

BEFORE THE SURFACE TRANSPORTATION BOARD

2145 AVOCADO LAND TRUST and
HOME WRECKERS, INC.

rail
Petitioners,
v.

FLORIDA EAST COAST RAILWAY,
LLC,
Respondent.

DOCKET NO.: ~~FD 36952~~

312153 NOR 42189

ENTERED
Office of Chief Counsel
August 28, 2026
Part of
Public Record

PETITION

Petitioners, 2145 AVOCADO LAND TRUST and HOME WRECKERS, INC. (collectively, "Petitioners"), by and through the undersigned counsel, bring this action against Respondent, FLORIDA EAST COAST RAILWAY, LLC ("Respondent" or "FECR"), before the Surface Transportation Board (the "Board"), and in support state as follows:

INTRODUCTION

Petitioners initially pursued the claim underlying this Petition in Florida state court as an inverse-condemnation claim under Florida law. The state court determined that the subject matter of the claim was preempted by the Interstate Commerce Commission Termination Act ("ICCTA"), see **EXHIBIT A**. Petitioners thereafter pursued the claim in federal court, asserting a taking in violation of the Fifth Amendment and, alternatively, trespass. The federal court likewise determined that the subject matter was preempted by the ICCTA, see **EXHIBIT B**. Because the courts have held that the Board's jurisdiction over this dispute is exclusive, Petitioners now invoke that jurisdiction. The Board has exclusive jurisdiction over transportation by rail carriers under 49 U.S.C. § 10501(b), and

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a rail carrier is required to establish and maintain reasonable practices with respect to its facilities under 49 U.S.C. § 10702. Petitioners allege that Respondent's alteration of the drainage along its right-of-way is an unreasonable practice that has cast recurring floodwaters onto the Property, and they seek an order under 49 U.S.C. § 10704 directing Respondent to remediate that practice and an award of damages under 49 U.S.C. § 11704 for the harm the flooding has caused. Respondent's conduct has substantially and adversely affected Petitioners' use of the Property and frustrated their ability to use it in an economically beneficial manner.

PARTIES

1. Petitioner, 2145 AVOCADO LAND TRUST (individually, "ALT"), is a land trust that owns real property located in Brevard County, Florida.
2. Petitioner, HOME WRECKERS, INC. (individually, "Home Wreckers"), is a Florida corporation doing business in Brevard County, Florida at the property owned by ALT.
3. Respondent, FLORIDA EAST COAST RAILWAY, LLC, is a Florida limited liability company that owns and operates the rail line adjacent to the Property and is a rail carrier providing transportation subject to the jurisdiction of the Board under 49 U.S.C. §§ 10102 and 10501.

JURISDICTION

4. This is a complaint and petition brought under 49 U.S.C. § 11701 and 49 C.F.R. § 1117.1, seeking an order under 49 U.S.C. § 10704 requiring Respondent to cease and remediate the unreasonable drainage practice described below and an award of damages under 49 U.S.C. § 11704, arising out of Respondent's construction, operation, and maintenance of a second main track and associated drainage facilities.

5. The Board has jurisdiction over this action pursuant to 49 U.S.C. § 10501(b), which vests the Board with exclusive jurisdiction over transportation by rail carriers and over the construction, operation, and maintenance of rail tracks and facilities.

6. Respondent's construction, operation, and maintenance of the second main track and its associated drainage facilities constitute transportation by a rail carrier within the meaning of 49 U.S.C. § 10102(9) and fall within the Board's exclusive jurisdiction under 49 U.S.C. § 10501(b).

GENERAL ALLEGATIONS

7. Petitioner ALT is the owner of that certain property ("Property") located in Brevard County, Florida, more particularly described as Lots 2, 3, 4, 5, and 6, West of FEC Railway, Block 33, Village Plat of Eau Gallie, according to the plat thereof, recorded in Plat Book 1, Page 47 of the Public Records of Brevard County, Florida AND Lots 10 and 11, Block 5, Plat of the Subdivision of Out Lots No. 21, 22, and 23 of the Town of Eau Gallie, according to the Plat thereof, recorded in Deed Book FF, Page 600 of the Public Records of Brevard County, Florida TOGETHER WITH vacated directly adjacent to Lots 10 and 11, Block 5, Plat of the Subdivision of Out Lots No. 21, 22, and 23 of the Town of Eau Gallie, according to the plat thereof, recorded in Deed Book FF, Page 600, as vacated in Ordinance No. 2019-14 recorded in Official Records Book 8379, Page 1033, of the Public Records of Brevard County, Florida and also known as 2145 Avocado Avenue, Melbourne, Florida.

8. ALT leases the Property to Home Wreckers, who operates a construction business out of the Property.

9. Directly adjacent to the eastern boundary of the Property is a railway owned and operated by Respondent.

10. In preparation for Brightline trains to begin service from Orlando to Miami, the railway tracks and area adjacent to the Property had to be upgraded and renovated.

11. Respondent performed or supervised the upgrade and renovation of the tracks and adjacent areas.

12. As a part of the renovation, the drainage pattern of the tracks and right-of-way upon which the tracks sit was changed.

13. As a result of the above-described renovation, Respondent now directs water away from the railway and right-of-way, and onto the Property.

14. This new drainage pattern has caused flooding of the Property which directly and materially impacts and adversely affects Petitioners' reasonable and normal use of the Property.

DETAILED STATEMENT OF RESPONDENT'S ACTION

Respondent caused flooding on Petitioners' property (the "Property") through its construction of a second railroad track within its right-of-way, including the extension of the culvert located at Mile Marker 189.12 and the elevation of the associated pipes. The Property did not experience this flooding before Respondent commenced and completed the work associated with the Brightline project.

Before Respondent's construction, a large retention area existed where the second railroad track is now located. The retention area was approximately sixteen feet wide and eight feet deep. It had remained unobstructed since at least 2000, when a prior railroad

track was removed, and allowed water to drain from the Property into the railroad right-of-way.

Respondent's construction eliminated this retention area. The grass and soil were replaced with sand, gravel, and railroad ballast to accommodate the new track. As a result, water that previously drained from the Property into the retention area now collects on or is discharged back onto the Property.

Floodwater also travels through a channel located north of the Property toward a relief valve within a box culvert. Although the relief valve was purportedly constructed to alleviate flooding on the south side of the Property, the water must first rise to a certain level before it can discharge through the valve. By the time the water reaches that level, however, the Property has already flooded and is underwater. Thus, the relief valve does not meaningfully prevent or alleviate the flooding.

When Respondent began its construction, the Property flooded every day for approximately ninety consecutive days. Since then, the Property has continued to flood approximately once per week. When rainfall persists for more than four hours, the flooding becomes extreme and overwhelming.

Before Respondent's construction, the Property did not experience flooding of this nature or extent, and Petitioners were able to use it for ordinary commercial purposes. Since Respondent's construction, however, the recurring flooding has substantially interfered with Petitioners' commercial operations and caused damage to their equipment and other physical property.

An action for inverse condemnation is rooted in the Takings Clause of the Fifth Amendment of the United States Constitution, which prohibits the government from taking

private property for public use without paying just compensation U.S. Const. Amend. V. The federal Takings Clause applies to the states and to local governments through the Fourteenth Amendment. *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 536 (2005).

Courts widely recognize physical takings claims and consider them the "clearest sort of taking" (see *Cedar Point Nursery v. Hassid*, 141 S. Ct. 2063, 2071 (2021)); see also *JWC Fitness, LLC v. Murphy*, 469 N.J. Super. 414, 432 (App. Div. 2021); *Jefferson St. Ventures, LLC v. City of Indio*, 236 Cal. App. 4th 1175, 1193 (2015); *Dep't of Agric. & Consumer Servs. v. Bogorff*, 35 So. 3d 84, 89 (Fla. 4th DCA 2010); *Friedenburg v. New York State Dep't of Env't Conservation*, 767 N.Y.S.2d 451, 457 (2nd Dep't 2003)).

A plaintiff may assert an inverse condemnation claim for a physical taking if a governmental entity physically takes possession of, occupies, or appropriates the plaintiff's property without authorization. For example, a governmental entity that causes flooding on private property may be liable for a physical taking. See *Tarrant Reg'l Water Dist. v. Gragg*, 151 S.W.3d 546, 559 (Tex. 2004); see also *Ark. Game and Fish Comm'n v. United States*, 568 U.S. 23, 38-39 (2012).

Here, FECR has taken the Property through flooding it when a second railroad was built in their right-of-way and the culvert at MM 189.12 extended and pipes raised. Depo of Robb 16:16:10-25. It is undisputed that water will flow downhill to its lowest point or the path of least resistance. Depo of Lekander 19-24, attached as **EXHIBIT C**; Depo of Ledoux 39:8-11, attached as **EXHIBIT D**. This flooding did not occur prior to the duration and completion of the Brightline work. Depo of Lekander 71:12-15. This is further supplanted by the statement that "[i]f there were existing problems with the system, then there would be a record of these. And most likely, they would have been addressed over

the last century of operation” as stated in the introduction to Exhibit G to the Depo of Ledoux. FECR also did not disagree with this statement. Depo of Ledoux 35:13-18. Prior to the work, there was a huge retention area where the second railroad track is now located that was 16 feet wide and 8 or so feet deep. Depo of Lekander 45:21-25. This area has been clear since at least 2000 when one track was torn out over the period between 1980 and 2000. Depo of Ledoux 21:2-11. Prior to the construction, the water would flow from the Petitioners’ Property into the retention area on the railroad right of way. Depo of Lekander 46:8-22. The grassy retention area was turned into a sandy area where gravel and ballast replaced dirt and grass. Depo of Ledoux 29:5-16.

However, when the work began and the track was removed, the Petitioners Property flooded every day for 90 days straight. Depo of Lekander 26:23-27:2. Since then, the Property has flooded once a week and the mass flooding is whenever it rains for more than four hours. Depo of Lekander 27:2-9.

The water that is supposed to be going through the channel to the north of the Petitioners’ Property is coming from the creek, from the Petitioners’ Property, from the neighbors’ properties and from the railroad. Depo of Lekander 32:2-6. When the Property floods, the water comes in part, down the channel, to a relief valve in a box culvert that was dug to try to alleviate some flooding on the south side of the Property. Depo of Lekander 32:7-22. However, the water has to be a certain level before it goes into that relief valve and by that point, the Petitioners’ Property is already underwater. Depo of Lekander 32:22-33:13. The Petitioners’ expert has said that the water will rise in the ditch to the north, will rise over the Petitioners’ Property and then make it to the inlet on the south side of the Petitioners’ Property. Depo of Robb 41:21-42:1, attached as **EXHIBIT**

E. This level is approximately 32 inches above ground level to where the Petitioners' Property does not flood above. Depo of Lekander 75:3-15. Many times, when the property floods it is at night, and the employees of the Petitioners see the remnants the next day. Depo of Lekander 43:10-17.

In fact, Brightline, in permitting documents submitted to the St. Johns River Water Management District, specifically stated that "upstream headwater at the western side will increase slightly from elevation 11.0 to 11.2 due to the longer length and higher upstream invert elevation." Exhibit G to Deposition of Ledoux at page 158. As predicted, the headwater at the western side has increased to at least 11.2. As shown in the topographic survey from AAL attached hereto as **EXHIBIT F**, the building located on the Petitioners' Property directly adjacent to the FECR Right of Way is located at 9.2 elevation. Further, what the permitting calculation failed to determine was the drainage of the water in the area that is now occupied by the second rail line. This second rail line was not always in existence at the FECR right of way adjacent to the Petitioners' Property. Depo of Ledoux 21:2-11. This piece of the property used to retain water, and now it does not. Depo of Lekander 97:2-11.

However, since the Brightline work has been completed in the FECR right-of-way, the property floods during normal rain events. Depo of Lekander 98:7-15. This water does not just come from the west towards the railroad right of way, but also comes from the railroad right-of-way; in other words, the Petitioners' Property receives water from all four sides. Depo of Lekander 95:3-12. The wall from the FECR Right-of-Way comes through cracks built into the wall on the FECR right of way onto the Petitioners' Property. Depo of Lekander 13-21. There was no disclosure of flooding on the Property when purchased by

ALT other than one time when the pipes had been plugged. Depo of Lekander 71:3-18. The property did not flood between its purchase and when Brightline construction started in the summer of 2021. Depo of Lekander 71:12-15. Further, when Robert Robb was working on a site plan for the previous owner of the ALT Property, there was no discussion of flooding brought up that he had to address. Depo of Robb 52:6-25.

An August 19, 2026 engineer's report and repair detail, attached hereto as **EXHIBIT G**, shows that the swale structure constructed to the east of the Property was improperly constructed and needs to be repaired due to the erosion caused by the flooding from FECR.

Further, even if the Property flooded prior to this work, the increased flooding would still have FECR be liable for a taking or trespass. The fact that flooding already existed on the subject property doesn't shield the condemning authority from responsibility. When the action of a condemning authority changes drainage or increases runoff in a way that worsens flooding, it can still amount to a taking. See generally *Ridge Line, Inc. v. U.S.*, 346 F.3d 1346 (Fed. Cir. 2003).

"Permanent destruction or exclusive occupation by condemning authority runoff is not always required for a successful takings claim." *Ridge Line, Inc. v. U.S.*, 346 F.3d 1346, 1354 (Fed. Cir. 2003). In other words, government liability for a taking does not depend on whether the flooding originated entirely from government action. The Ridge Line court expressly found error in the lower court's failure to address "whether the increased water runoff constituted a taking of a flowage easement by inverse condemnation." *Id.* at 1355 (emphasis added). There, the government's activities caused stormwater runoff onto Ridge Line's property to increase by at least 70%. *Id.* at 1358. The

court's analysis confirms that a compensable taking can occur even when flooding existed before the government's involvement, so long as government action exacerbates or materially contributes to that flooding.

In *Sanguinetti v. U.S.*, the Supreme Court declined to find a taking where government activity allegedly increased flooding on the claimant's property, but only during periods of "very heavy rains and extremely high water." *Sanguinetti v. U.S.*, 264 U.S. 146, 148–49 (1924). The Court emphasized that the property "had been subject to the same periodical overflow" even before the government's intervention. *Id.* at 149. Moreover, there was no competent evidence demonstrating any measurable diminution in value, nor proof that the overflow was the "direct or necessary result" of the government's construction. *Id.* at 149–50. Thus, *Sanguinetti* turned not on a categorical rule against takings for exacerbated flooding, but on the claimant's failure to establish causation and compensable harm.

The facts in the case at bar are readily distinguishable from *Sanguinetti*. Unlike the property in *Sanguinetti*, the subject Property here was not previously subject to the same overflow conditions that now occur. The flooding at issue arose directly from Respondent's alteration of the drainage pattern associated with the railroad tracks and the right of way upon which those tracks sit. While the Property may have experienced occasional, mild flooding in the past, Respondent's actions have materially intensified the flooding to the point that it now substantially interferes with Petitioners' use and enjoyment of the Property. This change has deprived Petitioners of the practical use of the Property and undermined their reasonable, investment-backed expectations in its value and productive use.

While Sanguinetti declined to find a taking where flooding merely coincided with extraordinary weather and preexisting overflow, Ridge Line recognized that a compensable taking can occur when government action materially increases runoff and transforms intermittent flooding into a continuing physical invasion. The present case falls squarely within the reasoning of Ridge Line. Respondent's alteration of the drainage pattern along the tracks and right-of-way has directly and foreseeably increased flooding on the subject Property, depriving Petitioners of the beneficial use and enjoyment of the Property. Under these circumstances, Respondent has effectively appropriated a flowage easement across the Property without compensation, and just compensation is therefore warranted.

In the alternative, FECR is liable to the Petitioners for trespass. The law holds the property of every person so sacred that no other person can set foot upon his or her neighbor's close without the granting of leave, *Florida v. Jardines*, 569 U.S. 1, 133 S. Ct. 1409, 185 L. Ed. 2d 495 (2013). and under common-law theory, every person's land is deemed to be enclosed. *Harris v. Baden*, 154 Fla. 373, 17 So. 2d 608 (1944).

Accordingly, every unwarranted entry on another's land, except by consent, is a trespass to real property. *Id.* Civil trespass to real property occurs when there is an injury to or use of the land of another by one having no right or authority. *Sweet Sage Cafe, LLC v. Town of North Redington Beach, Florida*, 380 F. Supp. 3d 1209 (M.D. Fla. 2019) (applying Florida law); *Gunning v. Equestleader.com, Inc.*, 253 So. 3d 646 (Fla. 2d DCA 2017); *Winselmann v. Reynolds*, 690 So. 2d 1325 (Fla. 3d DCA 1997); *State v. Sarantopoulos*, 604 So. 2d 551 (Fla. 2d DCA 1992), decision approved, 629 So. 2d 121 (Fla. 1993).

The gist of the wrong lies in the disturbance of possession and the injury caused by trespass to real property is the loss of the use and enjoyment of the land or injury to the land. *Daniel v. Morris*, 181 So. 3d 1195 (Fla. 5th DCA 2015). Florida follows what is known as the “reasonable use” rule with regard to surface waters. *Westland Skating Center, Inc. v. Gus Machado Buick, Inc.*, 542 So.2d 959, 962 (Fla.1989). “Under this rule, a possessor of land is not unqualifiedly entitled to deal with surface waters as he pleases nor is he absolutely prohibited from increasing or interfering with the natural flow of surface waters to the detriment of others.” *Id.* at 961. “Each possessor is legally privileged to make reasonable use of his land even though the flow of surface waters is altered thereby and causes some harm to others. He incurs liability only when his harmful interference with the flow of surface waters is unreasonable.” *Id.*

Despite Florida's adoption of the reasonable use rule, an upper landowner in this state continues to enjoy an easement across the lower tract for all naturally occurring surface water so long as the land remains in its natural state. *Id.* at 963. However, when any party improves his land, thereby causing surface waters to damage his neighbor's property, the reasonable use rule applies. *Id.* The Fourth District Court of Appeal in Florida has held that a property owner violated the reasonable use rule “by filling in an east-west drainage ditch and cutting off water flow from the ditch” thereby flooding the property. *Heritage 5, LLC v. Estrada*, 64 So. 3d 1292 (Fla. 4th DCA 2011).

Damages, or an injunction may also be obtained to prevent a lower owner from interfering with the free flow of surface water from upper land through a natural drainage course. *Florida East Coast Ry. Co. v. U.S.*, 519 F.2d 1184 (5th Cir. 1975); *Libby, McNeil & Libby v. Roberts*, 110 So. 2d 82 (Fla. 2d DCA 1959). Thus, in an action arising out of

blockage of a drainage ditch, the judgment, ordering that the defendants were to use reasonable care in seeing that the ditch remained open and unobstructed and that, should the defendants fail to use reasonable care, the plaintiffs would have the right to enter on the defendants' property to open or remove obstructions from the ditch, afforded the defendants an alternative: either to keep the ditch open themselves or to permit plaintiffs to enter on the property for the purpose of opening or removing obstructions therefrom. *Martin v. Adkisson*, 343 So. 2d 1315 (Fla. 1st DCA 1977). A lower landowner may be enjoined from interfering with natural drainage from an upper landowner's land by such means and may be ordered to remove the dam. *Libby, McNeil & Libby v. Roberts*, 110 So. 2d 82 (Fla. 2d DCA 1959).

Here, the lower landowner, FECR, has lengthened the pipes and raised the invert elevation from which water flows from the Petitioners' Property through FECR property and then out to the Indian River Lagoon as well as converted a large area of land that was used as a drainage ditch to a railroad that has essentially dammed up the property and caused flooding on the Petitioners' Property as discussed infra. The Petitioners have not given permission for FECR to use their property for water retention or drainage, but FECR is using the property for water retention or drainage. Depo of Lekander 97:13-19. The same conduct that supports Petitioners' claim also constitutes a common-law trespass under Florida law, entitling Petitioners to damages for past flooding and to injunctive relief against future flooding.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that the Board:

- a. Institute an investigation into and adjudicate the matters set forth in this Petition pursuant to 49 U.S.C. § 11701;
- b. Find that Respondent's alteration of the drainage along its right-of-way is an unreasonable practice in violation of 49 U.S.C. § 10702;
- c. Order Respondent, pursuant to 49 U.S.C. § 10704, to cease the unreasonable practice and to restore or otherwise remediate the drainage so that floodwaters are no longer cast onto the Property;
- d. Award Petitioners damages under 49 U.S.C. § 11704 for the injury to their property and business, including damage to equipment and physical property, lost use of the Property, and the diminution in the value of the Property, in an amount to be proven; and
- e. Grant such other and further relief as the Board deems just and proper.

CERTIFICATE OF SERVICE

I certify that I have this day served copies of this Petition upon all parties of record in this proceeding, pursuant to 49 C.F.R. § 1104.12(a), via US Certified Mail and electronic mail to John Terwilliger, Esq., counsel for Respondent.

[Signature Page to Follow]

Dated: August 28, 2026

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IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

2145 AVOCADO LAND TRUST and
HOME WRECKERS, INC.,

CASE NO.: 05-2023-CA-054704-XXXX-XX

Plaintiffs,

vs.

FLORIDA EAST COAST RAILWAY, LLC,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

THIS MATTER having come before the Court on June 4, 2024, upon Defendant's, Florida East Coast Railway, LLC, Motion to Dismiss ("Motion"), and the Court having reviewed the Motion and the file, heard argument of counsel, and otherwise being fully advised in the premises, IT IS HEREBY ORDERED AND ADJUDGED that Defendant's Motion to Dismiss is **GRANTED**.

Plaintiffs, 2145 Avocado Land Trust and Home Wreckers, Inc., filed this lawsuit on November 17, 2023, bringing a claim for inverse condemnation against Defendant, Florida East Coast Railway, LLC. Plaintiffs allege that, in preparation for the Brightline highspeed train to run on Defendant's railway right of way between Orlando and Miami, Defendants renovated their railroad tracks and in doing so, changed the drainage pattern. Complaint, ¶¶ 9-10. Plaintiffs allege that as a result of the changes and renovations, water is directed from the right of way onto Plaintiffs' property¹ and causes flooding. *Id.* at ¶¶ 11-12. Defendant moved to dismiss the Complaint on two bases: (1) preemption under the Interstate Commerce Commission Termination Act ("ICCTA"), 49 USC § 10501(b), and (2) failure to state a claim for inverse condemnation under Florida law.

¹ Plaintiffs allege that Avocado Land Trust owns the property and leases it to Home Wreckers, Inc.

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A. The Legal Standard

A motion to dismiss tests the legal sufficiency of the allegations of the complaint. *Wallisville Corp., Inc. v. McGuinness*, 154 So. 3d 501, 503 (Fla. 4th DCA 2015). Preemption, as a matter of subject matter jurisdiction, may be considered on a motion to dismiss. *Boca Burger, Inc. v. Forum*, 912 So. 2d 561, 568 (Fla. 2005) (“A defendant may, at its option, raise any affirmative defense, including the defense of federal preemption, in a motion to dismiss.”).

B. Plaintiffs’ claim is preempted by ICCTA.

The ICCTA is clear that railroad regulation, including construction and its effects (i.e., flooding as result of that construction), is preempted. “The regulation of railroad operations has long been a traditionally federal endeavor, to better establish uniformity in such operations and expediency in commerce, and it appears manifest that Congress intended the ICCTA to further that exclusively federal effort, at least in the economic realm.” *Friberg v. Kansas City S. Ry. Co.*, 267 F.3d 439, 443 (5th Cir. 2001). The ICCTA created the Surface Transportation Board (“STB”) and granted it exclusive jurisdiction to regulate railroad transportation:

(b) The jurisdiction of the [Surface Transportation] Board over--

- (1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and
- (2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located entirely in one State, is exclusive.

Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.

49 U.S.C. § 10501(b). “It is difficult to imagine a broader statement of Congress’s intent to preempt state regulatory authority over railroad operations.” *CSX Transp., Inc. v. Ga. Pub. Serv. Comm.*, 944 F. Supp. 1573, 1581 (N.D. Ga. 1996). Indeed, the ICCTA’s preemption provision “is so certain and unambiguous as to preclude any need to look beyond that language for

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congressional intent.” *Friberg*, 267 F.3d at 43. The ICCTA’s preemption applies to “actions based on the railroad’s design, construction, and maintenance standards for railroad track.” *Thomas Tubbs, Trustee -- Pet. for Declaratory Order*, 2014 WL 5508153, at *4 (STB Served Oct. 31, 2014).

In considering Defendant’s Motion, the Court finds particularly applicable the following cases: *Thomas Tubbs*, 2014 WL 5508153 (*affirmed in Tubbs v. Surface Transp. Bd.*, 812 F.3d 1141, 1145-46 (8th Cir. 2015)), *In re Katrina Canal Breaches Consol. Litig.*, 2009 WL 224072 (E.D. La. Jan. 26, 2009) and *Texas Cent. Bus. Lines Corp. v. City of Midlothian*, 669 F.3d 525 (5th Cir. 2012). Critically, the claims in this case, like the claims in each of the cited cases, relate to the construction and design of the railway.

Tubbs, for example, is directly on point: a landowner brought several claims against a railroad, including an inverse condemnation claim, based on drainage from renovations of the railroad’s right-of-way that flooded the landowners’ farm and washed away the soil. 2014 WL 5508153 at *1-2. The STB found the claims were preempted “because they have the effect of regulating and interfering with rail transportation.” *Id.* at *4. The “claims are based on alleged harms stemming directly from the actions of a rail carrier, BNSF, in designing, constructing, and maintaining an active rail line—actions that clearly are part of ‘transportation by rail carriers’ and therefore subject to the Board’s exclusive jurisdiction under § 10501(b).” *Id.* Indeed, “[i]f these claims were allowed to proceed, they would have the effect of managing or governing rail transportation. ... This is so even where the attempted regulation is a tort claim under state law, because damages awarded under state tort laws can manage or regulate a railroad as effectively as the application of any other type of state statute or regulation.” *Id.* The STB’s holding was affirmed by the Eighth Circuit. *Tubbs v. Surface Transp. Bd.*, 812 F.3d 1141, 1145-46 (8th Cir. 2015).

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Other courts have found similarly. In *Katrina Canal Breaches*, the court found that the design and construction of railroad crossings and roadbed were inextricably intertwined with the design of the tracks, and thus, subject to the exclusive jurisdiction of the STB. 2009 WL 224072, at *6. In *Texas Centennial*, the Fifth Circuit found city regulations that affected the construction design and layout of railroad tracks were preempted. 669 F.3d 525, 533 (5th Cir. 2012). In *Maynard v. CSX Transp., Inc.*, 360 F. Supp. 2d 836, 841-842 (E.D. Ky. 2004), claims related to drainage from tracks onto a neighboring property were preempted. Similarly, in *Pere Marquette Hotel Partners, L.L.C. v. U.S.*, 2010 WL 925297, at *5-6 (E.D. La. Mar. 10, 2010) claims related to flooding from railroad design were preempted.

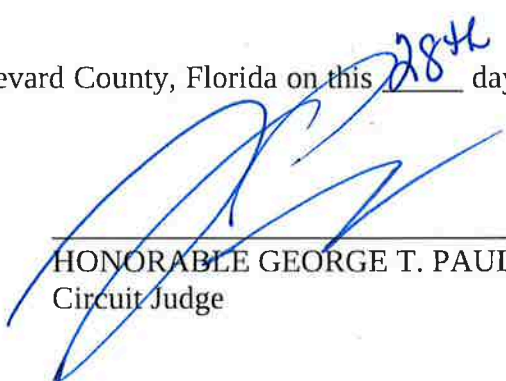
The cases cited by Plaintiffs in their response are not applicable. The claims in *Fla. E. Coast Ry. Co. v. City of W. Palm Beach*, 266 F.3d 1324, 1331 (11th Cir. 2001) related to zoning regulations applied to “a private entity leasing property from a railroad for non-rail transportation purposes,” rather than the design or construction of the railway. Likewise, the claims in *Tenorio v. City of Kyle, Texas*, 2018 WL 2137123, at *5 (W.D. Tex. Feb. 2, 2018) related to failure to maintain railroad property, not the “design, construction and maintenance” of the railway.

Here, Plaintiffs’ claim falls within the express terms of the ICCTA’s preemption. Defendant owns and operates a railway with property adjacent to Plaintiffs’ property. Complaint, ¶¶ 8-9. Plaintiffs allege Defendant’s changes and renovation to its railway tracks resulted in water being directed away from Defendant’s property onto their property, causing flooding. *Id.* at ¶¶ 9-12. This flooding is the basis for Plaintiffs’ inverse condemnation claim. *Id.* at ¶¶ 14-17. Because Plaintiffs’ claim is based on flooding caused by design changes to how the railway was constructed, the claim falls within the exclusive jurisdiction of the STB and is preempted.

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Because dismissal on the basis of preemption resolves all the claims in the case, the Court declines to address Defendant's second bases of failure to state a claim for inverse condemnation under Florida law.

DONE and ORDERED in Titusville, Brevard County, Florida on this 28th day of June, 2024.



HONORABLE GEORGE T. PAULK
Circuit Judge

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EXHIBIT B

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**2145 AVOCADO LAND TRUST
and HOME WRECKERS, INC.,**

Plaintiffs,

v.

Case No. 6:24-cv-1691-PGB-RMN

**FLORIDA EAST COAST
RAILWAY, LLC,**

Defendant.

_____ /

ORDER

This cause is before the Court on the following filings:

1. Plaintiffs 2145 Avocado Land Trust and Home Wreckers, Inc.'s (collectively, the "**Plaintiffs**") Motion for Summary Judgment (Doc. 43 (the "**Plaintiffs' Motion**")), and Defendant Florida East Coast Railway, LLC's ("**Defendant**") response in opposition to Plaintiffs' Motion (Doc. 49 (the "**Defendant's Response**"));¹
2. Defendant's Motion for Summary Judgment (Doc. 44 (the "**Defendant's Motion**"));² Plaintiffs' response in opposition to

¹ Plaintiffs did not submit a reply in support of Plaintiffs' Motion. *See* Local Rule 3.01(e) (permitting a reply as a matter of right to a motion for summary judgment).

² Collectively, Plaintiffs' Motion and Defendant's Motion shall be referred to as the "Motions."

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Defendant's Motion (Doc. 48 (the "**Plaintiffs' Response**")); and
Defendant's reply thereto (Doc. 51 (the "**Reply**")); and

3. The parties' Joint Stipulation of Agreed Material Facts (Doc. 42).

Upon consideration, Plaintiffs' Motion is due to be denied, and Defendant's Motion is due to be granted.

I. BACKGROUND

This takings action arises from the flooding of Plaintiffs' property that was allegedly caused by Defendant's manipulation of railroad tracks in the adjacent area. (*See generally* Doc. 1 (the "**Complaint**")).

In May 2020, Plaintiff 2145 Avocado Land Trust purchased several lots of land located in Brevard County, Florida (the "**Property**"). (Doc. 42, ¶¶ 3–4). Plaintiff 2145 Avocado Land Trust currently leases the Property to Plaintiff Home Wreckers, Inc. (*Id.* ¶ 5). Defendant owns and operates the railroad and right-of-way on the eastern border of the Property. (*Id.* ¶ 8).

Ultimately, Defendant entered into an easement agreement with Brightline Trains Florida, LLC ("**Brightline**"). (*Id.* ¶ 10). Pursuant to that agreement, Brightline "had the right to construct a second track on the right-of-way that would be used to operate the Brightline Trains from West Palm Beach to Orlando[.]" (*Id.*). Accordingly, the area surrounding the right-of-way was "upgraded and renovated" to prepare for the Brightline Train service. (Doc. 1, ¶ 10). On January 14, 2022, Brightline substantially completed construction near the Property. (Doc. 42, ¶ 11). According to Defendant, "Brightline had complete oversight and discretion in this

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construction, with [Defendant's] only rights limited to ensuring the tracks themselves were safe for the trains that would traverse them.” (Doc. 44, p. 1). As such, “Brightline designed and constructed a wall between the right-of-way and the Property and slightly modified three culverts that drained under the right-of-way.”³ (*Id.* at p. 2).

In September of 2022, Plaintiffs’ Property flooded. (Doc. 42, ¶ 12). Plaintiffs reported the damage to Brightline, but Plaintiffs did not communicate with Defendant about the damage to the Property. (*Id.* ¶¶ 12, 14). After investigating Plaintiffs’ report, “Brightline ultimately determined the Property flooded as a result of a dumpster blocking culverts to the immediate north of the Property and rejected [Plaintiff] Home Wreckers[, Inc.’s] claim for damages.” (*Id.* ¶ 13). Accordingly, in September 2024, Plaintiffs initiated this action. (*See generally* Doc. 1). In the Complaint, Plaintiffs assert two causes of action against Defendant:⁴ (1) a takings claim pursuant to Section 1983 and the Fifth Amendment of the United States Constitution; and (2) in the alternative, a trespass claim pursuant to Florida common law. (*Id.* ¶¶ 19–25).

³ Plaintiffs do not dispute Brightline’s involvement in the construction near the Property. (*See* Doc. 48, p. 12 (“It is undisputed that Brightline performed the construction and further that Defendant granted the easement to Brightline.”)). Still, Plaintiffs allege that Defendant “‘is on the hook’ for damages caused by [Brightline’s] construction.” (*Id.*).

⁴ The Court acknowledges that even though Plaintiffs reported their damage to Brightline and not Defendant, the claims in the instant action are only asserted against Defendant. (*See generally* Doc. 1). As such, in Defendant’s Motion, Defendant argues that it did not cause Plaintiffs any harm, but rather Plaintiffs’ claims, if any, should be asserted against Brightline. (Doc. 44, pp. 20–22). Because the Court can resolve the Motions on other grounds, the Court does not find it necessary to address this argument herein.

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Now, Plaintiffs and Defendant have filed cross motions for summary judgment on both counts. (*See Docs. 43, 44*). The parties have filed their respective responses and Defendant filed its Reply. (*See Docs. 48, 49, 51*). Thus, the Motions are ripe for the Court's review.

II. LEGAL STANDARD

“The standard for cross-motions for summary judgment is not different from the standard applied when only one party moves for summary judgment.” *Boatwright v. Aetna Life Ins. Co.*, 599 F. Supp. 3d 1218, 1222 (M.D. Fla. 2022). A court may only “grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a). The moving party bears the initial burden of “citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations . . . , admissions, interrogatory answers, or other materials” to support its position that it is entitled to summary judgment. FED. R. CIV. P. 56(c)(1)(A). “The burden then shifts to the non-moving party, who must go beyond the pleadings, and present affirmative evidence to show that a genuine issue of material fact exists.” *Porter v. Ray*, 461 F.3d 1315, 1320 (11th Cir. 2006). “The court need consider only the cited materials” when resolving a motion for summary judgment. FED. R. CIV. P. 56(c)(3); *see also HRCC, LTD v. Hard Rock Café Int’l*

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(USA), Inc., 703 F. App'x 814, 816–17 (11th Cir. 2017) (per curiam)⁵ (holding that a district court does not err by limiting its review to the evidence cited by the parties in their summary judgment briefs and the arguments raised therein).

An issue of fact is “genuine” only if “a reasonable jury could return a verdict for the nonmoving party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). In determining whether a genuine dispute of material fact exists, the Court must read the evidence and draw all factual inferences therefrom in the light most favorable to the non-moving party and must resolve any reasonable doubts in the non-movant’s favor. *Skop v. City of Atlanta*, 485 F.3d 1130, 1136 (11th Cir. 2007). But, “[a] mere ‘scintilla’ of evidence supporting the opposing party’s position will not suffice; there must be enough of a showing that the jury could reasonably find for that party.” *Brooks v. Cnty. Comm’n of Jefferson Cnty.*, 446 F.3d 1160, 1162 (11th Cir. 2006) (quoting *Walker v. Darby*, 911 F.2d 1573, 1577 (11th Cir. 1990)); see also *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986) (“When the moving party has carried its burden under Rule 56(c), its opponent must do more than simply show that there is some metaphysical doubt as to the material facts.” (citations omitted)). In the context of cross motions for summary judgment, “[t]he Court must consider each motion separately, resolving

⁵ “Unpublished opinions are not controlling authority and are persuasive only insofar as their legal analysis warrants.” *Bonilla v. Baker Concrete Const., Inc.*, 487 F.3d 1340, 1345 (11th Cir. 2007).

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all reasonable inferences against the party whose motion is under consideration.”
Boatwright, 599 F. Supp. 3d at 1222.

III. DISCUSSION

In the Motions, Plaintiffs and Defendant each seek summary judgment as to both counts in the Complaint. (*See* Docs. 43, 44). Plaintiffs contend that summary judgment is due to be granted in their favor because Defendant caused the increased flooding that damaged Plaintiffs’ Property, which resulted in a taking, or in the alternative, in a trespass. (Doc. 43, pp. 5–11). For its part, Defendant argues that Plaintiffs’ claims are preempted by the Interstate Commerce Commission Termination Act (“**ICCTA**”).⁶ (Doc. 44, pp. 2–3). The Court agrees with Defendant: the preemption issue is dispositive, and summary judgment is due to be granted for Defendant on both counts.

As outlined in the Court’s previous Order, Congress enacted the ICCTA to provide “federal uniformity in the regulation of rail transport.” (Doc. 35, pp. 4–5); *Fla. E. Coast Ry. Co. v. City of West Palm Beach*, 266 F.3d 1324, 1337 (11th Cir. 2001). To ensure this uniformity, Congress established the Surface Transportation Board to regulate railroad operations. *See id.* Under the ICCTA, the Surface Transportation Board’s exclusive jurisdiction is as follows:

- (1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and

⁶ 49 U.S.C. § 10101–11908.

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(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State,

is exclusive. Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation ***are exclusive and preempt the remedies provided under Federal or State law.***

49 U.S.C. § 10501(b) (emphasis added). The ICCTA defines “Transportation” to include any “property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use[.]” 49 U.S.C. § 10102(9)(A). Accordingly, “Congress narrowly tailored the ICCTA pre-emption provision to displace only ‘regulation,’ i.e., those state [or federal] laws that may reasonably be said to have the effect of ‘manag[ing]’ or ‘govern[ing]’ rail transportation . . . while permitting the continued application of laws having a more remote or incidental effect on rail transportation.” *See Fla. E. Coast*, 266 F.3d at 1331 (citations omitted).

With this statutory framework in mind, the Court will now analyze whether Plaintiffs’ claims have the effect of managing or governing rail transportation or, rather, impose only a remote or incidental effect on rail transportation. *See id.*

A. Count I: Fifth Amendment Takings Claim

Under the Fifth Amendment of the United States Constitution, the government cannot take private property for public use without just compensation. *See* U.S. CONST. amend. V. The Supreme Court has held that

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government-induced flooding may constitute a compensable taking, even if temporary in duration. *Ark. Game & Fish Comm’n v. United States*, 568 U.S. 23, 33–34 (2012). Here, Plaintiffs use 42 U.S.C. § 1983 as the vehicle to bring their inverse condemnation takings claim into federal court.⁷ (Doc. 1, ¶¶ 16–18, 20). Because Plaintiffs bring their takings claim pursuant to Section 1983, Plaintiffs’ takings claim arises under federal law. Consequently, if Plaintiffs’ takings claim has the effect of managing or governing rail transportation, the claim falls into the Surface Transportation Board’s exclusive jurisdiction under Section 10501(b).⁸ *See* 49 U.S.C. § 10501(b) (“Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under **Federal** or State law.” (emphasis added)).

In Plaintiffs’ Motion, Plaintiffs assert that Defendant “has taken the Property through flooding it when a second railroad was built in their right of way and the

⁷ In doing so, Plaintiffs allege that Defendant is a “state actor” under Section 1983 because “it performs ‘a public function that was traditionally the exclusive prerogative of the state[.]’” (Doc. 1, ¶ 18 (citing *Charles v. Johnson*, 18 F.4th 686, 694 (11th Cir. 2021) (citation omitted))). While Defendant claims it is not a “state actor” in Defendant’s Motion, the Court finds it does not need to address this argument because, in either case, Plaintiffs’ takings claim is preempted by the ICCTA. (Doc. 44, pp. 18–20).

⁸ The ICCTA was enacted after Section 1983. *Compare* 49 U.S.C. § 10101–11908 (enacted in 1995), *with* 42 U.S.C. § 1983 (enacted in 1971). It follows then that Congress drafted ICCTA knowing about the existence of Section 1983. Under fundamental canons of statutory interpretation, “[a]n ambiguous or general statutory provision enacted at an earlier time must yield to a specific and clear provision enacted at a later time.” *Gilbert v. United States*, 640 F.3d 1293, 1308 (11th Cir. 2011), *abrogated on other grounds by* *McCarthan v. Dir. of Goodwill Industries-Suncoast, Inc.*, 851 F.3d 1076 (11th Cir. 2017). As such, the specific provision in the ICCTA preempting federal and state law would inherently preempt any claims brought pursuant to Section 1983’s private right of action. *See id.*

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culvert at MM 189.12 [was] extended and pipes raised.” (Doc. 43, p. 6). As such, Plaintiffs’ inverse condemnation claim is based on the construction of a second railroad track. (*Id.*; see also Doc. 1, ¶¶ 11–14; Doc. 42, ¶¶ 10–12; Doc. 44-1, 27:10–22). Indeed, the CEO of Plaintiff Home Wreckers, Inc. and trustee of Plaintiff 2145 Avocado Land Trust, Chad Lekander, testified that prior to the construction of the second railroad track there was “a huge retention area” where water from the Property would drain. (Doc. 43-2, 45:21–46:22). After the construction, however, water drained beneath the second railroad track and flooded Plaintiffs’ Property because there was no retention area for the water to collect in. (Doc. 43-2, 97:4–19; Doc. 44-4, 58:22–59:3). Given this background, it is hard to imagine how Plaintiffs’ takings claim does not have the effect of managing or governing rail transportation. Plaintiffs’ claim is “inextricably intertwined” with the construction of a railroad track, and railroad tracks are clearly “related to the movement of passengers or property, or both, by rail[.]” *Jones Creek Inv’rs v. Columbia Cnty.*, 98 F. Supp. 3d 1279, 1294 (S.D. Ga. 2015); 49 U.S.C. § 10502(9). Indeed, the construction of a railroad track is expressly contemplated by Section 10501(b)(2). See 49 U.S.C. § 10501(b)(2) (specifying that the jurisdiction of the Surface Transportation Board includes claims related to “the **construction**, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or **side tracks**, or facilities” (emphasis added)).

Moreover, despite Plaintiffs’ contention that the ICCTA “does not implicate any constitutional claims, especially those stemming from the Fifth

Amendment[.]” the Supreme Court has made clear that the preemption clause of Section 10501(b) is inherently broad. (Doc. 43, p. 17); *see Chicago & N.W. Transp. Co. v. Kalo Brick & Tile Co.*, 450 U.S. 311, 318 (1981) (“The Interstate Commerce Act is among the most pervasive and comprehensive of federal regulatory schemes[.]”). Indeed, courts around the country have held that the ICCTA preempts inverse condemnation claims like Plaintiffs’ takings claim. *See, e.g., Wisconsin C. Ltd. v. City of Marshfield*, 160 F. Supp. 2d 1009, 1013 (W.D. Wis. 2000) (finding defendant’s ability to condemn plaintiff’s property was preempted by the ICCTA because “condemnation is regulation”); *Soo Line R. Co. v. City of St. Paul*, 827 F. Supp. 2d 1017, 1022 (D. Minn. 2010) (holding that the city’s proposed condemnation of plaintiff’s property was “*per se* preempted” by the ICCTA). Although Plaintiffs are correct that Defendant “failed to provide any caselaw indicating Congress intended to preempt the ability to bring a constitutional takings claim by passing the ICCTA[.]” Plaintiffs likewise fail to provide any caselaw showing Section 1983 claims are exempt from the broad sweep of Section 10501(b)’s preemption provision. (Doc. 43, pp. 17–18).

Accordingly, considering the fact that Section 10501(b) specifically includes language preempting remedies provided for under federal law and that Plaintiffs’ takings claim is based on the construction of railroad tracks, summary judgment in favor of Defendant as to Count I is warranted.

B. Count II: State Law Trespass Claim

Under Florida Law, “[t]respass to real property is the unauthorized entry onto another’s real property. . . . [t]he injury caused by trespass to real property is the loss of the use and enjoyment of the land or injury to the land.” *Daniel v. Morris*, 181 So. 3d 1195, 1199 (Fla. 5th DCA 2015) (internal citations omitted). Here, Plaintiffs allege that Defendant “lengthened the pipes and raised the invert elevation from which water flows from the Plaintiffs['] Property through [Defendant’s] property” causing Plaintiffs’ Property to flood. (Doc. 43, p. 21). Further, Plaintiffs assert that Defendant was not given permission to “use their [P]roperty for water retention or drainage” and thus, Defendant unlawfully trespassed onto Plaintiffs’ Property. (*Id.*).

This state tort claim is precisely the type of claim preempted by the ICCTA. Indeed, the Surface Transportation Board dealt with a very similar claim in *Thomas Tubbs, Trustee – Petition for Declaratory Order*, 2014 WL 5508153 (S.T.B. Oct. 29, 2014).⁹ In that case, petitioners sought compensation for property damage allegedly caused by a railway company that renovated property adjacent to the petitioners’ property. *Id.* at *1. After the railway company’s renovation, the petitioners’ property was flooded, and petitioners filed a state court complaint asserting counts for “trespass, nuisance, negligence, inverse condemnation, and

⁹ “As the agency with authority delegated from Congress to implement the provisions of the [ICCTA], the [Surface Transportation Board] is ‘uniquely qualified to determine whether state law . . . should be preempted.’” *CSX Transp., Inc. v. Georgia Pub. Serv. Comm’n*, 944 F. Supp. 1573, 1584 (N.D. Ga. 1996) (quoting *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 496 (1996)).

statutory trespass” against the railroad company. *Id.* at *2. The state court stayed the proceeding “to allow Petitioners to seek a ruling from the [Surface Transportation] Board on whether their claims [were] preempted under 49 U.S.C. § 10501(b).” *Id.* at *1. Ultimately, after surveying cases across the country, the Surface Transportation Board held that the petitioners’ claims were preempted by Section 10501(b), explaining that:

These claims are based on alleged harms stemming directly from the actions of a rail carrier, BNSF, in designing, constructing, and maintaining an active rail line—actions that clearly are part of “transportation by rail carriers” and therefore subject to the Board’s exclusive jurisdiction under § 10501(b). If these claims were allowed to proceed, they would have the effect of managing or governing rail transportation. . . . Whether BNSF took its actions before and during an emergency resulting from a massive flood, as here, or during normal circumstances, state and local regulation of actions based on the railroad’s design, construction, and maintenance standards for railroad track are preempted under § 10501(b). ***This is so even where the attempted regulation is a tort claim under state law, because damages awarded under state tort laws can manage or regulate a railroad as effectively as the application of any other type of state statute or regulation.***

Id. at *4 (emphasis added). Similarly, in *Jones Creek Investors, LLC v. Columbia County*, the district court found that a railway company’s replacement of a culvert “was an integral and necessary repair to railway infrastructure” such that it fell within the Surface Transportation Board’s exclusive jurisdiction pursuant to Section 10501(b). 98 F. Supp. 3d at 1294.

Here, it is undisputed that Defendant gave Brightline an easement to construct a second track on the right-of-way adjacent to the Property. (Doc. 42, ¶ 10). Further, it is undisputed that Plaintiffs’ Property flooded in the months

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following Brightline's completion of the construction on the second track. (*Id.* ¶¶ 11–13). As discussed above, the construction of a train track undeniably falls within the purview of Section 10501(b)(2). *See* 49 U.S.C. § 10501(b)(2) (stating that the Surface Transportation Board has exclusive jurisdiction over “the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State[.]”). Additionally, although Plaintiffs argue that their claim is related to “the periphery of the railroad corridor” and not the “the railroad itself”, any construction or maintenance to the land immediately surrounding the tracks is “inextricably intertwined with railway transportation” because any flooding could potentially risk the integrity of the second track.¹⁰ (Doc. 48, p. 13); *Jones Creek Inv'rs*, 98 F. Supp. 3d at 1294. Such construction or maintenance includes not only the construction of the second track, but also Defendant's “lengthen[ing] the pipes and rais[ing] the invert elevation from which water flows” in the adjacent property. (Doc. 43, p. 21).

¹⁰ Notably, the water that allegedly flooded Plaintiffs' Property drains beneath the second railroad track because the “huge retention area” was removed as part of the construction. (Doc. 44-4, 58:22–59:3; Doc. 43-2, 45:21–46:22, 97:4–19). As such, if the Court were to grant Plaintiffs the injunctive relief they seek for their trespass claim, the water would presumably build up beneath the second railroad track and threaten the infrastructure of the railroad track. *See Jones Creek Inv'rs*, 98 F. Supp. 3d at 1294 (finding that requiring the defendant to replace a culvert by a train track to prevent flooding would “risk the integrity of the track itself”). Thus, Plaintiffs' claim would amount to regulating rail transportation, which is expressly preempted by the ICCTA. *Waubay Lake Farmers Ass'n v. BNSF Ry. Co.*, No. CIV 12-4179-RAL, 2014 WL 4287086, at *6 (D.S.D. Aug. 28, 2014) (holding that plaintiffs' tort claims requesting injunctive relief were preempted because “[p]laintiffs seek to ‘manage or govern’ how [the defendant] constructs its roadbed and operates its tracks by requiring replacement of a submerged culvert beneath the roadbed.” (citation omitted)).

As such, “any state tort claims against” Defendant would “effectively govern [Defendant’s] ability” to maintain the second track on the right-of-way, and thus, would constitute a regulation of rail transportation. *Jones Creek Inv’rs*, 98 F. Supp. 3d at 1294; *see also* 49 U.S.C. §§ 10102(9)(A), 10501(b). Accordingly, because Plaintiffs’ state tort claim for trespass is preempted by Section 10501(b), summary judgment for Defendant as to Count II is warranted.¹¹

IV. CONCLUSION

For the foregoing reasons, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiffs’ Motion for Summary Judgment (Doc. 43) is **DENIED**.
2. Defendant’s Motion for Summary Judgment (Doc. 44) is **GRANTED**.
3. The Clerk of Court is **DIRECTED** to terminate all pending motions and, thereafter, close the file.

DONE AND ORDERED in Orlando, Florida, on July 13, 2026.


PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Parties

¹¹ This is not to say Plaintiffs are without any remedy for their claims. Plaintiffs may bring their claims to the Surface Transportation Board in the form of a complaint. *See* 49. U.S.C. §§ 11701(b), 11704.

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA
3 ORLANDO DIVISION

4 CASE NO.: 6:24-cv-1691

5 2145 AVOCADO LAND TRUST and HOME WRECKERS, INC.,
6 Plaintiffs,

7 vs.

8 FLORIDA EAST COAST RAILWAY, LLC,
9 Defendant.

10 _____/

11 DEPOSITION OF: THE CORPORATE REPRESENTATIVE OF HOME
12 WRECKERS, INC. and THE CORPORATE
13 REPRESENTATIVE OF 2145 AVOCADO LAND
14 TRUST, CHAD LEKANDER
15 DATE: TUESDAY, SEPTEMBER 16, 2025
16 TIME: 10:02 a.m. - 12:31 p.m.
17 PLACE: LAW OFFICES OF WIDERMANN MALEK
18 1990 W. NEW HAVEN AVENUE
19 SECOND FLOOR
20 MELBOURNE, Florida 32904

21 STENOGRAPHICALLY

22 REPORTED BY: ANNE MARIE HAMILL, RPR
23
24
25

Page 2 1 A P P E A R A N C E S: 2 W. NATHAN MELOON, ESQUIRE 3 OF: Widerman Malek 4 1990 W. New Haven Avenue 5 Second Floor 6 Melbourne, FL 32904 7 321-255-2332 8 Nmeloan@uslegalteam.com 9 APPEARING ON BEHALF OF THE PLAINTIFF 10 11 JOHN W. TERWILLEGER, ESQUIRE 12 OF: Gunster, Yoakley & Stewart, P.A. 13 777 South Flager Drive 14 Suite 500 East 15 West Palm Beach, FL 33401 16 561-665-1980 17 Jterwilleger@gunster.com 18 APPEARING ON BEHALF OF THE DEFENDANT 19 20 ALSO PRESENT: Chris Gendron, Videographer 21 22 23 24 25	Page 4 1 INDEX OF EXHIBITS 2 DEFENDANT'S EXHIBITS 3 EXHIBIT NO. 1 DEFENDANT'S NOTICE OF TAKING 4 VIDEOTAPED DEPOSITION OF THE 5 CORPORATE REPRESENTATIVE OF 6 2145 AVOCADO LAND TRUST 11 7 8 EXHIBIT NO. 2 DEFENDANT'S NOTICE OF TAKING 9 VIDEOTAPE DEPOSITION OF THE 10 COPORATE REPRESENTATIVE OF 11 HOME WRECKERS, INC. 12 12 EXHIBIT NO. 3 PLAINTIFFS' INITIAL 13 RULE 26 DISCLOSURES 12 14 15 EXHIBIT NO. 4 SPACE COAST SURVEYING INC. SURVEY 20 16 17 EXHIBIT NO. 5 DAMAGES SPREADSHEET 34 18 19 EXHIBIT NO. 6 COLOR PHOTOGRAPHS 20 (HOME WRECKERS_000001-000009) 48 21 EXHIBIT NO. 7 B. A. HAMILTON ELECTRICAL SERVICE, 22 INC. PROPOSAL 77 23 24 EXHIBIT NO. 8 SHORELINE MARINE CONTRACTORS 25 PROPOSAL 80 16 EXHIBIT NO. 9 ESTIMATE TO HOME WRECKERS INC. 83 17 EXHIBIT NO. 10 AREYAN CONCRETE SERVICES QUOTE 85 18 EXHIBIT NO. 11 E&V TRACTOR CONSTRUCTION 86 19 EXHIBIT NO. 12 COMPLAINT AND DEMAND FOR JURY TRIAL 88 20 21 22 23 24 25
Page 3 1 I N D E X 2 TESTIMONY OF: THE CORPORATE REPRESENTATIVE OF HOME 3 WRECKERS, INC. and THE CORPORATE 4 REPRESENTATIVE OF 2145 AVOCADO LAND 5 TRUST, CHAD LEKANDER 6 7 DIRECT EXAMINATION BY MR. TERWILLEGER 6 8 CROSS-EXAMINATION BY MR. MELOON 94 9 REDIRECT EXAMINATION BY MR. TERWILLEGER 99 10 CERTIFICATE OF OATH 102 11 CERTIFICATE OF DEPOSITION TRANSCRIPT 103 12 ERRATA SHEET 104 13 NOTIFICATION LETTER 105 14 15 16 17 18 19 20 21 22 23 24 25	Page 5 1 P R O C E E D I N G S 2 3 THE VIDEOGRAPHER: Good morning. We are now on 4 the record at 10:02 a.m. on September 16th, 2025. 5 Please note that microphones are sensitive and may pick 6 up whispering and private conversations. Please mute 7 your phones at this time. Audio and video recording 8 will continue to take place unless all parties agree to 9 go off the record. This is media unit one of the 10 video-recorded deposition of Chad Lekander, the 11 Corporate Representative of Home Wreckers, Inc. taken in 12 the matter of 2145 Avocado Land Trust and Home Wreckers, 13 Inc. versus Florida East Coast Railway, LLC. The 14 location of the deposition is the Law Offices of 15 Widerman Malek, 1990 West New Haven Avenue, Melbourne, 16 Florida. My name is Chris Gendron. I'm the 17 videographer. The court reporter is Anne Marie Hamill 18 from Veritext Legal Solutions. 19 Will counsel please introduce themselves and 20 state whom they represent, after which the court 21 reporter will swear in the witness. 22 MR. MELOON: Good morning, Nathan Meloan for the 23 plaintiffs. 24 MR. TERWILLEGER: And John Terwilleger for the 25 Defendant Florida East Coast Railway.

Page 6 1 THE REPORTER: Sir, would you raise your right 2 hand. 3 Do you solemnly swear or affirm, under the 4 penalties of perjury, that the testimony you are about 5 to give in this matter will be the truth, the whole 6 truth, and nothing but the truth. 7 THE DEPONENT: Yes. 8 THE REPORTER: Thank you, sir. 9 DIRECT EXAMINATION 10 BY MR. TERWILLEGER: 11 Q. Good morning. Can you please state your full 12 name. 13 A. Chad Lekander, Chad Douglas Lekander. 14 Q. Mr. Lekander, have you ever been deposed 15 before? 16 A. No, sir. 17 Q. Okay. So I'll, kind of, walk you through the 18 process a little bit. This is a way for us to find out 19 some more information about the case going forward. I'm 20 going to asking you questions, ask you to give answers. 21 When you answer, please answer verbally as the court 22 reporter can't get down head nods. 23 A. Okay. 24 Q. So in our conversation, we nod our head a lot 25 of times, but you have to say yes or no. And I think,	Page 8 1 Q. And also corporate representative for 2145 2 Avocado Land Trust? 3 A. Yes. 4 Q. And we're scheduled for a couple of days, but 5 you agree we can go ahead and do both today, try to get 6 it all done in one day? 7 A. Yes. 8 Q. Okay. And I'll try to be clear if I'm asking 9 for one of those entities, I'll say as to Home 10 Wreckers -- 11 A. Okay. 12 Q. -- and then vise versa. 13 In this litigation, 2145 Avocado Land Trust has 14 been referred to, at least, in the papers sometimes as 15 A-L-T. If I say ALT, will you understand I'm talking 16 about the Trust? 17 A. Yes. 18 Q. Or is there a different word that you prefer 19 to use? 20 A. That will work. 21 Q. Okay. So as to ALT, what is your 22 affiliation? 23 A. It's a family trust that owns the property. 24 And I don't remember what my title is in it, but it's 25 our family trust.
Page 7 1 I'll try to -- if you miss one, I'll try to get it, the 2 court reporter might interject. I might do the same 3 thing sometimes. 4 The other part of it is because we're getting a 5 record here, we can't talk over each other, which we do 6 in conversation all the time. I ask for you to wait for 7 me to finish asking a question before you answer and 8 I'll do the same for you, okay? 9 A. Yep. Yes. 10 Q. And also, I'm not trying to trick you, so if 11 I ask you a question you don't understand, please let me 12 know. And I guarantee you I'll ask one or two terrible 13 questions today that don't make any sense. Just tell me 14 you don't understand what I'm asking, I'll try to 15 restate it. 16 A. Okay. 17 Q. Also if there is a question that you think 18 you might need a document that might refresh your 19 recollection, help you answer better, just let me know 20 what the document is. We might be able to find that and 21 get that for you to help you answer the question. 22 A. Okay. 23 Q. So today you're here as a corporate 24 representative for Home Wreckers, Inc.? 25 A. Correct, yes, sir.	Page 9 1 Q. And as to Home Wreckers, what's your position 2 with Home Wreckers? 3 A. CEO. 4 Q. Did you found the company? 5 A. Yes. 6 Q. How long ago was that? 7 A. This will be my 30th year in business. 8 Q. How long have you -- let's go back to ALT. 9 Did ALT purchase 2145 Avocado Avenue in Melbourne? 10 A. Yes. 11 Q. And I'll go over the definitions again. If I 12 say the property, can we agree it's 2145 -- 13 A. Correct, I agree with that. 14 Q. When did ALT purchase the property? 15 A. 2019, I believe. 16 Q. Did Home Wreckers begin -- let me step back. 17 How does Home Wreckers -- 18 What right does Home Wreckers have to use the 19 property? 20 A. We lease the property. 21 Q. Did Home Wreckers begin leasing in 2019? 22 A. Immediately upon purchase. 23 Q. Has ALT ever been a party in other 24 litigation? 25 A. No, sir.

Page 10 1 Q. Has Home Wreckers been a party in other 2 litigation? 3 A. No, sir. 4 Q. So as CEO of Home Wreckers, can you describe 5 your job responsibilities? 6 A. I oversee a renovation and a roofing company. 7 Q. How many employees do you have? 8 A. 18. 9 Q. And as far as renovation or roofing, can you 10 give me a little more detail of what you do? 11 A. Our core business is taking apart homes and 12 reconfiguring them in different configurations and then 13 completely putting them back together. And then the 14 roofing, we do a little bit of commercial roofing and 15 residential roofing. 16 Q. What percentage would you say is commercial 17 versus residential? 18 A. On the roofing? 19 Q. Yes. Start with the roofing. 20 A. 10 percent commercial. 21 Q. And on the reconfiguring houses? 22 A. We're a hundred percent residential on the 23 renovation. 24 Q. And you said you have 18 employees at Home 25 Wreckers. How long -- or, I guess, you have 18	Page 12 1 A. I did look at them a couple of days ago when 2 we were in the process of putting them together. 3 Q. Are you prepared to testify on behalf of ALT 4 as to each of these topics? 5 A. Can I read through them quick? 6 Q. Of course. 7 A. Yes, I'm prepared. 8 Q. Okay. I'm going to show you what I'll mark 9 as Exhibit 2. 10 (Deposition Exhibit 2 was marked.) 11 Q. (BY MR. TERWILLEGGER) This is a very similar 12 document, but for Home Wreckers. As to Home Wreckers, 13 are you prepared to testify as the corporate 14 representative on the topics? 15 A. Yes, sir. 16 Q. Okay. Let's move on to Exhibit 3. 17 (Deposition Exhibit 3 was marked.) 18 Q. (BY MR. TERWILLEGGER) I'm going to ask you if 19 you recognize this document. But I just -- to, kind of, 20 set the stage for you, this was produced or served by 21 your attorney in December of last year. So it may have 22 been a little while since you've looked at it. Have you 23 seen this document before? 24 A. Yes. 25 Q. And you agree that this document is accurate
Page 11 1 employees right now; is that right? 2 A. Yes, sir. 3 Q. Did -- have you had that number consistently 4 since 2019 or has there been some variation? 5 A. It ebbs and flows with the market. But 6 it's -- that would be -- that's about where we stand 7 average. Sometimes more, sometimes less. 8 Q. Is there any kind of seasonality where you 9 work? 10 A. Not really, no. 11 Q. I'll show you what we're marking as 12 Exhibit 1. 13 (Deposition Exhibit 1 was marked.) 14 Q. (BY MR. TERWILLEGGER) Have you seen this 15 document before? 16 A. I don't know. I could have. 17 Q. If you flip -- that's okay. 18 A. I look -- I read so many documents that I, 19 honestly, don't know. 20 Q. If you flip back to the last two pages, the 21 second to last page, there's a heading that says Topics. 22 A. Yes, sir. 23 Q. It says: These items one through 12 on the 24 last two are the topics for the deposition of ALT. Have 25 you looked at these topics before?	Page 13 1 as far as the disclosures that you made? 2 A. Yes. 3 Q. I want to go back to page five. Looking at 4 sub three. The heading is a computation of each 5 category of damages claimed by the disclosing party. 6 A. Yes, sir. 7 Q. That first paragraph, which has been your 8 answer, you're the person -- the last, final sentence, 9 the plaintiff estimates the value of the taken lands at, 10 approximately, \$200,000, and the estimate, the cost for 11 improvements, slash, repairs to the remainder of the 12 property to be \$653,956.60, for a total of \$853,956.60. 13 Do you see that? 14 A. Yes, sir. 15 Q. Is that the correct estimate of your damages 16 in this case? 17 A. Correct. 18 Q. Are there any changes to that estimate that 19 you have made since this was served? 20 A. I have not made any changes to it, no. 21 Q. How does -- how is that apportioned? Let me 22 strike that and ask the question again. 23 What portion of that \$853,000 is for ALT? 24 A. I would -- I, honestly, don't know. I have 25 not divided those in my head, but I would say that it's

Page 14 1 all of it. 2 Q. Okay. So all of it would be for ALT. That 3 would mean then that none of it would be for Home 4 Wreckers? 5 A. I, actually, don't know the answer to that 6 question. I would need a chance to divide that in my 7 head. I apologize for that, but that's the truth. 8 Q. Are there any additional damages in addition 9 to the \$853,956 that you're claiming? 10 A. That have happened since? No, there's not. 11 There's not. 12 Q. Okay. I don't think we have insurance on 13 here. But I just -- have you made any insurance claims 14 related to flooding on the property? 15 A. No. I take that -- I take that back. I lost 16 a truck that was the one that got flooded out, and I had 17 to turn -- I turned that in to my automobile insurance. 18 Q. And was that Home Wreckers who owned the 19 truck? 20 A. Correct. 21 Q. What kind of truck was it? 22 A. 2019 Ford F150. 23 Q. What was the result of the insurance claim? 24 A. I had to pay the deductible and they paid off 25 the truck.	Page 16 1 stored there full time. 2 Q. Are those all pick up trucks? 3 A. Little bigger, but, I mean, yes. They're 4 probably classified as pick up trucks. 5 Q. And flat bed -- 6 A. Correct. 7 Q. -- trucks? 8 A. Like, an F3 -- an F450 is probably our 9 biggest one. 10 Q. And any vehicles other than those seven 11 trucks? 12 A. Trailers. 13 Q. Are those stored at the property? 14 A. At different various times. 15 Q. Say today, how many trailers are on the 16 property? 17 A. Three at any given time. 18 Q. Of those 18 employees you have, are you 19 one -- do you count yourself among those 18? 20 A. Correct. 21 Q. Do you have any administrative person on at 22 ALT? 23 A. Yes. 24 Q. Who is the -- or, let's see, how many people 25 are classified as administrative?
Page 15 1 Q. Was the truck totalled? 2 A. The truck was totalled, correct. 3 Q. What was the cause of the damage to the 4 truck? 5 A. It was flooded. It was -- water was up 6 inside the cab. 7 Q. Does ALT carry property insurance? 8 A. Liability, but not flood insurance. 9 Q. And what about Home Wreckers? 10 A. Liability, but not flood insurance. 11 Q. Is this a normal CGL? 12 A. Correct. 13 Q. We talked about this a little bit already, 14 but Home Wreckers, you said you use the property -- Home 15 Wreckers business is in the business of roofing and 16 changing or renovating houses. What does Home Wreckers 17 use the property for? 18 A. Storage. We store all our equipment and our 19 products there. We have a small office. Receiving and 20 -- shipping and receiving, storage, and our office work 21 would be. 22 Q. How many trucks does Home Wreckers have? 23 A. Seven. 24 Q. Are they all stored at that property? 25 A. No. Some go home. There's, probably, four	Page 17 1 A. Two. Myself and my -- three. Two others. 2 Myself, my daughter, and Eric. 3 Q. And what's Eric's last name? 4 A. Their last name? 5 Q. Yes. 6 A. Brandy Lekander, L-e-k-a-n-d-e-r. And Eric 7 Montoya. 8 Q. And what do they do each? Let's start with 9 Brandy. What does Brandy do? 10 A. She says she's the CFO. She does everything 11 like I do. Eric does design work and estimating. 12 Q. Are they both on the property each day? 13 A. Yes. 14 Q. So that leaves 15 other employees. What do 15 those other 15 employees do? 16 A. They're at the job sites working. 17 Q. Do those 15 other employees -- I guess, are 18 they using the property just to come pick stuff up and 19 leave, or are they there for any length of time? 20 A. The majority of them are never there. 21 Q. So you have the -- the office there. Are you 22 one of the -- are you there most days -- 23 A. Yes. 24 Q. -- on the property in the office? 25 A. I am there most days.

Page 18 1 Q. So you have three people who are there during 2 the day -- 3 A. Correct. 4 Q. -- for the most part? 5 And then, can you describe the office a little 6 bit? Like, what -- what's the layout? What kind of 7 equipment do you have in there? 8 A. Computers, design software, manuals, paper, 9 files, a couple of desks. That would be the majority of 10 it. 11 Q. Do you store materials for your jobs -- 12 A. Yes. 13 Q. -- on site? 14 How far in advance do you order materials? 15 A. Generally, three months, two to three months 16 for the large projects. 17 Q. And any, say, on an average. I know things 18 are -- dynamically change, but on average, how much 19 material do you have sitting at the site each day? 20 A. Monetary-wise? 21 Q. Yeah. 22 A. Probably, it's fluid between 250 to 400,000 23 on average, maybe 500,000. 24 Q. And as far as space goes, how much -- what 25 percentage of the property is being occupied by those	Page 20 1 A. Correct. 2 Q. Going to ALT specifically. 3 A. Okay. 4 Q. Other than leasing the property to Home 5 Wreckers, does ALT do anything with the property, lease 6 property for anything? 7 A. No. 8 Q. Do you how much ALT paid for the property 9 back in 2019? 10 A. It was around 330,000, I believe, or really 11 close to that. 12 Q. I'm going to show what we're going to mark as 13 Exhibit 4. 14 (Deposition Exhibit 4 was marked.) 15 Q. (BY MR. TERWILLEGGER) Hopefully, this is 16 helpful. I'll represent to you this is a survey we 17 found online for the property. So we just wanted to try 18 to -- I'm trying to use this to understand the property 19 and look at the property. So, maybe, specify specific 20 locations on the property as we're going forward. Do 21 you see the property on there? 22 A. Yes. 23 Q. Okay. So on that -- that survey, where is 24 the office building on the property? 25 A. I'm trying to establish this really quickly.
Page 19 1 materials? 2 A. 30 percent. 3 Q. You said earlier that Home Wreckers leases 4 the property, right? 5 A. Correct. 6 Q. How much does Home Wreckers pay for, you 7 know, monthly for the lease? 8 A. I don't know. I haven't paid a bill since I 9 got married 30 years ago. I don't even know how much 10 money I have. 11 Q. Okay. 12 A. I know I can get that for you. 13 Q. Okay. Is -- does -- is Home Wreckers paying 14 something each month in leasing? 15 A. Yes. 16 Q. Is that lease tied in any way to the value of 17 the property? 18 A. I don't -- I don't know. I don't put that 19 together in my head, I guess. 20 Q. So if the property value goes up, does the 21 lease increase -- 22 A. No. 23 Q. -- the lease amount increase? 24 And if the property value goes down, the lease 25 stays the same?	Page 21 1 So I don't -- 2 Q. Yeah. And if this is not -- if you're not 3 able to see where things are at, it's okay, we can move 4 on. 5 A. Well, these lot lines don't make sense if 6 this is the building, the existing building, which I 7 believe that it is. I, actually, can't make sense of 8 this unless you can. 9 Q. Okay. We can just move on. That's fine. 10 Maybe we can just talk about that. So going 11 north/south. Let's start orienting ourself on the 12 property. So you're -- the east side of the property is 13 what? What's adjacent -- 14 A. The east side of the property would be 15 bordering the railroad. 16 Q. And what's on the west side of the property? 17 A. Avocado Avenue. 18 Q. And then north is? 19 A. And the northwest corner, I have a temporary 20 office building there now. It's a 12 by 30. So it 21 would be -- it's bordering the west -- the north 22 property line and it's more towards the west corner. So 23 it would be northwest corner, kind of. 24 Q. Okay. Is that the only building on the 25 property?

Page 22 1 A. No. There's the -- in the -- exactly in the 2 northeast corner is the existing storage building 3 warehouse. 4 Q. Do you keep the -- what do you keep in that 5 storage building? 6 A. That is our -- the vast majority is our 7 cabinetry, our drywall. Everything we order for the 8 jobs gets stored in there. 9 Q. Is there anything, any materials that you 10 store outside of that building? 11 A. There is treated lumber, shingles, anything I 12 can't store inside for space here, utilization of it. 13 Q. Do you put any vehicles inside? 14 A. No. 15 Q. Any other equipment? 16 A. We don't have any. 17 Q. North of the property, the next property up, 18 what is that? 19 A. It's a business similar to mine. 20 Q. Construction? 21 A. It's a construction business, correct. 22 Q. Do they use the property for storage also? 23 A. Correct. 24 Q. And then south of you, what's the property? 25 A. It is a trucking outfit and a powder coating	Page 24 1 on the property side, on the east side of Avocado? 2 A. The west side you mean? Oh, the east side of 3 Avocado? 4 Q. Yes. 5 A. No. It's curb and gutter with a storm drain. 6 Q. And what about the west side of Avocado? 7 A. Curb and gutter with a storm drain. 8 Q. Do you know where that drains to? 9 A. I don't. I would assume it all goes to the 10 creek. 11 Q. Where is the creek? 12 A. On the north side of my property. 13 Q. Directly adjacent to your property? 14 A. Correct. 15 Q. That runs between your property and that next 16 property owner? 17 A. Correct, to the north. 18 Q. How wide is that? 19 A. I would say 12 feet. 20 Q. And how deep? 21 A. Today? 22 Q. Like, if it was dry, like where would the 23 bottom be? 24 A. Probably, six inches when it's just on a 25 normal day.
Page 23 1 outfit. 2 Q. You said the north side of the property has 3 the -- the office building and storage. What do you use 4 the rest of the property for? 5 A. Storage for mostly contained. Right now it's 6 in limbo. So we don't use it for anything. The 7 majority -- so everything around the perimeter is high. 8 And then everything else, we're just -- we're, kind of, 9 in limbo. 10 Q. Is there water on the property today? 11 A. No, not today. 12 Q. Is the -- is that area paved? 13 A. There's a U-shape paved and then up towards 14 the railroad track is paved, correct. 15 Q. And it's paved? You've paved underneath your 16 buildings, right? 17 A. There's pavement under the building. The 18 office building is elevated. We elevated it. So it's 19 not on anything anymore. It's just on blocks, so it's 20 sticking up in the air about this -- this high. 21 Q. And what's underneath it? 22 A. Just blocks for right now. 23 Q. And what's on the ground underneath it? 24 A. Just ground there. 25 Q. Okay. And out by the road, is there a ditch	Page 25 1 Q. So it's pretty shallow? It's wide and 2 shallow? 3 A. Correct. 4 Q. And do you know what it is today? Did you 5 see it? 6 A. I was not there today. 7 Q. When was the last time -- when was the last 8 time you were at the property? 9 A. Yesterday. 10 Q. Was there water in the creek yesterday? 11 A. Yes. 12 Q. How full was it? 13 A. It was, probably -- it was deeper from over 14 the weekend. I don't know. It was deeper than normal. 15 Q. And there's a -- is there a -- is there a 16 canal several properties north of you, or some kind of 17 big drainage ditch? 18 A. No. North of me? There's the one just 19 between -- just the only one that is between me and the 20 property running to the north of me, bordering our 21 properties. 22 Q. Okay. So some of the photos that were 23 produced in this case, I'll look at them in more detail 24 later, but they show substantial flooding on the road of 25 Avocado.

