minutes from the September 5, 2023 meeting

Mr. Sturtz called for a motion to approve the minutes from the meeting of September 5, 2023. Ms. Stansel asked for a correction to a typo on page 4. Mr. Scanlon motioned to approve the minutes with the correction and was seconded by Ken Danner. The minutes were approved 6-0.

ACTION ITEMS

2. Floodplain Permit No. 683

Mr. Sturtz said the Applicant and Engineer is the City of Norman and the Contractor is Cimarron Construction. Mr. Sturtz asked Mr. Murphy to present the staff report. Mr. Murphy said City of Norman, Department of Public Works is the Applicant. This permit is for the City of Norman Bridge Maintenance Program, and is similar to the previous 4 years. Lochner completed the Bridge Safety Inspections in 2021, and provided the inspection reports to city staff. Staff reviewed the information and prioritized the bridges on the list. This application is for up to 20 bridges. If all bridges are not completed this year, the remaining bridges will roll into the next fiscal year. Work will start at the highest priority bridge, moving down the list, performing maintenance work to ensure the bridges are safe. In some cases, that may include needing to get in the channel.

Mr. Murphy reviewed plans and aerial maps of the project locations provided to members in their packets.

Mr. Murphy noted that bridges listed in the Vineyards subdivision on Nantucket Blvd are not part of the Bridge Maintenance Program. The maintenance on these bridges is similar work that will be performed by the Stormwater division.

Mr. Scanlon asked if the list provided to the committee in their packets was prioritized and Mr. Murphy and Mr. Hill confirmed it is not a prioritized list.

Mr. Murphy confirmed all ordinance requirements have been met and said staff recommends Floodplain Permit Application No. 683 be approved.

Mr. Sturtz asked for comments or questions from the committee. Hearing none, Mr. Sturtz called for any public comments. Mr. Allen, resident, said he owns 32 acres north of Prairie Creek and his property has been turned into a catch basin between Highway 9 and 156th. He's met with City of Norman and ODOT engineers and they refuse to put a tinnhorn at 156th and Highway 9. He said it's not uncommon for 156th to be closed due to flood water. Mr. Allen said ODOT will not change their plans since they were submitted to the City of Norman and the City of Norman signed off on it. Mr. Sturtz said he would have to look into it as the City Engineer he has not seen their plans. Mr. Sturtz asked for confirmation of the work being done at 156th and Prairie Creek. Mr. Hill said it sounds like part of the issue is run off related to Highway 9 which the City of Norman has no control over. Mr. Sturtz said we would need to do some digging on that. Mr. Allen said he is happy to meet with anyone on his property. Mr. Murphy said the Oklahoma Water Resources Board (OWRB) recently reached out to the City because ODOT has to get their Floodplain permits through the State, which is OWRB. The particular Floodplain permits for their expansion of Highway 9 is on their agenda. OWRB has a meeting similar to this one where Mr. Allen could express his concern about the work they're doing with the permit they're applying for. Mr. Allen asked Mr. Murphy if he could help him get the information for OWRB. Mr. Murphy confirmed he could help after the meeting. Mr. Sturtz said we would look into it and Mr. Hill will get with Mr. Allen after the meeting as well. Mr. Sturtz asked for any other public comments. Mr. Magovern, resident, said he lives on NE 48th Street between Robinson and Rock Creek and our land is next to the bridge. Mr. Magovern said he received a letter about the permit and would like more information. Ms. Magovern, resident, said she has a question regarding the hash marks on the map included with their letter. Mr. Murphy said he would review the letter with her after the meeting to discuss. Ms. Magovern wanted to know if they were going to dig up her property where the hash marks are on the map. Mr. Sturtz said we are not doing any work outside the stream channel. The work is only being done at the bridge, in the stream channel or in the roadway. Ms. Magovern said on the east side of the bridge, when they changed the channel of the creek and where they put the new bridge in, there's a lot erosion on their side. For some reason there's a lot of rip rap on the east side and the west side there's not. There's been a lot of erosion into the stream from the property just outside our land. Mr. Hill said that specific bridge is only getting deck repair and there's no work planned off the roadway for that location. Ms. Magovern asked if in the future that could be added to keep the erosion from continuing. Mr. Hill said he's been out to the bridge and believes the erosion Ms. Magovern is talking about is on private property. Mr. Sturtz asked if there were any other questions. Hearing none, Mr. Sturtz brought it back to the committee. Mr. Danner motioned to approve Floodplain Application No. 683. Mr. Scanlon seconded the motion with a question. Mr. Scanlon asked how to treat Mr. Allen's bridge. Mr. Sturtz said he can't answer that because we don't know what the problem is. Mr. Scanlon asked if it should be included in approval if we don't know. Mr. Danner said it's not part of this. Ms. Hoggatt asked if he thought it was separate from this item. Mr. Sturtz asked for the confirmation of the bridge in question. Mr. Hill said this program is for maintenance of existing structures. Maintenance planned for this bridge is rip rap refreshment according to the inspection report, crack repair and sealing of the wing walls and surface of the structure. Mr. Scanlon asked if we are within our responsibility as far as bridge repair is concerned and another state agency needs to play a role and that's the information. Mr. Allen said there's a concrete culvert wall that is probably 2 foot high and upstream, it fills with sediment and stands in water for the bulk of the year. Mr. Scanlon asked if working on that is not part of this plan at all. Mr. Hill confirmed this is general maintenance to preexisting structures existing condition. If there is something on private property or outside of the right of way or that structure, it doesn't

fall in line with this. If there is a future proposal for improvement to Highway 9 that changes conditions then we will need to reassess. Mr. Scanlon said he is trying to figure out what we are approving. Mr. Sturtz said this is just the maintenance on the bridge structure. Mr. Scanlon said he seconded the motion and doesn't have any reservation about that second. The committee voted to approve the application 6-0.

MISCELLANEOUS COMMENTS

Mr. Murphy said the November 20th meeting is cancelled due to lack of applications.

ADJOURNMENT

Mr. Sturtz called for a motion to adjourn. Mr. Scanlon motioned to adjourn and was seconded by Mr. Danner. The meeting adjourned at 3:55 p.m.

Passed and approved this _____ day of _____, 2024

City of Norman Floodplain Administrator, Shawn O'Leary

STAFF REPORT

01/02/2024

PERMIT #684

ITEM: Floodplain Permit Application is for the installation of an electric transmission line across Norman through the Canadian River, Ten-Mile Flat Creek, and Little River floodplains.

BACKGROUND:

APPLICANT: NextEra Energy Transmission Southwest (NEET), LLC

ENGINEER: Burns and McDonnell Engineering Co., Inc.

BUILDER: Brink Constructors, Inc.

This application is for a proposed construction of an overhead electric transmission line. The proposed alignment will begin at the west boundary of the City limit (approx. 0.45 miles south of W. Robinson St.) and extend to the north boundary of the City limit (approx. 0.15 miles east of 48th Ave. NE). A total of 35 overhead electric transmission line pole structures are proposed to be constructed in the Special Flood Hazard Areas (SFHA) of Norman. Structure foundations for the transmission poles are engineered based on the size of the structure and soil conditions encountered. In addition to the pole structure installation, tree clearing within the 150-foot right-of-way along with temporary access road construction consisting of drive and crushed rock access roads or installation of crane mats. Sediment controls will be installed as needed.

Typical poles will be spun concrete or steel monopoles approximately four feet in diameter at ground level. Two of the poles will be in the regulatory floodway of the Canadian River and the other 33 poles will be in the floodplains of Ten-Mile Flat and the Little River and its Tributaries. Hydraulic analyses using HEC-RAS modeling was submitted by the applicant for each of the locations. For the 2 poles in the Canadian River floodway report from February 28, 2023, it was determined that no rise in the BFE would occur. The hydraulic analysis report for the remaining 33 poles was submitted in the HEC-RAS model floodplain analysis report dated April 21, 2023. Of these, 17 are in the Ten-Mile Flat Creek floodplain and will cause no rise in the BFE. The remaining 16 are in the Little River floodplain or its tributaries. 2 of the poles in the Little River floodplain will cause a rise of 0.01 feet in the BFE according the applicant's report, the others will cause no rise.

The applicant included in their application a chart indicating a minimum volume of material to be removed from each pole location in the various floodplains in order to meet the compensatory storage requirement of the Flood Hazard Ordinance. Spoils from excavation and compensatory storage creation will be removed from the floodplain and spread in upland areas outside of the floodplain. Some of the installation locations in this application are themselves outside of the regulatory floodplain, but the access and tree clearing to reach the site require crossing the floodplain.

The applicant has indicated that tree clearing will take place prior to construction to create temporary access roads. Where conditions allow, overland travel will be utilized with no grading or road construction. If temporary construction of access roads or improvements to existing roads are needed within floodplains, crane mats will be temporarily placed on the access roads. Air-bridges will be constructed where underground pipelines are crossed by access roads. The applicant has also indicated that sediment controls will be installed during construction. Any temporary crane mats that are utilized will be removed following construction. Access roads will be removed and reclaimed, if necessary, to original contours. The applicant has also indicated that revegetation will occur where appropriate.

The applicant has submitted copies of their OKR10 general permit for construction, the stormwater pollution prevention plan (SWP3) and has obtained an Earth Change Permit from the City of Norman.

In addition to items related specifically to the City’s Flood Hazard Ordinance, the applicant submitted documentation of the easement grants for construction activities occurring on private property. City Legal staff has reviewed these materials to consider the status of NextEra’s rights of access to each parcel and will provide information to the Committee regarding the status of each parcel. The applicant provided environmental impact analyses related to threatened, endangered, and species of concern as it relates to construction, tree clearing and pathing of the project and information related to their permitting through US Fish and Wildlife services as it relates to these species. The applicant also provided information related to coordination with local Tribes with respect to construction of the transmission line and have indicated that no concerns have been raised by the interested Tribes.

Site located in Little River Basin or its Tributaries? yes no

STAFF ANALYSIS: According to the latest DFIRM, the project site is located in the floodplain of the Canadian River (Zone AE).

Applicable Ordinance Sections:	Subject Area:
36-533 e(2)(a)	Fill Restrictions in the Floodplain
e(2)(e)	Compensatory Storage
e(2)(o).....	Storage of Material or Equipment
f(3)(a)(8)	No Rise Considerations

e(2)(a) and e(2)(e) Fill Restrictions in the Floodplain and Compensatory Storage – The use of fill in the floodplain is restricted. However, the placement of fill is allowed to elevate structures if compensatory storage is provided. The applicant has indicated a minimum quantity of material to remove from each of the floodplains as compensatory storage for installation of base structures and transmission poles. In addition, the applicant has indicated that all spoils from excavations will be removed from the floodplain. This meets ordinance requirements.

e(3)(o) Storage of Material or Equipment – Storage of material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after the issuance of flood warning by The National Weather Service. Any stored material or equipment must be removable. The applicant is aware that materials and equipment must be removed from the floodplain if warning is given meeting this ordinance requirement.

f(3)(a)(8) No Rise Considerations – For proposed development within any flood hazard area (except for those designated as regulatory floodways), certification that a rise of no more than 0.05 ft. will occur in the BFE on any adjacent property as a result of the proposed work. The project engineer has certified that the project will cause no rise in the BFE at the any location in the regulatory floodway and no more than 0.01 feet rise at any other location, which meets this ordinance requirement.

RECOMMENDATION: Staff recommends that Floodplain Permit Application #684 be considered in separate parts: consideration of included parcels to which NextEra has established a present and unqualified access right AND a consideration of included parcels to which NextEra’s access is still qualified with outstanding legal objections or other impediments, as follows:

- 1) With respect to parcels with present and unqualified access, City Staff recommends approval of a permit;
- 2) With respect to parcels where NextEra’s access is still qualified, City Staff recommends approval of a permit with the following qualifications:
 - a. The permit shall only become active for NextEra’s utilization upon NextEra establishing to the satisfaction of City Staff, including legal staff, that its right of

access is no longer qualified by outstanding legal impediments or other objections;
and

b. If NextEra should be found by the City to have entered any of these parcels for the purposes of this permit without first having established an unqualified right of access in an agreed-upon manner, this entire permit shall be subject to immediate revocation at the discretion of the Chair of the Floodplain Permit Committee.

ACTION TAKEN: _____

Portions of the application packet submitted by NextEra has been omitted from this packet in an effort to limit file size and reduce printing. To request a full copy of the application packet, including the full floodplain analyses for the Canadian River, Ten-Mile Flat Creek, and Little River floodplains, easement documentation, copies of other applicable permits and supporting documentation, please contact the City of Norman's Public Works Department at (405) 366-5455 or email Jason.murphy@normanok.gov.

Total file size for the application packet is 500 megabytes and 611 pages.



City of Norman

Floodplain Permit Application

Floodplain Permit No. 684

Building Permit No. _____

Date 1/2/2024

FLOODPLAIN PERMIT APPLICATION (\$100.00 Application Fee Required)

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Occupancy is issued.
5. The permit will expire if no work is commenced within 2 years of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements and must be included with this floodplain permit application.
7. Applicant hereby gives consent to the City of Norman or his/her representative to access the property to make reasonable inspections required to verify compliance.
8. The following floodplain modifications require approval by the City Council:
 - (a) A modification of the floodplain that results in a change of ten percent (10%) or more in the width of the floodplain.
 - (b) The construction of a pond with a water surface area of 5 acres or more.
 - (c) Any modifications of the stream banks or flow line within the area that would be regulatory floodway whether or not that channel has a regulatory floodplain, unless the work is being done by the City of Norman staff as part of a routine maintenance activity.
9. All supporting documentation required by this application is required along with the permit fee by the submittal deadline. Late or incomplete applications will not be accepted.
10. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

SECTION 2: PROPOSED DEVELOPMENT (To be completed by APPLICANT.)

APPLICANT: NextEra Energy Transmission Southwest, LLC ADDRESS: 700 University Blvd, Juno Beach FL 33408

TELEPHONE: 561-427-4308 SIGNATURE: [Signature]
Natalie F. Smith, Assistant Vice President

BUILDER: Brink Constructors, Inc. ADDRESS: 2950 N Plaza Drive, Rapid City, South Dakota 57702

TELEPHONE: 605-342-6966 SIGNATURE: [Signature]
Paul L. Lennox, Senior Project Manager

ENGINEER: Burns & McDonnell Engineering Co., Inc. c/o Jacob Clouse ADDRESS: 9400 Ward Parkway, Kansas City, MO 64114

TELEPHONE: 816-760-2409 SIGNATURE: [Signature]

PROJECT LOCATION

To avoid delay in processing the application, please provide enough information to easily identify the project location. Provide the street address, subdivision addition, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well known landmark. A sketch attached to this application showing the project location would be helpful.

Proposed construction of overhead electric transmission line. Within the City of Norman, Oklahoma, the proposed alignment will begin at the west boundary of the city limit (approx. 0.45 miles south of W. Robinson St.) and extend to the north boundary of the City limit (approx 0.15 miles east of 48th Ave NE). See attached figure for proposed alignment through the City of Norman, Oklahoma. A total of 35 overhead electric transmission line poles are proposed to be constructed in Special Flood Hazard Areas (SFHA) within the City of Norman, Oklahoma. See attached table for the coordinates of each of these poles.

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

ACTIVITY

STRUCTURE TYPE

- New Structure Residential (1-4 Family)
- Addition Residential (More than 4 Family)
- Alteration Non-Residential (Flood proofing? Yes)
- Relocation Combined Use (Residential & Commercial)
- Demolition Manufactured (Mobile) Home
- Replacement In Manufactured Home Park? Yes

ESTIMATED COST OF PROJECT \$ 7.9 million Work that involves substantial damage/substantial improvement requires detailed cost estimates and an appraisal of the structure that is being improved.

B. OTHER DEVELOPMENT ACTIVITIES:

- Fill Mining Drilling Grading
- Excavation (Beyond the minimum for Structural Development)
- Watercourse Alteration (Including Dredging and Channel Modifications)
- Drainage Improvements (Including Culvert Work) Road, Street or Bridge Construction
- Subdivision (New or Expansion) Individual Water or Sewer System

In addition to items A. and B. provide a complete and detailed description of proposed work (failure to provide this item will be cause for the application to be rejected by staff). Attach additional sheets if necessary.

Tree clearing within the right-of-way along with temporary access road construction consisting of drive and crush access roads or installation of construction mats. Sediment controls will be installed as needed. Installation of overhead electric transmission poles. Pole foundations are engineered based on the size of the pole and the soil conditions encountered. Please refer to the plan & profile drawings (MPV-00101sh21-25 - PVD00101sh1-6) in Attachment 2 and foundations schedules (MNC-FND-001sh01 - MNC-FND-004sh02) for foundation diameter, depth and backfill material in Attachments 4 and 5.

C. ATTACHMENTS WHICH ARE REQUIRED WITH EVERY APPLICATION:

The applicant must submit the documents listed below before the application can be processed. If the requested document is not relevant to the project scope, please check the Not Applicable box and provide explanation.

A. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel, floodway, and the regulatory flood-protection elevation.

B. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high-water information.

Not Applicable:

See attached plan and profile.

C. Subdivision or other development plans (If the subdivision or other developments exceeds 50 lots or 5 acres, whichever is the lesser, the applicant **must** provide 100-year flood elevations if they are not otherwise available).

Not Applicable:

Project does not involve a subdivision or other development.

D. Plans (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream, soil types and other pertinent information.

Not Applicable:

See attached plan and profile.

E. A profile showing the slope of the bottom of the channel or flow line of the stream.

Not Applicable:

See attached plan and profile.

F. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures.

Not Applicable:

No occupiable structures are proposed as part of this project.

G. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

Not Applicable:

No watercourse or natural drainage will be altered or relocated as a result of this project.

- H. For proposed development within any flood hazard area (except for those areas designated as regulatory floodways), certification that a rise of no more than five hundredths of a foot (0.05') will occur on any adjacent property in the base flood elevation as a result of the proposed work. For proposed development within a designated regulatory floodway, certification of no increase in flood levels within the community during the occurrence of the base flood discharge as a result of the proposed work. All certifications shall be signed and sealed by a Registered Professional Engineer licensed to practice in the State of Oklahoma.
- I. A certified list of names and addresses of all record property owners within a three hundred fifty (350) foot radius of the exterior boundary of the subject property not to exceed 100 feet laterally from the Special Flood Hazard Area. The radius to be extended by increments of one hundred (100) linear feet until the list of property owners includes not less than fifteen (15) individual property owners of separate parcels or until a maximum radius of one thousand (1,000) feet has been reached.
- J. A copy of all other applicable local, state, and federal permits (i.e. U.S. Army Corps of Engineers 404 permit, etc).

After completing SECTION 2, APPLICANT should submit form to Permit Staff for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by Permit Staff.)

The proposed development is located on FIRM Panel No.: * , Dated:

The Proposed Development:


Is NOT located in a Special Flood Hazard Area
(Notify the applicant that the application review is complete and NO FLOODPLAIN PERMIT IS REQUIRED).

Is located in a Special Flood Hazard Area.

The proposed development is located in a floodway.

100-Year flood elevation at the site is Ft. NGVD (MSL) Unavailable

See Section 4 for additional instructions.

SIGNED:  DATE: 12/14/2023

** see attachment 3 of application for each pole location and respective floodplain information*

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by Permit Staff.)

The applicant must also submit the documents checked below before the application can be processed.

- Flood proofing protection level (non-residential only) _____ Ft. NGVD (MSL). For flood proofed structures applicant must attach certification from registered engineer.
- Certification from a registered engineer that the proposed activity in a regulatory floodway will not result in any increase in the height of the 100-year flood (Base Flood Elevation). A copy of all data and calculations supporting this finding must also be submitted.
- Certification from a registered engineer that the proposed activity in a regulatory flood plain will result in an increase of no more than 0.05 feet in the height of the 100-year flood (Base Flood Elevation). A copy of all data and calculations supporting this finding must also be submitted.
- All other applicable federal, state, and local permits have been obtained.

Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by Floodplain Chairman.)

The proposed activity: (A) **Is**; (B) **Is Not** in conformance with provisions of Norman’s City Code Chapter 22, Section 429.1. The permit is issued subject to the conditions attached to and made part of this permit.

SIGNED: _____ DATE: _____

If **BOX A** is checked, the Floodplain committee chairman may issue a Floodplain Permit.

If **BOX B** is checked, the Floodplain committee chairman will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Floodplain committee or may request a hearing from the Board of Adjustment.

APPEALS: Appealed to Board of Adjustment: Yes No
Hearing date: _____

Board of Adjustment Decision - Approved: Yes No

Conditions:

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by APPLICANT before Certificate of Occupancy is issued.)

1. FEMA Elevation Certificate
and/or
2. FEMA Floodproofing Certificate

NOTE: The completed certificate will be reviewed by staff for completeness and accuracy. If any deficiencies are found it will be returned to the applicant for revision. A Certificate of Occupancy for the structure will not be issued until an Elevation and /or Floodproofing Certificate has been accepted by the City.

APPENDIX E – NO-RISE CERTIFICATIONS

ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Norman County: Cleveland State: Oklahoma

NextEra Energy Transmission Southwest, LLC

5/22/2023

Burns & McDonnell Engineering Company, Inc.

Applicant

Date

Engineer

700 Universe Blvd, Juno Beach, FL 33408

9440 Ward Parkway, Kansas City, MO 64114

Address

Address

(316) 775-8503

(816)333-9400

Telephone:

Telephone

SITE DATA

- Location: Sections **9, 16, 21, 28, 29**; Range **03N**; Township **09N**
Location: **Between LAT 35.231077 / LONG -97.531557 and LAT 35.269095 / LONG -97.520369**
- Street Address: **Not applicable**
- Panel(s) No. of NFIP map(s) affected: **40027C0260J, 40027C0170J, January 15, 2021**
- Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____
- Description of Development: **NextEra Energy Transmission Southwest, LLC (NEET Southwest) has contracted Burns & McDonnell (BMCD) to provide engineering, environmental, and permitting services to support the construction of an electrical transmission line connecting the Minco, Pleasant Valley, and Draper substations in Grady, McClain, and Cleveland Counties, Oklahoma. Seventeen (17) power poles will be installed within the limits of the Ten Mile Flat Creek floodplain.**
- Name of Flooding Source: **Ten Mile Flat Creek**

COMMENTS

City of Norman, Oklahoma, Municipal Code, SEC 429.1 – FH, Flood Hazard District allows base flood elevations to be increased from 0.00 to 0.05 feet while still meeting the requirements of a no-rise.

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 1% elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated **January 15, 2021** and will not create any increase to the 1% flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab

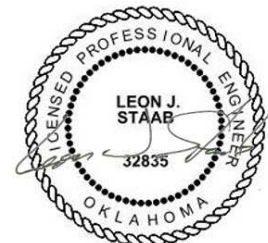
5/22/2023

Leon J. Staab, P.E.
Civil Engineer

Date

32835

License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Norman County: Cleveland State: Oklahoma

NextEra Energy Transmission Southwest, LLC

Applicant

5/22/2023

Date

Burns & McDonnell Engineering Company, Inc.

Engineer

700 Universe Blvd, Juno Beach, FL 33408

Address

9440 Ward Parkway, Kansas City, MO 64114

Address

(316) 775-8503

Telephone:

(816)333-9400

Telephone

SITE DATA

7. Location: SE ¼; SW ¼; Section 2; Range 03W; Township 09N

Location: LAT 35.276745 / LONG -97.489227; LAT 35.276794 / LONG -97.486312

8. Street Address: **Not applicable**

9. Panel(s) No. of NFIP map(s) affected: **40027C0190K, January 15, 2021**

10. Type of Development: Filling Grading Excavation

Minor Improv. Substantial Improv. New Construction Other _____

11. Description of Development: **NextEra Energy Transmission Southwest, LLC (NEET Southwest) has contracted Burns & McDonnell (BMCD) to provide engineering, environmental, and permitting services to support the construction of an electrical transmission line connecting the Minco, Pleasant Valley, and Draper substations in Grady, McClain, and Cleveland Counties, Oklahoma. Two (2) power poles will be installed within the limits of the Little River Tributary G floodplain.**

12. Name of Flooding Source: **Little River Tributary G**

COMMENTS

City of Norman, Oklahoma, Municipal Code, SEC 429.1 – FH, Flood Hazard District allows base flood elevations to be increased from 0.00 to 0.05 feet while still meeting the requirements of a no-rise.

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 1% elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated **January 15, 2021** and will not create any increase to the 1% flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab
Leon J. Staab, P.E.

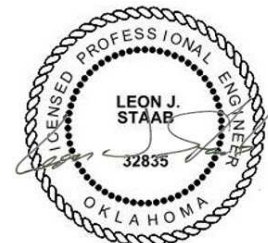
Civil Engineer

5/22/2023

Date

32835

License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Norman County: Cleveland State: Oklahoma

NextEra Energy Transmission Southwest, LLC 5/22/2023 Burns & McDonnell Engineering Company, Inc.

Applicant Date Engineer

700 Universe Blvd, Juno Beach, FL 33408 9440 Ward Parkway, Kansas City, MO 64114

Address Address

(316) 775-8503 (816)333-9400

Telephone: Telephone

SITE DATA

13. Location: Section **1**; Range**03W**; Township **09N**; Sections **1, 2, 3**; Range**02W**; Township **09N**
Location: **between LAT 35.278899 / LONG -97.465358 and LAT 35.288077 / LONG -97.36839**

14. Street Address: **Not applicable**

15. Panel(s) No. of NFIP map(s) affected: **40027C0190K, January 15, 2021; 40027C0195J. February 20, 2013; 40027C0215H, September 26, 2008**

16. Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____

17. Description of Development: **NextEra Energy Transmission Southwest, LLC (NEET Southwest) has contracted Burns & McDonnell (BMCD) to provide engineering, environmental, and permitting services to support the construction of an electrical transmission line connecting the Minco, Pleasant Valley, and Draper substations in Grady, McClain, and Cleveland Counties, Oklahoma. Ten (10) power poles will be installed within the limits of the Little River floodplain.**

18. Name of Flooding Source: **Little River**

COMMENTS

City of Norman, Oklahoma, Municipal Code, SEC 429.1 – FH, Flood Hazard District allows base flood elevations to be increased from 0.00 to 0.05 feet while still meeting the requirements of a no-rise.

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 1% elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated **January 15, 2021, February 20, 2013, and September 26, 2008**, and will not create any increase to the 1% flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab
Leon J. Staab, P.E.
Civil Engineer

5/22/2023
Date
32835
License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Norman County: Cleveland State: Oklahoma
NextEra Energy Transmission
Southwest, LLC 5/22/2023 Burns & McDonnell Engineering Company, Inc.
Applicant Date Engineer
700 Universe Blvd, Juno Beach, FL 33408 9440 Ward Parkway, Kansas City, MO 64114
Address Address
(316) 775-8503 (816)333-9400
Telephone: Telephone

SITE DATA

19. Location: **SW ¼; NE ¼; Section 5; Range 02W; Township 09N**

Location: **LAT 35.28346 / LONG -97.429352**

20. Street Address: **Not applicable**

21. Panel(s) No. of NFIP map(s) affected: **40027C0195J, February 20, 2013**

22. Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____

23. Description of Development: **NextEra Energy Transmission Southwest, LLC (NEET Southwest) has contracted Burns & McDonnell (BMCD) to provide engineering, environmental, and permitting services to support the construction of an electrical transmission line connecting the Minco, Pleasant Valley, and Draper substations in Grady, McClain, and Cleveland Counties, Oklahoma. One (1) power pole will be installed within the limits of the North Fork River floodplain.**

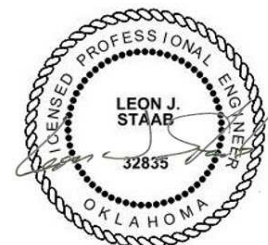
24. Name of Flooding Source: **North Fork River**

COMMENTS

City of Norman, Oklahoma, Municipal Code, SEC 429.1 – FH, Flood Hazard District allows base flood elevations to be increased from 0.00 to 0.05 feet while still meeting the requirements of a no-rise.

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 1% elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated **February 20, 2013**, and will not create any increase to the 1% flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab 5/22/2023
Leon J. Staab, P.E. Date
Civil Engineer
32835
License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Norman County: Cleveland State: Oklahoma

NextEra Energy Transmission Southwest, LLC 05/22/2023 Burns & McDonnell Engineering Company, Inc.

Applicant Date Engineer

700 Universe Blvd, Juno Beach, FL 33408 9440 Ward Parkway, Kansas City, MO 64114

Address Address

(316) 775-8503 (816)333-9400

Telephone: Telephone

SITE DATA

25. Location: **SE ¼; NW ¼; Section 4; Range 02W; Township 09N**

Location: **LAT 35.283514 / LONG -97.415433**

26. Street Address: **Not applicable**

27. Panel(s) No. of NFIP map(s) affected: **40027C0195J, February 20, 2013**

28. Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____

29. Description of Development: **NextEra Energy Transmission Southwest, LLC (NEET Southwest) has contracted Burns & McDonnell (BMCD) to provide engineering, environmental, and permitting services to support the construction of an electrical transmission line connecting the Minco, Pleasant Valley, and Draper substations in Grady, McClain, and Cleveland Counties, Oklahoma. One (1) power pole will be installed within the limits of the Little River Tributary Stream 127 floodplain.**

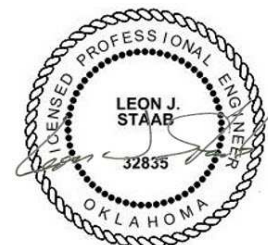
30. Name of Flooding Source: **Little River Tributary Stream 127**

COMMENTS

City of Norman, Oklahoma, Municipal Code, SEC 429.1 – FH, Flood Hazard District allows base flood elevations to be increased from 0.00 to 0.05 feet while still meeting the requirements of a no-rise.

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 1% elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated **February 20, 2013**, and will not create any increase to the 1% flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab 5/22/2023
Leon J. Staab, P.E. Date
32835
Civil Engineer License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Norman County: Cleveland State: Oklahoma

NextEra Energy Transmission Southwest, LLC 5/22/2023 Burns & McDonnell Engineering Company, Inc.

Applicant Date Engineer

700 Universe Blvd, Juno Beach, FL 33408 9440 Ward Parkway, Kansas City, MO 64114

Address Address

(316) 775-8503 (816)333-9400

Telephone: Telephone

SITE DATA

31. Location: **SW ¼; NW ¼; Section 3; Range 02W; Township 09N**

Location: **LAT 35.28366 / LONG -97.40437**

32. Street Address: **Not applicable**

33. Panel(s) No. of NFIP map(s) affected: **40027C0195J, February 20, 2013**

34. Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____

35. Description of Development: **NextEra Energy Transmission Southwest, LLC (NEET Southwest) has contracted Burns & McDonnell (BMCD) to provide engineering, environmental, and permitting services to support the construction of an electrical transmission line connecting the Minco, Pleasant Valley, and Draper substations in Grady, McClain, and Cleveland Counties, Oklahoma. One (1) power pole will be installed within the limits of the Little River Tributary Stream 100 floodplain.**

36. Name of Flooding Source: **Little River Tributary Stream 100**

COMMENTS

City of Norman, Oklahoma, Municipal Code, SEC 429.1 – FH, Flood Hazard District allows base flood elevations to be increased from 0.00 to 0.05 feet while still meeting the requirements of a no-rise.

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 1% elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated **February 20, 2013**, and will not create any increase to the 1% flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab 5/22/2023
Leon J. Staab, P.E. Date
32835
Civil Engineer License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Norman County: Cleveland State: Oklahoma

NextEra Energy Transmission Southwest, LLC 5/22/2023 Burns & McDonnell Engineering Company, Inc.

Applicant Date Engineer

700 Universe Blvd, Juno Beach, FL 33408 9440 Ward Parkway, Kansas City, MO 64114

Address Address

(316) 775-8503 (816)333-9400

Telephone: Telephone

SITE DATA

37. Location: SE ¼; NE ¼; Section 3; Range 02W; Township 09N

Location: LAT 35.283669/ LONG -97.388682

38. Street Address: **Not applicable**

39. Panel(s) No. of NFIP map(s) affected: **40027C0215H, September 26, 2008**

40. Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____

41. Description of Development: **NextEra Energy Transmission Southwest, LLC (NEET Southwest) has contracted Burns & McDonnell (BMCD) to provide engineering, environmental, and permitting services to support the construction of an electrical transmission line connecting the Minco, Pleasant Valley, and Draper substations in Grady, McClain, and Cleveland Counties, Oklahoma. One (1) power pole will be installed within the limits of the Little River Tributary Stream 101 floodplain.**

42. Name of Flooding Source: **Little River Tributary Stream 101**

COMMENTS

City of Norman, Oklahoma, Municipal Code, SEC 429.1 – FH, Flood Hazard District allows base flood elevations to be increased from 0.00 to 0.05 feet while still meeting the requirements of a no-rise.

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 1% elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated **September 26, 2008**, and will not create any increase to the 1% flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab
Leon J. Staab, P.E.
Civil Engineer

5/22/2023
Date
32835
License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: Cleveland County, OK County: Cleveland State: OK

Applicant: NEET Southwest, LLC Date: 2/27/2022
Address: 700 Universe Blvd, Juno Beach, FL 33408
Telephone: 561-691-7171

Engineer: Leon Staab
Address: 9400 Ward Parkway, Kansas City, MO 64114
Telephone: 816-601-3959

SITE DATA

1. Location: **SE¼; Section 30; Range 09N; Township 03W**
Street Address: **Canadian River near 97.49009°N, 35.19249°E**
2. Panel(s) No. of NFIP map(s) affected: **40027C0260J (January 15, 2021)**
3. Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____
4. Description of Development: **Construction of an electrical transmission line that includes poles that cross the Canadian River Floodplain.**
5. Name of Flooding Source: **Canadian River**

COMMENTS

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 100-year elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated January 15, 2021, and will not create any increase to the 100-year flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab
Civil Engineer

2/27/2023
Date

32835
License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Newcastle, OK County: McClain State: OK

Applicant: NEET Southwest, LLC Date: 2/27/2023

Address: 700 Universe Blvd, Juno Beach, FL 33408

Telephone: 561-691-7171

Engineer: Leon Staab
Address: 9400 Ward Parkway, Kansas City, MO 64114
Telephone: 816-601-3959

SITE DATA

1. Location: **SE¼; Section 30; Range 09N; Township 03W**
Street Address: **Canadian River near 97.49009°N, 35.19249°E**
2. Panel(s) No. of NFIP map(s) affected: **40087C0085G (November 16, 2007)**
3. Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____
4. Description of Development: **Construction of an electrical transmission line that includes poles that cross the Canadian River Floodplain.**
5. Name of Flooding Source: **Canadian River**

COMMENTS

This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 100-year elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated November 16, 2007, and will not create any increase to the 100-year flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab
Civil Engineer

2/27/2023
Date

32835
License No.



ENGINEERING "NO-RISE" CERTIFICATION

Community: City of Norman, OK County: Cleveland State: OK

Applicant: NEET Southwest, LLC Date: 2/27/2023

Address: 700 Universe Blvd, Juno Beach, FL 33408

Telephone: 561-691-7171

Engineer: Leon Staab
Address: 9400 Ward Parkway, Kansas City, MO 64114
Telephone: 816-601-3959

SITE DATA

1. Location: **SE¼; Section 30; Range 09N; Township 03W**
Street Address: **Canadian River near 97.49009°N, 35.19249°E**
2. Panel(s) No. of NFIP map(s) affected: **40027C0260J (January 15, 2021)**
3. Type of Development: Filling Grading Excavation
Minor Improv. Substantial Improv. New Construction Other _____
4. Description of Development: **Construction of an electrical transmission line that includes poles that cross the Canadian River Floodplain.**
5. Name of Flooding Source: **Canadian River**

COMMENTS

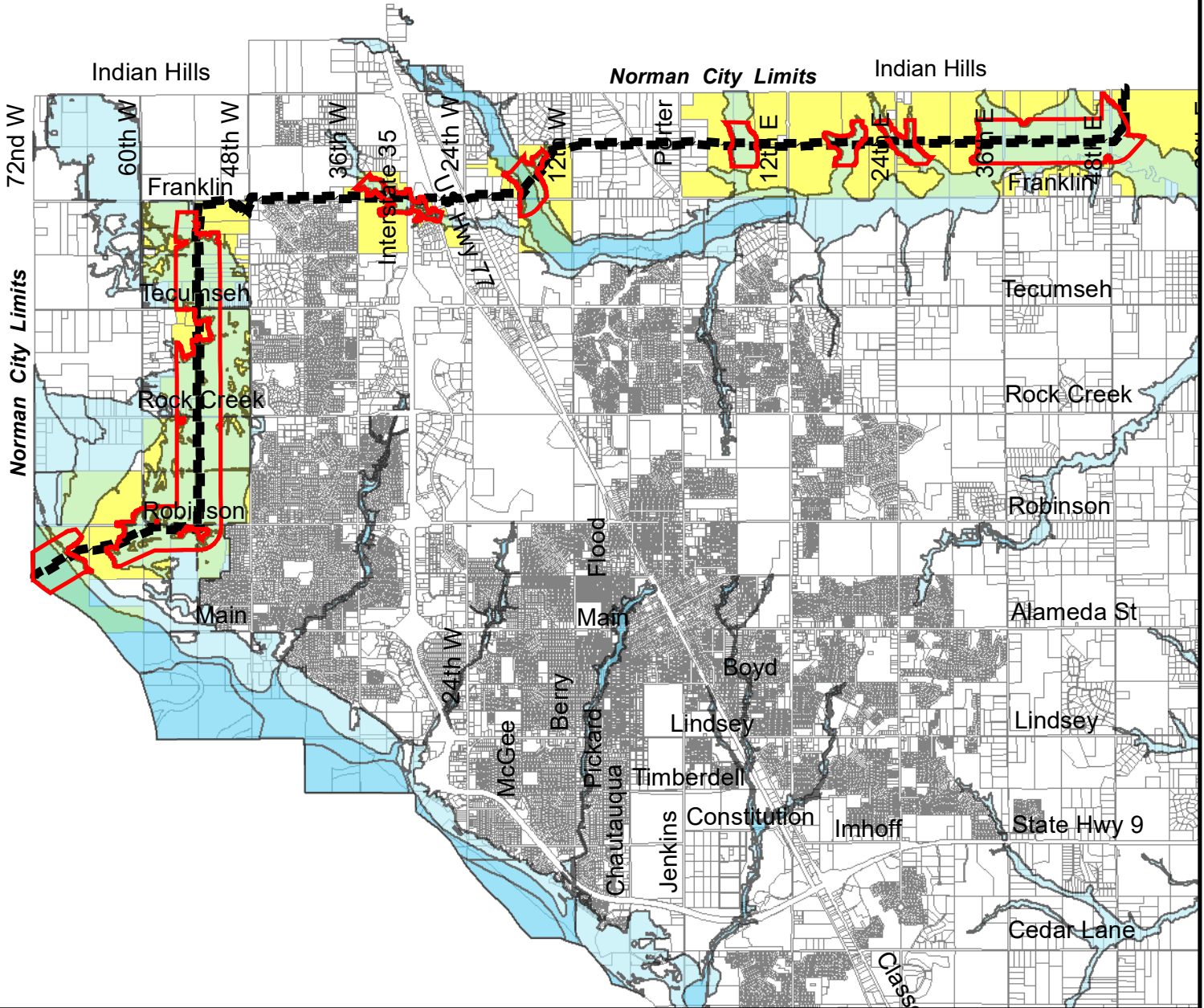
This is to certify that I am a duly qualified engineer licensed to practice in the State of Oklahoma. It is to further certify that the attached technical data supports the fact that the proposed development described above will not create any increase to the 100-year elevations on said flooding source above at published cross sections in the Flood Insurance Study for the above community dated January 15, 2021, and will not create any increase to the 100-year flood elevations at unpublished cross-sections in the vicinity of the proposed development.

Leon J. Staab
Civil Engineer

2/27/2023
Date

32835
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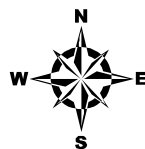






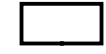


Floodplain Permit Notification Map

Map Produced by the City of Norman Geographic Information System. The City of Norman assumes no responsibility for errors or omissions in the information presented.

1000ft. Radius
November 15, 2023



0 4,000 8,000 Ft

-  Subject Tract
-  Radius
-  Zoning
-  Parcels
-  Notification Area



<u>Landowner</u>	<u>Billing Address Street</u>	<u>City</u>	<u>State</u>	<u>Zipcode</u>
WESTERN FARMERS ELECTRIC CORP	P O BOX 429	Anadarko	OK	73005
NATURE GROWN FARMS, LLC	2770 E 400 N	Columbia City	IN	46725-9309
SMITH, ALBERTA KUCHYNKA & ERNEST	PO BOX 15026	Del City	OK	73155-1327
TULLIUS, BETTY JANE-20 PER INT	4803 W Hayward PL	Denver	CO	80212-1542
MCDANIEL, JAMES L JR & MARGARET H-REV LI	1832 Redland DR	Edmond	OK	73003-2455
BASKETT, WILLIAM L	2901 Sooner Lake DR	Moore	OK	73165-7323
BASKETT, WILLIAM L & JEAN A-	2901 Sooner Lake DR	Moore	OK	73165-7323
BASKETT, WILLIAM L & JEAN ANN	2901 Sooner Lake DR	Moore	OK	73165-7323
BASKETT-GREER, AMY	2901 Sooner Lake DR	Moore	OK	73165-7323
D & D PROPERTIES, LLC	2601 Pioneer LN	Moore	OK	73160-4117
GREER, JAMES R	2901 Sooner Lake DR	Moore	OK	73165-7323
GUDGEL, JASON LEE & RENEE M	PO BOX 7397	Moore	OK	73153
RAVEN INVESTMENTS, LLC	PO Box 7187	Moore	OK	73153-1187
SCOTT, SHAWN	PO Box 6266	Moore	OK	73153-0266
SHAZ INVESTMENT GROUP LLC	2240 N Broadway ST	Moore	OK	73160-4303
SHAZ INVESTMENT GROUP, LLC	2252 N BROADWAY	Moore	OK	73160
WILSON, MINDY E	2128 NE 9TH ST	Moore	OK	73160-8548
ALLEN HOLDINGS, LLC	240 Olde Brook CT	Norman	OK	73072-4548
AMRINE, DUSTIN R	5201 W Tecumseh RD	Norman	OK	73072-1606
ARBOR LAKE, LLC OF NORMAN	3560 Macdonnell DR	Norman	OK	73069-8287
ARORA RANCH, LLC	2600 Smoking Oak RD	Norman	OK	73072-6714
BATTISON PROPERTIES, LLC	4313 Hackney Wick RD	Norman	OK	73072-9719
BAYOUTH, SAMUEL W & RENE K	5980 48th AVE NE	Norman	OK	73026-0320
BIRD RANCH, LLC	700 Cabella CT	Norman	OK	73072-9501
BOARD OF COUNTY COMMISSIONERS	201 S Jones AVE	Norman	OK	73069-6000
BONGE, MARC A & CAROLYN R-REV TRT	5113 W Tecumseh RD	Norman	OK	73072-1605
BROWN FAMILY TRUST (THE)	100 E Indian Hills RD	Norman	OK	73071-7977
CALVERT TRT-CALVERT, SID & SHIRLEY-TRTEE	3930 48th AVE NW	Norman	OK	73072-1701
CALVERT TRUST	3930 48th AVE NW	Norman	OK	73072-1701
CALVERT, JEREMY S (AKA JAKE) &	4100 48th AVE NW	Norman	OK	73072-1703
CALVERT, JERRY DON & BELINDA SUE-REV-TRT	4000 48th AVE NW	Norman	OK	73072-1704
CALVERT, LEO & GLORIA-REV TRT	3926 48th NW AVE NW	Norman	OK	73072-1701
CITY OF NORMAN	PO Box 370	Norman	OK	73070-0370
CITY OF NORMAN	201 W Gray ST	Norman	OK	73069-7108
COCHRAN, MARK & KARA	2013 W FRANKLIN RD	Norman	OK	73069
CRUMRINE, JACQUELINE A & ROBERT D	3100 Pine Hill RD	Norman	OK	73072-1942
DEL NERO, PHILIP W & KRISTIN D	4801 Pleasanthill LN	Norman	OK	73026
DOTSON, TERESA M-20 PER INT	6501 E Cedar Lane RD	Norman	OK	73026-5534
EISEN-STURMER I, LLC	3940 W Tecumseh RD	Norman	OK	73072-1707
FLETCHER, GERRI	5151 24TH AVE NE	Norman	OK	73071
FRANKLIN BUSINESS PARK, LLC	1320 N Porter AVE	Norman	OK	73071-6619
FRANKLIN ROAD FARMS LLC	3001 E Franklin RD	Norman	OK	73071-7803
GREER, JAMES R & AMY-UND 1/2 INT DBA BG	1219 Brookdale DR	Norman	OK	73072-3608
GREER, JAMES RONALD & AMY BASKETT	4509 Moorgate DR	Norman	OK	73072-9763
HAPPYLAND HOLDINGS, LLC	PO BOX 721440	Norman	OK	73070-8110
JENNINGS LIV TRT	6501 E Cedar Lane RD	Norman	OK	73026-5534
JENNINGS LIV TRT-1/2 INT	6501 E Cedar Lane RD	Norman	OK	73026-5534
JOHNSTON, CURTIS &	3008 Skye Ridge DR	Norman	OK	73069-9736
KING, ARLISS C & ANN-LIFE EST	4420 48TH AVE NW	Norman	OK	73072
KING, CLINT-LIV TRT-TRTEE	4420 48th AVE NW	Norman	OK	73072-1705
L R RANCH OPERATING COMPANY, LP	5301 48th AVE NE	Norman	OK	73026-0321
LANDMARK-FRANKLIN, LLC	2900 Washington DR	Norman	OK	73069-1014
LEGARDA, RIGOBERTO & BLASA	5209 W Tecumseh RD	Norman	OK	73072-1606
LOUIS JEAN LANDER FARM, LLC	201 Merkle DR	Norman	OK	73069-6427
MAPPES, HENRY W & MAXINE-REV TRT	3907 E FRANKLIN RD	Norman	OK	73026

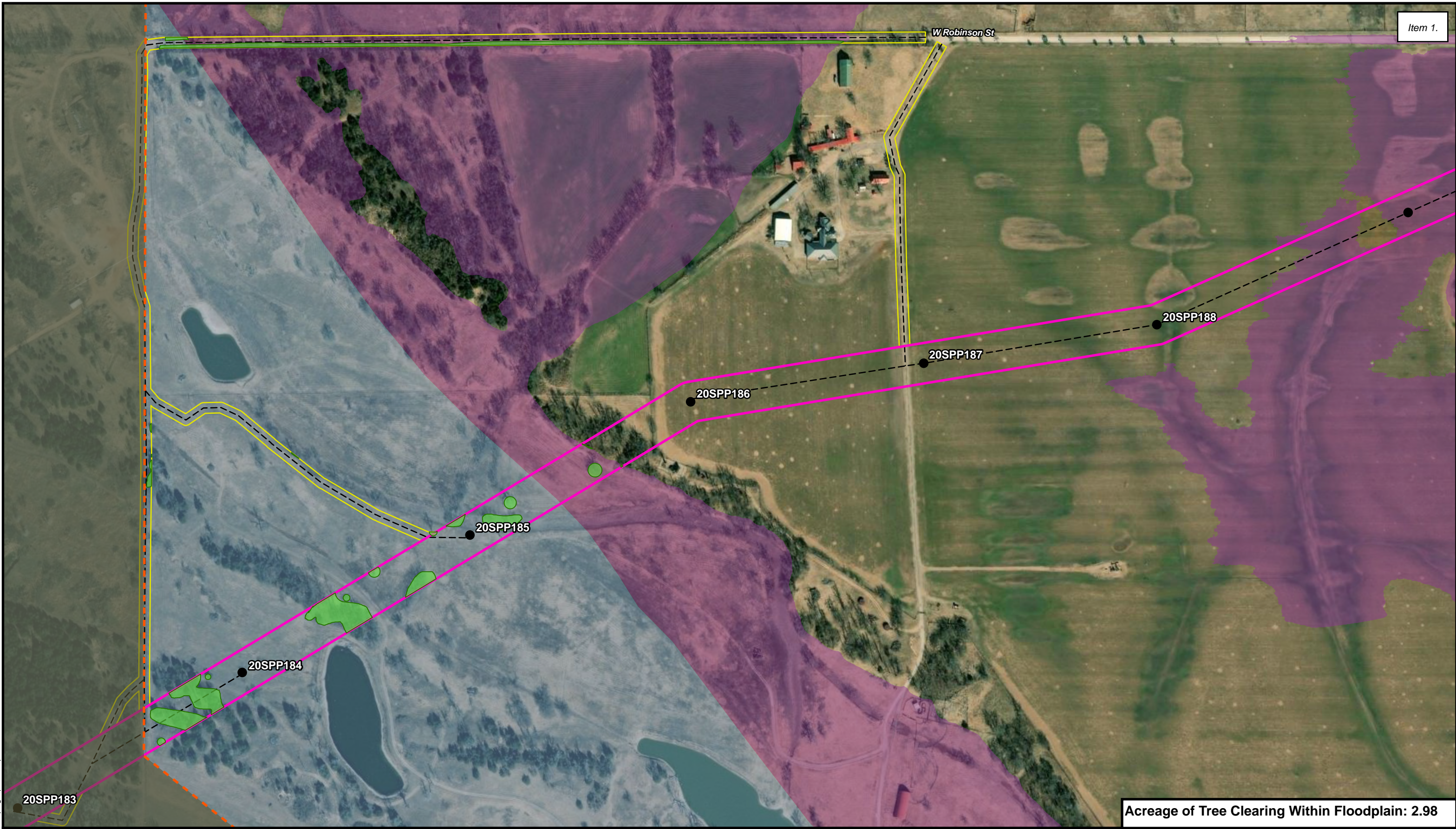
<u>Landowner</u>	<u>Billing Address Street</u>	<u>City</u>	<u>State</u>	<u>Zipcode</u>
MATLOCK, FRANK LYNN-1/3 INT	4700 E Indian Hills RD	Norman	OK	73026-0315
MATLOCK, JOHNNY OTIS-1/3 INT	2850 Red Fern LN	Norman	OK	73026-8552
MATLOCK, PATRICIA SUE-1/3 INT	2850 Red Fern LN	Norman	OK	73026-8552
MAYHEW & BUCKMASTER-LIV TRT-MAYHEW,	5600 24th AVE NE	Norman	OK	73071-7772
MCGOVERN, HUGH E JR-REV LIV TRT-TRTEE	1704 Holliday DR	Norman	OK	73069-6620
MCKOWN QUARTER HORSES, LLC	1320 N Porter AVE	Norman	OK	73071-6619
MOGHADAM, SASSAN K-REV TRT	3110 N Interstate DR, Ste 210	Norman	OK	73072-7205
MOORE NORMAN TECHNOLOGY CENTER	PO BOX 4701	Norman	OK	73070
MOORE NORMAN TECHNOLOGY CENTER SCHOOL DISTRICT	4701 12th AVE NW	Norman	OK	73069-8308
O'BRIEN FARMS, LLC	5651 36th AVE NE	Norman	OK	73026-7804
O'BRIEN, MICHAEL S & KRIS	5651 36th AVE NE	Norman	OK	73026-7804
PEEPERS, PAUL J	PO Box 721992	Norman	OK	73070-8516
PENNEY, LESLIE E	5840 48TH AVE NE	Norman	OK	73026
RELA, LLC	7481 E Rock Creek RD	Norman	OK	73026-3201
RENEAU REV LIV TRT	8525 SE 179th ST	Norman	OK	73026-7903
RKA HOLDINGS, LLC	2710 CRITTENDEN LINK RD	Norman	OK	73072
SHOCKLEY, JANICE MCGOVERN 1/2 I	1704 Holliday DR	Norman	OK	73069-6620
SMASHWORTH INVESTMENTS, LLC	2770 Washington DR, Ste 100	Norman	OK	73069-1016
SMITH, MATTHEW L & KYE L	5501 W Tecumseh RD	Norman	OK	73072-1611
SUNSET RANCH LLC	3312 WAUWINET WAY	Norman	OK	73071
TIETSORT REV TRT	PO Box 721555	Norman	OK	73070-8196
TIETSORT, CINDY YVETTE	4750 12th AVE NW	Norman	OK	73069-8308
TIETSORT, TIMOTHY CHRIS	4750 12th AVE NW	Norman	OK	73069-8308
TULLIUS, JAKE J-20 PER INT	2907 Cynthia CIR	Norman	OK	73072-7450
TULLIUS, JEFF-20 PER INT	2211 Forister CT	Norman	OK	73069-5120
VICTORY FAMILY CHURCH, INC	4343 N Flood AVE	Norman	OK	73069-8233
WEST FRANKLIN SOD FARM, LLC	4310 48TH AVE NW, BOX A	Norman	OK	73072
WEST FRANKLIN SOD FARM, LLC	4310 48TH AVE NW	Norman	OK	73072
WEST FRANKLIN SOD FARM, LLC	1320 N Porter AVE	Norman	OK	73071-6619
WILKERSON, DON & LENTISA	4200 E Indian Hills RD	Norman	OK	73026-0316
WILLIAMS, CARL GILBERT	5701 NE 24TH ST	Norman	OK	73071
WILLIAMS, RICHARD S	5805 24th AVE NE	Norman	OK	73071-7919
WILLIAMS, SHERYL	2500 E INDIAN HILLS RD	Norman	OK	73071
ZACHERY, JEANNINE-20 PER INT	1304 Briar Patch WAY	Norman	OK	73071-4358
DE LOERA, FERNANDO	1408 SW 132ND ST	Oklahoma City	OK	73170-6885
DEPT OF HIGHWAYS OF THE STATE OF OKLAHOMA	2300 N Central AVE	Oklahoma City	OK	73105-3241
FREED, ADAM & STACY	15107 S Post RD	Oklahoma City	OK	73165-7138
GARCIA, ARMANDO & EDUVIJES	2515 SW 123rd ST	Oklahoma City	OK	73170-4718
KING, CLINT-LIV TRT-TRTEE	14601 S Pennsylvania AVE	Oklahoma City	OK	73170-5709
LOGAN WRIGHT FOUNDATION	3801 NW 63rd ST, Ste 260	Oklahoma City	OK	73116-1929
OKLAHOMA DEPT OF TRANSPORTATION	200 NE 21st ST	Oklahoma City	OK	73105-3204
OKLAHOMA TURNPIKE AUTHORITY	3500 N Martin Luther King AVE	Oklahoma City	OK	73111-4221
SCHOOL LAND	2101 N Lincoln BLVD, 129	Oklahoma City	OK	73105-4904
FINLEY RESOURCES, INC	2424 Ridge RD	Rockwall	TX	75087