Page 26 1 A. Um-hmm. 2 Q. How often does, or when there is flooding 3 that's -- let me circle back. 4 When is the last time that Avocado Avenue 5 flooded? 6 A. I would have to look at my records. I would 7 say six months ago, approximately. I don't know the 8 exact date. 9 Q. Are you keeping records of -- 10 A. Every time that we're there that it floods, 11 we keep a -- I have an app that's called a companycam 12 for our business. So it's time stamped GPS photos. So 13 every time we're there or the next morning where the 14 flood marks are, we always take those pictures. So 15 we're taking -- we keep records of that. 16 Q. Is it -- is it consistent where Avocado 17 Avenue floods and your property floods at the same time, 18 or is there times where one floods and the other one 19 does not? 20 A. I flood more than Avocado floods. 21 Q. Approximately, how -- in comparison, how many 22 times more? 23 A. I knew the question was going to come up, and 24 I -- it's so wide. When you guys first took the tracks 25 out, we flooded every day for three months, literally.	Page 28 1 my property. So I had to raise this berm to offset what 2 they did. And then I, actually, put my own, like, canal 3 system of, like, a -- to let the water in and out inside 4 there. So I'm at a big disadvantage because when they 5 raised that, they literally created a bowl for me. So, 6 you know, I'm by far the lowest thing there. 7 Q. So you said they raised -- they, being 8 Brightline or whoever was working on the -- 9 A. Brightline. 10 Q. All right -- by 16 inches on your property? 11 A. Correct. 12 Q. And is that -- so that's a -- what the 13 pavement that they stacked or how did they raise it? 14 A. They -- what was happening was, when they 15 tore that out, it was flooding every day, so it 16 undermined our slab. And we pulled the truck up one day 17 and the slab -- truck fell through. So then when they 18 realized they had to fix it, they said they were going 19 to fix it. But at the same time they said that, you 20 know, putting it back the way it was was not going to 21 fix anything. So then they proposed this raising it, so 22 that they could create that ditch or trough to push 23 water somewhere else. So they raised that whole portion 24 of that slab. 25 Q. And did -- did raising it then create a ditch
Page 27 1 Like, 90 days in a row we flooded because the ponds were 2 full. Right now because all the retention, everything 3 is full, we flood, probably, once a week. We're under 4 water in the center once a week as August continues to 5 rain. So it's hundreds. I have no idea. 6 The mass flooding like you're saying is whenever 7 it rains for more than four hours, then we're -- you 8 know, then it just keeps backing up. But by the time it 9 gets down to Avocado, I'm under water. 10 Q. You said it floods in the center. What do 11 you mean by that? 12 A. So when this first happened, Brightline or 13 whoever decided they were going to fix it. So they -- 14 I'm just going -- this is the railroad track here. They 15 created a berm to try to fix this and then put another 16 drain underneath the railroad track. I think we 17 referenced that the last time we were here. When they 18 created this, they had to elevate. They poured a 19 concrete pad of substantial size to elevate everything 20 because everything was too low. So to get it there, 21 they raised the edge of my property, approximately, 22 16 inches. I don't know exactly. I can figure it out. 23 When they did that, they created a pond, like, 24 literally, a big pond here. Well then every day that it 25 was raining here, the river just literally flowed into	Page 29 1 flooding or drain way between your property and the 2 railroad property? Is that... 3 A. They were -- that's -- yeah, I think that's 4 what they were trying to create was to divert the water. 5 Q. And what was the 16 inches, what material did 6 they use? 7 A. Concrete and -- or dirt and then they capped 8 it with concrete. And then they poured a concrete, 9 like, trough. That's about three feet wide. And that 10 goes between the railroad and my property. 11 Q. And you agreed that they could do that on 12 your property? 13 A. Yes. 14 Q. You -- who were you speaking to at -- that 15 was doing the construction? 16 A. I have to -- I have to find her name. It was 17 a lady that I was working with. And she worked directly 18 for Brightline. I have her card in my -- in my desk, I 19 can provide that. 20 Q. Okay. That would be helpful. It was a lady 21 that worked at Brightline. Was she -- 22 A. That was my main point of contact. She was 23 on the construction side. I could never get higher than 24 her. 25 Q. Was she someone that was at the site each day

Page 30 1 that you walked up and talked to, or was she someone who 2 reached out to you? 3 A. She was at the site off and on. 4 Q. Was she a supervisor? 5 A. Yeah, she was a supervisor of sorts, for 6 sure. 7 Q. Did she make the decision to install that, 8 for lack of a better word, lifted area? 9 MR. MELOON: Form. 10 You can answer. 11 THE DEPONENT: What's that? 12 MR. MELOON: You can answer. 13 A. I don't know who made the decision. It was 14 like ants on an ant hill when this first started 15 happening. There was so many people there that I 16 couldn't keep track. 17 Q. Was she the one who communicated that 18 decision to you? 19 A. She was the only one that I had the most 20 communication with. 21 Q. Was there anyone else at that work site that 22 you spoke with? 23 A. It would have been the -- I don't remember 24 his name and I don't have his contact. It would have 25 been the leader of the crew that they hired to do the	Page 32 1 40 feet. There's, probably, 80 feet that's not done. 2 Q. Where the water coming from that supposed to 3 be going down that channel? Is it coming from the 4 creek? From your property? From the neighbor's 5 property? From the railroad? 6 A. All of the above. 7 Q. When the creek floods, does that -- where 8 does that water go? Does it go down that channel, at 9 least, partially? 10 A. Partially. By the time it goes -- by the 11 time the channel is full to the relief valve, I'm under 12 water. 13 Q. What is the relief valve? 14 A. It's something that your clients dug 15 underneath. I call it a -- it was another pipe they dug 16 underneath the railroad track to try to alleviate some 17 of the water. 18 Q. Is it on the north side or south side of your 19 property? 20 A. That is on the south side. That's what that 21 channel, that ditch, that's what that goes to. 22 Q. Is that a box? 23 A. It's a box culvert, correct. 24 Q. The water has to be a certain level before it 25 goes into that?
Page 31 1 actual work. It wasn't Brightline. 2 Q. The construction crew? 3 A. Correct. 4 Q. Was there just one company that was doing the 5 construction? 6 A. Yes. 7 Q. About how long were they in that area next to 8 your property? 9 A. Months. It was a long time. 10 Q. So sticking with this 16 raiser. When that 11 was first installed, did that fix the issue with 12 flooding? 13 A. No. 14 Q. Did you tell this lady at Brightline? 15 A. Yes. 16 Q. What was the response? 17 A. I got a letter, and then everything -- 18 everything just stopped. Everybody disappeared. And 19 nobody would talk to me after that. And that's when I 20 ended up going a different avenue. Everybody stopped. 21 Q. Was the -- that 16-inch area that was raised, 22 was that the length of your property, the entire length 23 of your property? 24 A. No. I would -- no. It's -- the building is 25 40 feet short of it. And then, probably, another	Page 33 1 A. Correct. 2 Q. Is there anything -- I guess, when the water 3 goes into that, the relief value, does that get rid of 4 the water? 5 A. No. I mean, it gets rid of whatever goes in 6 there. I'm not being a smart aleck. But no, it does 7 not. It never fixed the issue. 8 Q. Yeah, but as far as water going in, the water 9 doesn't come back out, right? It goes somewhere? 10 A. Correct. 11 Q. You said it doesn't fix the issue because you 12 were already underwater at that point? 13 A. Correct. 14 THE VIDEOGRAPHER: I'm sorry. Did your mic fall 15 off? 16 THE DEPONENT: It did. 17 Q. (BY MR. TERWILLEGGER) Were there any written 18 communications, e-mails, texts between you and this lady 19 at Brightline or anyone else at Brightline? 20 A. I don't believe so. I couldn't find any. 21 The only communication I have is with the -- when they 22 were going to pay for those things or they were going to 23 pay for our first loss. 24 Q. Going to pay for, sorry, what? 25 A. They were going to pay for our first losses

Page 34 1 from the first flood. 2 Q. What was that offer? 3 A. I can find that. They said turn it in and 4 we'll pay for it. 5 Q. Did they? 6 A. No. 7 Q. Did you turn it in? 8 A. Yes. 9 Q. What was -- what kind of damage are we 10 talking about? 11 A. It was 35,000, I believe. 12 Q. And what was damaged? 13 A. I produced that. I have pictures of it. It 14 was material stock, material records, tools and 15 equipment. At that time everything was stored, you 16 know, at ground level. 17 Q. Was that produced as a spreadsheet? 18 A. Correct. I believe you have it. 19 Q. Let's see if this is it. 20 A. Part of it was the -- from the money that we 21 had to pay for the truck for -- 22 MR. TERWILLEGER: I'm going to mark this as 23 Exhibit 5. 24 (Deposition Exhibit 5 was marked.) 25 THE DEPONENT: Thank you.	Page 36 1 A. The summer of the construction. That three 2 months that I was referencing that they were there. 3 Q. There were news articles about this? 4 A. Yes. 5 Q. And when you say my client, was it Brightline 6 that was there? 7 A. Yes. 8 Q. Had a bunch of trucks there? 9 A. Yes. For weeks they were there. 10 Q. Did they do any work to try to fix this at 11 that time? 12 A. Other -- no, other than what we had -- 13 Q. This is when they put in that 16 inch -- 14 A. Correct. 15 Q. -- area -- 16 A. Correct. 17 Q. -- drainage -- 18 A. Yeah. They were there for, probably, a 19 month. 20 Q. How did you give them this spreadsheet? Was 21 it by e-mail? 22 A. E-mail. Yes, sir. 23 Q. Do you still have that e-mail? 24 A. Yes, sir. 25 Q. Is this \$31,906 part of the damages that we
Page 35 1 Q. (BY MR. TERWILLEGER) Is this what you were 2 referring to? 3 A. Yes, sir. 4 Q. So this was the -- was this the same 5 spreadsheet that was provided to Brightline? 6 A. Yes, with photos of each thing. 7 Q. And that was sent to this, the lady that you 8 have the contact information for? 9 A. It was not sent to her. Somebody had come 10 out when there was all those people there. They came to 11 us and asked us to turn it in. We sent it to whoever it 12 was. They paid the neighbors, actually. And then when 13 we sent ours in, they told us to -- that it wasn't their 14 fault and they weren't paying. 15 Q. And you said when there were all those people 16 there. When was that? 17 A. I'm generalizing now when they -- when they 18 removed it. When we started getting damage to our 19 concrete and when it fell in and they started repairing 20 it. There was news crews out there. There was -- you 21 guys had, like, sometimes my lot was full of your 22 trucks, or not your trucks, but your client's trucks. 23 So there was just people there all the time. We were 24 under the assumption they were fixing it. 25 Q. When was this, approximately?	Page 37 1 talked about earlier? 2 A. Yes, sir. 3 Q. I don't see the truck on here. Does this 4 include the truck? 5 A. It should be. 6 Q. Something I missed? 7 A. It's not on here, but I can produce that. 8 That should have been on there. It was just -- it was 9 our deductible that we had to pay. 10 Q. How much was the deductible, approximately? 11 A. I believe a thousand dollars. 12 Q. Was this -- what, specifically, flooded when 13 all this stuff on the spreadsheet was damaged? 14 A. Where was this? 15 Q. Let me ask again. Did the office flood? 16 A. Everything flooded. We were, like -- it was 17 like a Noah thing. 18 Q. Was the entire property under water? 19 A. Yes. I take that back, the front may not 20 have been, right where the gates are. 21 Q. And the gates are at Avocado Avenue? 22 A. Correct. 23 Q. Okay. So your property but not the road? 24 A. Just to clarify, my property comes up and 25 then, you know, back down.

Page 38 1 Q. Okay. 2 A. So just -- it would have been just the front 3 section that wasn't under water. But the back, like, 4 80 percent of my property was under water. 5 Q. And how deep was the water? 6 A. For sure, they knew that there was three -- 7 over three feet of water in my truck. 8 Q. The front of your property at the gate, kind 9 of, goes up. Is that across the entire front of your 10 property? 11 A. Yes, sir. 12 Q. So the water, kind of, stays, it pools on 13 your property? 14 A. Well, it goes around and then it comes in. 15 It's trying to take just a -- it just fills. I'm the 16 lowest point now. 17 Q. Your property is the lowest point on what? 18 A. Where -- in that area, I'm at that point now 19 where, you know, when it comes, it comes, there's no 20 relief, so it goes, you know, to my property. 21 Q. So everybody's water coming onto your 22 property, properties to the north, south, east, and 23 west? 24 A. Correct. 25 Q. What kind of -- earlier you talked about, and	Page 40 1 ever did. So, at least, I can maintain this in the 2 meantime. I don't have to have it flooding every day. 3 Q. And you said that it was designed so the 4 retention, is that the parking in the middle of the 5 property? 6 A. So before -- yeah, I have retention. It's 7 any time just here now. We have to create retention. 8 So you drive in like this. And right in there, there's 9 a retention pond here that they designed to get our 10 business licensed. 11 Q. As you described earlier, there's a U-shaped 12 driveway -- 13 A. Yes, sir. 14 Q. -- coming into the property? 15 So it's in the middle of that U? 16 A. Yes, sir. 17 Q. Okay. Have you taken any other steps to 18 drain the property? 19 A. No, sir. 20 Q. Is there anywhere other than that area going 21 back out to the creek that you can block with the board, 22 is there any other areas of the property that drain, 23 where the water drains off of your property? 24 A. No. 25 Q. Can water drain to the south, onto the
Page 39 1 correct me if I'm misstating this, but you created 2 channels, I think you said, for draining the water on 3 the property? 4 A. So just to reference it. When they raised 5 this -- so this is my property, this square. This is 6 Avocado and this is the railroad. When they raised 7 this, now the water come in and go around, it was easier 8 to come in to my property. So I raised this portion of 9 my property to match that. Because otherwise, 10 literally, every time it rained, it came in. So I 11 raised this to match that. 12 Q. And that, your left hand, is the north side 13 of your property? 14 A. Yes, sir. 15 Q. So the water is coming from the creek? 16 A. Yes, sir. So it's bordering that creek. And 17 then, so, obviously, I have a lower spot here now 18 because those two things have been raised. I have a -- 19 the way my property was designed to drain with the civil 20 engineer was the water came in to retention here, came 21 up, and then as it raised six inches, it would go out to 22 there. So I put in just a two-foot pipe here that I can 23 control that by letting it out during normal times, but 24 when this floods, I just slide a board in front of it 25 because this floods often coming up now more than it	Page 41 1 property to the south of you? 2 A. No. 3 Q. Not the -- the -- the release you described 4 earlier is on the south side of the property, right? 5 A. The release is on the north side. 6 Q. The north side? 7 A. So if you -- if this was -- if this was 8 Avocado and this is my U-shaped driveway, the engineer 9 designed it so that when this retention filled up, it 10 would drain out to the creek and it worked while we -- 11 while we had it. 12 Q. Yeah. And actually, I think, the release, 13 the release I'm talking about that's not the board, I'm 14 talking about the one that Brightline installed. 15 A. That's on the north side. 16 Q. That's on the north side? 17 A. Yeah. 18 Q. Okay. 19 A. So it's supposed to do what you said, drain 20 to the south, but it doesn't. 21 Q. Is that because there's nowhere for the water 22 to go, or because the design of the drainage is not 23 right? 24 A. It's not right. So your client claims that 25 the retention is on the south side of my property and

Page 42 1 all the water is supposed to drain to there. That's 2 what -- that's what your plans say. That's three feet 3 higher than this, so it can't get there. 4 Q. Okay. Was there any ongoing maintenance that 5 Brightline was doing on this, any of the drains work 6 during this? And I want to specify the time. So 7 between summer when they were doing the work and that 8 first, let's say, year after that, was Brightline doing 9 maintenance on the property? 10 A. No. After that, when they shut off, they -- 11 because they never finished their work on it. So 12 they're -- it's -- when this ended, by the time I 13 engaged Mr. Nathan (sic,) there was -- I've had no -- 14 I've never seen anybody until just the last couple of 15 days I've seen people walking around. 16 Q. And when was the -- I'm not asking for 17 communications with Nathan, but when was that when you 18 retained him? 19 A. When I retained him? 20 Q. Yes. 21 A. When you guys wouldn't talk to me no more. 22 Q. Do you know what month that was? 23 A. No. I could probably figure it out. I 24 really don't. 25 Q. You said some people have been walking around	Page 44 1 Q. And when you say it goes away, after four 2 inches of rain it goes away. How long does it take to 3 go away? 4 A. It could take a day or two, it really depends 5 on what, you know, if it's on and off, on and off. 6 Q. If it's four inches of rain, how deep is the 7 water on your property? 8 A. If we had four inches of rain here, my water 9 can be eight inches of water, eight to 10 inches of 10 water. 11 Q. Does that get into your storage shed? 12 A. No. I raised that. 13 Q. So both the storage and the office are raised 14 now? 15 A. Correct. 16 Q. And you said that the office is on blocks. 17 Is the storage also on blocks? 18 A. No. That's on a concrete foundation. That's 19 on a -- and we raised that slab. 20 Q. If we get the typical Florida 30-minute 21 shower in the afternoon, is that causing the property to 22 flood? 23 A. No. 24 Q. And, I think, you said earlier, I'm just not 25 sure, do you not have -- neither ALT nor Home Wreckers
Page 43 1 the past couple days? 2 A. Yeah. 3 Q. Do you know who that is? 4 A. You. I mean, it's your guys. I don't know. 5 Q. So we are at September 16th. For September, 6 about how many days has the property been flooded? 7 A. I don't believe -- I don't believe we've 8 flooded this month. 9 Q. In July did it flood? 10 A. Yes. I, actually, take that back. I think, 11 my daughter said that she took pictures too, a couple of 12 days ago, from when we got that torrential rain. So a 13 lot of times we don't see it at night. We see the 14 remnants of it. I can't -- yeah, I would assume in 15 July. I'm not going to tell you for a fact that I know 16 that. But in the last few months, we've flooded, 17 probably, five times. 18 Q. And you said earlier, I think, that you have 19 a record of every time it's flooded? 20 A. Every time we're there when it floods. And I 21 don't have it every time we flooded when I got four 22 inches of rain or four inches of water build up and it 23 goes away, but any time it's substantial. 24 Q. Is that something that you could produce? 25 A. Yes.	Page 45 1 has flood insurance? 2 A. No. 3 Q. Prior to this, the Brightline construction -- 4 let's try to nail down the time on that. The Brightline 5 construction, was that in 2020, 2021? 6 A. 2021, I believe, was when they did this. 7 Q. And they were -- it was during the summer? 8 A. It was during the summer. 9 Q. And you said three or four months they were 10 there? 11 A. Yes, they were there a long time. 12 Q. And that was the area -- that area right next 13 to your property they were there for three or 14 four months in the summer of '21? 15 A. Correct. 16 Q. Prior to that construction beginning, what 17 was the layout of your property in relation to the 18 railroad? 19 A. Can you be specific? 20 Q. Yeah. So what changed as far as the -- 21 A. Okay. Okay. Okay. So there was a huge -- 22 where the railroad track was, a huge retention area. 23 That was, basically, a big ditch, approximately, 16 feet 24 wide. I don't remember how deep, but it was, you know, 25 six, eight feet deep. And it went both directions. So

Page 46 1 that's where the railroad is now. 2 Q. Is the ditch running parallel to the 3 second -- the primary line? 4 A. Correct. 5 Q. And now there are two railroad tracks next to 6 it? 7 A. Correct. 8 Q. And so prior to the construction, the water 9 from your property would go out on to that retention 10 pond? 11 A. My property always drained the way I said 12 here. 13 Q. In the -- 14 A. -- design where it goes in. And then any 15 excess would go off over to there. That's how it was 16 designed. 17 Q. And so the creek would drain into that 18 retention pond? 19 A. Yes. I mean, yeah. The retention seemed 20 when flooding events happened, the water went into the 21 retention. Otherwise, it just, you know, would 22 continued to flow. 23 Q. And sometimes -- I'm trying to make sure I 24 understand how that retention area worked. Did it -- it 25 took water from the creek. Did it get water from	Page 48 1 Q. North side? 2 A. Yes, sir. 3 Q. Where is the septic tank on your property? 4 A. The septic tank is, actually, underneath the 5 lean-to of my building and the leach field is out in 6 front of that. So between our office and the storage 7 unit. 8 Q. On the north side of the property? 9 A. It would be on the -- yes, north side, north 10 central about. 11 Q. That's sort of adjacent to the creek also? 12 A. It's inset from the creek, probably, 50 feet. 13 Q. Is that septic tank been there since you 14 purchased the property? 15 A. Correct. 16 Q. Do you know how big it is? 17 A. The system? 18 Q. Yes. 19 A. I don't know. 20 MR. TERWILLEGER: We'll mark this as Exhibit 6, 21 I think, we're up to. 22 (Deposition Exhibit 6 was marked.) 23 Q. (BY MR. TERWILLEGER) I'm showing you, these 24 are some documents that are Bates Stamped if you look at 25 the bottom. Some of them are Bates Stamped, some are
Page 47 1 anywhere else as far as it affected you? 2 A. I don't know. When you're not flooding, you 3 don't pay attention. It wasn't an issue, so I never 4 really paid attention to it. So that's -- but that was 5 the only difference with what my property was now and 6 then, other than the elevation, things that we spoke of. 7 Q. And the only elevation change was the extra 8 16 inches that was added to your property? 9 A. Correct. And then when I did the match on 10 the other side. 11 Q. Because we have this spreadsheet of things 12 that were -- you identified as damaged. Was there any 13 other -- the spreadsheet plus the truck, the thousand 14 dollar, approximately, deductible for the truck. 15 Besides those two things, were there any other direct 16 damages that were caused by flooding? 17 A. There's some unknowns right now, which I can 18 produce the videos. I have water going underneath my 19 concrete now every time that it floods. So that's 20 causing damage. And my septic system just failed, which 21 they believe is from the flooding because it's back near 22 the septic system. But as of now, I don't have -- well, 23 then the erosion of our property line. 24 Q. Which side is the erosion? 25 A. That's on the north side.	Page 49 1 not. These are documents produced by you at the 2 beginning of this case. Some of them are Bates Stamped, 3 some are not. Do you recognize these? 4 A. Yes, sir. 5 Q. The -- looking at the first page. This is 6 Bates Stamped Home Wreckers 1. That printed information 7 on the top right, is that information from the camera 8 you were talking about earlier? 9 A. Yes, sir. 10 Q. And so that gives you -- I don't see a date 11 on there. Does it provide the date? 12 A. So it does provide -- I don't -- we'll have 13 to get it from my daughter, but definitely it provides 14 the date and the location. 15 Q. And so this first photo, is this looking 16 south from the north end of the property? 17 A. I think if you go -- excuse me -- if you go 18 back. I think it's in this 11/8/24, 11:43 a.m. up on 19 the top I think is the time on that photo. 20 Q. Okay. So the top-left corner? 21 A. Yeah. I know it has GPS coordinates that are 22 down below also. 23 Q. And then to the right above the photo, 2145 24 Avocado Avenue, dash, companycam. 25 A. Correct.

Page 50 1 Q. Is companycam the name of the company? 2 A. That's the app that I use to store these. I 3 use it for my business also. 4 Q. And so is this -- this is from the north side 5 of the property looking south? 6 A. Correct. 7 Q. With that you can see a little bit of a roof 8 on the left. Is that the storage? 9 A. That is the awning in front of the storage 10 building, correct. 11 Q. The awning in front of the storage building. 12 Is that what you described as lean-to earlier, or is 13 that the -- 14 A. I would be standing in the lean-to. 15 Q. Okay. And to the left would be the railroad? 16 A. Correct. 17 Q. So this was November 8th, 2024? 18 A. I believe so, yes, according -- I'm sure 19 that's correct. 20 Q. Now, can you see -- the driveway you 21 described, is that visible on this photo? 22 A. This is all concrete. The driveway would be 23 if you're asking the U-shape, it would go like this. 24 Q. So it would be a little bit on the photo -- 25 A. A little bit.	Page 52 1 under water all the time. And that's where they ended 2 up having the problems. And that's the part they 3 elevated then, just for reference, it would be this 4 section right here. 5 Q. They elevated the section that has the plants 6 on it, or to the right of the plants? 7 A. So I don't -- we're splitting hair -- I mean, 8 the plants are just holding -- they dug up to that. But 9 I mean, it's the concrete itself. My concrete is what 10 they elevated. And then where the plants were is where 11 they would have created that drainage ditch. 12 Q. Okay. And so the -- are we, like, on the -- 13 are you standing -- 14 A. I'm standing -- 15 Q. -- adjacent to your property or north or 16 south to your property? 17 A. I'm standing on your property on that -- that 18 wall that you see. It was the beginning of the 19 property. 20 Q. And from a north/south perspective, are you 21 lined up with, like, your buildings? Are you... 22 A. I would say I'm in the center of my property 23 and I'm sitting on the east side, but I'm on the -- 24 Q. Do you know that thing that looks like some 25 kind of construction or something being built or
Page 51 1 Q. -- on the right side? 2 A. Yes, sir. 3 Q. Okay. Are those your trucks? 4 A. Yes, sir. 5 Q. There's three; is that right? 6 A. Yes, sir. There's four there. You can see 7 the windshield of one more. 8 Q. Okay. Was this -- this was well after the 9 Brightline people were there and all that stuff 10 happened? 11 A. Yes. 12 Q. Let's go to the next photo. Can you tell me 13 what this photo is? This is Home Wreckers 2, for the 14 record. 15 A. Is this me standing on the -- the wall? 16 Q. What wall is that? 17 A. That is the railroad expansion. That's 18 the -- so you can see the ditch now that was removed 19 that you were talking about. That was the retainage 20 ditch. 21 Q. On the -- in the photo on the left side of 22 you behind you? 23 A. Not that I'm standing on. This is -- this 24 was it. You can see that. That's where -- that's where 25 it under-washed all my property. And then this was	Page 53 1 storage? 2 A. The scaffolding? 3 Q. Yeah. 4 A. That's just scaffolding holding lumber. 5 Q. As part of the Brightline construction? 6 A. This part? 7 Q. Yes. 8 A. That's on my property. That's me. 9 Q. That's you? 10 A. So all the concrete is my property. And then 11 this is the property right here. 12 Q. So that's just your materials? 13 A. Correct. 14 Q. And the blue tarp, that's also your 15 materials? 16 A. Yes, sir. 17 Q. Had any flooding happened at the time of this 18 photo? 19 A. I don't remember. But I would -- I don't 20 know. Right about now is when it started. Probably not 21 because there's still relief back here. 22 Q. So this is during the summer of 2021? 23 A. This is during the -- right in the midst of 24 the construction that they were doing. 25 Q. So let's go to the next photo. This is Home

Page 54 1 Wreckers 3. Can you tell me what this photo is? 2 A. That's where they never finished. So they 3 left my building exposed. So they quit working on that. 4 This was supposed to come all the way through. And 5 that's the edge of my building. So that goes under 6 water all the time. So if you were looking at my 7 buildings with your back to the south, that storage 8 building in the center, this would be the east side. 9 This is the -- what was -- this is the drainage ditch 10 running north and south. They stopped up here. It was 11 supposed to come all the way through, but they never 12 finished that. 13 Q. So it stopped short of the north end of your 14 property -- 15 A. Yes, sir. 16 Q. And looking at this photo, the left side is 17 the railroad and the right side is that area they 18 raised? 19 A. This left side is my storage building. The 20 right would be the railroad. 21 Q. But maybe I'm misunderstanding. So this 22 wall that we're looking at -- 23 A. That's my storage. 24 Q. That's your storage building, okay. 25 A. Yes, sir. And that would be the east wall of	Page 56 1 Q. Is there anything in this photo that you can 2 see, provide more detail on the previous photo or kind 3 of same stuff? 4 A. Not to me. 5 Q. Okay. So going to the next, which is Home 6 Wreckers 5. So we don't know what date this was taken? 7 A. No. 8 Q. Okay. What direction are we looking at in 9 this photo? 10 A. We are looking west. 11 Q. West. So is that truck on Avocado Avenue? 12 A. Yes. 13 Q. Is this the creek? 14 A. Yes. 15 Q. So to the left of this photo is your 16 property? 17 A. Yes. 18 Q. Okay. What were you standing on? 19 A. My property. 20 Q. Or is it -- are you standing on the ground or 21 rock or -- 22 A. So this just -- just for reference, this is 23 the creek. This is my property. 24 Q. So the property line is where that pole is? 25 A. Yeah. My property line is right where this
Page 55 1 my storage building. 2 Q. Okay. 3 A. And you could almost, probably, touch the 4 railroad in between touching the building and the 5 railroad. 6 Q. Okay. And this was taken on November 8th 7 with your companycam? 8 A. Yes, sir. 9 Q. November 8th, 2024? 10 A. According to that, correct. 11 Q. Does this area, this drainage canal, does 12 that fill up with water? 13 A. Oh, yeah, constantly. 14 Q. Okay. So let's go to the next photo. This 15 is Home Wreckers 4. Is this another photo from that 16 same day we looked at before? 17 A. Yeah. It must just be another bigger photo. 18 Q. Okay. So looking -- the top-left corner on 19 this one says November 8th, 2024. Do you think that's 20 the date that you printed this, not the day the photo 21 was taken? 22 A. That probably is what's going on. I can get 23 those dates on them. I know they have them. Now that 24 we're seeing that, yes, you're correct, that's probably 25 when we downloaded or printed them.	Page 57 1 yellow pole is, the yellow brace, that's my property 2 line. 3 Q. Okay. 4 A. So this is my property under water here. 5 Q. What kind of storm was it that created this? 6 A. I believe this was the hurricane that came 7 through last summer or last -- last fall that went to 8 the north of us to Daytona. 9 Q. And is that Avocado Avenue flooded back 10 there, too? 11 A. Yes. 12 Q. And going to the photo, Home Wreckers 6. Is 13 it the same -- same day? 14 A. Yes, sir. 15 Q. Now, let's go to Home Wreckers 7. 16 A. Okay. 17 Q. Is this, basically, that same view? 18 A. Yes, sir. 19 Q. And this is -- and what -- is this the way it 20 looks when there's no rain, sort of, a normal day? 21 A. Yes, sir. 22 Q. And if the grass -- is the water line here, 23 the property line? 24 A. Is the water near the property? 25 Q. No. Let me ask that again. So the creek is

Page 58 1 on the right side? 2 A. Correct. 3 Q. And where the creek ends, is that your 4 property? 5 A. It's mixed. This is, actually -- mine comes, 6 like, down the middle of it. It's a weird pie shape and 7 then the City owns a part of the wedge. I own a part of 8 it; they own a part of it. 9 Q. Does the City own the ditch? I'm sorry. 10 Does the City own the creek? 11 A. I believe so. 12 Q. The City maintains it? 13 A. They own part of it. Yes, they maintain it. 14 Q. And this culvert is going underneath Avocado 15 Avenue? 16 A. Yes. 17 Q. And what's on the other side of Avocado 18 Avenue? 19 A. Houses. 20 Q. Is there more creek? 21 A. There's more creek. Yes, there's more creek. 22 Q. Where does it drain to eventually? 23 A. To the river, I would assume. 24 Q. And is that east or west? 25 A. East.	Page 60 1 Q. When was this photo taken? 2 A. It was one of multiple. I don't know. I 3 would have to get in the companycam to know which -- 4 when it was taken. I just know because the other two 5 trucks are here and they weren't. I know the last one I 6 was there by myself. And that's my wife and my son's 7 truck. So they weren't there at the ones that we were 8 referencing prior. 9 Q. Is that red truck a Home Wreckers truck? 10 A. Yes. 11 Q. Are those -- the trees there, sort of, in the 12 middle of the water, are those trees that retention 13 area -- 14 A. That's the edge of the retention. 15 Q. And what are you -- what's the photo taken 16 from? Where are you standing or -- 17 A. Standing on the roof of the storage building. 18 Q. Okay. 19 A. This is the part -- I guess, I shouldn't -- 20 this is what I told you happens all the time. 21 Q. Okay. And this is if it rains for than four 22 hours? 23 A. Yeah. I mean, if it rains more than four 24 hours, it's the big one. 25 Q. Okay.
Page 59 1 Q. Okay. So it's draining underneath the 2 railroad? 3 A. Correct. 4 Q. In relation to those photos where the 5 hurricane was coming through, was this before or after; 6 do you know? 7 A. I don't remember. It was a reference photo. 8 Q. So going to Home Wreckers 8. Is this Avocado 9 Avenue we're looking at? 10 A. Yes. 11 Q. And it's the same storm? 12 A. More than likely. 13 Q. Is the driveway at the bottom, is that your 14 property? 15 A. Yes. 16 Q. So this is what you're talking about where 17 you said the front of your property -- 18 A. It comes, yes, correct. 19 THE REPORTER: I didn't hear that. It comes 20 what? 21 THE DEPONENT: It comes up in the front of the 22 property and then goes back down. 23 Q. (BY MR. TERWILLEGER) Going to the next one, 24 Home Wreckers 9. Was this from that same time? 25 A. No.	Page 61 1 A. And this is what happens continuously. 2 Q. So looking at this then, it looks like the -- 3 you got a raised area on the left where it's paved and 4 the trucks are parked. It's not so much under water. 5 And then to the right of that it's under water; is that 6 right? 7 A. The edges are all raised to match like we had 8 discussed. That's where -- that paving part is where 9 they quit making paving. So I filled it in with crushed 10 concrete. 11 Q. And the storage container in the back, is 12 that your property or is that the neighbor's property? 13 A. That is my property. 14 Q. Do you use that container for storage? 15 A. Yes. 16 Q. Is that the edge? Beyond that container, 17 whose property is it? 18 A. The white wall is my property wall. 19 Q. Does that neighbor's property flood? 20 A. I don't -- yes. I don't know how much, but 21 not like mine. 22 Q. Has that neighbor raised their property? 23 A. Their -- no. They've raised the whole back, 24 this area right here. 25 Q. Okay. Let's go to Home Wreckers 10. Is this

Page 62 1 Avocado Avenue again? 2 A. Yes. 3 Q. That's a big sign there. Was this during 4 that storm? 5 A. I don't think so. But I don't -- I think 6 this was a different storm. 7 Q. Is the -- the area to the right of that tow 8 truck, is that the creek? 9 A. Yes. 10 Q. So this is all of Avocado Avenue is flooded? 11 A. It doesn't all flood. There's, like, a 12 60-foot beach way or something. But this is -- this is 13 Avocado. I'm not disputing that. 14 Q. So the -- when Avocado floods, is it -- is a 15 60-foot area, kind of, in front of your property is more 16 likely to flood; is that right? 17 A. Say that again. 18 Q. When Avocado Avenue floods, is it the area in 19 front of your property that's more likely to flood, or 20 is it the whole road? 21 A. I guess, I'm not exactly -- by the time 22 Avocado floods, I'm -- like, I'm swimming. 23 Q. You said there's a 60-foot area of Avocado -- 24 A. I'm just saying, you said all of Avocado was 25 under water. It doesn't all go under water.	Page 64 1 A. Have they been blocked previously? 2 Q. Yeah, they're -- yes. 3 A. So when there was the one time why they 4 denied me is they said the reason why it flooded was 5 that the -- a dumpster blocked. 6 Q. And that was during Brightline construction? 7 A. Yes. That was one of the ones, yeah. 8 Q. Does that -- has this drainage been blocked 9 any other times that you're aware of? 10 A. So when I bought my property, I did my due 11 diligence. And when I did that at one time, that 12 property had seven inches of water in it because those 13 got plugged. 14 Q. Do you know what caused them to plug? 15 A. I guess it was mooring balls. But I 16 wasn't -- that was before my time. 17 Q. Okay. So you learned about the flooding, or 18 this happened while you were doing your due diligence? 19 A. It happened while I was doing my due 20 diligence. 21 Q. Did this -- this drainage, these pipes change 22 during Brightline construction? 23 A. Yes. 24 Q. How was it before the construction? 25 A. The pipe -- the drainage would have been --
Page 63 1 Q. That's what I'm asking, what part of it goes 2 under water? 3 A. A couple hundred feet, maybe, each way. I 4 don't know exactly -- 5 Q. Okay. 6 A. -- about that. 7 Q. Okay. Going to Home Wreckers 11, is this 8 a -- 9 A. This is where the drainage pipes used to be, 10 or this is where they are underneath. You can, 11 probably, see the indents in the water from it swirling 12 down. So the three pipes are underneath that. They 13 drain underneath. 14 Q. This is a photo of the creek? 15 A. Correct. 16 Q. And you're standing on your storage? 17 A. Correct. 18 Q. And so the drainage pipes then go under the 19 railroad property? 20 A. Correct. You see the little swirls right 21 there? 22 Q. Yes. 23 A. That's all three of the drainage pipes. 24 Q. Do those get -- have those been blocked 25 previously?	Page 65 1 they would have been back here where this -- instead of 2 this close, they would have been back with this. So 3 they extended them forward and raise them seven inches. 4 Q. Okay. Since the Brightline construction 5 occurred -- actually, strike that. 6 Do you know, since the City owns the creek, do 7 you know whose responsibility it is to maintenance these 8 drainages? 9 A. I don't know. 10 Q. Let's go to the next photo, Home Wreckers 12. 11 Can you tell me what this photo is? 12 A. So that's up on top of that. That's a 13 picture sometimes when we're not there. So we got there 14 the next day and that would have been the marks of where 15 the water would have been that night. 16 Q. So it flooded overnight and it drained away 17 before you get there the next morning? 18 A. Correct. 19 Q. Going to the next photo, Home Wreckers 13. 20 Is this another -- 21 A. I think that would have been the same time 22 that we referenced the one that -- 23 Q. Okay. 24 A. -- prior. Just another angle. 25 Q. Yeah, just make sure the record is clear

Page 66 1 then. Home Wreckers 9 and Home Wreckers 13 are the same 2 time, just, sort of, two different angles so you can see 3 more of it? 4 A. I would say it's -- yeah, it's, probably, the 5 same as nine. 6 Q. Had you -- you can see a little bit of the 7 office on the right. Is that the office on the right 8 side? 9 A. Yes. 10 Q. Is that raised? 11 A. Yes. 12 Q. That the blocks on the bottom? 13 A. Yes. 14 Q. And going to Home Wreckers 14. Is this, 15 essentially, the same, kind of, the same time as that 16 last photo we looked at of the creek? 17 A. I would say it might be. I don't -- I would 18 say, probably. It would make sense. 19 Q. And then Home Wreckers 15 looks like another 20 shot of Avocado Avenue. The same -- same -- 21 A. Yeah, then it's probably -- I don't know. 22 There was so many different ones. 23 Q. Yeah. I think -- correct me if I'm wrong, 24 but I think Home Wreckers 15, 16, and 17 are duplicates; 25 is that fair?	Page 68 1 never even had that assumption. So it was always 2 Brightline. 3 Q. And so did you ever talk to anyone from 4 Florida East Coast Railway while they were doing the 5 construction? 6 A. Not to my knowledge. It was always 7 Brightline. 8 Q. And you say blame, the mayor blamed 9 Brightline or Florida East Coast Railway. What -- how 10 did -- can you give me more details of what exactly he 11 said? 12 A. When the railroad track went in, the 13 retention that was used for everything is what changed. 14 And that's -- so they -- so that that -- they said we 15 had to take it up with you. 16 Q. Did the mayor talk about the drainage for the 17 maintenance of the creek at all? 18 A. I never asked him about maintenance. 19 Q. So the mayor didn't take any action? He 20 said, go deal with the railroad? 21 A. Not real -- I mean, he took action by 22 bringing in the news crew. And that was, basically, 23 bring it up with railroad. 24 Q. Was that during the construction we were 25 talking about earlier when --
Page 67 1 A. Well, could be. 2 Q. Save us some time. 3 A. Yes, they look like they're duplicates. 4 Q. Okay. And in looking at these photos, 5 approximately, how many different events do you 6 think are -- I know you said it floods a lot of times. 7 How many different times do you think these photos are 8 covering? Three or four? 9 A. I think three or four in these photos, yes. 10 Q. Because they all would have happened before 11 November 8th, 2024 -- 12 A. Yes. 13 Q. -- correct? 14 Have you talked to the City about the 15 pre-flooding? 16 A. I have. 17 Q. You said you have not? 18 A. I have. 19 Q. Okay. What -- tell me about that. 20 A. We -- I had the mayor out there. We talked 21 about it and he blamed you guys. 22 Q. You said blamed us. Do you mean Brightline 23 or Florida East Coast Railway? 24 A. We always blame Brightline because we didn't 25 -- until I met you representing Florida East Coast, we	Page 69 1 A. Just about everything that -- all my 2 interaction with them was always during that time frame. 3 Prior, I never had any interaction. And when they 4 pulled out, never again. They never responded to us 5 again. 6 Q. And after the construction was finished, did 7 you speak with anyone from the City about the drainage 8 after that? 9 A. No. 10 Q. Did you ever talk to anyone at the County 11 about the drainage? 12 A. No. 13 Q. Anyone at the State? 14 A. No. 15 MR. TERWILLEGER: We've been going for about an 16 hour and 20. Do you want to take a break? 17 MR. MELOON: Yeah. 18 MR. TERWILLEGER: Let's go off the record. 19 THE VIDEOGRAPHER: Going off the video record. 20 The time is 11:22 a.m. 21 (Recess taken from 11:22 a.m. to 11:33 a.m.) 22 THE VIDEOGRAPHER: Coming back on the video 23 record. The time is 11:33 a.m. 24 Q. (BY MR. TERWILLEGER) So when the -- when 25 it's not raining, I just want to clarify, when there's

Page 70 1 no rain, does the property flood? 2 A. No. 3 Q. And you talked earlier that you, sort of, 4 made the canal that goes out from your property to the 5 creek a little bit deeper, and then -- can you describe 6 what you did -- what you did to try to get the water off 7 your property into the creek? 8 A. So it drains, essentially, the same, the way 9 it was designed to fill up the retention and then put -- 10 and then to drain into the creek was just the way the 11 property naturally came together. I put a two-foot pipe 12 there and covered that up when I raised this to match 13 the elevation here. So it works exactly the same. 14 However, I'm able to control it because the water comes 15 up so fast in here, that I can block that off to not 16 allow extra water on my property many times just to 17 mitigate the flooding. 18 Q. Okay, so you put a drain, a pipe in to 19 replicate the same -- 20 A. The same, exactly, exactly. I'm sorry to 21 interrupt. 22 Q. Have you done anything else to help the 23 property drain faster? 24 A. Nothing to drain. 25 Q. You mentioned whenever you were doing your	Page 72 1 A. Yes. 2 Q. Did you get an appraisal at that time? 3 A. I don't think so. I know I didn't. I didn't 4 need it. 5 Q. Has -- ALT is the owner of the property. Has 6 ALT refinanced the property at all? 7 A. No. 8 Q. Has ALT attempted to sell the property since 9 2019? 10 A. Have I tried to sell it? 11 Q. Yes. 12 A. No. 13 Q. Have you received any appraisals for any 14 reason since 2019 of the property? 15 A. No. 16 Q. And same questions for Home Wreckers. Has 17 Home Wreckers gotten any appraisals or tried to sell the 18 property? Have you gotten any appraisals for the 19 property? 20 A. No. 21 Q. Were the office and storage buildings on the 22 property when you purchased it in 2019? 23 A. The storage building was. The office was 24 not. 25 Q. When was that installed?
Page 71 1 due diligence back in 2019 that the property flooded at 2 that point, right? 3 A. At some point in history, it flooded, 4 correct. 5 Q. At some point. Was that before you purchased 6 the property? 7 A. Correct. 8 Q. During your due diligence period? 9 A. When I bought my property and I did the 10 research, at one point, all three of those pipes had 11 plugged in that property and flooded. 12 Q. Did the property flood between when you 13 purchased the property in 2019 and when Brightline 14 construction started in the summer of 2021? 15 A. No. 16 Q. Are you aware of any other flooding, other 17 than that one incident? 18 A. No. 19 Q. When you were looking at the property and 20 doing your due diligence, did you get any surveys or any 21 other topographic maps or site plans or anything for the 22 property? 23 A. I did not. I just got a border or boundary 24 survey for my closing. 25 Q. Do you still have that?	Page 73 1 A. Two years after, probably. 2 Q. Is the property overall -- 3 A. I -- 4 Q. Go ahead. 5 A. I'm trying so hard. It would have been 6 prior. It wouldn't have been two years because the 7 office was there when it started flooding. So it was, 8 probably, shortly after that I put the office in. 9 Q. Is there a gradual decrease in elevation from 10 the property from that lip at Avocado Avenue down to the 11 west -- the eastern boundary of the property? 12 A. No. It drain -- everything goes to the 13 retention. 14 Q. The lowest point is the retention? 15 A. Yes, sir. 16 Q. So we talked about earlier, the damages that 17 you are asking for in this case is 200,000 in decreased 18 property value and 650 or so in other damages. Do you 19 recall that? 20 A. Yes, sir. 21 Q. Outside of that spreadsheet we talked about 22 earlier and the thousand dollars for the deductible, 23 what -- what is the reminder of the damage request for? 24 A. To elevate the property. I'll have to 25 re-pour the concrete that I have. I want to elevate the

Page 74 1 roof because I've given up three feet of the interior 2 storage, and I can't get my machinery or anything, my 3 trucks or the machinery into the storage anymore. To 4 put in -- to finish the foundation work around my 5 building. To put in a seawall because it's continually 6 eroding now. All the wiring has to be lifted and 7 raised. The septic needs to be done now. I have a 8 complete breakdown that I think you have it. I believe 9 those were the main costs. 10 Q. When you say a complete breakdown, are you 11 referring to the estimate proposals that you had -- 12 A. Yes. 13 Q. Have -- and we'll look at those. Have you, 14 actually, done any of the work that was in those 15 proposals? 16 A. The only thing I've done to date now is I've 17 had to get a -- I've started the civil engineering to 18 redo the septic. 19 Q. And so that's still in the planning phase? 20 A. I've engaged them. 21 Q. Has the septic been replaced yet? 22 A. I can't until that's -- until they're done, 23 but it will be. 24 Q. You said elevate the property. Are you 25 talking about elevating the entire property?	Page 76 1 Q. Is that the natural elevation of their 2 properties? 3 A. That's where their offices are, correct. 4 Q. Did they raise the property underneath their 5 offices to get to that elevation? 6 A. Their offices have not flooded, period. And 7 they didn't raise them. So I'm not sure -- I'm not sure 8 if I'm not answering your question correctly. 9 Q. No, you are. So they haven't done anything? 10 The condition of their property prior to Brightline is 11 the same as it was after, they just haven't flooded 12 because their property is higher? 13 A. Their properties flood. Their offices are 14 high enough that they don't flood. Okay. Just so we're 15 clear. 16 Q. Yes. And you want to raise the entirety of 17 your property by 32 inches? 18 A. Correct. Some of it's -- that's an average. 19 Q. What would happen with the retention in the 20 area of the middle of your property under this plan? 21 A. Well, then it could go to where you guys said 22 it could go to. 23 Q. I'm sorry. Say again. 24 A. So there's a map that you might have that I 25 gave you. Your plan claims -- so if this is my property
Page 75 1 A. Yes. 2 Q. By how much? 3 A. There is a benchmark. It's, approximately, 4 32 inches or three. There's a benchmark where 5 everything else around me doesn't flood. Like, none of 6 the other offices, none of the other -- and there -- I 7 know what that mark is where -- wherever it gets to a 8 certain elevation, the water goes somewhere else. I 9 don't know where it goes, but it doesn't go past that 10 point. I need to elevate to that elevation. 11 Q. So the buildings and the properties also on 12 Avocado Avenue, when they get to 32 inches, they don't 13 flood? 14 A. They do not. I'm the only one that's gotten 15 water into my buildings. 16 Q. Did the other property owners raise their 17 properties by 32 inches? 18 A. They did not. 32 inches I said, not 13. 19 Q. 32, right? 20 A. Yes. 21 Q. Yes. Let me restate that question then. Did 22 the other property owners raised their properties by 23 32 inches? 24 A. To my knowledge, they have not raised their 25 properties.	Page 77 1 again. I'll use it for reference. And this is the 2 railroad, and this is south. Your guys plan say that 3 the retention, the water is held right here. It's an 4 empty parking lot. It's my property, Mike Willis' 5 property, and then you guys have a property here. Your 6 plan says that's the retention. But it's 30 inches 7 higher than I am. So it all elevates up. So if I went 8 up to 33 inches, at least, that could come and actually 9 be used as retention. 10 Q. Okay. Is that on the -- is it the lot on 11 Avocado Avenue, or is that on the railroad right next to 12 rail line? 13 A. It's on -- off of Avocado Avenue. You guys 14 showed it to us the last time we met at the -- 15 MR. MELOON: And let's not discuss anything that 16 was discussed at mediation. 17 THE DEPONENT: Okay. My bad. 18 MR. TERWILLEGGER: Okay. So let's look at what 19 we'll mark as Exhibit 7. 20 (Deposition Exhibit 7 was marked.) 21 Q. (BY MR. TERWILLEGGER) Do you recognize this 22 document? 23 A. Yes, I do. 24 Q. What is it? 25 A. It is an estimate for -- from B. H. Hamilton

Page 78 1 for raising all our electrical that's inside our 2 buildings now. And to raise everything so we can raise 3 the roof and get back our square footage. 4 Q. This is made out for -- to Home Wreckers? 5 A. Correct. 6 Q. So Home Wreckers would be paying for the 7 construction work here? 8 A. This goes -- the only way I can answer that 9 is in my brain. I never saw the difference between 10 those two. Now that you're asking me, I would have to 11 decide what -- we would be approaching this in a 12 different way, if that makes sense to you. At that 13 time, I was not thinking that. I was thinking Home 14 Wreckers because that's how my brain thinks. 15 Q. So ALT is the family trust you said? 16 A. Yes, sir. 17 Q. Are you the trustee? 18 A. Yes. 19 Q. Are you the sole trustee? 20 A. No. 21 Q. Who else is a trustee? 22 A. My wife. 23 Q. So you and your wife are the only trustees? 24 A. I don't know. I know my wife. My daughter 25 is the boss if something happens to me.	Page 80 1 A. Well, we're -- my intent is to raise this 2 roof and get my property back to where it was. So then 3 everything will be -- they'll have to be disconnected. 4 Then the roof goes up and then this would go in at the 5 same time. So then they would, obviously, be too low at 6 that time. 7 Q. And this work, this proposal has not -- you 8 haven't, actually, contracted to do this work, right? 9 A. No, sir. 10 Q. Would this just be work on the office, or the 11 office and the -- which buildings would this be on? 12 A. The storage building. 13 Q. Storage building, okay. 14 I'm going to show you what we're going to mark 15 as Exhibit 8. 16 (Deposition Exhibit 8 was marked.) 17 Q. (BY MR. TERWILLEGGER) Do you recognize this 18 document? 19 A. Yes, sir. 20 Q. What is it? 21 A. It is a bid to do the seawall to maintain the 22 property barrier there against the water, and to portion 23 against where my building, where they didn't finish the 24 building. 25 Q. And this was a proposal from January 13th,
Page 79 1 Q. So I wasn't digging. So the decisionmaker is 2 for -- 3 A. I make decisions. 4 Q. -- if ALT is going to spend money on 5 something -- 6 A. It's -- it's -- it's me and my wife. 7 Q. Okay. The scope of work on this, raise all 8 electrical outlets. Where are the electrical outlets 9 right now? 10 A. Everything is just low. Everything is 11 awkward because we raised the elevation of the slab so 12 much and then the panels are too low. And then, so 13 everything is just not where it's supposed to be. 14 Q. So with the electrical outlets, specifically, 15 then they are -- they still function, they're just lower 16 than they should be? 17 A. Correct. They do function. 18 Q. Bring service panels up to code. What does 19 that refer to? 20 A. They're too low. 21 Q. Is there anything else wrong with them, other 22 than being too low? 23 A. No. 24 Q. Raise all lighting fixtures. Are they also 25 too low?	Page 81 1 2025? 2 A. Yes, sir. 3 Q. And you have not, actually, done this work 4 yet, right? 5 A. No, sir. 6 Q. The seawall -- well, let's start, looking at 7 project scope. It says install a new 226 foot seawall 8 with two six-foot returns on the east and west property 9 line. East property line would be the railroad side? 10 A. Correct. 11 Q. And the west property line would be the 12 Avocado Avenue? 13 A. Correct. 14 Q. Is this the length of each of those? Is the 15 226 foot, is that running the entire -- 16 A. Correct. 17 Q. -- eastern length of your property? 18 A. Correct. 19 Q. And the entire western length of your 20 property? 21 A. The entire northern. 22 Q. Northern? 23 A. Yeah. 24 Q. Because it says east and west. 25 A. So it would be running east and west on the

Page 82 1 north property line. 2 Q. Okay. So you're running from the east to the 3 west -- 4 A. Yes. 5 Q. -- on the north side? 6 A. Yes, sir. 7 Q. This is running along the creek? 8 A. Yes, sir. 9 Q. Okay. And this would be 24 inches above the 10 existing bank? 11 A. Correct. 12 Q. Now, if you raise the entire property 13 32 inches, would this be necessary? 14 A. Well, we would have to -- we would have to 15 hold it there somehow. 16 Q. So the seawall would then be -- 17 A. There would be some drainage to it. That's 18 why it's only coming up 24 inches. 19 Q. Did you get the survey as mentioned here at 20 the bottom of the first page? 21 A. I have the survey. I would have to get mine 22 updated. 23 Q. Did you have a survey that was less than six 24 months old as of January 2025? 25 A. No, sir.	Page 84 1 Q. So this is the work to raise the storage 2 roof? 3 A. Correct. 4 Q. Okay. Anything else encompassing this? 5 A. Excuse me. 6 Q. Is there anything else covered by this 7 proposal? 8 A. Just the retaining walls and staying on 9 the -- which would be the corner where you saw the 10 trucks, the first part is the retaining walls in that 11 corner to maintain our new elevation. And then the rest 12 of it is for moving everything up. 13 Q. So looking at the breakdown then, the -- 14 would that \$165,000 be -- be the storage building? 15 A. Yes, sir. 16 Q. Okay. And for this work, you have not, 17 actually, done the work or paid anyone? 18 A. No, sir. 19 Q. No contract yet? 20 A. No, sir. 21 Q. Did you make any modifications to the storage 22 building after your purchased the property? 23 A. The lean-to it that's off the front, I 24 enclosed after the railroad went up. I had so many 25 rocks coming in that I put in partition walls now, which
Page 83 1 Q. No. Would the plan with this be that the 2 pipe that you installed that's draining into the creek, 3 would that remain? 4 A. Excuse me. 5 Q. You said that you installed a pipe that's 6 draining water into the creek, kind of, where the 7 natural drainage point of the property is right now? 8 A. So I would be -- I would assume that's going 9 to be the same. It will be out of my control at that 10 time. I'm going to have to get another civil engineer 11 to write up the plan for it. I would assume he's going 12 to do the same thing, but elevated, but I don't know. 13 Q. Okay. And this would be \$134,000 for the 14 seawall? 15 A. Yes, sir. 16 Q. I'll show you what we're going to mark as 17 Exhibit 9. 18 (Deposition Exhibit 9 was marked.) 19 Q. (BY MR. TERWILLEGGER) Do you recognize this 20 document? 21 A. Yes, sir. 22 Q. What is it? 23 A. It's an estimate based on my numbers to lift, 24 bring in the fill, detach the roof, and bring everything 25 up to the elevation we discussed.	Page 85 1 you can see now. 2 Q. About how much did that cost; do you know? 3 A. I have no -- a few thousand dollars. And I 4 raise the slab inside. 5 Q. And the office building you installed, you 6 built that? It wasn't there when you purchased it? 7 A. It's a portable building. We're in -- we're 8 trying -- we're building a new one. But I just bought 9 that and brought it in. 10 Q. Do you how much that cost? 11 A. 15,000. 12 Q. And then that's the same one that's still 13 there -- 14 A. Yes, sir. 15 Q. -- that's raised up on the box now? 16 Okay. Handing you what we're going to mark as 17 Exhibit 10. 18 (Deposition Exhibit 10 was marked.) 19 Q. (BY MR. TERWILLEGGER) Do you recognize this 20 document? 21 A. Yes, sir. 22 Q. And what is this one? 23 A. This is for doing -- redoing all the concrete 24 work after we elevate the property. 25 Q. And it says, approximately, nine -- not

Page 86 1 approximately -- it says: 9,000 square feet of five inch 2 thick concrete. Is 9,000 square feet the entirety of 3 your property? 4 A. No. No. It would be about 80 percent of the 5 existing concrete that you drive on, the little driveway 6 and where we have the storage up front next to the 7 railroad. 8 Q. 80 percent of the existing concrete would be 9 raised? 10 A. Correct. 11 Q. And this one is \$121,000; is that right? 12 A. Correct. 13 Q. You haven't signed a contract or done any 14 work on this one, right? 15 A. No, sir. 16 Q. Showing you what we'll mark as Exhibit 11. 17 (Deposition Exhibit 11 was marked.) 18 Q. (BY MR. TERWILLEGER) And what is this 19 document? 20 A. This is from Elvis at EV Tractor for the cost 21 of bringing in the fill. 22 Q. What is the fill going to do? 23 A. Elevate the property. 24 Q. This is what going to get the entire property 25 up to average 32 inches?	Page 88 1 Q. What's the value of the property right now? 2 A. Right now? 3 Q. Yes. 4 A. I have no idea. 5 Q. Let me show you what I'll mark as Exhibit 12. 6 (Deposition Exhibit 12 was marked.) 7 Q. (BY MR. TERWILLEGER) And what is this 8 document? 9 A. It looks like our Complaint and Demand for a 10 Jury Trial. 11 Q. Did you review this before it was filed? 12 A. Yes. 13 Q. Let me just ask you about a couple of the 14 allegations in here. Looking at paragraph 11. The 15 allegation is: Defendant performed or supervised the 16 upgrade and renovation of the tracks in adjacent areas. 17 Do you know whether Florida East Coast Railway performed 18 any of the renovations? 19 A. I don't know that. 20 Q. Did you ever see anyone from Florida East 21 Coast Railway at the site supervising or anything? 22 A. To my knowledge, I didn't know what east 23 coast railroad. 24 Q. In paragraph 13, the allegation is: As a 25 result of the above described renovation, defendant now
Page 87 1 A. Correct. 2 Q. Okay. Have you signed any contract for this 3 work yet? 4 A. No, sir. 5 Q. Have you elevated any of the property yet? 6 A. Not other than what I told you on that 7 eastern border and that -- or northern border and that 8 southeast corner to match the existing, match that 9 trough. 10 Q. Okay. When did you do that again? 11 A. Almost immediately in response to what was 12 going on. So if they had finished on -- it was less 13 than a week, probably, that they finished that we 14 started doing it immediately just to mitigate it. 15 Q. Okay. When we looked at the initial 16 disclosures, and you can look back if you want, it says 17 one of the damages you were claiming was a \$200,000 in 18 decrease in value of the property. Do you recall that? 19 A. Yes. 20 Q. How did you come up with that number? 21 A. I worked through it with Nathan. I don't 22 remember the exact -- 23 Q. Don't tell me anything about conversations 24 you had with Nathan. 25 A. Okay then.	Page 89 1 directs water away from the railway, rail and 2 right-of-way and onto the property. Is water coming -- 3 the water that's flooding the property coming from the 4 railway itself, or is it coming from the ditch? 5 A. From the -- well, it comes -- to this exact 6 number 13, the water on your rail, the new railroad 7 dumps directly onto my property. 8 Q. Where -- where along the -- there's a wall, 9 right? 10 A. So it comes through the wall in multiple 11 places. 12 Q. Okay. 13 A. And then where the -- on both ends especially 14 the one on the far side where that water goes underneath 15 where we talked about where they put the new pipe, it 16 comes in there like a raging river. I have to keep 17 cleaning that out. It washes out the tracks. 18 Q. Okay. And does any of that water stay in 19 that area that Brightline installed that raised your 20 property 16 inches? 21 A. I'm sure water stays in there. It goes -- I 22 don't know where it all goes. 23 Q. If you go flip back to page six. I just want 24 to ask you about the trespass claim. Paragraph 23, it 25 says: Defendant continuously causes a substance to

Page 90 1 enter onto the property. Is the substance that being 2 referred to there water? 3 A. Yes. 4 Q. And is it continuously coming onto the 5 property? 6 A. So the word continuously means, like, it 7 never stops? 8 Q. Well, that's what I'm asking. 9 A. To me I feel it's continuously. 10 Q. There are breaks? 11 A. There are breaks. Yes, sir. 12 Q. Was the -- we talked earlier, you said that 13 Brightline offered to pay for damages and then didn't 14 end up doing it. That's why you gave them the 15 spreadsheet. Do you recall that? 16 A. Yes. 17 Q. Did they make that offer in an e-mail or text 18 message or in writing? 19 A. I would have to look if it was in writing. 20 They came out and visited all of us. That's when I told 21 you there was so many people there. And they came and, 22 you know, to our office and talked to us, said, put it 23 together and e-mail to us here. And so I don't know if 24 they e-mailed. I have e-mail correspondence after that 25 I recall, but I don't know if it started.	Page 92 1 Brightline and them denying, refusing to pay, do you 2 have any other communications with Brightline? 3 A. No. 4 Q. Did you have any e-mail communications with 5 the mayor? 6 A. No. 7 Q. Is there a phone call or... 8 A. I didn't bring him out. It was the neighbor 9 that asked him to come, and I talked to him at that 10 time. 11 MR. TERWILLEGER: Okay. Actually, I think I'm 12 pretty close to being done. Let's take five minutes and 13 let me -- 14 MR. MELOON: Perfect. 15 THE VIDEOGRAPHER: Going off the video record. 16 The time is 12:05 p.m. 17 (Recess taken from 12:05 a.m. to 12:20 a.m.) 18 THE VIDEOGRAPHER: Coming back on the video 19 record. The time is 12:20 p.m. 20 Q. (BY MR. TERWILLEGER) Just a few, kind of, 21 follow up or clean-up questions here at the end. I just 22 want to make sure, the documents that we talked about 23 that you said that you have, you have e-mails with 24 Brightline where you sent them the spreadsheet and they 25 denied?
Page 91 1 Q. Did you send the e-mail, you, personally? 2 A. Probably not. Probably Brandy, my daughter. 3 Q. Do you recall if there was an acknowledgement 4 of receipt or received, or some kind of response from 5 them? 6 A. Yes. They said that they weren't paying 7 because the dumpster floated against the -- 8 Q. That was their response? 9 A. Yes. 10 Q. I apologize for speaking over you. 11 A. That's all right. 12 Q. Are there any other photos that you have of 13 flooding that you've taken that were not produced in 14 this case? 15 A. That you don't have? 16 Q. Yes. 17 A. Yes. He asked me to put those all together. 18 Q. Okay. Do you know how many? 19 A. I don't. 20 Q. A guess? 21 A. I don't. 22 Q. Okay. Do you have any e-mail communications 23 between you and Florida East Coast Railway? 24 A. No. 25 Q. Other than the ones we talked about	Page 93 1 A. Yes. 2 Q. And then you have a card for the person at 3 Brightline that you spoke with? 4 A. Yes. 5 Q. That's not the same person as the person you 6 were e-mailing with, right? 7 A. No, sir. 8 Q. And you never sent any e-mails to that -- the 9 lady that was there supervising? 10 A. No. 11 Q. You also have the records of flooding that 12 you're taken -- 13 A. Pictures. 14 Q. Let go back. So you said you have -- you 15 take pictures when there are flooding events? 16 A. Yes. 17 Q. Do those pictures have dates? 18 A. Yes. 19 Q. So you can produce something that has the 20 dates of each time it floods? 21 A. Yes. 22 Q. Has there been any change since April in the 23 pattern of flooding on the property? 24 A. Since April of this year? 25 Q. Of this year, yes.

Page 94 1 A. This year we've had less flooding. So that 2 would have been including April, but... 3 MR. TERWILLEGGER: Okay. That's all I have for 4 you. I might have some follow up. 5 CROSS-EXAMINATION 6 BY MR. MELOON: 7 Q. So when we were going Exhibit 3, which is our 8 initial disclosures, specifically, on page five of six, 9 you said you didn't know who would receive it, each 10 damage. Would ALT receive the land value and damages to 11 the land? 12 A. Yes. 13 Q. And then Home Wreckers would receive the lost 14 value of its tangible property or rights, such as, for 15 example, the truck deductible that you paid? 16 A. Yes. 17 Q. Do you know who owns the railroad track? 18 A. I don't know for sure, no. 19 Q. Do you know where -- how does water flow 20 generally? 21 A. On an everyday occurrence? 22 Q. Yes. And this may sound like a stupid 23 question, but does water flow downhill or uphill? 24 A. Downhill. 25 Q. And what way does the water flow -- if you	Page 96 1 available in Melbourne, Florida? 2 A. Not that I can find. 3 Q. What is valuable to you about M2 zoning? 4 A. It allows me to do multiple businesses out of 5 one spot, out of one location. And also allows me to 6 rent out space for businesses that can't do many -- M2 7 allows a lot of things that most zoning does not. 8 Q. Are there things that Home Wreckers does that 9 wouldn't be allowed in another zoning district? 10 A. I don't know for sure. 11 Q. And then turning to Exhibit 5, which is the 12 spreadsheet of damages that you gave to Brightline. 13 A. Yes. 14 Q. The fourth line on that is for the 2019 15 F150 -- 16 A. I have to find it. I have to find it. Yes, 17 that is it. I don't know why I didn't see it the first 18 time. 19 Q. Prior to 2021 when the -- when the second 20 track was installed, was that -- let's back up a little 21 bit actually. 22 So this -- what happened when a new track was 23 installed on the railroad right-of-way to your east? 24 A. We started to flood. 25 Q. And what -- what -- what was exactly done on
Page 95 1 can, kind of, explain the water flow for the property in 2 general? Where does it -- where does it go? 3 A. So I'm trying to make sure I'm understanding 4 your question. But on a -- the water flows past me 5 on -- on a daily basis on east -- west to east on the 6 north side of my property when a rain event, if that's 7 what we're asking, it comes to me from everywhere. 8 Q. So you receive the water from everywhere? 9 A. From all four sides of me, I receive water. 10 Q. So from the north, the east, the west, the 11 south? 12 A. Yes. 13 Q. How does the water come on to your property 14 from the east? 15 A. It comes around both sides of the -- the 16 retention wall and flows down to the pipes. And it 17 comes through all the cracks that are built in that 18 construction wall, which can be seen in the photos. 19 Q. And have you seen water coming through the 20 wall onto your property? 21 A. Yes. 22 Q. Do you know what the zoning of your property 23 is? 24 A. M2. 25 Q. Is there any other similarly zoned property	Page 97 1 the railroad right-of-way? 2 A. What was a large retention area was taken -- 3 was replaced with the railroad track. 4 Q. Would it be fair to say that where the 5 railroad track is now used to be drainage? 6 A. It would be retention. I don't want to... 7 Q. So it would be retention? It would retain 8 water? 9 A. Yes. 10 Q. Where is that water now going that was on the 11 railroad track, to your knowledge? 12 A. To my knowledge, on my property. 13 Q. Have you authorized Florida East Coast 14 Railway to use your property for water retention or 15 drainage? 16 A. No. 17 Q. Are they now using your property for water 18 retention or drainage? 19 A. I believe so, yes. 20 Q. And then there was some discussion of the 21 canal that goes under the railroad tracks. Do you know 22 where that goes on the other side of the railroad 23 tracks? 24 A. I've seen it as far as running parallel with 25 highway 1. And then I don't know exactly where it goes

Page 98 1 after that. 2 Q. And I think you testified earlier that it 3 goes to the river. 4 A. Yes. 5 Q. Do you know which river that would be? 6 A. The Indian River. 7 Q. And then turning to Exhibit 6, which is the 8 photographs and the document and the picture Bates 9 Stamped Home Wreckers 9. And during your testimony you 10 spoke about, kind of, a normal rain and a large rain. 11 Does Home Wreckers 9 show what a normal rain looks like 12 on your property? 13 A. This would be a pretty -- not our normal 14 afternoon shower, but something an inch or two, like, an 15 inch of rain. This happens often. 16 Q. And then on Home Wreckers 11, did this happen 17 with the creek prior to the new track being installed? 18 A. No. 19 Q. And just for clarity, the new track is the 20 one on the west side of the photograph? 21 A. Correct. The one with the white retaining 22 wall. 23 Q. Is the flooding a one-time event? 24 A. No. 25 Q. And then we went through some of the damages	Page 100 1 Q. Yes. You didn't know exactly how you came up 2 with that number? That's the number that's in the 3 disclosures? 4 A. I don't remember how I came up with it, no. 5 Q. Okay. And anything -- you said anything 6 other than the spreadsheet sent to Brightline would go 7 to Home Wreckers? 8 A. Correct. 9 Q. Okay. So what about the other five hundred 10 or so thousand for raising the property, who would that 11 go to? 12 A. I'd have to ask my wife. 13 Q. Okay. 14 A. I don't -- she decides where the money goes. 15 MR. TERWILLEGGER: Nothing else. Thank you. 16 THE DEPONENT: Its a crazy answer, but it's 17 true. 18 MR. TERWILLEGGER: Do you want to read? 19 MR. MELOON: We'll read. 20 THE VIDEOGRAPHER: Would either party like a 21 copy of the video? 22 MR. MELOON: No. 23 MR. TERWILLEGGER: Not yet. 24 THE REPORTER: Anyone ordering the transcript? 25 MR. TERWILLEGGER: I will get the transcript,
Page 99 1 that you're seeking. Would that put you back where you 2 would have been had you not been flooded? 3 A. Yes. 4 Q. And then do you know what's in the water 5 that's coming on your property? 6 A. Do I know what's in it? 7 Q. Yeah. Is it pure water, or could there be 8 other items in the water? 9 A. That's a good question. I don't know. 10 Q. Is it possible that there's other pollutants 11 in the water? 12 A. Yes. 13 MR. MELOON: I have nothing else. 14 MR. TERWILLEGGER: Okay. Just a couple 15 clarifications on that. 16 REDIRECT EXAMINATION 17 BY MR. TERWILLEGGER: 18 Q. You were, sort of, classifying where the 19 damages are going to go. You said ALT the reduction in 20 land value, the 200,000; is that right? 21 A. Yes. 22 Q. And that number, you're not sure how you 23 arrived at that number? That's a number in the initial 24 disclosures? 25 A. Say that again, please.	Page 101 1 yeah. 2 MR. MELOON: We'll get a copy. 3 THE VIDEOGRAPHER: This concludes the deposition 4 of The Corporate Representative of Home Wreckers, Inc., 5 Chad Lekander. Going off the video record. The time is 6 12:31 p.m. 7 * * * * * 8 WHEREUPON, the within proceedings were concluded 9 at the approximate hour of 12:31 p.m. on the 16th day of 10 September, 2025. 11 * * * * * 12 13 14 15 16 17 18 19 20 21 22 23 24 25

Page 102 1 CERTIFICATE OF OATH 2 3 STATE OF FLORIDA: 4 COUNTY OF ORANGE: 5 6 I, Anne Marie Hamill, RPR and Florida Professional 7 Reporter, Notary Public, State of Florida, do hereby 8 certify that CHAD LAKENDER remotely, via Zoom/Remote 9 Counsel, appeared before me on September 16, 2025 and 10 was duly sworn and produced Florida Driver's License as 11 identification. 12 Signed this 16th day of September, 2025. 13 14 15 16 17  18 Anne Marie Hamill, RPR 19 My Commission No.: HH 479868 20 Expires: January 10, 2028 21 22 23 24 25	Page 104 1 W. NATHAN MELOON, ESQUIRE 2 Nmeloon@uslegalteam.com 3 October 2, 2025 4 RE: 2145 AVOCADO LAND TRUST, et al v. FLORIDA EAST 5 COAST RAILWAY, LLC 6 (9-16-25/CHAD LAKENDER/7585142) 7 The above-referenced transcript is available for 8 Review. 9 CHAD LEKANDER should read the testimony to 10 verify its accuracy. If there are any changes, 11 CHAD LEKANDER should note those with the reason 12 on the attached Errata Sheet. 13 CHAD LEKANDER should, please, date and sign the 14 Errata Sheet and e-mail to the deposing attorney as well 15 as to Veritext at Transcripts-fl@veritext.com and copies 16 will be e-mailed to all ordering parties. 17 It is suggested that the completed errata be 18 returned 30 days from receipt of testimony, as 19 considered reasonable under Federal rules*, however, 20 there is no Florida statute to this regard. 21 If the witness fails to do so, the transcript may 22 be used as if signed. 23 Yours, 24 Veritext Legal Solutions 25 *Federal Civil Procedure Rule 30(e)/Florida Civil Procedure Rule 1.310(e).
Page 103 1 CERTIFICATE OF REPORTER 2 STATE OF FLORIDA: 3 COUNTY OF ORANGE: 4 5 I, Anne Marie Hamill, RPR, Florida Professional 6 Reporter, Notary Public, State of Florida, certify that 7 I was authorized to and did stenographically report the 8 deposition of CHAD LAKENDER; that a review of the 9 transcript was requested; and that the foregoing 10 transcript, pages 1 through 103, is a true and accurate 11 record of my stenographic notes. 12 I further certify that I am not a relative, 13 employee, or attorney, or counsel of any of the parties, 14 nor am I a relative or employee of any of the parties' 15 attorneys or counsel connected with the action, nor am I 16 financially interested in the action. 17 18 DATED this 1st day of October, 2025. 19 20 21  22 Anne Marie Hamill, RPR 23 24 25	Page 105 1 2145 AVOCADO LAND TRUST, et al v. FLORIDA EAST COAST 2 RAILWAY, LLC 3 (9-16-25/CHAD LAKENDER/JOB# 7585142) 4 E R R A T A S H E E T 5 PAGE____ LINE____ CHANGE_____ 6 _____ 7 REASON_____ 8 PAGE____ LINE____ CHANGE_____ 9 _____ 10 REASON_____ 11 PAGE____ LINE____ CHANGE_____ 12 _____ 13 REASON_____ 14 PAGE____ LINE____ CHANGE_____ 15 _____ 16 REASON_____ 17 PAGE____ LINE____ CHANGE_____ 18 _____ 19 REASON_____ 20 _____ 21 Under penalties of perjury, I declare that I have read 22 the foregoing document and that the facts stated in it 23 are true. 24 _____ 25 CHAD LAKENDER DATE

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Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

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the deposition wholly or partly, on motion under
rule 1.330(d)(4).

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA
3 ORLANDO DIVISION
4 CASE NO.: 6:24-CV-1691-PGB-RMN

5
6 2145 AVOCADO LAND TRUST AND
7 HOME WRECKERS, INC.,
8 Plaintiffs,

9
10 V.

11
12 FLORIDA EAST COAST RAILWAY,
13 LLC,
14 Defendant.

15
16 DEPONENT: ROBERT LEDOUX, ON BEHALF OF FLORIDA EAST
17 COAST RAILWAY, LLC

18 DATE: SEPTEMBER 30, 2025

19 REPORTER: DANIELA RODRIGUEZ-GUERRERO
20
21
22
23
24
25

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STIPULATION

The 30(b)(6) deposition of ROBERT LEDOUX ON BEHALF OF FLORIDA EAST COAST RAILWAY, LLC was taken at GUNSTER, YOAKLEY & STEWART, P.A., 1 INDEPENDENT DRIVE, SUITE 2300, JACKSONVILLE, FLORIDA 32202 on TUESDAY the 30th day of SEPTEMBER 2025 at 9:58 a.m. (ET); said deposition was taken pursuant to the FEDERAL Rules of Civil Procedure 30(b)(6).

It is agreed that DANIELA RODRIGUEZ-GUERRERO, being a Notary Public and Court Reporter for the State of FLORIDA, may swear the witness and that the reading and signing of the completed transcript by the witness is not waived.



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1 PROCEEDINGS

2 THE REPORTER: All right. Good morning,
3 everyone. We are now on the record.

4 Mr. Robert Ledoux --

5 MR. LEDOUX: Ledoux.

6 THE REPORTER: Ledoux. My apologies. May you
7 please --

8 MR. LEDOUX: Not a problem.

9 THE REPORTER: May you please raise your right
10 hand for me, sir?

11 Do you solemnly swear or affirm that the
12 testimony you're about to give will be the truth,
13 the whole truth, and nothing but the truth?

14 THE WITNESS: Yes.

15 THE REPORTER: Thank you so much.

16 And Counsel, you may begin.

17 DIRECT EXAMINATION

18 BY MR. MELOON:

19 Q. Good morning. My name is Nathan Meloon. I
20 represent the Plaintiffs in this action. Have you ever
21 had your -- what is your name, for the record?

22 A. Robert Ledoux.

23 Q. And how do you spell that?

24 A. L-E-D-O-U-X.

25 Q. Have you ever been deposed before?



1 A. Yes.

2 Q. How many times?

3 A. A handful. Three or four, I guess. I
4 don't --

5 Q. So I'll go over some ground rules for this
6 morning's deposition. If I'm asking a question, please
7 let me finish my question for the benefit of the court
8 reporter. And let's try not to talk over each other
9 because that makes her job harder. Can we agree on
10 that?

11 A. No problem.

12 Q. And because everything has to be taken down by
13 the court reporter, she can't record head nods or shakes
14 or verbal gestures. So could you answer everything
15 audibly and if it's a yes or no with a yes or a no? Can
16 we agree on that?