Attachment 2: Figures and Plans

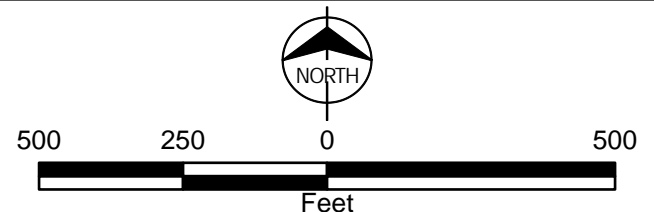
Attachment 2: Figures and Plans

- Floodplain, access, and tree clearing figure
- Floodplain Soils Figure
- Drawing No. MPV-00101 Sheets 21-25 Plan and Profile Drawing
- Drawing No. PVD-00101 Sheets 1-6 Plan and Profile Drawing

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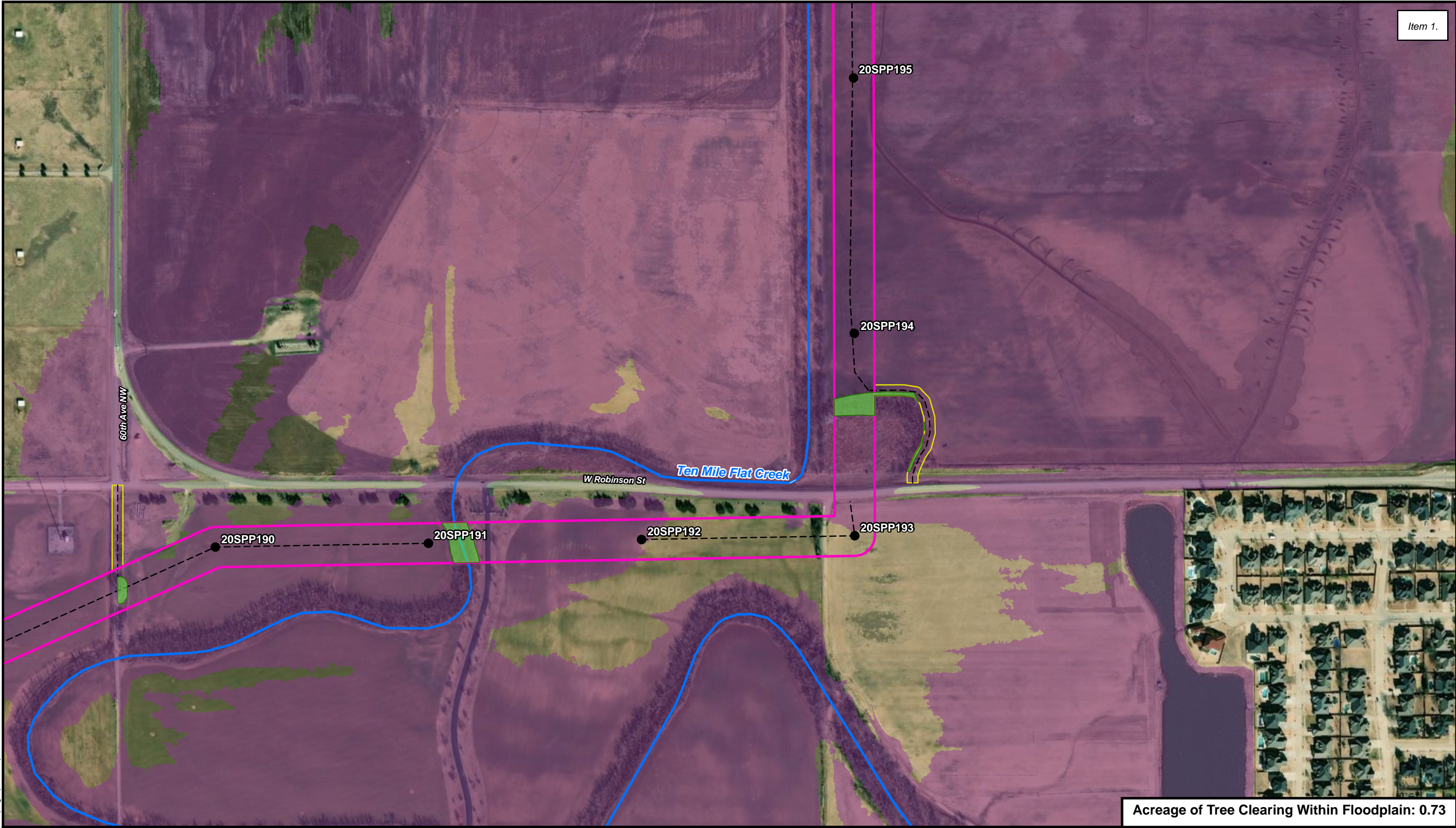
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- Project ROW
- NHD Flowlines
- - - Access Roads
- Access Road ROW
- Tree Clearing in FEMA Floodplain
- 1% Annual Chance Flood Hazard
- Regulatory Floodway
- City of Norman Municipal Boundary



Acreeage of Tree Clearing Within Floodplain: 2.98

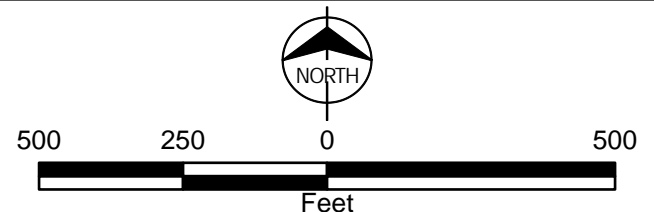


City of Norman
Floodplain Permit
Minco - Pleasant Valley - Draper
NextEra Energy Transmission
Southwest, LLC



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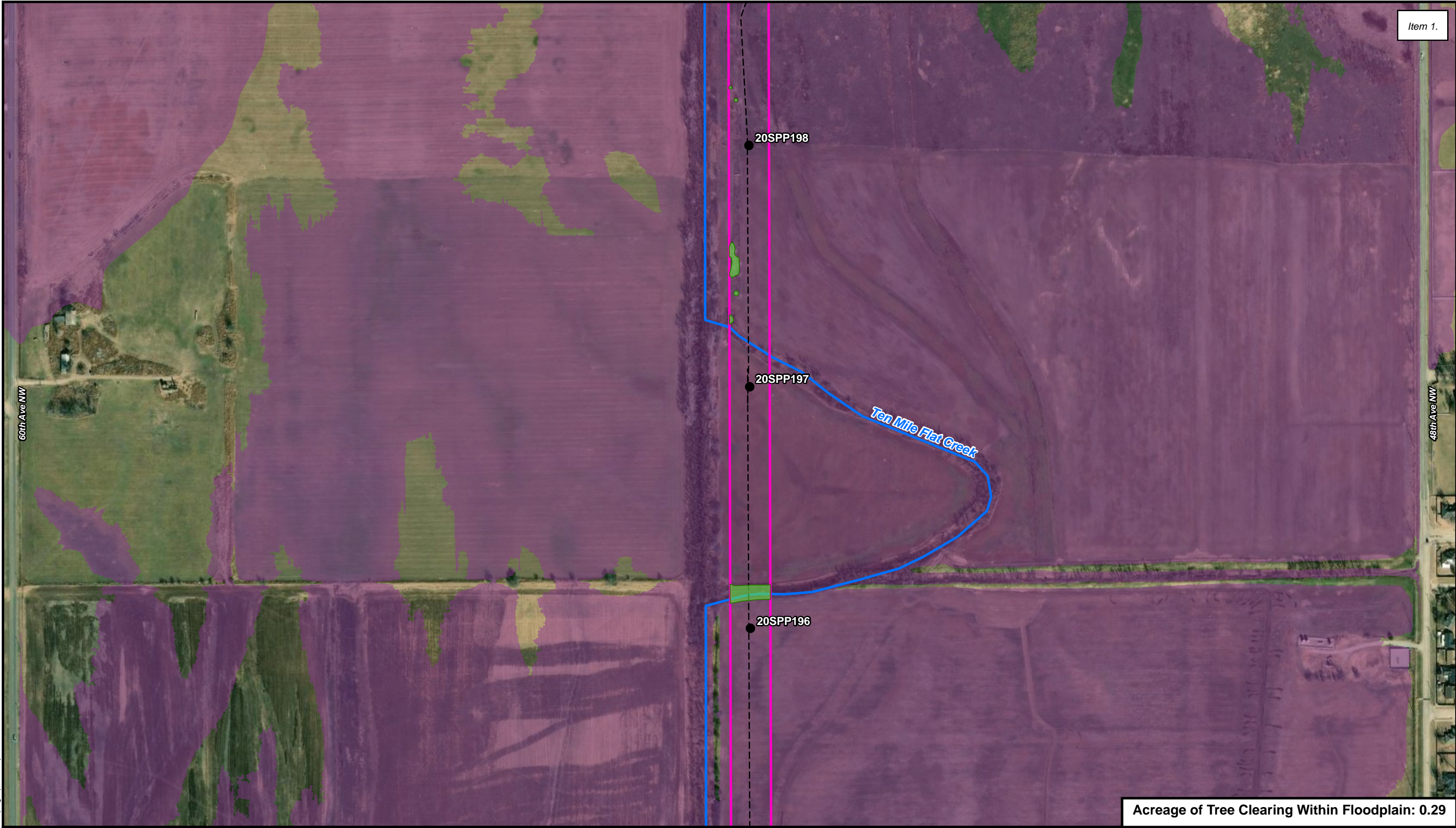
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Acreage of Tree Clearing Within Floodplain: 0.73



City of Norman
 Floodplain Permit
 Minco - Pleasant Valley - Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 2 of 15



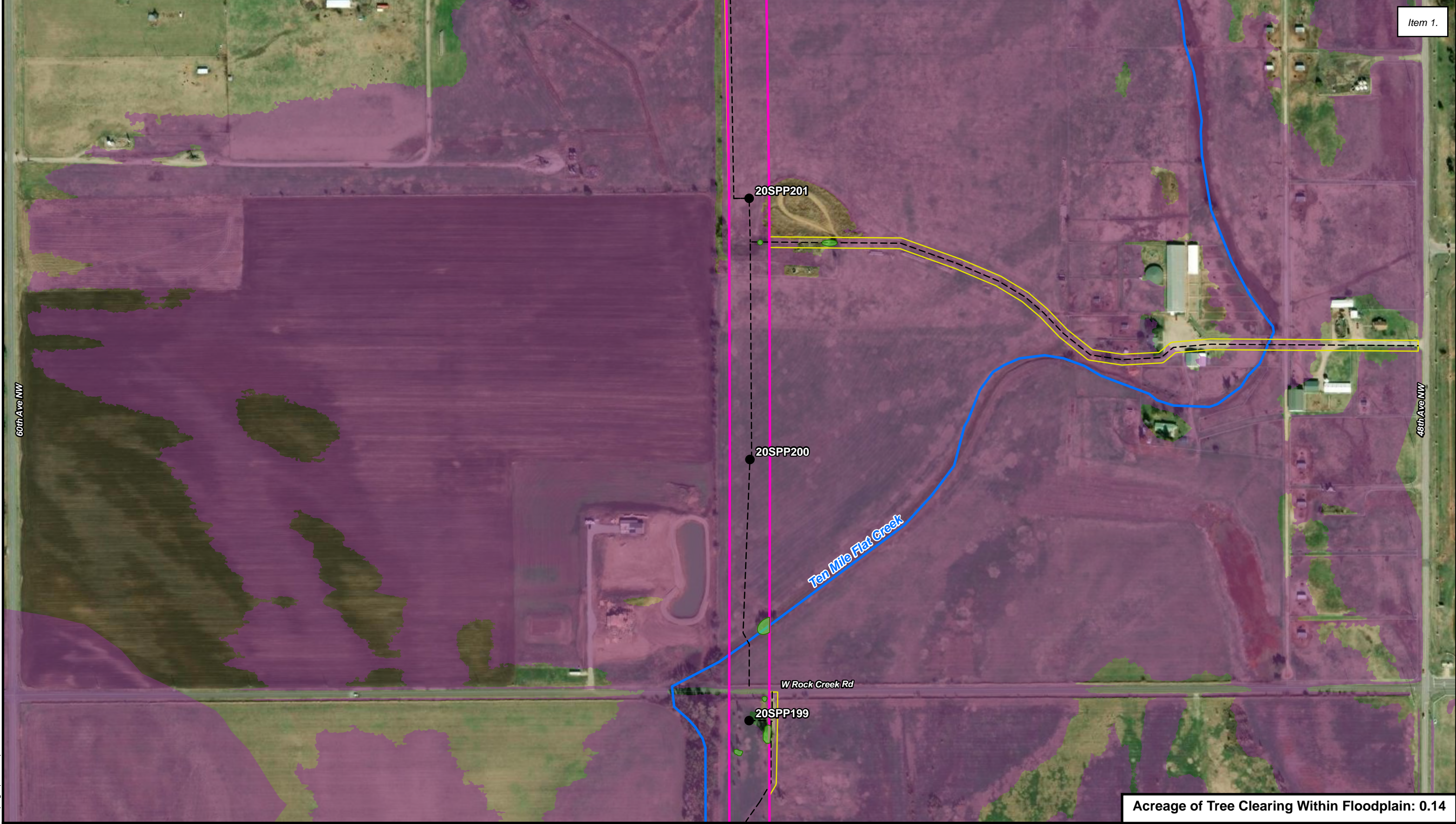
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- ▭ Project ROW
- ▭ 1% Annual Chance Flood Hazard
- NHD Flowlines
- ▭ City of Norman Municipal Boundary
- Access Roads

Acree of Tree Clearing Within Floodplain: 0.29

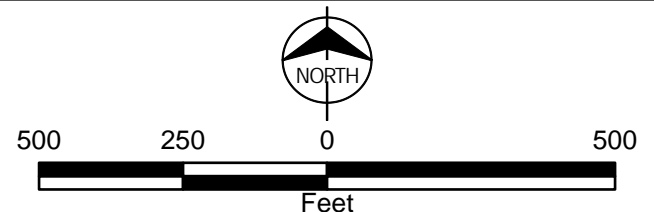


City of Norman
 Floodplain Permit
 Minco - Pleasant Valley - Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 3 of 15



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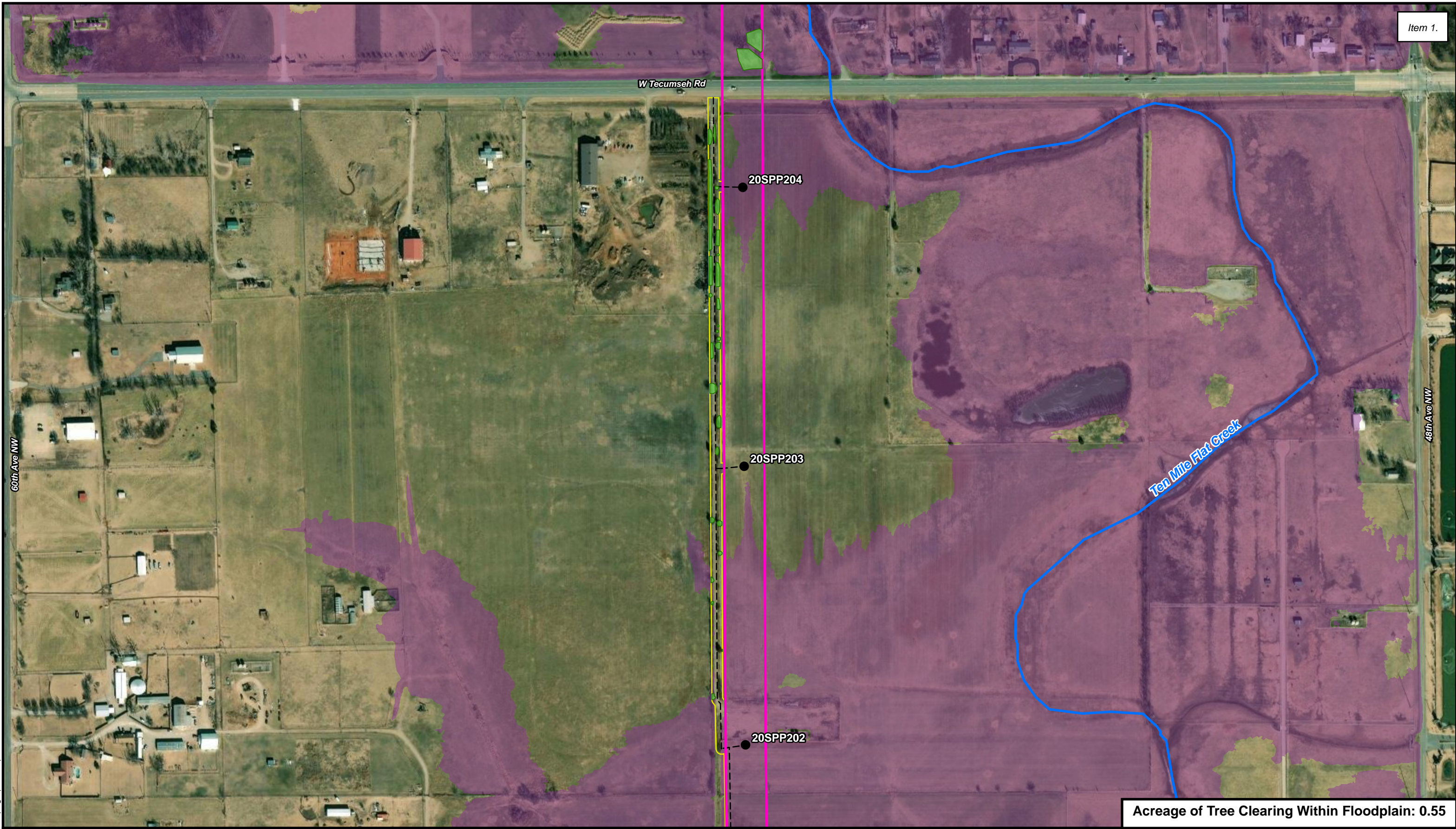
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Acreage of Tree Clearing Within Floodplain: 0.14

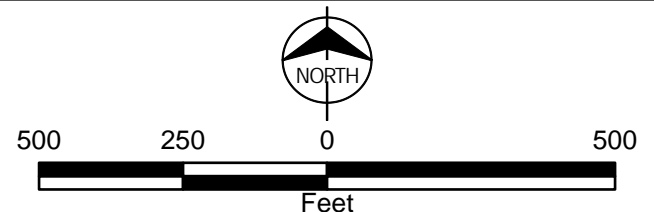


City of Norman
 Floodplain Permit
 Minco - Pleasant Valley - Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 4 of 15



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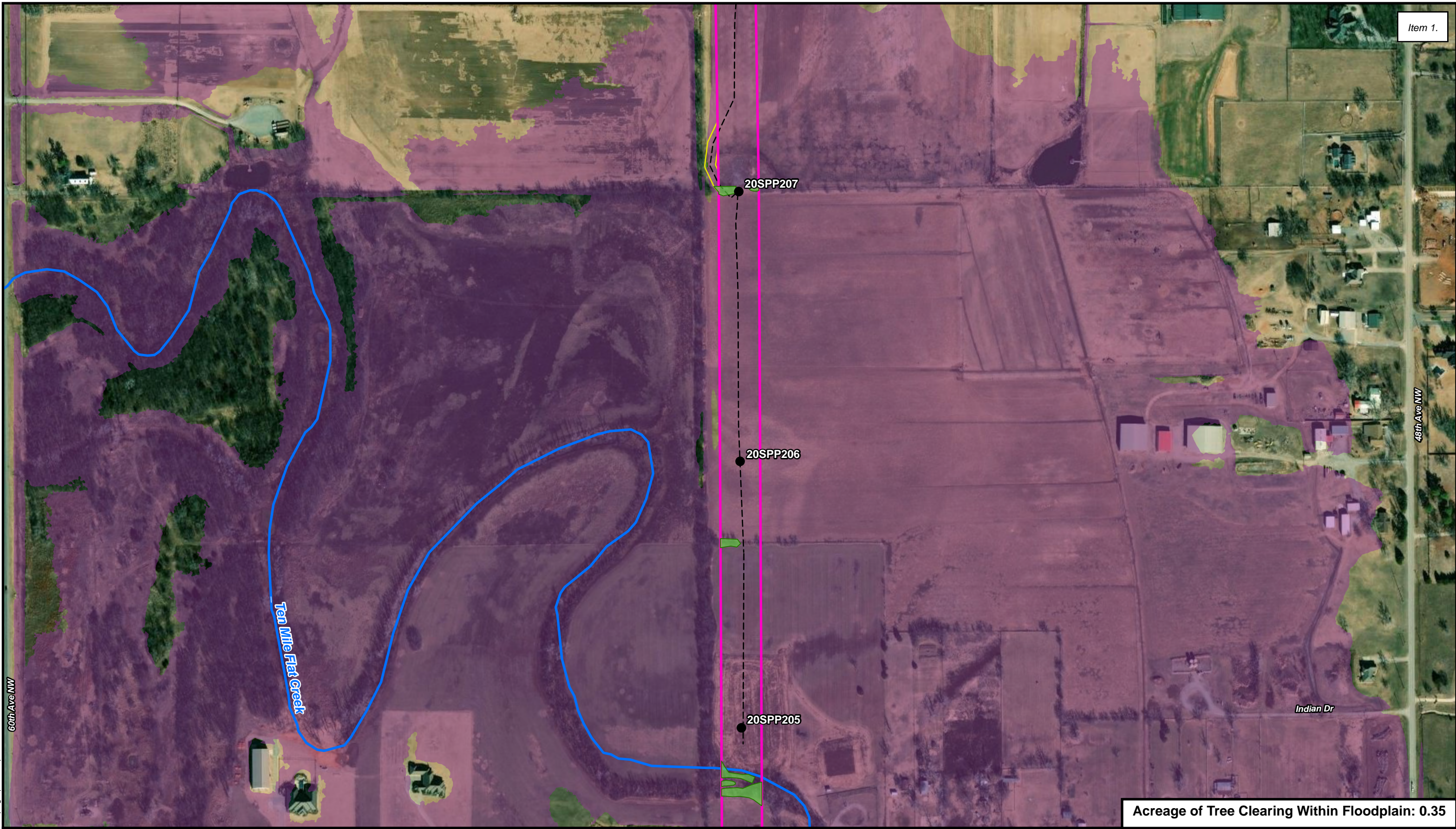
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Acreeage of Tree Clearing Within Floodplain: 0.55

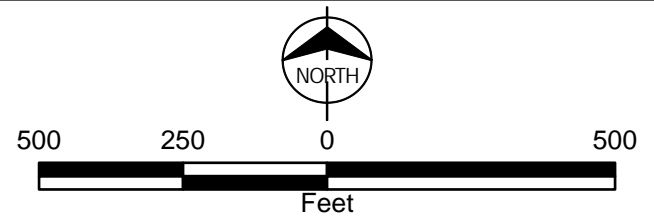


City of Norman
 Floodplain Permit
 Minco - Pleasant Valley - Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 5 of 15



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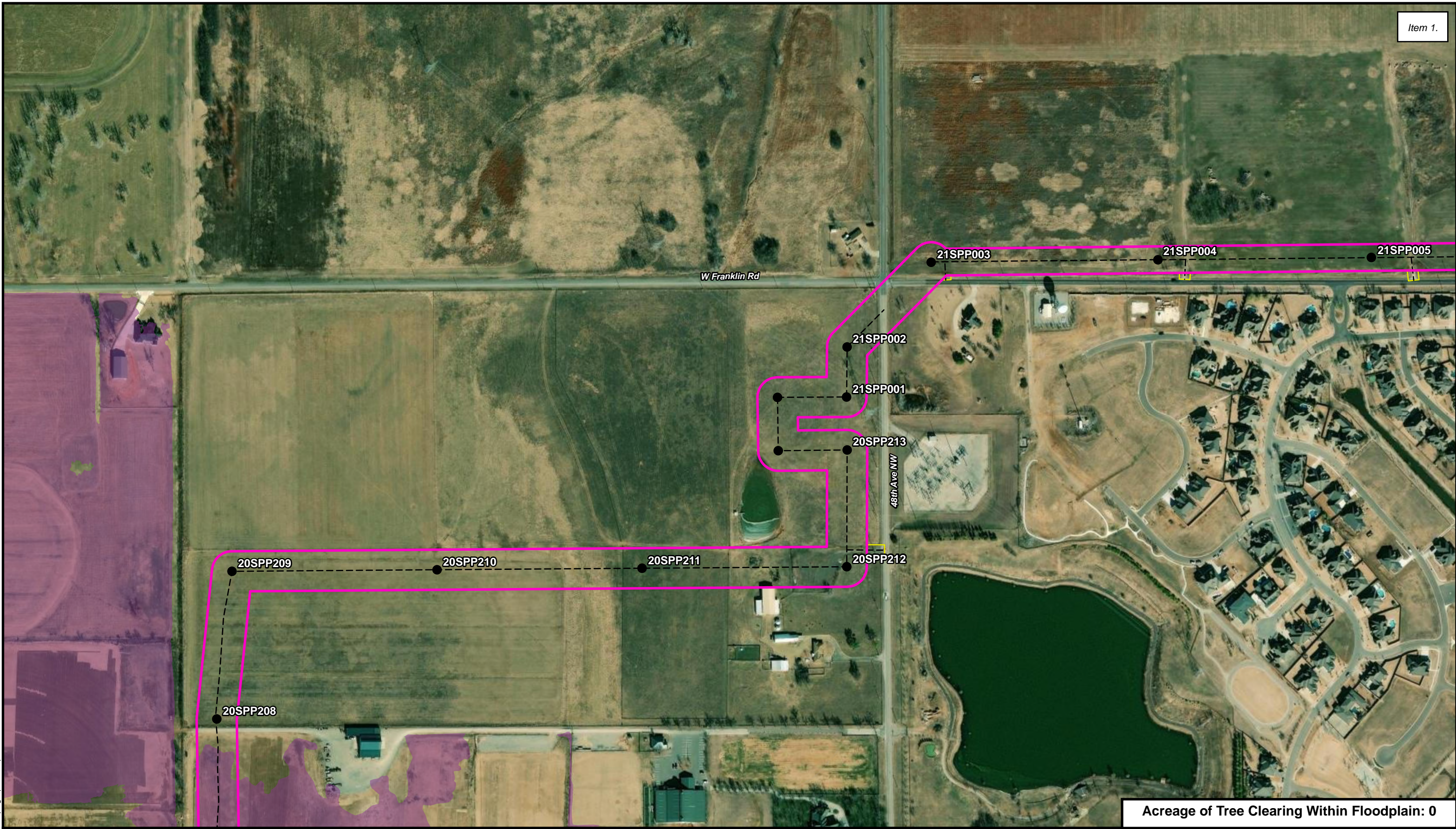
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Acreage of Tree Clearing Within Floodplain: 0.35

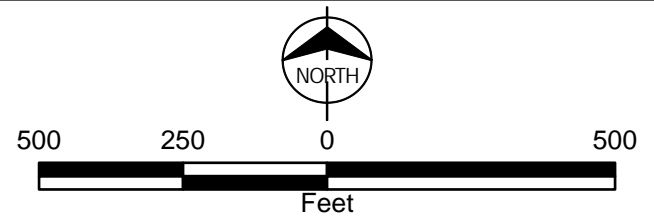


City of Norman
 Floodplain Permit
 Minco - Pleasant Valley - Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 6 of 15

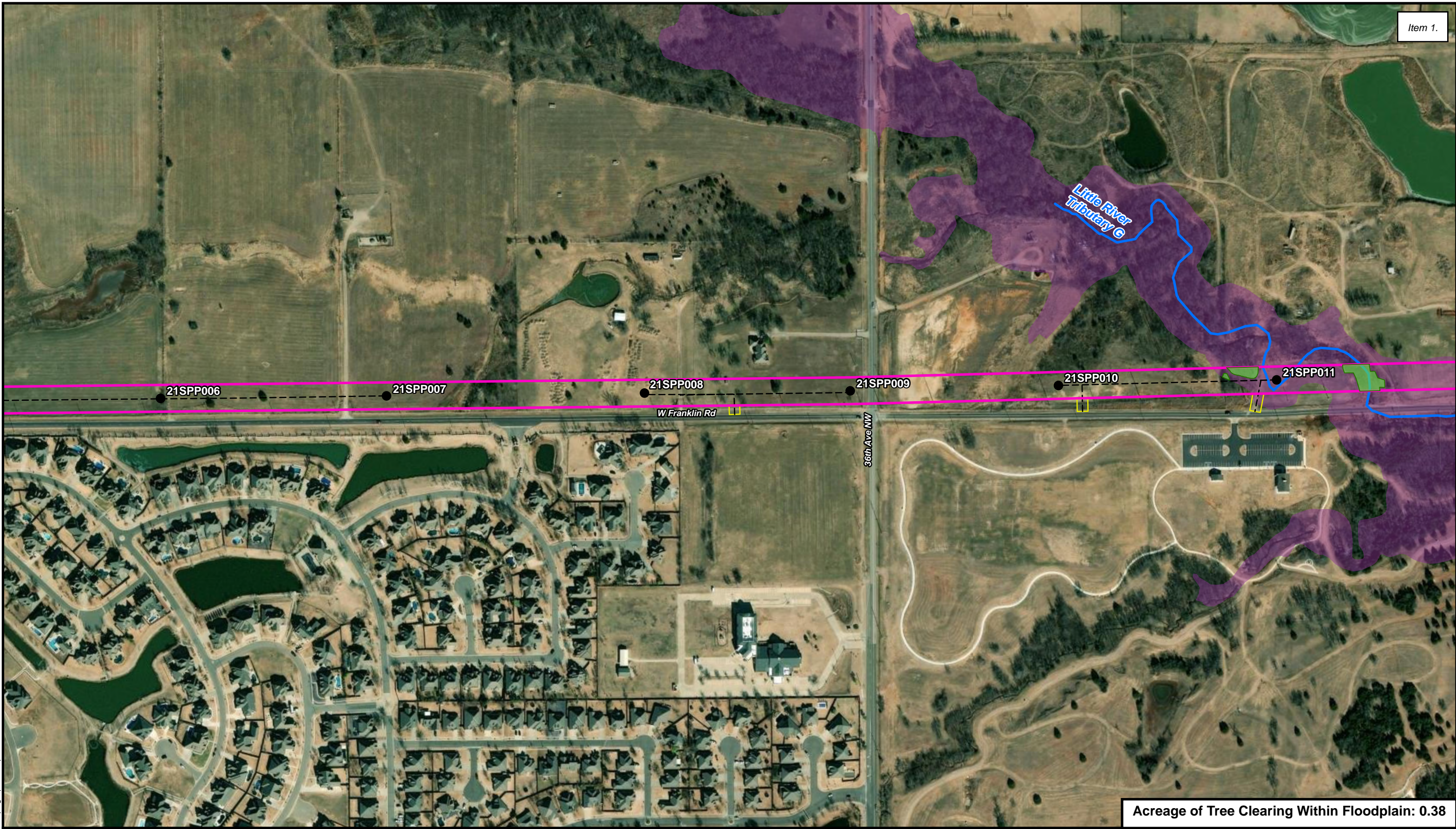


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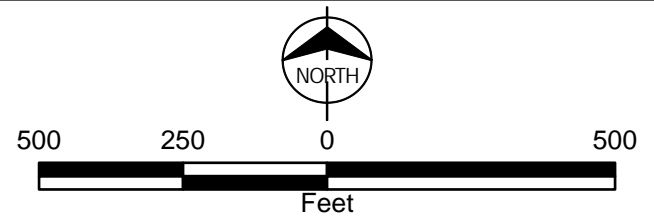


Acreage of Tree Clearing Within Floodplain: 0	
	City of Norman Floodplain Permit Minco - Pleasant Valley - Draper NextEra Energy Transmission Southwest, LLC Page 7 of 15
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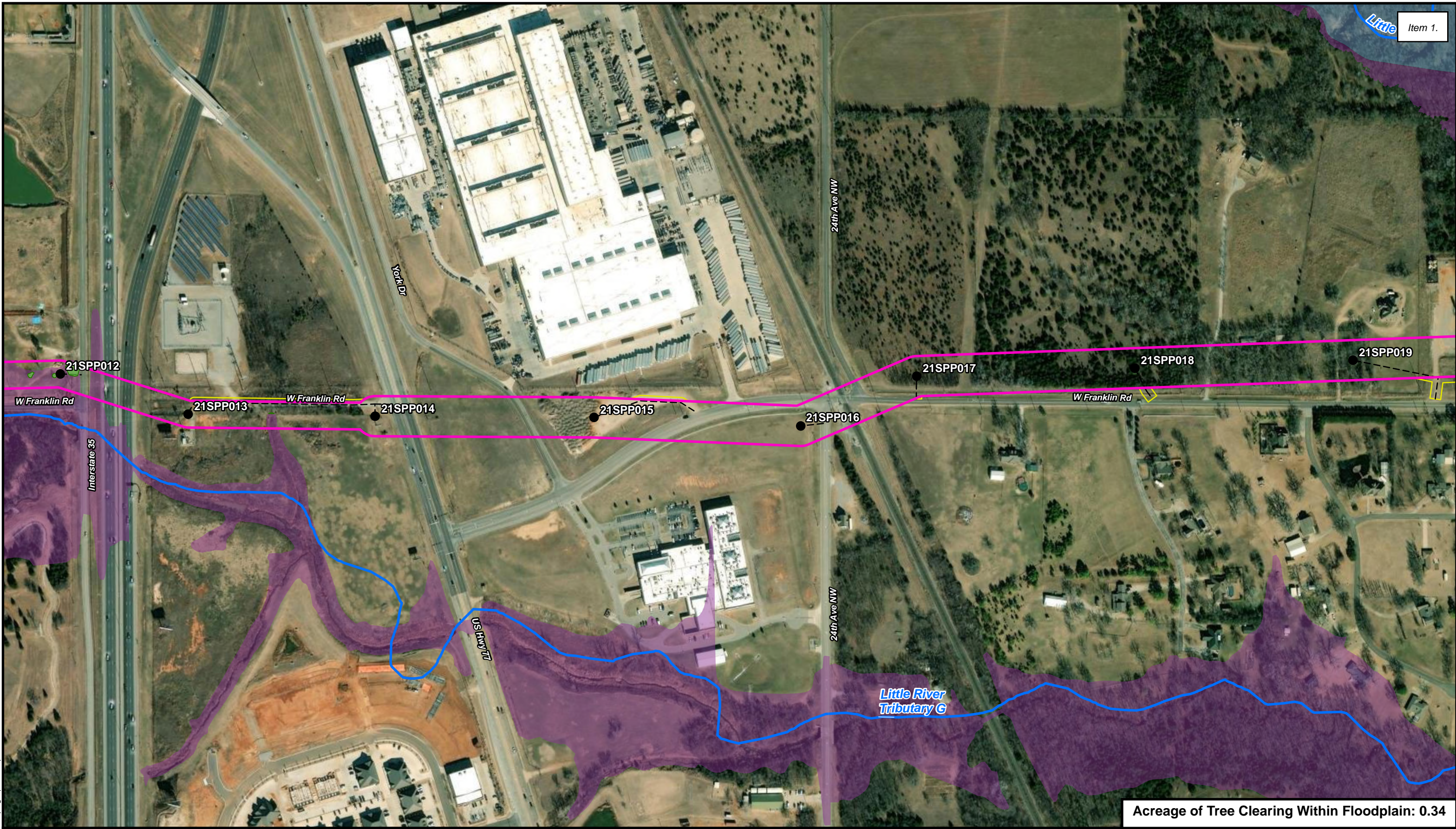
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Acreage of Tree Clearing Within Floodplain: 0.38



City of Norman
 Floodplain Permit
 Minco - Pleasant Valley - Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 8 of 15



Acreage of Tree Clearing Within Floodplain: 0.34

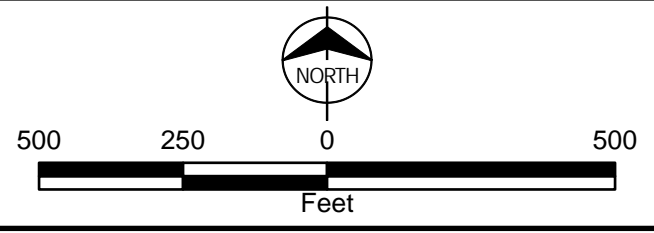
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BURNS MCDONNELL

City of Norman
Floodplain Permit
Minco - Pleasant Valley - Draper
NextEra Energy Transmission
Southwest, LLC

Page 9 of 15

152

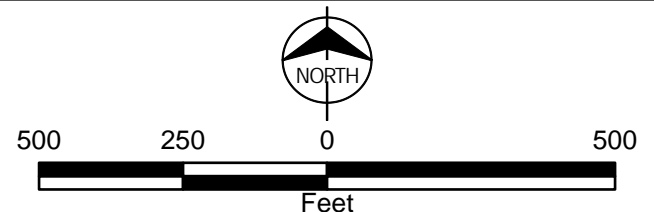


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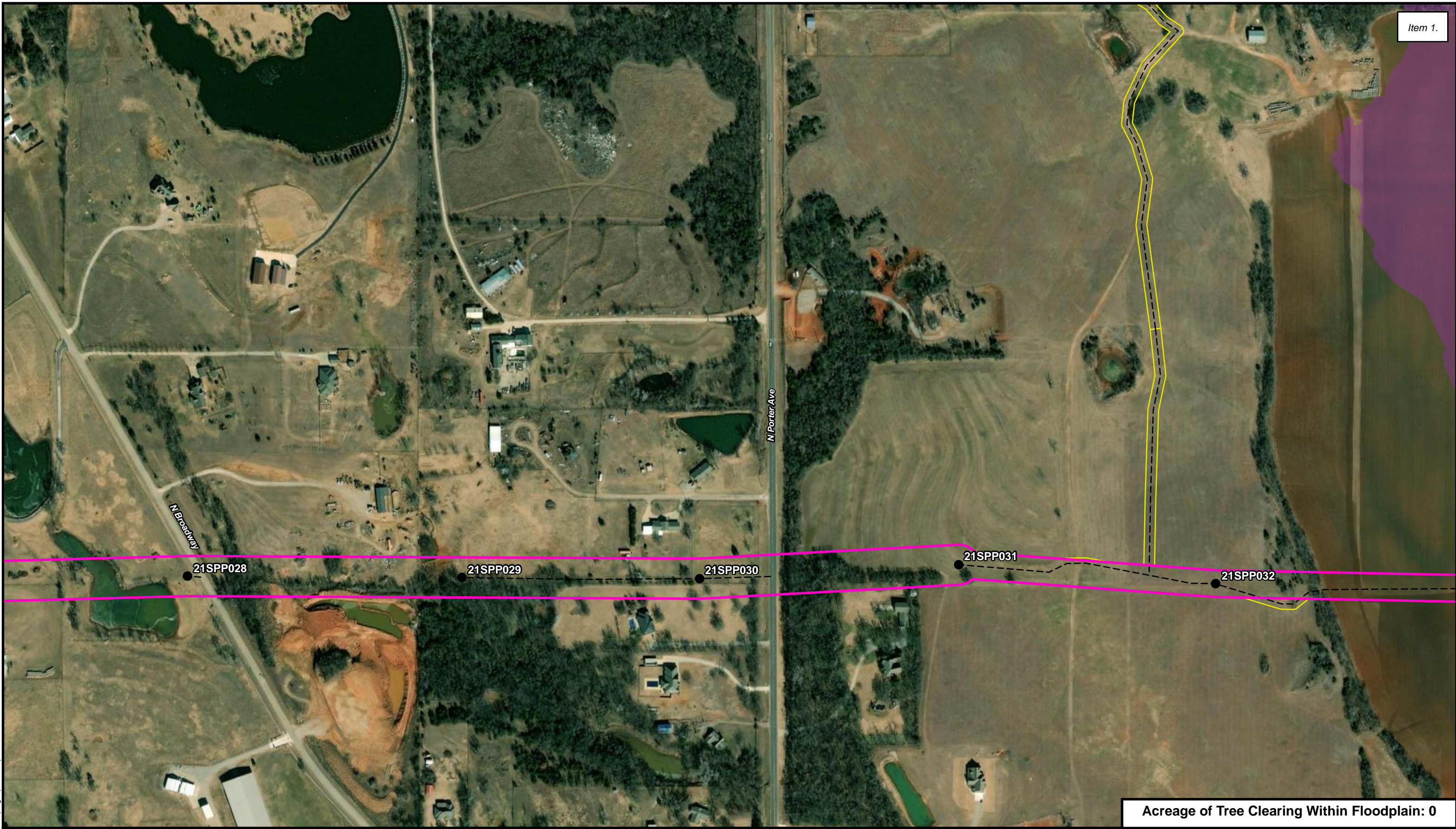
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Acreage of Tree Clearing Within Floodplain: 0.60

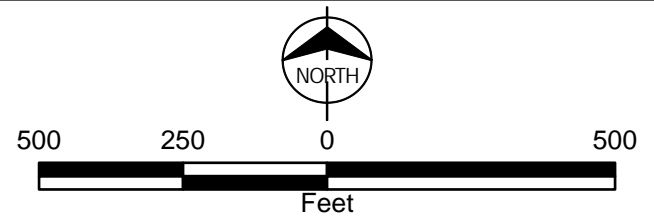


City of Norman
 Floodplain Permit
 Minco - Pleasant Valley - Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 10 of 15

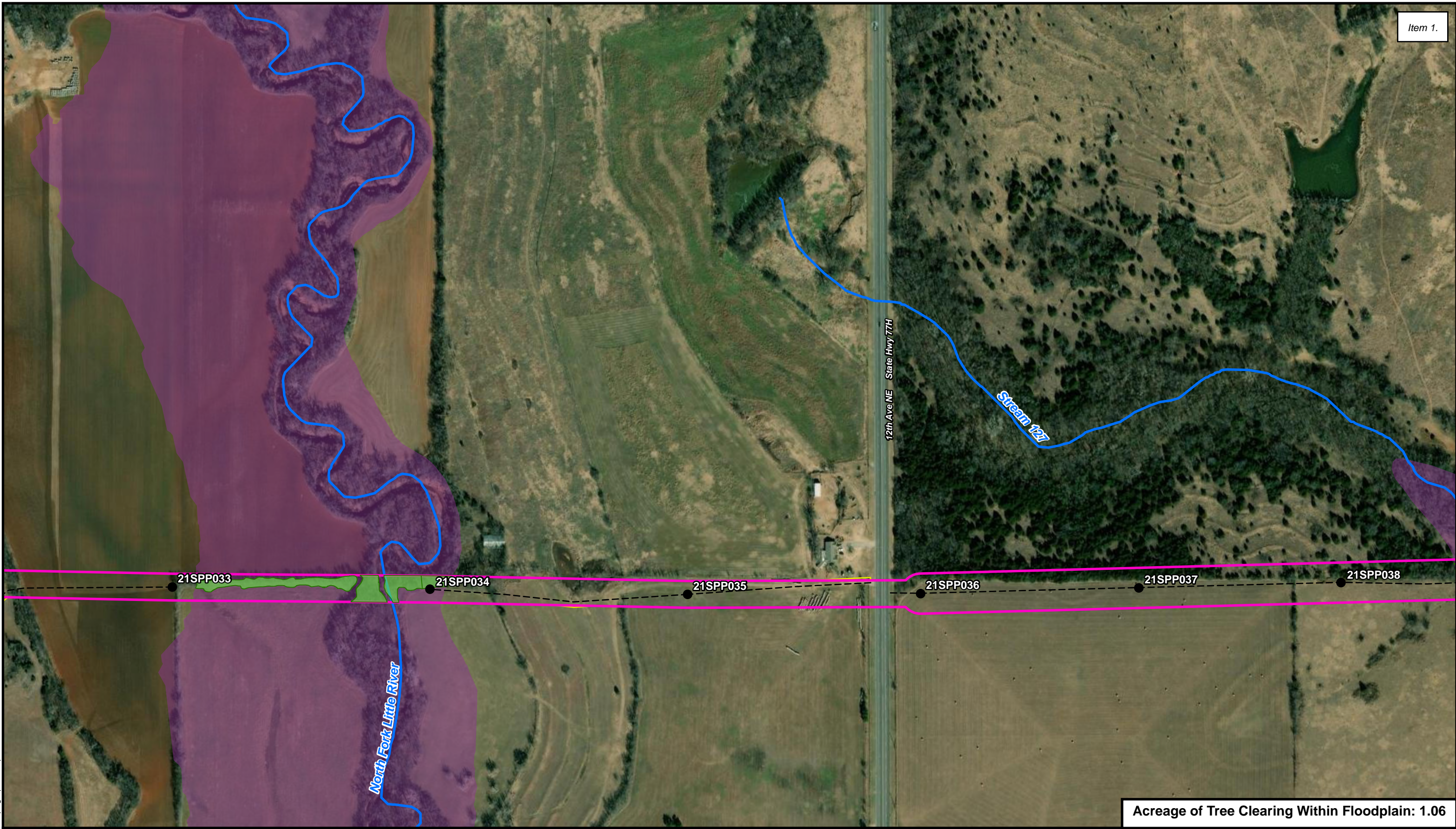


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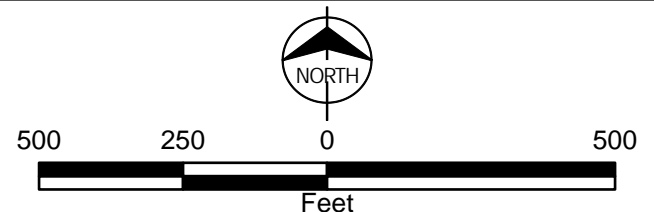


Acreege of Tree Clearing Within Floodplain: 0	
	City of Norman Floodplain Permit Minco - Pleasant Valley - Draper NextEra Energy Transmission Southwest, LLC Page 11 of 15
	154