17 A. Yes.

18 Q. And if I ask a question and you don't
19 understand it, please let me know. Otherwise, I'm going
20 to assume that you understand what I'm asking. Can we
21 agree on that?

22 A. Yes.

23 Q. And if you need a break at any point, please
24 let me know. Although I don't anticipate this taking
25 much past lunch. Can we agree on that?



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1 A. Yes.

2 Q. Are you on any medication that would affect
3 your ability to testify truthfully?

4 A. No.

5 Q. Are you under the influence of any alcohol or
6 drugs?

7 A. No.

8 Q. Is there anything that's affecting your mental
9 condition today?

10 A. No.

11 Q. Have you ever been convicted of a crime of
12 dishonesty or a felony?

13 A. No.

14 Q. Have you discussed today's deposition with
15 anyone other than your attorney?

16 A. No.

17 Q. Okay. And what have you done to prepare for
18 today's deposition?

19 A. I reviewed a couple of documents my attorney
20 provided.

21 Q. And what is your job title?

22 A. Senior vice president.

23 Q. And that's of Florida East Coast Railways?

24 A. That's correct.

25 Q. And what is your education history?



1 A. An undergrad degree in business, a master's in
2 MBA, and a juris doctor degree.

3 Q. And where did you get your law degree?

4 A. George Mason University School of Law.

5 Q. And when did you graduate?

6 A. I believe '86.

7 Q. And where did you get your MBA?

8 A. Virginia Tech.

9 Q. And when was that?

10 A. It would have been '89 or '90.

11 Q. What about your undergrad degree?

12 A. At University of New Hampshire.

13 Q. And in the past three or four times you've
14 given a deposition, was that in an individual capacity
15 or in a corporate representative capacity?

16 A. Corporate representative.

17 THE REPORTER: Apologies for interruption.

18 Mr. Ledoux, may you just speak up a little bit?

19 THE WITNESS: Sure.

20 THE REPORTER: Thank you, sir.

21 BY MR. MELOON:

22 Q. I'm going to hand you what the court reporter
23 will mark as Exhibit A to this morning's deposition.
24 Have you seen this document before?

25 (Exhibit A was marked for identification.)



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1 A. Yes.

2 BY MR. MELOON:

3 Q. And what is it?

4 A. It's notice of taking deposition.

5 Q. And are you here this morning pursuant to this
6 notice of taking deposition?

7 A. I am.

8 Q. Okay. And if you wouldn't mind turning to
9 Page 7.

10 A. Yes.

11 Q. And then -- it's at the bottom there, and then
12 it continues on to Page 8. But are you prepared to
13 testify this morning as to those areas of inquiry?

14 A. I am.

15 Q. And if I refer this morning to case, lawsuit,
16 or litigation, you understand that it refers to the case
17 identified in the caption of this lawsuit?

18 A. I do.

19 MR. MELOON: And I have what we'll mark as
20 Exhibit B. Thank you.

21 (Exhibit B was marked for identification.)

22 BY MR. MELOON:

23 Q. Do you recognize this document?

24 A. No.

25 Q. These are the initial disclosures filed by



1 Florida East Coast Railway, LLC -- or served by Florida
2 East Coast Railways, LLC in this action. Have you ever
3 -- so have you ever seen this document before?

4 A. No.

5 Q. On the first area of the disclosures, there's
6 three persons who are identified as having discoverable
7 information to support Defenses, which should be the
8 corporate representative of Florida East Coast Railways,
9 the corporate representative of 2145 Avocado Land Trust,
10 and the corporate representative of Home Wreckers, Inc.
11 Are there any other persons that you believe that have
12 discoverable information about the Defenses that you may
13 raise in this case?

14 A. I don't know.

15 Q. Is there anything you would need to look at or
16 consult to determine who would have discoverable
17 information about this case?

18 A. Not -- not by my company, no.

19 Q. Okay. Who would be the individuals at the
20 company that would have the discoverable information
21 about this case or that have knowledge about the facts
22 of this case?

23 A. Me.

24 Q. Anybody else?

25 A. No.



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1 Q. And then on the next -- on Subsection ii on
2 Page 2, it describes three sets of documents, which
3 would be Brightline as-built drawings, records related
4 to inspection of culverts, and cleanout records near the
5 property, and val maps of the FECR right-of-way near the
6 property. Are there any other documents that Florida
7 East Coast plans to use to support its defenses in this
8 case?

9 A. I don't believe so.

10 Q. And what is a V-A-L map?

11 A. A val map is a map that was created in the
12 1920s to identify the right-of-way ownership of railroad
13 tracks. They're used by all the railroads in the United
14 States.

15 Q. Do you know -- is val an acronym or a --

16 A. It's a valuation map --

17 Q. Okay.

18 A. -- that was submitted to the ICC back in the
19 day when they created the railroad rates. So there were
20 valuation maps to determine the value of the property
21 the railroads owned.

22 Q. Okay. I'm going to hand you what we'll mark
23 as Exhibit C. Have you seen this document before?

24 (Exhibit C was marked for identification.)

25 A. No.



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1 BY MR. MELOON:

2 Q. Do you know what a culvert inspection report
3 is?

4 A. I'm familiar with it.

5 Q. You are familiar with them?

6 A. I'm familiar with the inspection report.

7 Q. Okay. And what do inspection reports show?

8 A. They will show the condition of -- in this
9 particular case, the condition of the culvert, whether
10 it had been -- whether it's -- it's damaged, whether
11 it's got debris in it, whether it needs maintenance
12 work.

13 Q. And it says on this culvert inspection report
14 "milepost 189.12." What does that mean?

15 A. Similar to the highway mileposts on 95, we use
16 mileposts to determine the exact location of anything
17 along the right-of-way. For the Florida East Coast
18 Railway, you're sitting at Milepost 0 in Jacksonville.
19 Miami is Milepost 351 or 355. Milepost 189 is
20 Melbourne. 0.2 is -- 0.12 is how many feet from
21 milepost 189 you go down to find the location.

22 Q. So to go to this location, you go to Milepost
23 189 and then go 12 feet from there?

24 A. If it's .1. It's either 12 feet or 120 feet.
25 I don't know. I'd have to look at the actual -- the



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1 actual map, but -- but basically, that's what -- that's
2 what they would do.

3 Q. Is it also possible that it could be 0.12
4 miles?

5 A. It could be. I don't -- to be honest, I'm not
6 familiar with -- with exactly the nomenclature they use.
7 I know -- I've seen the real estate maps that show plus
8 -- plus the number of feet. I'm not used to 1.0 --
9 0.12, to be honest with you. So they may be using 0.12
10 miles. I'd have to ask specifically Mr. Briggs.

11 Q. And is Mr. Briggs the one who did the
12 inspection on this?

13 A. It looks like Mr. Guerra did the inspection.
14 Mr. Briggs is his supervisor.

15 Q. And then with the sections, and it says "Line
16 number 1, 2, 3." What does that mean?

17 A. I'm sorry?

18 Q. In the -- there's a table in about the top
19 middle section of this --

20 A. Yeah.

21 Q. -- of page FECR 1?

22 A. Yeah.

23 Q. What does that table show?

24 A. It shows the culvert description, the
25 headwall, and the wing wall.



1 Q. And what is that? What is a headwall?

2 A. The headwall and the wing walls are the
3 specific entrance and exits of the culvert itself.

4 Q. And then below the table, there's these
5 various -- it says "requirements," and then there's
6 various boxes next to certain sections. What do those
7 boxes mean?

8 A. Those boxes determine whether they need
9 immediate attention to do repair work on this particular
10 location that's been inspected.

11 Q. And then I noticed on this, ditching and
12 remove vegetation from the ends is checked?

13 A. That's correct.

14 Q. That would mean that needs immediate
15 attention?

16 A. That means it would need a near term -- near
17 term action, yes.

18 Q. And what is --

19 A. Near -- near term, meaning that, you know,
20 depending on the condition and whether -- if there's a
21 hurricane coming through, it would be immediately taken
22 care of. If it's no rain for the next week or two, they
23 would eventually schedule to get out there, you know? It
24 just -- it depends on the weather conditions, how fast
25 they need to do the work there.



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1 Q. And what does it mean if the box for ditching
2 west end of pipe is checked?

3 A. That means that the -- if there's been silt
4 built up, that they would need to ditch that silt back
5 out.

6 Q. Is that all that means?

7 A. Yeah.

8 Q. And what about remove vegetation from the
9 ends?

10 A. The same thing. It would be overgrown
11 vegetation around the drainage pipe.

12 Q. And then there's various comments here. Who
13 would write those comments?

14 A. It would have been Mr. Guerra in this
15 particular report. "Cracks forming on face of headwall."
16 They would look at the condition and how bad the cracks
17 are, determine whether they need to replace them, repair
18 them, you know? Right here, they're talking about
19 density plastic. They would just put some sealing on it
20 if it's just a minor crack.

21 Q. And what is slip lining align?

22 A. The slip line -- the -- if you look at the top
23 table. This is HDPE. It's the type of pipe that was
24 put in there. There would be a slip line inside the
25 pipe to protect the pipe.



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1 Q. And then turning to the next page, which is
2 paginated FECR 2.

3 A. Yes.

4 Q. Who would have taken these photos?

5 A. Mr. Guerra would have taken the photos.

6 Q. And would those have been taken at the same
7 time of -- as his inspection?

8 A. They would have.

9 Q. And do you know where -- kind of, whether or
10 not this -- the photos of the pipe were taken looking to
11 the east or looking to the west?

12 A. No. I -- there's no description. I -- I
13 wouldn't know. I mean, Mr. Guerra -- I'd have to ask
14 him specifically.

15 Q. And then looking on Page FECR 4 --

16 A. Yes.

17 Q. -- on the bottom picture --

18 A. Yeah.

19 Q. -- face of headwall west side, would this be
20 the vegetation that need to be removed?

21 A. That's correct.

22 Q. And then the same with the silt.

23 A. The silt -- the silt on the bottom, as you can
24 see -- that's correct -- to ensure proper drainage.

25 Q. And I noticed as well that the water is at



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1 least up to the bottom of the pipes, is that a fair
2 description?

3 A. I -- I can't speak if that's water or mud, to
4 be honest with you.

5 Q. And then turning to Page 5 --

6 A. Yeah.

7 Q. -- I noticed the -- there appears to be water
8 coming out of the -- out of all three pipes; is that
9 fair?

10 A. Yes.

11 Q. Is -- the water on the east side, does it
12 appear to be lower than the water on the west side?

13 A. Well, I can't -- I can't -- as I said, I can't
14 speak for water on the west side. It's clearly lower --
15 the water table -- of that. I can't tell if it is a
16 runoff creek or what it is, but it's clearly lower than
17 the pipes, yes.

18 Q. And then all three of the pipes in this are --
19 appear to be clean?

20 A. Clean enough to run the water, yes. It's
21 clear from the statement that there must be some silt
22 that they're concerned about that they would have
23 removed to ensure that the drainage occurred.

24 Q. And I noticed there's various dates on this.
25 There's a -- the inspection date would be November 22nd,



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1 2023 and then this document was printed out December
2 19th of 2024?

3 A. Yes.

4 Q. Is -- what program do you -- does Florida East
5 Coast use to make these reports?

6 A. It's -- there's no -- there's no software
7 program. It's literally a manual system that they use
8 in the engineering department to do the inspection
9 reports, and then they're filed away. The print date
10 was probably the request of the discovery of this
11 lawsuit while it was printed in October -- in
12 December '24.

13 Q. Who is responsible for the maintenance of the
14 right-of-way for Florida East Coast tracks?

15 A. The Florida East Coast Railway.

16 Q. And what about the drainage from Florida East
17 Coast tracks?

18 MR. TERWILLEGER: Object to form.

19 THE WITNESS: Florida East Coast Railway has
20 bridge inspectors that inspect bridges and culverts.
21 Anything that is not on permafrost literally solid,
22 it's deemed to be a bridge. Although, people call
23 them culverts and other types of different terms.
24 Anything that is not 100 percent on -- at grade on
25 solid surface, our bridge department is responsible



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1 for the inspection of anything, whether it's a
2 culvert, a tube, a bridge, whatever -- whatever is
3 not necessarily on solid ground.

4 BY MR. MELOON:

5 Q. And there's no permafrost in Melbourne,
6 Florida?

7 A. No, it's not a permafrost question. It's an
8 inspection issue to make sure that the -- in this
9 particular case, they would make sure that the -- the
10 tube that you see there wasn't compromised because if it
11 is, it could potentially cause a sinkhole and derail the
12 trains.

13 So they're inspecting to make sure that the
14 drainage is there, so it doesn't back up and cause
15 flooding and wash out the tracks. They also inspect the
16 tube itself. In this case, a tube, the culvert, to
17 ensure that it's -- the integrity of the culvert is
18 there so it would not result in a cave-in resulting in
19 potential compromise with the track above.

20 Q. Is it part of the responsibility of the bridge
21 department to make sure that the water drains and flows
22 through the culverts?

23 A. That's correct. That is their responsibility.

24 Q. And does Florida East Coast, is their goal to
25 maintain the historical flow of water?



1 A. I -- I don't --

2 MR. TERWILLEGER: Object to form.

3 THE WITNESS: I don't understand the question.

4 BY MR. MELOON:

5 Q. That was a bad question.

6 A. I'm not trying to be difficult.

7 Q. That was a bad question.

8 A. The Florida East Coast Railway has been there
9 over 120 years. Clearly, over the course of time, based
10 on development on both sides of the track, the parties
11 have had to manage with third parties, all types of
12 flows. We have worked with people like Find (phonetic)
13 and other organizations to handle different requests
14 based on what's being built on both sides of the tracks.

15 Q. Yeah. Yeah.

16 A. I mean, I've been there -- we've been here for
17 over -- I know in this location, over 120 years.

18 Q. And that -- kind of, back to the first page of
19 this, it says that the year installed, 1926. Is that
20 when the culvert was installed?

21 A. No. That's when the -- the track would --
22 there might have been a culvert there. I can't speak
23 for an old culvert. The bridge -- the -- the tracks
24 would have been installed in 1926. It's clear from the
25 pipes that these pipes aren't -- weren't built in 1926.



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1 So they would have been replaced over time.

2 Q. Do you know in this location how many tracks
3 have been there in the past 25 years?

4 A. I can't speak for exactly 25 years. I do know
5 that there were, historically, two tracks at this
6 location. One track was torn out over the period of
7 1980 and 2000. And then a second track -- that track
8 was reinstalled. A new track was put in sometime in, I
9 believe, 2022 or '20 range. I don't remember exactly
10 the construction date of Brightline. I'd have to look
11 it up.

12 Q. And was that -- the reinstallation from
13 Brightline, was that -- that was done on Florida East
14 Coast right-of-way?

15 A. It was.

16 Q. I'm going to hand you what I'm going to mark
17 as Composite Exhibit D.

18 (Exhibit D was marked for identification.)

19 A. It's the same.

20 BY MR. MELOON:

21 Q. Oh, I'm sorry -- I was trying to figure out --
22 my apologies. My assistant's out this week, so I'm
23 having to use somebody else who's not used to my
24 organization style.

25 A. I understand.



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1 Q. Sorry.

2 MR. TERWILLEGER: It should be three pages?

3 MR. MELOON: Three pages.

4 BY MR. MELOON:

5 Q. Are you familiar with the Brevard County
6 Property Appraiser's Office?

7 A. I am.

8 Q. Have you ever used their map tool to search
9 who owns property?

10 A. No.

11 Q. Do these screenshots appear to show the
12 Florida East Coast right-of-way in the section of
13 Melbourne, Florida we're dealing with in the lawsuit?

14 A. I believe so. I've not used them, so I can't
15 verify that this is, in fact, their map.

16 Q. And then moving on to what I'll mark as
17 Exhibit E. Have you seen this document before?

18 (Exhibit E was marked for identification.)

19 A. I have.

20 BY MR. MELOON:

21 Q. And what is this?

22 A. This is an easement to provide passenger
23 service between West Palm and Coco granted by the
24 Florida East Coast Railway to All Aboard Florida.

25 Q. And I notice that it's called a corrective



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1 Second Amended and Restated. Does it just correct the
2 legal description?

3 A. No. All Aboard Florida at the time split out
4 the easement. The easement originally was one easement
5 from Miami to Jacksonville. They split it out for their
6 own internal financial reasons between Miami to Coco --
7 to West Palm, West Palm to Coco, and then Coco to
8 Jacksonville.

9 So they took the single easement and split it
10 out. So technically, it was corrective because they
11 split into three separate easements versus a single
12 easement.

13 Q. And then turning to the eighth page, is that
14 your signature on behalf of Florida East Coast Railway?

15 A. It is.

16 Q. And then turning to Exhibit 1B, which begins
17 at Page 11. It's not paginated. And would this be the
18 legal descriptions of Brevard County for the easement
19 area or the right-of-way area that an easement was
20 granted to Brightline, All Aboard Florida?

21 A. It would be. As you can see at the top, from
22 Milepost 166.9 to Milepost 212.18, these sections and
23 townships would be the individual deeds that FEC had
24 ownership.

25 Q. Was the easement for the entire width of the



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1 right-of-way or for only a certain portion of the right-
2 of-way?

3 A. The entire width. If you turn to Page 20, it
4 will show you the original and the dates in which they
5 were filed and the list of records of the original
6 easements by county. Those were the ones that were
7 replaced.

8 So if you look at Brevard, 12-28-07 was the
9 first one. Then they replaced -- they did the new one
10 in 2014, and then they did this latest one in 2017.

11 Q. You kind of answered my next question, but
12 this was recorded in the official records of Brevard
13 County?

14 A. It was.

15 Q. Okay. And then all the other counties that --
16 property?

17 A. That's right. Literally from -- as you can
18 see from Miami to Jacksonville.

19 Q. And then turning to what we'll mark as Exhibit
20 F. I'll hand you my copy --

21 (Exhibit F was marked for identification.)

22 A. Whatever --

23 BY MR. MELOON:

24 Q. -- on this.

25 MR. TERWILLEGER: --



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1 MR. MELOON: Yeah. Let me figure out the date
2 on this.

3 BY MR. MELOON:

4 Q. Have you ever used the Brevard County Property
5 Appraiser's map view or EagleView to look at right-of-
6 way owned by Florida East Coast Railway?

7 A. No.

8 Q. Do you recognize --

9 A. We -- we had found that the property
10 appraiser's information is not always accurate. That's
11 why we don't use it.

12 Q. And I think sometimes the lines are probably
13 off a little bit, too on the property appraiser. Do you
14 recognize the property that's highlighted in blue?

15 A. I am familiar with it, yes.

16 Q. Do you know who owns that property?

17 A. I believe your client.

18 Q. And do you recognize what is to the east of
19 the property highlighted in blue?

20 A. FEC right-of-way.

21 Q. And in this -- it only shows one track in this
22 photograph.

23 A. This one shows two.

24 Q. Well, I have one that says January 2021.

25 A. Oh -- sorry. Yeah. That's one track.



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1 Q. And then the next page is a similar picture
2 that shows January 2022 to March 2022 as the dates. On
3 the top of -- the date's on the top left of the
4 photograph?

5 A. Oh.

6 Q. It has January 30th, 2022.

7 A. Yeah.

8 Q. In that one, what appears to have been a
9 grassy area has turned into what appears to be a sandy
10 area, is that a fair description?

11 A. It does.

12 Q. And what was being done there?

13 A. Brightline was constructing a second track.

14 Q. And do you know what the -- this -- the grassy
15 area that turned into the sandy area, what was -- how
16 that property was used by Florida East Coast prior to
17 2021?

18 A. It would have been surplus area to use for the
19 maintenance teams. If you look at the number 2021, what
20 you can see to the left of the track, that would have
21 been where the old track was. And that also would have
22 been what we used for our maintenance away team to drive
23 up and down the right-of-way to inspect the track. And
24 they would have used that location in the grassy area to
25 put down ties or -- or extra rail if they were doing



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1 repairs.

2 Q. And do you know what the -- do you know what
3 the -- and was it flat? Was it graded?

4 A. I can't tell from the picture.

5 Q. Okay.

6 A. I -- I mean, frankly, it's all over the map
7 from, you know, 350 miles. Some is flat. Some is not.
8 I -- I can't specifically speak for the pictures. The
9 way that --

10 Q. And you don't know whether it was below or
11 above the property owned by the Plaintiff in this case?

12 A. No. Not -- not by this picture, no. It's
13 clear the -- a wall was made. That's all I know.

14 Q. And then as far as the picture from January
15 2022, do you know what was done with the topography of
16 that area, if it was flat and raised, lowered?

17 A. It -- it would have been flat in some manner
18 in order for the -- the track to be laid. Brightline
19 had requirements to have the track to be flat as best as
20 they could and stable -- higher speeds that they were
21 going to run passenger. So they would have had specific
22 engineering requirements to have it as flat as possible.

23 Q. Do you know whether that area, prior to it
24 being flattened for Brightline, would have conveyed any
25 water from the neighboring areas?



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1 A. No.

2 Q. And just to be clear, is that you don't know,
3 or is that a -- it didn't convey water?

4 A. I don't know.

5 Q. Okay.

6 A. I -- I don't have any -- any information
7 either way.

8 Q. And do you know if -- whether or not it's
9 stored water?

10 A. No. This wouldn't have been a -- there's no
11 retention pond to my knowledge. We do have retention
12 ponds in certain locations, but not at this one, it
13 looks like.

14 Q. And then moving to the next photo, which is
15 dated January 5th, 2025. This shows it as it is,
16 essentially today.

17 A. That's probably correct.

18 Q. And there's the two lines there, which are for
19 the -- the one on the east is for -- or the west is for
20 Brightline?

21 A. No, the -- the tracks -- both tracks are used
22 by both railroads. They built that track, yes, but both
23 of us operate on both tracks.

24 Q. And do you know there's -- I see there's a
25 ditch that goes under the railway. Do you know which



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1 mile marker that is?

2 A. I -- I don't know.

3 Q. Do you know if any calculations were done as
4 far as -- well, strike that.

5 What was on the 2nd page of this photograph?
6 The photograph from 2022 shows the white area where the
7 grassy area was?

8 A. That's correct.

9 Q. Do you know what that material is?

10 A. That would have been -- would have been
11 standard gravel.

12 Q. And that would have replaced dirt and grass?

13 A. Yes. And then they would put what we call
14 ballast, which is -- which is granite rocks, large
15 granite rocks for drainage, on top of that before they
16 put the track down.

17 Q. And how large are those large rocks?

18 A. They are probably the size -- a little big --
19 like the size of a golf ball. Not for drainage. Not
20 the kind of stuff you want to walk on all the time, but
21 it's -- it's intentionally designed. And they use
22 granite because it -- it lasts longer from -- and -- and
23 it doesn't cause any -- any runoff like limestone or
24 something else would cause runoff.

25 And so granite is actually brought in from



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1 Georgia to put on the base to build -- to be the final
2 layer that stabilizes the ties and the rail. So if you
3 go up -- look, you'll see it. And it ranges anywhere
4 from a foot to three feet of actual granite.

5 Q. And then what's under the granite ballast?

6 A. The -- the sand limestone, just general gravel
7 that would be under there to stabilize it.

8 Q. And was there a wall installed between the
9 Florida East Coast property and the Plaintiff's
10 property?

11 A. I don't have specific information and
12 knowledge of the wall being built, but I have personally
13 seen it, so I acknowledge it exists, but we don't have
14 any information at FEC regarding what -- how the wall
15 was built, what's made out of, or anything to that, how
16 thick it is. We're still waiting for the as-built
17 information from Brightline.

18 Q. So you don't know if it's a solid wall or if
19 it's a wall that has holes in it?

20 A. No. You know, I -- we have no information
21 about the -- the construction of the wall or what it's
22 made out of, if it's got weeping holes or whatever else
23 might be in it.

24 Q. And you don't know if there's vegetation
25 growing out of the wall?



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1 A. No, not to my knowledge.

2 Q. Do you know if any St. Johns River Water
3 Management District permits were applied for in the
4 track expansion?

5 A. No, Brightline would have applied to either
6 St. Johns Water Management or South Florida, depending
7 on where the location was.

8 Q. And in Brevard County, that would have been --

9 A. Oh, I don't -- I'm not sure if St. John -- I
10 don't know where the boundary is between St. Johns Water
11 Management and South Florida Water Management District
12 on the -- someone else. I -- I know we're subject to
13 both of them, but that's all I know. And then I let
14 some -- the -- the -- water gurus tell me if there's a
15 permit needed, which one they filed to.

16 Brevard? Probably St. Johns, but I'm not sure
17 where -- where in the demarcation is between that and
18 South Florida.

19 Q. Did Florida East Coast review any of the
20 permitting documents that Brightline submitted to St.
21 Johns?

22 A. No.

23 Q. Brightline had an easement as their sufficient
24 real property interest to --

25 A. Had an easement.



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1 MR. TERWILLEGER: Object to form.

2 THE WITNESS: Yeah. You -- you've shown me the
3 easement. Yes, they had an easement.

4 MR. MELOON: Sorry -- I'm going to mark as
5 Exhibit G. I'm not using these all 400 pages, but --

6 I'm going to keep this in the binder just to be
7 easier. And it is front and back as well.

8 I'll mark this as G.

9 (Exhibit G was marked for identification.)

10 BY MR. MELOON:

11 Q. Do you know who TranSystems Corporation is?

12 A. Yes.

13 Q. Who is TranSystems Corporation?

14 A. They're a contractor that does work for the
15 railroads from time to time. They're an engineering
16 firm.

17 MR. TERWILLEGER: To be clear, on this exhibit,
18 I've got -- I might have two copies.

19 MR. MELOON: You might have to give that --

20 MR. TERWILLEGER: There's -- is the last
21 page 396?

22 MR. MELOON: Yes.

23 MR. TERWILLEGER: Okay. 1 through 396 is the
24 entire --

25 MR. MELOON: 1 through 396, yeah. I gave you



1 two copies. It was not as bad as --

2 MR. TERWILLEGER: Yeah. And you might actually
3 have --

4 MR. MELOON: You might have two copies too.

5 THE WITNESS: I do.

6 MR. TERWILLEGER: Okay.

7 THE WITNESS: Yeah. This -- this looks like --
8 yeah, there are two copies in here.

9 MR. TERWILLEGER: Okay.

10 BY MR. MELOON:

11 Q. And then looking -- beginning at Page 5 or
12 Page 6 of Exhibit G --

13 A. Yeah.

14 Q. -- it mentions that "this DO 8 portion of the
15 proposed project from MP 166.9 to MP 233.4 includes 82
16 cross drains that were either listed in track chart or
17 identified in the field to convey stormwater through the
18 existing Florida East Coast Railway right-of-way." What
19 is track chart?

20 A. Track charts are just that. They would show a
21 map of FEC's tracks and where -- specifically where the
22 track was and where other tracks connected with it with
23 -- what we call turnouts and switches. And then it's
24 just a -- it's a -- it's a map that's used by our
25 engineers to do inspections.



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1 They see the track charts and know where the
2 track -- you know, from point A to B and where --
3 anything else -- whether they'd be signal boxes, whether
4 they'd be culverts like this or anything else along the
5 way. They would use the track charts to determine where
6 that's -- other third-party things are located as well
7 as FEC -- any other things FEC installed on the
8 right-of-way.

9 Q. And then this document also states that,
10 "Furthermore, where appropriate analyses are provided to
11 demonstrate that the proposed lengthening of the
12 culverts will have no appreciable adverse impact on the
13 surrounding properties." Do you know why that would be
14 important?

15 A. No, we did not contract with TranSystems as
16 you see in the first page. This was done by All Aboard
17 Florida. So this is the first time I'm seeing this
18 document.

19 Q. And then on the third paragraph, it says that
20 "This project is not proposing to introduce new drainage
21 conveyances or block existing ones. It is simply trying
22 to maintain the status quo while allowing for the rail
23 construction to occur." Would you agree with that
24 statement?

25 A. I cannot agree or deny that statement. As I



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1 said, I did not see this document. It was not
2 commissioned by the Florida East Coast Railway, and this
3 is the first time I'm seeing it. So if this is the
4 scope in which Brightline and TranSystems entered into
5 this, I think the words speak for themselves.

6 Q. And then this paragraph goes on to say this,
7 "The existing rail corridor has been functioning for
8 decades and as such, already coexists with the
9 surrounding properties and drainage systems." Do you
10 disagree with that statement?

11 A. No. We've existed for 120 years and have
12 multiple culverts throughout the quarter.

13 Q. And then the next sentence, "If there were
14 existing problems with the system, then there would be a
15 record of these. And most likely, they would have
16 already been addressed over the last century of
17 operation." Do you disagree with that?

18 A. No.

19 Q. And did Florida East Coast share any
20 information such as track chart or anything else with
21 All Aboard Florida to help them produce this document?

22 MR. TERWILLEGER: Object to form.

23 THE WITNESS: I can't speak exactly, but we
24 probably did provide the track charts. I'd have to
25 ask, but -- but the track charts are just



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1 representative of what's out there. They're not a
2 survey. They're not dimensionally perfect, so
3 they're just used by our engineers in the field to
4 find things.

5 BY MR. MELOON:

6 Q. And then turning to Page 158.

7 A. Yeah.

8 Q. It says, according to track chart, there are
9 triple 40-foot long, 42-inch RCP culverts at this
10 location. Do you recognize -- have you ever seen these
11 triple culverts before?

12 A. No.

13 Q. Okay. Do you know where 189.12 is?

14 A. The same location you gave me the other map
15 to.

16 Q. Okay.

17 A. It's clear from this picture that the water
18 was much higher on the east side. And whenever this
19 picture was taken than the map -- the picture you sent
20 me later.

21 Q. And the second paragraph here says that the
22 culverts are proposed to be extended 21 feet and a new
23 headwall added on the western end. Do you know if
24 that's what happened?

25 A. I do not know. No. Brightline would have



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1 been the one constructing it.

2 Q. And they would have been constructing that on
3 the Florida East Coast right-of-way?

4 A. That's correct.

5 Q. So does Florida East Coast Railway know how
6 much they extended the culverts?

7 A. No, we haven't seen the as-builts.

8 Q. And you -- do you know what hydro flow results
9 are?

10 A. No, I don't specifically know what hydro flow
11 results are.

12 Q. This document says, "The hydro flow results
13 show that the upstream head water at the western side
14 will increase slightly from elevation 11.0 to 11.2 due
15 to the longer length and higher upstream invert
16 elevation." Do you know what that means?

17 A. No. I'm sorry. I'm not an engineer.

18 Q. Do you know what the elevation of any of the
19 adjacent buildings are?

20 A. No, I have no information on the adjacent
21 buildings.

22 Q. And do you know if any of the buildings are at
23 or near 11.2 elevation?

24 A. As I said, I know -- I don't know what their
25 -- their heights are.



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1 Q. Do you know if -- when this document was being
2 created, if any elevations were taken from the nearby
3 buildings?

4 A. No. I would have no information on that.
5 You'd have to contact TranSystems.

6 Q. And do you know what a higher upstream invert
7 elevation is?

8 A. Nope.

9 Q. Do you know which way the general water flows
10 in this area?

11 A. No, I don't have any specific knowledge of the
12 flow.

13 Q. Do you know if the water would flow from the
14 west towards the Indian River Lagoon, or would it be the
15 opposite?

16 A. I don't know because there's a -- there was a
17 ditch on the east -- on the west side. So I can't tell
18 you whether it went north, south on the ditch, or it
19 went east, west under the -- through this culvert or
20 both.

21 Q. And then the last paragraph here, it says,
22 "Additionally, the culvert extensions will actually be
23 36-inch diameter instead of the 34-inch used in the
24 model." So do you know if -- do you know what was
25 installed at this location?



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1 A. No. We need the as-builts from Brightline.

2 Q. And here it says on the end of the one
3 paragraph, "There was flow observed traveling east
4 through the cross drain at MP 189.12 to a ditch along
5 US1 where it travel north to a US1 cross drain." Do you
6 have any reason to disagree with that?

7 A. No.

8 Q. Would you agree that water generally travels
9 the path of least resistance?

10 MR. TERWILLEGER: Object to form.

11 THE WITNESS: Yes.

12 BY MR. MELOON:

13 Q. Do pipes normally have a slight -- or at least
14 to your knowledge, a slight downhill to allow the water
15 to flow the path of least resistance?

16 MR. TERWILLEGER: Object to form.

17 THE WITNESS: They would have some elevation,
18 yes.

19 BY MR. MELOON:

20 Q. Do you know if extending them 21 feet would
21 increase the -- where the bottom of the pipe is at the
22 entrance?

23 A. I don't know how they would design that. I
24 don't know if they had to change the elevation inside
25 the pipe or whether they just extended it.



1 Q. And you don't -- do you know if any of these
2 calculations that were done took into effect, taking out
3 21 feet of the ditch to put in the second rail line?

4 A. You'd have to ask TranSystems what
5 calculations they used.

6 Q. And then turning to Page 162. Does the green
7 line here show where the drain is?

8 A. Without the as-builts from Brightline, I would
9 not know. It does not look correct as far as the
10 length, as you can see with the person standing on the
11 wall on the right where the end of the east wall is for
12 the drainage, that clearly does not go that far away
13 from the -- our tracks to the east. So I don't know
14 what this white yellow -- this green line represents at
15 all. It clearly doesn't represent the length of the
16 pipe.

17 Q. And the property to the southeast of where
18 that green line is, do you recognize that as the
19 property that's now owned by the Plaintiffs?

20 A. No. That doesn't look like the Plaintiffs'
21 property. That looks -- that -- that's a boatyard. Our
22 boats are there and other things. That's -- that's not
23 the -- the Plaintiffs' property isn't to the south, the
24 Plaintiffs' property's to north of the -- the pipe,
25 unless I'm looking at the wrong picture. Yeah. Right?



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1 Q. You're going back to the property appraiser
2 maps?

3 A. Okay. I'm just saying that this --

4 MR. TERWILLEGER: And that was big one 62?

5 MR. MELOON: Yeah --

6 MR. TERWILLEGER: --

7 THE WITNESS: Yeah. 162. I -- I mean, this
8 pipe looks like it's to the north of -- the north of
9 the -- your client's property.

10 BY MR. MELOON:

11 Q. Do you recognize the building in the aerial
12 photos from the property appraiser?

13 MR. TERWILLEGER: This Exhibit F we're on now?

14 MR. MELOON: On Exhibit -- yes, F.

15 THE WITNESS: Yeah.

16 BY MR. MELOON:

17 Q. And the property itself may have been cleaned
18 up a little bit, but the building looks similar?

19 A. Well, I'm confused at -- is, I am under the
20 impression that the -- that the pipe in question or the
21 drainage ditch in question is to -- is to the south of
22 your client's property, not to the north. So that's why
23 I'm a little confused with this green line.

24 Q. In Exhibit F?

25 A. Yeah. In Exhibit F, there's a drainage pipe



1 to the north -- to the south of your client's property.

2 Q. Would you agree that Exhibit F is oriented to
3 the north?

4 A. Yeah. I'm not questioning Exhibit F. I'm just
5 saying that I'm -- I'm unfamiliar with the drainage pipe
6 you're talking about in the green line at all. I was
7 under the impression it was to the south of your
8 client's property.

9 Q. And then moving to --

10 A. I'm just -- is -- is there a pipe to the north
11 of the property? I'm asking you.

12 Q. Yes. I mean, I can represent that my -- that
13 the ditch in question is to the north of my client's
14 property.

15 A. Which means I now have a ditch to the north of
16 your client's property, and I also have a ditch to the
17 south of your client's property because there is a ditch
18 and a drainage ditch and a culvert to the south of your
19 client's property.

20 MR. TERWILLEGER: That's --

21 BY MR. MELOON:

22 Q. So moving to Page 165 of Exhibit G.

23 A. Yeah.

24 Q. It mentions a culvert extension analysis for
25 track chart MP 189.18 cross drain. And then it talks



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1 about, "According to track chart, there's a 48-foot
2 long, 24-inch oval RCP culvert and MP 189.18."

3 A. That's -- yeah. That's what it says.

4 Q. Okay. But then it also notes that during
5 several field visits to this location, this culvert
6 could not be located. Is that what the document says?

7 A. That's what it says.

8 Q. Have you visited track chart MP 189.18?

9 A. I have.

10 Q. And is there a 48-foot long, 24-inch oval RCP
11 there?

12 A. I can't speak for the length and the size of
13 the -- of the pipe, but I can speak that there is a
14 culvert there. I saw the top of the culvert.

15 Q. Okay. And do you know what the elevation of
16 the top of the culvert is there?

17 A. No, I'm not an engineer. I just know it's --
18 exists.

19 Q. And where does that culvert drain to?

20 A. I don't know specifically, but I'm assuming it
21 drains to the east since it's not draining to the west.
22 No place to go in the west. This was the one I saw. I
23 didn't see the one to -- to the northeast line.

24 Q. So you didn't see the one to the north with
25 the ditch and the three pipes that goes --



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1 A. No, sir.

2 Q. You only saw the one to the south?

3 A. Because that's the one your client said was
4 clogged and causing the problem.

5 Q. That -- and the -- this document here says
6 that there was no drain that was found at 189.18?

7 A. This -- this document was drafted whenever it
8 was. There has been some work and a culvert that's put
9 in at that location. So this was September 2015. I can
10 speak to 2025. There is a culvert there today. So ten
11 years later, a culvert exists.

12 Q. So in the ten years between this document
13 being created and today, there's been a culvert
14 installed at 189.18?

15 A. Or cleaned out. I -- it's clearly a culvert
16 there today. Whether it was already there and they
17 found it or cleaned it out, I can't speak to what
18 happened in the Brightline's construction team, but I
19 can tell you I personally have seen it, and I could tell
20 it's not one that's built by the highway department or
21 anybody else based on the design of it. It's -- it's --
22 it was clearly put in by -- by John's contractor.

23 Q. And what is -- what type of drain is that
24 at 189.18?

25 A. It's just a metal drain with slots in it.



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1 Q. Okay. And is it -- do the drains come from
2 the top, from the sides?

3 A. From the top.

4 Q. Okay. So how would water get into there to
5 drain?

6 A. As -- as water filled up around the adjacent
7 area would drain in there. And the culvert actually
8 has, I believe, it looks like concrete surrounding it.
9 So that's what's holding the -- the grade.

10 Q. So the grade is held up by concrete?

11 A. Yeah. I don't know how deep it goes and
12 everything else. I -- you know, just -- just observing
13 it and seeing it for myself.

14 Q. Do you know what elevation that is at?

15 A. No.

16 Q. Has Florida East Coast performed any studies
17 on that culvert?

18 A. No.

19 Q. You just -- all you know about it is that it's
20 there?

21 A. It's there. It's there. And since it's
22 there, our bridge department is responsible to making
23 sure it stays cleaned out.

24 Q. And then moving to what I marked as Exhibit H.

25 (Exhibit H was marked for identification.)



1 THE REPORTER: I -- I think this would be G.

2 Sorry.

3 MR. TERWILLEGER: I have G on this one.

4 MR. MELOON: G should be that one.

5 THE REPORTER: I am sorry. Yes. H. My
6 apologies.

7 MR. MELOON: There's two copies is in there.

8 That's why it's --

9 MR. TERWILLEGER: Yeah. Let's make sure that
10 one's marked --

11 BY MR. MELOON:

12 Q. Do you recognize this document? I'll give you
13 some time to look through it.

14 A. I'm not familiar with it specifically, but
15 it's clear that we've seen -- we've done these before
16 dealing with submerged lands.

17 Q. Okay. And this is part of a joint application
18 for an individual environmental resource
19 permit/authorization to use --

20 A. Yes.

21 Q. -- on submerged lands/federal dredge and fill
22 permit.

23 A. That's correct.

24 Q. And then looking at Page 9 of 12.

25 A. Yeah.



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1 Q. Section B, Landowner has your information.

2 You're checked as the landowner.

3 A. That's correct. I don't really personally own
4 it, but yeah, that's correct.

5 Q. In your capacity as --

6 A. Tease. That's correct.

7 Q. And then going back to Page 3 of 12. It's --
8 the name of the project is called All Aboard Florida and
9 North South Rail Corridor Segment D08, and then in
10 parentheses is FEC railroad from MP 166.9 to MP 233.4?

11 A. That's correct.

12 Q. Okay. And that would include the Milepost
13 189.12.

14 A. It would.

15 Q. Did you review any of these documents before
16 they were submitted to the various water management
17 districts?

18 A. No.

19 Q. And then on Page 8 of 12 indicates on Part 2,
20 Section B, various pre-application meetings that
21 occurred.

22 A. That's correct.

23 Q. Did anyone from Florida East Coast Railway
24 attend any of these pre-application meetings?

25 A. No. If you look at Page 4, Paragraph D, you



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1 can clearly see All Aboard Florida is proposing and
2 developed. They were the ones that prepared these
3 documents and submitted them to the corps of engineers.

4 Q. And they did this pursuant to the easement
5 that was granted?

6 A. That's correct.

7 Q. And then on Page 11 of 12.

8 A. Yes.

9 Q. Did you ever sign this document stating that
10 you possessed a sufficient real property interest or
11 control on the property?

12 A. I am sure I did, or they would have never
13 gotten the permit. So as the owner, I'm sure that would
14 have been required.

15 Q. When you signed it, did you review it?

16 A. No. It was their responsibility for their
17 construction.

18 Q. So you would have just signed it without
19 reviewing it?

20 A. Just the paragraph that required my approval
21 was my ownership only, in which we owned the land and
22 fee.

23 Q. Who is Florida East Coast Industries, LLC?

24 A. Florida East Coast Industries is the holding
25 company for All Aboard Florida/Brightline. They hold



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1 the passenger -- they own that company. Brightline/All
2 Aboard Florida is a subsidiary of Florida East Coast
3 Industries.

4 Q. Are they an affiliated or related entity to
5 Florida East Coast Railway at all?

6 A. They were until June 30th, 2017.

7 Q. So at the time that this -- the 25th --
8 September 2015 document was created, they were an
9 affiliated entity of Florida East Coast Railway?

10 A. We were both owned at that time by a company
11 called Fortress Investments in New York. And in June
12 30th, 2017, they sold the Florida East Coast Railway to
13 a company called Grupo Mexico Transportes. So we no
14 longer are affiliated with FECI or Brightline.

15 Q. And that occurred in 2017?

16 A. June of 2017.

17 Q. Have you had any complaints about flooding
18 around the 189.12 milepost?

19 A. Not to my knowledge, no.

20 Q. Have there been any complaints about flooding
21 from the Plaintiffs in this case around the 189.12
22 milepost?

23 A. There was a complaint at one time, and we were
24 told it was by Brightline. It was a dumpster that got
25 loose and blocked the culvert. That caused -- that



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1 caused the -- the drainage problem at the time. That's
2 the only -- the only information I had at the time was
3 that the -- there was a storm, and a dumpster got loose
4 and blocked the culvert, the west side of the culvert,
5 and prevented the drainage from going through it
6 normally.

7 And we received a complaint from -- at that
8 time, and Brightline investigated and determined that's
9 what caused it. And we -- from that point on, we didn't
10 hear of any other complaints. Once the -- once the
11 dumpster was removed, the flow continued, and I don't
12 know of anything else until.

13 Q. So no other complaints other than the
14 dumpster?

15 A. The only one I know of.

16 Q. Okay. Do you know how the dumpster got lose?

17 A. No idea.

18 Q. Would it have been water that could have
19 loosened the dumpster?

20 A. It could have been anything. I -- you know,
21 not knowing whose dumpster it was, I can't even speak
22 for it because it would have been to the north of your
23 client's property line. And so I don't know who owns
24 the adjacent land and what's on it.

25 Q. Do you know the size of the dumpster?



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1 A. No, I don't have any pictures or any
2 information. Brightline would have to give you that.

3 Q. Do you know if any calculations were done for
4 the storm water to account for the drainage loss of
5 where the tracks were?

6 MR. TERWILLEGER: Object to form.

7 THE WITNESS: No. This was a Brightline
8 project. We wouldn't have been doing the
9 calculations.

10 BY MR. MELOON:

11 Q. Did Florida East Coast Railway do any
12 investigation to determine the flooding, or was it just
13 -- did it rely on Brightline's investigation?

14 A. It relied on Brightline's investigation at the
15 time. The construction wasn't completed.

16 Q. So that would have been during the
17 construction?

18 A. At the end of the construction, yes.

19 Q. When did the construction end?

20 A. That would have been 2022, '23 time frame. I'd
21 have to specifically look. When they ran their first
22 revenue service would have been the fall of '22, I
23 believe. The construction officially didn't completely
24 end, although they were running trains. Let's be clear.
25 They had additional work to do in multiple locations.



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1 And even today, they have a long punch out list that has
2 not been completed. So I can't speak that the
3 constructions been 100 percent complete in the sense of
4 everything is done.

5 Q. Is the punch out list the reason that there
6 haven't been as-built yet?

7 A. I can't speak for that. So some of the as-
8 builds could have clearly been done by now. I know the
9 as-builds we have received to date have had errors in
10 them, so we can't rely on them at all.

11 Q. How many as-builds have you received to date?

12 A. Multiple ones, but most of them were
13 originally the fiber that got moved. So what happened
14 was, is the fiber had to be relocated to one side of the
15 track. There were fiber banks for all the telecoms
16 along the right-of-way. And so that's the first batch
17 of as-builds we received. And we found out that the
18 mild posts and the markings on those as-builds were in
19 error. And so we basically said -- sent them back and
20 said, "Start over and get them all right."

21 Q. When was that?

22 A. That would have been last year.

23 Q. Any specific time frame last year?

24 A. No. It would have been late fall.

25 Q. Have you received any as-builds since late



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1 fall?

2 A. No.

3 Q. Were any of the as-builts that were received
4 for this area of the track?

5 A. Yes. It probably would have been showing
6 where the fiber was put. So I could say for the fiber,
7 for sure, it would have shown the fiber at this
8 milepost. And then most likely, given what's built on
9 the west, and most likely the fiber in this location was
10 moved to the east. But I'd have to go pull the maps and
11 find out and confirm. But that's probably what -- those
12 as-builts would have just shown the fiber location of
13 the duct banks that were put in. They would not have
14 shown any other information.

15 Q. Looking back at Exhibit C -- or I'm sorry. I
16 said C. I believe it's F. This -- the --

17 A. Yeah. These pictures?

18 Q. The pictures.

19 A. Yeah.

20 Q. The photographs.

21 A. Yeah.

22 Q. Do you know where on there -- the -- and
23 looking specifically at the January 5th, 2025, could you
24 mark on that exhibit where the culvert is on the south
25 side of my client's property?



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1 A. I don't have the exact, but approximately just
2 below the point, the blue point, the southern most
3 point. We were concerned initially when we looked at
4 the culvert that it was on your client's property. We
5 have since confirmed that it's just south of your
6 client's point. There is a culvert there. We had to
7 walk past your client's property behind the other
8 properties to actually see it.

9 Q. And is that behind the -- recognizing that the
10 blue line is not the true property line --

11 A. Yes.

12 Q. -- is that behind the fence, the culvert, kind
13 of near where that red truck is or the black trailer in
14 this?

15 A. It's -- it's south of the red truck.

16 Q. Okay.

17 A. It's literally all the way to the end of your
18 point. You can't see it. You'd have to blow up a
19 Google map. I don't even know if that would see it, to
20 be honest with you. It's very difficult to see back
21 there unless you physically walk there. I don't know if
22 you'd even see the culvert if you didn't step on it
23 practically because there is vegetation and other thing
24 -- grass around it.

25 Q. When you walked there, did you see if you were



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1 above or below my client's property elevation was?

2 A. I couldn't tell. We were too far away from
3 where the -- where the -- where your pavement is for
4 your client's property to -- to determine. The only
5 thing I saw was the -- and what I did see was the ditch
6 between the wall and that there's still a remaining FEC
7 ditch that exists there today between our wall ditch and
8 your client's property line. It's not very big, but
9 there is an existing ditch there today.

10 Q. How wide is that ditch?

11 A. Approximately five to ten feet.

12 Q. Did you notice which way that ditch flowed?

13 A. No.

14 Q. When you were there, were you able to look at
15 the wall?

16 A. Yes.

17 Q. Did you look if there were weeping holes in it
18 or anything in --

19 A. I didn't see anything specific. I -- I was
20 more looking -- looking for the ditch and the culvert
21 than I was the wall.

22 Q. Did you walk over to the north side of where
23 the ditch is?

24 A. No. I'm -- I was thinking there was only one
25 ditch at the time, based on your client's discussion



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1 with us.

2 Q. And was that discussion at mediation?

3 A. Yes. It was.

4 MR. MELOON: Now is a good time for a break.

5 MR. TERWILLEGER: Okay.

6 THE REPORTER: Okay. Going off the record.

7 (A recess was taken.)

8 THE REPORTER: All right. We are back on the
9 record.

10 Counsel, you may proceed.

11 BY MR. MELOON:

12 Q. Have any of the Plaintiffs given Florida East
13 Coast Railway permission to use their property for any
14 purpose?

15 A. Not to my knowledge.

16 Q. Is there anybody else you need to consult at
17 Florida East Coast Railway to determine if they've given
18 permission to use their property?

19 A. I would consult our real estate department if
20 we have any agreement with them, but I -- I would
21 normally go through legal as well. So I would have seen
22 it if there was an agreement of some type, whether it'd
23 be a easement or temporary use or a license or lease,
24 they would most likely have provided to me first to
25 review.



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1 Q. Does Florida East Coast Railway have the power
2 of imminent domain under the Florida statutes?

3 A. Both Florida and federal.

4 Q. And that power is delegated from either the
5 federal or state government?

6 A. That's correct.

7 MR. TERWILLEGER: Object to form.

8 THE WITNESS: Well, it's actually -- I can't
9 speak for the federals under the old dicta rules and
10 laws, but I can speak that under Florida it's a
11 statute specifically spelling out that the railroads
12 have that power.

13 BY MR. MELOON:

14 Q. And Florida East -- has Florida East Coast
15 Railways paid the Plaintiffs for any interest in their
16 property?

17 A. No.

18 Q. I'll hand you what we've marked as Exhibit I.
19 Do you recognize this document?

20 (Exhibit I was marked for identification.)

21 A. I do.

22 BY MR. MELOON:

23 Q. And what is it?

24 A. It is Florida East Coast Railways' answer to
25 your client's complaint.



1 Q. Did you review this document before it was
2 filed?

3 A. I did.

4 Q. And then moving to Page 7 of 10 of the
5 document.

6 A. Yes.

7 Q. Which are -- do you recognize these as Florida
8 East Coast's affirmative defenses?

9 A. I do.

10 Q. In the fourth affirmative defense on Page 8 of
11 10, you allege that Plaintiffs themselves have
12 eliminated drainage on their property. What is the
13 basis of that allegation?

14 A. I'm sorry. Could you repeat the question,
15 please?

16 Q. Yeah. What is the basis of the allegation
17 that the Plaintiffs themselves have eliminated drainage
18 on their property?

19 A. The pavement -- Plaintiffs have paved pretty
20 much the entire property so it doesn't percolate and
21 allow drainage since it's covered with asphalt.

22 Q. Do you know if any calculations were done or
23 if any --

24 A. No.

25 Q. Do you know if any permit was received for



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1 that work or any exemption to any permit?

2 A. Nope.

3 Q. Do you know if any engineer did that work on
4 that property when that was paved?

5 A. Nope.

6 Q. In this affirmative defense, are you alleging
7 that Florida East Coast Railways property doesn't have
8 any effect on the natural and historic drainage?

9 MR. TERWILLEGER: Object to form.

10 THE WITNESS: Could you repeat the question?

11 BY MR. MELOON:

12 Q. Yeah. Are -- in this affirmative defense, are
13 you -- is -- I mean, as part of your factual basis for
14 this affirmative defense that Florida East Coast Railway
15 has not affected the historic flow of water?

16 A. No, that's not mentioned in this affirmative
17 defense.

18 Q. And then in the fifth affirmative defense,
19 you're alleging that it was caused in whole or part by
20 factors and conditions over which Florida East Coast
21 Railway had no control and including drainage from third
22 parties?

23 A. That's correct.

24 Q. Okay. Who would those third parties be?

25 A. The adjacent property owner.



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1 Q. Would those be to the -- properties to the
2 west?

3 A. The properties to the south, they elevated
4 their property.

5 Q. And then in the sixth affirmative defense, you
6 alleged failure to mitigate. How did the Plaintiffs
7 fail to mitigate their damages?

8 A. By -- by developing some kind of French drains
9 or anything else they could have potentially done given
10 the entire property is poured in asphalt.

11 Q. So you're alleging in this defense that the
12 Plaintiffs could have mitigated their defense by putting
13 a French drain?

14 A. Could have done something.

15 Q. Do you know -- do you know if there's any
16 retention area that was designed on the Plaintiff's
17 property?

18 A. I did not see any.

19 Q. Do --

20 A. I don't -- I don't know of any personally, no.

21 Q. Do you know if there's any pipes under the
22 asphalt on the Plaintiffs' property?

23 A. No.

24 Q. Was there any investigation done to see if
25 there was?



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1 A. No.

2 Q. Was the Florida DEP GIS permit database
3 searched to determine that?

4 A. We -- we didn't do any search.

5 Q. So you alleged this affirmative defense
6 without doing any search for the facts?

7 MR. TERWILLEGER: Object to form.

8 THE WITNESS: Based on what I personally
9 witnessed, there was no pipes that were seen. There
10 was no drains that were seen. And your client's
11 property was completely poured over with asphalt.

12 BY MR. MELOON:

13 Q. So it's your testimony that the entirety of
14 the Plaintiffs' property is covered in asphalt?

15 A. Majority of it.

16 Q. Do you know if there was any flooding on my
17 client's property prior to the change in the Brightline
18 rail?

19 A. Nope.

20 MR. MELOON: I have nothing further.

21 MR. TERWILLEGER: Okay. I do have a few
22 questions.

23 CROSS-EXAMINATION

24 BY MR. TERWILLEGER:

25 Q. You saw the Exhibit I --



1 A. Yes.

2 Q. Okay. If you go back to Page 7, the
3 affirmative defenses.

4 A. Sure.

5 Q. It's the second affirmative defense
6 preemption. Is FEC ultimately governed by the Surface
7 Transportation Board as far as the design of railroad
8 tracks?

9 A. Yes.

10 Q. And if there's an issue with the design, you
11 go to the Surface Transportation Board to resolve a
12 dispute?

13 A. That's correct.

14 Q. Does the State of Florida -- strike that.

15 Did FEC need to bring the plans that -- for
16 the Brightline expansion to the Surface Transportation
17 Board?

18 A. No. Since Brightline was the -- was doing it
19 themselves, they would have been the party that would
20 have brought it to the Surface Transportation Board if
21 there were any issues with the design or construction or
22 layout of the track that they had proposed.

23 Q. That's because Brightline did the
24 construction?

25 A. That's because Brightline did the



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1 construction.

2 Q. Did FEC have any control over the
3 construction?

4 A. No control over the construction. The only
5 require -- the only things FEC had control over was to
6 ensure that the final product of track met FEC standards
7 and were safe for -- safe to rail operations. And that
8 was in a condition for FEC to take over maintenance of
9 the track itself. But the actual physical construction
10 that Brightline took -- partaked in was 100 percent
11 controlled by Brightline. FEC had no responsibility for
12 it.

13 Q. So FEC's only responsibility was to make sure
14 the tracks themselves would be able to handle the
15 trains?

16 A. Handle the speed. Brightline -- what had
17 taken place is Brightline had increased the speed of the
18 tracks, the FEC tracks, as well as their own tracks. So
19 the construction was not limited to only Brightline new
20 tracks. They actually went on the FEC tracks and put in
21 additional ties to stabilize the tracks to allow for
22 higher speed. And so in order to handle the higher
23 speed that Brightline wanted to operate, FEC's engineers
24 needed to inspect the track to ensure that it could be
25 -- both tracks could be run safely at the higher speeds



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1 Brightline would be operating.

2 Q. As far as installing culverts, if they didn't
3 in effect the tracks themselves, did FEC have any
4 control over what Brightline did?

5 A. No. Brightline had full control over
6 culverts, including modifications and replacing --
7 bridges.

8 Q. So this is essentially one railroad corridor
9 with two railroads operating on it?

10 A. That's correct. They -- under their passenger
11 easement, they have the right to operate trains on our
12 corridor.

13 Q. I'm going to ask you about Exhibit H. If you
14 go to Page 11 on that, where your signature was?

15 A. Sure.

16 Q. When you signed -- assuming you signed this,
17 which I think your testimony is that you did
18 eventually --

19 A. Yes.

20 Q. -- the only thing that you were certifying is
21 that FEC owns the property?

22 A. That's correct. Paragraph B, certification
23 sufficient real property interest. That was the only
24 paragraph FEC signed. We -- we were not a party to any
25 of the language prior to that or the application itself.



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1 We just had the knowledge. And frankly, it's not just
2 there. We have to acknowledge that when someone wants
3 to put in utilities or power or anything else on FEC
4 property to allow them. So it's not something abnormal
5 for us to sign our acknowledgment as the owner of the
6 property. It's pretty standard.

7 Q. You asked about complaints, and you mentioned
8 there's one complaint from this property with the
9 dumpster --

10 A. That's correct. That's the only one that I've
11 -- I've remembered.

12 Q. An FEC did not receive that complaint
13 directly; is that right?

14 A. That's correct.

15 Q. That was to Brightline?

16 A. Yes. I believe so.

17 Q. If you go to Exhibit F --

18 A. Yeah.

19 Q. -- that's the photos. You were asked about
20 that sandy area. I think it's what you described --

21 A. Yes.

22 Q. -- on the January 30th, 2022 photo.

23 A. That's correct.

24 Q. Just to clarify, Brightline was the entity
25 that put that sandy area in?



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1 A. That's correct.

2 Q. And as of today, you still do not have
3 accurate as-builts of this work?

4 A. No, that's -- that's correct. We demanded
5 that actually last week from Brightline.

6 MR. TERWILLEGER: No more questions for me.

7 REDIRECT EXAMINATION

8 BY MR. MELOON:

9 Q. Was the expansion that was done, did it stay
10 in Florida, or does it go outside of Florida?

11 A. It stays in Florida.

12 Q. And the fee title to this property, was that
13 transferred at all?

14 A. No. The fee title of the property has always
15 been FEC.

16 Q. So there's no fee interest conveyed to
17 Brightline?

18 A. There -- without being an expert in real
19 estate law, they have an interest, the easement allows
20 them a passenger right to build and to operate a
21 passenger trains on the FEC corridor. That gives them
22 the right to also build stations, for example, and then
23 build stations on the corridor. So do they own the land
24 in fee? The answer is no. If you go to the records, we
25 should be always considered -- always be reported as the



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1 landowners of the full end fee. Do they have an -- a
2 real estate interest? They absolutely have a real
3 estate interest in the property. That -- undeniable.

4 Q. And Florida East Coast Rail runs their trains
5 on both tracks?

6 A. Yes, we do.

7 Q. And Brightline runs their trains on both
8 tracks?

9 A. That's correct.

10 MR. MELOON: Nothing further.

11 MR. TERWILLEGER: Okay. We'll read.

12 THE REPORTER: Read. And will that be through
13 your counsel? Oh. Will that be through your
14 office?

15 MR. TERWILLEGER: Yes.

16 THE REPORTER: I'm sorry.

17 MR. TERWILLEGER: Yes.

18 THE REPORTER: And then very quickly, will
19 there be orders for the transcript?

20 MR. MELOON: Not at this time.

21 THE REPORTER: Not at this time?

22 How about you?

23 MR. TERWILLEGER: No.

24 THE REPORTER: No? Okay.

25 Going off the record.



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(Deposition concluded at 11:32 a.m. ET)



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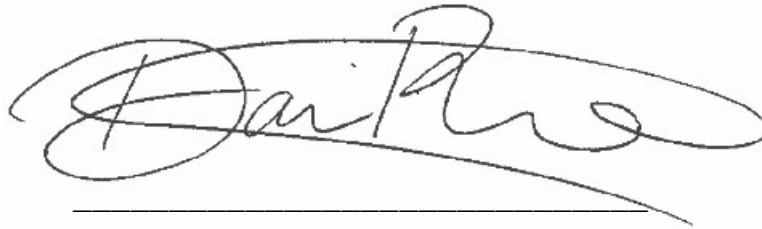
CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF ORANGE

I, the undersigned, certify that the witness in the foregoing transcript personally appeared before me and was duly sworn.

Identification: Produced Identification



DANIELA RODRIGUEZ-GUERRERO

Court Reporter, Notary Public

State of Florida

Commission Expires: 05/02/2028

Commission Number: HH 523560



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C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF ORANGE)

I, Daniela Rodriguez-Guerrero, Court Reporter and
Notary Public for the State of Florida at Large, do
hereby certify that I was authorized to and did report
the foregoing proceeding, and that said transcript is a
true record of the said proceeding.

I FURTHER CERTIFY that I am not of counsel for,
related to, or employed by any of the parties or
attorneys involved herein, nor am I financially
interested in said action.

Submitted on: October 24, 2025.



DANIELA RODRIGUEZ-GUERRERO

Court Reporter, Notary Public



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ERRATA

PAGE	LINE	CHANGE	REASON
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I have read the entire transcript of my deposition taken
in the captioned matter or the same has been read to
me. I request that the following changes be entered upon
the record for the reasons indicated. I have signed my
name to the Errata Sheet and authorize you to attach the
changes to the original transcript.

Date_____
NAME

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October 24, 2025

John W. Terwilleger, Esquire
Gunster, Yoakley & Stewart, P.A.
777 South Flagler Drive
Suite 500 East
West Palm Beach, FL 33401

RE: Deposition of **Robert Ledoux** taken on **9/30/2025**
2145 Avocado Land Trust & Home Wreckers, Inc. v. Florida East Coast Railway, LLC

Dear Mr. Terwilleger,

IMPORTANT NOTICE FOR DEPOSITION TRANSCRIPT READ AND SIGN

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter,
as considered reasonable under Federal Rules*.

X **Attorney - Copy of Transcript Enclosed:** Signature of the Deponent is required. Please have the deponent make any corrections/changes necessary on the Errata Sheet ONLY, sign name on the form where indicated. Please return ONLY the original signed Errata Sheet to our offices within 30 days from the date of this memorandum. If you have any questions, please call our offices.

___ **Attorney - No Copy Ordered:** Since you did not request a copy of the transcript, it will be necessary for the Deponent to call our offices to arrange for an appointment to read and sign the transcript of the Deposition within 30 days of this memorandum.

___ **Deponent:** At the time of your deposition, you did not waive your right to read and sign the transcript of your testimony, therefore, attached please find a copy of the transcript and Errata Sheet. Please read the transcript, make any corrections necessary on the Errata Sheet ONLY, sign the bottom of the Errata Sheet, and return it within 30 days from the date of this memorandum. Please call our offices if you have any questions.

___ **Deponent:** At the time of your deposition, you did not waive your right to read and sign the transcript of your testimony, therefore, it is necessary for you to come to our offices to read and sign same. Please call Milestone Reporting Company to arrange for an appointment at your earliest convenience.

___ **The errata sheet(s) and Notary Certificates(s) have not been received by our office in the allotted time period. The original transcript has been filed with the appropriate court or counsel.**

Thank you for your attention to this matter.

No. 410115
cc: W. Nathan Meloon, Esquire

Reporter: Daniela Rodriguez-Guerrero

Waiver:

I, Robert Ledoux, hereby waive the reading and signing of my deposition transcript.

Deponent Signature

Date

*Federal Civil Procedure Rule 30 (e) / Florida Civil Procedure Rule 1.310 (e)

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CASE NO.: 6:24-cv-1691-PGB-RMN

2145 AVOCADO LAND TRUST and
HOME WRECKERS, INC.,

Plaintiffs,

v.

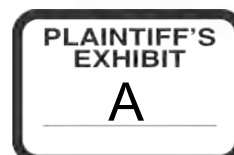
FLORIDA EAST COAST RAILWAY,
LLC,

Defendant.

NOTICE OF TAKING IN PERSON DEPOSITION OF 30(b)(6)
CORPORATE REPRESENTATIVE FOR FLORIDA EAST COAST
RAILWAY, LLC

PLEASE TAKE NOTICE that pursuant to Fed. R. of Civ. P. 30(b)(6), Plaintiffs, 2145 AVOCADO LAND TRUST and HOME WRECKERS, INC, by and through the undersigned counsel, will take the deposition upon oral examination of the person(s) designated by Florida East Coast Railway, LLC on **September 30, 2025 at 10:00 am** located at 1 Independent Drive, Suite 2300, Jacksonville, FL 32202.

The deposition will be taken before a notary public or other person authorized by law to administer oaths who is not of counsel of the parties or



interested in the events or the cause and will be recorded by stenography and may also be recorded by videography. The examination will continue from day to day or until it is completed. The deposition is being taken for purposes of discovery and trial and may be used for any purpose authorized by the Federal Rules of Civil Procedure.

Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Brevard County, Florida shall identify and designate one or more directors, officers, managing agents, or other knowledgeable person(s) to testify on behalf of Florida East Coast Railway, LLC regarding the subject matter identified in **Exhibit "A"**, attached hereto. Plaintiff reserves the right to seek relief from the court in the event that the designated deponent is not properly prepared to testify on behalf of Florida East Coast Railway, LLC with respect to each of the identified topics.

Dated: January 28, 2025

Respectfully submitted,

/s/ W. Nathan Meloon

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been furnished with the Clerk of the Court for the United States District Court for the Middle District of Florida using the CM/ECF system which will electronically notify all counsel or parties of record on September 3, 2025.

EXHIBIT "A"

DEFINITIONS

1. "Complaint" refers to the Complaint (Document 1) filed by Plaintiff in this action.
2. "Communication(s)" shall mean all inquiries, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, correspondence, notes, advertisements, facsimiles, e-mail, text messages, or other forms of verbal and/or communicative intercourse. Communication(s) are to be encompassed and included in any Request for Documents, as defined herein.
3. "Concerning" means consisting of, referring to, relating to, reflecting, or being in any way logically or factually connected with the matter discussed.
4. "Date" means the exact day, month, and year if ascertainable, or, if not, the best available approximation (including relationship to other events).
5. "Document(s)" has the broadest possible meaning accorded to it under Rule 34 of the Federal Rules of Civil Procedure, and means any medium upon which intelligence or information can be recorded or retrieved, including without limitation, any electronically stored information such as

electronic data stored on any computer, network, or electronic media, including, but not limited to, active files, deleted files, or fragmentary files. "Document(s)" shall also include all written or graphic matter of every kind or description, however, produced or reproduced, whether draft or final, original or reproduction signed or unsigned, and regardless of whether approved, signed, sent, received, redrafted, or executed, including but not limited to: written communications, book, pamphlet, periodical, letters, correspondence, facsimiles, e-mail, memoranda, minutes, notes, films, recordings, of any type, transcripts, contracts, agreements, purchase or sales orders, memoranda of telephone conversations of personal conversations, diaries, desk calendars, interoffice communications, reports, studies, bills, receipts, checks, checkbooks, invoices, requisitions or material similar to any of the foregoing however denominated, by whomever prepared, and to whomever addressed, which are in your possession, custody or control or to which you have had or can obtain access. "Document(s)" also mean an authentic copy where the original is not in your possession or control and every copy of a document that is not an identical copy of the original. "Document(s)" shall also include any Communication as defined supra.

6. "Information" shall include individual documents and records

(including associated metadata) whether on paper, film, or other media, as discrete files stored electronically, optically, or magnetically, or as a record within a database, archive, or container file, including emails, messages, word processed documents, digital presentations, spreadsheets, database content, text messages, and messages in workplace collaboration tools (including without limitation Slack, Microsoft Teams, and Google Hangouts) or ephemeral messaging applications.

7. "Lawsuit" means the above-caption action pending in the United States District Court for the Middle District of Florida, Case No. 2: 6:24-cv-1691-PGB-RMN.

8. "Plaintiffs" means 2145 AVOCADO LAND TRUST and HOME WRECKERS, INC., the Plaintiffs in the above-captioned action.

9. "'Person(s)" means any natural person or business, corporation, partnership, trust, association, company, government entity, organization, or any form of a business or commercial entity, and shall include any person acting on such person's behalf or under such person's direction or control.

10. "Relating to," "relate to," "related to," and "relates to" means in any way concerning, containing, describing, constituting, referring to, evidencing, mentioning, reflecting, identifying, refuting, contradicting,

supporting, connected with or in any way pertaining to the subject, in whole or in part.

11. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of the request all responses that might otherwise fall outside of the scope of the request.

12. The terms "all," "any," or "each" shall encompass any and all of the matter discussed.

13. The terms "you" or "your" or "Brevard County." or "Brevard" or "Defendant" means Brevard County, Florida, a defendant in the Lawsuit, and all of its agents, representatives, and attorneys.

14. The term "Property" has the same definition as in paragraph 7 of the Complaint.

15. The use of the singular form includes the plural, and vice versa.

16. The use of the present tense includes past tense, and vice versa.

17. Any term not defined herein shall be ascribed the definition, if any, set forth in the Complaint.

TOPICS

In accordance with Rule 30(b)(6) of the Federal Rules of Civil Procedure, Defendant shall identify, designate and produce for deposition one or more

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Case No. 6:24-cv-1691

2145 AVOCADO LAND TRUST and
HOME WRECKERS, INC.,

Plaintiffs,

vs.

FLORIDA EAST COAST RAILWAY, LLC,

Defendant.

**RULE 26(a) INITIAL DISCLOSURES OF DEFENDANT, FLORIDA EAST COAST
RAILWAY, LLC**

Defendant, Florida East Coast Railway, LLC ("FECR"), makes the following initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1)(A).

FECR makes these initial disclosures based upon the information reasonably known and available to FECR as of the date of service of these initial disclosures and based on the current state of the pleadings. FECR expressly reserves the right to supplement or modify these initial disclosures as this action progresses.

RULE 26(a)(1) DISCLOSURES

Rule 26(a)(1)(A)(i) Disclosure: The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.



The following individuals are likely to have discoverable information that FECR may use to support its defenses:

Name and Contact Information	Subject of Information
Corporate Representative, FECR c/o John W. Terwilleger, Esq. Gunster, Yoakley & Stewart P.A. 777 S. Flagler Drive, Suite 500 East West Palm Beach, FL 33401 561-655-1980	FECR's corporate representative will have knowledge of FECR's permissions and use of the right of way near the Property ¹ .
Corporate Representative, 2145 Avocado Land Trust c/o W. Nathan Meloon, Esq. 1990 W New Haven Ave Second Floor Melbourne, FL 32904 321-255-2332	Avocado Land Trust's corporate representative is expected to have knowledge of the facts and circumstances underlying the allegations in the Complaint, and Plaintiffs' alleged damages.
Corporate Representative, Home Wreckers, Inc. c/o W. Nathan Meloon, Esq. 1990 W New Haven Ave Second Floor Melbourne, FL 32904 321-255-2332	Home Wreckers, Inc.'s corporate representative is expected to have knowledge of the facts and circumstances underlying the allegations in the Complaint, and Plaintiffs' alleged damages.

Rule 26(a)(1)(A)(ii) Disclosure: A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Unless otherwise noted, the documents described below are located in Jacksonville, Florida at the corporate headquarters of FECR. FECR specifically identifies the following documents that it may use to support its defenses in this action:

- Brightline As Built drawings and accompanying analyses.
- Records related to inspection of culverts and clean out records near the Property.
- Val maps of the FECR right-of-way near the Property.

¹ As defined in paragraph 7 of the Complaint [DE 1].

Rule 26(a)(1)(A)(iii) Disclosure: A computation of any category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

None.

Rule 26(a)(1)(A)(iv) Disclosure: For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

None.

FECR's investigation of the matters raised in this action is ongoing. FECR anticipates the discovery of materials within the scope of Rule 26(a)(1)(A) and reserves the right to supplement these answers in accordance with Rule 26(e), Federal Rules of Civil Procedure, and the Local Rules of the Middle District of Florida.

/s/ John W. Terwilleger

Juan M. Muniz, Esq.

Lead Counsel

Florida Bar No. 133329

Primary: jmuniz@gunster.com

Secondary: avalido@gunster.com

John W. Terwilleger, Esq.

Florida Bar No. 107095

Primary: jterwilleger@gunster.com

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Ryan C. Childress, Esq.

Florida Bar No. 1049623

Primary: rchildress@gunster.com

Secondary: kdaugharty@gunster.com

GUNSTER, YOAKLEY & STEWART, P.A.

777 South Flagler Drive, Suite 500 East

West Palm Beach, FL 33402

Phone: (561) 655-1980

Fax: (561) 655-5677

*Counsel for Defendant, Florida East Cost Railway,
LLC*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 20, 2024, the foregoing document was submitted for filing to the Clerk of the Court by using the Court's Case Management/Electronic Case Filing ("CM/ECF") System which will send a Notice of Electronic Filing to all counsel of record.

/s/ John W. Terwilleger
John W. Terwilleger, Esq.

ACTIVE:35388304.1

Culvert Inspection Report

Milepost: 189.12
Inspector Name: John Guerra
Bridge Engineer: Daniel Briggs
Overall Condition: 4 - Conditions requiring action within 5 years

Date of Inspection: 11/22/2023
Assistant Chief of Bridge: Daniel Briggs

Culvert Data

Station: Hall
Lines: 3
Size: 42" x 46"
Year Installed: 1926
Pipe Span:
Longitude: -80.63491352
Total ROW width:
Note:

Type: RCP
Length: 80 ft.
Headwall: BOTH
Pipe Rise: 84"
Latitude: 28.14243559

Sections

Culvert Description.					Headwall.		Wingwall	
Line No.	Section No.	Type	Diam / WxH	Length(FT)	East	West	East	West
1		HDPE	36 diam	96	Y	Y	N/A	N/A
2		HDPE	36 diam	96	Y	Y	N/A	N/A
3		HDPE	36 diam	96	Y	Y	N/A	N/A

Requirements

Structure:

- ☐ Material Repair
☐ Joint Repair
☐ Potential Sinkholes
☐ Submerged

	East End of the Pipe	West End of the Pipe
Jet Truck	☐	☐
Ditching	☐	☒
Raise Existing Headwall	☐	☐
Install Headwall	☐	☐
Extensions Needed	☐	☐
Culvert End Undermined	☐	☐
Remove Vegetation from Ends	☐	☒

Comments

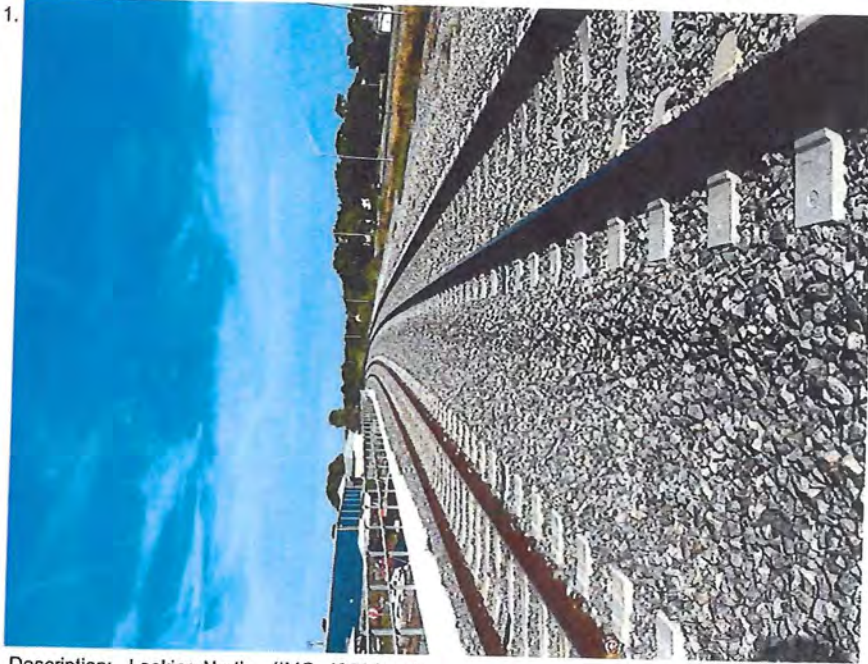
Cracks forming on face of head wall on East side, all lines have been slip lined with High density plastic and extended on the westside with a new headwall

Attachments



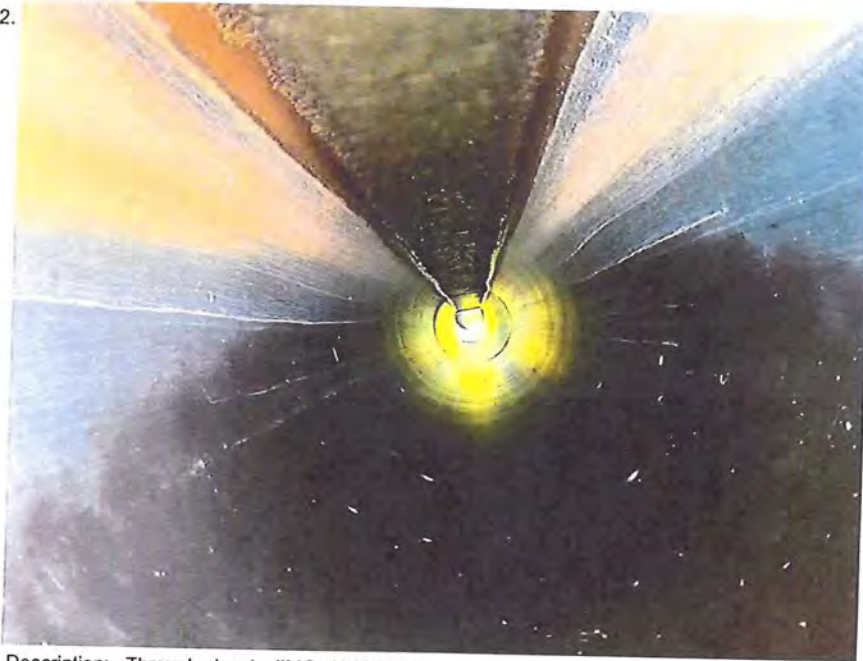
Culvert Inspection Report

1.