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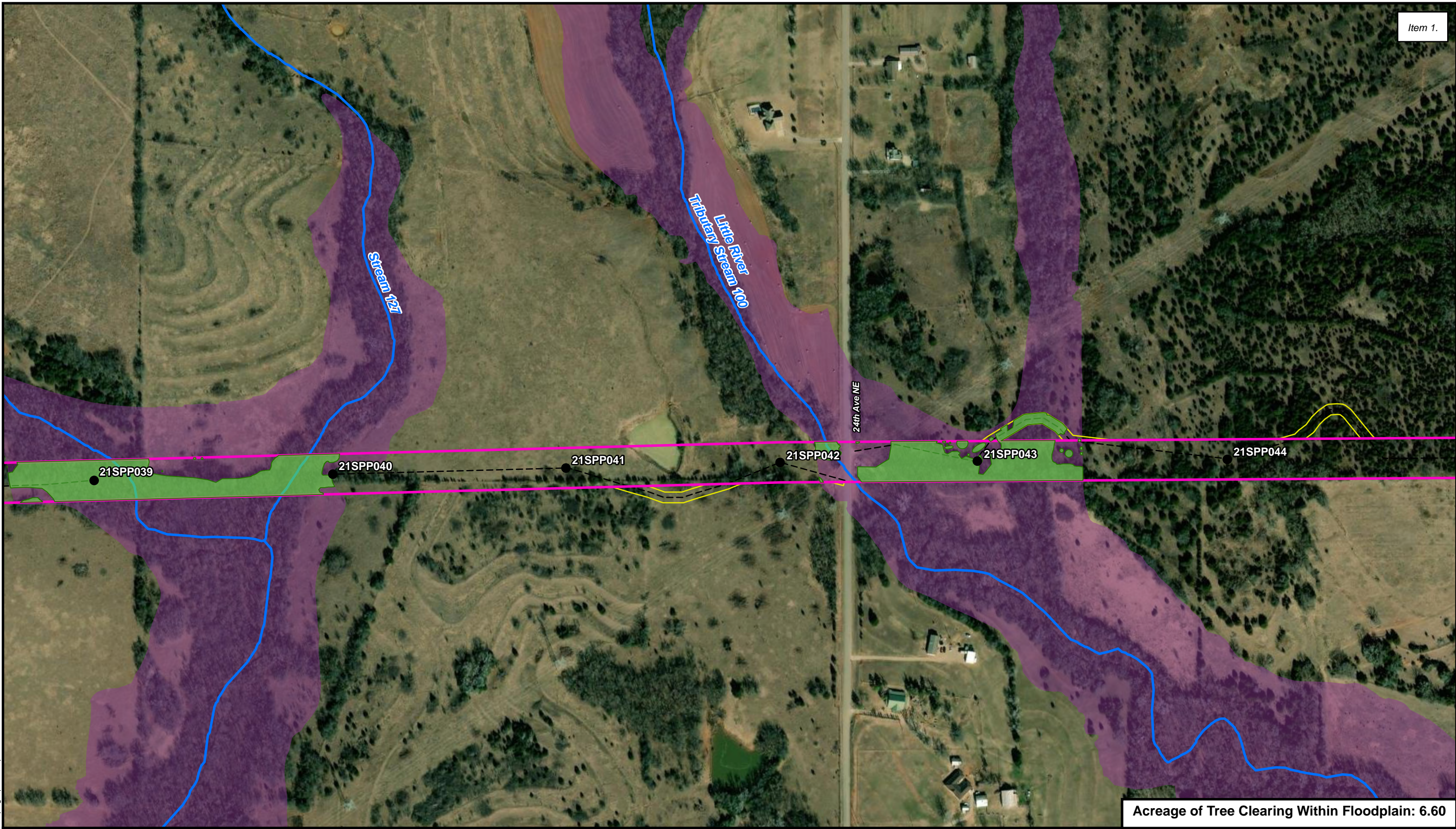
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Acreage of Tree Clearing Within Floodplain: 1.06

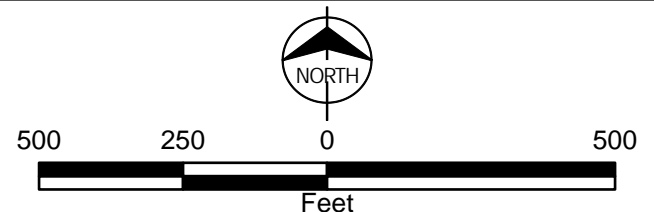


City of Norman
Floodplain Permit
Minco - Pleasant Valley - Draper
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 Service Layer Credits: World Topographic Map: Esri, HERE, Garmin, FAO, NOAA, USGS, EPA

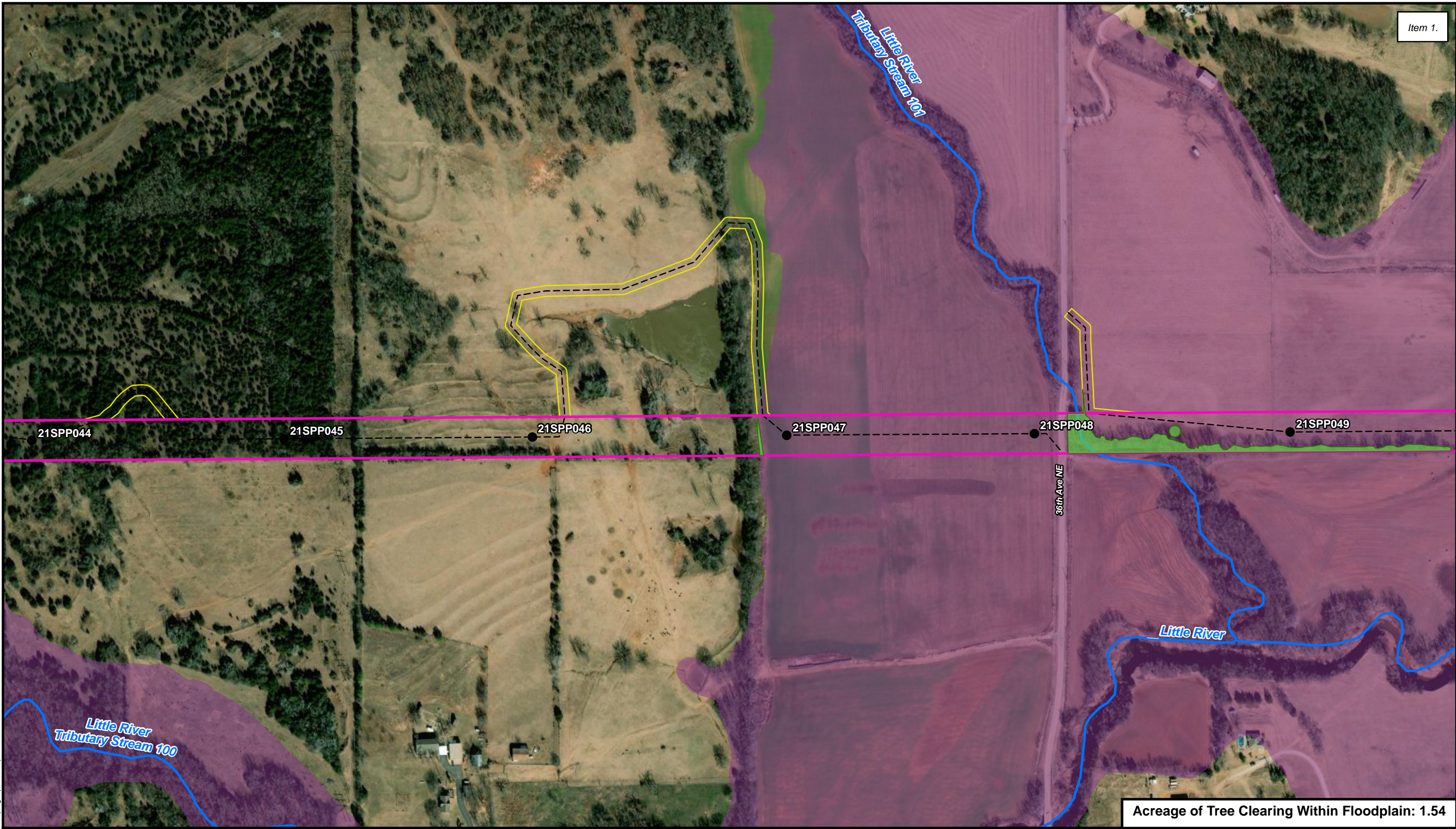
- Pole Location
- Project ROW
- NHD Flowlines
- - - Access Roads
- Access Road ROW
- Tree Clearing in FEMA Floodplain
- 1% Annual Chance Flood Hazard
- City of Norman Municipal Boundary



Acreage of Tree Clearing Within Floodplain: 6.60

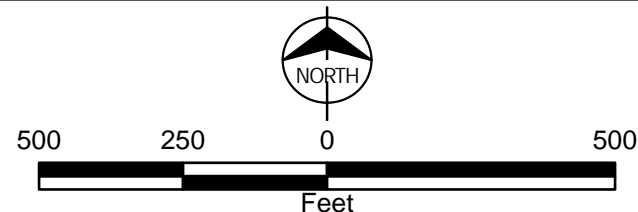


City of Norman
 Floodplain Permit
 Minco - Pleasant Valley - Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 13 of 15



Path: C:\Projects\MDPV\MDPV_update.aprx aebrewer 5/9/2023
 Service Layer Credits: World Topographic Map: Esri, HERE, Garmin, FAO, NOAA, USGS, EPA

- Pole Location
- Project ROW
- NHD Flowlines
- - - Access Roads
- Access Road ROW
- Tree Clearing in FEMA Floodplain
- 1% Annual Chance Flood Hazard
- City of Norman Municipal Boundary



Acreage of Tree Clearing Within Floodplain: 1.54

	City of Norman Floodplain Permit
	Minco - Pleasant Valley - Draper NextEra Energy Transmission Southwest, LLC
Page 14 of 15	

SE 179th St

48th Ave NE

Little River

21SPP056

21SPP055

21SPP050

21SPP051

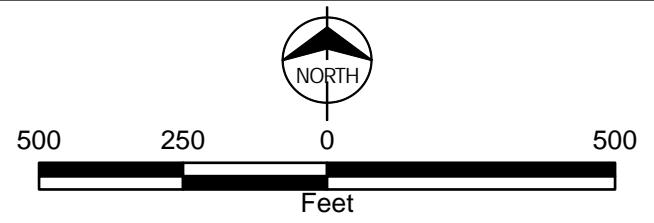
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21SPP053

21SPP054

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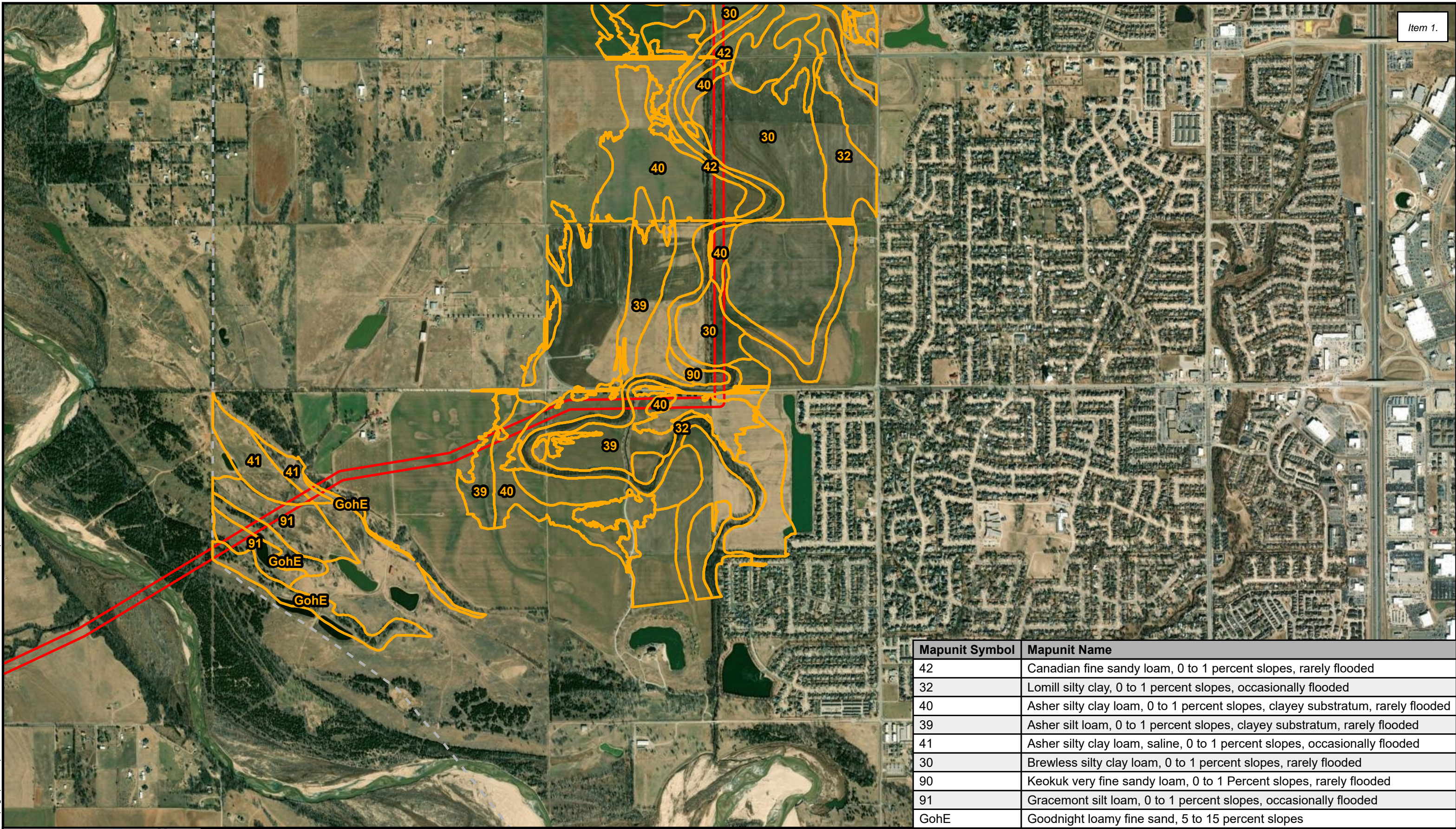
- Pole Location
- Project ROW
- NHD Flowlines
- Access Roads
- Tree Clearing in FEMA Floodplain
- 1% Annual Chance Flood Hazard
- City of Norman Municipal Boundary



Acreage of Tree Clearing Within Floodplain: 1.07

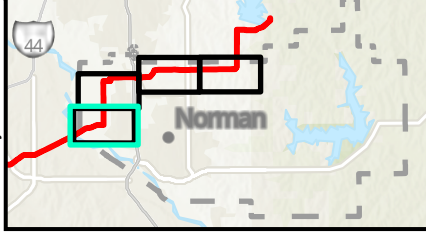


City of Norman
Floodplain Permit
Minco - Pleasant Valley - Draper
NextEra Energy Transmission
Southwest, LLC
Page 15 of 15

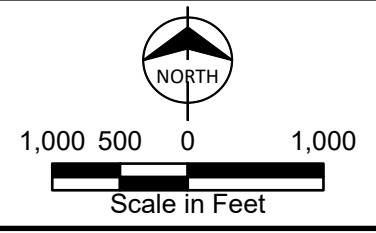


Mapunit Symbol	Mapunit Name
42	Canadian fine sandy loam, 0 to 1 percent slopes, rarely flooded
32	Lomill silty clay, 0 to 1 percent slopes, occasionally flooded
40	Asher silty clay loam, 0 to 1 percent slopes, clayey substratum, rarely flooded
39	Asher silt loam, 0 to 1 percent slopes, clayey substratum, rarely flooded
41	Asher silty clay loam, saline, 0 to 1 percent slopes, occasionally flooded
30	Brewless silty clay loam, 0 to 1 percent slopes, rarely flooded
90	Keokuk very fine sandy loam, 0 to 1 Percent slopes, rarely flooded
91	Gracemont silt loam, 0 to 1 percent slopes, occasionally flooded
GohE	Goodnight loamy fine sand, 5 to 15 percent slopes

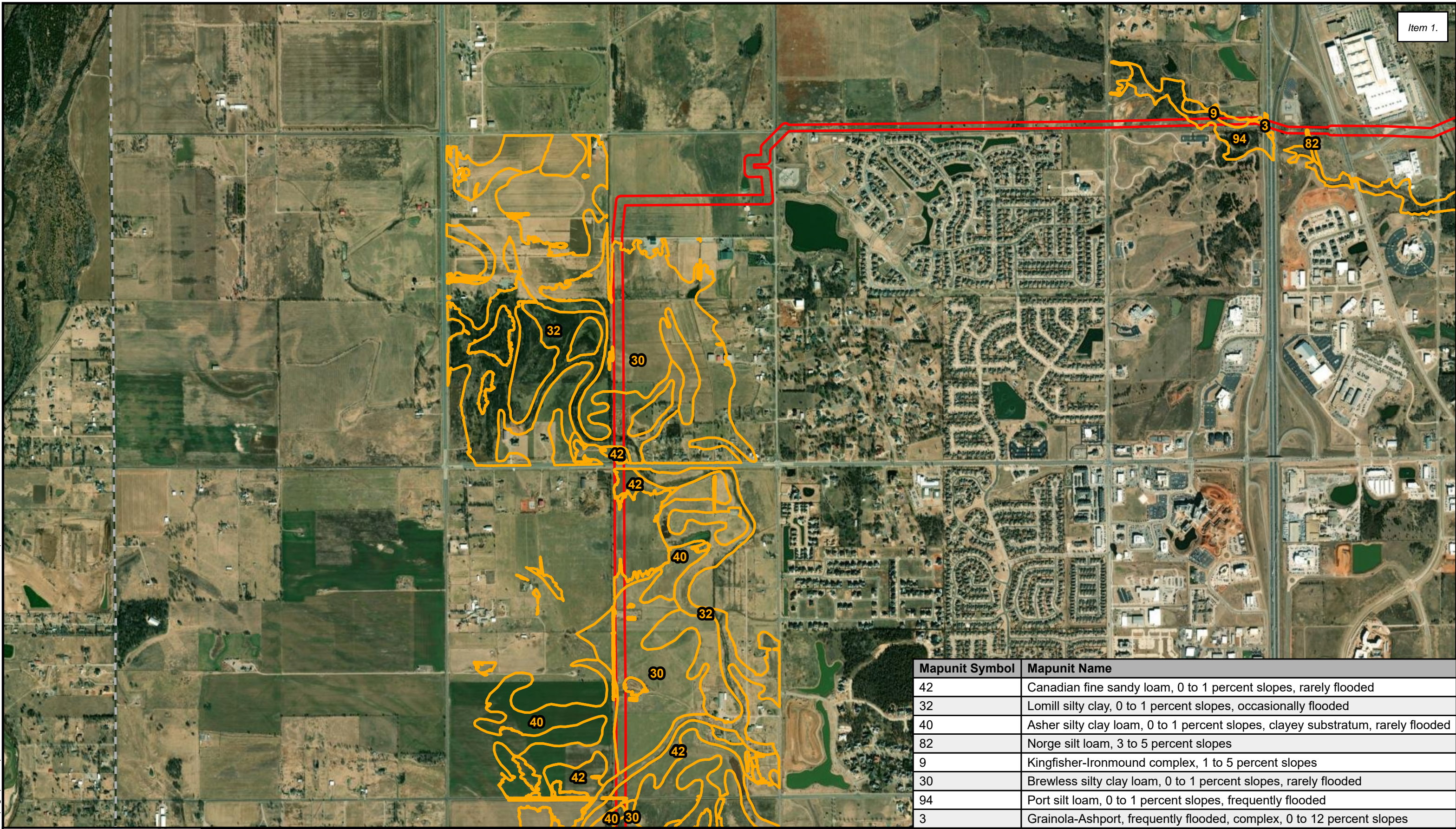
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Service Layer Credits: World Topographic Map: Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS



- ▭ Project ROW
- ▭ Floodplain Soils
- City of Norman Boundary

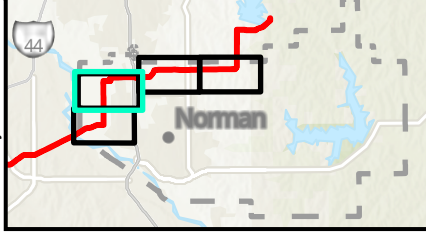


City of Norman Floodplain Soils Map
Minco-Pleasant Valley-Draper
NextEra Energy Transmission
Southwest, LLC

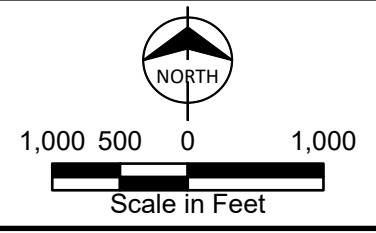


Mapunit Symbol	Mapunit Name
42	Canadian fine sandy loam, 0 to 1 percent slopes, rarely flooded
32	Lomill silty clay, 0 to 1 percent slopes, occasionally flooded
40	Asher silty clay loam, 0 to 1 percent slopes, clayey substratum, rarely flooded
82	Norge silt loam, 3 to 5 percent slopes
9	Kingfisher-Ironmound complex, 1 to 5 percent slopes
30	Brewless silty clay loam, 0 to 1 percent slopes, rarely flooded
94	Port silt loam, 0 to 1 percent slopes, frequently flooded
3	Grainola-Ashport, frequently flooded, complex, 0 to 12 percent slopes

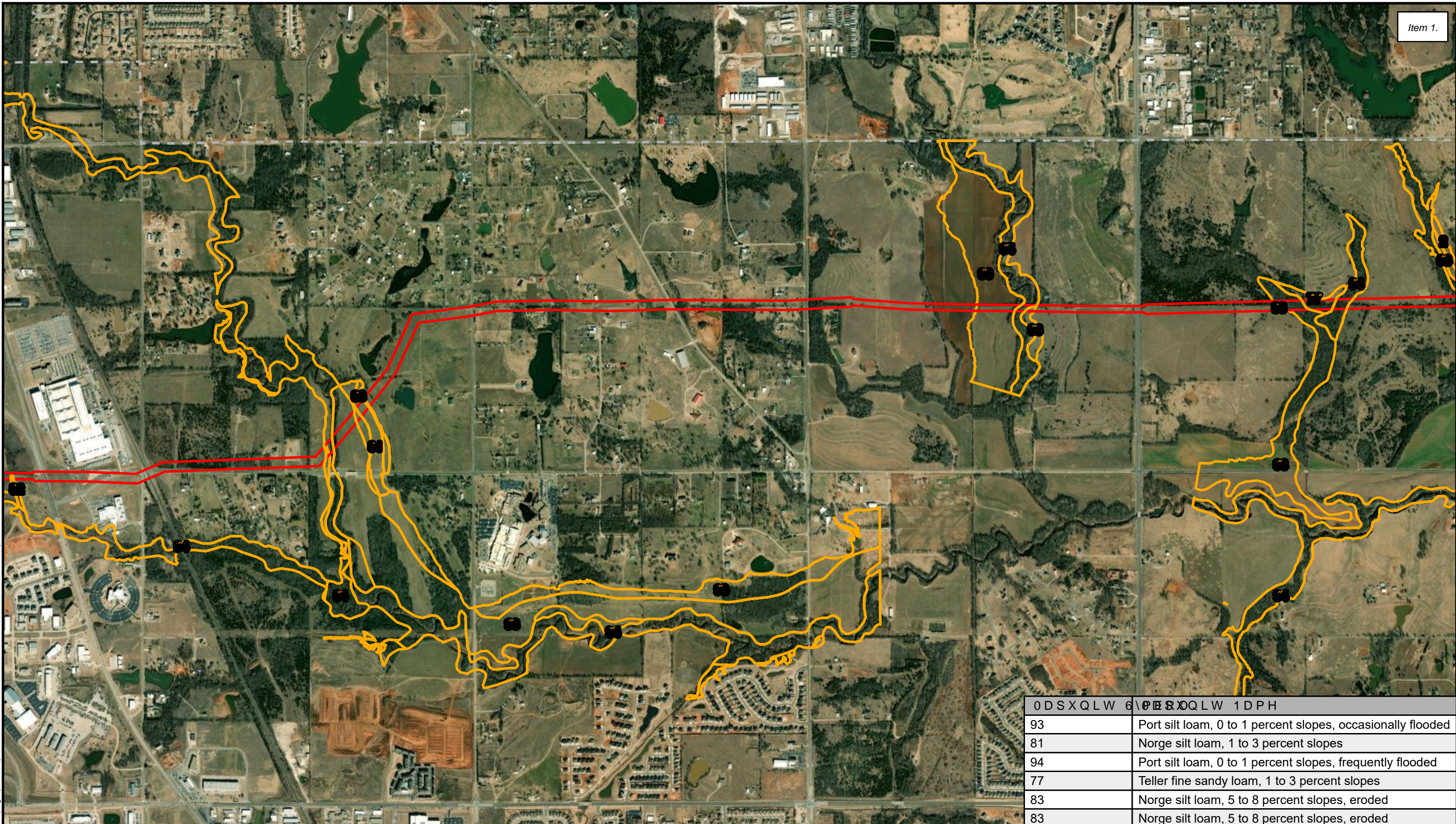
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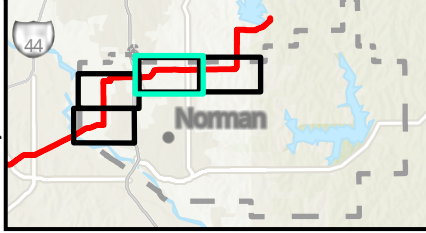
- ▭ Project ROW
- ▭ Floodplain Soils
- City of Norman Boundary



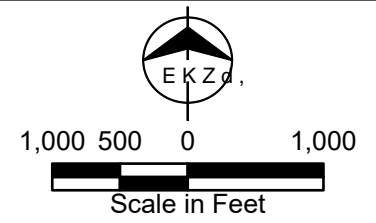
City of Norman Floodplain Soils Map
Minco-Pleasant Valley-Draper
NextEra Energy Transmission
Southwest, LLC
Page 2 of 4



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Service Layer Credits: World Topographic Map: Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, FAO, METI/NASA, USGS, EPA, NPS



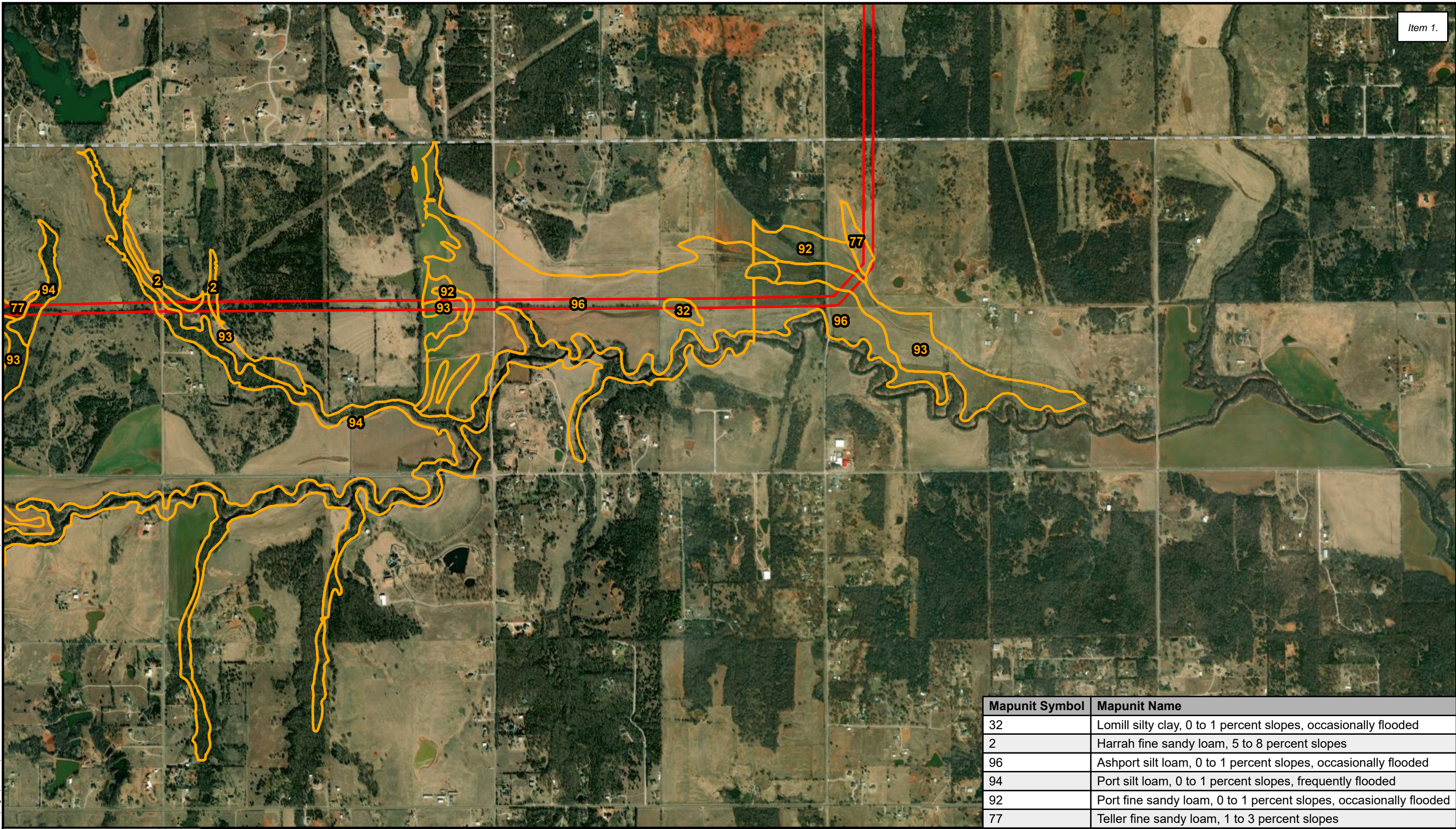
- ▭ Project ROW
- ▭ Floodplain Soils
- City of Norman Boundary



0DSXQLW 6	0DSXQLW 1DPH
93	Port silt loam, 0 to 1 percent slopes, occasionally flooded
81	Norge silt loam, 1 to 3 percent slopes
94	Port silt loam, 0 to 1 percent slopes, frequently flooded
77	Teller fine sandy loam, 1 to 3 percent slopes
83	Norge silt loam, 5 to 8 percent slopes, eroded
83	Norge silt loam, 5 to 8 percent slopes, eroded

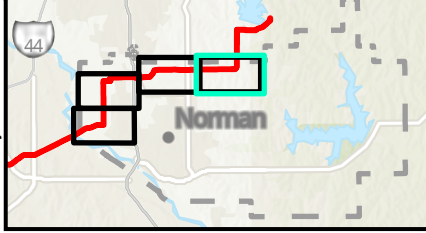


City of Norman Floodplain Soils Map
Minco-Pleasant Valley-Draper
NextEra Energy Transmission
Southwest, LLC
Page 3 of 4

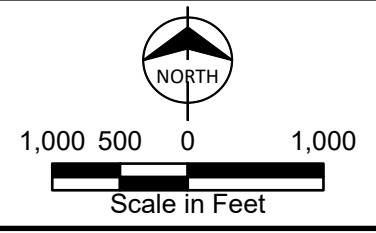


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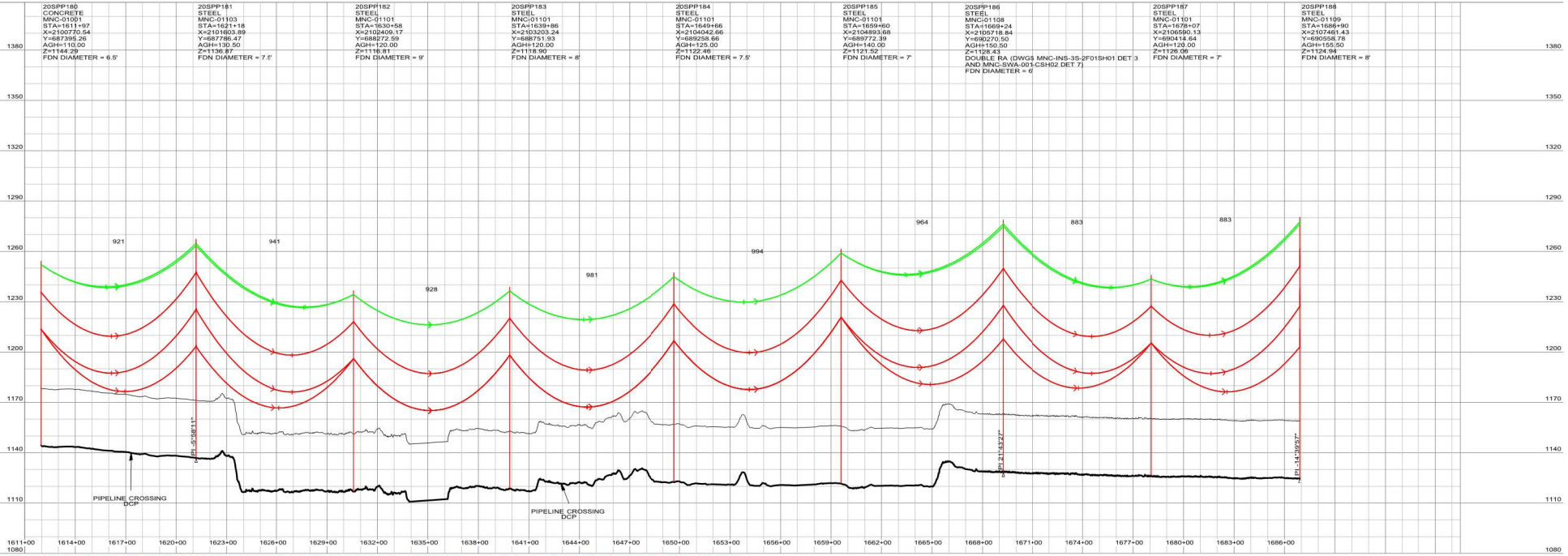
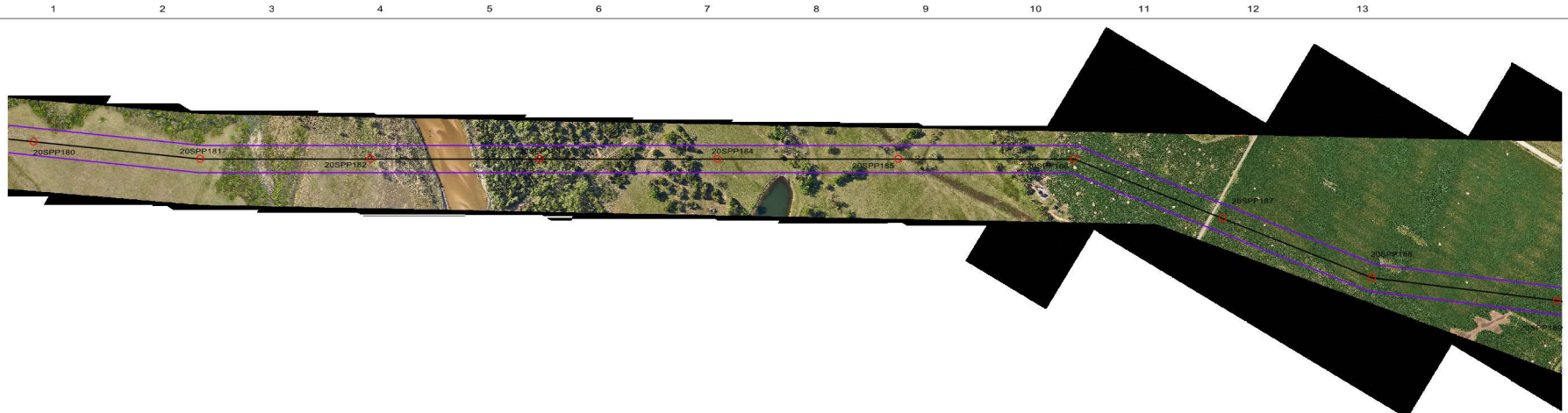
Mapunit Symbol	Mapunit Name
32	Lomill silty clay, 0 to 1 percent slopes, occasionally flooded
2	Harrah fine sandy loam, 5 to 8 percent slopes
96	Ashport silt loam, 0 to 1 percent slopes, occasionally flooded
94	Port silt loam, 0 to 1 percent slopes, frequently flooded
92	Port fine sandy loam, 0 to 1 percent slopes, occasionally flooded
77	Teller fine sandy loam, 1 to 3 percent slopes



- ▭ Project ROW
- ▭ Floodplain Soils
- City of Norman Boundary



City of Norman Floodplain Soils Map
 Minco-Pleasant Valley-Draper
 NextEra Energy Transmission
 Southwest, LLC
 Page 4 of 4



THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL, SIGNED AND SEALED DOCUMENT.

300.0 FT. = HORIZ. SCALE
 30.0 FT. = VERT. SCALE

CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PLEASANT"
 HORIZONTAL BUNDLE
 DISPLAYED: 3074 "FINAL" CONDITION PER PHASE
 DESIGN TENSION: 22,400 LBS (90% RBS)
 AT 300-YEAR COMBINED (ICE AND WIND) "INITIAL"
 UNLESS OTHERWISE SPECIFIED

SHIELD WIRE: 48 FIBER OPGW
 DISPLAYED: 60" F "INITIAL" CONDITION
 DESIGN TENSION: 6,120 LBS (90% RBS)
 AT NESC 250B (HEAVY) "INITIAL"
 UNLESS OTHERWISE SPECIFIED

NOTES:
 1. COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NAD83, OKLAHOMA STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET.
 2. DISPLAY CLEARANCE LINE IS 34' NET (NESC REQUIREMENT AT 349KV + 6FT. DESIGN MARGIN).
 3. ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 4. ELEVATION BASED ON LIDAR DATA PROVIDED BY GAN INC. ACQUIRED ON MAY 26, 2021 AND DECEMBER 9, 2022.
 5. PIPELINE DATA PROVIDED BY COOKPLS. ACQUIRED ON DEC 13, 2022.
 6. MINIMUM REQUIRED CLEARANCES TO CROSSINGS ARE PER NESC 2017

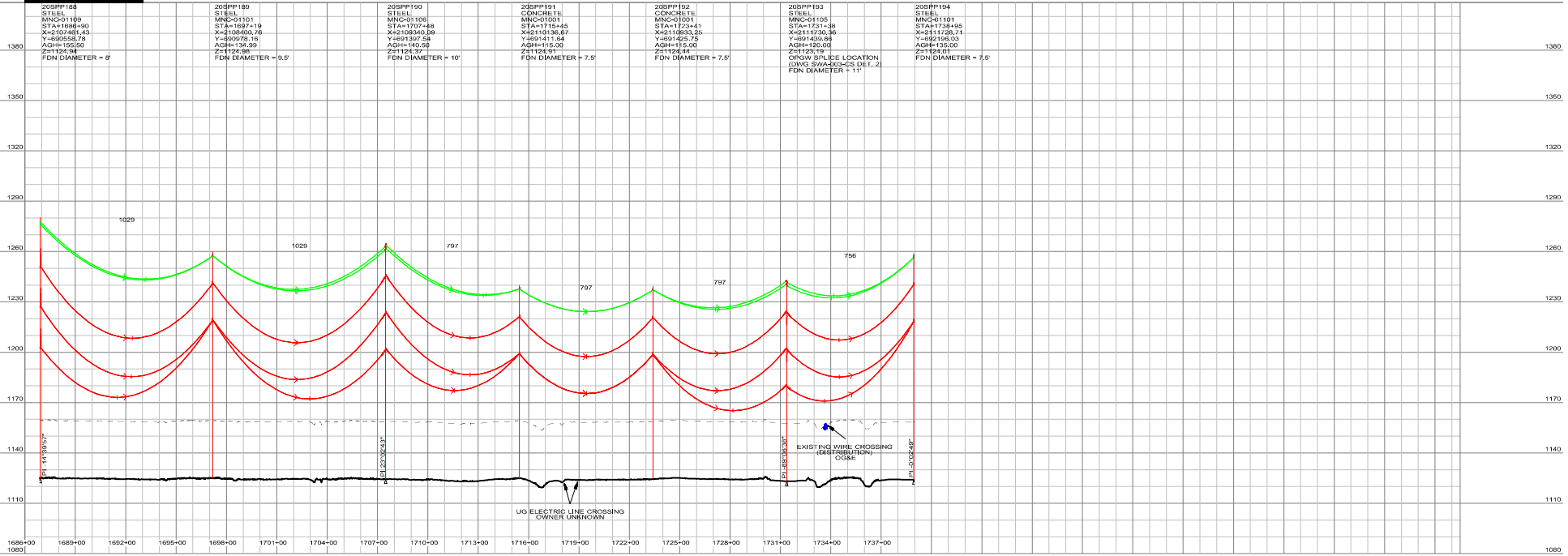
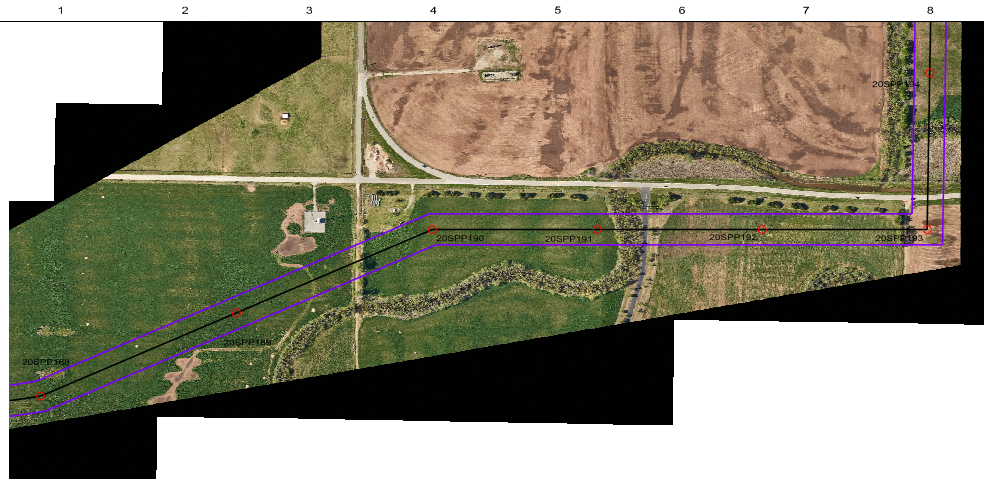


DATE	9/27/21	DESIGNED	B. WINDSOR
DATE	9/27/21	CHECKED	E. MEYER

C	4/9/23	ISSUED FOR PERMITTING	BAW
B	1/27/23	ISSUED FOR REVIEW	BAW
A	9/27/21	ISSUED FOR REVIEW	MJH
NO.	DATE	DESIGN REVISIONS	BY



TITLE	MINCO - PLEASANT VALLEY - DRAPER 349KV TRANSMISSION LINE
PLAN & PROFILE	
DWG. NO.	MPV-00101
SHEET 21	OF 25
REV C	



Structure No.	Material	Coordinates (X, Y, Z)	AGH	Z	FDN DIAMETER
20SPP188	STEEL	MNC-01169 STA=1698+00 X=2107481.43 Y=6905567.76 Z=1124.36	155.90	1124.36	8'
20SPP189	STEEL	MNC-01101 STA=1697+19 X=2108400.76 Y=6905976.19 Z=1124.36	134.99	1124.36	9.5'
20SPP190	STEEL	MNC-01100 STA=1707+49 X=2108340.09 Y=6911307.58 Z=1124.36	140.59	1124.36	10'
20SPP191	CONCRETE	MNC-01001 STA=1713+45 X=2110136.87 Y=691411.94 Z=1124.36	115.00	1124.36	7.5'
20SPP192	CONCRETE	MNC-01001 STA=1724+41 X=2110933.25 Y=691462.75 Z=1124.36	115.00	1124.36	7.5'
20SPP193	STEEL	MNC-01105 STA=1731+59 X=2111730.36 Y=691430.89 Z=1120.00	120.00	1120.00	11'
20SPP194	STEEL	MNC-01101 STA=1734+95 X=2111726.71 Y=69168.03 Z=1120.00	135.00	1120.00	7.5'

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300.0 FT. = 4 HORIZ. SCALE
 30.0 FT. = VERT. SCALE

CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PHEASANT" HORIZONTAL BUNDLE
 DISPLAYED: 3074' - FINAL' CONDITION PER PHASE
 DESIGN TENSION: 22,400 LBS (100% RBS)
 AT 300-YEAR COMBINED (ICE AND WIND) INITIAL* UNLESS OTHERWISE SPECIFIED

SHIELD WIRE: 48 FIBER OPGW
 DISPLAYED: 80' INITIAL' CONDITION
 DESIGN TENSION: 6,150 LBS (24% RBS)
 AT 300-YEAR COMBINED (ICE AND WIND) INITIAL* UNLESS OTHERWISE SPECIFIED

- NOTES:
- COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NAD83, OKLAHOMA STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET.
 - DISPLAY CLEARANCE LINE IS 36" NET (NEC) REQUIREMENT AT 349KV + 5FT. DESIGN MARGIN.
 - ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 - ELEVATION BASED ON LIDAR DATA PROVIDED BY SAM INC. ACQUIRED ON MAY 26, 2021 AND DECEMBER 9, 2022.
 - PIPELINE DATA PROVIDED BY COOKPLS. ACQUIRED ON DEC 13, 2022.
 - MINIMUM REQUIRED CLEARANCES TO CROSSINGS ARE PER NESC 2017

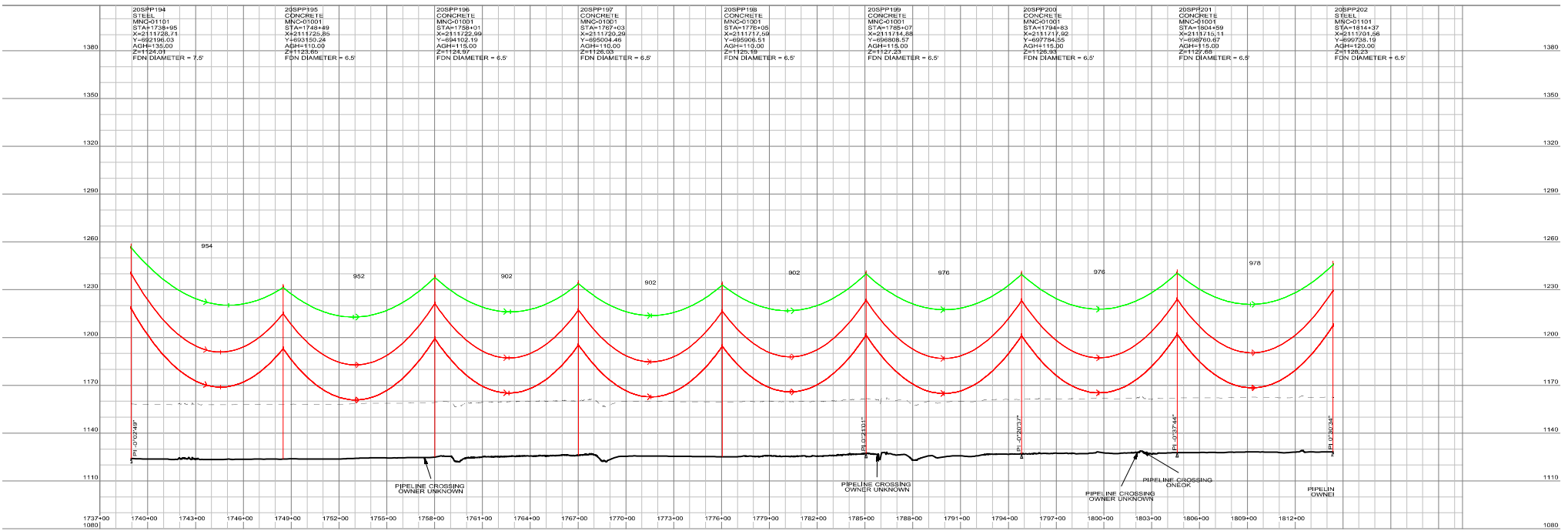


DATE	9/27/21	DESIGNED	B. WINDSOR
CHECKED	E. MEYER	DATE	9/27/21

NO.	DATE	DESIGN REVISIONS	BY	CHK
C	4/6/23	ISSUED FOR PERMITTING	BAW	
B	1/27/23	ISSUED FOR REVIEW	BAW	ELM
A	9/27/21	ISSUED FOR REVIEW	MJH	ARL



TITLE	MINCO - PLEASANT VALLEY - DRAPER 349KV TRANSMISSION LINE			
PLAN & PROFILE				
DWG. NO.	MPV-00101	SHEET	22	OF 25
REV C				



THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL, SIGNED AND SEALED DOCUMENT.

— 300.0 FT. — HORIZ. SCALE
 — 30.0 FT. — VERT. SCALE

— CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PLEASANT" HORIZONTAL BUNDLE
 — SHIELD WIRE: 48 FIBER OPWG DISPLAYED, 60" INITIAL CONDITION DESIGN TENSION, 6,150 LBS (24% RBS) AT 306-YEAR COMBINED (CF AND WIND) "INITIAL" UNLESS OTHERWISE SPECIFIED

- NOTES:
- COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NA83, OKLAHOMA STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET.
 - DISPLAY CLEARANCE LINE IS PER NET (NESC) REQUIREMENT AT 34KV + 5FT. DESIGN MARGIN.
 - ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 - ELEVATION BASED ON LIDAR DATA PROVIDED BY GAI INC. ACQUIRED ON MAY 26, 2021 AND DECEMBER 9, 2022.
 - PIPELINE DATA PROVIDED BY COOKPLS. ACQUIRED ON DEC 13, 2022.
 - MINIMUM REQUIRED CLEARANCES TO CROSSINGS ARE PER NESC 2017.

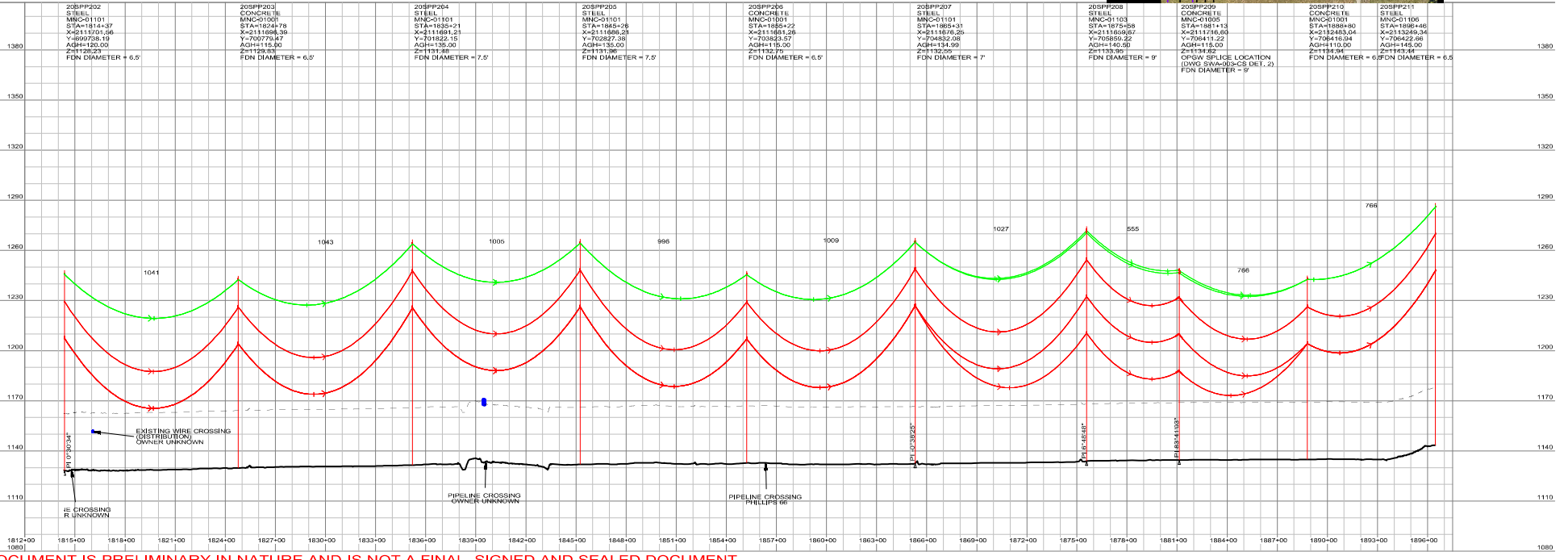
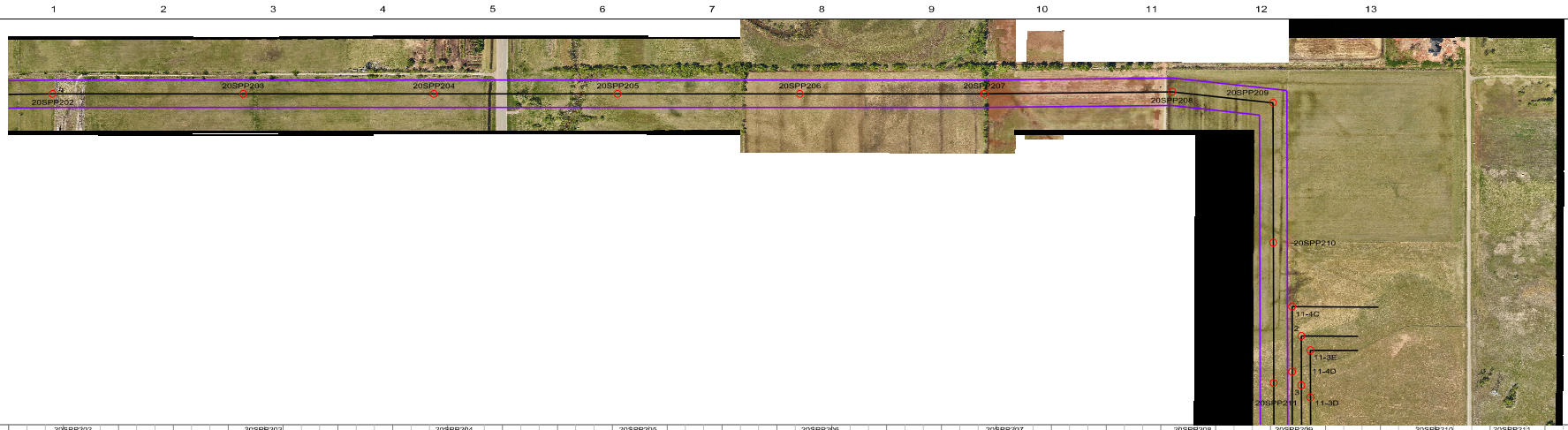
BURNS MEDONNELL
 8400 WARD PARKWAY, KANSAS CITY, MO 64114
 131945

DATE	9/27/21	DESIGNED	B. WINDSOR
DATE	9/27/21	CHECKED	E. MEYER

C	4/6/23	ISSUED FOR PERMITTING	BAW
B	1/27/23	ISSUED FOR REVIEW	SAW
A	9/27/21	ISSUED FOR REVIEW	MJH
NO.	DATE	DESIGN REVISIONS	BY

NEXTERA ENERGY
 TRANSMISSION SOUTHWEST

TITLE	MINCO - PLEASANT VALLEY - DRAPER 34KV TRANSMISSION LINE		
PLAN & PROFILE			
DWG. NO.	MPV-00101	SHEET	23 OF 25
REV C			



THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL, SIGNED AND SEALED DOCUMENT.