Description: Looking North (IMG_4351.jpeg)

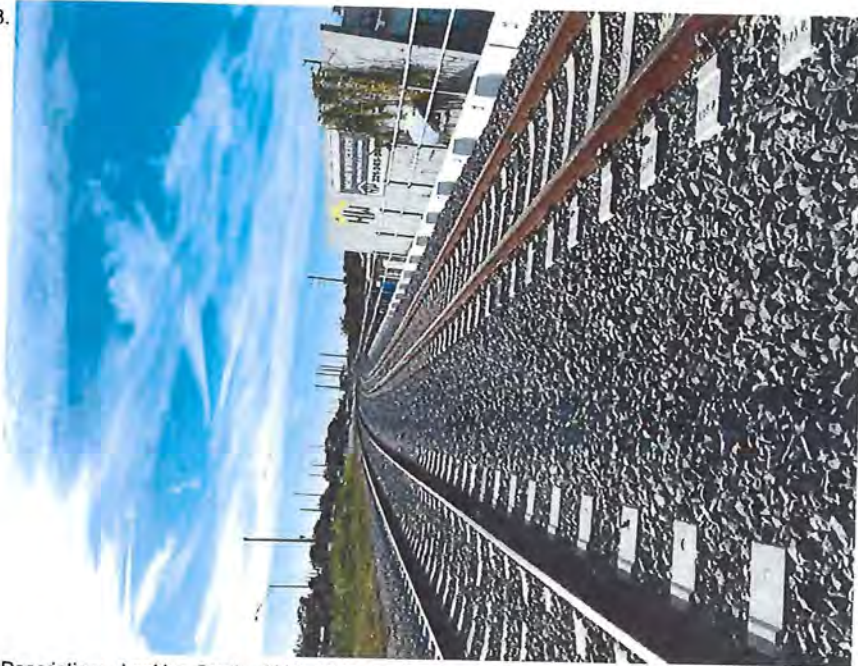
2.



Description: Through pipe 1 (IMG_4346.jpeg)

Culvert Inspection Report

3.



Description: Looking South (IMG_4348.jpeg)

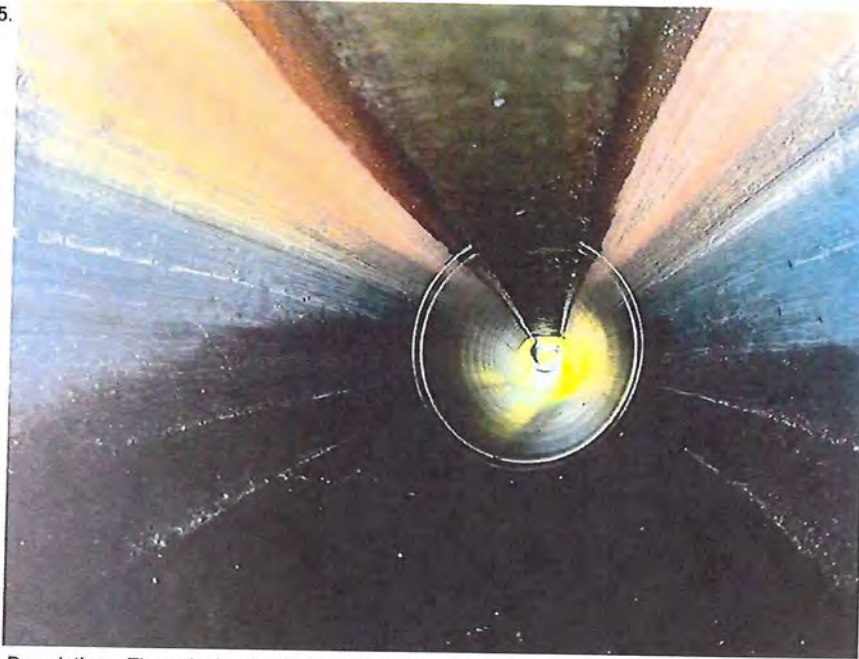
4.



Description: Looking West (IMG_4347.jpeg)

Culvert Inspection Report

5.



Description: Through pipe 2 (IMG_4345.jpeg)

6.



Description: Face of headwall West side (IMG_4350.jpeg)

Culvert Inspection Report

7.



Description: Face of Headwall East side (IMG_4343.jpeg)

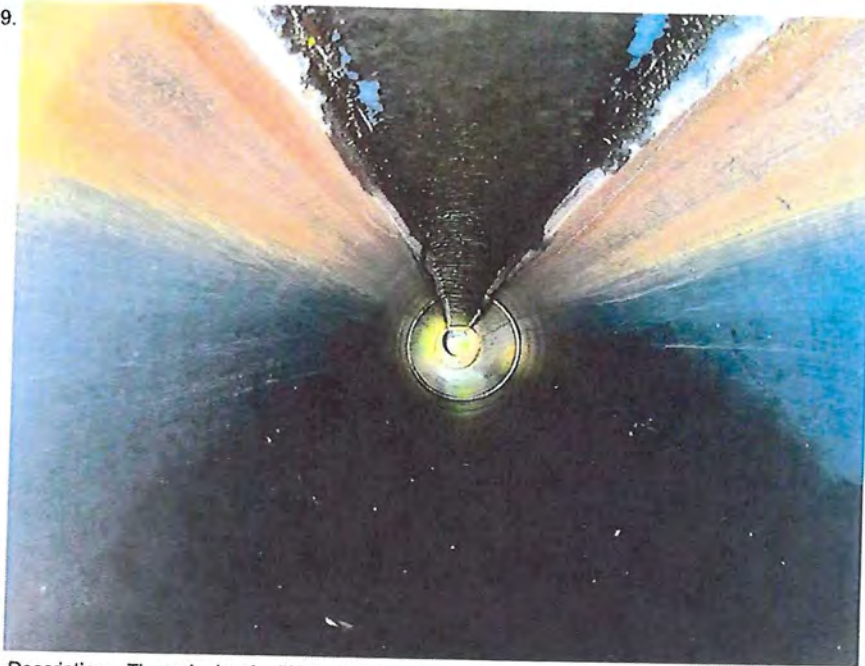
8.



Description: Looking East (IMG_4349.jpeg)

Culvert Inspection Report

9.



Description: Through pipe 3 (IMG_4344.jpeg)

Approval History

6/25/2024 2:50:16 PM

6/25/2024 2:50:46 PM

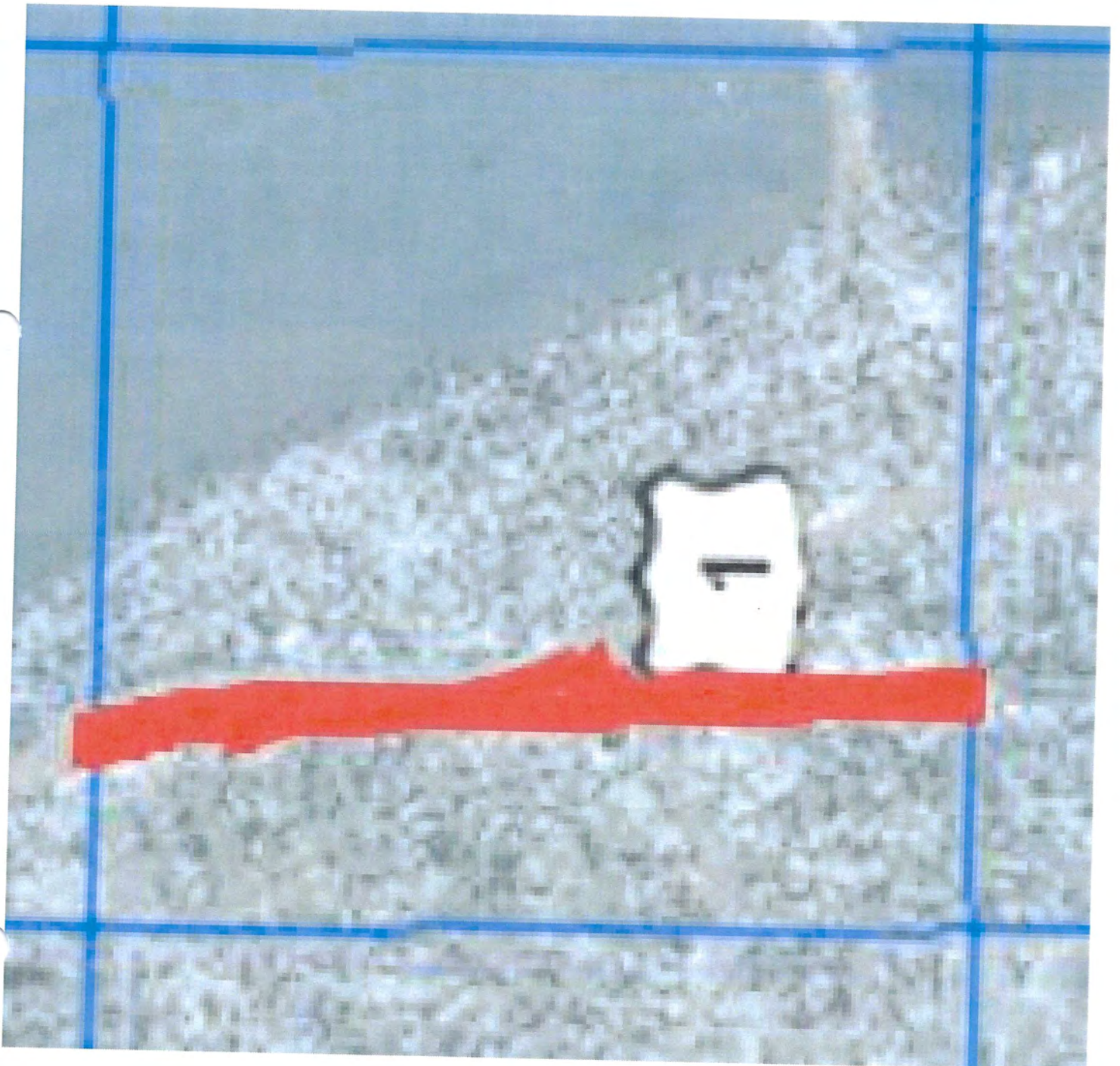
DDBRIGGS

DBRIGGS

Approved by Bridge Engineer

Final Approval

EXHIBIT D





Account (1234567)

Go!



Show
Street
Map

Sales

- ▲ 2025 ☐
- ◆ 2024 ☐
- 2023 ☐
- 2022 ☐
- 2021 ☐

LEGEND



Account: 2742090 Parcel ID: 27-37-16-00-250
 Sale: N/A
 BCPAO Market Value: \$0
 Owners: FLORIDA EAST COAST RAILWAY LLC
 Address: NONE

[Zoom](#) | [Clear](#) | [Details](#) | [Hide Info](#)

[Instructions](#) | [Disclaimer](#)

EXHIBIT D

Data Updated 9/28/2025 @ 4:20 AM EST

Search

Results

Details

Maps

Contact Us

Open Map in New Window

Map Subject Property ?

MapView

EagleView

Account (1234567)

Go!

Zoom | Clear | Details | Hide Info

Instructions | Disclaimer

Account: 2742090 Parcel ID: 27-37-16-00-250

Sale: N/A

BCPAO Market Value: \$0

Owners: FLORIDA EAST COAST RAILWAY LLC

Address: NONE

Show Street Map

Sales

- 2025
- 2024
- 2023
- 2022
- 2021

LEGEND

EXHIBIT D

CFN 20170361960
OR BK 29401 PG 287
RECORDED 10/13/2017 14:08:08
Palm Beach County, Florida
AMT
Sharon R. Bock
CLERK & COMPTROLLER
Pgs 0287-0306; (20Pgs)

Prepared by and return to:

Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive, Suite 3300
Chicago, IL 60606
Attn: Real Estate Department

**CORRECTIVE SECOND AMENDED AND RESTATED GRANT OF PASSENGER
SERVICE EASEMENT (WEST PALM BEACH TO COCOA)**

by

FLORIDA EAST COAST RAILWAY, L.L.C., a Florida limited liability company and successor by
merger to Florida East Coast Railway Company,
as Grantor

to

ALL ABOARD FLORIDA - OPERATIONS LLC, a Delaware limited liability company and
formerly known as FDG Passenger ROW Holdings LLC,
as Grantee

DATED: October 5, 2017

THIS CORRECTIVE SECOND AMENDED AND RESTATED GRANT OF PASSENGER SERVICE EASEMENT (WEST PALM BEACH TO COCOA) IS BEING RECORDED TO CORRECT THE LEGAL DESCRIPTION ATTACHED TO THAT SECOND AMENDED AND RESTATED GRANT OF PASSENGER SERVICE EASEMENT (WEST PALM BEACH TO COCOA) RECORDED ON JUNE 18, 2014, IN OFFICIAL RECORDS BOOK 7149, PAGES 1350, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, RECORDED ON JUNE 18, 2014, IN OFFICIAL RECORDS BOOK 2767, PAGES 303, OF THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA, RECORDED ON JUNE 18, 2014, IN OFFICIAL RECORDS BOOK 3644, PAGES 21, OF THE PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA, RECORDED ON JUNE 18, 2014, IN OFFICIAL RECORDS BOOK 2724, PAGES 2013, OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, AND RECORDED ON JUNE 19, 2014, IN OFFICIAL RECORDS BOOK 26864, PAGES 698, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CORRECTIVE SECOND AMENDED AND RESTATED GRANT OF PASSENGER SERVICE EASEMENT (WEST PALM BEACH TO COCOA)

FLORIDA EAST COAST RAILWAY, L.L.C., a Florida limited liability company and successor by merger to Florida East Coast Railway Company, whose address is 7411 Fullerton Street, Suite 300, Jacksonville, Florida 32256 (including its successors and assigns, "Grantor"), in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby grant to ALL ABOARD FLORIDA - OPERATIONS LLC, a Delaware limited liability company (f/k/a FDG Passenger ROW Holdings LLC, a Delaware limited liability company), whose address is 2855 Lejeune Road, 4th Floor, Coral Gables, Florida 33134, (including its successors and assigns, "Grantee"), pursuant to this Corrective Second Amended and Restated Grant of Passenger Service Easement (West Palm Beach to Cocoa) (as may be further amended, restated, replaced, supplemented or otherwise modified, this "Passenger Easement"), the permanent, perpetual and exclusive rights, privileges and easements for Passenger Railroad Service (as hereinafter defined) on, along, over, under and across all of the real property included in Grantor's right-of-way located in the Florida Counties (as defined in Section 1.3 below) (as more particularly described in Exhibit 1 attached hereto and incorporated herein (hereinafter the "Burdened Property") and, in connection therewith, to access (including, without limitation, for ingress and egress), install, place, construct, use, operate, maintain, alter, repair, renew, replace and/or remove rail, ties, ballast, switches and crossovers, other track materials, signals and communications facilities and equipment, utilities, stations, structures, and improvements in, through, across, over, under and upon the Burdened Property including, without limitation, such easements, rights and privileges as set forth in Section 2.1 below; provided, however, that such easements, rights and privileges shall be subject to the terms and conditions hereof including, without limitation, the reservations set forth in Section 2.6 below.

Grantor and Grantee are parties to (i) that certain Amended and Restated Grant of Passenger Services Easement dated February 28, 2014 for a rail corridor extending from Miami, Florida to Cocoa, Florida (the "Miami to Cocoa Easement") and (ii) that certain Amended and Restated Grant of Passenger Services Easement dated February 28, 2014 for a rail corridor extending from Cocoa, Florida to Jacksonville, Florida (the "Cocoa to Jacksonville Easement") which along with the Miami to Cocoa Easement collectively amended, restated and replaced in its entirety that certain Grant of Passenger Services Easement, dated December 20, 2007 (the "Original Easement") covering the entire rail corridor from Miami, Florida to Jacksonville, Florida. Grantor and Grantee are further bifurcating the Miami to Cocoa Easement by entering into (a) this Passenger Easement and (b) that certain Second Amended and Restated Grant of Passenger Service Easement (Miami to West Palm Beach) dated as of June 13, 2014, as corrected by that certain Corrective Second Amended and Restated Grant of Passenger Service Easement (Miami to West Palm Beach) dated as of the date hereof, which along with this Passenger Easement amends, restates and replaces in its entirety the Miami to Cocoa Easement and serves to further bifurcate the rail corridor into a Miami to West Palm Beach segment and a West Palm Beach to Cocoa segment. The recording information for the Original Easement, the Miami to Cocoa Easement and the Cocoa to Jacksonville Easement is set forth on Exhibit 2 attached hereto and incorporated herein.

1. DEFINED TERMS.

1.1 For the purposes of this Passenger Easement, "Passenger Railroad Service" shall mean any and all uses and purposes in connection with, consistent with, or relating to passenger

railroad operations on, along, over, under and across the Burdened Property, including without limitation installing, placing, constructing, occupying, using, operating, altering, maintaining, repairing, renewing and replacing rail, ties, ballast, other track material, signals and communications facilities and equipment, utilities, stations, platforms, structures, and/or improvements that are reasonably necessary or desirable or legally required in connection with the provision of Passenger Railroad Service; operating trains, cars, locomotives and other rail equipment for the movement of passengers in intercity, commuter, transit, excursion and special passenger train service; and any and all other activities that are ancillary or related to the transportation of passengers on or along the Burdened Property. Passenger Railroad Service shall also include intercity rail passenger service provided by the National Railroad Passenger Corporation ("Amtrak") pursuant to the Rail Passenger Service Act to the extent that such Amtrak service is provided on tracks and facilities constructed or owned by Grantee on, along or over the Burdened Property in accordance with this Passenger Easement, but shall not include Amtrak service to the extent that such Amtrak service is provided on tracks and facilities constructed or owned by Grantor on, along or over the Burdened Property.

1.2 For the purposes of this Passenger Easement, "Freight Railroad Service" shall mean any and all uses and purposes in connection with, consistent with, or relating to, freight railroad operations on, over, along, under and across the Burdened Property, including without limitation installing, placing, constructing, occupying, using, operating, altering, maintaining, repairing, renewing and replacing rail, ties, ballast, other track material, signals and communications facilities and equipment, utilities, structures, and/or improvements that are reasonably necessary or desirable or legally required in connection with the provision of freight railroad service; operating trains, cars, locomotives and other rail equipment for the movement of freight in overhead and local service; interchanging rail cars with other freight railroads, providing pickups, setoffs, transloading services or storage in transit; and any and all other activities that are ancillary or related to the transportation of freight on or along the Burdened Property. Freight Railroad Service shall also include intercity rail passenger service provided by Amtrak pursuant to the Rail Passenger Service Act to the extent that such Amtrak service is provided on tracks and facilities constructed or owned by Grantor on, along or over the Burdened Property, but shall not include Amtrak service to the extent that such Amtrak service is provided on tracks and facilities constructed or owned by Grantee on, along or over the Burdened Property.

1.3 For the purposes of this Passenger Easement, "Florida Counties" shall mean each of the following counties in the state of Florida: Brevard (from the point designated as Milepost 166.9+ of Grantor's existing right-of-way in Brevard County to the border with Indian River County), Indian River, St. Lucie, Martin, and Palm Beach (from the point designated as Milepost 297.5+ of Grantor's existing right-of-way in Palm Beach County to the border with Martin County). For the purpose of this Passenger Easement, "person" means any natural person, corporation, business trust, joint venture, association, company, partnership; limited or unlimited liability company, individual or family trust, or government, or any agency or political subdivision thereof.

2. EASEMENTS AND RESERVATIONS.

2.1 Passenger Railroad Service Easement. The Passenger Easement granted by Grantor to Grantee herein and hereunder for Passenger Railroad Service shall include, without limitation:

- (a) the right to operate trains, cars, locomotives and other rail equipment for the movement of passengers on, along and over the Burdened Property;
- (b) the right to install, place, construct, occupy, use, operate, alter, maintain, repair, renew and replace rail, ties, ballast, other track material, structures, signals and communications facilities and equipment, utilities, and/or improvements (including, without limitation, stations, buildings, platforms, stairways, escalators, and elevators) that are reasonably necessary or desirable or legally required in connection with the provision of Passenger Railroad Service;
- (c) the right to construct contiguous or adjacent additional rail lines, bridges and trackage and to install necessary switches, crossovers and track connections; and
- (d) the right to access (including, without limitation, for ingress and egress) the Burdened Property in connection with the foregoing purposes.

2.2 Non-Rail Use Easement. Grantee under this Passenger Easement acknowledges the rights granted pursuant to that certain Amended and Restated Grant of Easements (as may be further amended, restated, replaced, supplemented or otherwise modified, the "Non-Rail Easement") by Grantor to FEC ROW LLC (f/k/a FDG Flagler Station II LLC, a Delaware limited liability company (successor to FDG ROW Holdings LLC, a Delaware limited liability company)) and its successors and permitted assigns (including its successors and assigns, the "Non-Rail Easement Grantee"), dated as of June 13, 2014 which amends and restates that certain Grant of Easement granted by Grantor to Non-Rail Easement Grantee, dated December 20, 2007 and recorded in the public records of the Florida Counties (as defined therein), as the same was modified by that certain Corrective Grant of Easements, dated December 9, 2009, and recorded in the public records of the Florida Counties (as defined therein). The parties hereto agree and acknowledge that the easements rights and privileges of Grantee under this Passenger Easement shall be exercised subject to the terms and conditions of (i) that certain Amended and Restated Joint Use and Operating Agreement (as may be further amended, restated, replaced, supplemented or otherwise modified, the "Joint Use Agreement") among Grantor, Grantee and the Non-Rail Easement Grantee dated as of June 13, 2014 which amends and restates that certain Joint Use and Operating Agreement dated as of December 20, 2007 between Grantor and the Non-Rail Easement Grantee and (ii) the Shared Infrastructure Agreement (as defined below).

2.3 Operating and Management Agreement. Grantor and Grantee acknowledge the execution of that certain Joint Use Agreement (Shared Infrastructure) (as may be further amended, restated, replaced, supplemented or otherwise modified, the "Shared Infrastructure Agreement"), dated as of February 28, 2014 and as amended as of the date hereof, shall govern the exercise of the rights and performance of the obligations of Grantor and Grantee with respect to their use of the Burdened Property in the Florida Counties for Freight Railroad Service and Passenger Railroad Service, respectively, to the extent that such Freight Railroad Service and Passenger Railroad Service are provided on, along, over, under and across the Shared Infrastructure (as defined in the Shared Infrastructure Agreement). In the event that Grantee desires to exercise the easements, rights and privileges granted herein by installing, placing, constructing, occupying, using or operating other rail lines that are not part of the Shared Infrastructure, Grantor and Grantee covenant and agree to negotiate diligently and in good faith any additional operating agreement(s) that may be necessary or desirable to implement the installation, placement,

construction, use or operation of such other rail lines and to ensure, foster and promote the introduction and continuous operation of Passenger Railroad Service and/or Freight Railroad Service on, along, over and across the Burdened Property in the Florida Counties.

2.4 Financing. The rights, privileges and easements for Passenger Railroad Service of Grantee hereunder shall include the right to create, or suffer the creation of, mortgages, liens and encumbrances on (i) this Passenger Easement and (ii) any rail, ties, ballast, other track material, structures, signals and communications facilities and equipment, utilities, and/or improvements (including, without limitation, stations, platforms, stairways, escalators, and elevators) constructed or placed on the Burdened Property in the Florida Counties by Grantee, in each case as reasonably necessary or desirable or legally required in connection with financing arrangements relating to the construction, installation, placement, use, operation or maintenance of such rail, ties, ballast, other track material, structures, and/or improvements.

2.5 Designees. Grantee may exercise the rights and privileges granted to it hereunder through one or more designees; provided, however, that such designee(s) shall exercise such rights and privileges, and conduct Passenger Railroad Service operations, in accordance with (i) all applicable government regulations, (ii) the terms and conditions set forth in the Shared Infrastructure Agreement (to the extent that such Passenger Railroad Service operations are provided on, along, over, under and across the Shared Infrastructure) or such other operating agreement(s) as Grantor, Grantee and/or such designee(s) may enter into from time to time for the purpose of implementing Grantee's easements, rights and privileges under this Passenger Easement, and (iii) all applicable operating rules and standards established by Grantor from time to time pursuant to the Shared Infrastructure Agreement or such other operating agreement(s).

2.6 Freight Railroad Service Reservation. Grantor hereby reserves, for itself and its successors and assigns, the exclusive right to use the Burdened Property for Freight Railroad Service, subject to the terms and conditions of the Shared Infrastructure Agreement (to the extent that Freight Railroad Service is provided on, along, over, under and across the Shared Infrastructure) or such other operating agreement(s) as Grantor and Grantee may enter into from time to time. The parties hereto acknowledge and agree that nothing in this Passenger Easement, the Shared Infrastructure Agreement or such other operating agreement(s) shall be construed to assign or transfer to Grantee Grantor's common carrier obligation under federal law, or to permit Grantee to unreasonably interfere with Grantor's carrying out of that common carrier obligation.

3. MISCELLANEOUS

3.1 Entire Agreement. This Passenger Easement, together with (i) the Shared Infrastructure Agreement, (ii) intentionally deleted, (iii) the Non-Rail Easement, (iv) the Joint Use Agreement and (v) the documents referred to therein (including, without limitation, the Conduit Bill of Sale (as defined in the Non-Rail Easement)) supersedes all previous oral and written agreements (including, without limitation, that certain Passenger Services Use Agreement dated December 20, 2007, and that certain Joint Use Agreement (Shared Infrastructure), dated as of December, 2007) between, and representations by or on behalf of, the parties hereto, and constitutes the entire agreement of the parties with respect to the subject matter hereof.

3.2 Amendment. This Passenger Easement may not be amended except by a written agreement executed by the parties hereto or their respective successors and/or permitted assigns

(as applicable); provided, however, than any amendment adverse to Non-Rail Easement Grantee's rights under the Non-Rail Easement and the Joint Use Agreement shall only be effective when agreed to in writing by the Non-Rail Easement Grantee.

3.3 Notices. Any notices or communications hereunder shall be in writing and delivered personally, by first class mail, by national overnight courier or via facsimile (provided such notice also is promptly sent in accordance with one of the other foregoing methods), addressed to the parties at the addresses listed above, or to such other addresses as the party may from time to time designate in writing in accordance herewith. Notices shall be deemed received upon actual receipt of the notice by the primary party being sent the notice, or on the expiration of three (3) days after the date of mailing.

3.4 Governing Law. This Passenger Easement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of Florida, without regard to any contrary conflicts of laws principles of that (or any other) State.

3.5 Covenants Run with the Land. This Passenger Easement, the covenants and agreements contained herein, and the permanent, perpetual and exclusive easements, rights and privileges for Passenger Railroad Service granted hereby, shall run with and bind the land and inure to the benefit of the successors in interest to the parties hereto, their heirs, successors and permitted assigns.

3.6 Successors and Assigns.

(a) This Passenger Easement shall inure to the benefit of and be binding upon each of the parties and their respective successors and permitted assigns.

(b) Grantor may assign its rights under this Passenger Easement, upon prior written notice to Grantee, without the prior consent of Grantee, (i) to any affiliate of Grantor or (ii) in connection with the sale or transfer of all or substantially all of Grantor's shares, membership interests, rail assets or operations to a third party (so long as such sale or transfer includes the Burdened Property in the Florida Counties if owned by Grantor at the time of such sale or transfer); provided that, in such event, Grantor shall also assign, sell or transfer to the party acquiring Grantor's shares, membership interests, rail assets or operations (as applicable) the Shared Infrastructure Agreement and any other operating agreement(s) that Grantor and Grantee may enter into from time to time to implement this Passenger Easement.

(c) Grantee may assign or otherwise transfer its rights under this Passenger Easement, upon prior written notice to Grantor, without the prior consent of Grantor, (i) to any affiliate of Grantee or (ii) to any other party, provided that, in such event, Grantee shall also assign, sell or transfer to the party acquiring Grantee's rights under this Passenger Easement, its rights under the Shared Infrastructure Agreement and any other operating agreement(s) that Grantor and Grantee may enter into from time to time to implement this Passenger Easement.

3.7 Third Party Beneficiaries. The provisions of this Passenger Easement are for the exclusive benefit of Grantor, Grantee, the Non-Rail Easement Grantee and their respective

successors and permitted assigns and shall not be deemed to confer any rights, express or implied, upon any other person. Other than Grantor, Grantee and the Non-Rail Easement Grantee, no obligation of a party under this Passenger Easement is enforceable by, or is for the benefit of, any other third person. Except as provided in Section 3.2 hereof, it is expressly understood and agreed that no modification or amendment, in whole or in part, of this Passenger Easement shall require consent or approval on the part of any third party.

3.8 Interpretation. The parties have participated jointly in the negotiation and drafting of this Passenger Easement. In the event an ambiguity or question of intent or interpretation arises, this Passenger Easement shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Passenger Easement.

3.9 Recording. The parties agree that this Passenger Easement shall be recorded in the public records of each of the Florida Counties at the cost and expense of Grantee.

[Signatures on Next Page]

IN WITNESS WHEREOF, the said parties hereto have caused this Agreement to be duly executed and delivered the 5th day of October, 2014. 7

Signed, sealed and delivered in our presence:

FLORIDA EAST COAST RAILWAY, L.L.C., a
Florida limited liability company

[Signature]
Witness

Beanna Hernandez
Print Name

[Signature]
Witness

Janice Leon
Print Name

By: Robert Ledoux
[name] Robert Ledoux
[title] Senior Vice President

STATE OF FLORIDA
COUNTY OF Miami-Dade

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Robert, as Ledoux
SVP of Florida East Coast Railway, L.L.C., a Florida limited liability company, who is personally known to me.

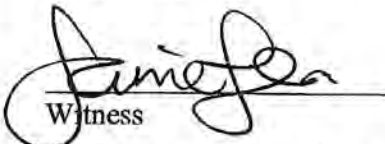
WITNESS my hand and official seal in the State and County last aforesaid this 5th day of
Oct., 2014. 7



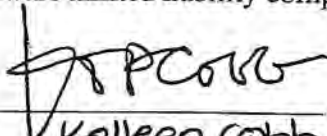
Jessica Perez
NOTARY PUBLIC

My Commission Expires: _____

Signed, sealed and delivered in our presence:

ALL ABOARD FLORIDA-OPERATIONS LLC,
a Delaware limited liability company
WitnessBianca Hernandez
Print Name
WitnessTanice Leon
Print Name

By:


Kolleen Cobb
Vice PresidentSTATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Kolleen, ~~as~~ Cobb
as vice President of ALL ABOARD FLORIDA-OPERATIONS LLC, a Delaware limited liability company, who is personally known to me.

WITNESS my hand and official seal in the State and County last aforesaid this 5th day of
Oct., 2014. 7


NOTARY PUBLIC
My Commission Expires: _____

Acknowledged by:

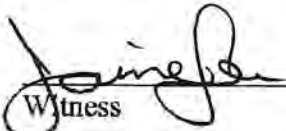
Signed, sealed and delivered in our presence:

FEC ROW LLC f ka
FDG FLAGLER STATION II LLC,
a Delaware limited liability company

 Witness

Beyonce Hernandez
 Print Name

 By: Robert Ledoux
Robert Ledoux
 SVP


 Witness

Tarance Leon
 Print Name
STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared Robert ~~as~~ Ledoux
SVP of FDG FLAGLER STATION II LLC, a Delaware limited liability company, who is personally known to me.
nka FEC ROW LLC

 WITNESS my hand and official seal in the State and County last aforesaid this 5th day of
Oct., 2014.


 NOTARY PUBLIC
 My Commission Expires: _____

EXHIBIT 1

Legal Description of Burdened Property

[Attached]

BREVARD

The Florida East Coast Railway, LLC main track right of way in Brevard County, Florida lying between Railway's Mile Post 166.9 to the Brevard/Indian River County line located at Railway's Mile Post 212.18 running through the following sections:

<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
31	23S	36E
6	24S	36E
7	24S	36E
8	24S	36E
17	24S	36E
18	24S	36E
20	24S	36E
21	24S	36E
28	24S	36E
33	24S	36E
4	25S	36E
9	25S	36E
10	25S	36E
15	25S	36E
14	25S	36E
23	25S	36E
26	25S	36E
35	25S	36E
36	25S	36E
1	26S	36E
12	26S	36E
13	26S	36E
18	26S	37E
19	26S	37E
30	26S	37E
31	26S	37E
32	26S	37E
5	27S	37E
8	27S	37E
9	27S	37E
16	27S	37E
21	27S	37E
28	27S	37E
27	27S	37E
34	27S	37E
3	28S	37E
2	28S	37E
11	28S	37E
14	28S	37E
13	28S	37E
24	28S	37E
25	28S	37E
30	28S	38E
31	28S	38E
6	29S	38E
5	29S	38E

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BREVARD		
<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
8	29S	38E
17	29S	38E
16	29S	38E
21	29S	38E
28	29S	38E
27	29S	38E
33	29S	38E
34	29S	38E
3	29S	38E
10	30S	38E
11	30S	38E
14	30S	38E
23	30S	38E
Fleming Grant	30S	38E

INDIAN RIVER

The Florida East Coast Railway, LLC main track right of way in Indian River County, Florida lying between the Brevard/Indian River County line located at Railway's Mile Post 212.18 and the Indian River/St. Lucie County line located at Railway's Mile Post 233.44 running through the following sections:

<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
21	30S	38E
31	30S	39E
6	31S	39E
7	31S	39E
8	31S	39E
17	31S	39E
20	31S	39E
21	31S	39E
28	31S	39E
29	31S	39E
33	31S	39E
4	32S	39E
3	32S	39E
10	32S	39E
15	32S	39E
22	32S	39E
23	32S	39E
26	32S	39E
35	32S	39E
2	33S	39E
1	33S	39E
12	33S	39E
13	33S	39E
24	33S	39E
19	33S	39E
30	33S	40E
31	33S	40E

The Florida East Coast Railway, LLC main track right of way in St. Lucie County, Florida between the Indian River/St. Lucie County line located at Railway's Mile Post 233.44 and the St. Lucie/Martin County line located at Railway's Mile Post 255.30 running through the following sections:

<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
6	34S	40E
5	34S	40E
8	34S	40E
17	34S	40E
16	34S	40E
20	34S	40E
21	34S	40E
28	34S	40E
33	34S	40E
34	34S	40E
3	34S	40E
10	35S	40E
15	35S	40E
22	35S	40E
23	35S	40E
26	35S	40E
35	35S	40E
36	35S	40E
1	35S	40E
12	36S	40E
7	36S	40E
18	36S	41E
19	36S	41E
30	36S	41E
29	36S	41E
32	36S	41E
5	36S	41E
4	37S	41E
9	37S	41E

Together with the Florida East Coast Railway, LLC K-Branch track right of way in St. Lucie County, Florida between Ft. Pierce located at Railway's Mile Post K-0 and the St. Lucie/Martin County line located at Railway's Mile Post K-22.13 running through the following sections:

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ST. LUCIE		
<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
23	35S	
22	35S	40E
27	35S	40E
28	35S	40E
29	35S	40E
30	35S	40E
31	35S	40E
36	35S	40E
1	36S	40E
2	36S	39E
11	36S	39E
10	36S	39E
15	36S	39E
16	36S	39E
21	36S	39E
20	36S	39E
29	36S	39E
30	36S	39E
31	36S	39E
36	36S	39E
1	36S	39E
2	37S	38E
11	37S	38E
10	37S	38E
15	37S	38E
16	37S	38E
21	37S	38E
20	37S	38E
29	37S	38E
30	37S	38E
31	37S	38E
36	37S	38E
	37S	37E

MARTIN

The Florida East Coast Railway, LLC main track right of way in Martin County, Florida lying between the St. Lucie/Martin County line located at Railway's Mile Post 255.30 and the Martin/Palm Beach County line located at Railway's Mile Post 280.55 running through the following sections:

<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
16	37S	41E
15	37S	41E
22	37S	41E
27	37S	41E
28	37S	41E
33	37S	41E
32	37S	41E
5	38S	41E
4	38S	41E
9	38S	41E
10	38S	41E
15	38S	41E
1	38S	41E
25	38S	41E
30	38S	41E
29	38S	42E
32	38S	42E
5	38S	42E
37	39S	42E
27	39S	42E
26	39S	42E
35	39S	42E
2	40S	42E
11	40S	42E
12	40S	42E
13	40S	42E
24	40S	42E

Together with the Florida East Coast Railway, LLC K-Branch track right of way in Martin County, Florida lying between the St. Lucie/Martin County line located at Railway's Mile Post K-22.13 and the Martin/Palm Beach County line located at Railway's Mile Post K-42.16 running through the following sections:

<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
1	38S	37E
2	38S	37E

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MARTIN		
<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
11	38S	
10	38S	37E
15	38S	37E
16	38S	37E
21	38S	37E
20	38S	37E
29	38S	37E
32	38S	37E
5	38S	37E
4	39S	37E
9	39S	37E
16	39S	37E
15	39S	37E
22	39S	37E
23	39S	37E
26	39S	37E
35	39S	37E
2	39S	37E
11	40S	37E
14	40S	37E
23	40S	37E
26	40S	37E

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The Florida East Coast Railway, LLC main track right of way in Palm Beach County, Florida lying between the Martin/Palm Beach County line located at Mile Post 280.55 and a point lying within Palm Beach County located at Railway's Mile Post 297.5, running through the following sections:

<u>SECTION</u>	<u>TOWNSHIP</u>	<u>RANGE</u>
25	40S	42E
30	40S	43E
31	40S	43E
36	40S	43E
1	41S	43E
6	41S	43E
12	41S	43E
13	41S	43E
24	41S	43E
25	41S	43E
36	41S	42E
1	42S	42E
6	42S	43E
7	42S	43E
18	42S	43E
17	42S	43E
20	42S	43E
29	42S	43E
28	42S	43E
33	42S	43E
4	43S	43E
9	43S	43E

EXHIBIT 2**List of Recording Information**

The recording information for the Original Easement.

<u>Date</u>	<u>Official Records Book and Page</u>	<u>County</u>
12/28/2007	OR Book 26134, Page 3357	Miami-Dade
12/28/2007	OR Book 22350, Page 72	Palm Beach
12/31/2007	OR Book 3026, Page 864	St. Johns
12/31/2007	OR Book 14330, Page 496	Duval
12/31/2007	OR Book 1635, Page 1519	Flagler
12/28/2007	OR Book 6173, Page 3240	Volusia
12/28/2007	OR Book 5834, Page 8004	Brevard
12/28/2007	OR Book 2231, Page 192	Indian River
12/28/2007	OR Book 2300, Page 1057	Martin
12/28/2007	OR Book 44946, Page 647	Broward
12/28/2007	OR Book 2921, Page 990	Saint Lucie

The recording information for the Miami to Cocoa Easement

<u>Date</u>	<u>Official Records Book and Page</u>	<u>County</u>
6/20/2014	OR Book 29200, Page 993	Miami-Dade
6/19/2014	OR Book 26864, Page 660	Palm Beach
6/18/2014	OR Book 7149, Page 1310	Brevard
6/18/2014	OR Book 2767, Page 283	Indian River
6/18/2014	OR Book 2427, Page 1993	Martin
6/18/2014	OR Book 50865, Page 1242	Broward
6/18/2014	OR Book 3644, Page 1	Saint Lucie

The recording information for the Cocoa to Jacksonville Easement

<u>Date</u>	<u>Official Records Book and Page</u>	<u>County</u>
6/18/2014	OR Book 3893, Page 195	St. Johns
6/18/2014	OR Book 16816, Page 557	Duval
6/18/2014	OR Book 2009, Page 776	Flagler
6/18/2014	OR Book 7000, Page 4758	Volusia
6/18/2014	OR Book 7149, Page 1330	Brevard

The recording information for the Cocoa to Jacksonville Assignment and Assumption

<u>Date</u>	<u>Official Records Book and Page</u>	<u>County</u>
6/18/2014	OR Book 3893, Page 210	St. Johns
6/18/2014	OR Book 16816, Page 572	Duval
6/18/2014	OR Book 2009, Page 791	Flagler
6/18/2014	OR Book 7000, Page 4773	Volusia
6/18/2014	OR Book 7149, Page 1345	Brevard

CFN 20170361960
OR BK 29401 PG 287
RECORDED 10/13/2017 14:08:08
Palm Beach County, Florida
AMT
Sharon R. Bock
CLERK & COMPTROLLER
Pgs 0287-0306; (20Pgs)

Prepared by and return to:

Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive, Suite 3300
Chicago, IL 60606
Attn: Real Estate Department

**CORRECTIVE SECOND AMENDED AND RESTATED GRANT OF PASSENGER
SERVICE EASEMENT (WEST PALM BEACH TO COCOA)**

by

FLORIDA EAST COAST RAILWAY, L.L.C., a Florida limited liability company and successor by
merger to Florida East Coast Railway Company,
as Grantor

to

ALL ABOARD FLORIDA - OPERATIONS LLC, a Delaware limited liability company and
formerly known as FDG Passenger ROW Holdings LLC,
as Grantee

DATED: October 5, 2017

**THIS CORRECTIVE SECOND AMENDED AND RESTATED GRANT OF PASSENGER
SERVICE EASEMENT (WEST PALM BEACH TO COCOA) IS BEING RECORDED TO
CORRECT THE LEGAL DESCRIPTION ATTACHED TO THAT SECOND AMENDED
AND RESTATED GRANT OF PASSENGER SERVICE EASEMENT (WEST PALM
BEACH TO COCOA) RECORDED ON JUNE 18, 2014, IN OFFICIAL RECORDS BOOK
7149, PAGES 1350, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA,
RECORDED ON JUNE 18, 2014, IN OFFICIAL RECORDS BOOK 2767, PAGES 303, OF
THE PUBLIC RECORDS OF INDIAN RIVER COUNTY, FLORIDA, RECORDED ON
JUNE 18, 2014, IN OFFICIAL RECORDS BOOK 3644, PAGES 21, OF THE PUBLIC
RECORDS OF ST. LUCIE COUNTY, FLORIDA, RECORDED ON JUNE 18, 2014, IN
OFFICIAL RECORDS BOOK 2724, PAGES 2013, OF THE PUBLIC RECORDS OF
MARTIN COUNTY, FLORIDA, AND RECORDED ON JUNE 19, 2014, IN OFFICIAL
RECORDS BOOK 26864, PAGES 698, OF THE PUBLIC RECORDS OF PALM BEACH
COUNTY, FLORIDA.**



PLAINTIFF'S
EXHIBIT
F

EXHIBIT
F

Data Updated 9/28/2025 @ 4:20 AM EST

Search

Results

Details

Contact Us

Maps

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Map Subject Property ③

MapView

EagleView



01/30/2022

< 1 of 13 >

Jan 2022 - Mar 2022

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BCPAO

Account: 2717336

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Data Updated 9/28/2025 @ 4:20 AM EST

Search Results Details

Contact Us

Maps

Map Subject Property ?

Open Map in New Window

MapView

EagleView



TaxAcct: 2717336

BCPAO

Account: 2717336

Search X

Instructions Disclaimer



**ALL ABOARD FLORIDA – CONTRACT D08
CROSS DRAIN CULVERT HYDRAULIC ANALYSES**

Prepared for



EXPERIENCE | Transportation

TranSystems Corporation
Jacksonville, Florida

Prepared by

Amec Foster Wheeler Environment & Infrastructure, Inc.
2000 E. Edgewood Drive, Suite 215
Lakeland, Florida

September 2015

Amec Foster Wheeler Project No. 600299





amec
foster
wheeler

CERTIFICATION

Engineering Certification

I hereby certify that I am a registered professional engineer in the State of Florida practicing with Amec Foster Wheeler Environment & Infrastructure, Inc., 2000 E. Edgewood Drive, Suite 215, Lakeland, FL 33803, a corporation authorized to operate as a business providing engineering consulting services (5392) by the Florida Board of Professional Engineers. I further certify that I, or others under my direct supervision, have prepared the engineering evaluations, findings, opinions, calculations, conclusions or technical advice hereby represented in this report.

SIGNATURE:

Jeffrey D. PeQueen

NAME:

Jeffrey D. PeQueen

LICENSE No:

47664

DATE:

September 2, 2015

All Aboard Florida – Contract D08

Cross Drain Culvert Hydraulic Analyses

Report – 397 Pages

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1.0 GENERAL BACKGROUND AND APPROACH

This D08 portion of the proposed project from MP 166.9 to MP 233.4 includes 82 cross drains that were either listed in the Track Chart or identified in the field to convey storm water through the existing Florida East Coast Railway (FEC) right of way. Several of these are indicated on the Track Chart but have not been identified in the field, while several others have been identified in the field but were not listed on the Track Chart. In some areas the culverts drain east to west, and in other areas they drain west to east. It is possible there are other unknown culverts that will be discovered and addressed as the project progresses. However, at this time the 82 known or expected cross drains have been analyzed regarding their suitability to convey the necessary storm water loads draining to them. Furthermore, where appropriate, analyses are provided to demonstrate that the proposed lengthening of the culverts will have no appreciable adverse impact on the surrounding properties. There are also multiple bridges that cross the rail in this portion of the project. The bridges are not included with this analysis as their separate hydraulic analyses are being performed by others. Please see those individual analyses for further information on the bridges.

The existing Florida East Coast Railway (FEC) stretching from St. Augustine to Key West was completed in 1912. Since that time, the railroad has been rebuilt following damage from hurricanes and also has been constantly maintained and upgraded as part of normal rail operations. In general, the rail line was historically a double track system for its entire length, although large portions of the second track have been removed throughout the last century. Precise documentation of the exact construction dates of the tracks, the cross drains and other features of the rail system are not available. With FEC's long history of operation, it is certainly reasonable to assume that they all were installed decades ago and certainly prior to October 1984 – when the current Water Management District (WMD) permitting criteria became effective. As a result, the facilities pre-date most of the surrounding development that has occurred along the rail corridor over the years. Most of this later infrastructure and development has had to comply with storm water permitting criteria, i.e. requiring onsite attenuation and various storm water facilities. Many of these systems are interconnected with adjacent systems and properties and ultimately form large storm sewer networks covering many square miles. There is no comprehensive model of the existing system and developing one is beyond the reasonable scope of this project. Therefore, an alternative approach was chosen to analyze the culverts.

This project is not proposing to introduce new drainage conveyances or block existing ones – it is simply trying to maintain the “status quo” while allowing for the rail construction to occur. Per Section 2.A.2.c of the “Drainage Design Criteria for All Aboard Florida” developed by HNTB and dated March 12, 2014, the cross drain extensions are to be designed to “demonstrate no adverse impacts to flows and elevations between the pre and the post conditions for the 25-year storm events.” It is not the intent of this study or of the proposed construction to retrofit the existing drainage system to comply with today's more stringent criteria. This drainage analysis was therefore conducted based on a simpler but also more conservative approach. The existing rail corridor has been functioning for decades, and as such already co-exists with the surrounding properties and drainage systems. If there were existing problems with the system, then there would be a record of these and most likely they would have already been addressed over the last century of operation. Amec Foster Wheeler Environment & Infrastructure, Inc. (Amec Foster Wheeler) inquired of TranSystems and was told that FEC had not disclosed any known problems with the drainage system. Additionally, multiple individual culverts have been discussed with engineers at the St. Johns River Water Management District (SJRWMD). During all of those conversations, no existing drainage problems were encountered or discovered. Based on that fact and the preceding rationale, Amec Foster Wheeler assumes the existing culverts generally

function acceptably. Therefore, our analysis focuses primarily on whether potential lengthening of existing culverts will result in adverse impacts, i.e. higher water levels, to surrounding properties or to the FEC system itself. The following paragraphs describe the approach used in more detail.

Drainage basin boundaries were developed for all of the culverts based on the available Digital Elevation Model (DEM) for Brevard and Indian River Counties, which was downloaded from the St. Johns River Water Management District. The DEM is a raster grid that is derived from a terrain dataset created from LiDAR data collected in the summer of 2007. These DEM data as well as all analyses in this report, the supporting surveys, and the construction plans are referenced to NAVD88 Vertical Datum. The DEM served as a guide to determine the basin boundaries of the Florida terrain based solely on topography. These boundaries were then revised manually by comparing them with aerial photographs and adjusting accordingly based on obvious factors such as development limits, interconnected ditch and lake systems, etc. It was not feasible to physically inspect and verify "on the ground" each of the basin delineations to determine possible culvert or other "hidden" connections that were undetectable from the GIS resources utilized. However, this is the same exact approach that Amec Foster Wheeler has utilized and which has been accepted and required on multiple Watershed Management Plans (WMP) prepared for and approved by both the Southwest Florida Water Management District (SWFWMD) and the Suwannee River Water Management District (SRWMD) in recent years. Additionally, this methodology has also been utilized and accepted by SJRWMD on several Environmental Resource Permits (ERP) that Amec Foster Wheeler has obtained on other rail projects in recent years; and it represents an efficient and appropriate means of determining large scale drainage basins such as those in this analysis. As such, it is expected that it will also be acceptable in the SJRWMD as well.

Runoff rates and volumes are highly dependent on the amount of impervious and pervious areas as well as the underlying soil types. For an area as large as that contributing to this 66+ mile rail corridor, it simply is not feasible to physically calculate all of the impervious areas. Instead, the impervious/pervious coverage is estimated based on typical known values for different land use categories. It is our belief that this will generally "over-predict" flow rates because not all area designated with a certain land use will actually be developed. For example, an area may be included under the industrial land use, but might remain undeveloped. Impervious area for that parcel will thus be less than we are assuming in our calculations. Therefore, the predicted runoff generated and ultimately the peak flow discharge used for the culvert analysis will be greater than what actually occurs in the field. It is our opinion that this lends an additional level of safety factor to the analysis and thus is an acceptable approximation. There are different databases of these land uses available that show the land uses throughout our study area at different dates in the past. Each of the land uses correlates to a typical level of impervious area coverage. This is referred to as the "Directly Connected Impervious Area" and is documented in **Table 1** for each land use. Amec Foster Wheeler chose to utilize the land use data that was typical of the areas before 1984 when storm water permitting was either not required or was only minimally implemented. That condition would approximate the conditions when the railroad's drainage facilities were constructed. To utilize later data, would significantly over predict flow rates because it would not reflect the storm water attenuation facilities that would have been required concurrently with the later development. We would essentially be predicting large flow rates generated from highly impervious areas without being able to simultaneously account for the attenuation and surge control provided by these storm water facilities that are simply too numerous to include in the analysis. These later developments have both higher impervious areas and also surge ponds that act to reduce the greater storm water discharge rates down to levels at or below those existing prior to 1984. Therefore, by choosing to use the land use data indicative of 1984 conditions, we are in effect approximating the storm water discharge rates that later development should have been designed to meet as well. These rates as well as the major

basin parameters used to generate the flow rates are summarized in **Table 2**. Admittedly, this is not a perfect approach, but seems to approximate both the historic flows and those to which more recent development is supposed to be designed and constructed to mimic. The earliest land use data that were available and also those closest to 1984 conditions were from 1973, and were downloaded from the SJRWMD website. These 1973 land use designations are thus the “chronologically-closest” to the pre-1984 conditions that we are attempting to replicate. Land use and land cover data were derived based on 1:62,500 scale color and infrared aerial photography from 1972 through 1974. This land use data has its own land use codes (LUCODE) assigned to each land cover. To convert the data to match the current LUCODE that are commonly used today and are listed in the Florida Land Use, Cover and Forms Classification System (FLUCCS), **Table 1** was created based on the land cover descriptions from both systems matching the 1973 LUCODE with the current LUCODE.

SCS Curve Number (CN) designations as a function of the Hydrologic Soil Group (HSG) classifications and the LUCODE are provided in **Table 3**. Soil data were downloaded from The U.S. Department of Agriculture, Natural Resources Conservation Service's Soil Survey Geographic (SSURGO) Database for Florida, June 2012. This is a digital soil survey data set that is the most detailed level of soil geographic data developed by the National Cooperative Soil Survey and which ties in efficiently with the GIS approach to watershed modeling. The various soil types present within the study area and their relevant SCS HSG classifications are provided in **Table 4**. The CN values in **Table 3** were then utilized in calculating the design flow rates for each culvert analysis.

Time of Concentration (TC) for each of the contributing basins to the culverts was determined utilizing automated, standardized GIS techniques that mimic those used in the WMP prepared for the various water management districts mentioned earlier. The flow paths used to calculate the TC values are indicated on the drainage basin map provided for each culvert.

To calculate the design flow rate for each culvert, the SJRWMD-approved and widely used surface water modeling program “Interconnected Channel and Pond Routing Model” or ICPR was used. ICPR is a one-dimensional hydrodynamic model that calculates the hydrology for each drainage basin using the SCS CN method originally developed under TR-55. The CN values determined as described previously as well as the Time of Concentration and drainage basin area were all input into ICPR for the hydrograph determination. The 25-year 24-hour event was utilized to generate each design flow rate. This is consistent with both the “Drainage Design Criteria for All Aboard Florida” developed by HNTB, as well as the SJRWMD criteria specified in the Environmental Resource Permit (ERP) permit handbook. Although these culvert extensions do not require ERP permitting, the ERP criteria are accepted industry practice and are followed here as well. This storm event for Brevard and Indian River counties produces 9.5 inches rainfall according to the Figure 7 of the Technical Publication SJ 88-3 (Rao, 1988). **Table 2** provides a summary of the drainage basin contributing to each culvert, showing its hydrologic parameters and resulting peak design flow rates predicted by ICPR.

If desired, ICPR will then route the hydrographs through hydraulic connections, ponds, etc. within the drainage network. In this study, however, the vast majority of the individual culverts typically acts as single hydraulic elements and is not part of larger complex systems requiring the storage routing for which ICPR is so well known. ICPR is not as efficient at single culvert analysis as other programs, so the hydrology results, i.e. the predicted peak flow rates from the ICPR model were exported from the model and input into the “Hydraflow Express Extension for AutoCAD Civil 3D” model (Hydraflow) for calculation of resulting hydraulic grade lines and determination if the various culvert modifications have adverse impacts. There are several specific cross drain locations,

however, where multiple size culverts at different invert elevations act together to drain a contributing area. Hydraflow cannot handle that situation of varied culverts and invert elevations. For these locations, ICPR was utilized to model the flow through the multiple culverts. In the following analyses for the culverts, the “Existing” and “Proposed” condition for each culvert is modeled and the Hydraflow and/or ICPR output summary is provided.

2.0 INDIVIDUAL CULVERT ANALYSES

Each of the known cross drain culverts was located in the field; photographed; inspected for signs of damage, wear or other concerns; surveyed relative to existing track elevation; and then hydraulically analyzed to determine if it was sufficiently sized and whether or not a proposed extension would produce adverse impacts. In general, the cross drains are very old and were not necessarily designed by today's standards and have, in many cases, been modified “in the field” by maintenance crews utilizing non-standard practices as well. The cross-drains are functioning, but they simply cannot be expected to comply with today's criteria. Additionally, most of the culverts are non-standard sizes, e.g. 34” vertical by 30” horizontal or 27” vertical by 24” horizontal oval pipes – which complicates their analysis. These non-standard sizes are not readily transferrable to hydraulic models because they do not conform to recognized shapes, i.e. circular, elliptical or arch available for inclusion in the models. These non-standard culverts approximate circular culverts more than either arch or elliptical and thus they are modeled as circular with diameters matching the smaller of the surveyed dimensions. Once again, this is admittedly an approximation – but one that allows uniformity throughout the analysis and also introduces additional safety factor into the design. Several of the cross drains include multiple culverts that are slightly different invert elevations. Hydraflow allows multiple barrels, but assumes all barrels have the same invert elevations. To overcome this circumstance, the invert elevations at the upstream and downstream ends of the culverts were averaged to produce a “composite” culvert, of which there are multiple barrels. Any discrepancy this may produce in relation to the actual culverts will certainly be small but will also be equally represented in both the existing and proposed scenarios, and therefore will have no appreciable impact on the comparative results.

The purpose of this analysis is to document that any proposed culvert extensions will not adversely impact adjacent properties per the Drainage Criteria developed by HNTB. The approach taken for this analysis is based on the rationale discussed in the “General Background and Approach” section. Specifically, the existing culverts (by all known accounts) are functional at this date and the proposed construction will maintain that functionality without adversely impacting existing properties. This is done by utilizing the Hydraflow and/or ICPR software to verify that lengthening the existing culverts will not significantly affect the design high water levels upstream of the culverts. It is assumed that the culvert extensions will not lead to adverse impacts downstream as they should not lead to any increase in flow rate. There are several locations where the existing design high water levels extend above the assumed bottom of sub-ballast. One solution for eliminating these high water levels is to increase capacity by adding new culverts beneath the tracks. These locations are called out in the narrative for informational purposes, but no new culverts are proposed – as that would increase discharge rates downstream which would violate the conditions of the current permits and applications. If additional culverts are to be added, then additional permit modification applications are required as are additional supporting calculations. For cross drain locations with large discharge velocities that potentially could cause erosion, we recommend the installation of rip rap at the downstream locations. These are specified under the analysis for each individual cross drain. Additionally, on culverts with extensions or with existing sediments to be removed, rip rap is specified as well to limit erosion potential. Many of the existing culverts have no rip rap and also show no indications of erosion problems. Rip rap is not proposed for these locations, as the proposed construction will do

nothing to increase the erosion potential in areas where erosion is not currently a concern. The general approach to the analysis is described below.

Tailwater determination can be critical to cross drain analysis. Ideally, long periods of known water elevations are available from which a design tailwater can be estimated. For this project, only 2 cross drains have staff gauges and gauging stations with historic water level data – MP 172.19 and MP 177.24. Unfortunately, the periods of record for both stations are approximately one year: July 2013 to the present for MP 172.19 and August 2013 to the present for MP 177.24. One year of data is not sufficient for estimating design water elevations, and therefore the gauges are of little help in establishing tailwater elevations. The culverts in this analysis typically discharge from one trackside ditch into another trackside ditch or some other nondescript water body. As such, there are generally not historic data available on design water elevations. Several of the cross drains were affected by Environmental Resource Permits (ERP) issued by SJRWMD. Information from those permits was used to help estimate the tailwater at those specific crossings. However, the number of sites with these data was very few. Another potential source of tailwater data is established Base Flood Elevations (BFE) on FEMA floodplain maps. Once again, very few of the cross drains discharge to areas with established BFEs. Utilizing these 100-year elevations as the tailwater for a 25-year analysis may lead to artificially high predicted design stages for these locations. Another common methodology for determining tailwater is to calculate normal depth in the receiving ditch and utilize that elevation – but once again the systems involving these cross drains are rarely well-defined ditches or conveyances. Rather they are mostly poorly-maintained areas that have largely silted in over the decades and no longer function as efficient conveyances. As such, many of the typical means of estimating tailwater are not available for these culverts. The vast majority of cross drains have no permitted or historic data on water elevations. Due to these limitations and in attempt to provide uniformity to the analyses, the majority of the cross drains have been analyzed utilizing the crown of the downstream end of the culvert as the tailwater elevation. Per Section 3.4 of the FDOT Drainage Manual, if other site specific data are not available (as is true for most of these cross drains) “Standard design tailwater conditions for the design of storm drain systems are as follows: Crown of pipe at the outlet...” In the absence of other available data, utilizing the crown of the outlet end of the culvert is a reasonable approximation. This approach is even more appropriate in this instance where the intent of the design is to compare existing and proposed conditions. As described earlier, a basic design assumption in this analysis is that we are looking at an existing system that has functioned for decades and as such can be expected to generally perform satisfactorily, i.e. the cross drains provide sufficient conveyance to avoid flooding issues for the track. Because of that, the analysis is focused on showing that potential extensions of those cross drains have no adverse impacts. As such, any over or under-estimation of the tailwater will be equally represented in the existing and proposed conditions. The typical analysis therefore assumes the downstream tailwater at the downstream end of the culvert to match the existing crown elevation at that downstream end. This approach also matches the approach taken in the culvert extension analyses for both segments P03 and D10 of the overall rail project.

The design flow rates are taken from the ICPR model described above and are identical in both the existing and proposed conditions. At each location, surveyed elevations and lengths of the culvert inverts and other relevant points are utilized to construct the Hydraflow and ICPR models. The Hydraflow model independently determines whether the culvert flow is under Inlet Control, Flowing Full, or other flow regime. The model requires input data assuming the top of the embankment, i.e. the rail itself acts as an overflow weir. Elevations are entered for these parameters but have no impact on the results, because the water levels do not rise high enough to overtop the embankment at any of the cross drains. Figures are provided for each individual cross drain providing an aerial view of the location; soils and land use data for each contributing

drainage basin; and topographic data with basin boundary information and Tc flow path. Each cross drain has three accompanying figures: the aerial view is **Figure A**, the basin boundary and topographic data are shown on **Figure B**, and the land use and soils data are shown on **Figure C**.

In addition to confirming that potential culvert lengthening will not adversely impact water levels, discharge velocities are analyzed to confirm that they are not excessive. Per Florida Department of Transportation (FDOT) criteria, any velocity exceeding 4 feet/sec (fps) is potentially erosive in Florida's sandy soils. Therefore, any culverts where we are disturbing the ground and which have a discharge exceeding 4 fps are potentially subject to erosion and a recommendation to add riprap at the downstream culvert end is included in the analysis. In all of these cases, the riprap to be installed is FDOT "Ditch Lining" riprap as specified per FDOT Standard Specifications 2013 Section 530-2.2.2. Many of the conveyances immediately upstream and downstream of the cross drains have not been maintained and are currently overgrown with vegetation and/or partially filled with sediment and ballast materials. These areas are called out under each individual culvert analysis. It is understood and expected that following the construction of the new rail project and the associated drainage modifications, that these conveyances will be maintained in their proper condition to facilitate their drainage function. Consistent with this expectation, the culvert analyses represent both the existing and proposed flow regimes with the culverts not blocked by sediments, i.e. even though several cross drains have significant blockage at this time, the analysis represents the culverts as well-maintained and open.

Please note that the purpose of this study and the associated construction plans is to address changes to the existing system resulting from the proposed new rail construction. It is not to analyze the existing drainage structures and conveyances in order to assess what maintenance activities should be recommended for the existing system. There are numerous culverts where corrosion or other issues were noted as potentially needing maintenance work such as lining the interior of the culverts to address corrosion, e.g. the cross drains at MP 185.65, 192.08, and 193.32, and 197.24. Additionally there are several cross drains where the existing headwalls are cracked and should be repaired or replaced, e.g. 207.80, 212.93, 213.59, 218.57, 219.56, 226.26, 231.86, and 232.64 – but are not being impacted by the proposed construction. During the project, locations with concerns like these were identified and proposed solutions were discussed but at the direction of HNTB, they were eliminated from this report and the construction plans because they were deemed to be the responsibility of ongoing maintenance activities by FEC and not the responsibility of the All Aboard Florida project. Their exclusion from this report does not mean they should not be addressed, it simply means they should be addressed as ordinary maintenance by FEC and not as part of the All Aboard Florida project.

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Technical Release 55 (TR-55), Urban Hydrology for Small Watersheds, U.S. Department of Agriculture, Natural Resources Conservation Service.

TABLE 1 - Land use Code and Descriptions within the AAF Project Area

Current LUCODE	LUCODE 1973	Land use Description	DCIA (%)
1100	3	Residential Low Density	20
1200	4	Residential Medium Density	25
1300	5	Residential High Density	50
1400	8	Commercial & Service	85
1610	36	Borrow Pit	0
1700	9	Institutional	65
1800	2	Recreation	10
1900	1	Open Land	0
2110	12	Improved Pasture	0
2200	14	Citrus Groves	10
2300	16	Confined Feeding	10
3200	20	Grassy Scrub	0
4110	23	Pine Flatwood	0
4200	25	Hydric Hammock	0
5200	34	Lakes & Ponds	0
6170	27	Hardwood Swamp (Riverine)	100
6210	29	Cypress Dome	100
6410	32	Fresh Water Marsh	100
6430	31	Tidal Flat	100
6520	39	Coastal Hammock	100
8100	10	Transportation	25

TABLE 2 – Drainage Basin Parameters

Basin Name (MP)	Area (acres)	Curve Number	Manning's N	DCIA (%)	TC (Minutes)	25yr24hr Max Flow (cfs)
172.19	1079.46	50.70	0.21	27.87	152.66	692.49
173.42	17.42	54.71	0.16	20.00	42.60	27.06
173.95	78.04	48.58	0.14	32.28	72.84	85.72
176.75	17.94	45.24	0.24	14.14	62.48	14.87
176.97	1115.15	55.33	0.27	41.76	490.29	372.67
177.03	17.03	32.69	0.42	2.41	10.00	9.26
177.24	331.22	56.63	0.31	27.75	176.45	215.95
177.55	75.21	54.27	0.41	3.00	73.59	65.92
177.86	9.48	34.34	0.37	5.37	54.46	3.37
178.17	126.40	55.09	0.37	6.07	137.99	74.71
178.49	53.75	44.46	0.35	15.04	62.14	44.14
178.88	210.87	47.27	0.31	54.53	163.25	166.49
179.55	131.71	41.27	0.15	68.25	56.94	235.79
180.14	52.13	48.87	0.13	56.36	73.21	74.87
180.6	33.54	68.37	0.30	84.11	73.43	64.81
182	1128.70	50.44	0.24	47.26	457.49	394.40
182.47	76.12	38.21	0.28	85.11	47.09	179.17
183	59.52	40.24	0.27	77.80	301.39	36.26
183.22	12.02	35.50	0.30	0.00	42.26	3.99
183.5	42.54	43.16	0.25	24.54	72.65	36.18
184.02	289.65	56.74	0.35	4.27	119.97	197.03
184.64	33.34	54.15	0.28	3.35	105.02	22.55
185.08	178.52	53.99	0.28	8.02	122.23	114.28
185.65	635.61	59.06	0.27	16.40	373.68	220.52
186.45	888.32	56.91	0.28	14.41	256.98	381.69
186.6	67.67	47.52	0.22	15.00	98.51	45.08
187.69	79.09	47.27	0.30	9.78	139.29	36.78
189.12	346.42	59.72	0.26	19.95	281.97	156.66
190.05	71.85	39.00	0.09	53.56	102.18	71.33
190.2	16.86	39.00	0.07	69.38	46.75	33.89
190.87	1612.77	57.35	0.27	18.22	248.89	747.78
193.16	22.71	31.83	0.23	19.96	35.19	17.65
193.32	214.34	44.03	0.15	52.43	174.37	151.90
194.92	92.61	52.19	0.13	28.40	74.60	103.51
195.73	116.17	48.85	0.18	18.35	82.35	97.14
197.23	271.02	56.31	0.22	14.63	110.98	216.69
198.28	31.88	39.00	0.17	42.50	40.95	48.02
199.26	13.63	39.00	0.13	43.18	28.14	25.57
200.15	217.32	62.35	0.33	13.37	120.86	188.22
201.22	754.19	56.76	0.27	12.80	440.52	209.76
203.27	992.89	49.92	0.29	18.52	335.19	304.69
203.88	40.95	39.31	0.41	0.00	82.69	12.94
204.32	214.24	51.38	0.34	0.00	156.27	90.63
205.01	1545.28	54.31	0.30	8.86	387.86	420.79

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TranSystems
All Aboard Florida – Contract D08
Cross Drain Culvert Hydraulic Analyses

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Basin Name (MP)	Area (acres)	Curve Number	Manning's N	DCIA (%)	TC (Minutes)	25yr24hr Max Flow (cfs)
205.4	123.22	46.44	0.18	19.74	120.86	74.32
206.04	80.87	47.81	0.36	6.06	100.30	45.49
206.66	22.53	35.12	0.30	10.02	91.82	7.67
207.09	512.91	55.18	0.35	0.00	172.81	235.95
207.8	414.45	56.57	0.25	0.84	196.36	184.25
208.87	313.23	51.34	0.30	10.77	178.26	143.44
210.34	3.65	73.00	0.15	63.88	29.53	11.60
210.97	10.62	66.07	0.19	24.35	74.52	15.17
211.32	46.27	68.14	0.25	7.35	59.46	73.24
212.93	161.58	63.31	0.31	12.39	69.01	213.23
213.59	47.75	50.84	0.42	6.19	62.45	43.02
214.85	90.38	44.45	0.35	8.03	46.69	76.77
215.06	13.12	32.01	0.45	0.00	50.17	2.40
218.57	63.76	39.82	0.41	2.48	54.45	31.08
219.56	55.31	47.31	0.28	11.29	66.92	44.95
220.25	190.40	46.58	0.34	1.65	117.95	81.07
221.42	422.34	47.45	0.39	2.61	201.40	129.38
222.54	105.80	41.43	0.41	0.00	112.10	32.01
222.88	58.55	38.40	0.43	0.00	103.06	14.62
224.25	54.12	47.43	0.39	0.13	106.87	25.05
224.83	118.95	48.41	0.13	32.91	104.86	101.76
226.26	2.05	63.01	0.45	0.00	83.06	2.32
228.13	3.17	41.41	0.13	25.00	27.51	4.61
229.76	163.72	54.78	0.34	7.26	79.34	146.31
230.51	109.73	49.45	0.30	11.47	55.36	110.48
231.56	40.92	44.24	0.29	12.28	34.30	45.39
231.86	102.49	41.88	0.37	0.00	90.03	37.53
232.64	134.95	41.99	0.28	9.41	75.94	75.60

TABLE 3 - Curve Number Assignments

FLUCCS	Generalized Land use Description	Hydrologic Soils Group						
		A	A/D	B	B/D	C	D	W
1100	Residential-Low Density	39	80	61	80	74	80	99.8
1200	Residential-Med Density	39	80	61	80	74	80	99.8
1300	Residential-High Density	39	80	61	80	74	80	99.8
1400	Commercial	39	80	61	80	74	80	99.8
1610	Strip Mines	39	80	61	80	74	80	99.8
1700	Institutional	39	80	61	80	74	80	99.8
1800	Recreational	39	80	61	80	74	80	99.8
1900	Open Land	39	80	61	80	74	80	99.8
2110	Improved Pastures	39	80	61	80	74	80	99.8
2200	Tree Crops - Citrus	32	79	58	79	72	79	99.8
2300	Feeding Operations	32	79	58	79	72	79	99.8
3200	Shrub and Brush Rangeland	30	73	48	73	65	73	99.8
4110	Pine Flatwoods	32	79	58	79	72	79	99.8
4200	Upland Hardwood Forests	32	79	58	79	72	79	99.8
5200	Lakes	99.8	99.8	99.8	99.8	99.8	99.8	99.8
6170	Mixed Wetland Hardwoods	99.8	99.8	99.8	99.8	99.8	99.8	99.8
6210	Cypress	99.8	99.8	99.8	99.8	99.8	99.8	99.8
6410	Freshwater Marshes	98	98	98	98	98	98	99.8
6430	Wet Prairies	98	98	98	98	98	98	99.8
6520	Shorelines	98	98	98	98	98	98	99.8
8100	Transportation / Utilities	83	93	89	93	92	93	99.8

TABLE 4 - Soil Data within the AAF Project Area

MUKEY	Soil Description	Hydro Group
1473376	ANCLOTE SAND	A/D
1473288	ANCLOTE SAND, DEPRESSIONAL	A/D
1473289	ANCLOTE SAND, FREQUENTLY FLOODED	A/D
756737	ARCHBOLD SAND, 0 TO 5 PERCENT SLOPES	A
756747	ARENTS, 0 TO 5 PERCENT SLOPES	A
756756	ASTATULA SAND, 0 TO 5 PERCENT SLOPES	A
1473293	BASINGER SAND	A/D
1473292	BASINGER SAND, DEPRESSIONAL	A/D
1473295	CANAVERAL-ANCLOTE COMPLEX, GENTLY UNDULATING	A/D
1473290	CANDLER FINE SAND	A
1473291	CANDLER-URBAN LAND COMPLEX	A
1473301	COCOA SAND	A
756729	IMMOKALEE FINE SAND	B/D
1473314	IMMOKALEE SAND	A/D
756753	IMMOKALEE-URBAN LAND COMPLEX	A/D
756755	JONATHAN SAND, 0 TO 5 PERCENT SLOPES	A
1473315	MALABAR SAND, HIGH	A/D
756740	MANATEE LOAMY FINE SAND	B/D
1473319	MICCO MUCKY PEAT, FREQUENTLY FLOODED	A/D
756730	MYAKKA FINE SAND	A/D
756765	MYAKKA FINE SAND, DEPRESSIONAL	A/D
1473322	MYAKKA SAND	B/D
1473324	MYAKKA SAND, DEPRESSIONAL	B/D
1473325	MYAKKA-URBAN LAND COMPLEX	B/D
1473329	PAOLA FINE SAND, 0 TO 5 PERCENT SLOPES	A
1473330	PAOLA FINE SAND, 5 TO 12 PERCENT SLOPES	A
756733	PAOLA SAND, 0 TO 5 PERCENT SLOPES	A
1473331	PAOLA-URBAN LAND COMPLEX, 0 TO 8 PERCENT SLOPES	A
1473335	POMELLO SAND	A
756745	POMELLO SAND, 0 TO 5 PERCENT SLOPES	A
1473336	POMELLO-URBAN LAND COMPLEX	A
1473337	POMPANO SAND	A/D
756742	QUARTZIPSAMMENTS, 0 TO 5 PERCENT SLOPES	A
1473338	QUARTZIPSAMMENTS, SMOOTHED	A
756757	SATELLITE FINE SAND	A/D
1473339	SATELLITE SAND	A/D
1473340	ST. JOHNS SAND	B/D
1473341	ST. JOHNS SAND, DEPRESSIONAL	B/D
1473342	ST. LUCIE FINE SAND, 0 TO 5 PERCENT SLOPES	A
756736	ST. LUCIE SAND, 0 TO 8 PERCENT SLOPES	A
1473349	TAVARES FINE SAND	A
1473350	TERRA CEIA MUCK, FREQUENTLY FLOODED	A/D
1473353	TOMOKA MUCK, DRAINED	A/D
1473352	TOMOKA MUCK, UNDRAINED	A/D
1473345	UDORTHENTS, STEEP	A
1473354	URBAN LAND	A/D
1473441	WATER	W

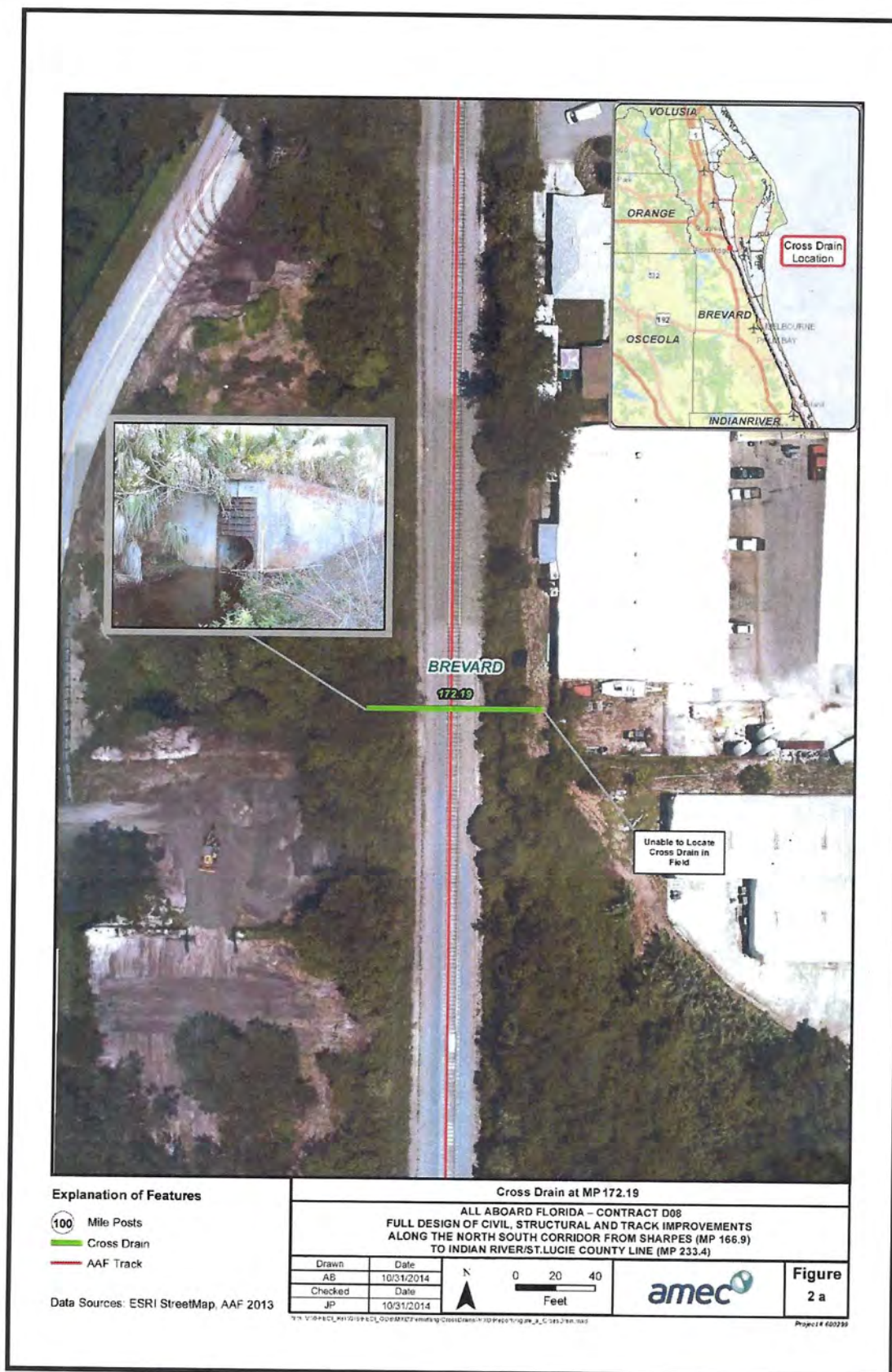
4.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 172.19 CROSS DRAIN

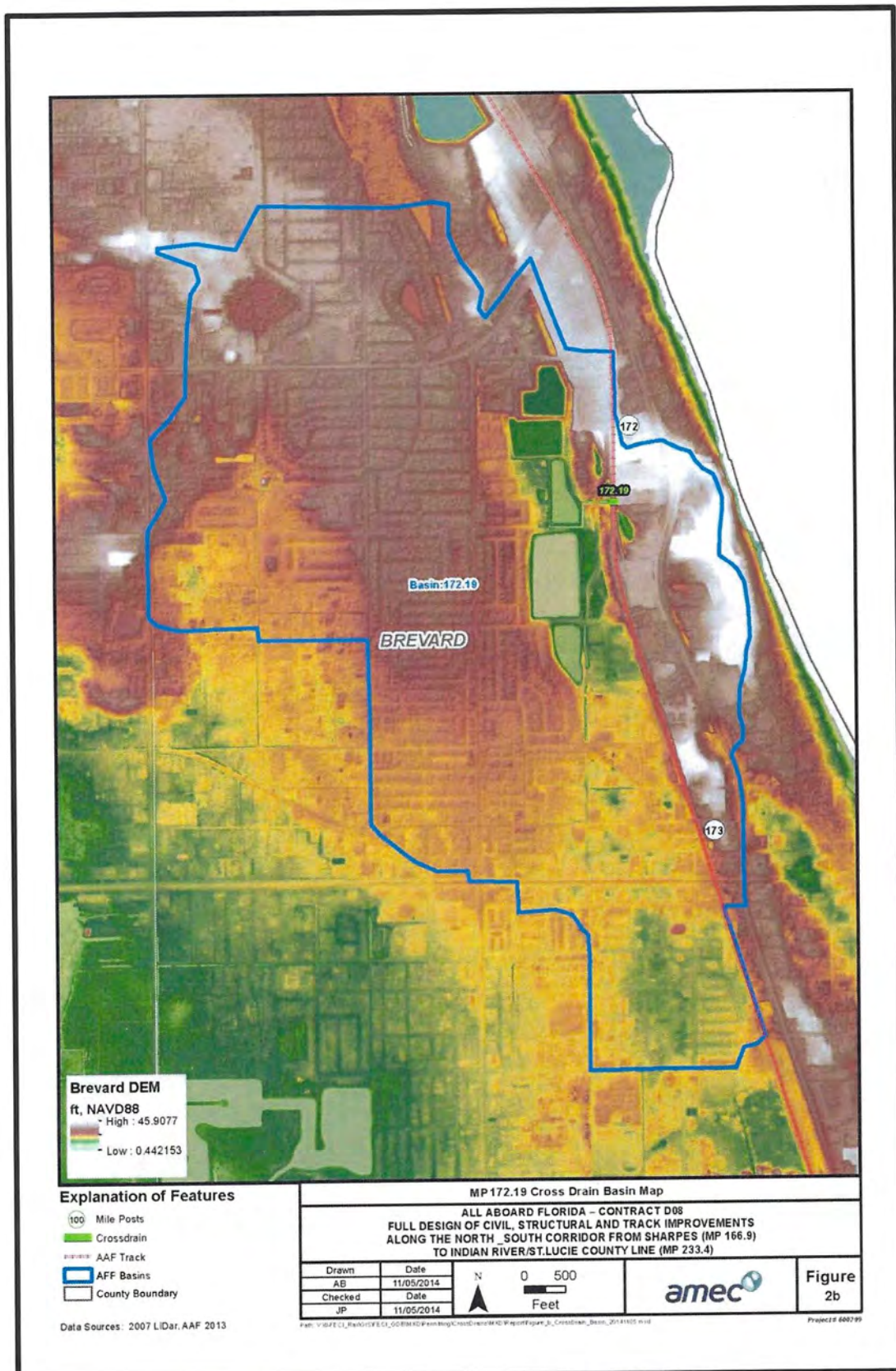
According to the Track Chart, there is a single 28 ft. long 24" circular Terra Cotta culvert at this location. That culvert was not located. There is a small ditch immediately east of the track, but it is shallow and does not appear suitable for any cross drain. Instead, the actual cross drain encountered in the field is a single 72" RCP with a sluice gate on its western end as illustrated below. The eastern end was not located and it appears the culvert is part of a larger regional storm water system maintained by the City of Cocoa that connects the large regional ponds west of the site through an outfall system to the Indian River Lagoon as shown on the attached excerpt from the ERP permitting file for ERP 4-009-64593. Permitting records were sketchy but it is clear that the culvert extends through the entirety of the FEC Railroad right of way from west to east and beyond. There are no signs of blockage as a consistent flow was observed and the culvert appears to be generally in good condition.

The approved design in the aforementioned SJRWMD permit file provided a 25-yr, 24-hr design flow of approximately 205 cfs from the ponds to the west of the railroad through the culvert eastward to the Indian River Lagoon. A culvert of this length would clearly extend through the entirety of the FEC right of way and therefore not be impacted by the proposed work. No changes are proposed to this culvert and therefore no further hydraulic analysis is required.



Existing West End of Cross Drain with Sluice Gate







5.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 173.42 CROSS DRAIN

According to the Track Chart, there is a 42 ft. long 24" circular terra cotta culvert at MP 173.42. No culvert was found at this location. The 17.4 acre drainage basin that historically drained to this area has been drastically revised due to development in the area and specifically the US 1 construction. The area drains to a low spot south of the expected culvert location and from there to US 1. There is no culvert at this location, and there is no need for one.

6.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 173.95 CROSS DRAIN
(ACTUAL CULVERT LOCATION MP 173.90)

According to the Track Chart, there is a single 51 foot long 24" cast iron pipe at this location. Amec Foster Wheeler located a buried culvert at approximately MP 173.90. The eastern end was not located; the western end was 100% blocked with sediment and buried. The new tracks and access road are all west of the existing track. Therefore, it is assumed that the existing eastern end of the culvert extends at least to the east side of the existing track and that it will be unaffected by the construction. The plans call for the eastern end of the culvert to be excavated and the pipe to be abandoned in place by pumping it full of flowable fill. There is an area of approximately 78.0 acres generating a 25-yr, 24-hr flow rate of 85.7 cfs that drains to the vicinity of this culvert. However, existing ditches and low areas drain from the track eastward away from the tracks toward US 1 and therefore the culvert currently serves no purpose. It is non-functional now and its filling will protect the track from future pipe collapse or settling while not affecting regional drainage patterns. There is no existing or proposed flow through the culvert and therefore no additional hydraulic analysis is required



Existing Western End of Buried Culvert at MP 173.90
Note: It is 100% Blocked

7.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 174.34 CROSS DRAIN

According to the Track Chart, there is a single 51 ft. long 30" circular cast iron culvert at this location. That culvert was located but it is no longer functional as it has been plugged. Research of SJRWMD permit files verified that FDOT grouted the 30" culvert as part of its road work on US 1 (SR 5) under ERP 4-009-80660.4 issued on September 12, 2006. Excerpts from that permit file are provided to show the grouted pipe and the new FDOT storm sewer system. In place of the original 30" culvert, FDOT installed a single 54" steel pipe extending from the catch basin visible in the photograph below, through the entirety of the FEC right of way to another catch basin just outside of the western FEC right of way line. That culvert and its catch basins are part of a larger storm water system connecting drainage from US 1 (SR 5) east of the FEC right of way with the large regional storm water pond system to the west of the FEC right of way. The original 30" culvert is no longer functional and has been abandoned in place. As a result, there is no need to extend it or therefore to analyze possible impacts from an extension. The 54" culvert is deep enough and long enough that it will not be impacted by the proposed construction.



East End of Grouted Culvert and Catch Basin on Eastern FEC ROW
(The 54" Steel Culvert Installed by FDOT Connects this Catch Basin with the One Below
Outside of the Western ROW)

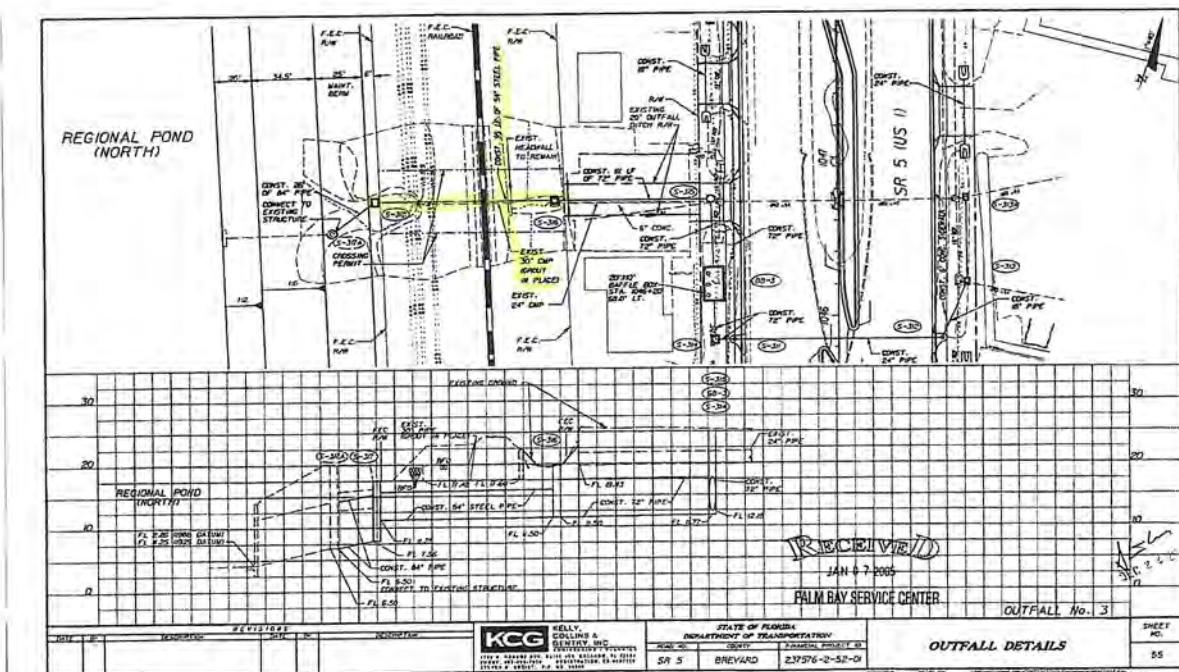
EXHIBIT D



Looking East Across the Catch Basin West of the FEC ROW
(The 54" Steel Culvert Installed by FDOT Connects this Catch
Basin with the One Shown Above on the Eastern ROW)

TranSystems
All Aboard Florida – Contract D08
Cross Drain Culvert Hydraulic Analysis

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8.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 176.75 CROSS DRAIN

According to the Track Chart, there are two culverts: a single 24 foot long 24" circular terra cotta pipe and a single 16 ft. long 24" circular RCP at this location. A single, severely-blocked 57 foot long 24" circular RCP culvert is the only conveyance actually located. The terra cotta pipe could not be located or confirmed. As documented in the photograph, the existing culvert is almost totally blocked with debris, sediment and vegetation. Furthermore, although the blockage precluded inspection of the interior of the culvert, the exterior shows sign of wear and is chipped in places. It does not appear that the culvert routinely conveys flow. The existing cross drain has significant blockage estimated at 90% of capacity as indicated below. A large storm water pond/borrow pit has been constructed by the City of Rockledge west of the FEC ROW and serves to act as a large attenuation facility with its outfall to the south into a canal system leading away from this location (toward the "Unknown 72" RCP at MP 176.97 discussed in detail under the MP 177.03 analysis). Historically, this culvert most likely handled a larger drainage area and conveyed flows through the FEC ROW; but it has been rendered useless due to the regional drainage changes. An excerpt from the ERP Permit File 4-009-16700 (under which the regional system was permitted and constructed) is provided on the following page showing the regional pond system's location relative to the existing cross drain.

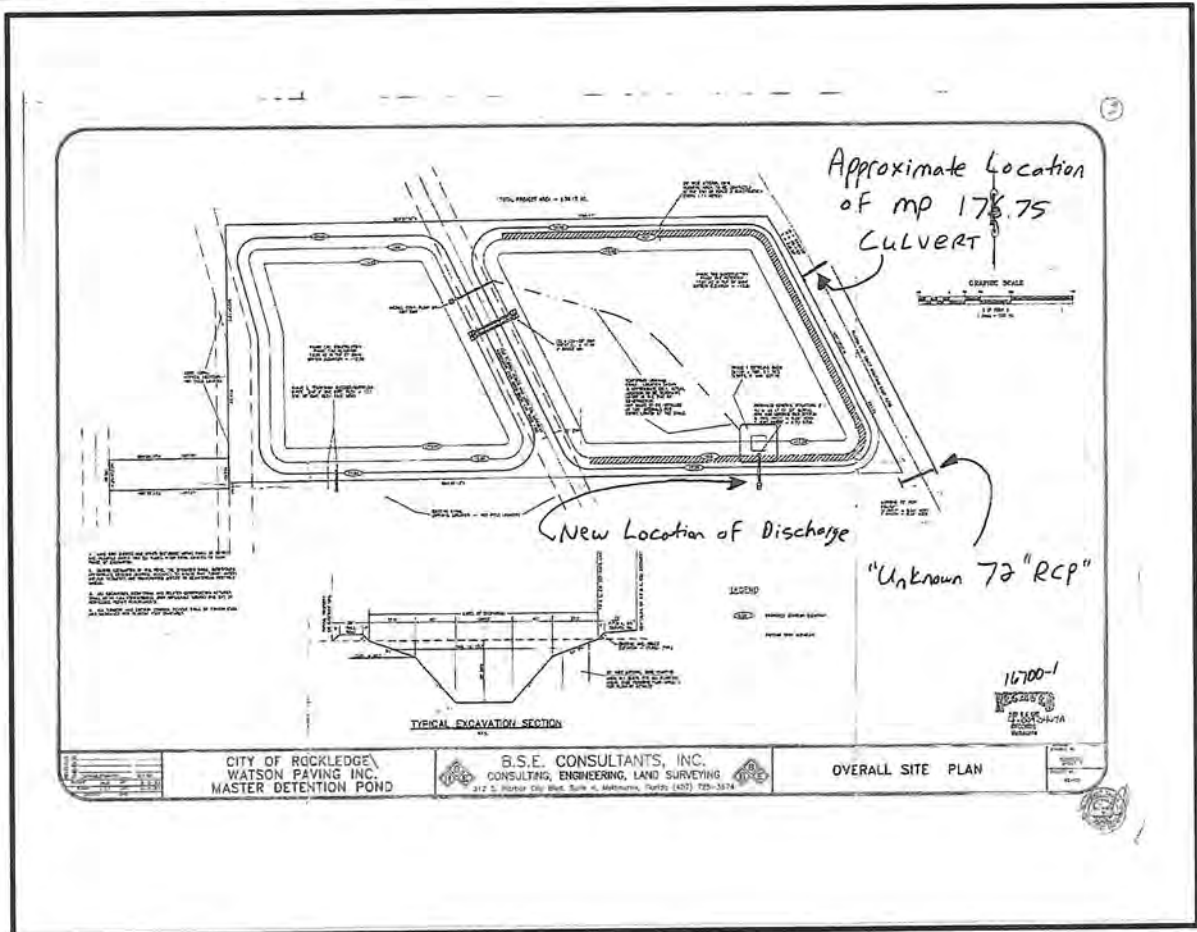
The plans call for the culvert to be abandoned in place by pumping it full of flowable fill. There is an area of approximately 17.9 acres generating a 25-yr, 24-hr flow rate of 15 cfs that drains to the vicinity of this culvert. However, existing ditches and low areas drain from the track eastward away from the tracks toward US 1 and therefore the culvert currently serves no purpose. It is non-functional now and its filling will protect the track from future pipe collapse or settling while not affecting regional drainage patterns. There is no existing or proposed flow through the culvert and therefore no additional hydraulic analysis is required.



Existing Pipe Blockage on Western End (Current Culvert is Non-functional)

TranSystems
 All Aboard Florida - Contract D08
 Cross Drain Culvert Hydraulic Analyses - DRAFT

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9.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 177.03
(ACTUAL LOCATIONS MP 176.97 & 177.03)

According to the Track Chart, there are two 40 foot long 36" circular RCP culverts at MP 177.03. Double 42 ft. long 36" by 40" oval RCP culverts were located. Additionally, there is a third cross drain under the FEC ROW that is not indicated on the Track Chart. Approximately 150 feet northwest along the track from MP 177.03 there is an existing 72" RCP (MP 176.97) that drains eastward from a canal on the west end (outside of FEC ROW) into a concrete box structure that re-directs its flow to the south along the US 1 (SR 5) roadside ditch.

The culverts at these two locations are analyzed and presented here together because of the fact that they are hydraulically connected through the series of canals and ponds constructed by the City of Rockledge in this area to create a regional storm water facility. The historic drainage patterns in the area have been dramatically impacted through the construction of that facility. This is the same facility that removed most of the historic contributing drainage area to the culvert at the previous location, i.e. MP 176.75. In today's existing condition, a large drainage area of approximately 1132.2 acres (basins from MP 176.97 & 177.03 combined) drains to a series of borrow pits and canals that work together to handle the regional storm water needs in the area. This system ultimately discharges from the canals through the culverts at these two mileposts (MP 177.03 and MP 176.97) under the FEC track facilities and into the adjacent US 1 (SR 5) storm water system of ditches and culverts. It is not practical to analyze these 2 cross drain locations separately because they function simultaneously to convey flow eastwardly.

ERP Permit 4-009-16700 (issued by SJRWMD) addresses the construction of portions of the regional storm water facility and contains storm routing calculations that predict a 25-year, 24-hour peak discharge rate of 99 cfs from the regional pond system to the canal leading to the previously "unknown" 72" RCP at MP 176.97. This flow is generated by the approximately 1030 acres draining to the ponds as described and provided in the aforementioned ERP permit. This culvert extends completely through the ROW and the proposed construction will have no impact on the culvert. As such, no further hydraulic analysis is required for this 72" cross drain. An excerpt from the permitted plans is provided to show the orientation of the ponds and the cross drain. Even though the discharge velocity exceeds 12 fps, it is contained within a concrete structure so no additional riprap is proposed.

In addition, 17 acres drain "directly" to the double 36" by 40" RCP culverts at MP 177.03 producing a 25-yr, 24-hr peak discharge rate of 9.3 cfs. No extensions or modifications are proposed to these culverts, and therefore no further hydraulic analysis is required. In reality, cleaning out the sediments and unblocking these culverts will greatly enhance the efficiency of the cross drain.

EXHIBIT D



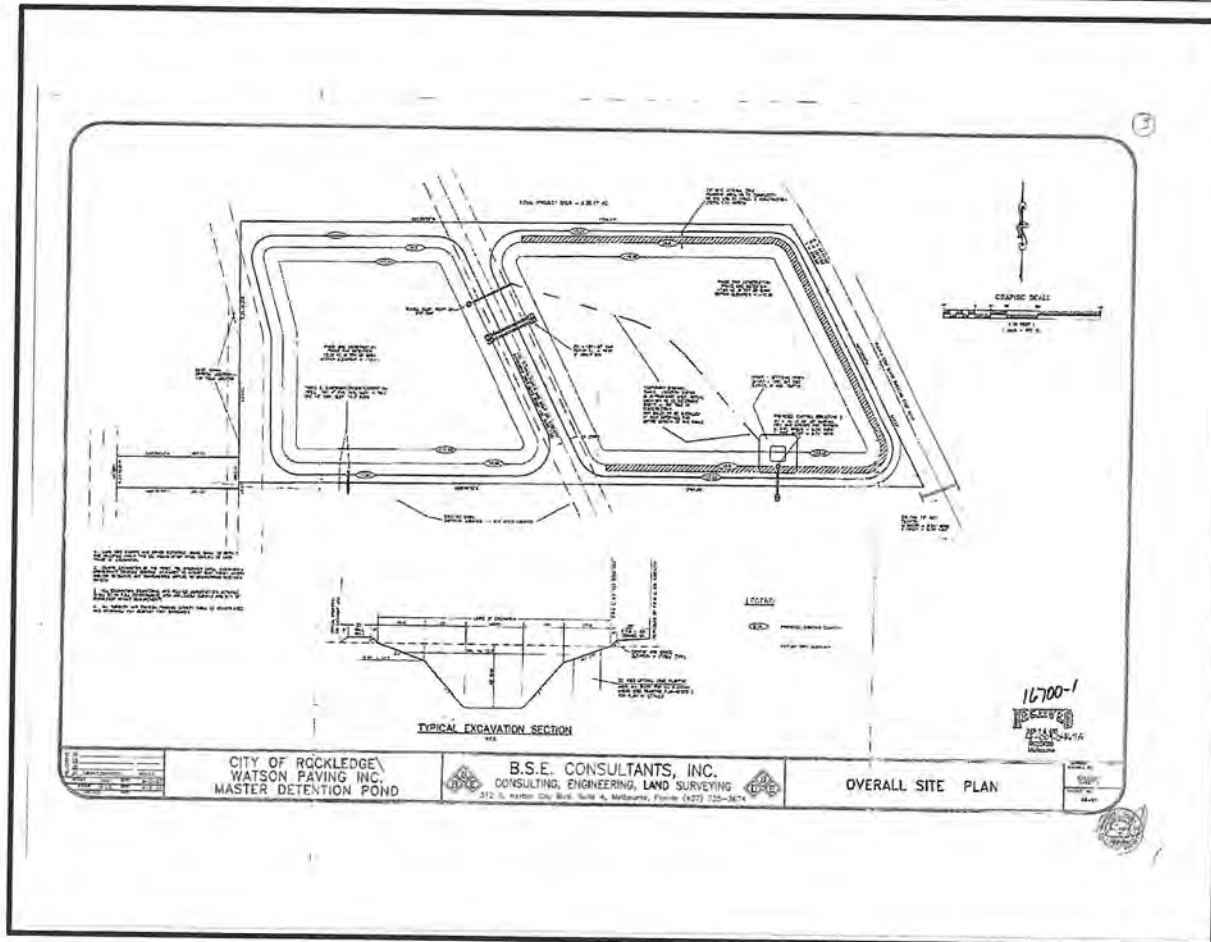
Eastern Headwall at MP 177.03A. Double 36" RCP with One Completely Blocked and One 60% Blocked.



Looking North from MP 177.03A. Note Concrete Box on East Side of Track 150 feet North of Double 36" RCP. This is the Discharge for the "Unknown" 72" RCP From Canal West of FEC ROW (MP 177.03B)

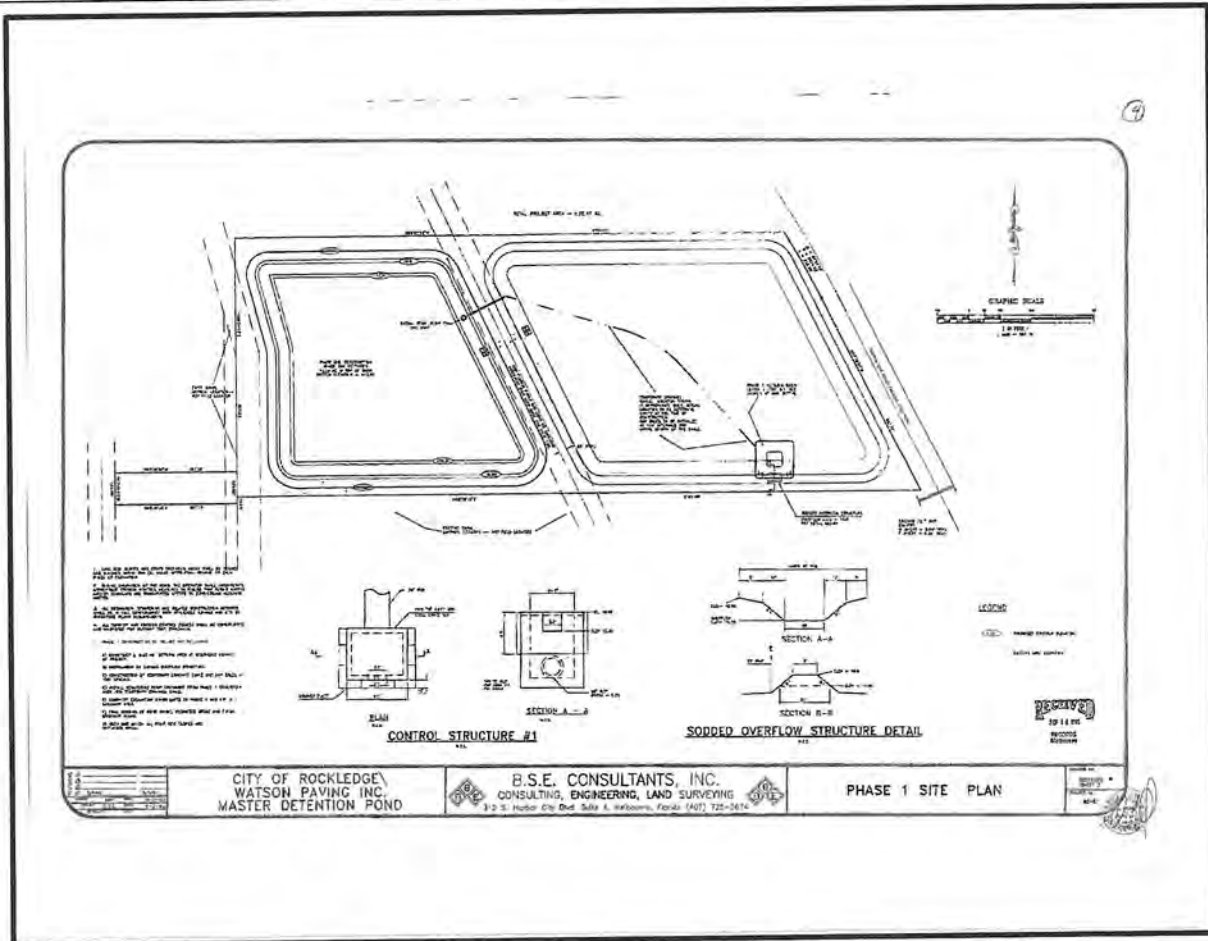
TranSystems
 All Aboard Florida – Contract D08
 Cross Drain Culvert Hydraulic Analyses – DRAFT

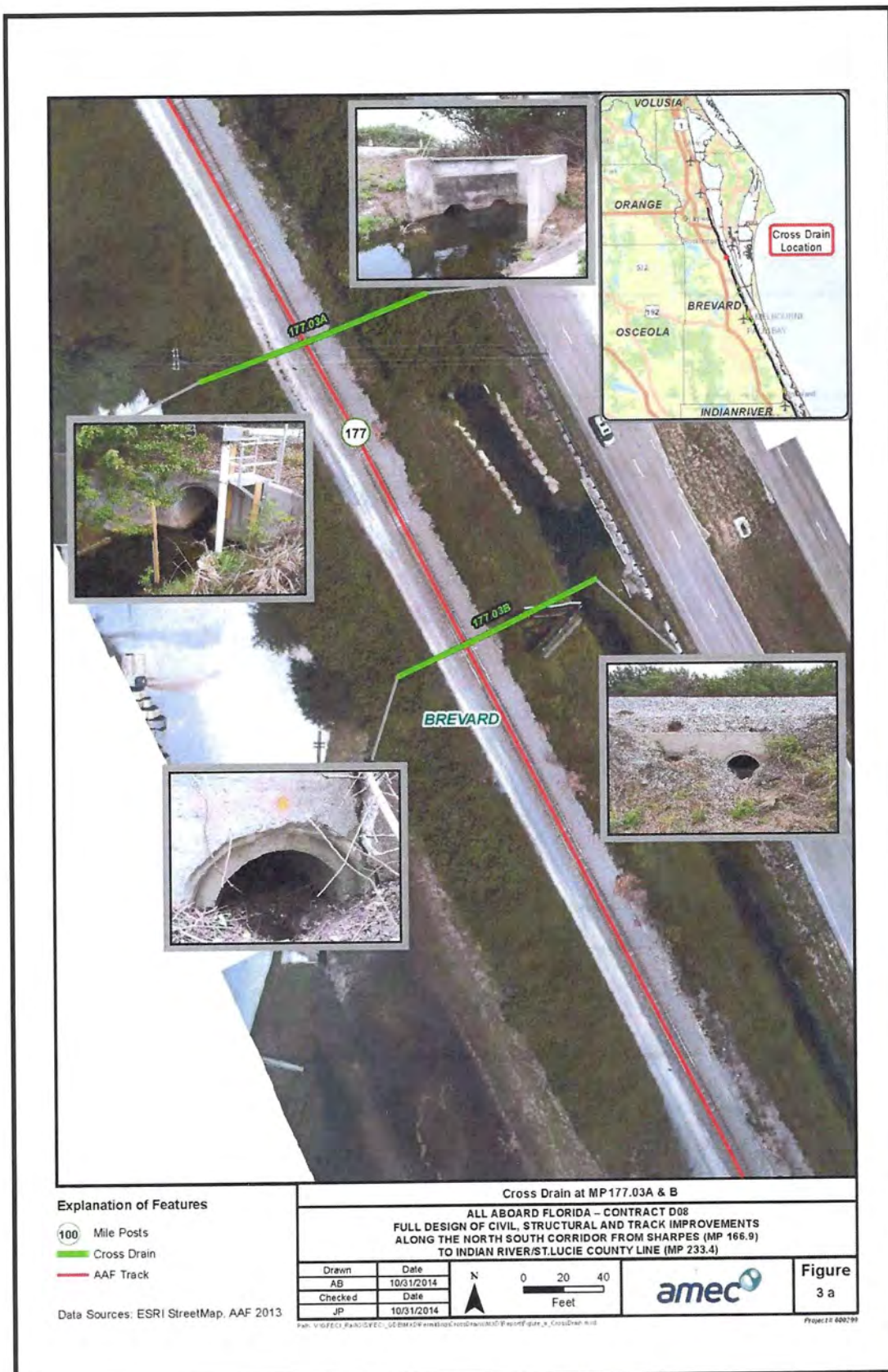
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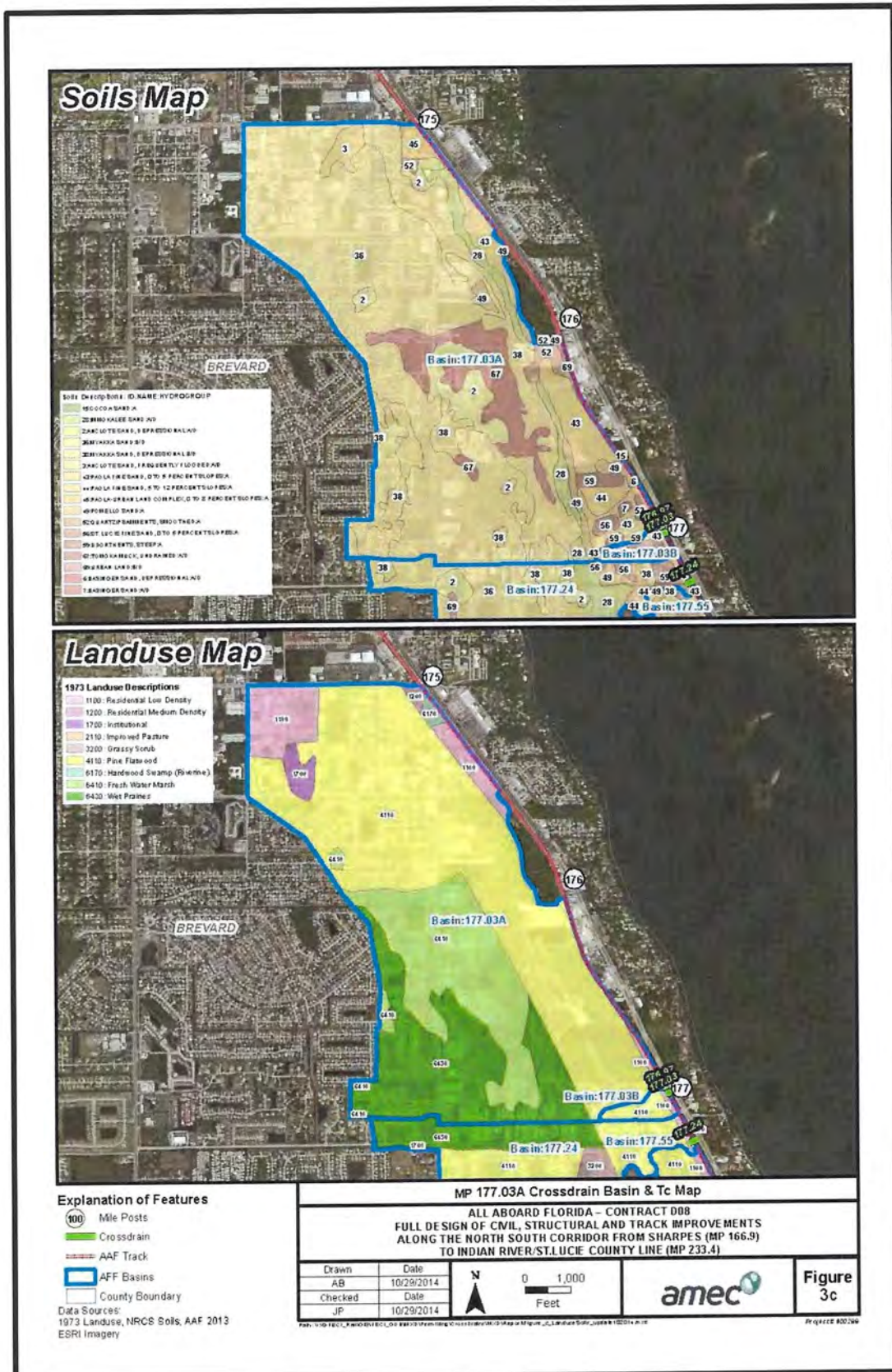
TranSystems
All Aboard Florida – Contract D08
Cross Drain Culvert Hydraulic Analyses – DRAFT

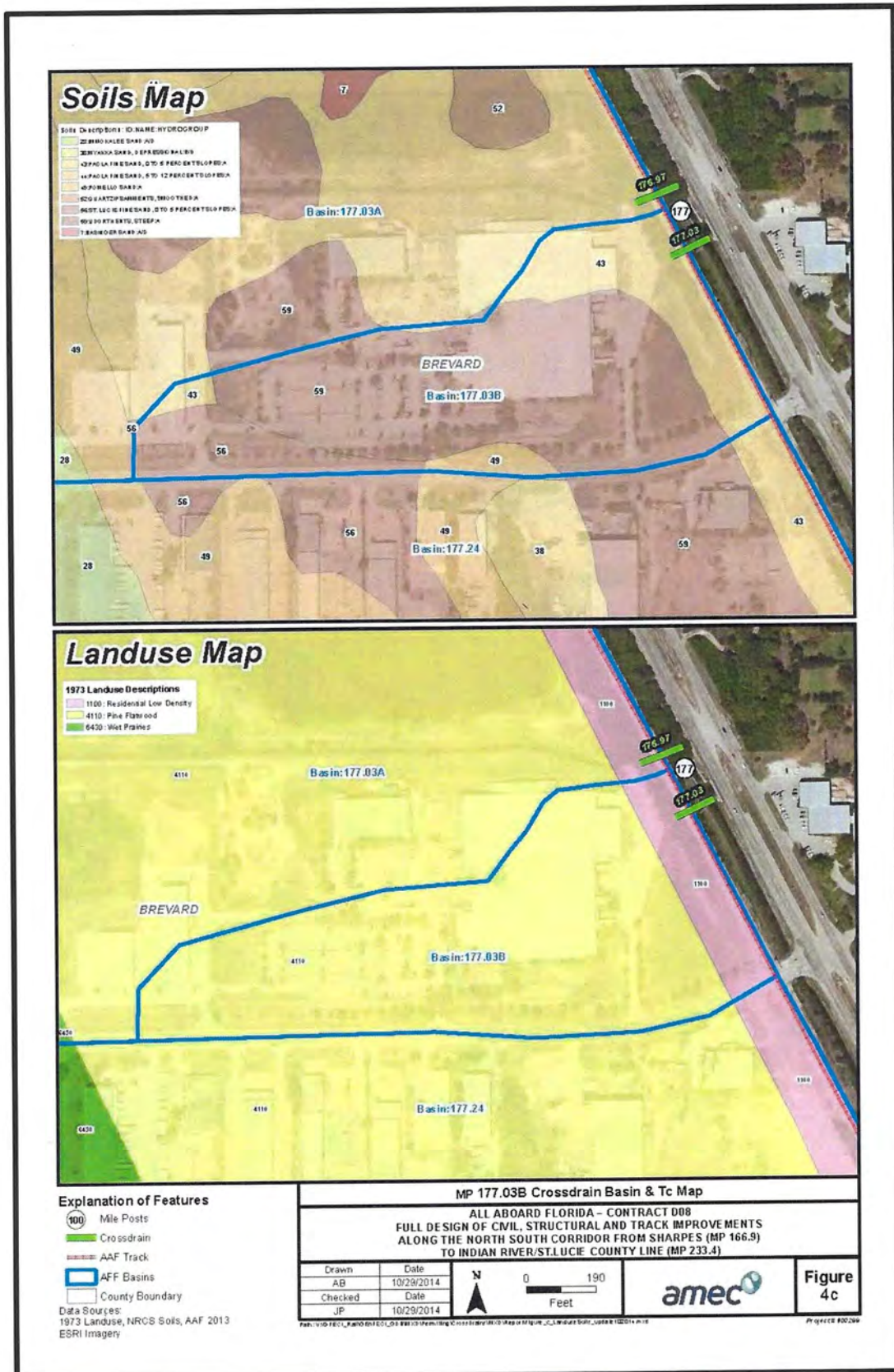
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10.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 177.24 CROSS DRAIN

According to the Track Chart, there are two culverts at MP 177.24: a 16 ft. long 24" oval RCP and a 28 ft. long 24" circular terra cotta pipe. Instead of those culverts, a single 85 ft. long 72" circular RCP was located. On its western (upstream) end, there is a staff gauge and monitoring station in the inflow canal; on its eastern end the culvert discharges into a concrete box structure that re-directs its flow to the north along the US 1 (SR 5) roadside ditch. The culverts in this general area have been affected through the series of canals and ponds constructed by the City of Rockledge to create a regional storm water facility. The historic drainage patterns in the area have been dramatically impacted through the construction of that facility. This is the same facility that removed most of the historic contributing drainage area to the culvert at the previous location MP 176.75, and which was discussed under MP 177.03 as well. In today's existing condition, a large drainage area of approximately 331 acres drains to this 72" culvert. In actuality, the cross drains at these locations (MP 177.03, MP 177.24 and the "Unknown 72" RCP at MP 176.97) are not isolated but rather are hydraulically connected to an extent through the series of interconnected canals and structures. The 331 acre estimate is a conservative approximation of the portion of the overall drainage area relying on the 72" culvert for its primary outfall. Due to the interconnections among the various cross drains, the actual flow to this location is likely less. This system ultimately discharges from the canals through the culverts at these mileposts under the FEC track facilities and into the adjacent US 1 (SR 5) storm water system of ditches and culverts.

The existing drainage basin to the cross drain is approximately 331.2 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 216 cfs. A small pipe will be stubbed into the cross drain from a catch basin proposed in the new trackside ditch. The small inflow from this ditch is runoff from area included in the 331.2 acre existing drainage basin. Therefore there is no additional flow to the culvert. There is no extension proposed for this culvert and thus no further hydraulic analysis is required.



Western End of 72" RCP Culvert Showing Headwall, Staff Gauge and Monitoring Station

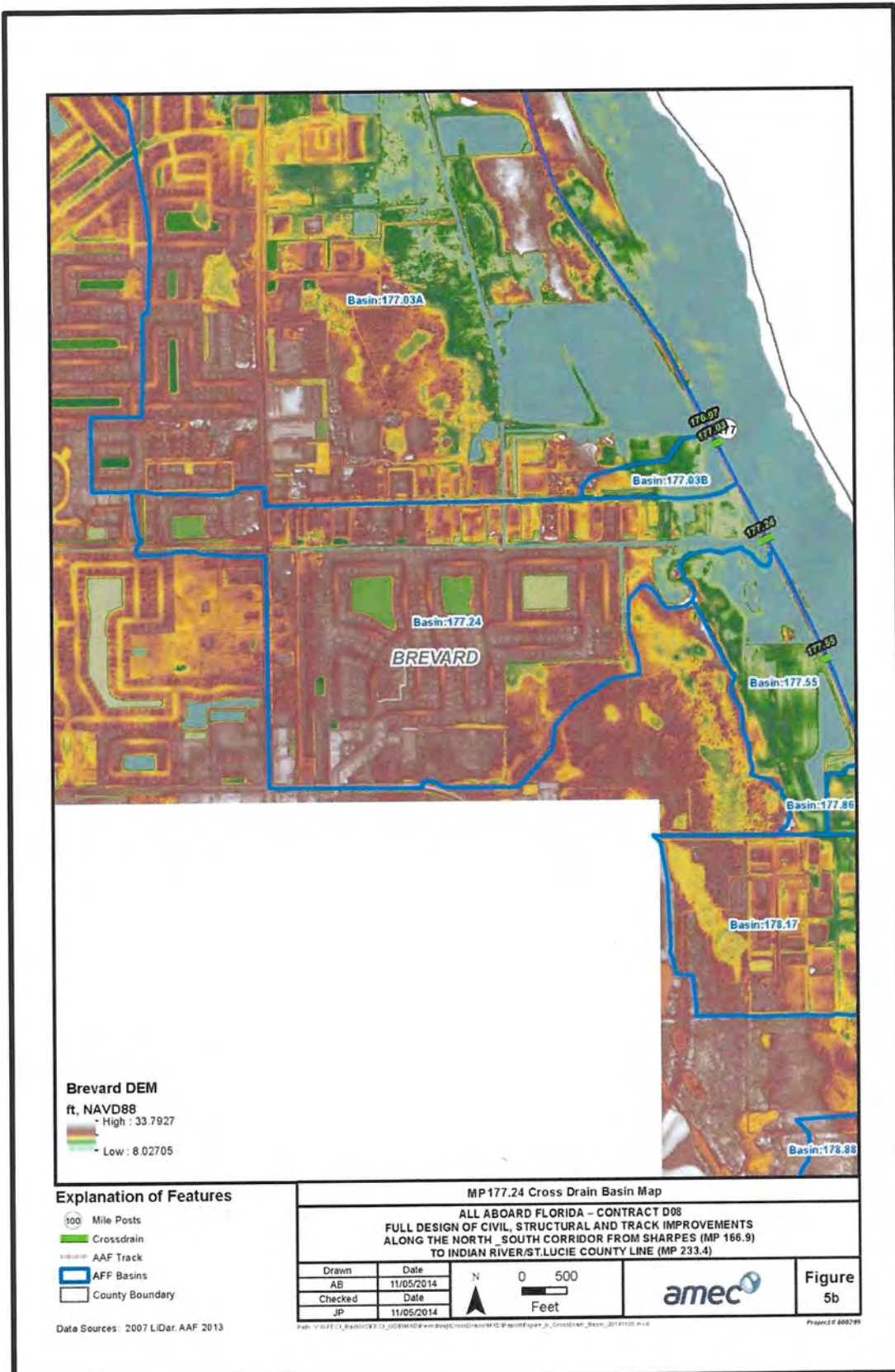
EXHIBIT D



Eastern End (Downstream) of 72" RCP Culvert at Concrete Box
Structure Directing Flow Northward Along US 1 (SR 5)

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11.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 177.55 CROSS DRAIN

According to the Track Chart, there are two culverts at this location: a 16 ft. long 24" oval RCP and a 32 ft. long 24" circular terra cotta pipe. The cross drain located in the field was a single 51 ft. long 25" by 27" culvert – with terra cotta pipe on the western end and RCP on the eastern end. Survey confirmed that these are two ends of the same conveyance and that the pipe material changes under the existing track somewhere. The culvert has significant blockage estimated at 60-80% of capacity as illustrated below.

The existing drainage basin to the cross drain is approximately 75.2 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 66 cfs. The proposed construction will not require any extension of the existing culvert. Therefore, there is no further hydraulic analysis required.

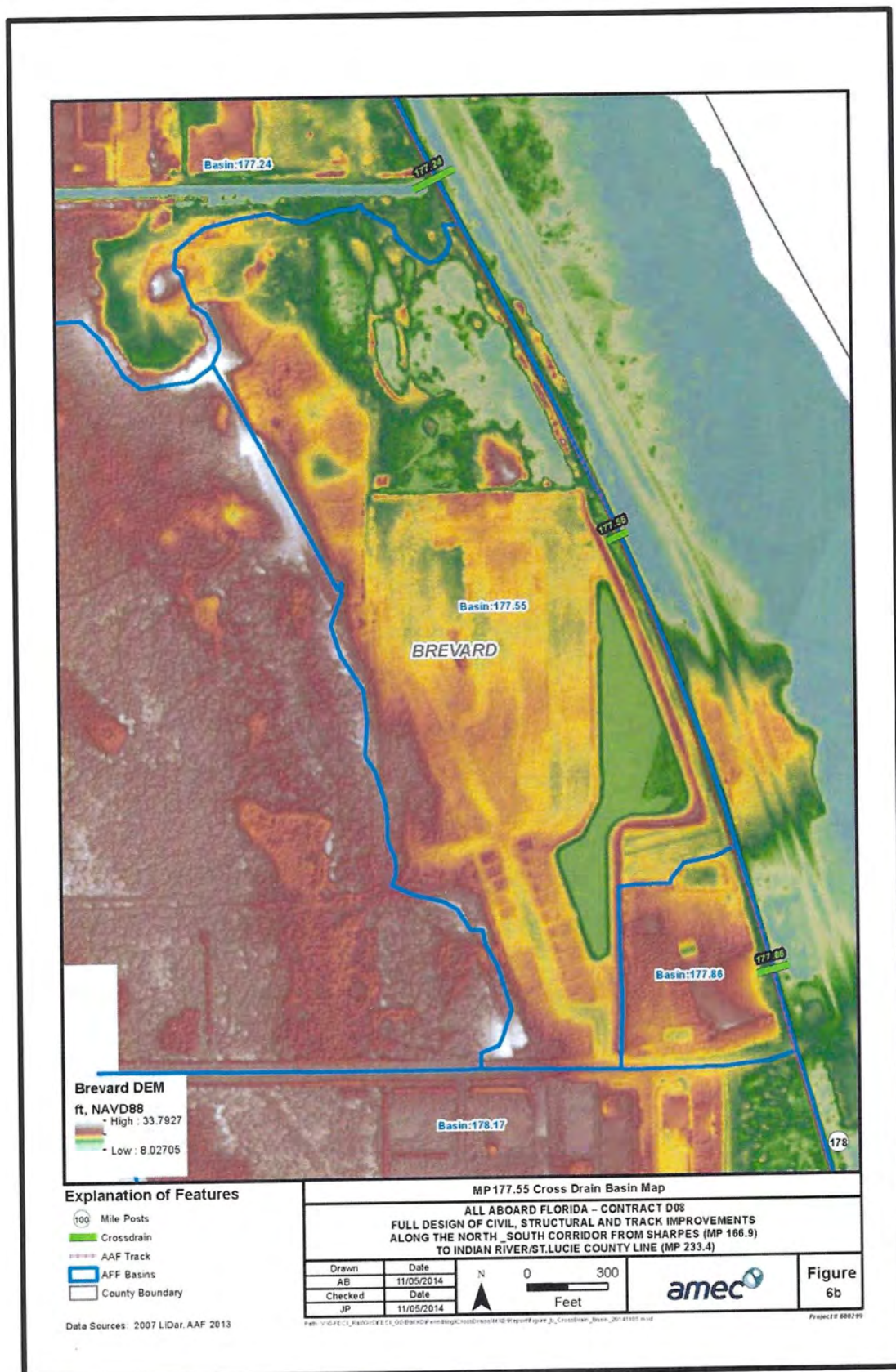


Existing Broken Terra Cotta Pipe and Blockage on Western End



Existing Partially Blocked RCP and Endwall on Eastern End







Explanation of Features

-  Mile Posts
 Crossdrain
 AAF Track
 AFF Basins
 County Boundary

Data Sources:
1973 Landuse, NRCS Soils, AAF 2013
ESRI Imagery

MP 177.55 Crossdrain Basin & Tc Map

ALL ABOARD FLORIDA - CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPS (MP 166.9)
TO INDIAN RIVER/ST.LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/29/2014
Checked	Date
JP	10/29/2014



Figure 6c

Path: V:\SPECTRA_R\601576\601576_G06\BAND\Fernberg\CRSD\raw\H4\H4_Fernberg_Figure_4_LandUseSole.jpg; 6/1/2014 9:01

Project # 608399

12.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 177.86 CROSS DRAIN

According to the Track Chart, there are double 40 ft. long 18" oval RCP culverts. Double 20" by 18" oval RCP culverts were located. As shown in the photos below, the western end is buried under debris and vegetation with no defined ditch leading to the culverts and a building located immediately adjacent to the ROW. The eastern end has a headwall but is estimated to have 80% blockage with ballast and dirt. Because the western end of the culverts are currently buried, the length cannot be precisely determined. However, the western end was located approximately in the field. It is not proposed to extend either end of the culverts, but it is proposed to excavate the culverts and install a Type H ditch bottom inlet (DBI) on the western end to allow for surface water to discharge from west to east as the culverts previously did. Because the lengths of the culverts are not being increased – and most likely may be slightly shortened – there is no requirement for further hydraulic analysis. The existing culverts are blocked and thus carry little to none of their intended flow.

The existing drainage basin to the cross drain is approximately 9.5 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 4 cfs. The actual hydraulic efficiency of the culverts will improve significantly due to their cleaning and the installation of the DBI to facilitate surface drainage.

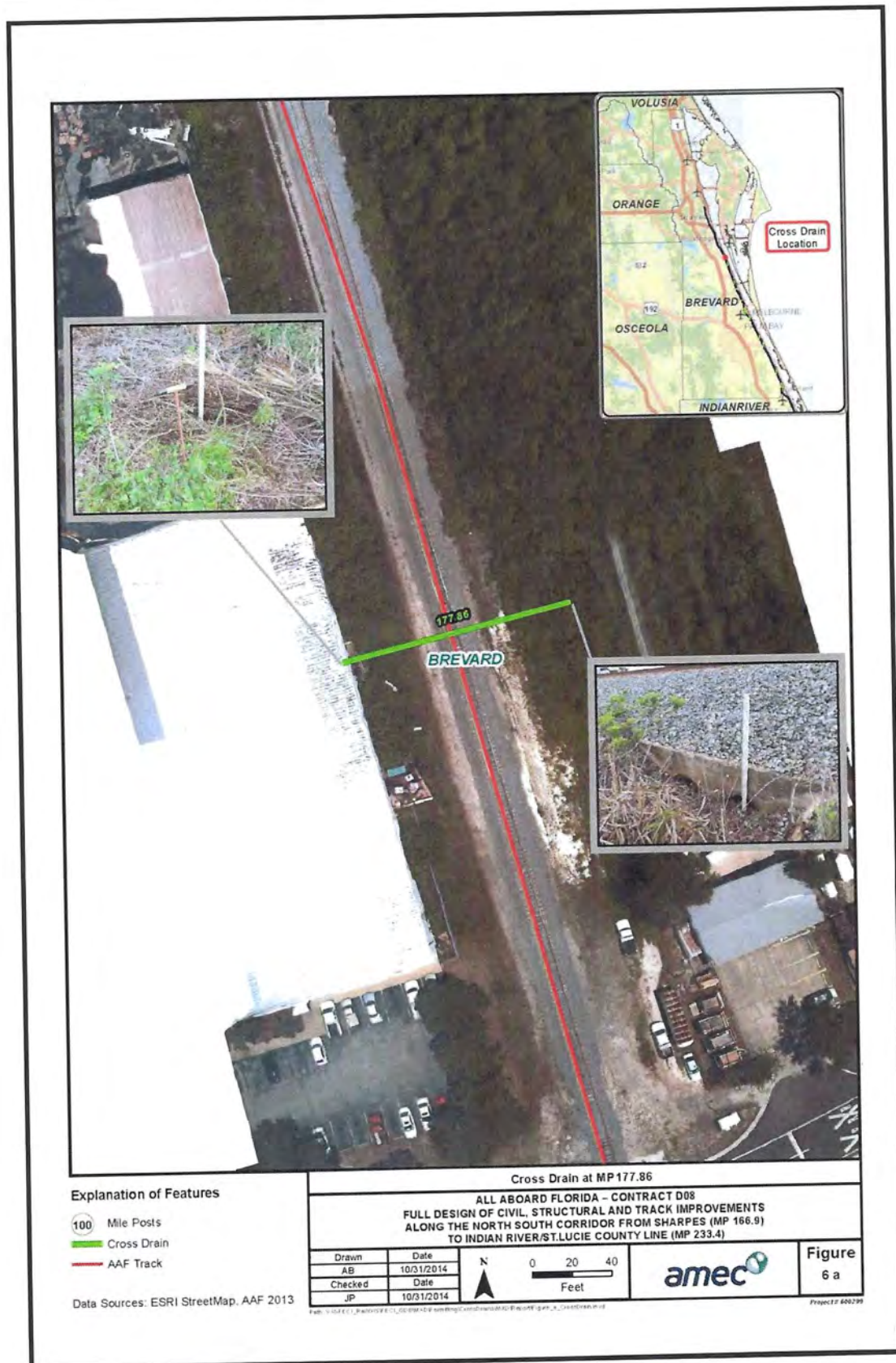


Survey Rod and Probe Mark the Approximate Western End of Existing Double 18" RCP.
Note: Also the Lack of Any Defined Trackside Ditch and the Proximity of the Adjacent Building.

EXHIBIT D



Eastern End of Existing Endwall and Double 18" RCP Estimated at 80% Blockage







13.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 178.17 CROSS DRAIN

According to the Track Chart, there are double 40 ft. long 30" oval RCP culverts at this location. The culverts located in the field were 41 ft. long 30" circular RCP and each have endwalls on both ends. As shown in the photos below, the western end is buried under debris and severely overgrown vegetation. The eastern end is estimated at approximately 60% blocked with ballast and dirt.

The existing drainage basin to the cross drain location is approximately 126.4 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 75 cfs. The proposed construction will entail extending the east end of the culverts 12 ft. and the construction of a new eastern headwall. The extension will have no appreciable impact on the upstream headwater elevation of 14.4, i.e. approximately 2.1 ft. below the top of tie elevation or approximately at the bottom of the sub-ballast.



Western End of Existing Double 30" RCP. Note: Severely Overgrown Vegetation



Eastern End of Existing Endwall and Double 30" RCP Estimated at 60% Blockage

Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Tuesday, Oct 28 2014

Existing MP 178.17

Invert Elev Dn (ft) = 9.90
Pipe Length (ft) = 41.00
Slope (%) = 1.34
Invert Elev Up (ft) = 10.45
Rise (in) = 30.0
Shape = Cir
Span (in) = 30.0
No. Barrels = 2
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K, M, c, Y, k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

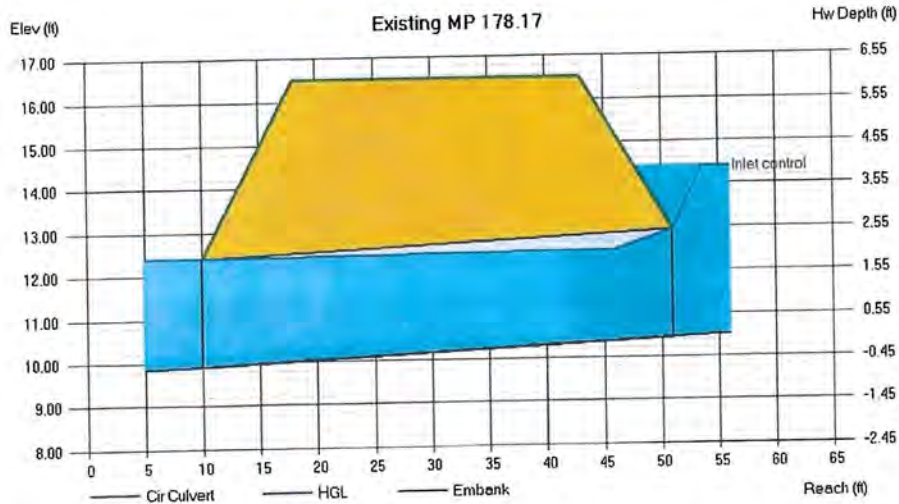
Top Elevation (ft) = 16.50
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 74.70
Qmax (cfs) = 74.70
Tailwater Elev (ft) = Crown

Highlighted

Qtotal (cfs) = 74.70
Qpipe (cfs) = 74.70
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 7.61
Veloc Up (ft/s) = 8.56
HGL Dn (ft) = 12.40
HGL Up (ft) = 12.53
Hw Elev (ft) = 14.41
Hw/D (ft) = 1.58
Flow Regime = Inlet Control



Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Tuesday, Oct 28 2014

Proposed MP 178.17

Invert Elev Dn (ft) = 9.80
Pipe Length (ft) = 53.00
Slope (%) = 1.23
Invert Elev Up (ft) = 10.45
Rise (in) = 30.0
Shape = Cir
Span (in) = 30.0
No. Barrels = 2
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

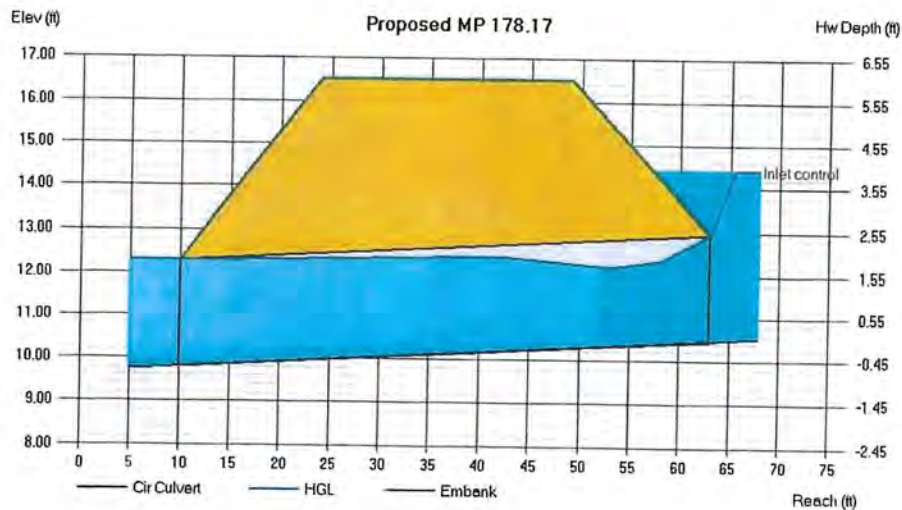
Top Elevation (ft) = 16.50
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

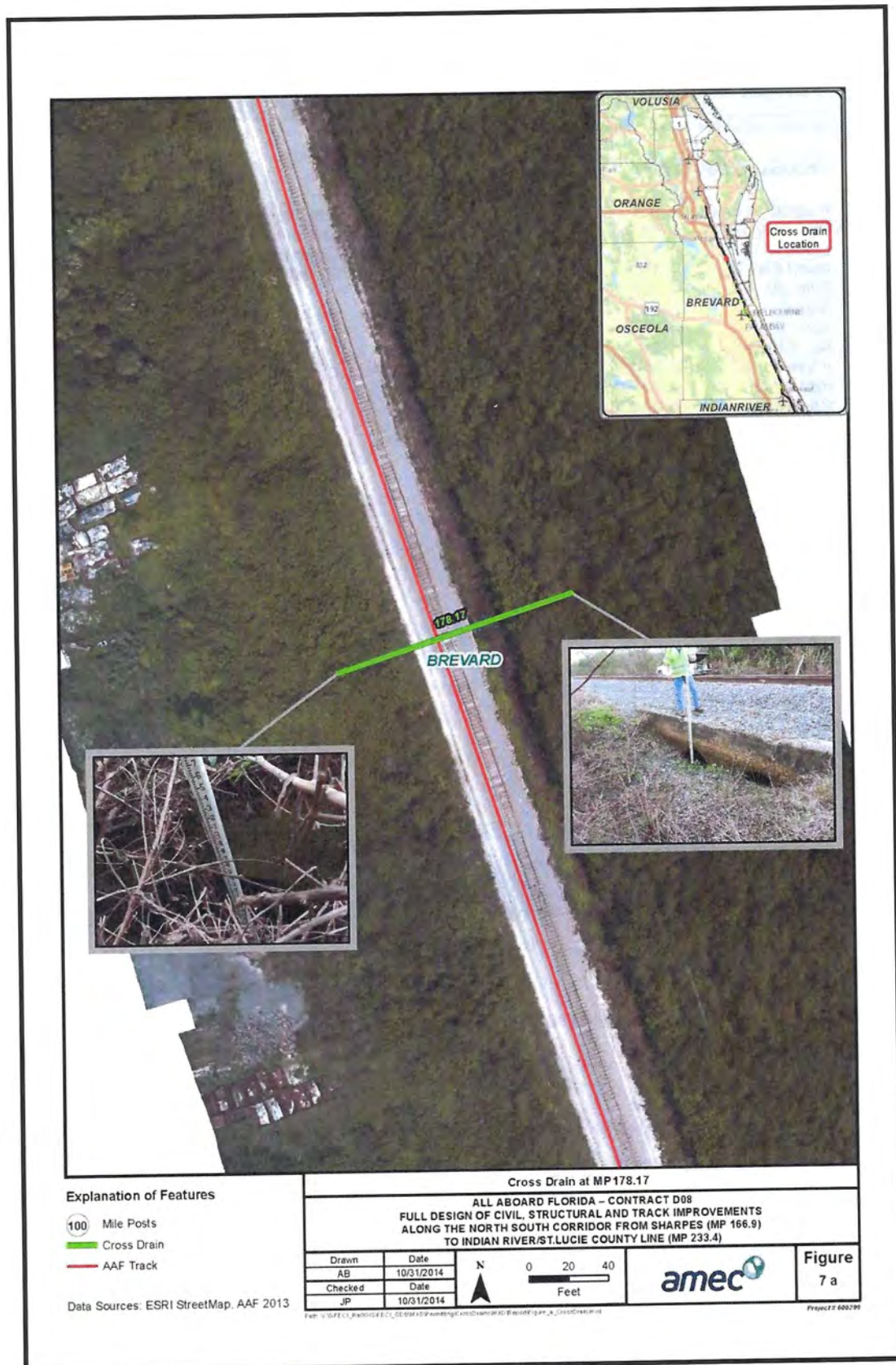
Calculations

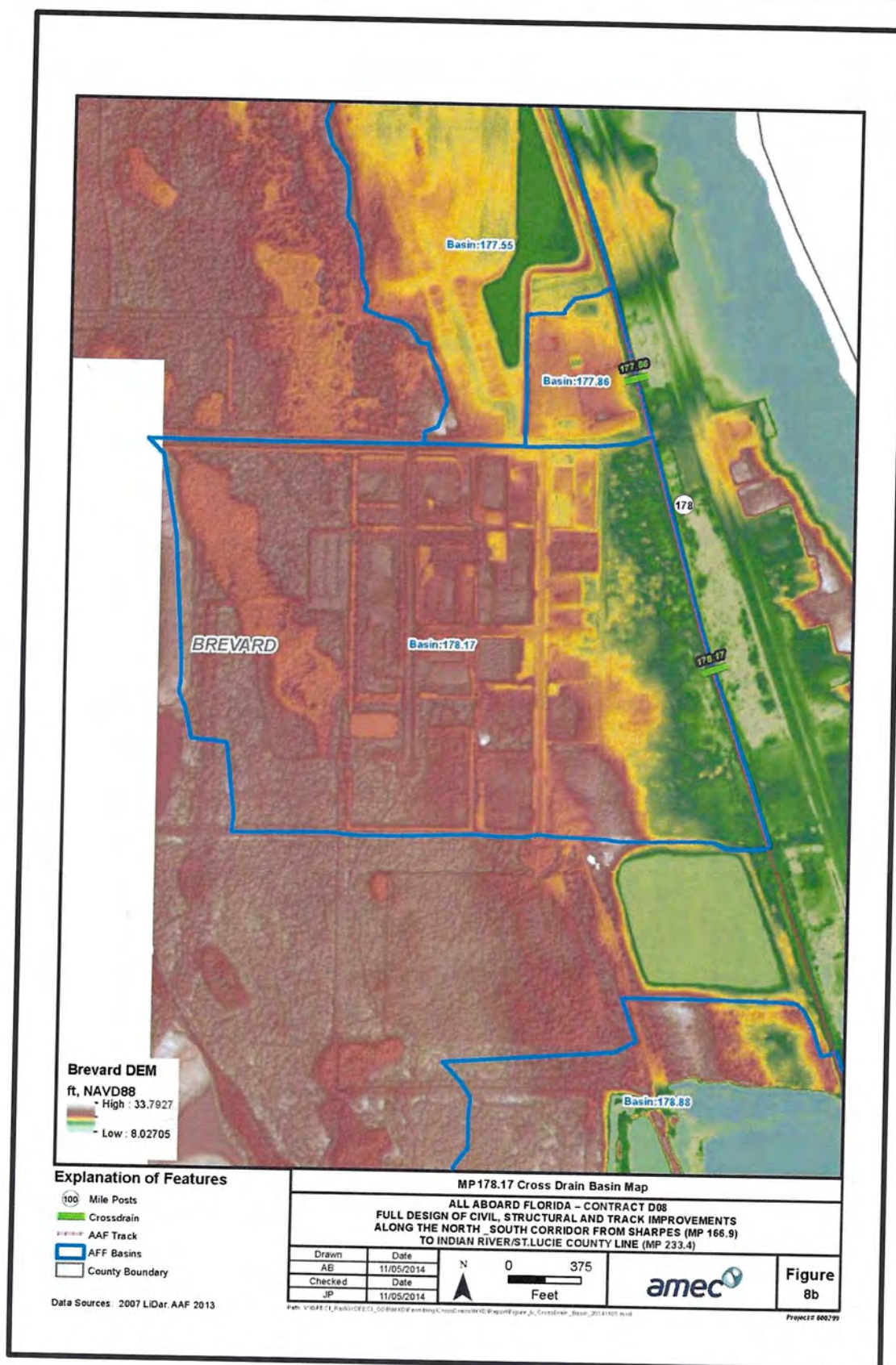
Qmin (cfs) = 74.70
Qmax (cfs) = 74.70
Tailwater Elev (ft) = Crown

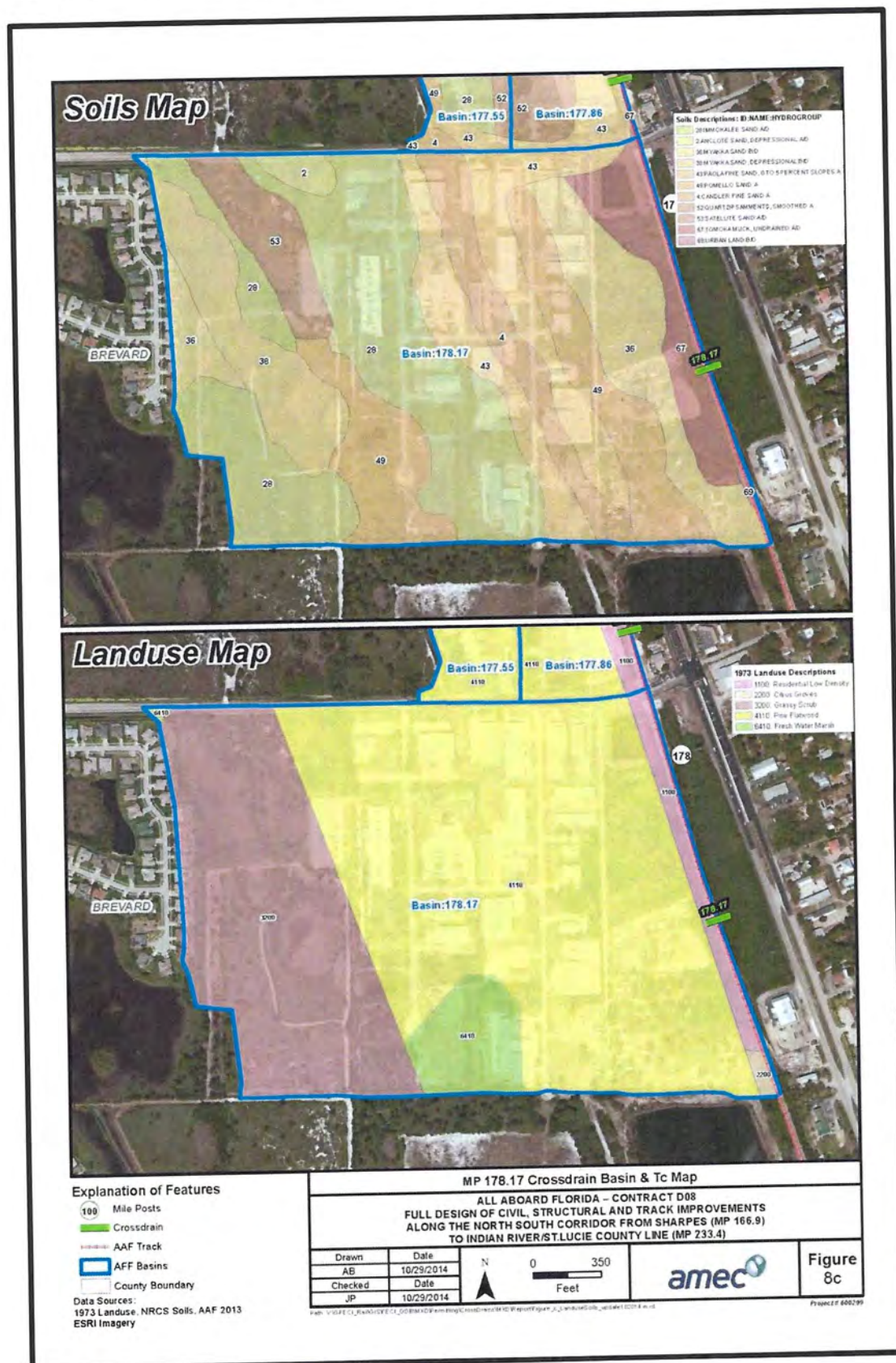
Highlighted

Qtotal (cfs) = 74.70
Qpipe (cfs) = 74.70
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 7.61
Veloc Up (ft/s) = 8.56
HGL Dn (ft) = 12.30
HGL Up (ft) = 12.53
Hw Elev (ft) = 14.41
Hw/D (ft) = 1.59
Flow Regime = Inlet Control









14.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 178.49 CROSS DRAIN

According to the Track Chart, there is a single 26" circular terra cotta culvert and a single 24" oval RCP culvert at this location. During the field investigation, no culverts were located at this milepost.

It appears that historically, approximately 53.8 acres drained from the west toward this vicinity and generated a 25-year, 24-hour peak discharge of approximately 44 cfs. However, there is now a large borrow pit/storm water pond immediately west of the site and there is no longer any apparent need for the conveyance.



Note: The Writing on the Existing Rail Verifying that No Culverts Were Found at This Location



Typical Terrain and Adjacent Properties

15.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 178.88 CROSS DRAIN

According to the Track Chart, there are double 40 ft. long 48" oval RCP culverts at MP 178.88. Two (2) 57 ft. long 48" by 53" oval RCP culverts were located in the field. As shown in the photos below, the culverts are in good overall condition with the southern barrel approximately 50% blocked with sediment and only minor sediment in the northern barrel.