— 300.0 FT. — HORIZ. SCALE
 — 30.0 FT. — VERT. SCALE

— CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PHEASANT" HORIZONTAL BUNDLE DISPLAYED, 3074" "FINAL" CONDITION PER PHASE DESIGN TENSION: 22,400 LBS (100% RBS) AT 300-YEAR COMBINED ICE AND WIND "INITIAL" UNLESS OTHERWISE SPECIFIED

— SHIELD WIRE: 48 FIBER OPGW DISPLAYED, 80°F "INITIAL" CONDITION DESIGN TENSION: 6,150 LBS (34% RBS) AT 300-YEAR COMBINED ICE AND WIND "INITIAL" UNLESS OTHERWISE SPECIFIED

- NOTES:
- COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NAD83, OKLAHOMA STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET.
 - DISPLAY CLEARANCE LINE IS 34' NET (NEC) REQUIREMENT AT 34KV + 5FT. DESIGN MARGIN.
 - ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 - ELEVATION BASED ON LIDAR DATA PROVIDED BY GAN INC. ACQUIRED ON MAY 26, 2021 AND DECEMBER 9, 2022.
 - PIPELINE DATA PROVIDED BY COOKPLS. ACQUIRED ON DEC 13, 2022.
 - MINIMUM REQUIRED CLEARANCES TO CROSSINGS ARE PER NESC 2017

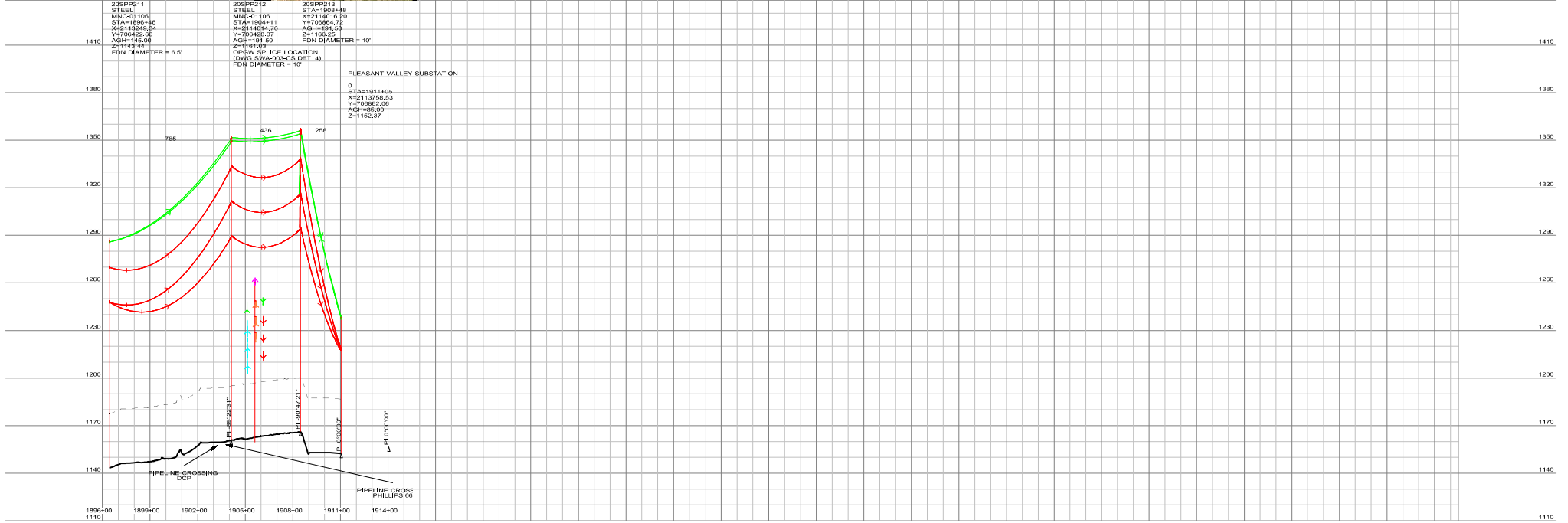
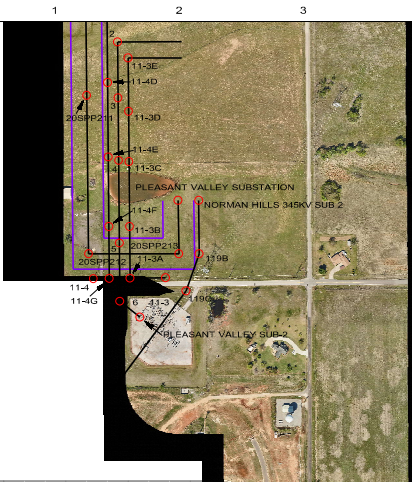
BURNS MEDONNELL
 8400 WARD PARKWAY, KANSAS CITY, MO 64114
 131945

DATE	9/27/21	DESIGNED	B. WINDSOR
DATE	9/27/21	CHECKED	E. MEYER

C	4/6/23	ISSUED FOR PERMITTING	BAW
B	1/27/23	ISSUED FOR REVIEW	BAW
A	9/27/21	ISSUED FOR REVIEW	MJH
NO.	DATE	DESIGN REVISIONS	BY

NEXtera ENERGY
 TRANSMISSION SOUTHWEST

TITLE	MINCO - PLEASANT VALLEY - DRAPER 34KV TRANSMISSION LINE
PLAN & PROFILE	
DWG. NO.	MPV-00101
SHEET 24	OF 25
REV C	



THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL, SIGNED AND SEALED DOCUMENT.

— 300.0 FT. — HORIZ. SCALE
 — 30.0 FT. — VERT. SCALE

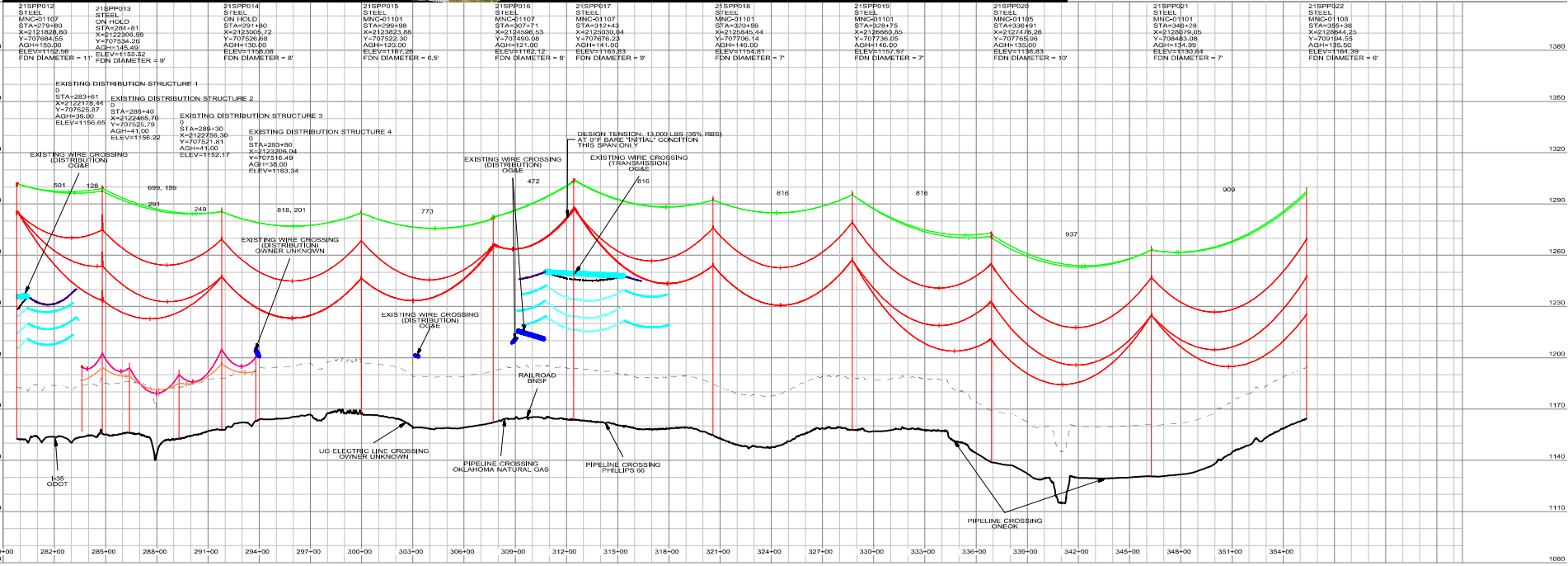
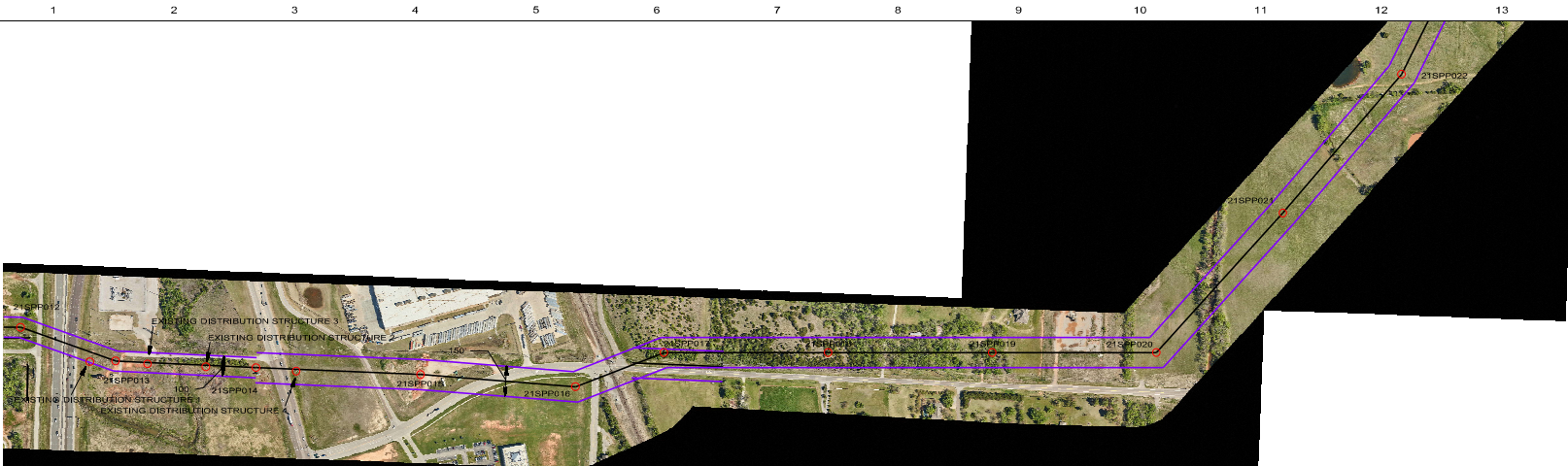
— CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PLEASANT"
 HORIZONTAL BUNDLE
 DISPLAYED: 80°F "FINAL" CONDITION PER PHASE
 DESIGN TENSION: 25,000 LBS (90% RB3)
 AT 300-YEAR COMBINED ICE AND WIND "INITIAL"
 UNLESS OTHERWISE SPECIFIED

— SHIELD WIRE: 48 FIBER OPGW
 DISPLAYED: 80°F "INITIAL" CONDITION
 DESIGN TENSION: 5,000 LBS (34% RB3)
 AT NESC 2903 (HEAVY) "INITIAL"
 UNLESS OTHERWISE SPECIFIED

NOTES:
 1. COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NA83, OKLAHOMA
 2. STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET
 3. DISPLAY CLEARANCE LINE IS 34' NET (NESC REQUIREMENT AT 34KV + 5FT. DESIGN MARGIN)
 4. ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 5. ELEVATION BASED ON LIDAR DATA PROVIDED BY SAM INC. ACQUIRED ON MAY 26, 2021
 AND DECEMBER 9, 2022
 6. PIPELINE DATA PROVIDED BY COOKPLS. ACQUIRED ON DEC 13, 2022



DATE	9/27/21	DESIGNED	B. WINDSOR	NO.		DATE		BY		BY		TITLE	MINCO - PLEASANT VALLEY - DRAPER 349KV TRANSMISSION LINE
DESIGNED	B. WINDSOR	CHECKED	E. MEYER	NO.		DATE		BY		BY		DWG. NO.	MPV-00101
													SHEET 25 OF 25
													REV C



THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL, SIGNED AND SEALED DOCUMENT.

— 300.0 FT. — HORIZ. SCALE
 — 30.0 FT. — VERT. SCALE

— CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PLEASANT" HORIZONTAL BUNDLE DISPLAYED: 392'F, "FINAL" CONDITION PER PHASE DESIGN TENSION: 13,000 LBS (25% RBS) AT 300-YEAR COMBINED ICE AND WIND "INITIAL" UNLESS OTHERWISE SPECIFIED

— SHIELD WIRE: 48 FIBER OPGW DISPLAYED: 80'F "INITIAL" CONDITION DESIGN TENSION: 5,750 LBS (24% RBS) AT NESG 2508 (HEAVY) "INITIAL" UNLESS OTHERWISE SPECIFIED

NOTES:
 1. COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NAD83, OKLAHOMA STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET.
 2. DISPLAY CLEARANCE (LINE IS LEFT INESC REQUIREMENT AT 345Kv + 5'F, DESIGN MARGIN).
 3. ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 4. ELEVATION BASED ON LIDAR DATA PROVIDED BY SAH INC. ACQUIRED ON MAY 26, 2021 AND DECEMBER 9, 2022.
 5. PIPELINE DATA PROVIDED BY COOKPLS, ACQUIRED ON DEC 13, 2022.
 6. MINIMUM REQUIRED CLEARANCES TO CROSSINGS ARE PER NESG 2017

— DISTRIBUTION CONDUCTOR DISPLAYED: 392'F, "FINAL" CONDITION PER PHASE

— DISTRIBUTION SHIELD WIRE DISPLAYED: 80'F "INITIAL" CONDITION

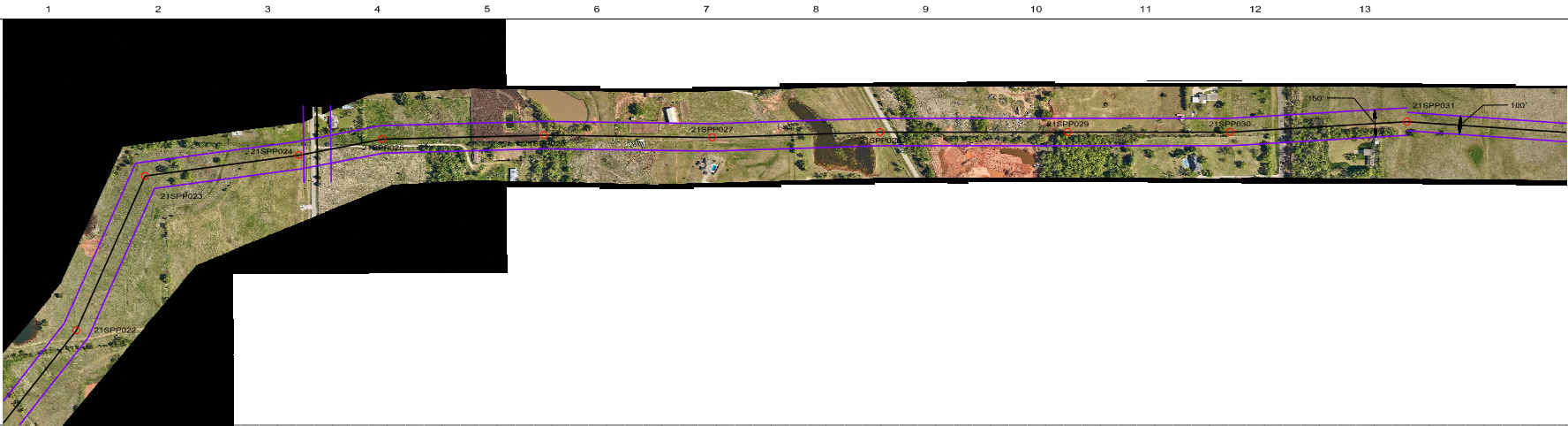


DATE	9/27/21	DESIGNED	B. WINDSOR
CHECKED	E. MEYER	DATE	9/27/21

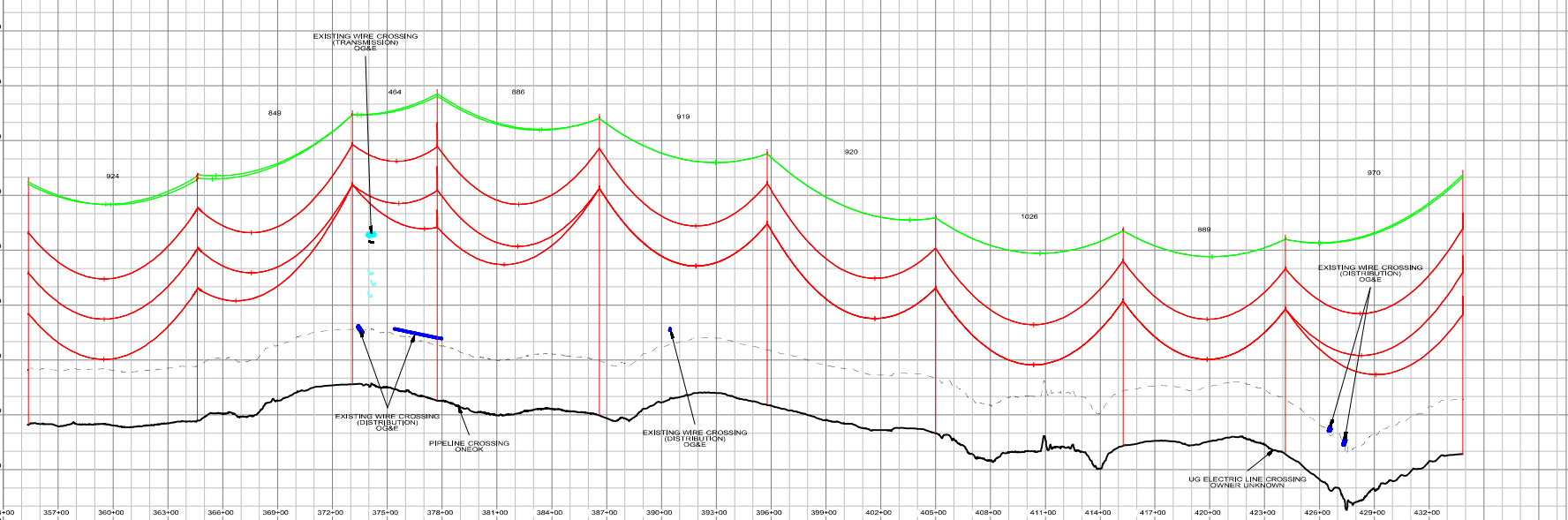
C	4/6/23	ISSUED FOR PERMITTING	BAW
B	1/27/23	ISSUED FOR REVIEW	BAW
A	9/27/21	ISSUED FOR REVIEW	MJH
NO.	DATE	DESIGN REVISIONS	BY



TITLE	MINCO - PLEASANT VALLEY - DRAPER 345KV TRANSMISSION LINE
PLAN & PROFILE	
DWG. NO.	PVDD-00101
SHEET	2 OF 10
REV	C



21SPPO22 STEEL MNC-01108 STA=354.00 X=212844.25 Y=709184.55 AGH=135.50 ELEV=1164.70 FDN DIAMETER = 6'	21SPPO23 STEEL MNC-01105 STA=364.00 X=212624.20 Y=710336.80 AGH=135.00 ELEV=1167.12 FDN DIAMETER = 10'	21SPPO24 STEEL MNC-01101 STA=372+10 X=212866.43 Y=710245.74 AGH=150.00 ELEV=1166.36 FDN DIAMETER = 6.5'	21SPPO25 STEEL MNC-01109 STA=377+4 X=213023.12 Y=710245.74 AGH=170.50 ELEV=1169.61 FDN DIAMETER = 6.5'	21SPPO26 STEEL MNC-01101 STA=386+00 X=213128.75 Y=710245.74 AGH=165.00 ELEV=1169.61 FDN DIAMETER = 7'	21SPPO27 STEEL MNC-01101 STA=393+75 X=213128.07 Y=710245.74 AGH=139.00 ELEV=1170.29 FDN DIAMETER = 7.5'	21SPPO28 CONCRETE MNC-01001 STA=404+99 X=213347.75 Y=710256.02 AGH=120.00 ELEV=1162.84 FDN DIAMETER = 6.5'	21SPPO29 CONCRETE MNC-01001 STA=413+25 X=213447.35 Y=710256.02 AGH=120.00 ELEV=1162.84 FDN DIAMETER = 6.5'	21SPPO30 STEEL MNC-01101 STA=424+14 X=213482.09 Y=710248.32 AGH=120.00 ELEV=1165.46 FDN DIAMETER = 6.5'	21SPPO31 STEEL MNC-01109 STA=433+84 X=213556.72 Y=710248.32 AGH=155.50 ELEV=1165.46 FDN DIAMETER = 8'
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THIS DOCUMENT IS PRELIMINARY IN NATURE AND IS NOT A FINAL, SIGNED AND SEALED DOCUMENT.