The existing drainage basin to the cross drain location is approximately 210.9 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 167 cfs. The proposed construction will entail extending the east end of the culverts 8 ft. and the construction of a new eastern headwall. The extension will have no appreciable impact on the upstream headwater elevation of 10.1, i.e. approximately 4.4 ft. below the top of tie elevation or 2.2 ft. below the bottom of the sub-ballast.



Western End of Existing Endwall and Double 48" by 53" Oval RCP.



Eastern End of Existing Endwall and Double 48" by 53" Oval RCP.
Note: Estimated 50% Blockage of Southern Barrel

Culvert Report

Hydrflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, May 6 2015

Existing MP 178.88

Invert Elev Dn (ft) = 5.52
Pipe Length (ft) = 57.00
Slope (%) = 0.30
Invert Elev Up (ft) = 5.69
Rise (in) = 48.0
Shape = Cir
Span (in) = 48.0
No. Barrels = 2
n-Value = 0.013
Inlet Edge = Sq Edge
Coef. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

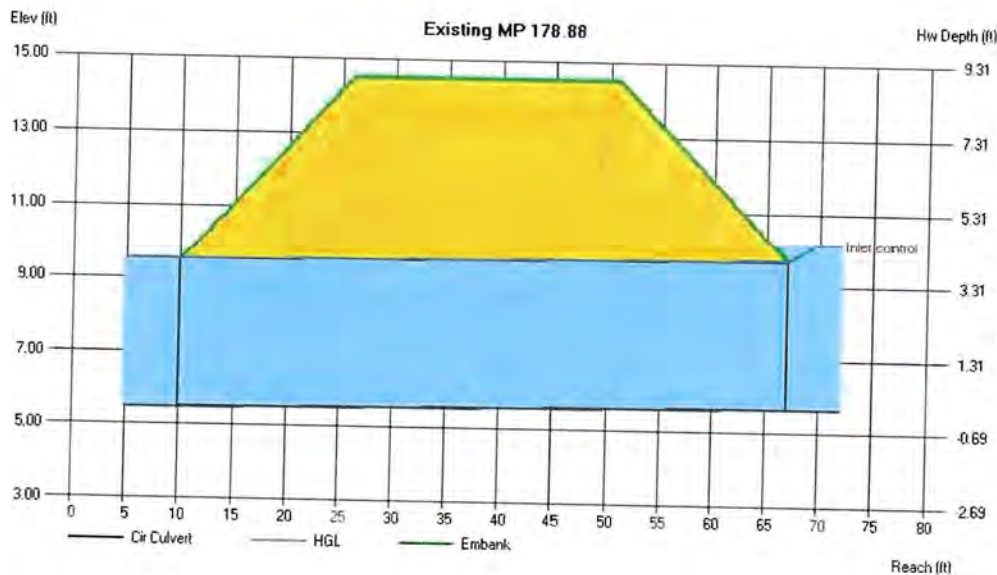
Top Elevation (ft) = 14.50
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 166.50
Qmax (cfs) = 166.50
Tailwater Elev (ft) = Crown

Highlighted

Qtotat (cfs) = 166.50
Qpipe (cfs) = 166.50
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 6.63
Veloc Up (ft/s) = 6.62
HGL Dn (ft) = 9.52
HGL Up (ft) = 9.69
Hw Elev (ft) = 10.14
Hw/D (ft) = 1.11
Flow Regime = Inlet Control



Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, May 6 2015

Proposed MP 178.88

Invert Elev Dn (ft) = 5.50
Pipe Length (ft) = 65.00
Slope (%) = 0.29
Invert Elev Up (ft) = 5.69
Rise (in) = 48.0
Shape = Cir
Span (in) = 48.0
No. Barrels = 2
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

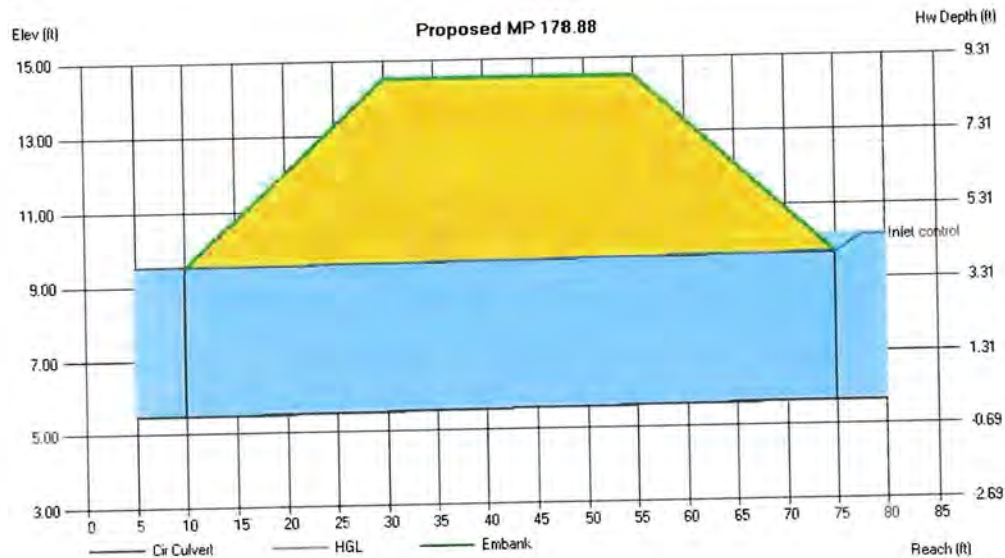
Top Elevation (ft) = 14.50
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

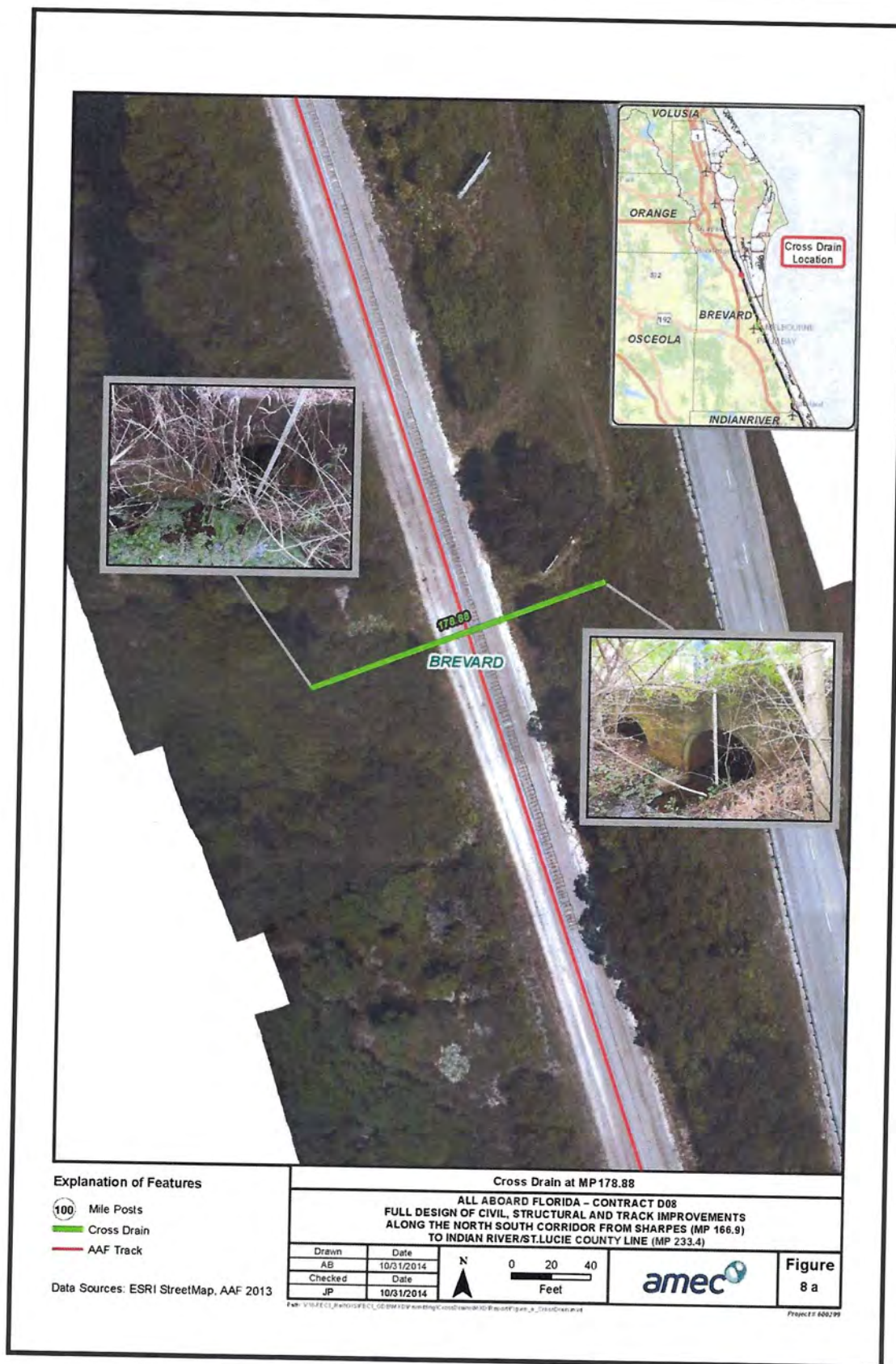
Calculations

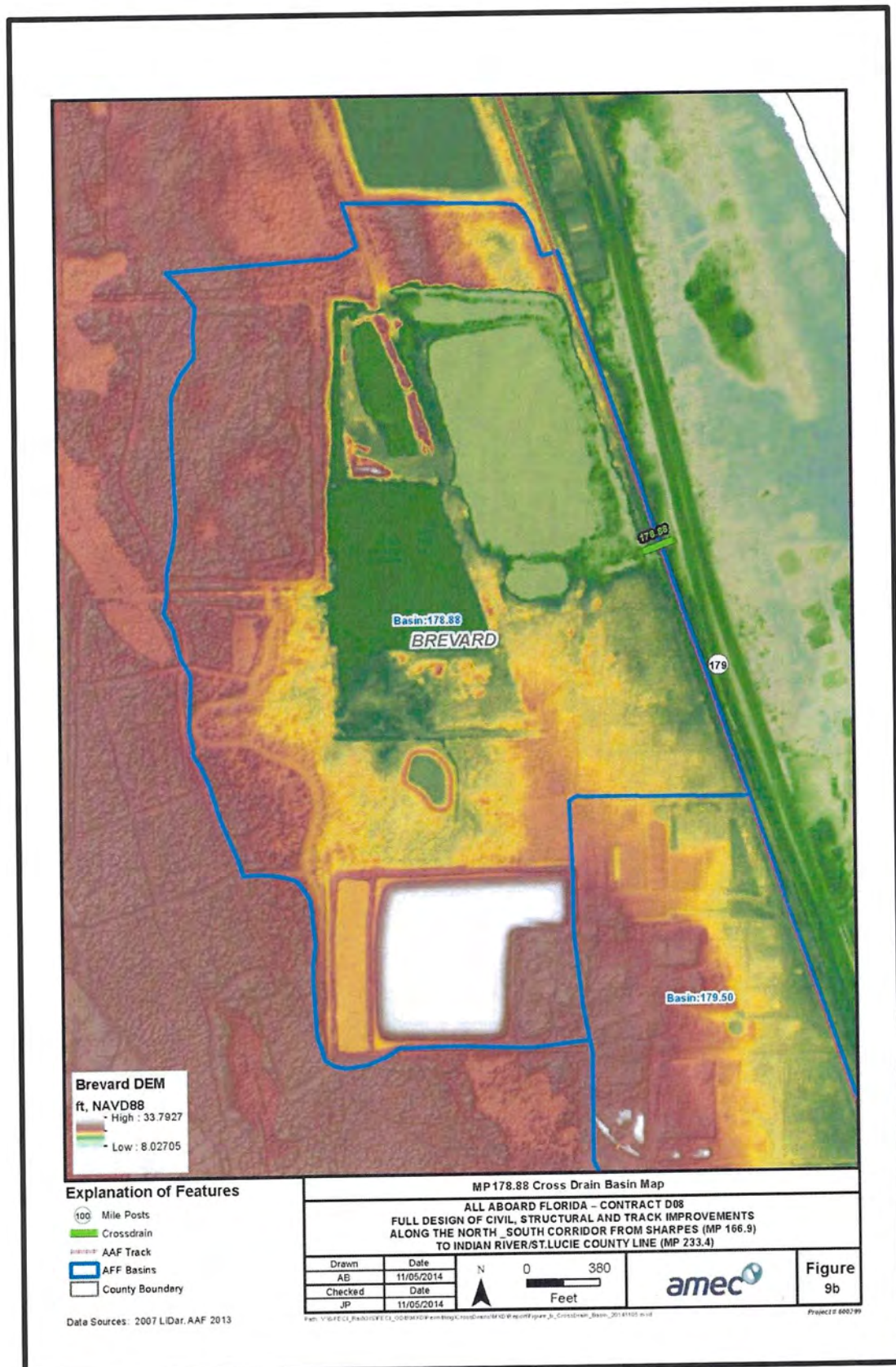
Qmin (cfs) = 166.50
Qmax (cfs) = 166.50
Tailwater Elev (ft) = Crown

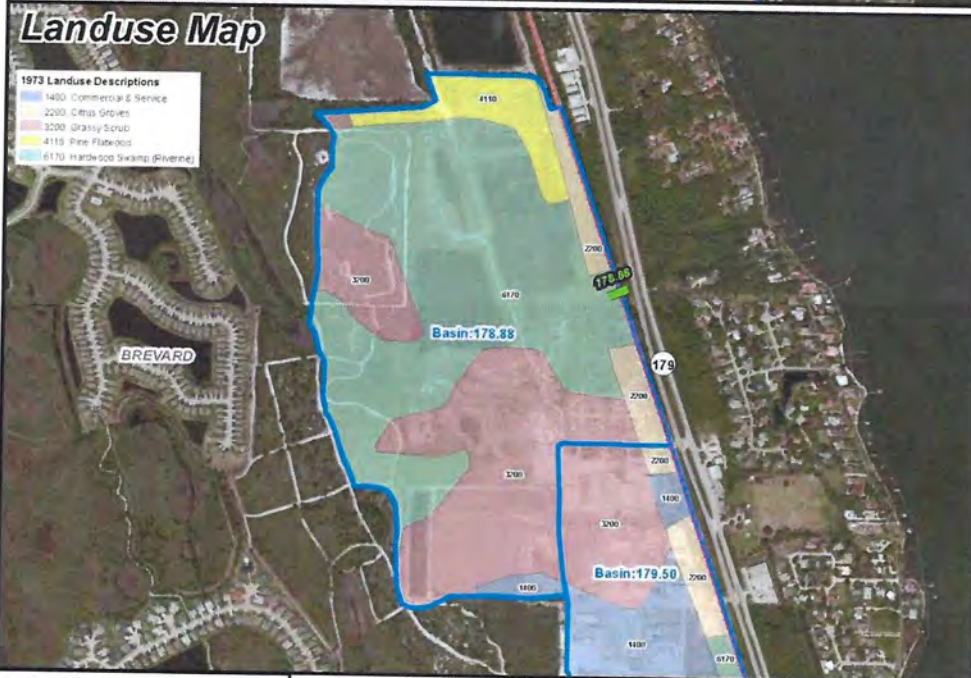
Highlighted

Qtotal (cfs) = 166.50
Qpipe (cfs) = 166.50
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 6.63
Veloc Up (ft/s) = 6.62
HGL Dn (ft) = 9.50
HGL Up (ft) = 9.69
Hw Elev (ft) = 10.14
Hw/D (ft) = 1.11
Flow Regime = Inlet Control









Explanation of Features

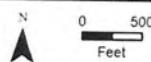
- 100 Mile Posts
- Crossdrain
- AAF Track
- AAF Basins
- County Boundary

Data Sources:
1973 Landuse, NRCS Soils, AAF 2013
ESRI Imagery

MP 178.88 Crossdrain Basin & Tc Map

ALL ABOARD FLORIDA – CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVER/ST. LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/29/2014
Checked	Date
JP	10/29/2014



amec

Figure
9c

Project # 600299

16.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 179.55 CROSS DRAIN **(ACTUAL LOCATION MP 179.50)**

According to the Track Chart, there are five 40 ft. long oval 30" RCP culverts at this location. Five 41 ft. long 30" by 33" RCP culverts were found in the field at approximately MP 179.50 with headwalls on each end of the cross drain. Only minor sediment and ballast material had accumulated in the culverts.

The existing drainage basin to the culvert system is approximately 131.7 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 236 cfs. The proposed construction will entail extending the east end of the culverts 23 ft. and the construction of a new eastern headwall. The extension will have no appreciable impact on the upstream headwater elevation of 14.1, i.e. approximately 0.9 ft. below the top of tie elevation or 1.3 ft. above the bottom of the sub-ballast. While this water elevation is higher than would be desired in a new rail system, the critical component in this case is that the water elevation is not increased from the existing condition. Note that the Hydraflow model utilizes a flow rate of 189 cfs through a 4 barrel system instead of 236 cfs through 5 culvert barrels. This is simply because the Hydraflow model only allows up to 4 barrels to be analyzed. To accommodate this, the 80% of the total design flow rate was modeled through 4 barrels, i.e. 80% of the 5 total barrels on the site. This prorated analysis should accurately reflect the flow regime through the 5 culverts.



East (Downstream) Endwall and Five 30" by 33" RCP Culverts at MP 179.50

EXHIBIT D



West (Upstream) Endwall and Five 30" by 33" RCP Culverts at MP 179.50

Culvert Report

Hydraulflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, May 6 2015

80% at Existing MP 179.50

Invert Elev Dn (ft) = 8.61
Pipe Length (ft) = 41.00
Slope (%) = 0.39
Invert Elev Up (ft) = 8.77
Rise (in) = 30.0
Shape = Cir
Span (in) = 30.0
No. Barrels = 4
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

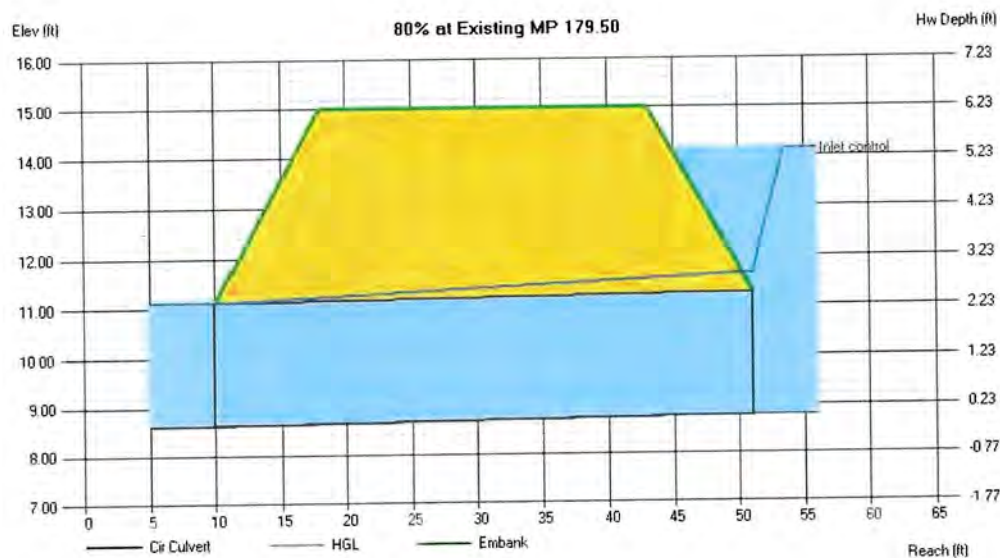
Top Elevation (ft) = 15.00
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 189.00
Qmax (cfs) = 189.00
Tailwater Elev (ft) = Crown

Highlighted

Qtotat (cfs) = 189.00
Qpipe (cfs) = 189.00
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 9.63
Veloc Up (ft/s) = 9.63
HGL Dn (ft) = 11.11
HGL Up (ft) = 11.65
Hw Elev (ft) = 14.13
Hw/D (ft) = 2.14
Flow Regime = Inlet Control



Culvert Report

Hydrflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, May 6 2015

80% at Proposed MP 179.50

Invert Elev Dn (ft) = 8.52
Pipe Length (ft) = 64.00
Slope (%) = 0.39
Invert Elev Up (ft) = 8.77
Rise (in) = 30.0
Shape = Cir
Span (in) = 30.0
No. Barrels = 4
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

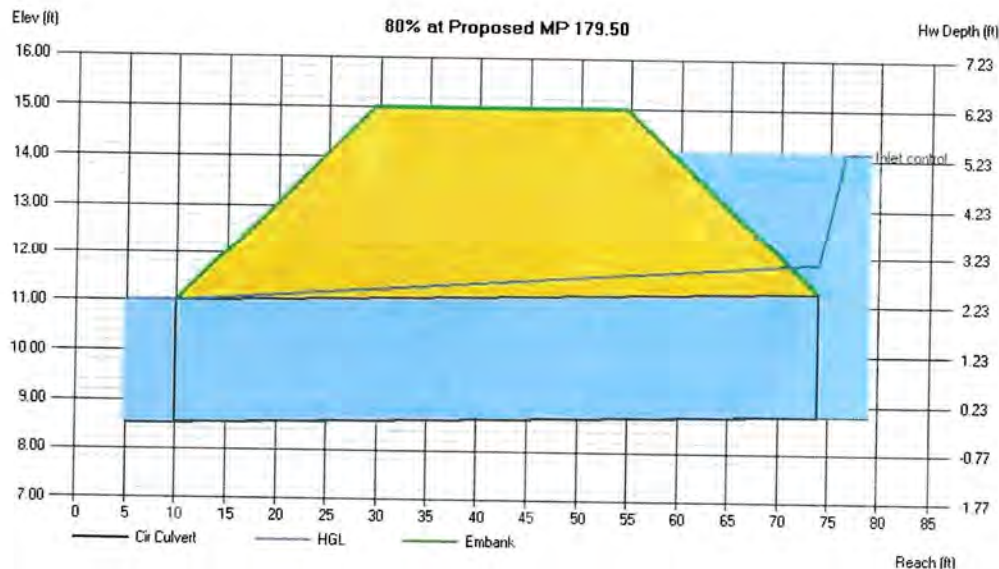
Top Elevation (ft) = 15.00
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

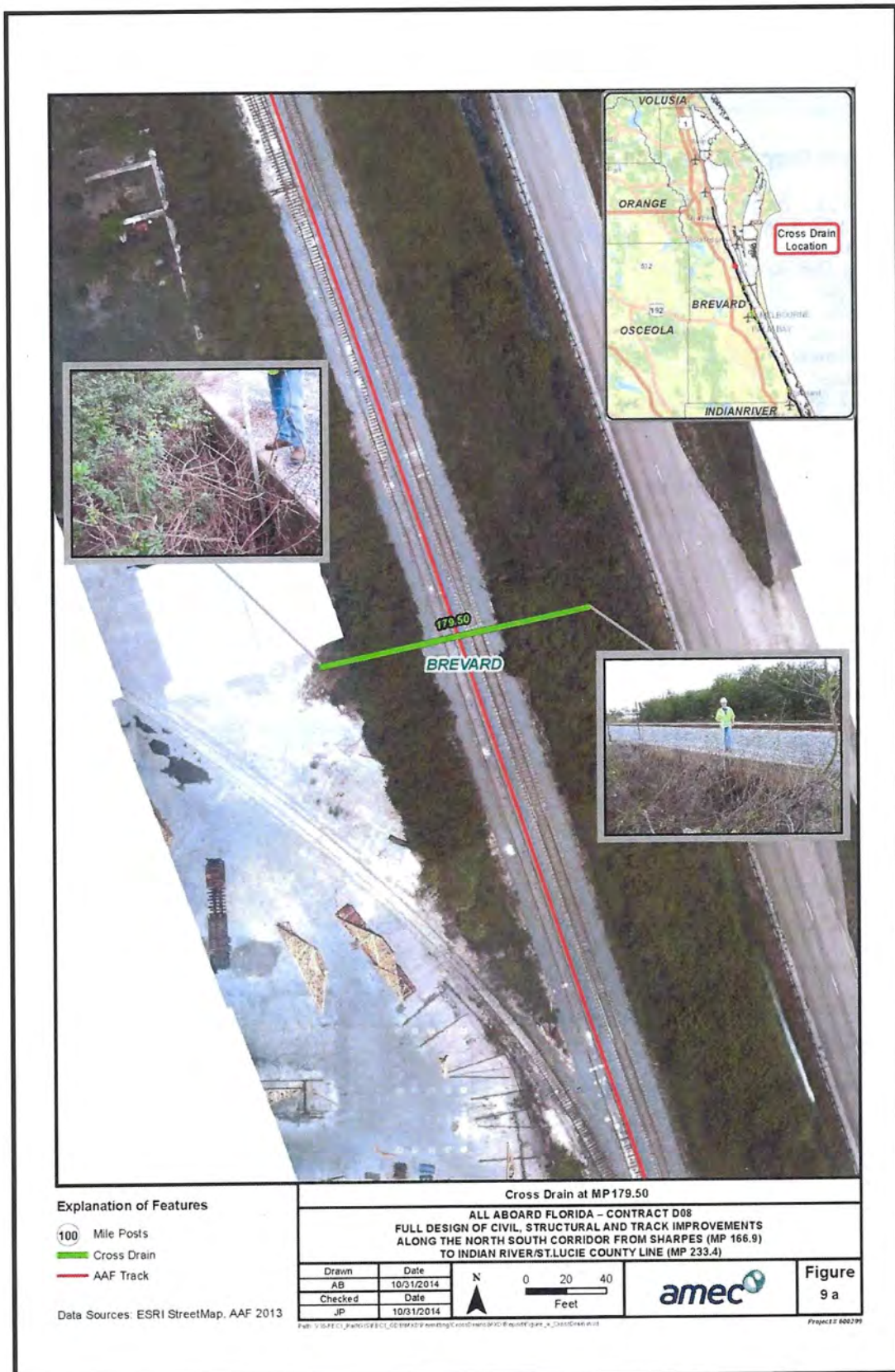
Calculations

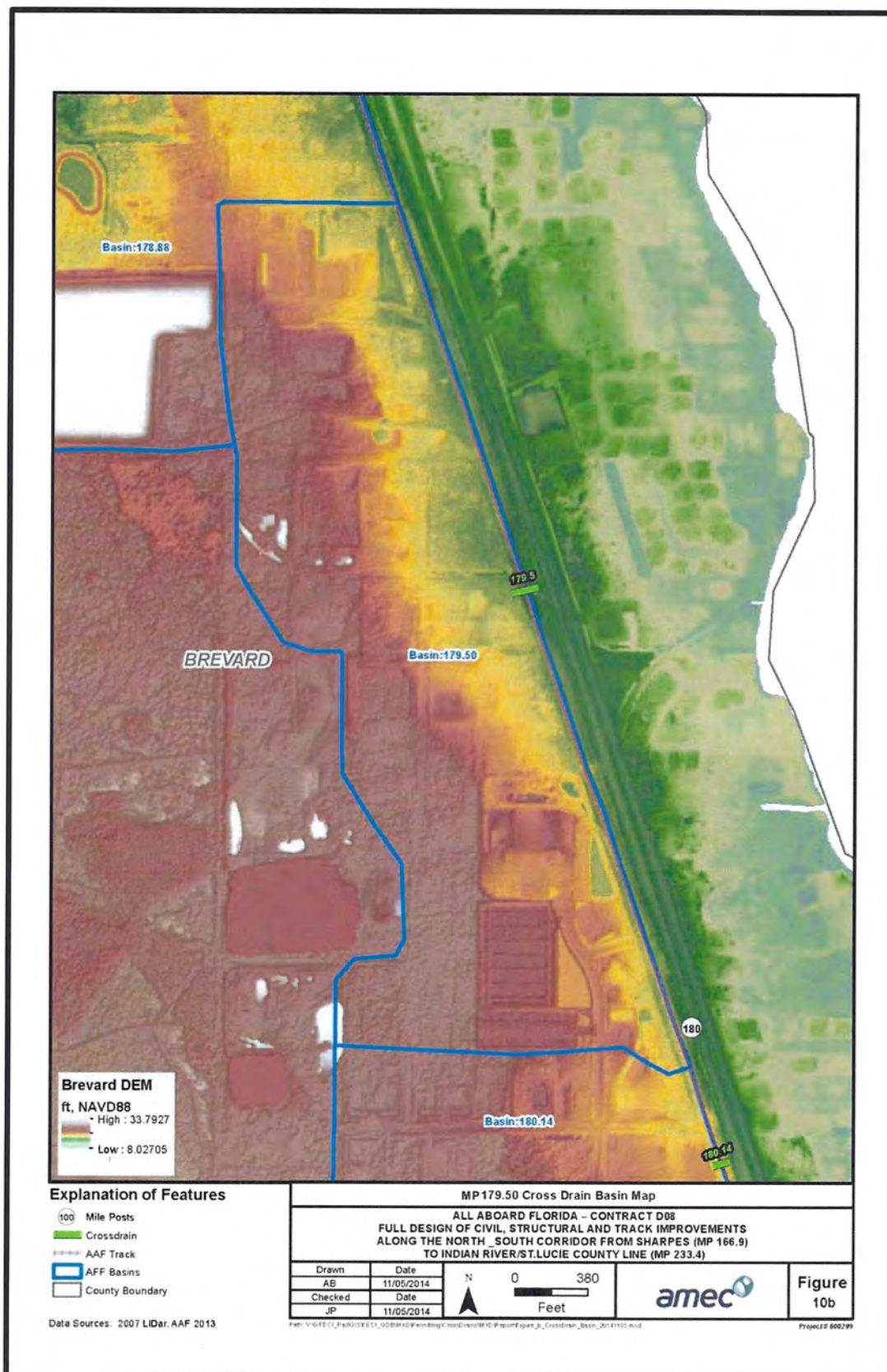
Qmin (cfs) = 189.00
Qmax (cfs) = 189.00
Tailwater Elev (ft) = Crown

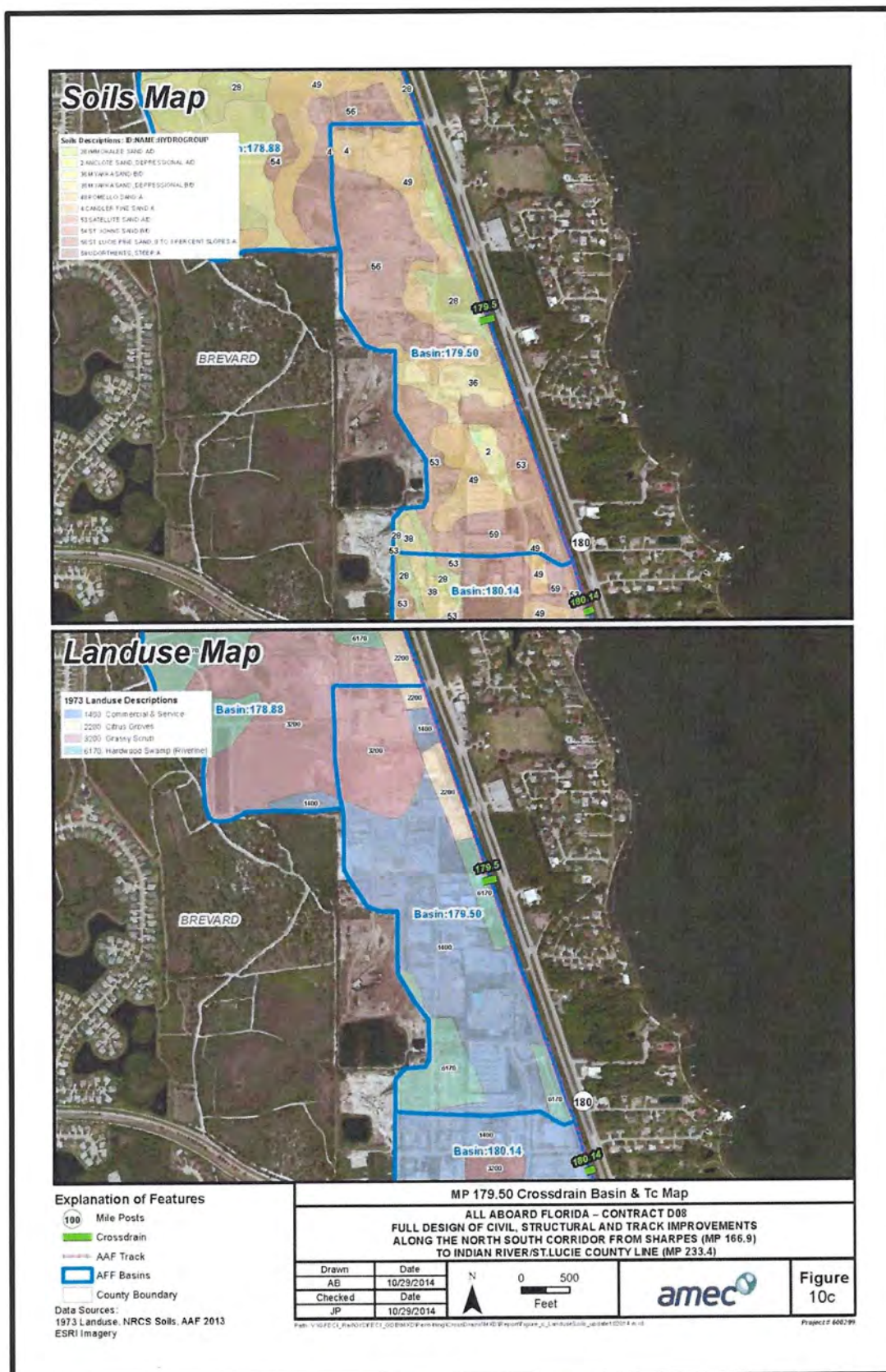
Highlighted

Qtotal (cfs) = 189.00
Qpipe (cfs) = 189.00
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 9.63
Veloc Up (ft/s) = 9.63
HGL Dn (ft) = 11.02
HGL Up (ft) = 11.87
Hw Elev (ft) = 14.13
Hw/D (ft) = 2.14
Flow Regime = Inlet Control









17.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 180.14 CROSS DRAIN

According to the Track Chart, there are two culverts at this location: a single 25 ft. long 24" round terra cotta culvert and also a 16 ft. long 24" oval RCP culvert. Two culverts were located. One culvert was estimated to be an approximately 54 ft. long 24" by 28" oval RCP culvert with a headwall on the upstream (west) end. The downstream (east) end of this culvert was not located and is likely buried. The second culvert was a 54 ft. long 30" circular CMP culvert with no end treatments. The overall structural condition of the system was good, but sediment was apparent in pipes and ditches.

ICPR was utilized for this analysis, as Hydraflow cannot assess two hydraulically connected culverts of differing size and material. The existing drainage basin to the culvert system is approximately 52.1 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 75 cfs. The hydraulic analysis represents the existing culverts as fully functional, i.e. neglecting blockage and assuming a constant Manning's n value for concrete of 0.013 and 0.024 for the CMP culvert. For the analysis, it is assumed that the eastern end of the RCP is uncovered and open – even though it is currently blocked. The initial stage was set to the estimated crown of the 30" CMP at 14.0. The lengthening of the culverts has a minimal impact on the cross drain hydraulics, raising the upstream (west) headwater elevation from 17.64 to 17.79, which is approximately 2.2 ft. below the top of the tie and just below the bottom of the sub-ballast. This small increase in headwater elevation is not expected to result in any adverse impacts to adjacent properties, because it is still 2.2 ft below the existing 20.0 +/- elevation at the right of way line – and therefore will not extend out of the right of way. Of course, the current condition included one of the culverts being blocked, therefore the project will actually be improving the hydraulic efficiency significantly.



West (Upstream) End of Single 24" by 28" RCP Culvert and Headwall at MP 180.14

EXHIBIT D



East (Downstream) End of Single 30" CMP Culvert at MP 180.14

NP 1x0.14 Culver (Existing)

Name: 24x26 FCP	From Node: NS	Length(ft): 54.00
Group: BASE	To Node: DS	Count: 1
UPSTREAM	DOWNSTREAM	Friction Equation: Automatic
Geometry: Vert Ellipse	Vert Ellipse	Solution Algorithm: Most Restrictive
Span(in): 24.00	24.00	Flow: Both
Rise(in): 28.00	28.00	Entrance Loss Coef: 0.00
Invert(ft): 13.130	13.130	Exit Loss Coef: 1.00
Manning's N: 0.013000	0.013000	Bend Loss Coef: 0.00
Top Clip(in): 0.000	0.000	Outlet Ctrl Spec: Use dc of tw
Bot Clip(in): 0.000	0.000	Inlet Ctrl Spec: Use dc
		Stabilizer Option: None

Upstream FHWA Inlet Edge Description:
 Vertical Ellipse Concrete: Square edge w/ headwall

Downstream FHWA Inlet Edge Description:
 Vertical Ellipse Concrete: Square edge w/ headwall

Name: 30 CMP	From Node: UC	Length(ft): 54.00
Group: BASE	To Node: DS	Count: 1
UPSTREAM	DOWNSTREAM	Friction Equation: Automatic
Geometry: Circular	Circular	Solution Algorithm: Most Restrictive
Span(in): 30.00	30.00	Flow: Both
Rise(in): 30.00	30.00	Entrance Loss Coef: 0.00
Invert(ft): 12.360	11.540	Exit Loss Coef: 1.00
Manning's N: 0.024000	0.024000	Bend Loss Coef: 0.00
Top Clip(in): 0.000	0.000	Outlet Ctrl Spec: Use dc of tw
Bot Clip(in): 0.000	0.000	Inlet Ctrl Spec: Use dc
		Stabilizer Option: None

Upstream FHWA Inlet Edge Description:
 Circular CMP: Projecting

Downstream FHWA Inlet Edge Description:
 Circular CMP: Projecting

NP 150.14 Calce (Existing)

Name: DS	Base Flow(cfs): 0.000	Init Stage(ft): 14.040
Group: BASE		Warn Stage(ft): 25.000
Type: Time/Stage		

Time(hrs)	Stage(ft)
0.00	14.040
24.00	14.040

Name: US	Base Flow(cfs): 75.000	Init Stage(ft): 13.120
Group: BASE		Warn Stage(ft): 100.000
Type: Stage/Area		

Stage(ft)	Area(ac)
8.000	0.2500
20.000	6.5000

HP 186.14 Culvert (Existing)

Name	Group	Simulation	Max Time Stage hrs	Max Stage ft	Warning Stage ft	Max Delta Stage ft	Max Surf Area ft ²	Max Time Inflow hrs	Max Inflow cfs	Max Time Outflow hrs
D0	BASE	23051	0.00	14.040	15.000	0.0000	76	13.48	71.000	0.00
H6	BASE	23051	13.48	17.437	100.000	0.0043	20979	0.00	75.000	13.48

MP 180.14 Color Rendering

Name	GROUP	Simulation	Max. Time Flow hrs	Max Flow cfs	Max Delta Q cfs	Max Time PS Stage hrs	Max US Stage ft	Max IS Stage hrs	Max DB Stage ft
24020 RCP	BAPS	23051	13.46	33.935	-2.731	13.46	17.637	3.16	15.736
20 CMF	BAPS	23051	13.46	41.465	-7.664	13.46	19.627	0.00	16.040

HF 100.14 Calor (Existing)

Simulation	Group	Link	Max DfVel fps	Max DfVel fps	Max AvgVel fps
23051	BASE	24x28 RCP	8.865	5.37	9.12
23051	BASE	30 CCB	8.447	6.45	6.45

NE 180.14 Culvert (Proposed)

Name: 14x18 ECP	From Node: US	Length(ft): 65.00
Group: BASE	To Node: DS	Count: 1
		Friction Equations: Automatic
		Solution Algorithm: Most Restrictive
UPSTREAM	DOWNSTREAM	Flow: Both
Geometry: Vert Ellipse	Vert Ellipse	Entrance Loss Coef: 0.00
Span(in): 24.00	24.00	Exit Loss Coef: 1.00
Rise(in): 24.00	24.00	End Loss Coef: 0.00
Invert(ft): 13.130	13.130	Outlet Ctrl Spec: Use dc or tw
Manning's N: 0.013000	0.013000	Inlet Ctrl Spec: Use dc
Top Chlip(in): 0.000	0.000	Stabilizer Option: None
Bot Chlip(in): 0.000	0.000	

Upstream FFWA Inlet Edge Description:
 Vertical Ellipse Concrete: square edge w/ headwall

Downstream FFWA Inlet Edge Description:
 Vertical Ellipse Concrete: square edge w/ headwall

Name: 30 CMF	From Node: US	Length(ft): 65.00
Group: BASE	To Node: DS	Count: 1
		Friction Equations: Automatic
		Solution Algorithm: Most Restrictive
UPSTREAM	DOWNSTREAM	Flow: Both
Geometry: Circular	Circular	Entrance Loss Coef: 0.00
Span(in): 30.00	30.00	Exit Loss Coef: 1.00
Rise(in): 30.00	30.00	End Loss Coef: 0.00
Invert(ft): 12.300	11.370	Outlet Ctrl Spec: Use dc or tw
Manning's N: 0.024000	0.024000	Inlet Ctrl Spec: Use dc
Top Chlip(in): 0.000	0.000	Stabilizer Option: None
Bot Chlip(in): 0.000	0.000	

Upstream FFWA Inlet Edge Description:
 Circular CMF: Projecting

Downstream FFWA Inlet Edge Description:
 Circular CMF: Projecting

HP 180.14 Culcs (Proposed)

Name: OS Base Flow(cfs): 0.000 Init Stage(ft): 14.040
 Group: BASE Warn Stage(ft): 25.000
 Type: Time/Stage

Time(hrs)	Stage(ft)
0.00	14.040
24.00	14.040

1) Name: US Base Flow(cfs): 75.000 Init Stage(ft): 18.130
 Group: BASE Warn Stage(ft): 100.000
 Type: Stage/Area

Stage(ft)	Area(ac)
5.000	0.2500
20.000	0.5000

HP 180.14 Canal (Proposed)

Name	Group	Simulation	Max Time Stage hrs	Max Stage ft	Warning Stage ft	Max Delta Stage ft	Max Surf Area ft ²	Max Time Inflow hrs	Max Inflow cfs	Max Time Outflow hrs
DS	BASE	23051	0.00	14.040	15.000	0.0000	86	14.90	75.000	0.00
US	BASE	23051	14.90	17.740	100.900	0.0047	20191	0.00	75.000	14.90

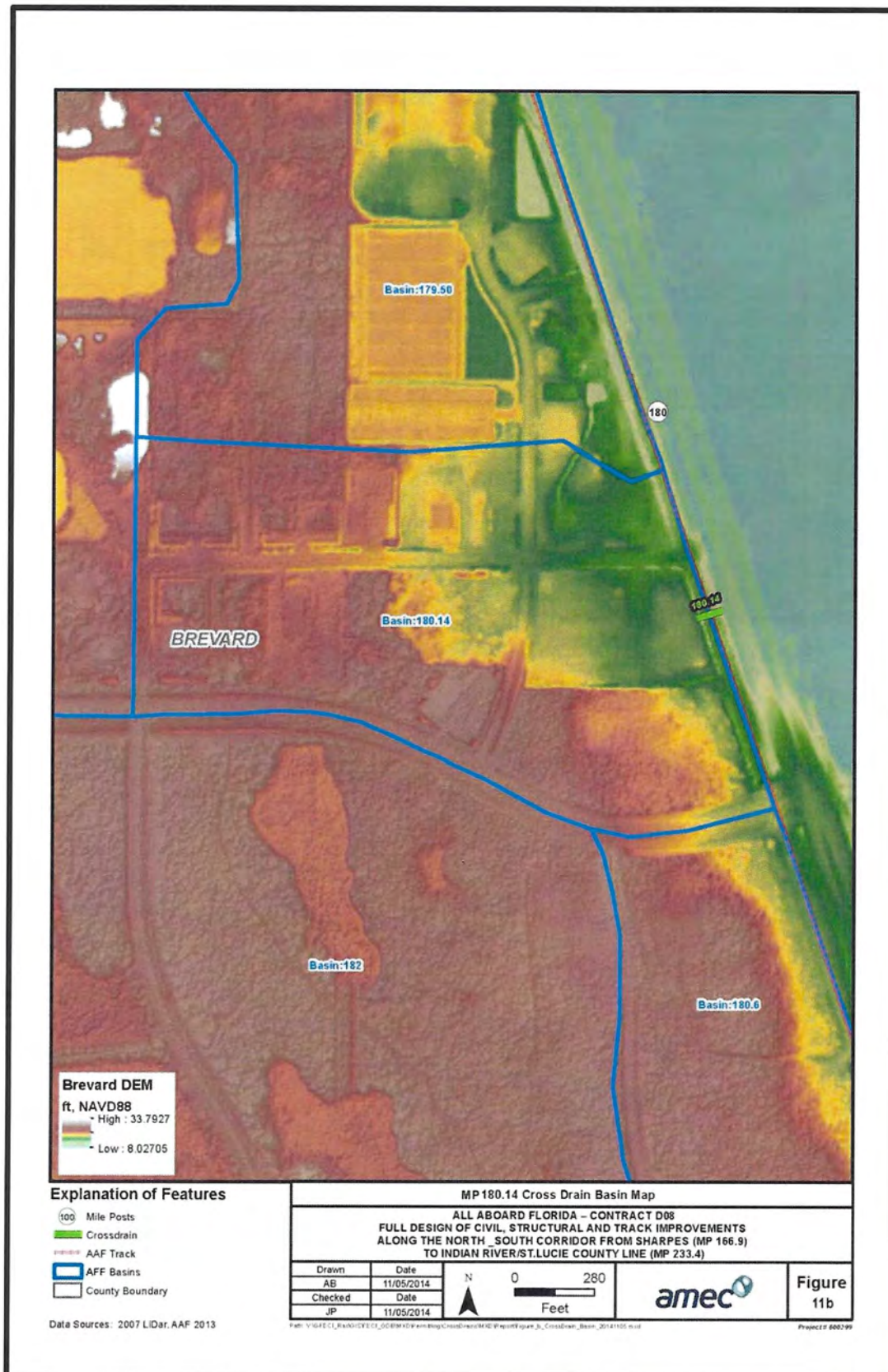
MP 180.14 Culvert (Proposed)

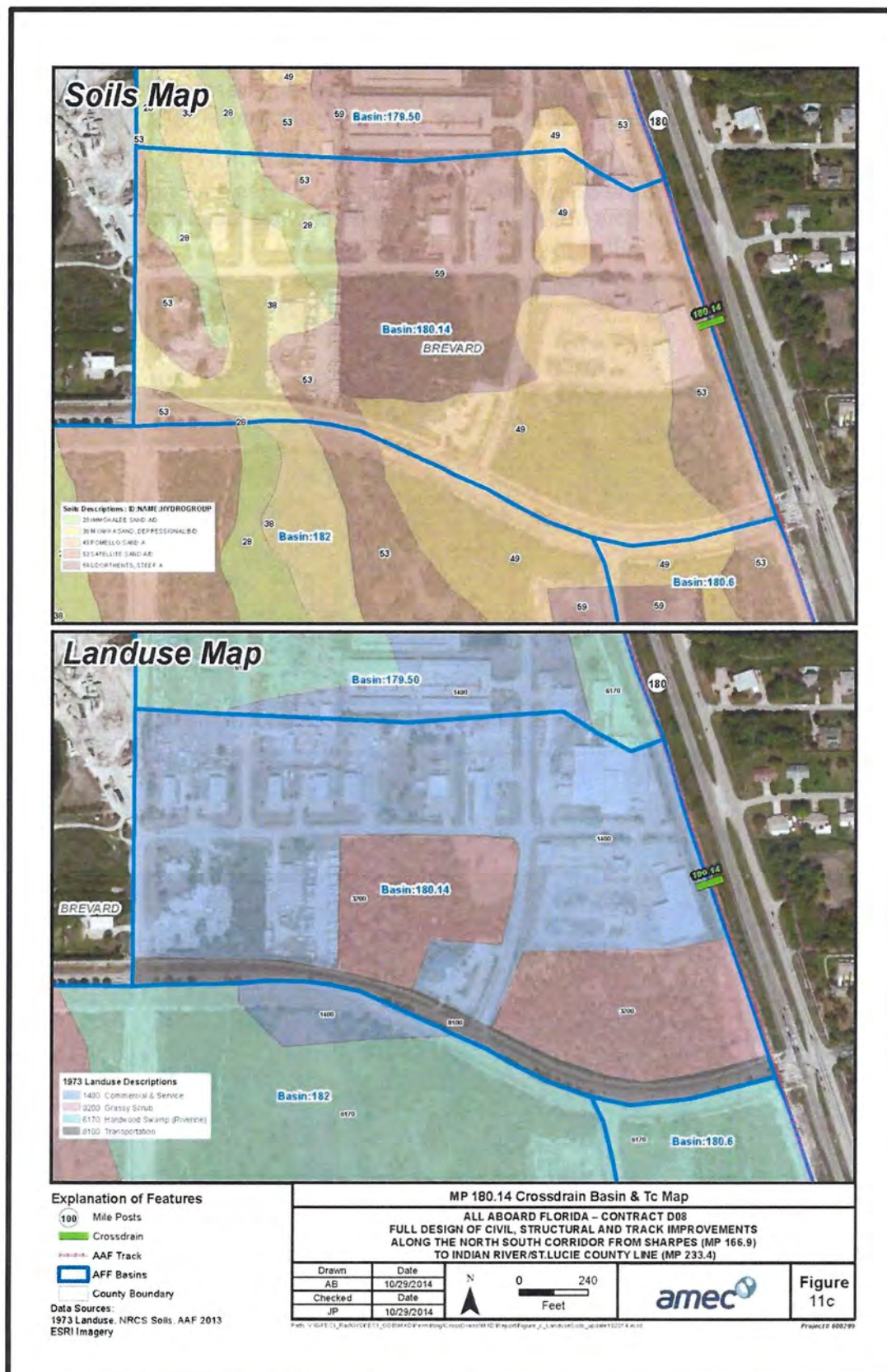
NAME	group	simulation	Max Time Flow hrs	Max Flow cfs	Max Delta Q cfs	Max Time US Stage hrs	Max US Stage ft	Max Time DS Stage hrs	Max DS Stage ft
24x28 RCU	BASE	23051	14.90	41.789	+2.158	14.88	17.166	2.42	15.220
30 CMF	EASE	23051	14.90	42.242	+7.488	14.90	17.766	0.00	14.040

MF 180.14 Calcas (Proposed)

Simulation	Group	Line	Max USVel fps	Max DSVel fps	Max AvgVel fps
03051	BASE	24x18 RCP	8.657	9.22	8.94
04051	BASE	30 CM6	8.606	8.61	8.61







18.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 180.60 CROSS DRAIN

According to the Track Chart, there are two 48 ft. long 24" oval RCP culverts at this location. Two 49 ft. long 24" by 27" oval RCP culverts with headwalls on each end were verified. Sediment and ballast has accumulated in the flow path of these culverts, estimated at 60% blockage at both ends.

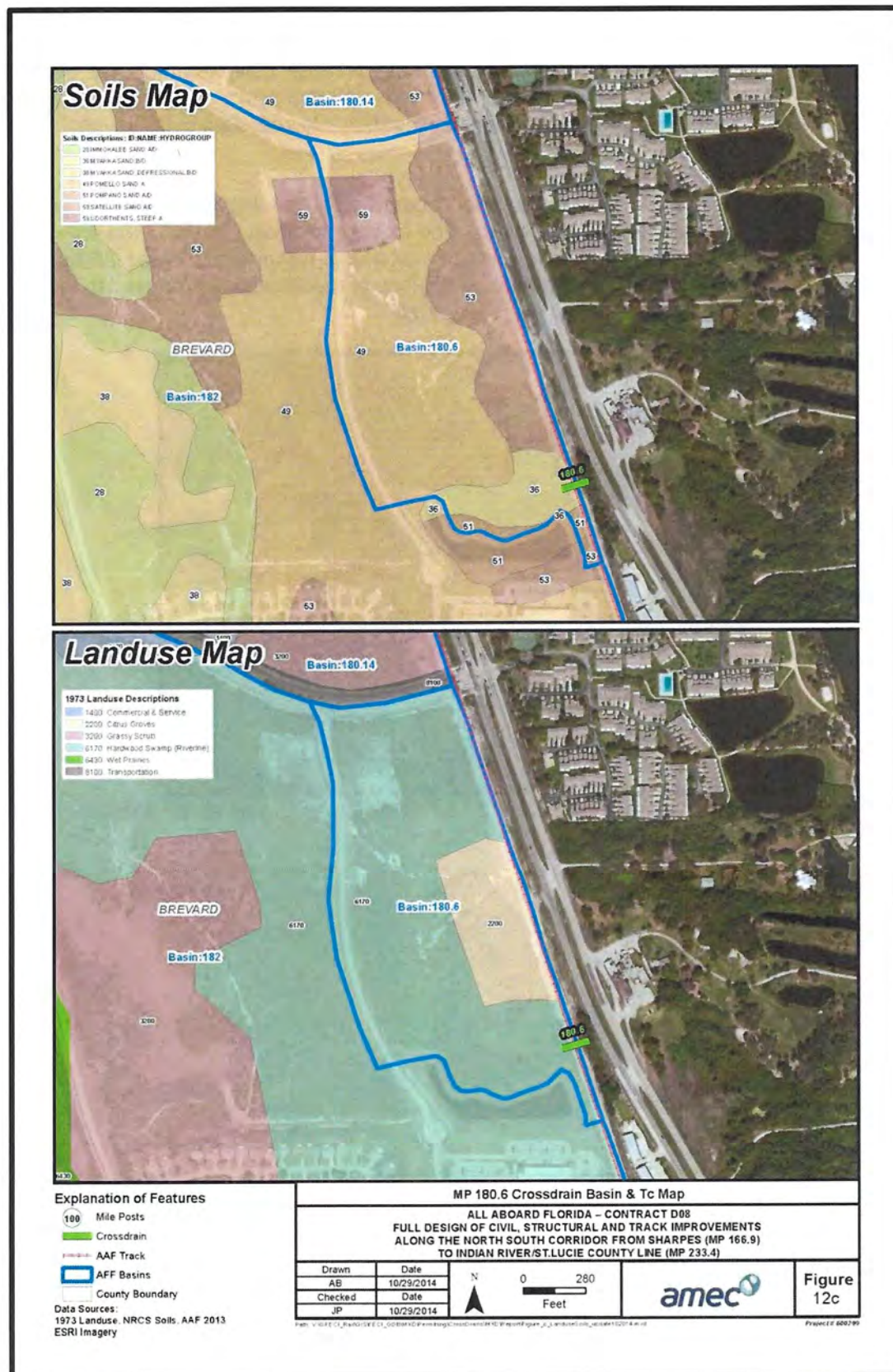
The existing drainage basin to the culverts is approximately 33.5 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 65 cfs. No extensions are proposed to the culverts and therefore no further hydraulic analysis is required.



Looking at Downstream (East) End of MP 180.60 Cross Drain and Endwall



Looking at Upstream (West) End of MP 180.60 Cross Drain and Endwall



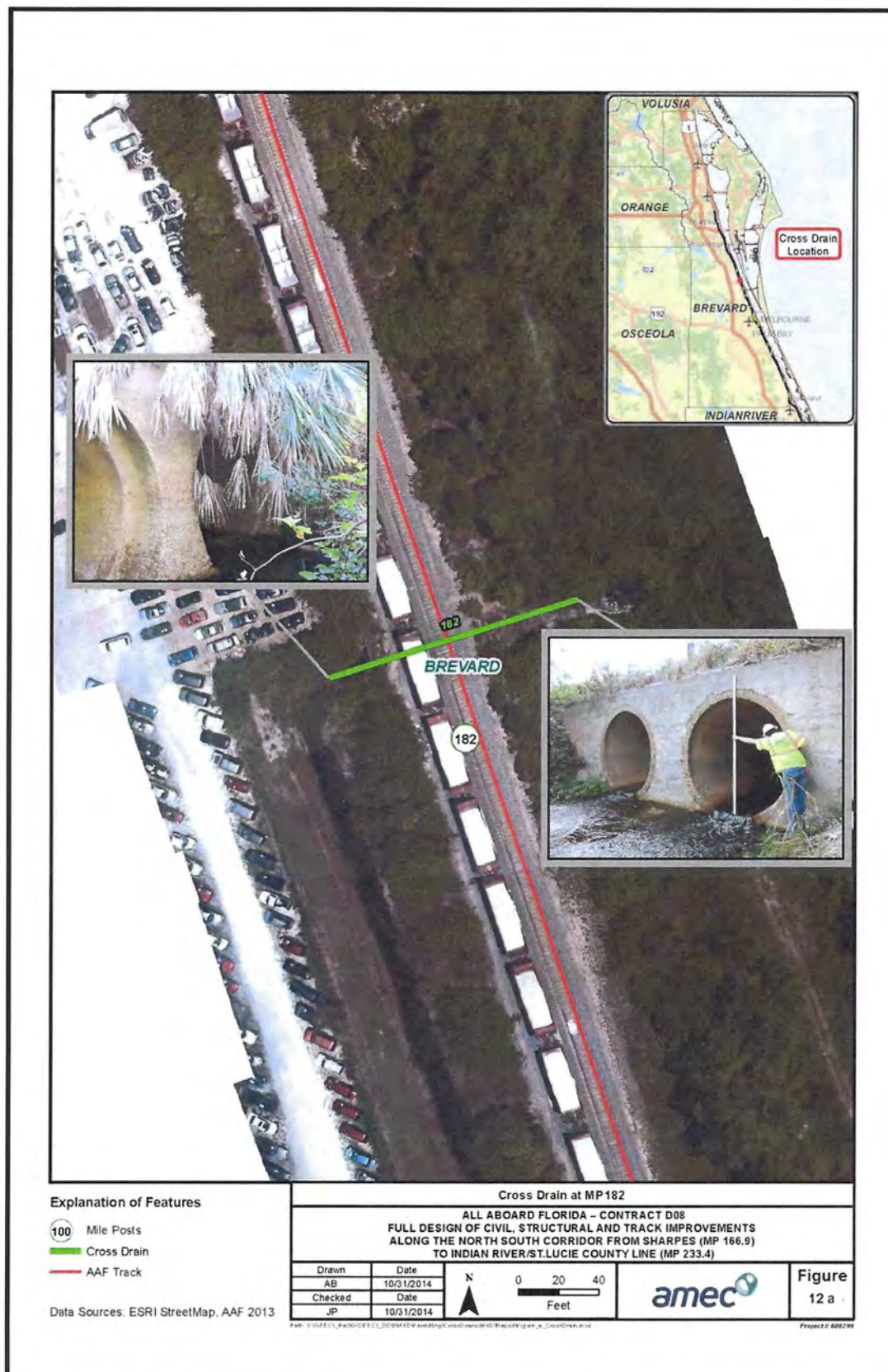
19.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 182.00 CROSS DRAIN

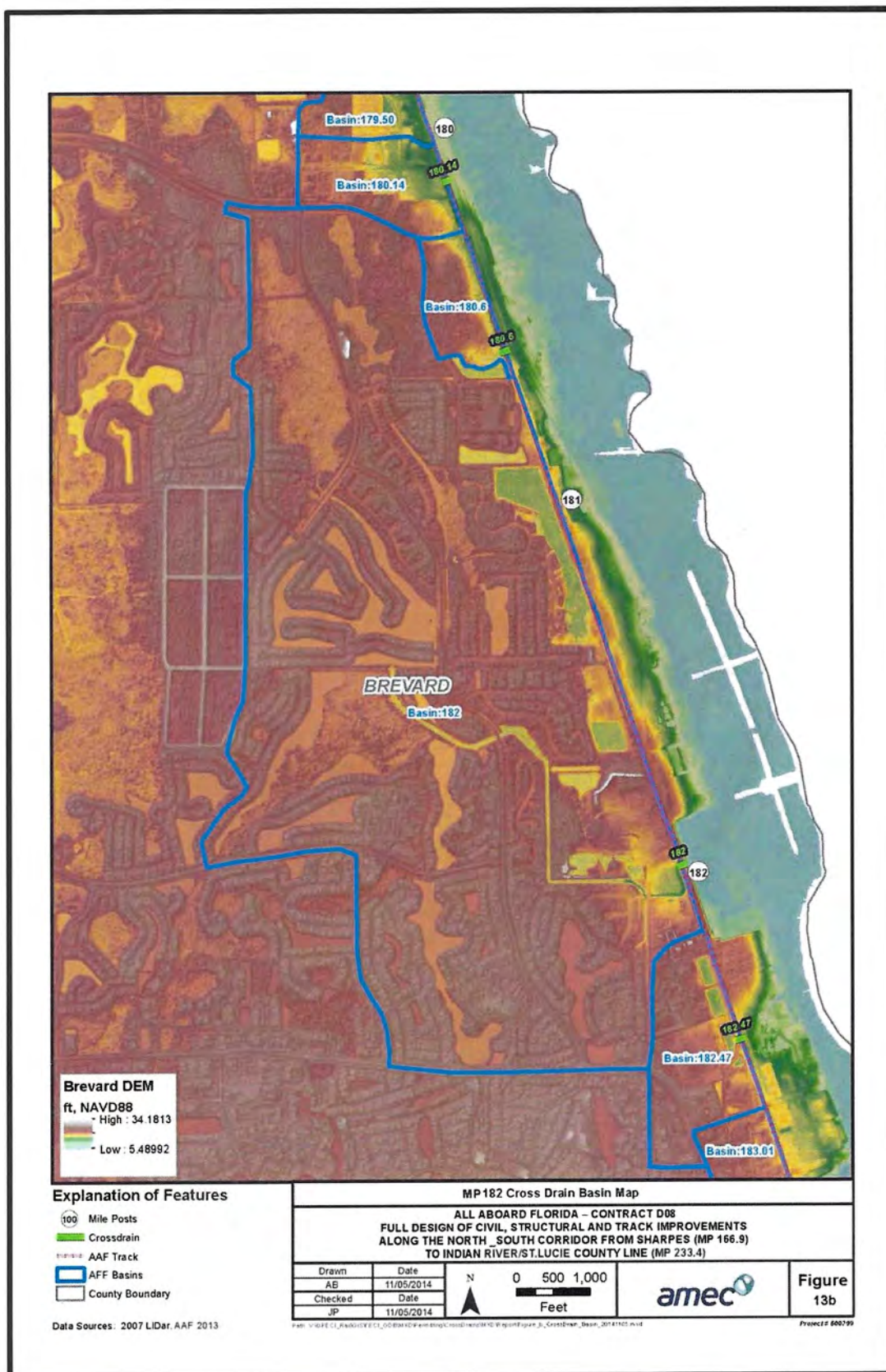
According to the Track Chart, there are two 48 feet long 84" RCP culverts at MP 182.00. Two 60 ft. long 84" by 90" oval RCP's with concrete headwalls at each end were located. Water was flowing from west to east at the time of the field investigation. No sediment build-up exists in either pipe.

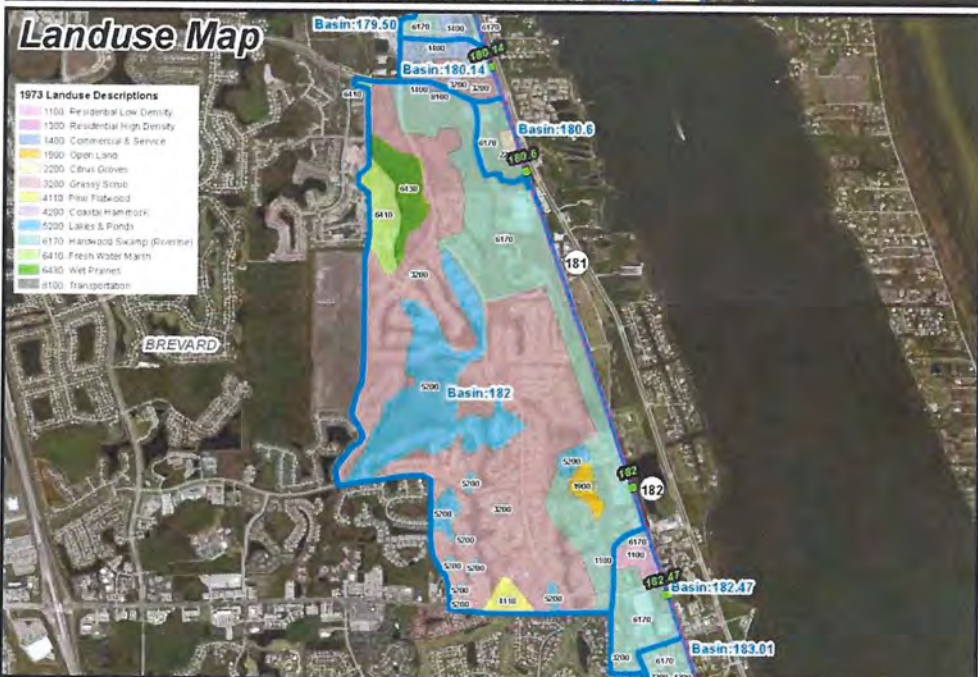
The basin to the west of the railroad has been altered with development over the years with residential, commercial and service land uses. The existing drainage basin to the cross drain is approximately 1,128.7 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 394.4 cfs. There are no extensions or modifications proposed to the culverts and therefore no further hydraulic analysis is required.



East (Downstream) Endwall and 2 - 84" RCP Cross Drains at MP 182.00







Explanation of Features

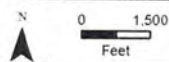
-

Data Sources:
1973 Landuse, NRCS Soils, AAF 2013
ESRI Imagery

MP 182 Crossdrain Basin & Tc Map

ALL ABOARD FLORIDA - CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVER/ST.LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/29/2014
Checked	Date
JP	10/29/2014



amec

Figure 13c

Feb VIOFECI_FarOIFECI_GORPMXDFemRugCusD-wgNHCEFigurc.c.Landscab.spigefCO04n.

Principles of 600.29

20.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 182.47 CROSS DRAIN

According to the Track Chart, there are two 60" oval RCP culverts at MP 182.47. Instead, double 65 ft. long 60" by 66" oval RCP were found. There are concrete headwalls at both the west and the east end of the culverts. There is some sediment buildup preventing flow from entering the southern culvert, but based on the surrounding storm sewer facilities this is not constricting the overall flow. The basin to the west of the railroad has been altered with development over the years with commercial and industrial land uses. The development of the drainage basin includes three large storm water ponds which discharge into the conveyance ditches along the west side of the FEC right-of-way. Flow to the culverts comes via a ditch from the south and a ditch from the north. Directly west of the culvert headwalls is a 48" outfall structure from a storm water pond. Flow was observed in the northern culvert flowing from west to east. Discharge from the culvert enters a drainage ditch along the east side of the track. The drainage ditch directs flow to the south towards a 36" RCP culvert that flows east under Turner Road. Although that downstream 36" culvert is a restriction to the flow path, the proposed project will have no adverse impacts on the hydraulics of the system.

The existing drainage basin to the cross drain is approximately 76.2 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 179.2 cfs. There are no obvious signs of drainage issues related to the culverts. There are no changes proposed to the existing cross drains, and thus further hydraulic analysis is not required.

EXHIBIT D

Flow Diagram showing drainage features both upstream and downstream of existing cross drains at MP 182.47

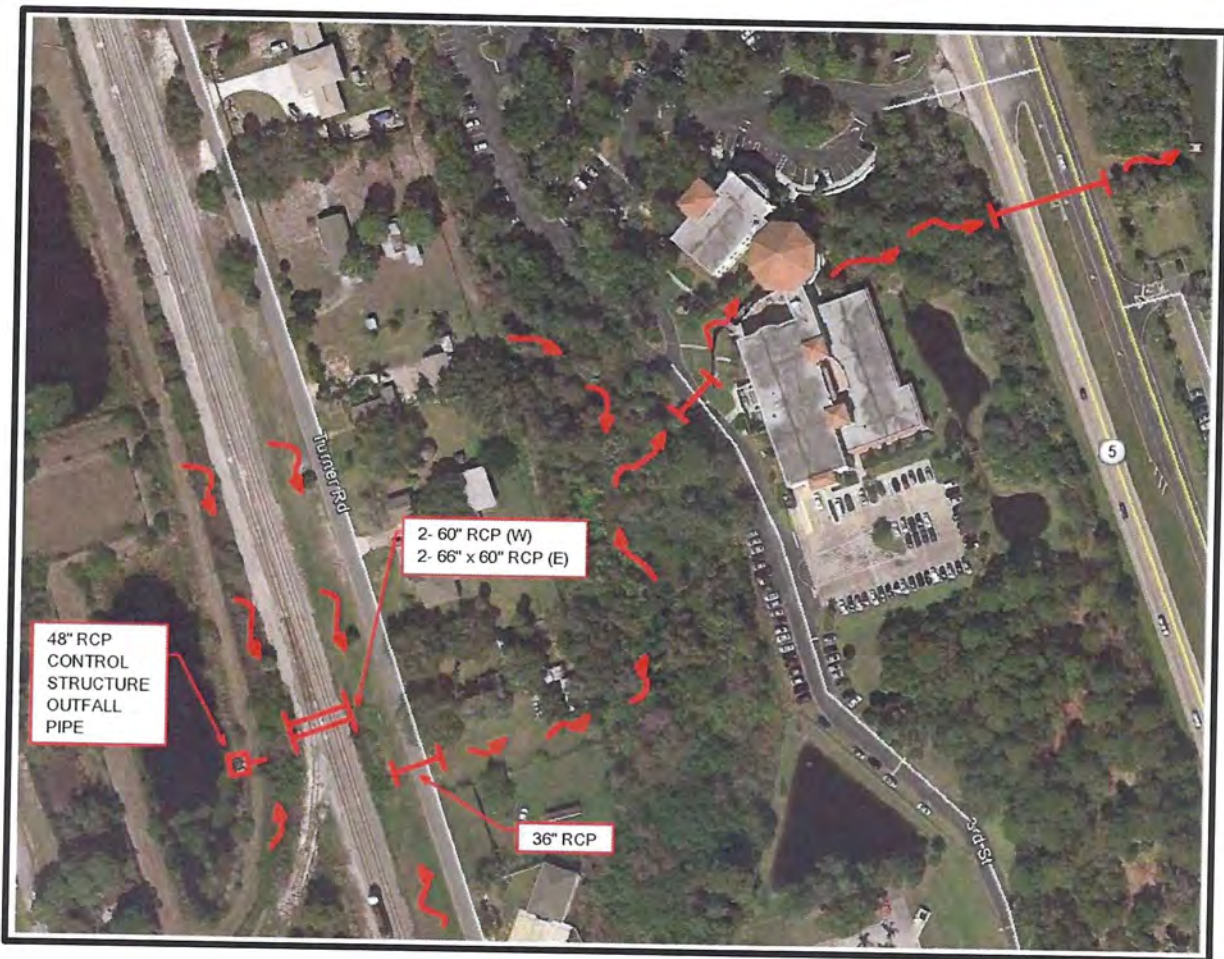


EXHIBIT D



Looking at West Headwall at Southernmost 66" by 60" RCP.

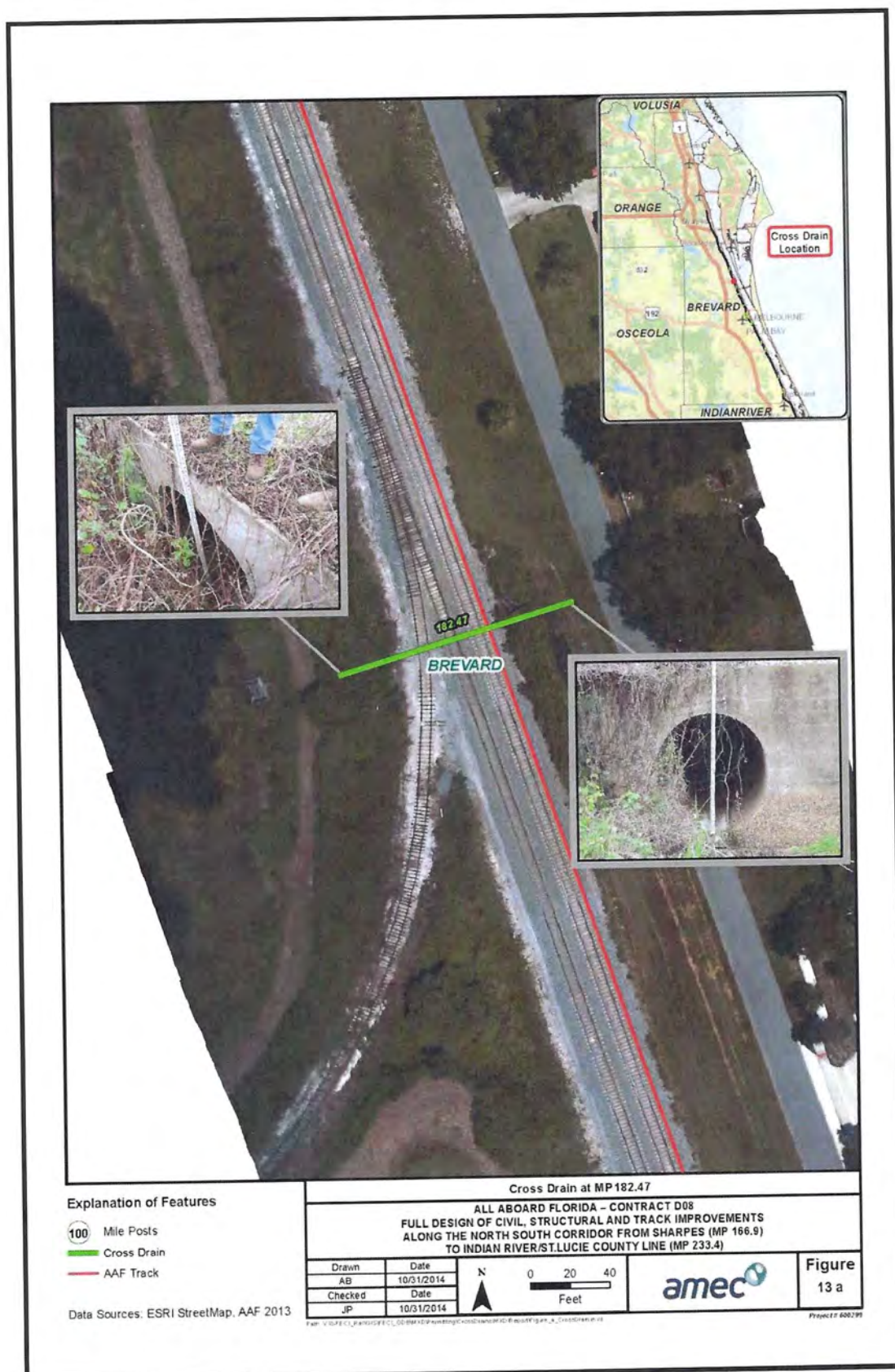


Looking at East Headwall of Southernmost 66" x 60" RCP.

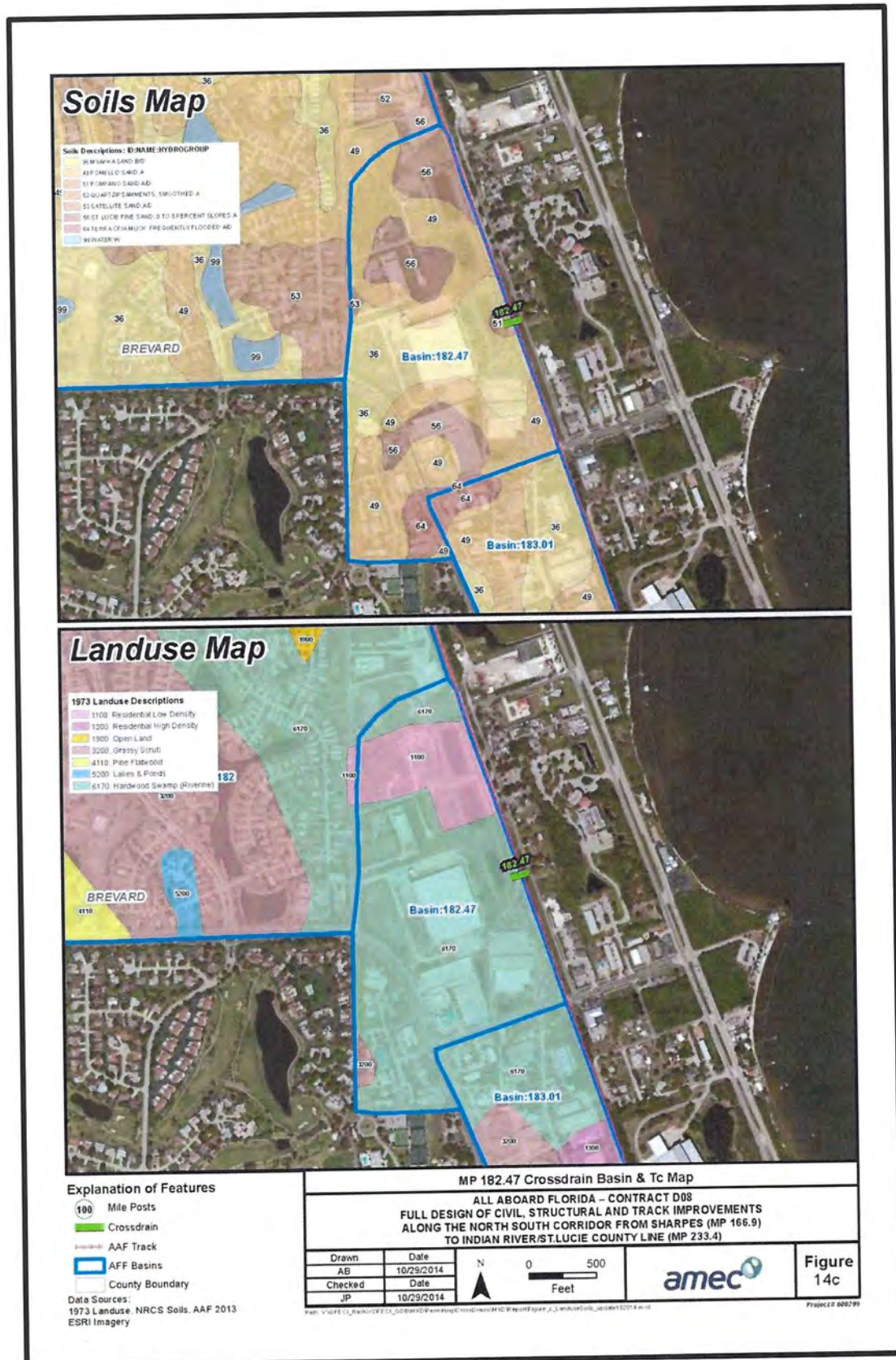
EXHIBIT D



Looking East Toward 36" RCP that Flows Under Turner Rd. at MP 182.47.







21.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 183.00 CROSS DRAIN (ACTUAL LOCATION MP 183.01)

According to the Track Chart, there are currently double 64 ft. long 48" oval RCP culverts at MP 183.00. Double 65 ft. long 48" by 54" oval RCP culverts were located in the field at approximate MP 183.01. Each end of the cross drain had an endwall. The west endwall had some chipping, but the structure was in good apparent condition and flow was observed in the field. The primary function of the culverts is to serve as a conveyance for drainage in an eastwardly flowing ditch. This ditch is part of a large hydraulic network which receives drainage from the FEC right of way as well as off-site locations involving mixed land uses.

Immediately upstream of the culverts are triple 72" RCP culverts and a conveyance ditch which leads to the FEC cross drains. These culverts have a larger cross-sectional flow area than the FEC cross drains, but convey the same volume of drainage. This is largely due to the fact that these culverts pre-date most development in the area and were originally intended for regional flow rates that were higher due to fewer treatment ponds and less attenuation. A local pond, southwest of the intersection of Wickham Rd. and Saint Andrews Blvd. is referred to as the Suntree Pond by much of the permitting documentation and was constructed prior to the ERP requirements. Historically, its outfall was a ditch just east of Wickham Rd, which extended to Pineda Court, and was conveyed through triple 42 inch culverts. However, this area has been modified to suit a commercial development. SJRWMD ERP permit 4-009-16476-2 covered the installation of triple 54 RCP culverts which connect the previously mentioned triple 72" culverts to the triple 42" culverts (from Suntree Pond). This permit also included a structure at the connection with the 72" culverts which include concrete energy dissipaters. There are no inlets in this hydraulic system between the triple 72" culverts and the Suntree Pond. Therefore, the contributing flow to the FEC system is dependent on primarily on the controlled discharge through the 42 inch culverts from the Suntree Pond (shown in the attached excerpt from ERP permit 4-009-16476-2).

While the Suntree Pond is the leading contributor of drainage to the FEC cross drain, it is not the only source. There are two ponds, directly south of the FEC cross drain and located between the rail and Pineda Court. Neither of these ponds have ERP permits, but both drain to the FEC cross drain. The north pond provides attenuation for the commercial development west of Pineda Court. The south pond receives local drainage from Wickham Rd. and is assumed to drain to the MP 183.00 cross drain.

The existing drainage basin to the cross drain is approximately 59.5 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 36 cfs. There is no extension proposed for this culvert and thus no further hydraulic analysis is required.

EXHIBIT D



East (Downstream) End of Double 48" by 54" Culverts at MP 183.01



West (Upstream) End of Double 48" by 54" Culverts at MP 183.01

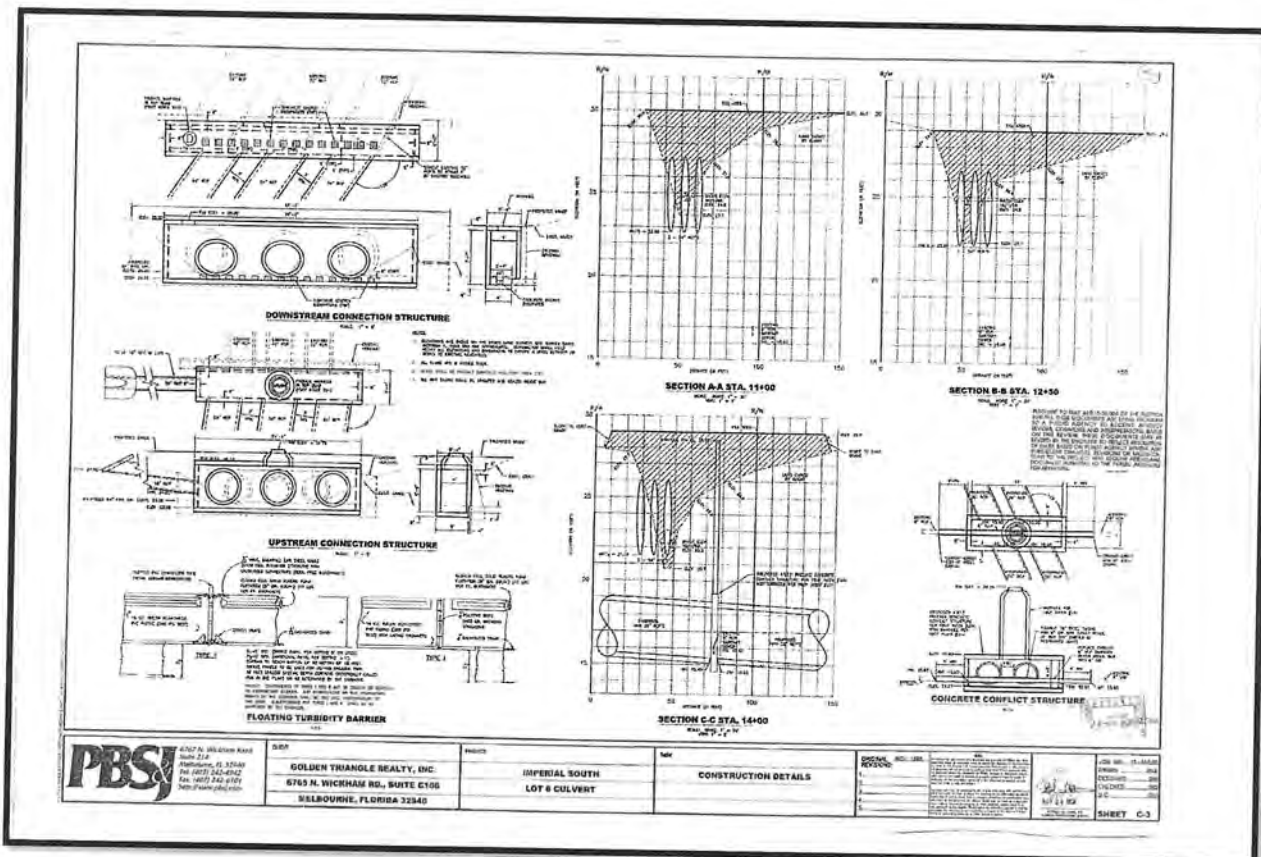
EXHIBIT D

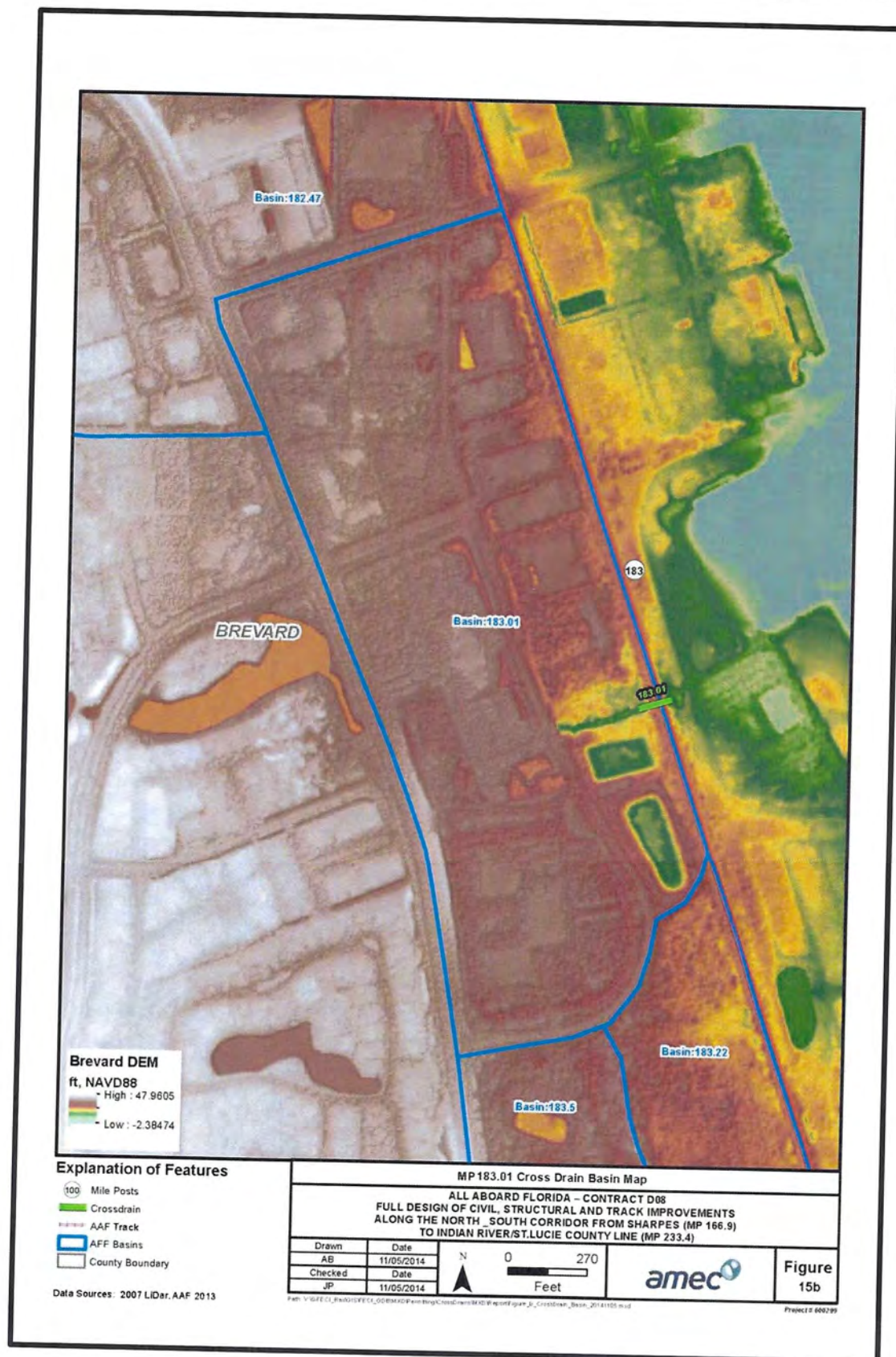


TRACT 49, SUNTREE P.U.D. WICKHAM CUTFALL, (TODAY SITE AS BUILT) WITH 3-48" FLASHBOARD RISER PIPES W/ 6' FACE		JOB 1 SUMMARY PAGE 79	
SUMMARY TABLE 3 - DISCHARGE (CFS) AT SECTIONS AND STRUCTURES FOR ALL STORMS AND ALTERNATES			
SECTION/ STRUCTURE ID	DRAINAGE AREA (SQ MI)	STORM NUMBERS	
		1	2
STRUCTURE 22	1.01	230.60	268.16
ALTERNATE 1			
STRUCTURE 21	0.11	24.64	25.04
ALTERNATE 1			
STRUCTURE 6	1.03	229.24	239.72
ALTERNATE 1			
STRUCTURE 5	1.03	229.25	239.73
ALTERNATE 1			
STRUCTURE 4	1.03	238.00	263.47
ALTERNATE 1			
STRUCTURE 3	0.91	178.39	213.69
ALTERNATE 1			
STRUCTURE 2	0.31	61.93	62.71
ALTERNATE 1			
STRUCTURE 1	0.25	21.50	31.71
ALTERNATE 1			
SECTION 1	0.03	32.29	65.98
ALTERNATE 1			
SECTION 2	0.07	86.50	101.18
ALTERNATE 1			
SECTION 3	0.26	66.54	78.10
ALTERNATE 1			
SECTION 4	0.16	202.28	232.34
ALTERNATE 1			
SECTION 5	0.02	98.93	115.76
ALTERNATE 1			
SECTION 6	0.02	52.08	60.58
ALTERNATE 1			

TranSystems
All Aboard Florida - Contract D08
Cross Drain Culvert Hydraulic Analyses - DRAFT

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September 2015
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Explanation of Features

- 100 Mile Posts
- Crossdrain
- AAF Track
- AAF Basins
- County Boundary

Data Sources:
1973 Landuse, NRCS Soils, AAF 2013
ESRI Imagery

MP 183.01 Crossdrain Basin & Tc Map

ALL ABOARD FLORIDA – CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVER/ST. LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/29/2014
Checked	Date
JP	10/29/2014



0 460
Feet



Figure
15c

Path: V:\GATE\01_Basins\01_02_Basins\AAF\Amec\01_Crossdrain\MP 183.01\Map\15c.dwg

PROJECT 600299

22.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 183.22 CROSS DRAIN

According to the Track Chart, there is a single 48 ft. long 24" oval RCP culvert at this location. A single 49 ft. long 24" by 27" oval RCP with existing headwalls was surveyed. Both ends of the culvert are approximately 80% blocked with sediments and vegetation.

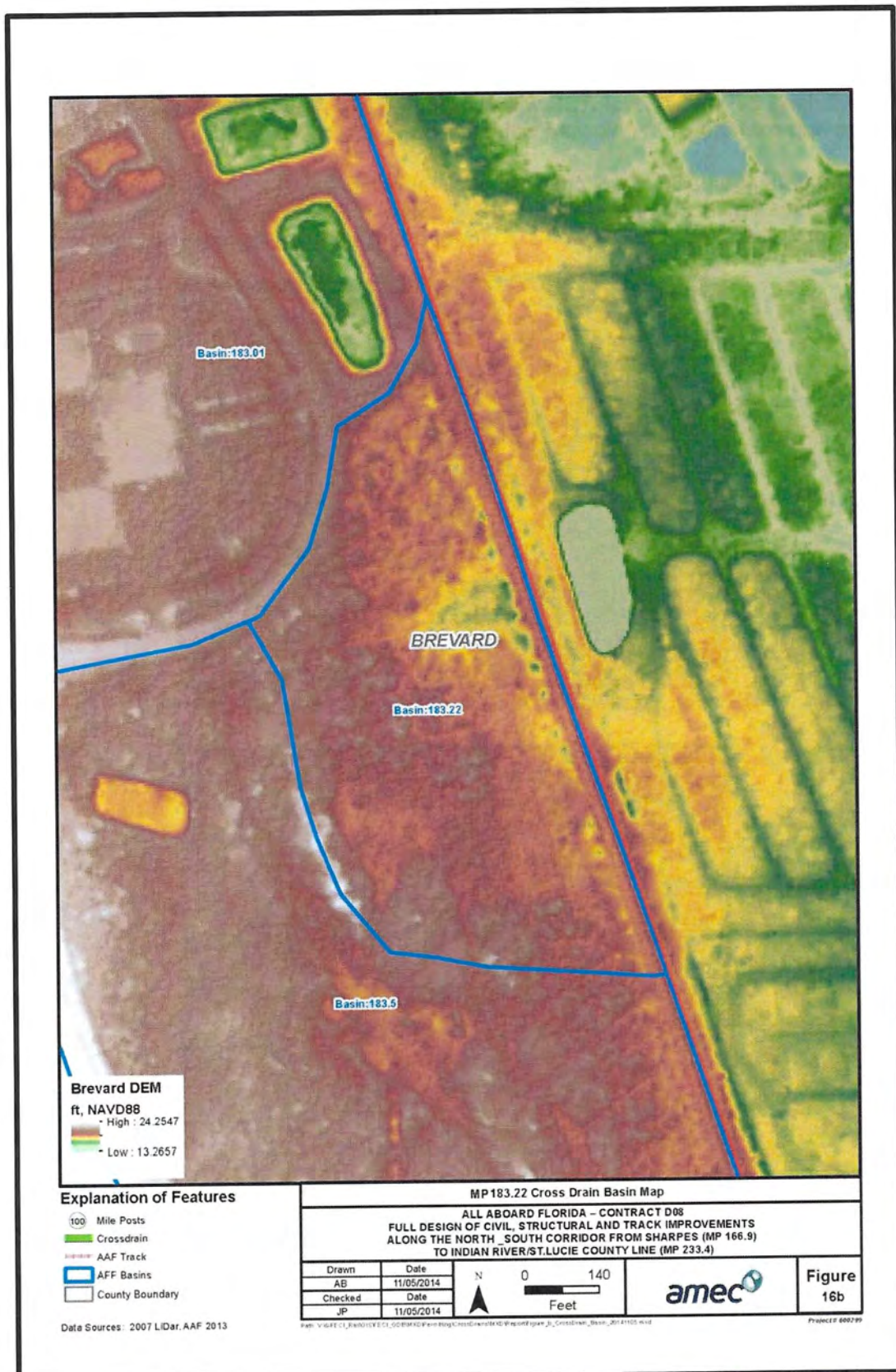
The existing drainage basin to the cross drain is approximately 12.0 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 4 cfs. There are no extensions proposed to the culvert and therefore no further hydraulic analysis is required.



Existing Headwall West Side of Cross Drain at MP 183.22



Existing Headwall East Side of Cross Drain at MP 183.22





23.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 183.50 CROSS DRAIN

According to the Track Chart, there is one 42" RCP culvert at MP 183.50. One 64 ft. long 42" by 46" oval RCP culvert with concrete headwalls at both ends and approximately 50% sediment blockage was located. The area to the west of the railroad within the drainage basin had minimal development over the years. Discharge from the culvert flows south along the east side of the track, around a mobile home development and east to a cross drain under US1.

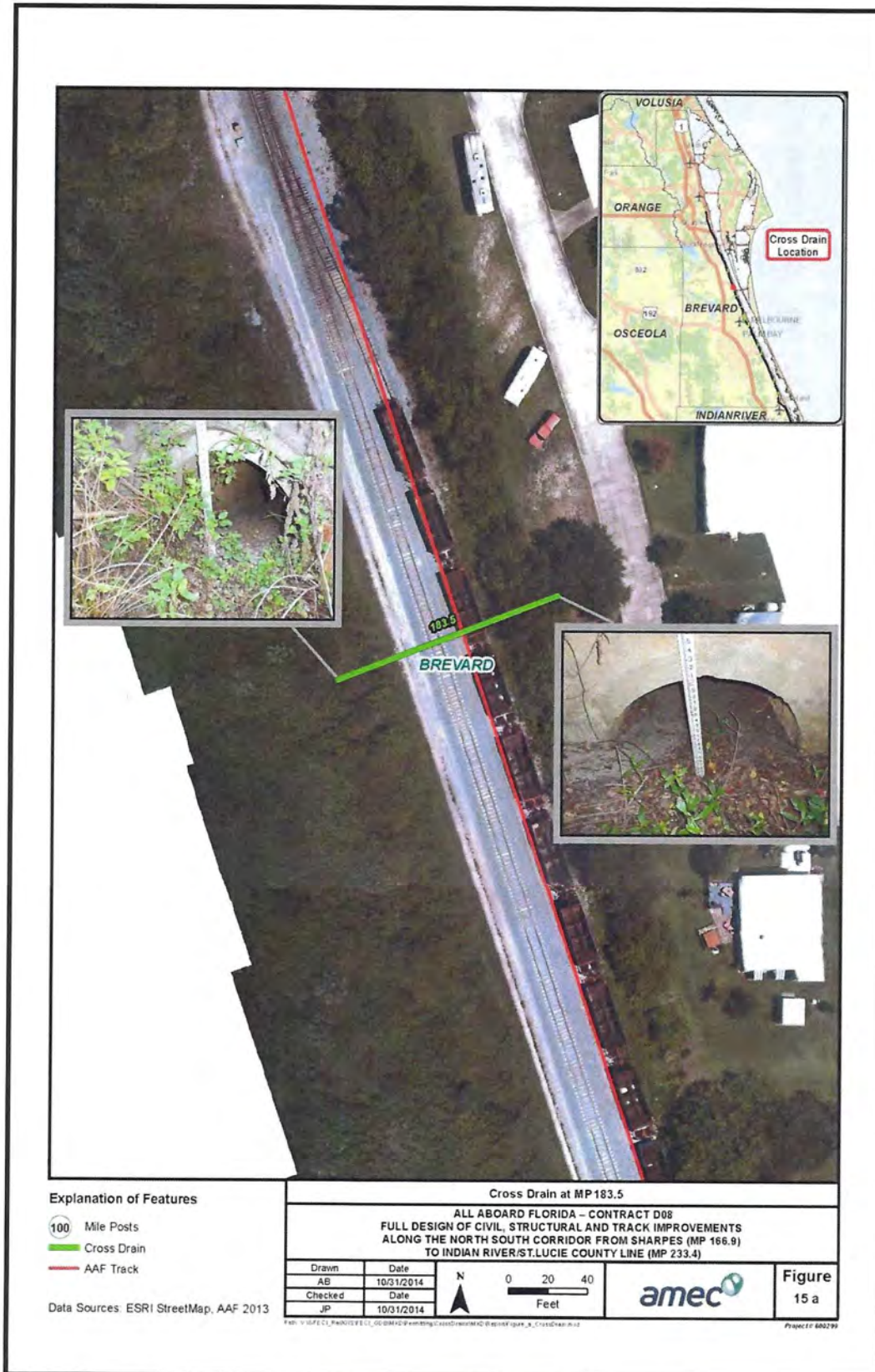
Most of the basin to the west currently consists of undeveloped land. The land use consists of low density residential, improved pasture, grassy scrub, hardwood swamp, and coastal hammock. The existing drainage basin to the cross drain is approximately 42.5 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 36 cfs. There are no extensions proposed to the culvert and therefore no further hydraulic analysis is required.

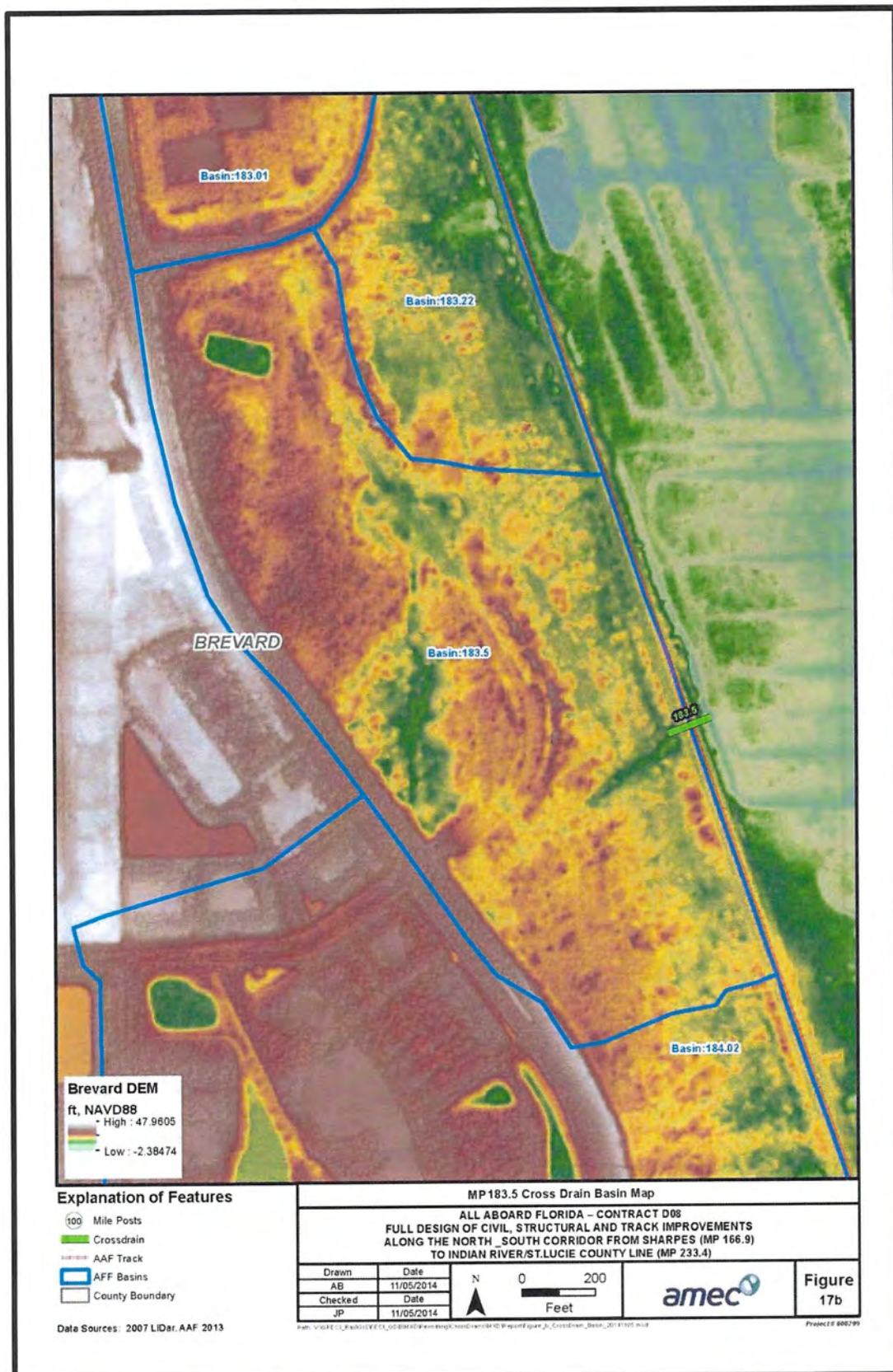


Looking at West Headwall at 42" RCP.



Looking at East End Headwall at 42" RCP.







24.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 184.02 CROSS DRAIN

According to the Track Chart, there are currently triple 72 ft. long 42" oval RCP culverts at MP 184.02. Triple 71 ft. long 42" by 46" oval RCP culverts with a combined concrete headwall on the east end but no end treatment on the west. The cross drain appeared to be functioning and flow was observed in the field. The middle culvert appeared to have a joint failure, as there was a void (approximately 2 ft. deep) along the embankment over its centerline approximately 13 ft. east of the eastern track. The plans call for this pipe joint to be sealed or grouted to prevent future voids or sinkholes. Once drainage passes through this cross drain, it is conveyed east by a ditch approximately 15 ft. to a 72" CMP culvert that had apparent damage and may not be fully functional. The dimensions of the downstream CMP culvert were not measured in the field and were obtained through researching ERP Permit 40-009-32362-3 for the construction of an aggregate distribution facility and associated storm water management area. An excerpt from those permitted plans is attached with this report to support the estimated pipe size.

The existing drainage basin to the cross drain is approximately 290 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 197 cfs. There are no extensions proposed to the culvert and therefore no further hydraulic analysis is required.



West (Upstream) End of Triple 42" by 46" Culverts at MP 184.02

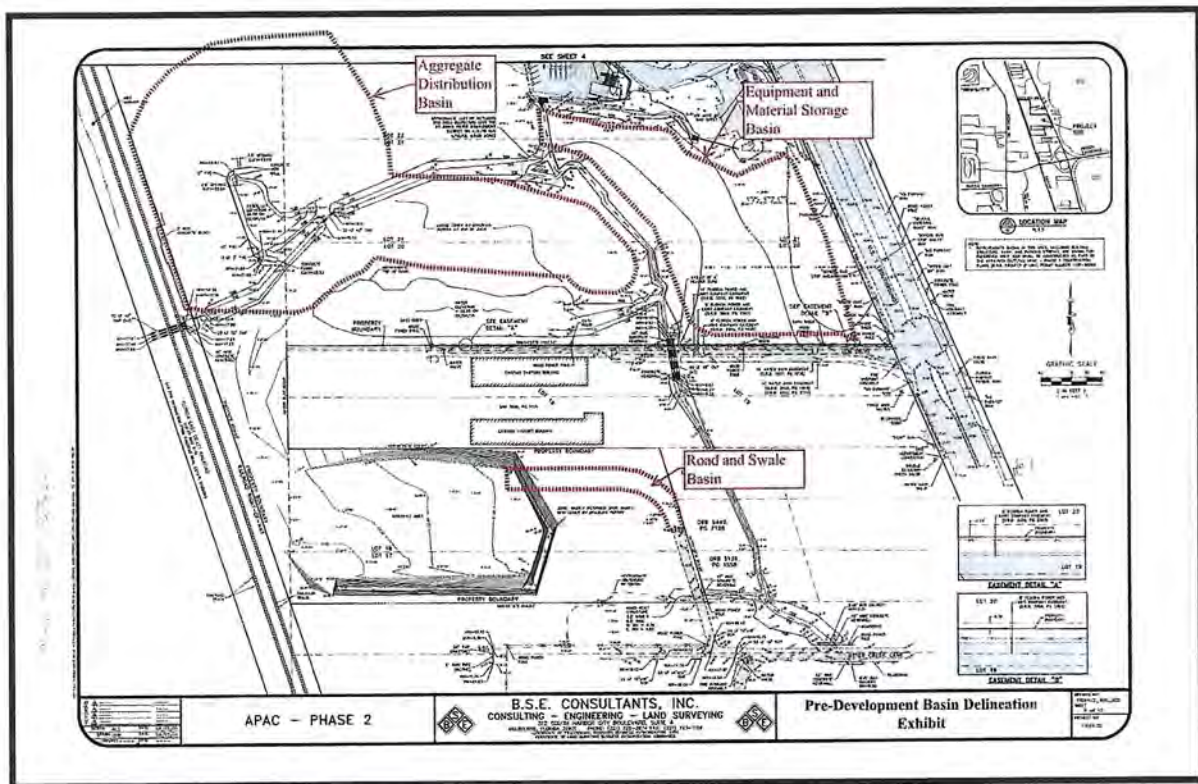
EXHIBIT D

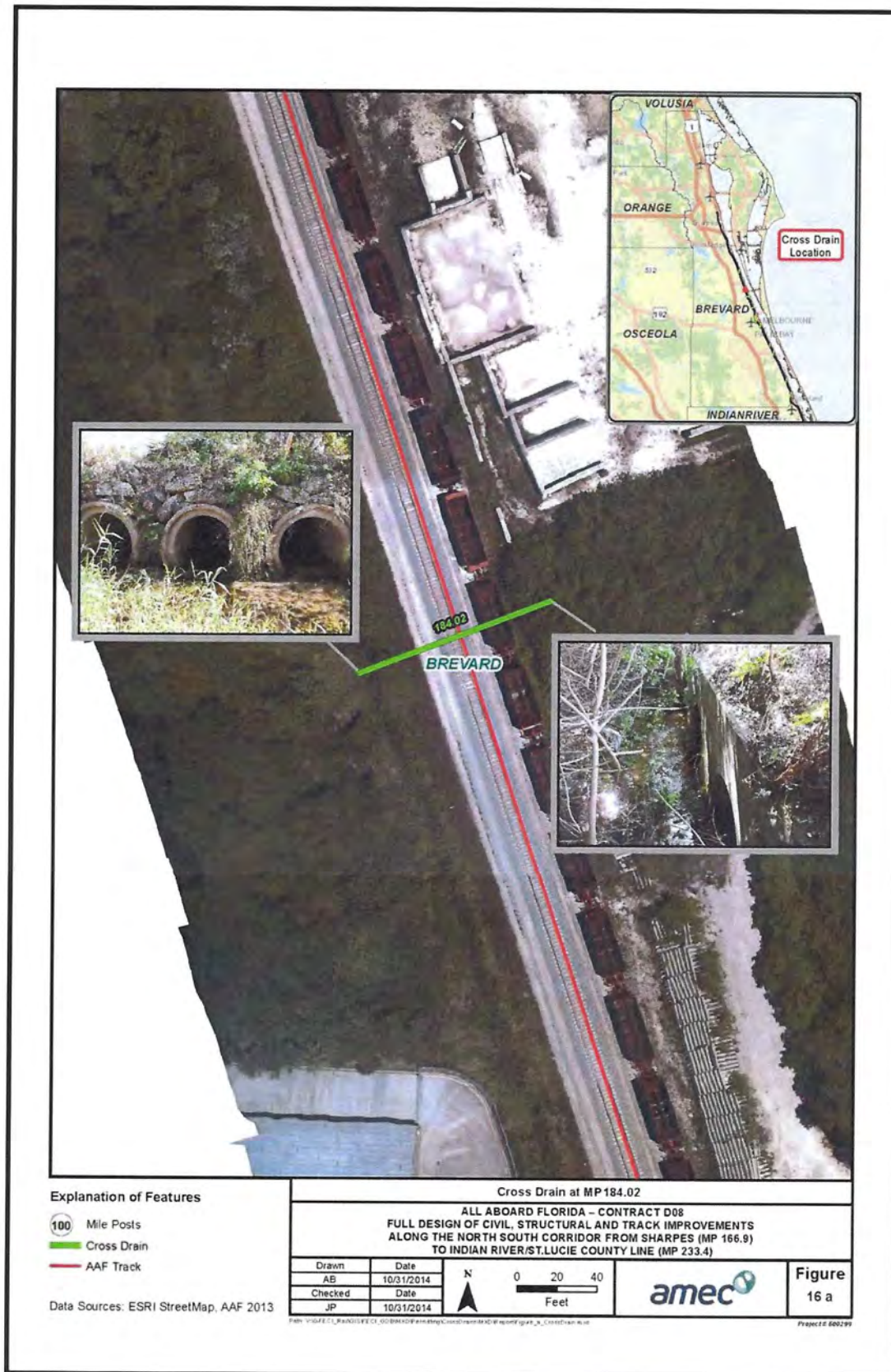


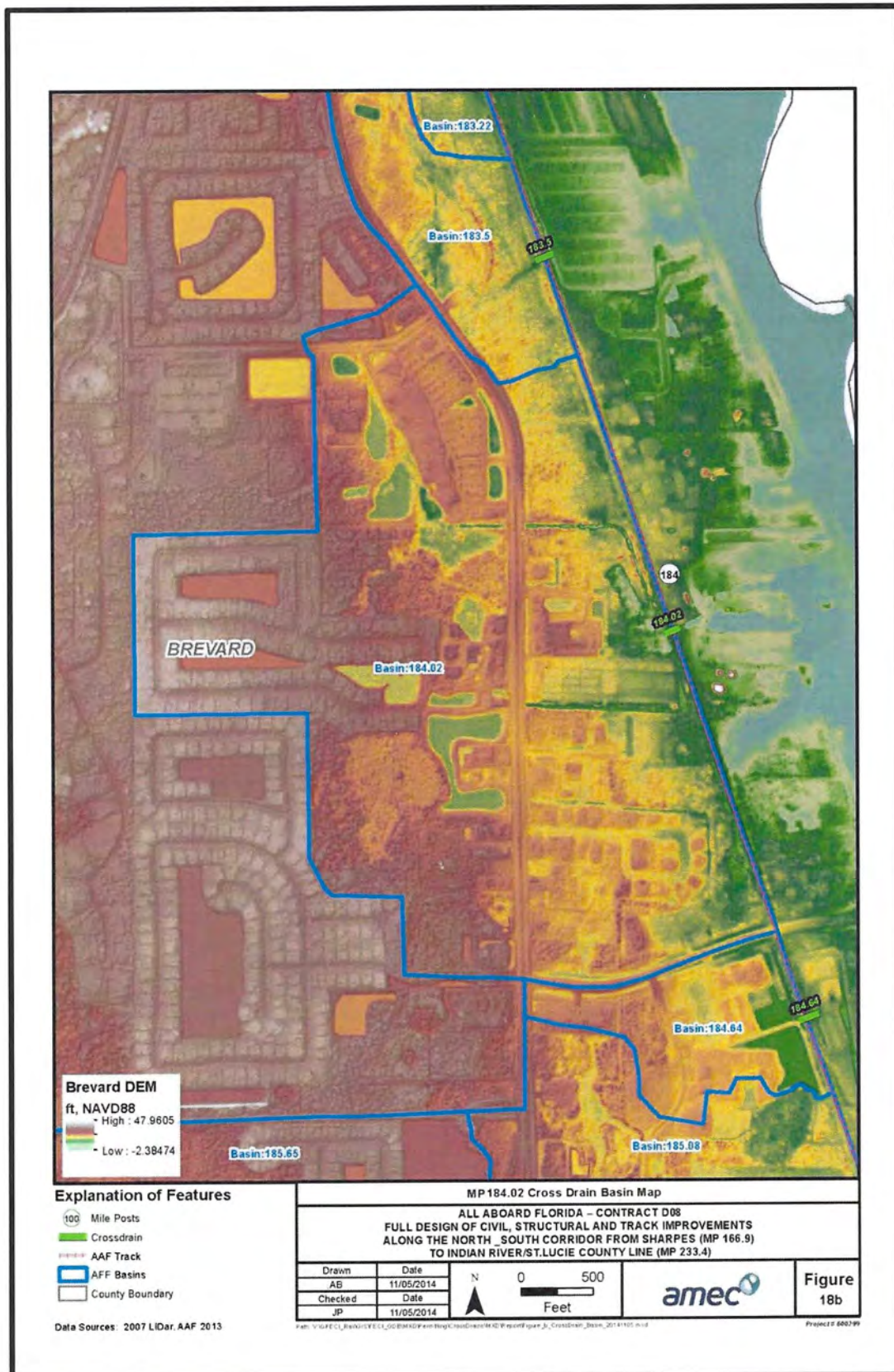
East (Downstream) End of Triple 42" by 46" Culverts at MP 184.02

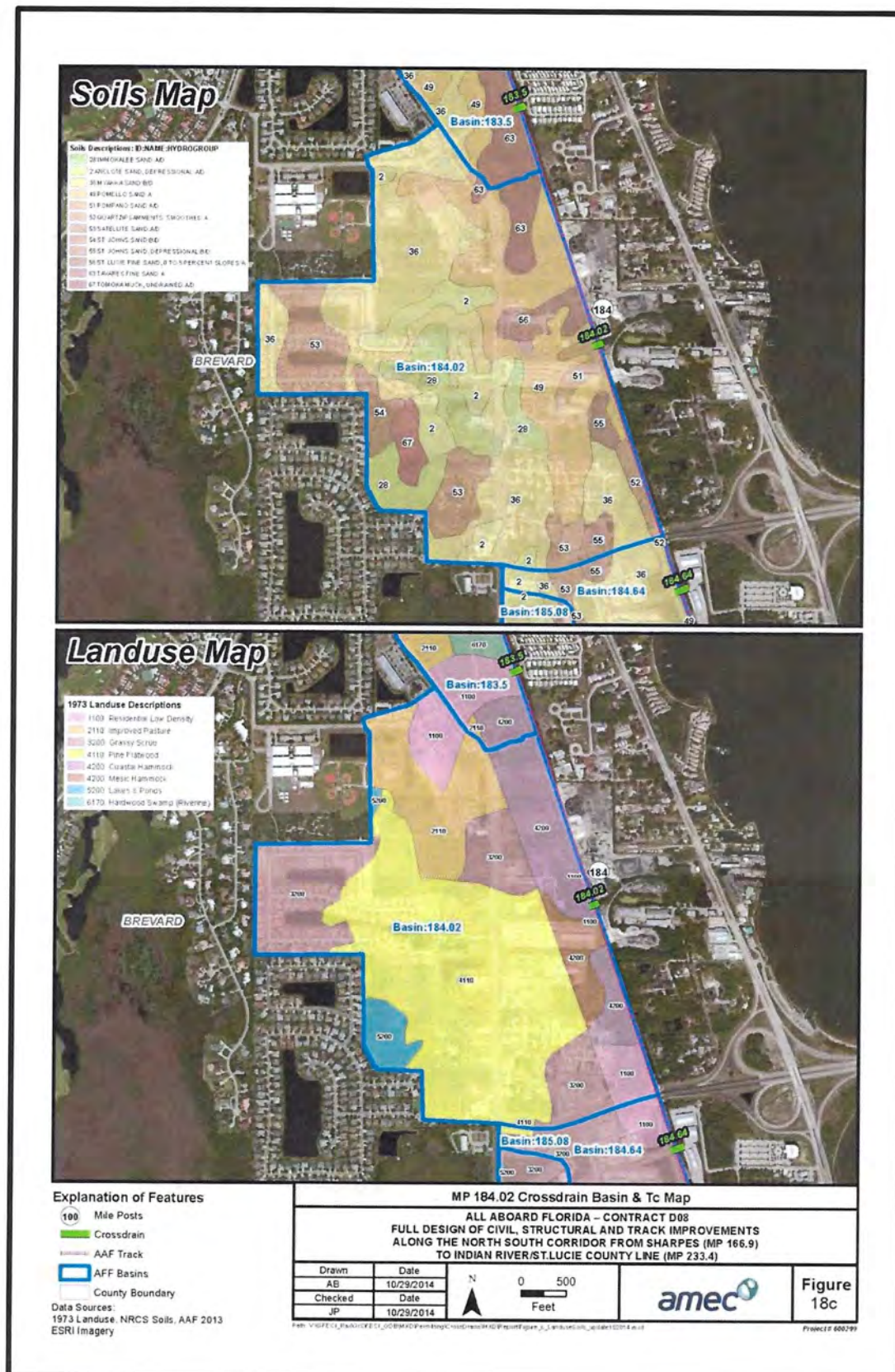


Void Over Middle Culvert at MP 184.02 (Probable Joint Failure)









25.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 184.64 CROSS DRAIN

According to the Track Chart, there is a single 48-feet long 24" RCP culvert at MP 184.64. A single 49 ft. long 24" by 27" oval RCP culvert with headwalls at both ends and only minor sediment was located at MP 184.64. The basin to the west of the railroad has been altered with development over the years with residential, school, and commercial uses and includes low density residential, grassy scrub, pine flat wood, open land, and lakes & ponds.

The existing drainage basin to the cross drain is approximately 33.3 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 23 cfs. There are no proposed extensions to the culvert and therefore no further hydraulic analysis is required.

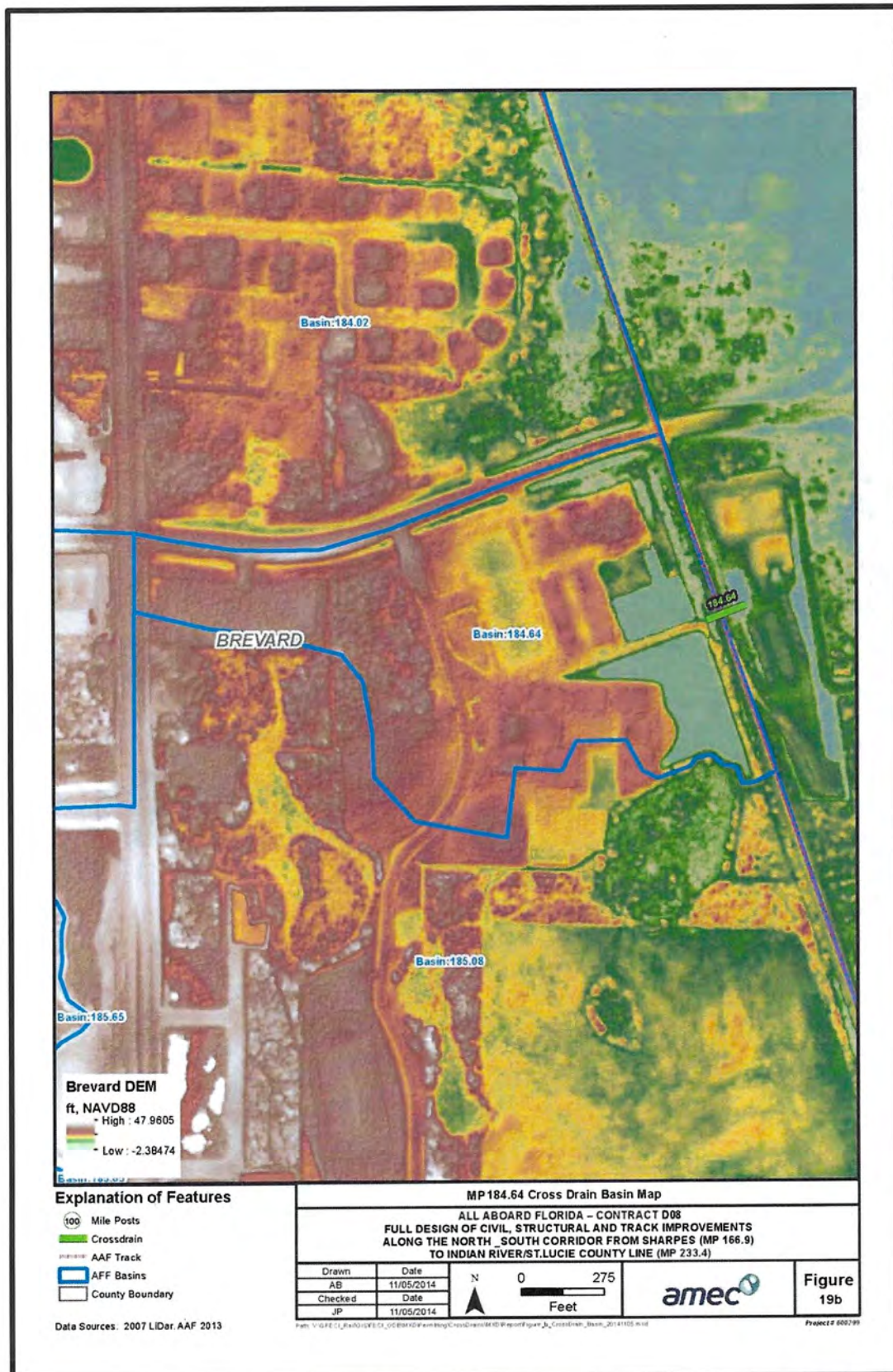


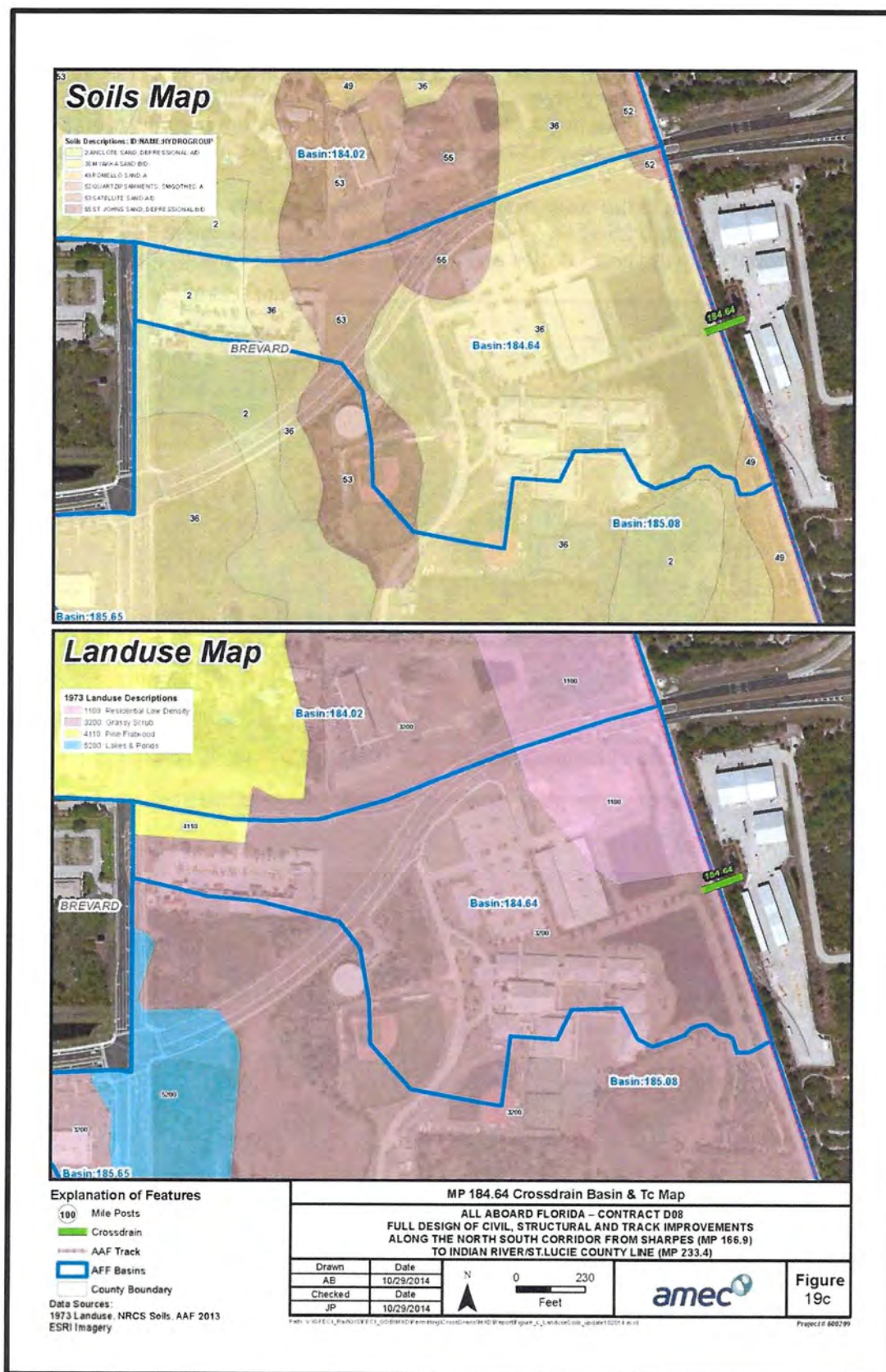
Looking at West Headwall of the 24" RCP.



Looking at East Headwall of the 24" RCP.

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26.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 185.08 CROSS DRAIN

According to the Track Chart, there are double 72 ft. long 36" RCP culverts at MP 185.08. The culverts located in the field were double 41 ft. long 36" by 40" oval RCP culverts with concrete headwalls on each end. As shown in the photos below, the culverts are in good overall condition but with the two barrels approximately 40-70% blocked with sediment and ballast material.

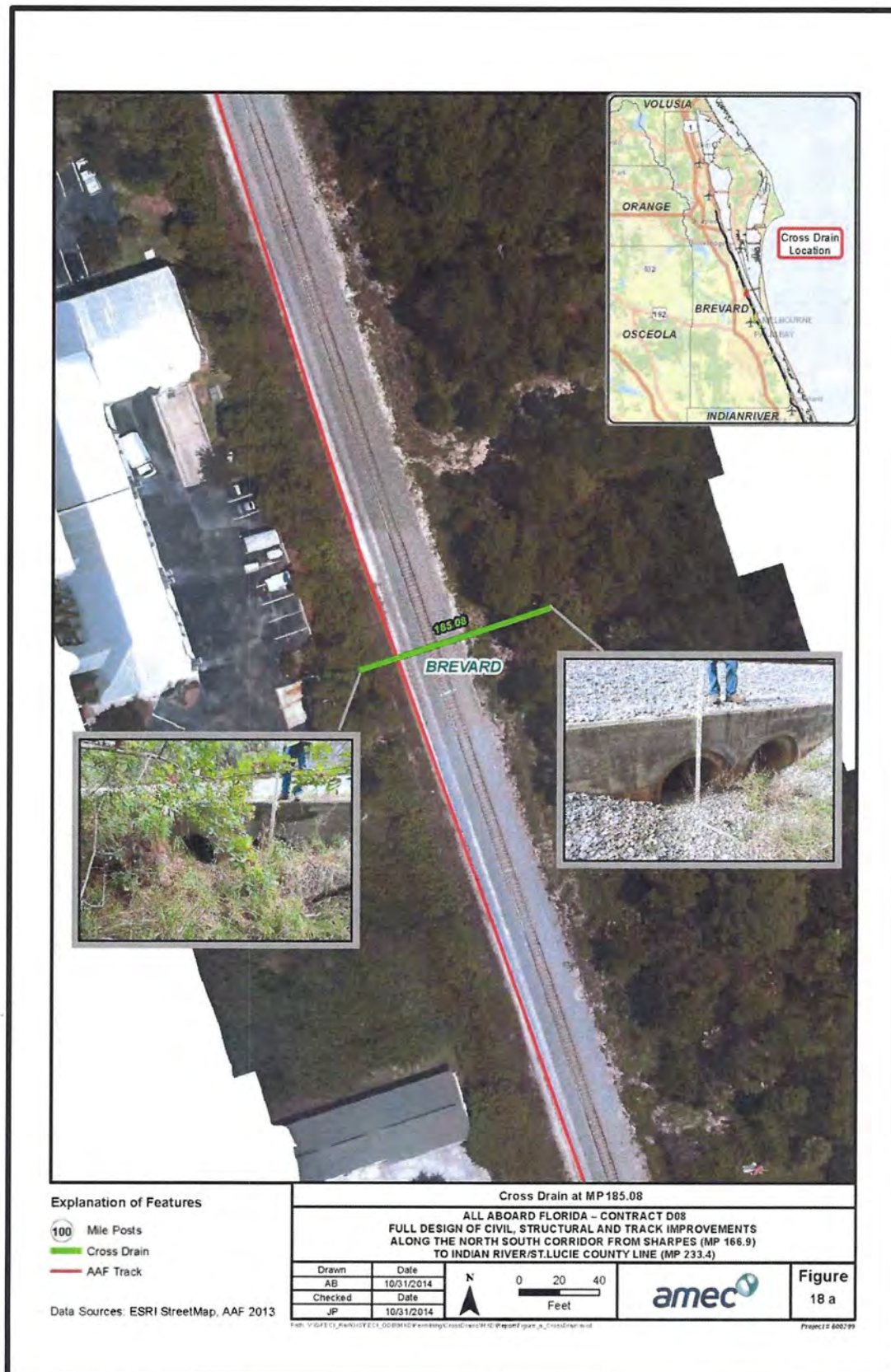
The existing drainage basin to the cross drain location is approximately 178.5 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 115 cfs. There are no extensions proposed to the cross drains and therefore no further hydraulic analysis is required.

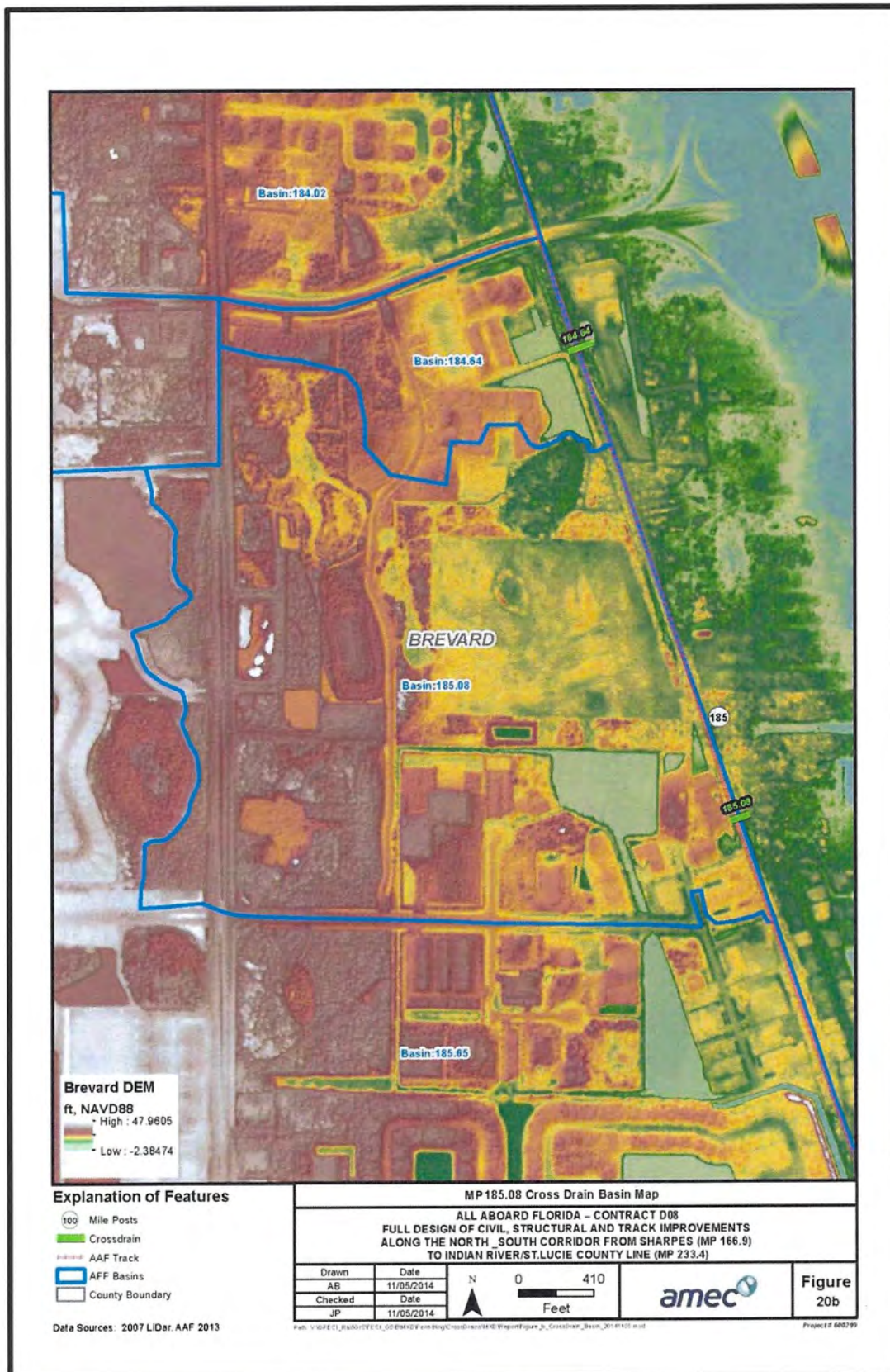


Western End of Existing Headwall and Double 36" by 40" RCP



Eastern End of Existing Headwall and Double 36" by 40" RCP







27.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 185.65 CROSS DRAIN

According to the Track Chart, there is a single 40-foot long 78" CMP culvert at MP 185.65. Two 84" by 90" RCP culverts, each with a 72" CMP culvert grouted inside of it and measuring 48 ft. long were found. There is a concrete headwall at both ends of the culverts. The bottom of the CMP culverts have corroded. There is no apparent sediment buildup in the culverts or at the headwalls. To address the corrosion, it is recommended that FEC maintenance crews line the culverts with HDPE lining per FDOT Specification 431. The lining should protect the culverts from further corrosion while not reducing the flow capacity. That corrective action is not included in the proposed construction plans – as it is maintenance and not due to the proposed construction.

The basin to the west of the railroad has been significantly altered with development over the years with residential and commercial uses and consists of low density residential, grassy scrub, pine flat wood, coastal hammock, and lakes & ponds. The existing drainage basin to the cross drain from Honeybrook Creek is approximately 635.6 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 221 cfs. There are no extensions proposed to the culverts and therefore no further hydraulic analysis is required.



Looking at West Headwall at 2 - 72" CMP.

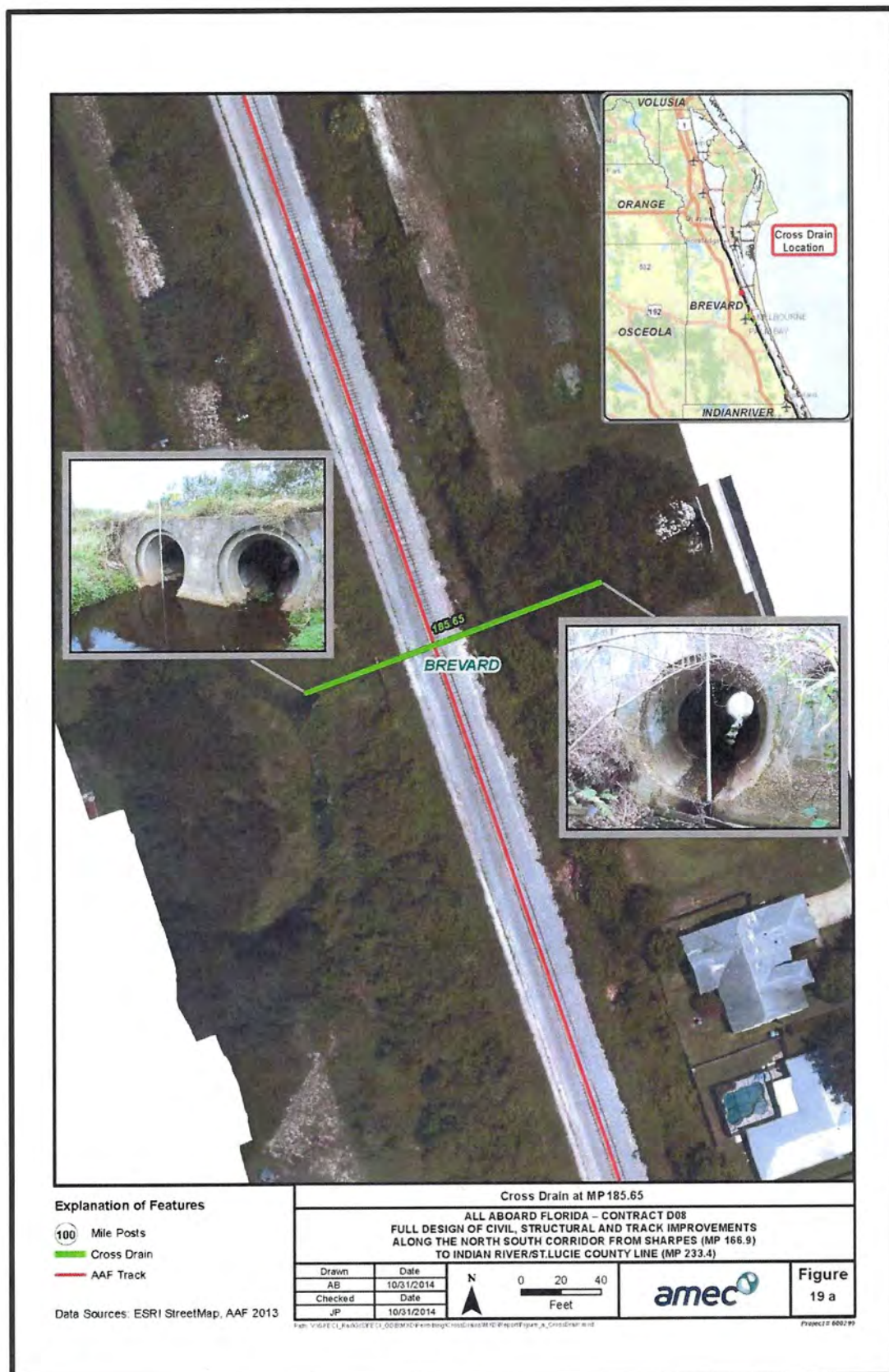
EXHIBIT D

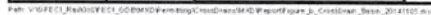


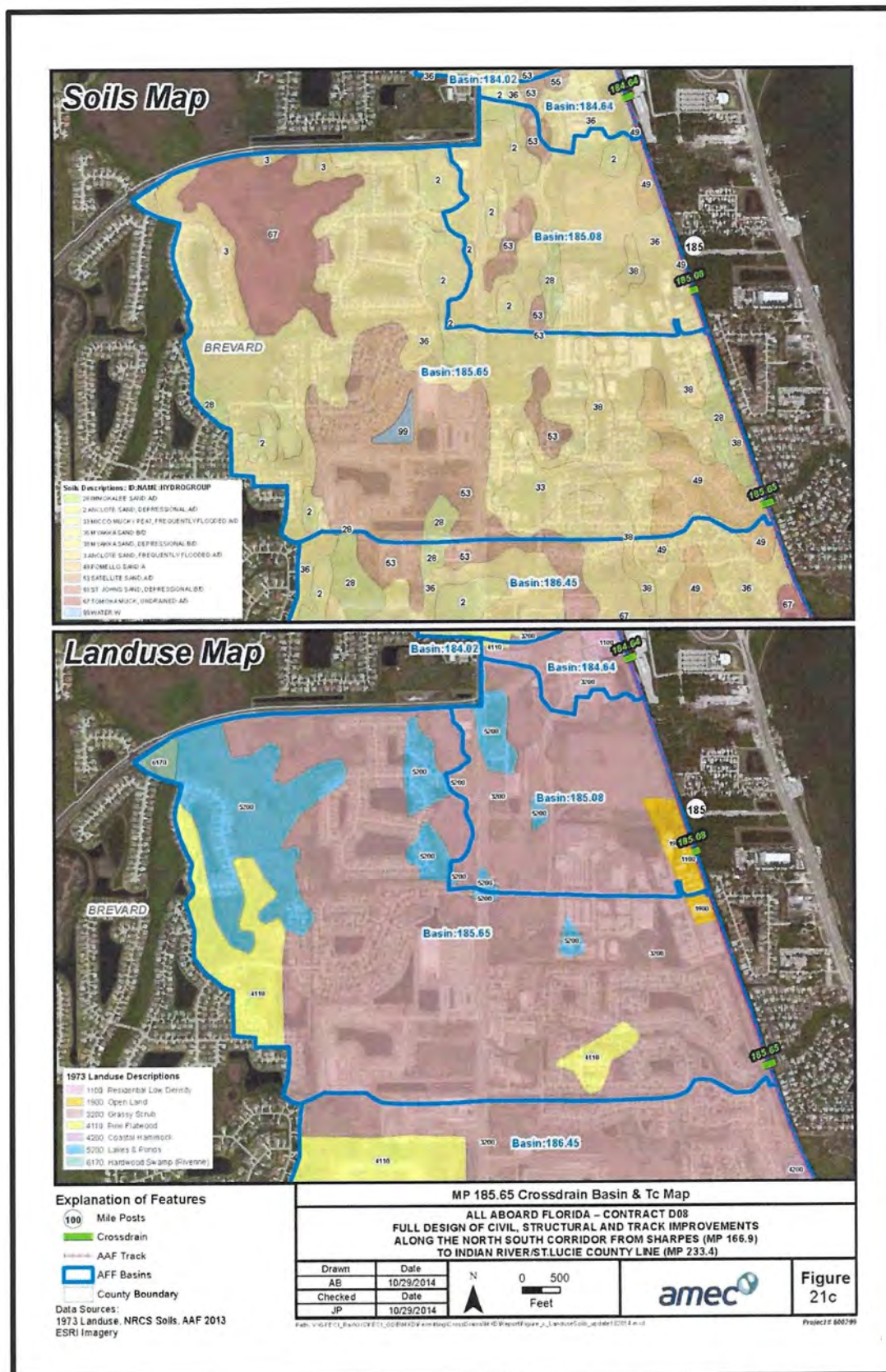
Looking at Southernmost Culvert at the West End Showing Corroded CMP Inside RCP.



Looking at East Headwall at Southernmost culvert of 2 – 72" CMP.







28.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 186.45 CROSS DRAIN

According to the Track Chart, there are double, 52 ft. long 54" oval CMP culverts at this location. The actual cross drains encountered in the field are double, 60 ft. long 54" circular CMP culverts. There is no significant blockage and the culverts appear to be generally in good condition.

There is an unusual weir structure downstream (east) of the existing culverts that presents approximately a 2 foot fall and has some erosion associated with it – as shown below. There is significant erosion downstream of the weir structure. The slope just downstream, near an existing shed structure appears to be eroding and undermining that structure as shown in the second picture. The erosion and the weir structure are all outside of the FEC ROW, and the proposed construction will have no impact on that system. There is an existing 54" HDPE culvert running parallel to the track and draining from the south into the waterway near the west (upstream) end of the cross drain.

The existing drainage basin to the cross drain is approximately 888.3 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 382 cfs. No pipe extensions are proposed and therefore no further hydraulic analysis is required.



Existing East (Downstream) End of Cross Drains Showing Weir Structure

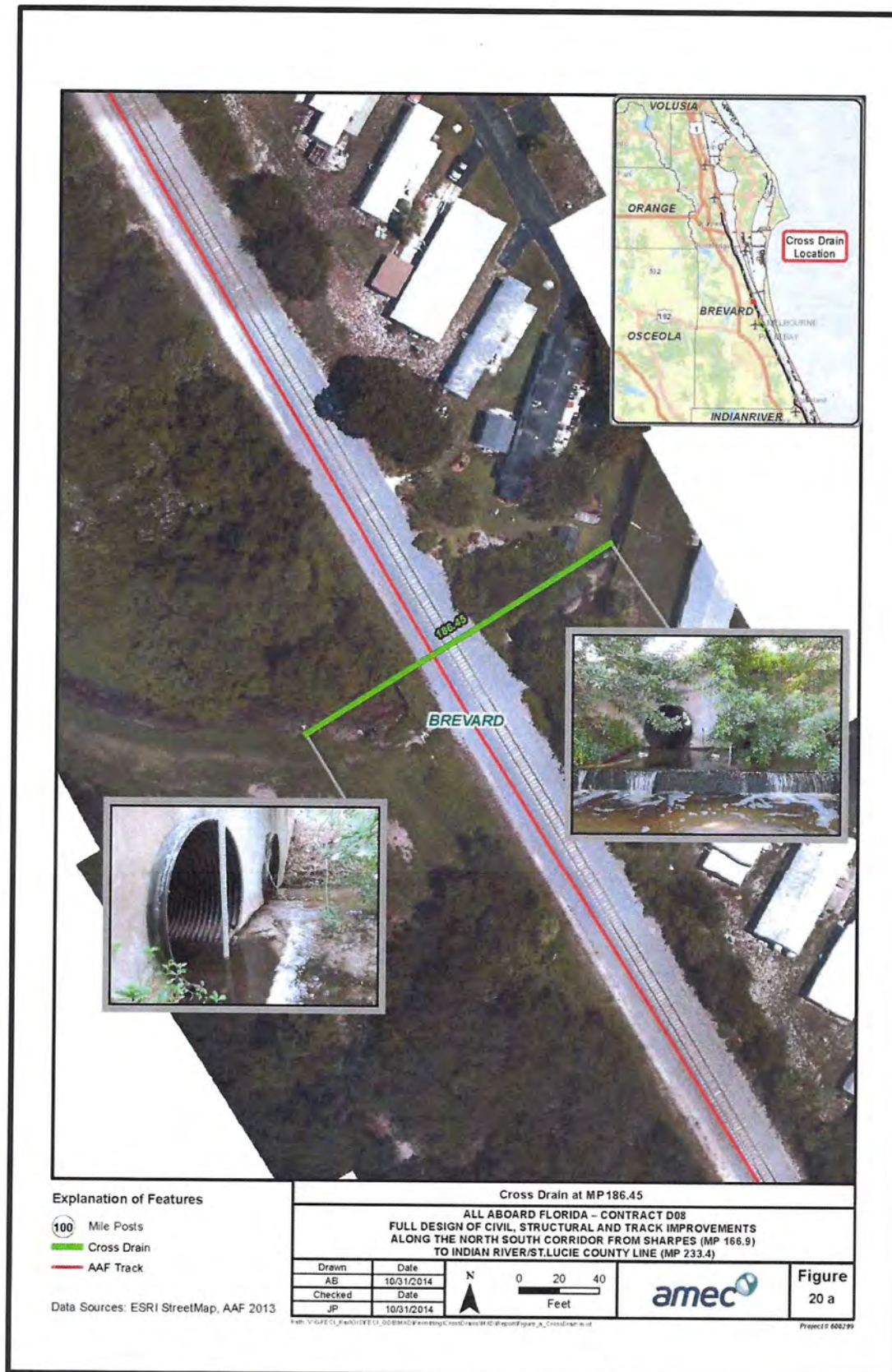
EXHIBIT D



Existing Erosion at Existing Structure East (Downstream) of Culverts and Weir



Existing 54" HDPE Draining Northward and Running Parallel to the Track on Upstream (West)
End of Right of Way





29.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 186.6 CROSS DRAIN

According to the Track Chart, there are triple 48 ft. long 34" Oval RCP culverts at this location. The actual cross drains encountered in the field are triple 50 ft. long 24" by 27" oval RCP culverts. Two (2) of the culverts have significant blockage estimated at 50% of capacity.

The existing drainage basin to the cross drain is approximately 67.7 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 45 cfs. The sediments should be cleaned from the culverts to improve hydraulic efficiency, however, no extensions are proposed for these cross drains and therefore further hydraulic analysis is not required.



Existing Pipe Blockage on Western End



Headwall on Eastern End





30.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 187.69 CROSS DRAIN

According to the Track Chart, there are two 40 ft. long oval 36" RCP culverts at this location. Two 41 ft. long 36" by 40" oval RCP culverts with headwalls on each end were located. Sediment and ballast material has accumulated, resulting in an estimated 30% blockage for the north culvert and 80% blockage for the south culvert. Despite the blockage, flow was observed in the north pipe. The primary purpose of this cross drain is to convey drainage along a ditch oriented northeast where it eventually leads to Horse Creek.