— 300.0 FT. — HORIZ. SCALE
— 30.0 FT. — VERT. SCALE

— CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PHEASANT" HORIZONTAL BUNDLE
— DISPLAYED: 392' F. "FINAL" CONDITION PER PHASE
— DESIGN TENSION: 22,800 LBS (95% RBS)
— AT 300-YEAR COMBINED ICE AND WIND "INITIAL" UNLESS OTHERWISE SPECIFIED

— SHIELD WIRE: 48 FIBER OPGW
— DISPLAYED: 80' F. "INITIAL" CONDITION
— DESIGN TENSION: 6,750 LBS (24% RBS)
— AT NESC 250B (HEAVY) "INITIAL" UNLESS OTHERWISE SPECIFIED

- NOTES:
1. COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NAD83, OKLAHOMA
 2. STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET
 3. DISPLAY CLEARANCE LINE IS 30' LEFT INESC REQUIREMENT AT 345KV + 5' FT. DESIGN MARGIN.
 4. ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 5. ELEVATION BASED ON LIDAR DATA PROVIDED BY SAM INC. ACQUIRED ON MAY 26, 2021 AND DECEMBER 9, 2022
 6. PIPELINE DATA PROVIDED BY COOKPLS, ACQUIRED ON DEC 13, 2022
 7. MINIMUM REQUIRED CLEARANCES TO CROSSINGS ARE PER NESC 2017



8400 WARD PARKWAY, KANSAS CITY, MO 64114
131945

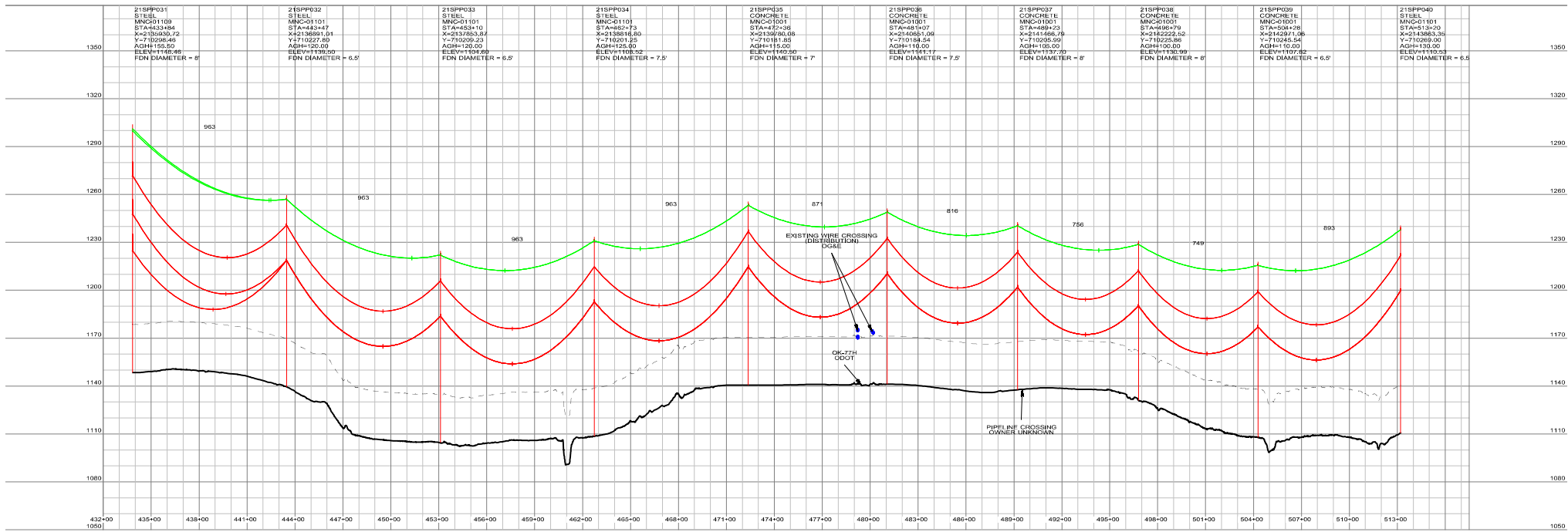
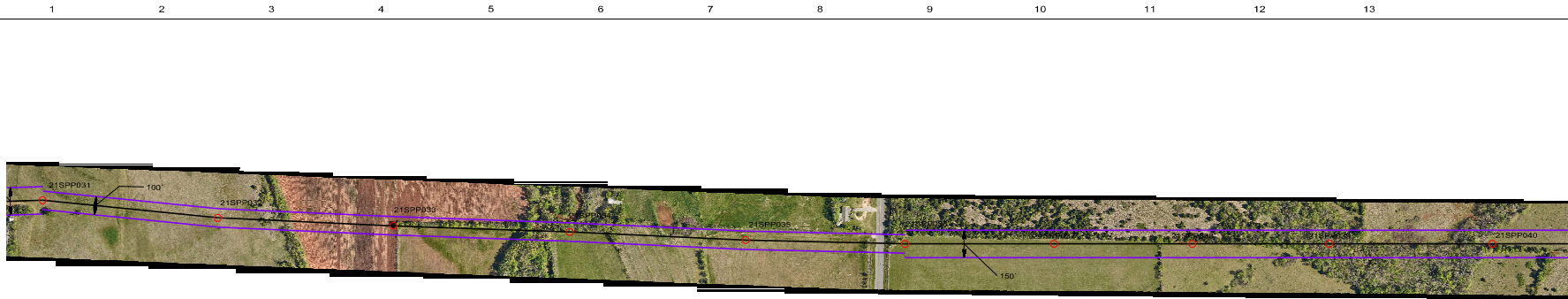
DATE	9/27/21	DESIGNED	B. WINDSOR
CHECKED	E. MEYER	Detailed	B. WINDSOR

C	4/6/23	ISSUED FOR PERMITTING	BAW
B	1/27/23	ISSUED FOR REVIEW	BAW
A	9/27/21	ISSUED FOR REVIEW	MJH
NO.	DATE	DESIGN REVISIONS	BY



MINCO - PLEASANT VALLEY - DRAPER 345KV TRANSMISSION LINE

TITLE	MINCO - PLEASANT VALLEY - DRAPER 345KV TRANSMISSION LINE
PLAN & PROFILE	
SHEET	3 OF 10
REV	C



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CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PHEASANT" HORIZONTAL BUNDLE
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 AT 300-YEAR COMBINED ICE AND WIND "INITIAL" UNLESS OTHERWISE SPECIFIED

SHIELD WIRE: 48 FIBER OPCW
 DISPLAYED: 80' F. "INITIAL" CONDITION
 DESIGN TENSION: 6,750 LBS (24% RBS)
 AT NESC 250B (HEAVY) "INITIAL" UNLESS OTHERWISE SPECIFIED

NOTES:
 1. COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NAD83, OKLAHOMA STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET.
 2. DISPLAY CLEARANCE LINE IS 9' LEFT INESC REQUIREMENT AT 345KV + 5' FT. DESIGN MARGIN.
 3. ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 4. ELEVATION BASED ON LIDAR DATA PROVIDED BY SAM INC. ACQUIRED ON MAY 26, 2021 AND DECEMBER 9, 2022.
 5. PIPELINE DATA PROVIDED BY COOKPLS, ACQUIRED ON DEC 13, 2022.
 6. MINIMUM REQUIRED CLEARANCES TO CROSSINGS ARE PER NESC 2017



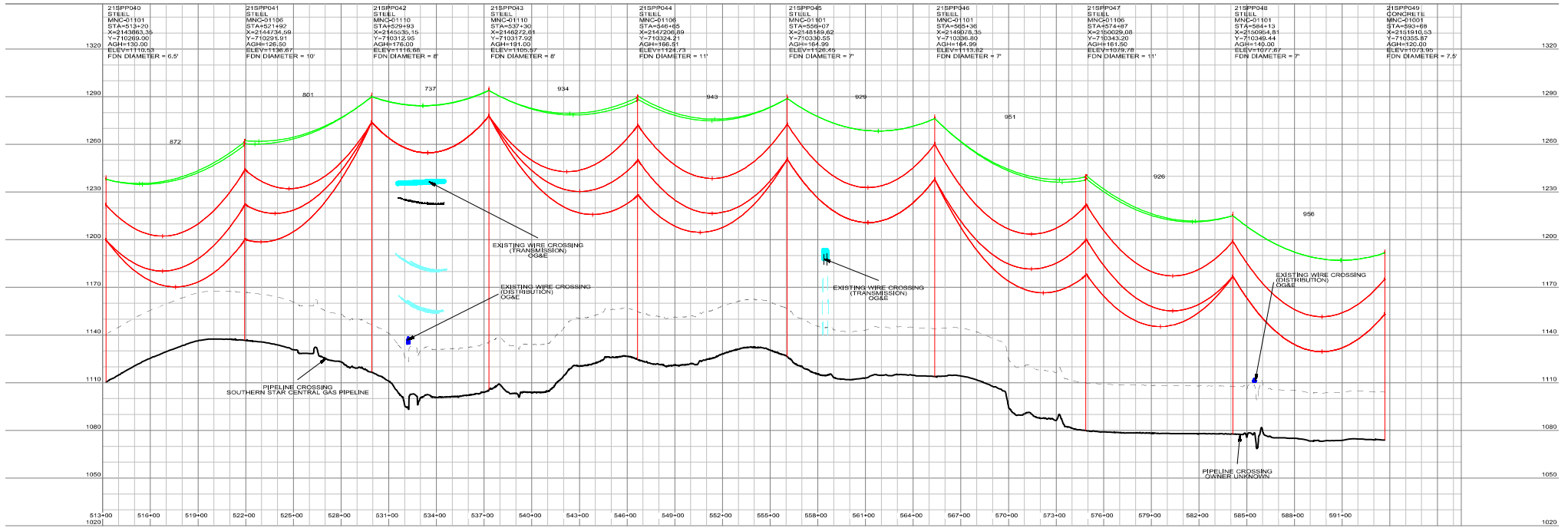
8400 WARD PARKWAY, KANSAS CITY, MO 64114
 131945

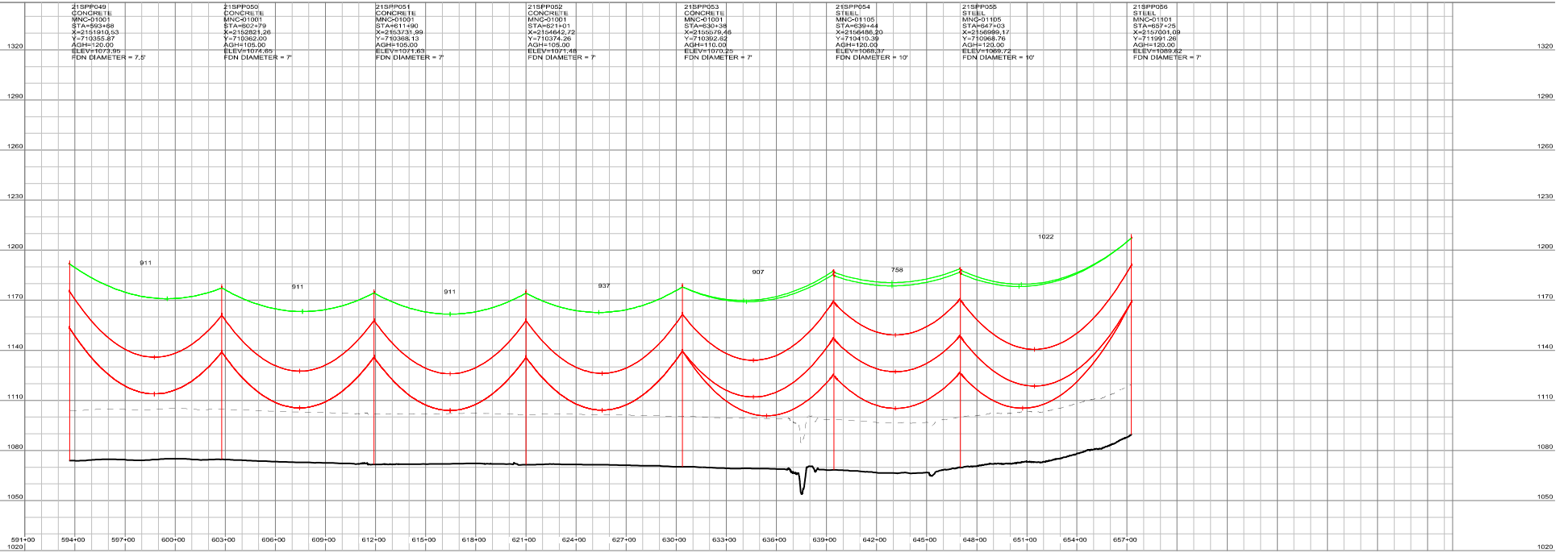
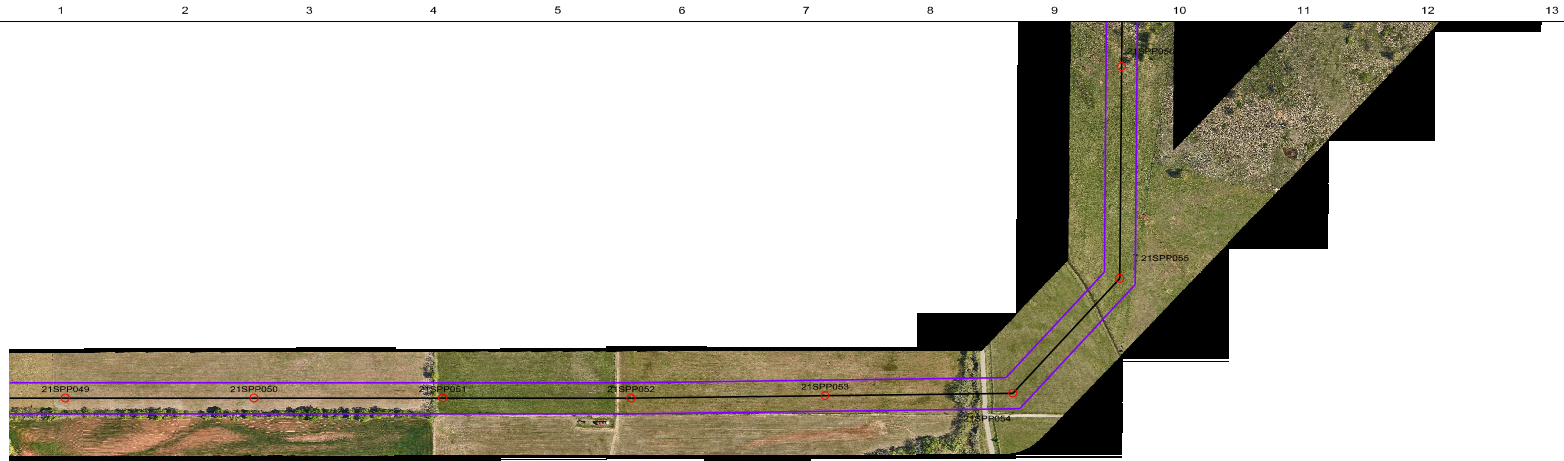
DATE	9/27/21	DESIGNED	B. WINDSOR
DESIGNED	B. WINDSOR	CHECKED	E. MEYER

C	4/6/23	ISSUED FOR PERMITTING	BAW
B	1/27/23	ISSUED FOR REVIEW	BAW
A	9/27/21	ISSUED FOR REVIEW	MJH
NO.	DATE	DESIGN REVISIONS	BY



TITLE	MINCO - PLEASANT VALLEY - DRAPER 345KV TRANSMISSION LINE		
PLAN & PROFILE			
SHEET	4	OF	10
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— 300.0 FT. — HORIZ. SCALE
 — 30.0 FT. — VERT. SCALE

— CONDUCTOR: 2X 1272 KCMIL 54/19 ACSS HS "PHEASANT" HORIZONTAL BUNDLE
 DISPLAYED: 392' F. "FINAL" CONDITION PER PHASE
 DESIGN TENSION: 22,800 LBS (95% RBS)
 AT 300-YEAR COMBINED ICE AND WIND "INITIAL"
 UNLESS OTHERWISE SPECIFIED

— SHIELD WIRE: 48 FIBER OPGW
 DISPLAYED: 80' F. "INITIAL" CONDITION
 DESIGN TENSION: 6,750 LBS (24% RBS)
 AT NESC 250B (HEAVY) "INITIAL"
 UNLESS OTHERWISE SPECIFIED

NOTES:
 1. COORDINATES IN STRUCTURE LABEL ARE X (EASTING) AND Y (NORTHING) PER NAD83, OKLAHOMA STATE PLANE, SOUTH ZONE 3502, US SURVEY FEET.
 2. DISPLAY CLEARANCE LINE IS TO LEFT (NESC REQUIREMENT AT 345KV + 5 FT. DESIGN MARGIN).
 3. ABOVE GROUND HEIGHT (AGH) DISPLAYED IN THE STRUCTURE LABEL IS IN UNITS OF FEET.
 4. ELEVATION BASED ON LIDAR DATA PROVIDED BY SAM INC. ACQUIRED ON MAY 26, 2021 AND DECEMBER 9, 2022.
 5. PRELINE DATA PROVIDED BY COOKPLS, ACQUIRED ON DEC 13, 2022.
 6. MINIMUM REQUIRED CLEARANCES TO CROSSINGS ARE PER NESC 2017



DATE	9/27/21	DESIGNED	B. WINDSOR
DATE	9/27/21	CHECKED	E. MEYER
DATE	12/2/23	DETAILED	B. WINDSOR
DATE	9/27/21	ISSUED FOR PERMITTING	BAW
DATE	12/2/23	ISSUED FOR REVIEW	SAW
DATE	9/27/21	ISSUED FOR REVIEW	MJH
DATE	9/27/21	DESIGN REVISIONS	ARL

C	4/6/23	ISSUED FOR PERMITTING	BAW
B	12/2/23	ISSUED FOR REVIEW	SAW
A	9/27/21	ISSUED FOR REVIEW	MJH
NO.	DATE	DESIGN REVISIONS	BY



TITLE	MINCO - PLEASANT VALLEY - DRAPER 345KV TRANSMISSION LINE		
PLAN & PROFILE			
DWG. NO.	PVDO-00101	SHEET	6 OF 10
REV	C		

Attachment 3: Floodplain Pole Summary Table

Structure ID	Special Flood Hazard Area (SFHA)	Flooding Source	Latitude (deg)	Longitude (deg)	Quarter Section	Section - Township - Range	Ground Surface Elevation (ft)*	Existing 100-year WSEL (ft)	Pole Type	Diameter at Ground Level (inches)	Volume Below Existing 100-year WSEL (Cu. Yds)	Hydraulic Analysis Documentation
20SPP184/ MPVS-183	Regulatory Floodway	Canadian River	35.226407	-97.546175	SW1/4 of NW1/4	Sec29-T9N-R3W	1122.459	1126.390	Direct-embed steel	45.57	1.65	Attachment 4
20SPP185/ MPVS-184	Regulatory Floodway	Canadian River	35.22778	-97.543376	SW1/4 of NW1/4	Sec29-T9N-R3W	1121.518	1126.390	Direct-embed steel	51.48	2.61	Attachment 4
20SPP189*	Zone AE	Ten Mile Flat Creek	35.231077	-97.531557	NW1/4 of NE 1/4	Sec29-T9N-R3W	1124.980	1124.870	Direct-embed steel	52.64	0	Attachment 5
20SPP190	Zone AE	Ten Mile Flat Creek	35.232217	-97.528405	NW1/4 of NW1/4	Sec28-T9N-R3W	1124.372	1124.870	Drilled Shaft steel	120.00	1.45	Attachment 5
20SPP191*	Zone AE	Ten Mile Flat Creek	35.232245	-97.525738	NW1/4 of NW1/4	Sec28-T9N-R3W	1124.914	1124.870	Direct-embed concrete	46.71	0	Attachment 5
20SPP192	Zone AE	Ten Mile Flat Creek	35.232274	-97.523071	NE1/4 of NW1/4	Sec28-T9N-R3W	1124.443	1124.870	Direct-embed concrete	46.71	0.19	Attachment 5
20SPP194	Zone AE	Ten Mile Flat Creek	35.234187	-97.520395	SW1/4 of SE1/4	Sec21-T9N-R3W	1124.005	1125.450	Direct-embed steel	49.90	0.73	Attachment 5
20SPP195	Zone AE	Ten Mile Flat Creek	35.236864	-97.52039	NW1/4 of SE1/4	Sec21-T9N-R3W	1123.655	1125.510	Direct-embed concrete	45.63	0.78	Attachment 5
20SPP196	Zone AE	Ten Mile Flat Creek	35.239616	-97.520385	NW1/4 of SE1/4	Sec21-T9N-R3W	1124.967	1125.750	Direct-embed concrete	46.71	0.35	Attachment 5
20SPP197	Zone AE	Ten Mile Flat Creek	35.242095	-97.520381	SW1/4 of NE1/4	Sec21-T9N-R3W	1126.031	1126.600	Direct-embed concrete	45.63	0.24	Attachment 5
20SPP198	Zone AE	Ten Mile Flat Creek	35.244573	-97.520377	NW1/4 of NE 1/4	Sec21-T9N-R3W	1125.188	1126.770	Direct-embed concrete	45.63	0.67	Attachment 5
20SPP199*	Zone AE	Ten Mile Flat Creek	35.247051	-97.520372	NW1/4 of NE 1/4	Sec21-T9N-R3W	1127.230	1127.200	Direct-embed concrete	46.71	0	Attachment 5
20SPP200	Zone AE	Ten Mile Flat Creek	35.249733	-97.520342	SW1/4 of SE1/4	Sec16-T9N-R3W	1126.931	1128.050	Direct-embed concrete	46.71	0.49	Attachment 5
20SPP201	Zone AE	Ten Mile Flat Creek	35.252415	-97.520336	NW1/4 of SE1/4	Sec16-T9N-R3W	1127.682	1128.950	Direct-embed concrete	46.71	0.56	Attachment 5
20SPP202	Zone AE	Ten Mile Flat Creek	35.2551	-97.520372	SW1/4 of NE1/4	Sec16-T9N-R3W	1128.230	1129.240	Direct-embed steel	41.43	0.35	Attachment 5
20SPP204*	Zone AE	Ten Mile Flat Creek	35.260826	-97.520371	NW1/4 of NE 1/4	Sec16-T9N-R3W	1131.479	1131.430	Direct-embed steel	48.82	0	Attachment 5
20SPP205	Zone AE	Ten Mile Flat Creek	35.263587	-97.52037	SW1/4 of SE1/4	Sec9-T9N-R3W	1131.958	1133.060	Direct-embed steel	48.82	0.53	Attachment 5
20SPP206	Zone AE	Ten Mile Flat Creek	35.266324	-97.52037	NW1/4 of SE1/4	Sec9-T9N-R3W	1132.753	1133.150	Direct-embed concrete	46.71	0.17	Attachment 5
20SPP207	Zone AE	Ten Mile Flat Creek	35.269095	-97.520369	SW1/4 of NE1/4	Sec9-T9N-R3W	1132.550	1133.300	Direct-embed steel	52.64	0.42	Attachment 5
21SPP011**	Zone A	Little River Tributary G	35.276745	-97.489227	SE1/4 of SW1/4	Sec2-T9N-R3W	1157.086	N/A	Direct-embed concrete	46.71	0	Attachment 5
21SPP012**	Zone A	Little River Tributary G	35.276794	-97.486312	SE1/4 of SW1/4	Sec2-T9N-R3W	1152.557	N/A	Three-Pole Drilled Shaft steel	132, 132, 132	0	Attachment 5
21SPP021	Zone AE	Little River	35.278899	-97.465358	SW1/4 of SE1/4	Sec1-T9N-R3W	1130.645	1133.710	Direct-embed steel	52.64	1.72	Attachment 5
21SPP034**	Zone A	North Fork River	35.28346	-97.429352	SW1/4 of NE1/4	Sec5-T9N-R2W	1108.523	N/A	Direct-embed steel	45.57	0	Attachment 5
21SPP039	Zone A	Little River Tributary Stream 127	35.283514	-97.415433	SE1/4 of NW1/4	Sec4-T9N-R2W	1107.816	1108.870	Direct-embed concrete	47.79	0.49	Attachment 5
21SPP043**	Zone A	Little River Tributary Stream 100	35.28366	-97.40437	SW1/4 of NW1/4	Sec3-T9N-R2W	1105.574	N/A	Double drilled shaft steel	96, 96	0	Attachment 5
21SPP047**	Zone A	Little River	35.283667	-97.391784	SE1/4 of NE1/4	Sec3-T9N-R2W	1079.783	N/A	Drilled Shaft steel	132.00	0	Attachment 5
21SPP048*	Zone A	Little River Tributary Stream 101	35.283669	-97.388682	SE1/4 of NE1/4	Sec3-T9N-R2W	1077.671	1076.850	Direct-embed steel	51.48	0	Attachment 5

Structure ID	Special Flood Hazard Area (SFHA)	Flooding Source	Latitude (deg)	Longitude (deg)	Quarter Section	Section - Township - Range	Ground Surface Elevation (ft)*	Existing 100-year WSEL (ft)	Pole Type	Diameter at Ground Level (inches)	Volume Below Existing 100-year WSEL (Cu. Yds)	Hydraulic Analysis Documentation
21SPP049	Zone A	Little River	35.283671	-97.38548	SW1/4 of NW1/4	Sec2-T9N-R2W	1073.950	1077.620	Direct-embed concrete	47.79	1.69	Attachment 5
21SPP050	Zone A	Little River	35.283672	-97.382428	SE1/4 of NW1/4	Sec2-T9N-R2W	1074.650	1076.390	Direct-embed concrete	45.63	0.73	Attachment 5
21SPP051	Zone A	Little River	35.283674	-97.379377	SW1/4 of NE1/4	Sec2-T9N-R2W	1071.632	1075.450	Direct-embed concrete	43.47	1.46	Attachment 5
21SPP052	Zone A	Little River	35.283675	-97.376326	SW1/4 of NE1/4	Sec2-T9N-R2W	1071.476	1073.310	Direct-embed concrete	44.55	0.74	Attachment 5
21SPP053	Zone A	Little River	35.283709	-97.373237	SE1/4 of NE1/4	Sec2-T9N-R2W	1070.251	1070.710	Direct-embed concrete	45.63	0.19	Attachment 5
21SPP054	Zone A	Little River	35.283743	-97.370148	SW1/4 of NW1/4	Sec1-T9N-R2W	1068.371	1071.010	Direct-embed steel	75.17	3.01	Attachment 5
21SPP055	Zone A	Little River	35.285268	-97.368418	SW1/4 of NW1/4	Sec1-T9N-R2W	1069.723	1070.530	Direct-embed steel	75.17	0.92	Attachment 5
21SPP056*	Zone A	Little River	35.288077	-97.36839	NW 1/4 of NW 1/4	Sec1-T9N-R2W	1089.616	1070.530	Direct-embed steel	44.60	0	Attachment 5

*The structure will be constructed on existing ground surface elevation that is higher than the existing 100-year water surface elevation within the extents of the 100-year floodplain model.

**The structure is located outside of the extents of the 100-year floodplain model

Shaz Investment Group, LLC
2252 N. Broadway Street
Moore,OK,73160

February 28, 2024

City of Norman Planning and Community Development
225 N. Webster P.O Box 370
Norman, Oklahoma, 73069

Re: Support Letter-Notice of Appeal request by Raven Investments, LLC

Dear: City of Norman

Shaz Investment Group, LLC is supporting Raven Investments, LLC appeal from the City of Norman Board of Adjustment to terminate Flood Permit Application Nos. 684 and 685 approved by the City of Norman Flood Plain Committee on January 2,2024.

If you have any questions you may contact me at 405-476-9133 or email me at mo@homecreations.com.

Sincerely,

Mo Sharifi
Home Creations/Shaz Investment Group, LLC
Land Development Manager

mo sharifi