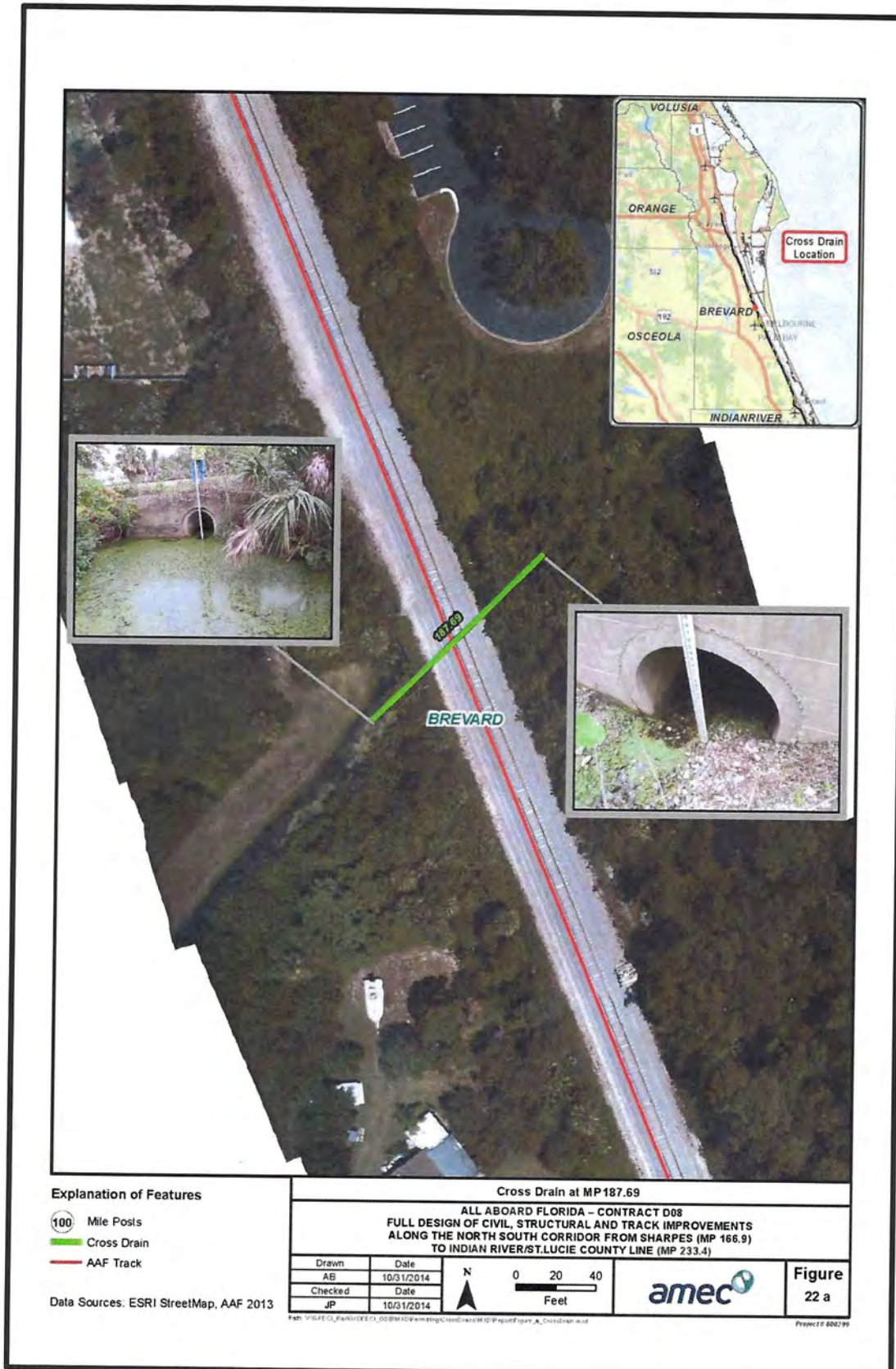
The existing drainage basin to the culvert system is approximately 79.1 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 37 cfs. There are no culvert extensions proposed and therefore no further hydraulic analysis is required.

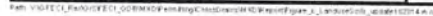


West (Upstream) Endwall and Double 36" RCP Culverts at MP 187.69



East (Downstream) Endwall and Double 36" RCP Culverts at MP 187.69





31.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 188.44 CROSS DRAIN

According to the Track Chart, there is one 40 ft. long 30" RCP oval culvert at this location. A single 24" by 34" RCP culvert with an unknown length was encountered at approximate MP 188.44. The length could not be determined because the west end of the culvert was not located and likely is either plugged or already extends onto a private (fenced) concrete mix plant parcel. There is a significant amount of sediment and ballast material built up at the east end of the pipe, estimated to block approximately 85% of the flow area.

After reviewing permits in the immediate area, it appears that nearby development post-dates this cross drain and has eliminated its contributing drainage area rendering it essentially useless. Specifically, ERP permit number 42-009-65918-1 for "Avocado Avenue Extension" redirects the majority of the historic contributing area to a storm water system draining to a ditch draining south along Avocado Ave. and no longer to the MP 188.44 location. Through aeriels, it can be determined that a ditch once existed upstream (west) of this cross drain conveying drainage from the west; but this ditch no longer exists and was likely filled before permitting requirements or along with adjacent development. Other ERP permits such as 40-009-94977-1, 42-009-65681-1, and 40-009-16719-2 portray development which may have been a part of the historic drainage basin to MP 188.44 but no longer drains to it. The cross drain no longer conveys any flow. Several plan sheets from the previously mentioned permits have been attached for information. The plans call for the culvert to be plugged, filled and abandoned in place.



East End of MP 188.44 Cross Drain. Note that the water in the above picture is the result of the small sump at the eastern end of the cross drain simply forming a small bowl from which there is no discharge for rain or incidental runoff conveyed to the hole. The western end of this culvert no longer has any contributing drainage area.

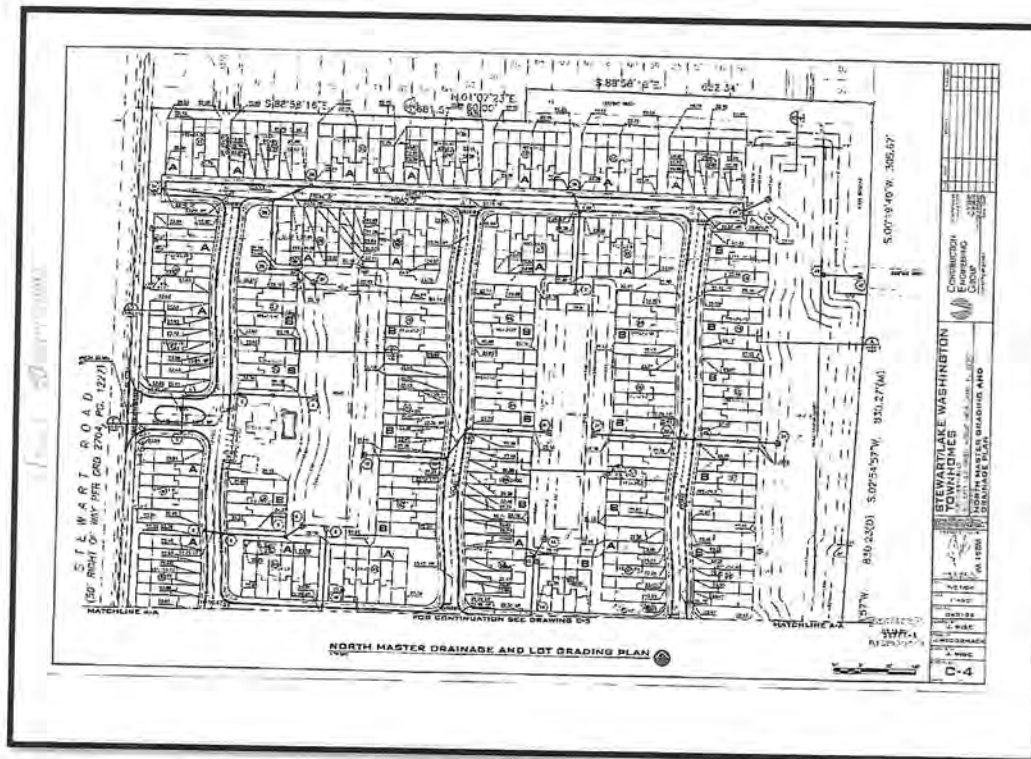
EXHIBIT D

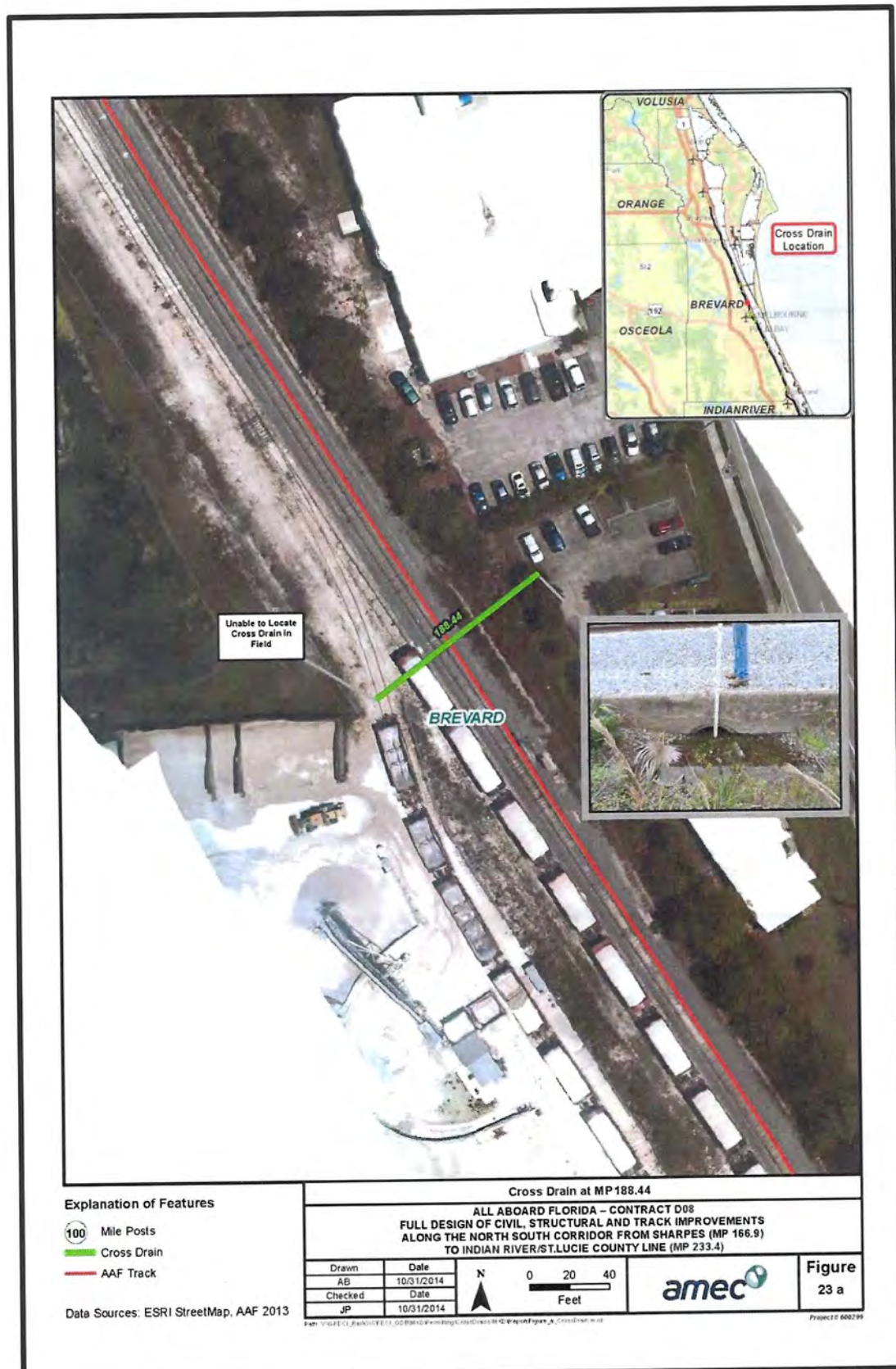


Concrete Mix Plant (West of Rail). Site of Former Ditch Draining to Cross Drain from the West

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32.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 189.12 CROSS DRAIN

According to the Track Chart, there are triple 40 ft. long oval 42" RCP culverts at this location. Three (3) 65 ft. long HDPE culverts grouted inside of earlier RCP culverts were located. The culverts are slightly deformed (likely due to the weight of the grout) and were probably 36" circular originally. The dimensions verified in the field for two of the culverts were 34" and for the third culvert was 32" by 35". For the analysis, the three culverts are assumed to be 34" circular. There are endwalls at each end of the culverts. The structural condition of the cross drain is good; however the skim coat at the endwalls is beginning to crack/flake. There was flow observed traveling east through the cross drain at MP 189.12 to a ditch along US 1, where it traveled north to a US 1 cross drain.

The existing drainage basin to the culvert system is approximately 346.4 acres draining from west to east. This generates a 25-year, 24-hour design flow of approximately 156.7 cfs. The culverts are proposed to be extended 21 ft. and a new headwall added on the western end. The hydraulic analysis represents the existing culverts as fully functional, i.e. neglecting any existing blockage and assuming a constant Manning's n value for HDPE of 0.012. The Hydraflow results show that the upstream headwater at the western side will increase slightly from elevation 11.0 to 11.2 due to the longer length and higher upstream invert elevation. This slightly higher elevation is still 4.8 ft. below the top of tie elevation or approximately 2.6 ft. below the bottom of the sub-ballast. As such, it is not anticipated to be problematic. Additionally, the culvert extensions will actually be 36" diameter instead of the 34" utilized in the model – so the true increase in the field will be even less.



West End of MP 189.12 Cross Drain and Endwall

EXHIBIT D



East End of MP 189.12 Cross Drain and Endwall

Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, Oct 29 2014

Existing MP 189.12

Invert Elev Dn (ft) = 5.86
Pipe Length (ft) = 65.00
Slope (%) = 0.83
Invert Elev Up (ft) = 6.40
Rise (in) = 34.0
Shape = Cir
Span (in) = 34.0
No. Barrels = 3
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

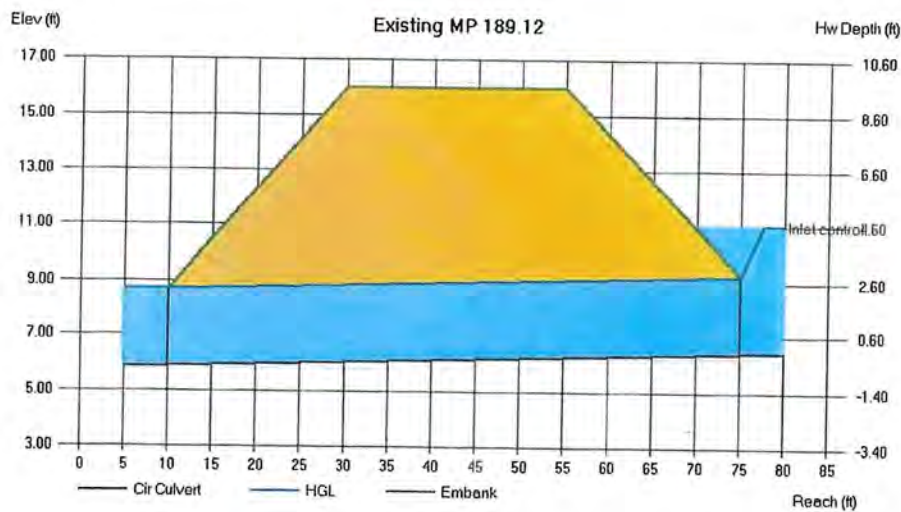
Top Elevation (ft) = 16.00
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 156.70
Qmax (cfs) = 156.70
Tailwater Elev (ft) = Crown

Highlighted

Qtotal (cfs) = 156.70
Qpipe (cfs) = 156.70
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 8.29
Veloc Up (ft/s) = 8.28
HGL Dn (ft) = 8.69
HGL Up (ft) = 9.23
Hw Elev (ft) = 11.02
Hw/D (ft) = 1.63
Flow Regime = Inlet Control



Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, Oct 29 2014

Proposed MP 189.12

Invert Elev Dn (ft) = 5.86
Pipe Length (ft) = 86.00
Slope (%) = 0.86
Invert Elev Up (ft) = 6.60
Rise (in) = 34.0
Shape = Cir
Span (in) = 34.0
No. Barrels = 3
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

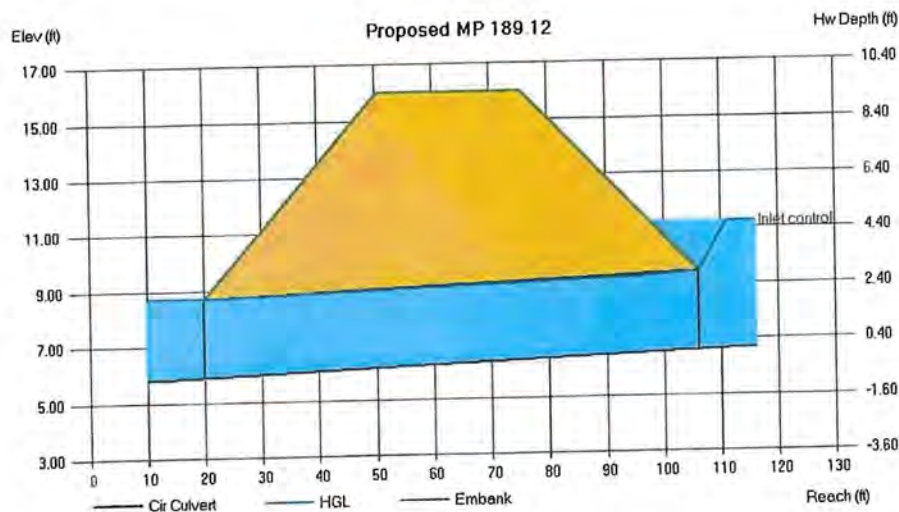
Top Elevation (ft) = 16.00
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

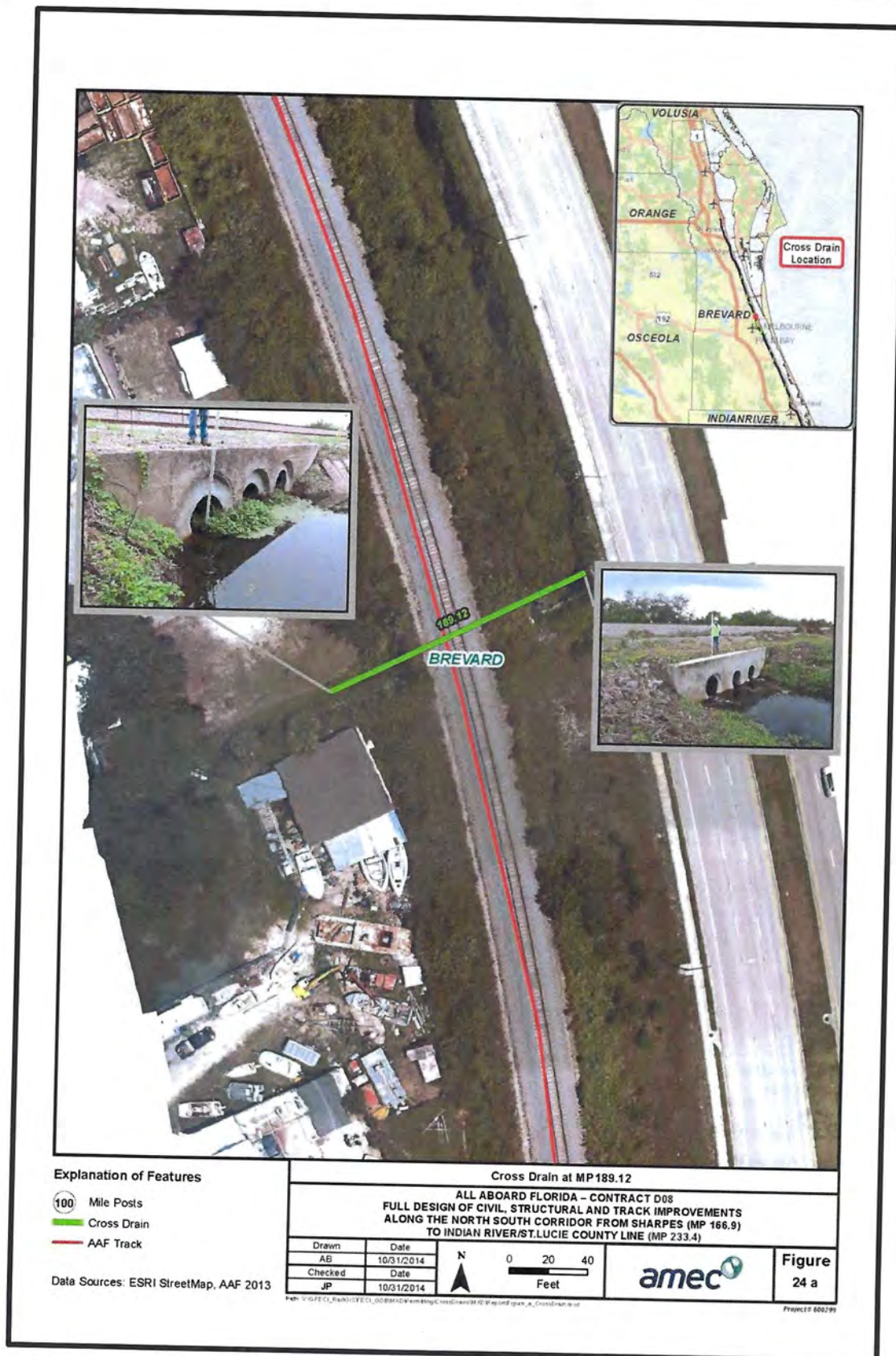
Calculations

Qmin (cfs) = 156.70
Qmax (cfs) = 156.70
Tailwater Elev (ft) = Crown

Highlighted

Qtotal (cfs) = 156.70
Qpipe (cfs) = 156.70
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 8.29
Veloc Up (ft/s) = 8.36
HGL Dn (ft) = 8.69
HGL Up (ft) = 9.35
Hw Elev (ft) = 11.22
Hw/D (ft) = 1.63
Flow Regime = Inlet Control







33.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 189.18 CROSS DRAIN

According to the Track Chart, there is a 48 ft. long 24" oval RCP culvert at MP 189.18. However, during several field visits to this location this culvert could not be located. Due to the close proximity to the cross drain at 189.12, there does not appear to be a need for a culvert at this location and it is assumed to no longer exist.

According to the Track Chart, there is a single 39 ft. long 30" round CIP culvert at this location. During several field investigations, no culverts were located at this milepost. Historically there appears to have been approximately 72 acres that drained to the general vicinity of the culvert from the east. Subsequent development – especially US 1, has drastically altered the basin and the majority of the area now drains toward a low spot east of the ROW and west of US 1 in the vicinity of Maple Avenue and Creel Street. There does not appear to be any purpose for a culvert in this location and the listed culvert may have already been removed or abandoned in place. In any event, the proposed construction will have no impact on the drainage in the area.



Note: Writing on the Existing Rail Verifying that No Culverts Were Found at This Location

35.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 190.20 CROSS DRAIN

According to the Track Chart, there is a 48 feet long 24" RCP culvert at MP 190.20. The east end of a 24" by 27" oval RCP was located, but the west end was not located and it is assumed the culvert extends offsite out of the west side of the ROW. There is an apartment complex to the west. It is expected that this cross drain ties into their storm sewer system before discharging into a canal west of the complex. The plans include a note for the contractor to excavate and verify the cross drain continues to the west through the ROW. There was no end treatment on the east end of the culvert. Water was not flowing at the time of the field investigation. Approximately 25% of sediment build-up exists in the east end of the pipe.

The basin to the east of the railroad has been altered with development of medium density residential, commercial and service land uses. The existing drainage basin to the cross drain is approximately 16.9 acres draining from east to west and generating a 25-year, 24-hour design flow of approximately 33.9 cfs. No extension of the culvert is proposed and therefore no further hydraulic analysis is required.

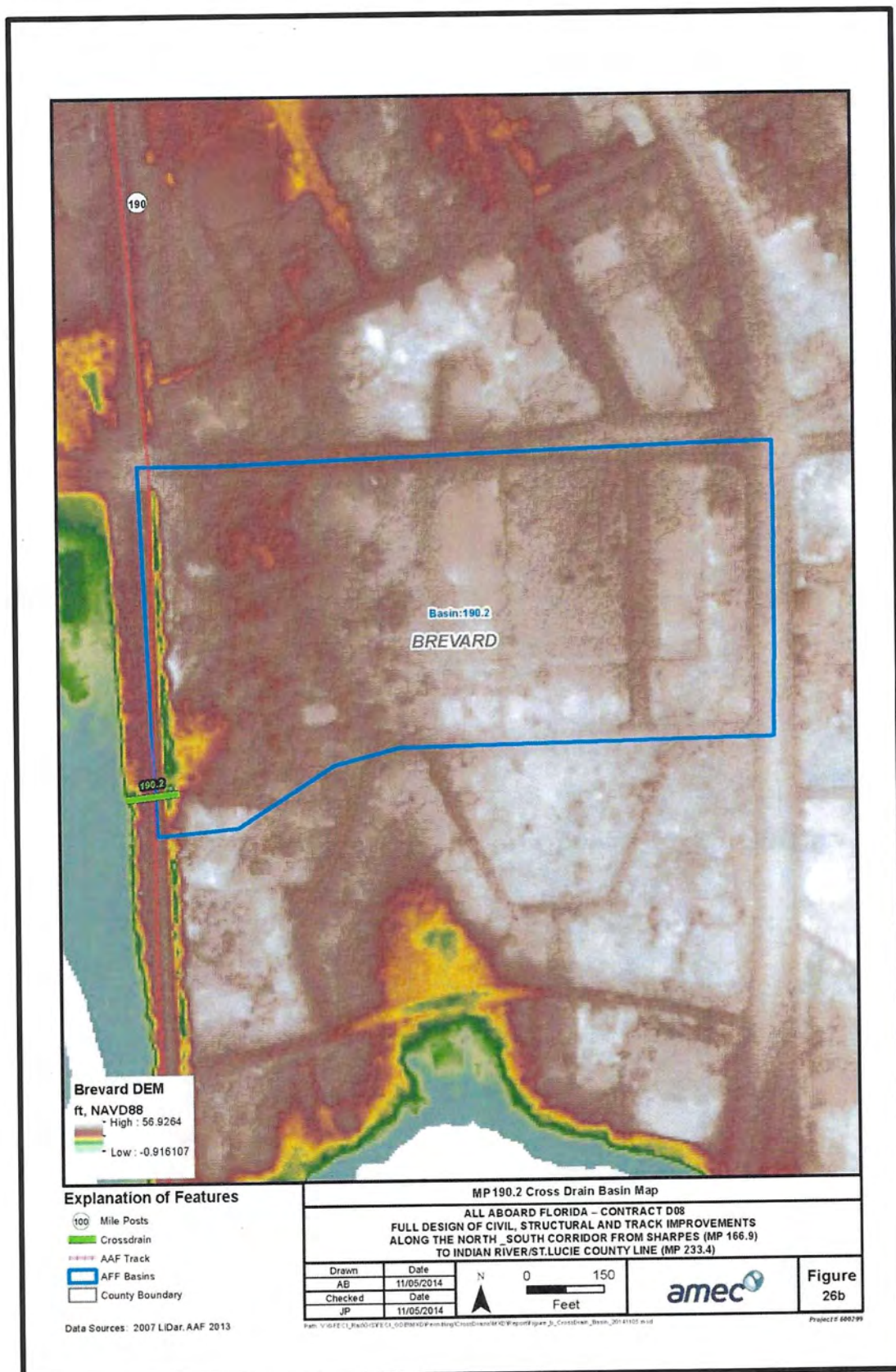


East (Upstream) End of 24" RCP Cross Drain at MP 190.17



Looking West Toward Culvert Offsite Discharge Location





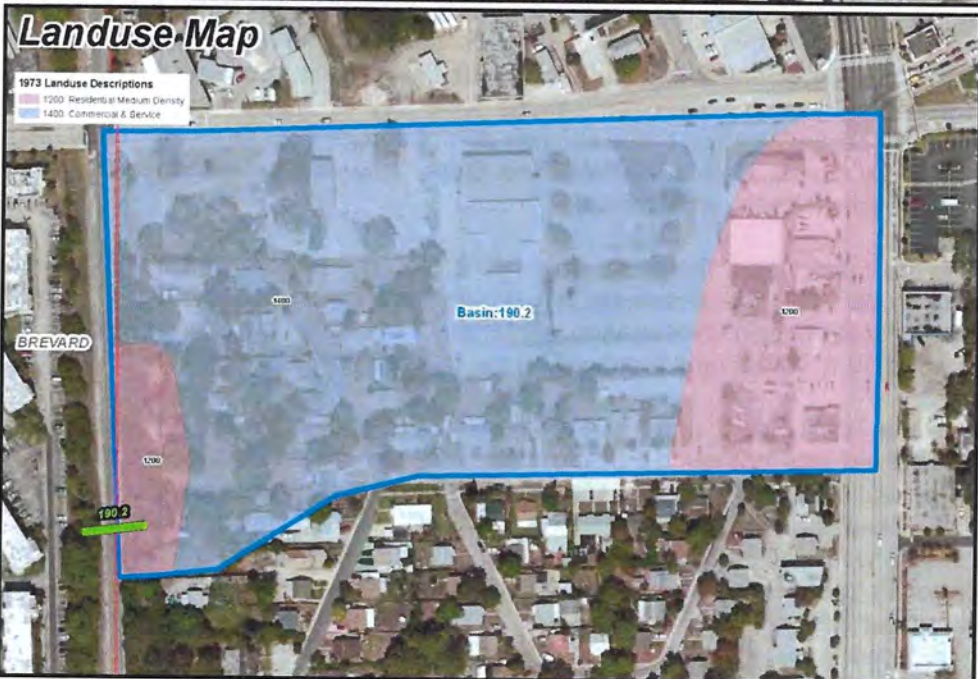


Figure 26c

Feb: VIGRECI_RanDnSTECI_G08MXDPerfProgChssDhrsMVDPerfProgJan_2_LandUseCm_updselC014.m

Project # 650297

36.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 190.87, 191.22, 191.66, & 192.08 CROSS DRAINS

Due to the interconnectivity of multiple culverts servicing the drainage from the Melbourne International Airport, four cross drains were incorporated into this "single" cross drain analysis for MP 190.87, 191.22, 191.66, & 192.08.

According to the Track Chart, there are double 80 ft. long oval 42" RCP culverts at MP 190.87. A single 60 ft. long 72" iron pipe was located in the field at approximate MP 190.87. This cross drain was constructed under SJRWMD ERP permit number 4-009-16302-1, which also specified that the two existing 42" culverts at MP 190.87 were to be grouted and removed from service. The permitted plan and profile documentation for this structure can be seen in the attached exhibit. The primary purpose of this structure is to convey regional drainage eastward to feed Elbow Creek. There are endwalls and fabric-formed ditch liner on both ends of the cross drain at MP 190.87. Flow was observed during the site visit and the structure was functioning well. No changes are proposed to this cross drain.

According to the Track Chart, there are double 56 ft. long oval 42" RCP culverts at MP 191.22. Double 57 ft. long oval 42" by 46" RCP culverts were located. Following the initial field visit, FECL personnel grouted smaller 33" by 35" HDPE liners inside of these culverts. Presumably these were 36" HDPE pipes that have been deformed due to the weight of the grout on top of them. There is a concrete endwall on both ends of the culverts. The basin to the west of the railroad primarily consists of the Melbourne International Airport facilities and runway areas. Flow to the culverts is largely conveyed by an eastward flowing ditch draining from four 30" RCP culverts coming from the airport property as well as the ditch alongside the west ROW line. These culverts appear non-functional or extremely limited in their flows, so it is questionable how much flow actually comes from them. Communications with City of Melbourne, the airport and with SJRWMD personnel verified that these culverts do not convey flow regularly. Flow discharges to the east to Elbow Creek. Both culverts at this cross drain will be extended 30 ft. with a new headwall on the downstream eastern end.

According to the Track Chart, there is a single 42 ft. long 60" RCP culvert at MP 191.66. A 42 ft. long oval 60" by 66" RCP with headwalls at each end was located at MP 191.67. Water was not flowing at the time of the field investigation. Minor sediment build-up exists in the pipe. The culvert will be extended 12 ft. with a new headwall on the upstream western end.

According to the Track Chart, there is a single 56 ft. long, oval 36" RCP culvert at MP 192.08. Originally no culvert was located in the field at this location and so no survey data were gathered. Following the field investigations, clearing was done and the culvert was located and surveyed. The existing culvert is a 72 ft. long 42" circular RCP with a head wall on the east end and no end treatment on the west. A large void/sinkhole was verified west of track and is indicative of a failing joint. As a result, the existing culvert should either be lined with HDPE per FDOT criteria or the failing joint located and sealed. Either of these activities is maintenance to be done by FEC forces and is not included in this construction.

These four cross drains were analyzed together in ICPR; because they appear to work in conjunction hydraulically to convey drainage - primarily from the nearby airport and other contributing areas west of the FEC rail system. The model was setup assuming the total flow drains to one upstream ponding area from which the four cross drain systems discharge. The downstream tailwater elevation for each cross drain was modeled at its crown elevation. The

existing drainage basin to the cross drains is approximately 1612.8 acres draining from west to east and generates a 25-year, 24-hour design flow of 748 cfs. The hydraulic analysis represents all existing culverts as fully functional, i.e. without any blockage. The ICPR model results on the following pages verify the headwater depth upstream of the culverts (west end) reaches a design high water elevation of 16.44 for existing and 16.46 for proposed conditions. This minimal change is within the accuracy of the model and thus reflects no real impact.



MP 190.87 West Endwall and Upstream Side of Single 72" Steel Culvert



Receiving Ditch at MP 190.87 (East of FEC Rail)

EXHIBIT D



Looking at West (Upstream) Endwall and Double 42" Culverts at MP 191.17

Note: The flow path through each culvert is slightly obstructed with sediment and ballast, as shown below, at the east end of the cross drain.



Looking at East (Downstream) Endwall and Double 42" Culverts at MP 191.17

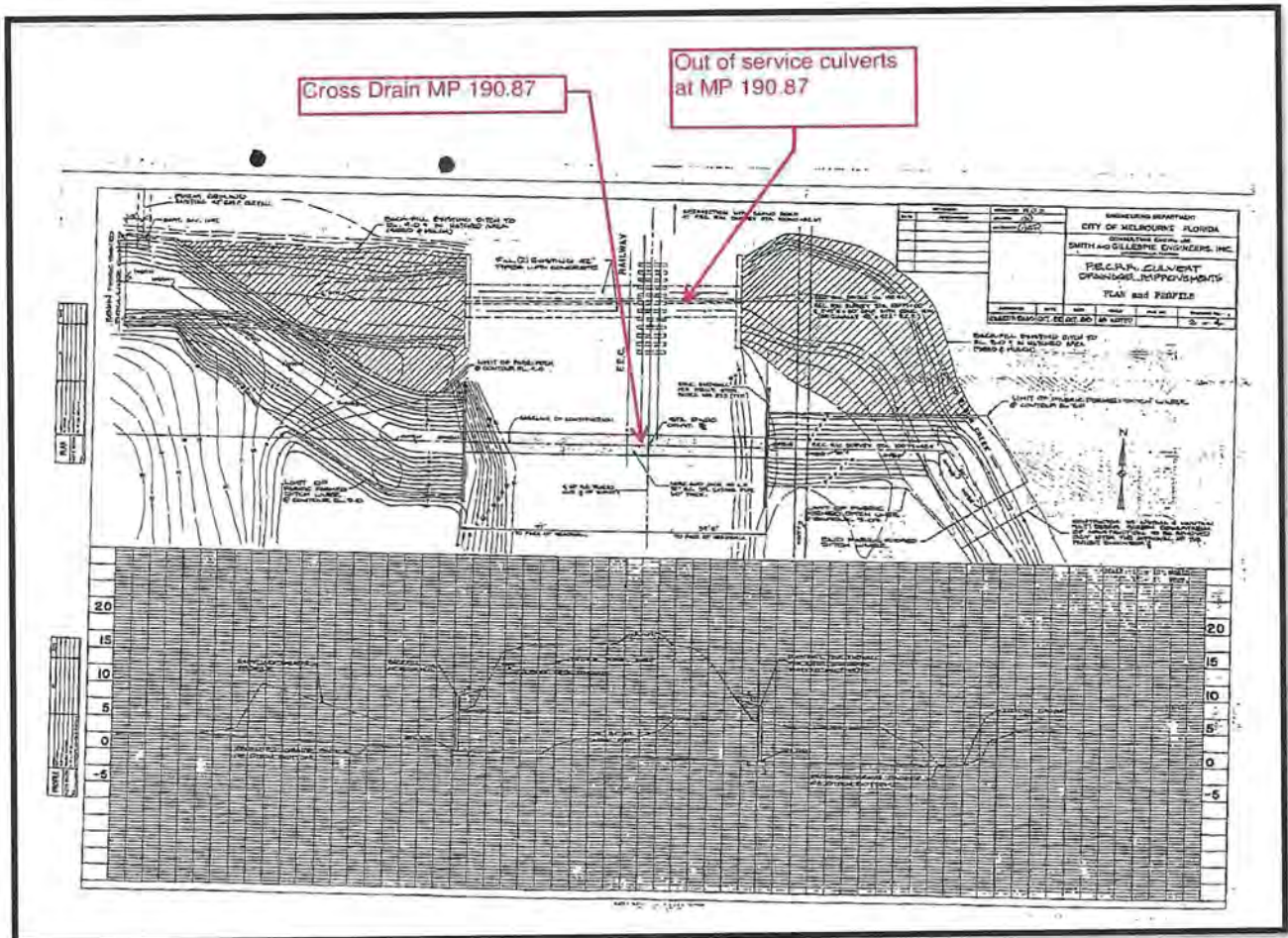
EXHIBIT D



East (Downstream) Headwall at 60" RCP Cross Drain at MP 191.66



West (Upstream) Headwall at 60" RCP Cross Drain at MP 191.66



30 199.07, 101.17, 191.06, 4 192.08

Nodes
A Stage/Area
V Stage/Volume
T Time/Stage
H Manhole
Basins
O Overland Flow
U SCS Unit CH
S SCS Unit CH
T SCS Unit CA
Z SCS Unit CA
Links
P Pipe
M Weir
C Channel
D Drop Structure
B Bridge
R Rating Curve
H Breach
Z Percolation
F Filter
X Exfil Trench



MF 190.87, 191.17, 191.66, & 192.08 Culvert (Existing)

Name: MF 190.87	From Node: 02	Length(ft): 60.00
Group: BASE	To Node: D2 MF 190.87	Count: 1
Geometry: Circular	DOWNSTREAM	Friction Equation: Automatic
Span(in): 72.00	Circular	Solution Algorithm: Most Restrictive
Rise(in): 72.00		Flow: Both
Invert(ft): 1.070		Entrance Loss Coef: 0.00
Manning's N: 0.012000		Exit Loss Coef: 1.00
Top Clip(in): 0.000		Bend Loss Coef: 0.00
Bot Clip(in): 0.000		Outlet Ctrl Spec: Use dc or tw
		Inlet Ctrl Spec: Use dc
		Stabilizer Option: None

Upstream FHRM Inlet Edge Description:
 Circular Concrete: Square edge w/ headwall
 Downstream FHRM Inlet Edge Description:
 Circular Concrete: Square edge w/ headwall

Name: MF 191.17	From Node: 02	Length(ft): 37.00
Group: BASE	To Node: D2 MF 191.17	Count: 2
Geometry: Vertical Ellipse	DOWNSTREAM	Friction Equation: Automatic
Span(in): 33.00	Vertical Ellipse	Solution Algorithm: Most Restrictive
Rise(in): 33.00		Flow: Both
Invert(ft): 11.170		Entrance Loss Coef: 0.00
Manning's N: 0.012000		Exit Loss Coef: 1.00
Top Clip(in): 0.000		Bend Loss Coef: 0.00
Bot Clip(in): 0.000		Outlet Ctrl Spec: Use dc or tw
		Inlet Ctrl Spec: Use dc
		Stabilizer Option: None

Upstream FHRM Inlet Edge Description:
 Vertical Ellipse Concrete: Square edge w/ headwall
 Downstream FHRM Inlet Edge Description:
 Vertical Ellipse Concrete: Square edge w/ headwall

Name: MF 191.66	From Node: 02	Length(ft): 42.00
Group: BASE	To Node: D2 MF 191.66	Count: 1
Geometry: Vertical Ellipse	DOWNSTREAM	Friction Equation: Automatic
Span(in): 60.00	Vertical Ellipse	Solution Algorithm: Most Restrictive
Rise(in): 60.00		Flow: Both
Invert(ft): 19.400		Entrance Loss Coef: 0.00
Manning's N: 0.012000		Exit Loss Coef: 1.00
Top Clip(in): 0.000		Bend Loss Coef: 0.00
Bot Clip(in): 0.000		Outlet Ctrl Spec: Use dc or tw
		Inlet Ctrl Spec: Use dc
		Stabilizer Option: None

Upstream FHRM Inlet Edge Description:
 Vertical Ellipse Concrete: Square edge w/ headwall
 Downstream FHRM Inlet Edge Description:
 Vertical Ellipse Concrete: Square edge w/ headwall

Name: MF 192.08	From Node: 02	Length(ft): 72.00
Group: BASE	To Node: D2 MF 192.08	Count: 1
Geometry: Circular	DOWNSTREAM	Friction Equation: Automatic
Span(in): 42.00	Circular	Solution Algorithm: Most Restrictive
Rise(in): 42.00		Flow: Both
Invert(ft): 15.400		Entrance Loss Coef: 0.00
Manning's N: 0.012000		Exit Loss Coef: 1.00
Top Clip(in): 0.000		Bend Loss Coef: 0.00
Bot Clip(in): 0.000		Outlet Ctrl Spec: Use dc or tw
		Inlet Ctrl Spec: Use dc
		Stabilizer Option: None

Upstream FHRM Inlet Edge Description:
 Circular Concrete: Square edge w/ headwall
 Downstream FHRM Inlet Edge Description:
 Circular Concrete: Square edge w/ headwall

MF 198.87, 191.17, 191.66, & 192.08 Culvert (Existing)

Name: DS MF 198.87 Base Flow(cfs): 0.000 Init Stage(ft): 2.770
 Group: BASE Main Stage(ft): 25.000
 Type: Time/Stage

Time(hrs)	Stage(ft)
0.00	2.770
24.00	2.770

1) Name: DS MF 191.17 Base Flow(cfs): 0.000 Init Stage(ft): 13.320
 Group: BASE Main Stage(ft): 25.000
 Type: Time/Stage

Time(hrs)	Stage(ft)
0.00	13.320
24.00	13.320

0 Name: DS MF 191.66 Base Flow(cfs): 0.000 Init Stage(ft): 15.720
 Group: BASE Main Stage(ft): 25.000
 Type: Time/Stage

Time(hrs)	Stage(ft)
0.00	15.720
24.00	15.720

0 Name: DS MF 192.08 Base Flow(cfs): 0.000 Init Stage(ft): 18.900
 Group: BASE Main Stage(ft): 25.000
 Type: Time/Stage

Time(hrs)	Stage(ft)
0.00	18.900
24.00	18.900

0 Name: US Group: BASE Base Flow(cfs): 748.000 Init Stage(ft): 5.000
 Type: Stage/Area Main Stage(ft): 100.000

Stage(ft)	Area(ac)
5.000	0.5000
20.000	1.5000

MP 190.07, 191.17, 191.60, = 192.09 Culvert (Existing)

Name	Group	Simulation	Max Time Stage hrs	Max Stage ft	Rainfall Stage ft	Max Delta Stage ft	Max Turb Area ft ²	Max Time Inflow hrs	Max Inflow cfs	Max Time Outflow hrs	Max Outflow cfs
DS MP 190.07	BASE	23051	0.00	2.77	25.00	0.0000	121	4.06	322.597	0.00	0.000
DS MP 191.17	BASE	23051	0.00	19.32	25.00	0.0000	45	4.06	319.045	0.00	0.000
DS MP 191.60	BASE	23051	0.00	15.72	25.00	0.0000	30	4.06	126.947	0.00	0.000
DS MP 192.09	BASE	23051	0.00	10.90	25.00	0.0000	22	0.00	32.568	0.00	0.000
MP	BASE	23051	4.06	16.44	100.00	0.0001	55221	0.00	748.000	4.06	748.000

MP 190.87, 191.17, 191.66, & 192.08 Culch (Existing)

Simulation	Group	Link	Max (ft/s) Fps	Max Devel Fps	Max Avgvel Fps
23051	BASE	MP 190.87	18.483	30.26	24.37
23051	BASE	MP 191.17	9.152	16.10	9.02
23051	BASE	MP 191.66	6.232	6.23	6.23
23051	BASE	MP 192.08	-6.687	-3.19	-5.04

HF 190.85, 191.17, 191.66, & 192.09 Calcs (Existing):

Name	Group	Simulation	Max Time Flow hrs	Max Flow cfs	Max Delta Q cfs	Max Time V2 Stage hrs	Max H2 Stage ft	Max Time D3 Stage hrs	Max D3 Stage ft
HF 190.85	BASE	23051	4.06	502.597	206.061	4.06	16.439	8.96	8.285
HF 191.17	BASE	23051	4.06	119.845	-28.145	4.06	16.439	0.00	13.250
HF 191.66	BASE	23051	4.06	134.947	-115.128	4.06	16.439	0.00	15.720
HF 192.09	BASE	23051	6.00	-32.588	-22.588	0.00	17.588	0.00	18.900

MP 190.87, 191.17, 191.66 & 192.08 Culvert (Proposed)

Name: ME 190.87	From Node: US	Length(ft): 60.00
Group: BASE	To Node: DS ME 191.17	Count: 1
UPSTREAM	DOWNSTREAM	Friction Equation: Automatic
Geometry: Circular	Circular	Solution Algorithm: Most Restrictive
Span(in): 72.00	72.00	Flow: Both
Rise(in): 72.00	72.00	Entrance Loss Coef: 0.00
Invert(ft): -1.075	-1.230	Exit Loss Coef: 1.00
Manning's N: 0.012000	0.012000	Head Loss Coef: 0.00
Top Clip(in): 0.000	0.000	Outlet Ctrl Spec: Use ds or tw
Bot Clip(in): 0.000	0.000	Inlet Ctrl Spec: Use ds
		Stabilizer Option: None

Upstream FHWA Inlet Edge Description:
Circular Concrete: Square edge w/ headwall

Downstream FHWA Inlet Edge Description:
Circular Concrete: Square edge w/ headwall

Name: ME 191.17	From Node: US	Length(ft): 37.00
Group: BASE	To Node: DS ME 191.66	Count: 2
UPSTREAM	DOWNSTREAM	Friction Equation: Automatic
Geometry: Vert Ellipse	Vert Ellipse	Solution Algorithm: Most Restrictive
Span(in): 72.00	72.00	Flow: Both
Rise(in): 72.00	72.00	Entrance Loss Coef: 0.00
Invert(ft): 11.170	9.960	Exit Loss Coef: 1.00
Manning's N: 0.012000	0.012000	Head Loss Coef: 0.00
Top Clip(in): 0.000	0.000	Outlet Ctrl Spec: Use ds or tw
Bot Clip(in): 0.000	0.000	Inlet Ctrl Spec: Use ds
		Stabilizer Option: None

Upstream FHWA Inlet Edge Description:
Vertical Ellipse Concrete: Square edge w/ headwall

Downstream FHWA Inlet Edge Description:
Vertical Ellipse Concrete: Square edge w/ headwall

Name: ME 191.66	From Node: US	Length(ft): 54.50
Group: BASE	To Node: DS ME 192.08	Count: 1
UPSTREAM	DOWNSTREAM	Friction Equation: Automatic
Geometry: Vert Ellipse	Vert Ellipse	Solution Algorithm: Most Restrictive
Span(in): 60.00	60.00	Flow: Both
Rise(in): 60.00	60.00	Entrance Loss Coef: 0.00
Invert(ft): 10.450	10.220	Exit Loss Coef: 1.00
Manning's N: 0.012000	0.012000	Head Loss Coef: 0.00
Top Clip(in): 0.000	0.000	Outlet Ctrl Spec: Use ds or tw
Bot Clip(in): 0.000	0.000	Inlet Ctrl Spec: Use ds
		Stabilizer Option: None

Upstream FHWA Inlet Edge Description:
Vertical Ellipse Concrete: Square edge w/ headwall

Downstream FHWA Inlet Edge Description:
Vertical Ellipse Concrete: Square edge w/ headwall

Name: ME 192.08	From Node: US	Length(ft): 72.00
Group: BASE	To Node: DS ME 192.08	Count: 1
UPSTREAM	DOWNSTREAM	Friction Equation: Automatic
Geometry: Circular	Circular	Solution Algorithm: Most Restrictive
Span(in): 42.00	42.00	Flow: Both
Rise(in): 42.00	42.00	Entrance Loss Coef: 0.00
Invert(ft): 15.900	15.400	Exit Loss Coef: 1.00
Manning's N: 0.012000	0.012000	Head Loss Coef: 0.00
Top Clip(in): 0.000	0.000	Outlet Ctrl Spec: Use ds or tw
Bot Clip(in): 0.000	0.000	Inlet Ctrl Spec: Use ds
		Stabilizer Option: None

Upstream FHWA Inlet Edge Description:
Circular Concrete: Square edge w/ headwall

Downstream FHWA Inlet Edge Description:
Circular Concrete: Square edge w/ headwall

MP 190.87, 191.17, 191.66, & 192.08 Culverts (Proposed)

Name: DS MP 190.87		Base Flow(cfs): 0.000	Init Stage(ft): 2.770
Group: BASE			Warn Stage(ft): 25.000
Type: Time/Stage			
Time(hrs)	Stage(ft)		
0.00	2.770		
24.00	2.770		
II			
Name: DS MP 191.17		Base Flow(cfs): 0.000	Init Stage(ft): 12.900
Group: BASE			Warn Stage(ft): 25.000
Type: Time/Stage			
Time(hrs)	Stage(ft)		
0.00	12.900		
24.00	12.900		
II			
Name: DS MP 191.66		Base Flow(cfs): 0.000	Init Stage(ft): 15.720
Group: BASE			Warn Stage(ft): 25.000
Type: Time/Stage			
Time(hrs)	Stage(ft)		
0.00	15.720		
24.00	15.720		
II			
Name: DS MP 192.08		Base Flow(cfs): 0.000	Init Stage(ft): 10.900
Group: BASE			Warn Stage(ft): 25.000
Type: Time/Stage			
Time(hrs)	Stage(ft)		
0.00	10.900		
24.00	10.900		
II			
Name: US		Base Flow(cfs): 740.000	Init Stage(ft): 5.000
Group: BASE			Warn Stage(ft): 25.000
Type: Stage/Area			
Stage(ft)	Area(ac)		
5.000	0.5600		
20.000	1.5000		

MP 190.87, 191.17, 191.60, & 192.08 Calcs (Proposed)

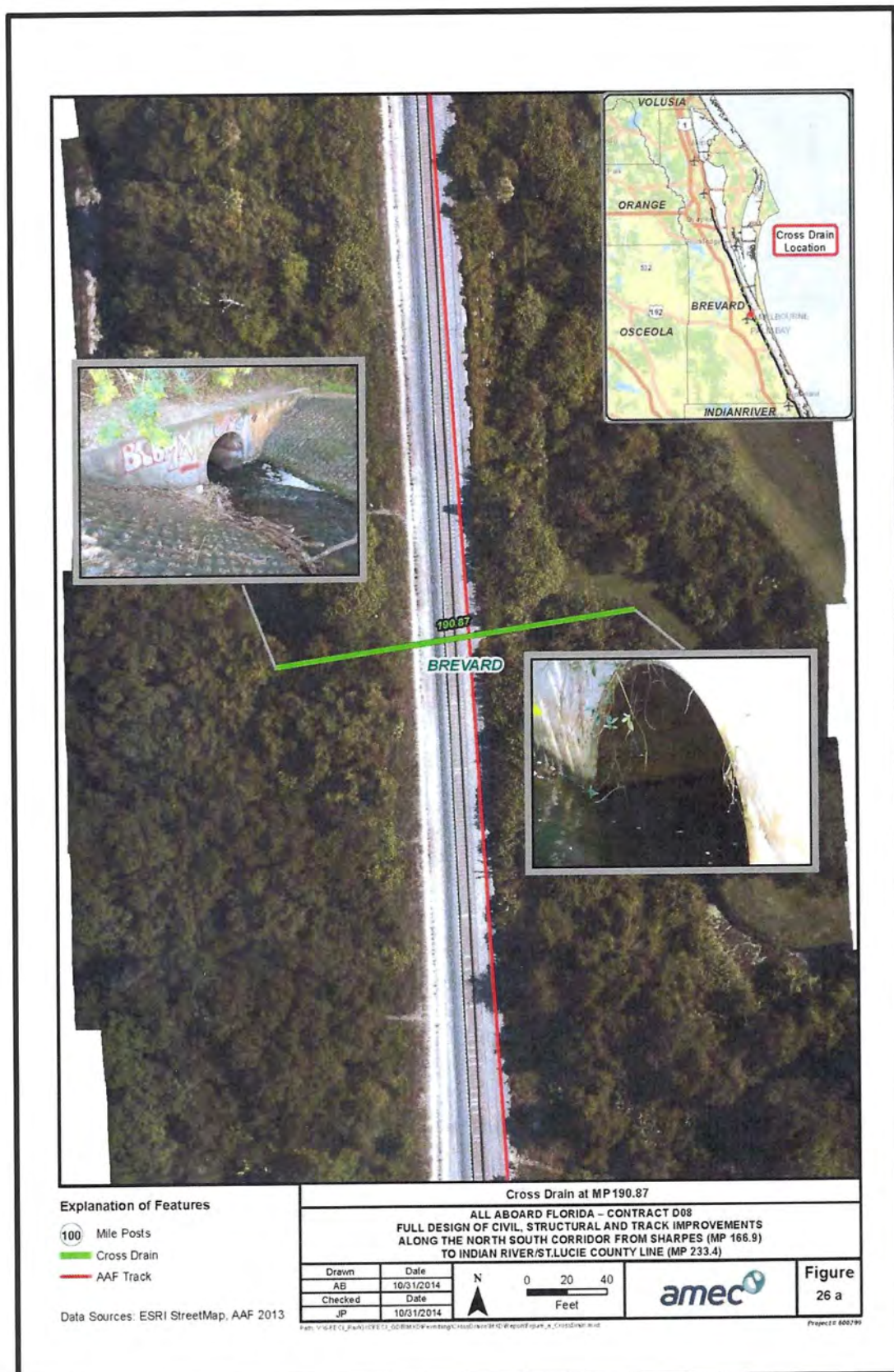
Run	Group	Simulation	Max Time stage hrs	Max stage ft	Max Inlet Stage ft	Max Delta Stage ft	Max Surf Area sq ft	Max Time Inflow hrs	Max Inflow cfs	Max Time Outflow hrs	Max Outflow cfs
D8 MP 190.87	BASE	23051	0.00	2.73	25.00	0.0000	171	4.17	323.041	0.00	0.000
D8 MP 191.17	BASE	23051	0.00	12.90	25.00	0.0000	66	4.17	119.902	0.00	0.000
D8 MP 191.60	BASE	23051	0.00	15.72	25.00	0.0000	28	4.17	138.000	0.00	0.000
D8 MP 192.08	BASE	23051	0.00	18.90	25.00	0.0000	32	3.09	-52.288	0.00	0.000
1%	BASE	23051	4.17	10.40	25.00	0.0000	59103	0.00	748.000	4.17	748.000

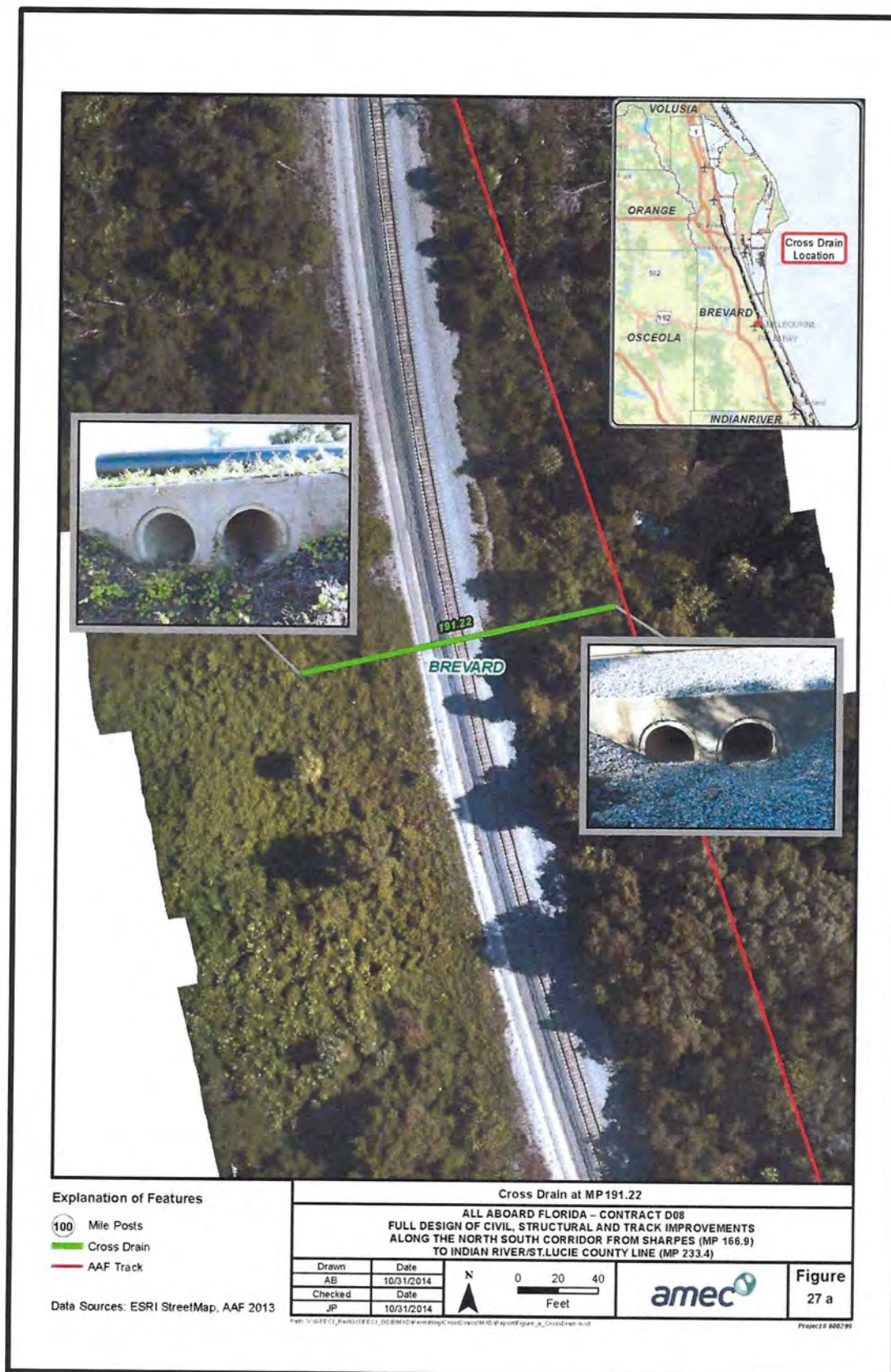
MP 190.87, 191.17, 191.66, & 192.08 Catches (Proposed)

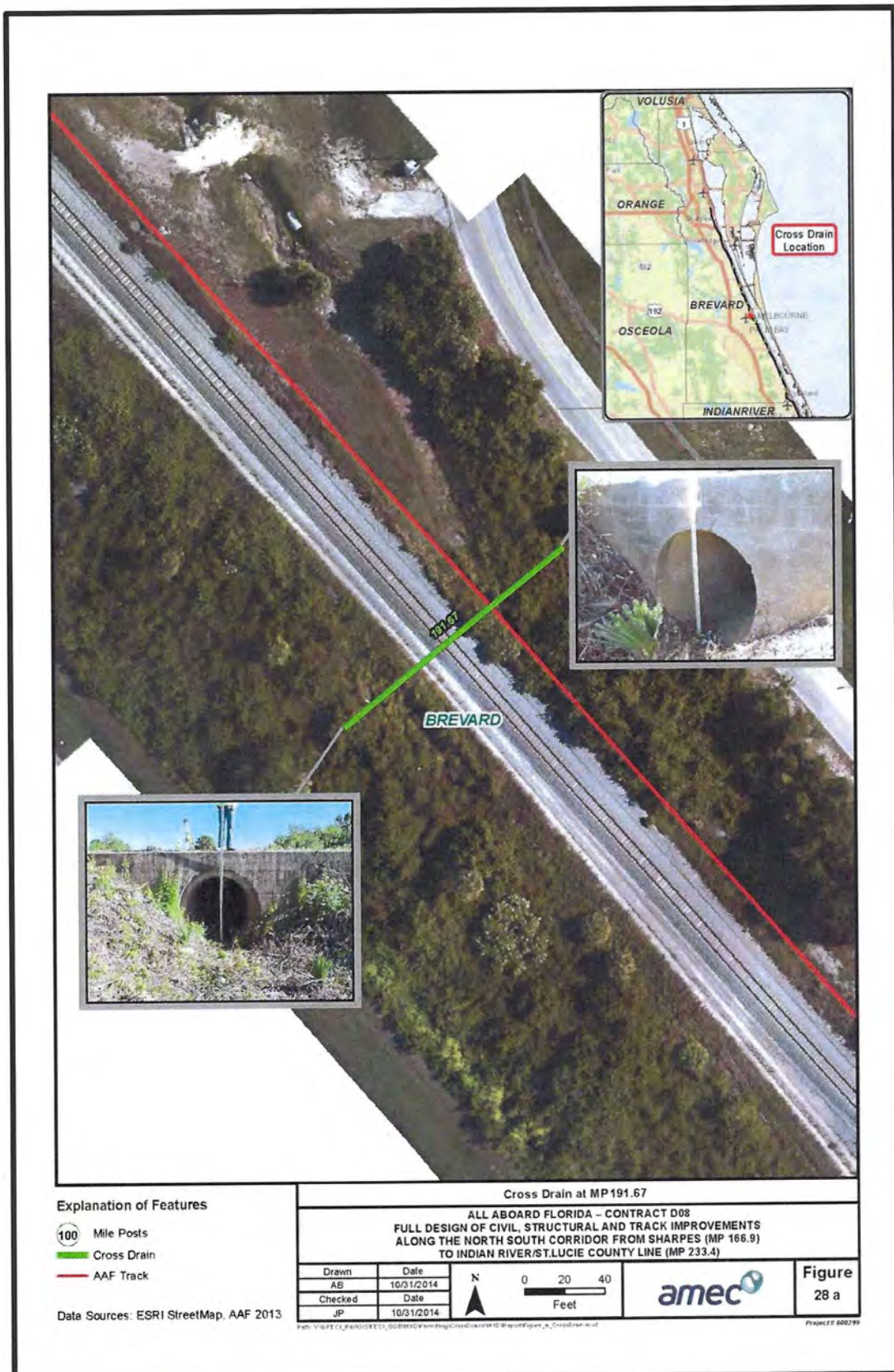
Simulation	Group	Link	Max Upvel Fps	Max Dsvel Fps	Max Avgvel Fps
23051	BASE	MP 190.87	18.499	20.27	24.38
23051	BASE	MP 191.17	9.165	10.16	9.67
23051	BASE	MP 191.66	6.163	6.19	6.19
23051	BASE	MP 192.08	-6.667	-1.39	-5.04

MR 190.87, 191.17, 191.66, & 192.08 Culcs (Proposed)

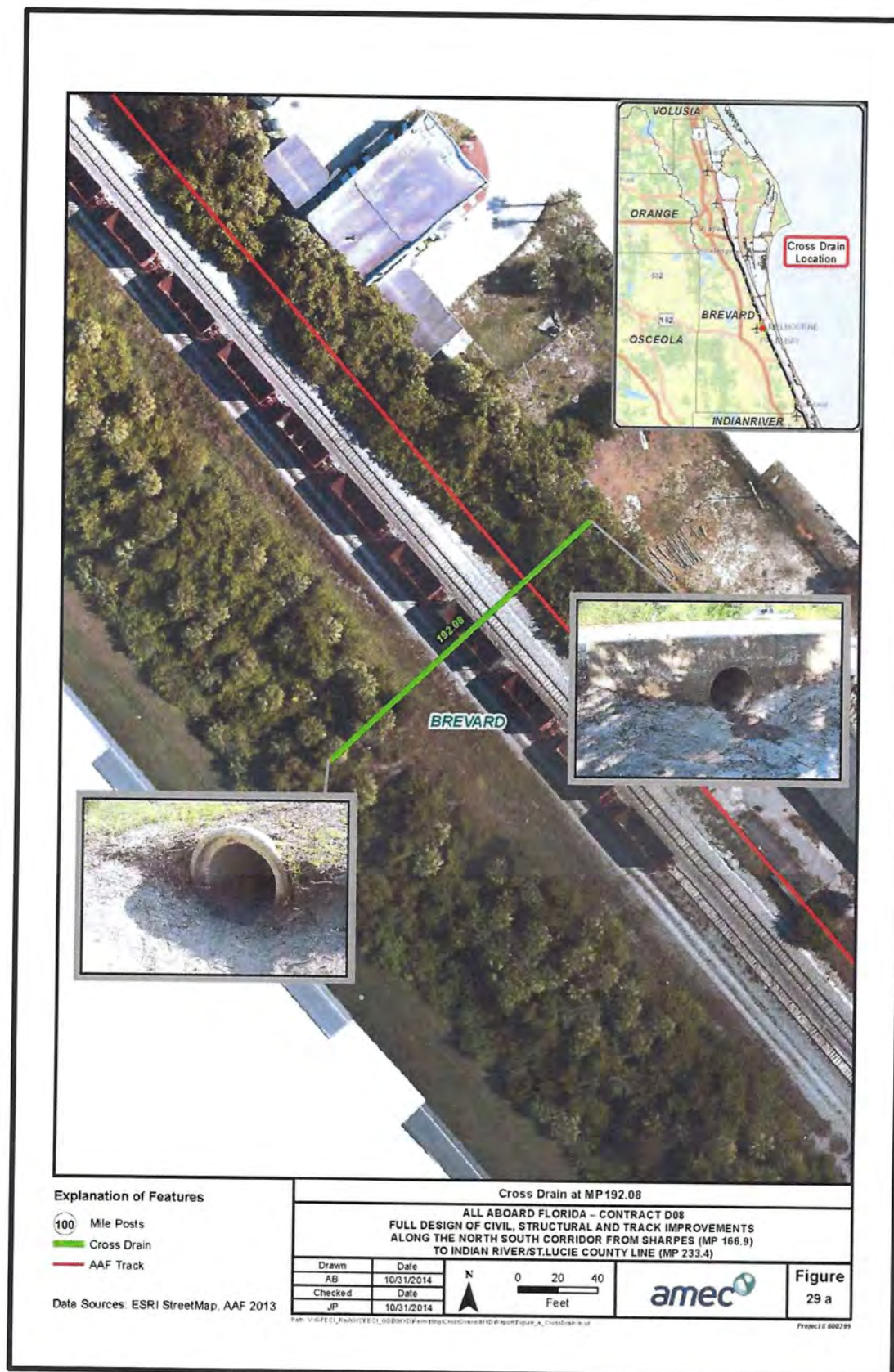
Name	Group	Simulation	Max Time Flow hrs	Max Flow cfs	Max Delta Q cfs	Max Time US Stage hrs	Max US Stage ft	Max Time DS Stage hrs	Max DS Stage ft
MR 190.87	BASE	23051	4.17	323.641	265.681	4.17	16.462	8.02	6.297
MR 191.17	BASE	23051	4.17	119.462	-18.707	4.17	16.462	0.00	12.960
MR 191.66	BASE	23051	4.17	128.086	-111.514	4.17	16.462	0.00	15.726
MR 192.08	BASE	23051	0.00	-32.588	-32.588	0.00	17.568	0.00	16.950

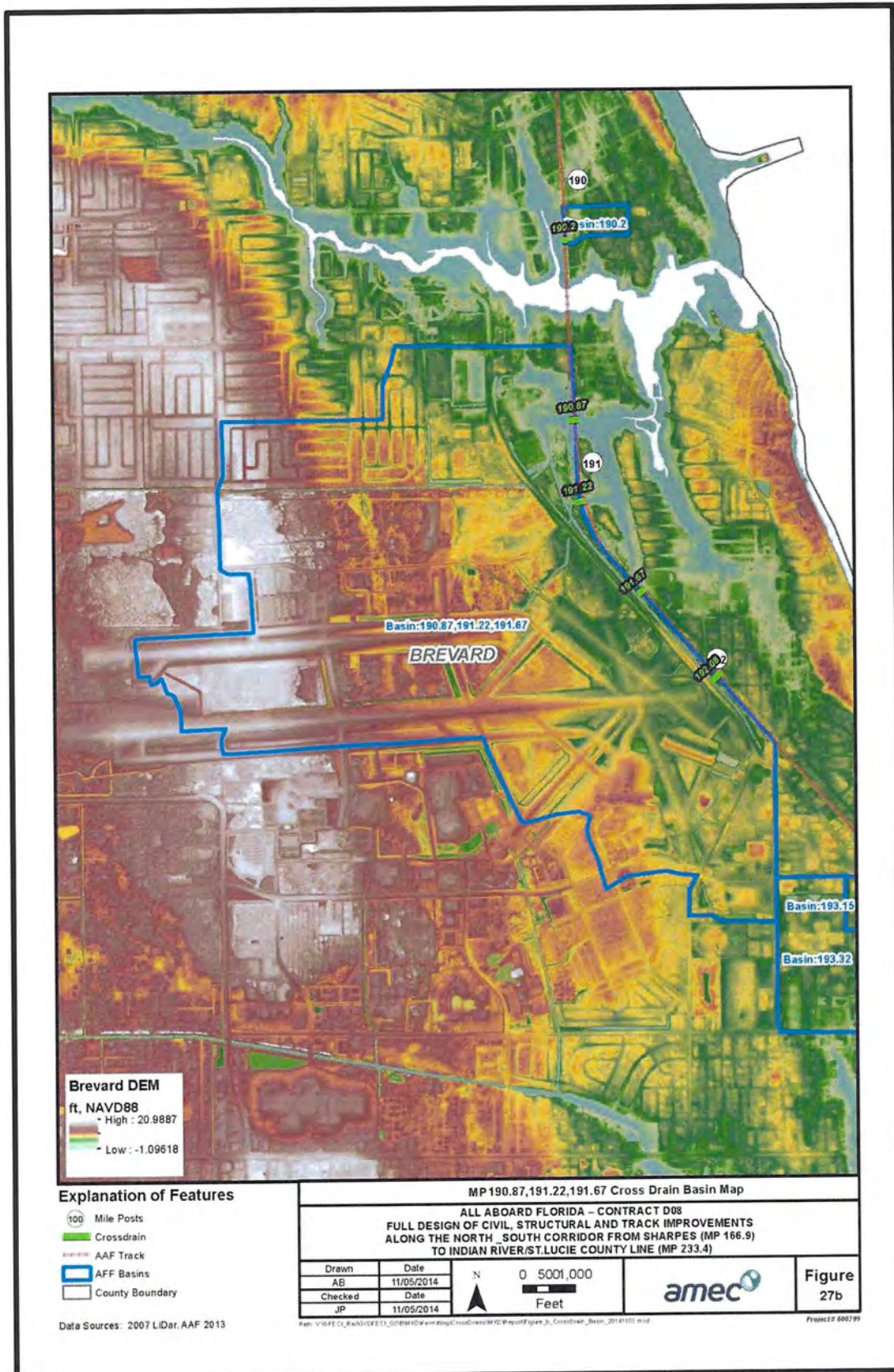






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September 2015
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37.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 193.16 CROSS DRAIN
(ACTUAL LOCATION MP 193.15)

There was not a cross drain located as identified on the Track Chart at MP 193.16. A 62 ft. long 48" RCP culvert was located at MP 193.15. There are headwalls at both ends of the culvert. Water was flowing from west to east at the time of the field investigation. There was no apparent sediment build-up at either end of the pipe.

The basin to the west of the railroad has been altered with development of medium density residential, commercial and service land uses. The existing drainage basin to the cross drain is approximately 22.7 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 17.7 cfs. No changes will be made to the cross drain and thus further hydraulic analysis is not required.



West (Upstream) Endwall and 48" RCP Cross Drain at MP 193.16



East (Downstream) Endwall and 48" RCP Cross Drain at MP 193.16

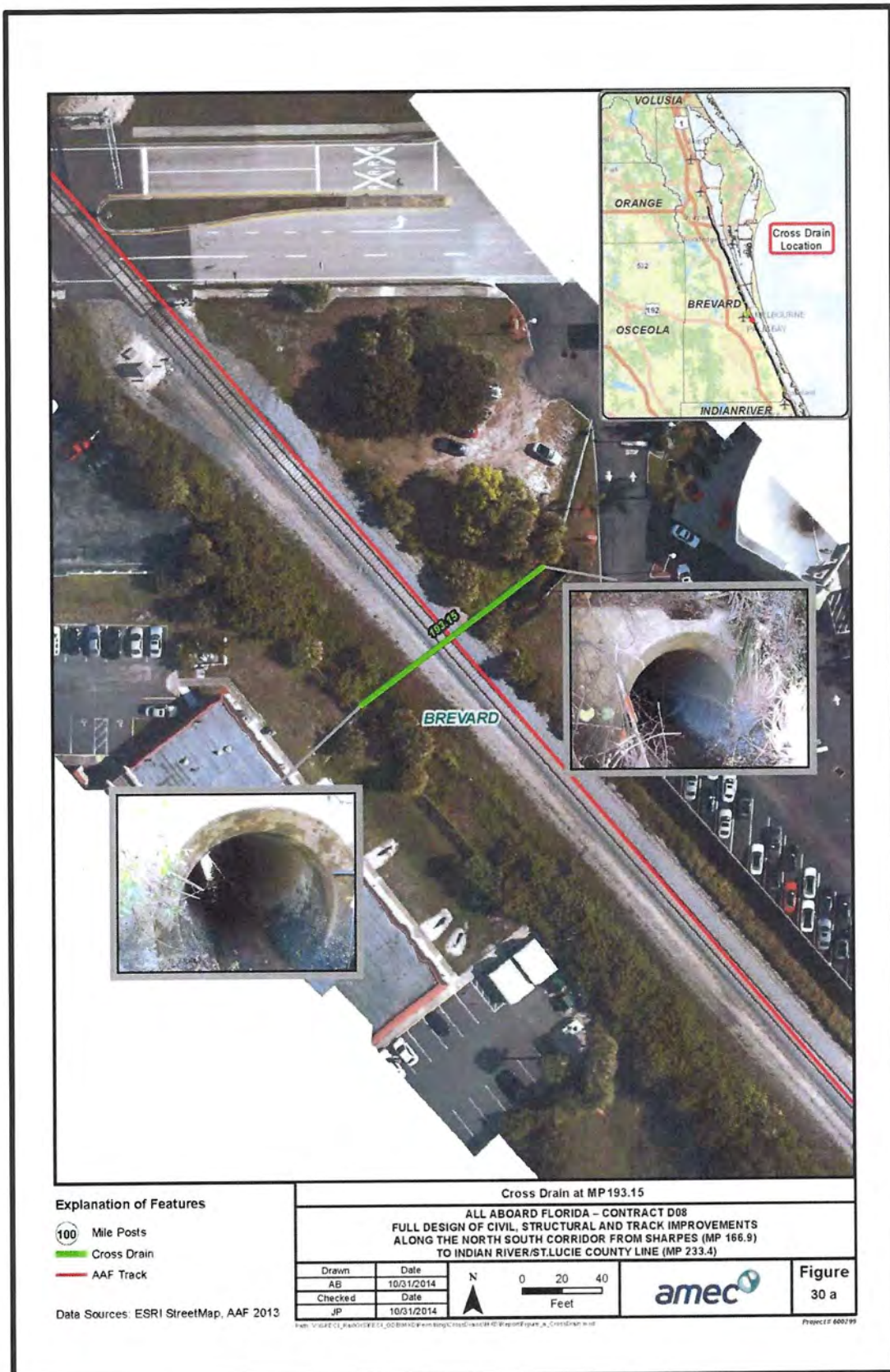
EXHIBIT D

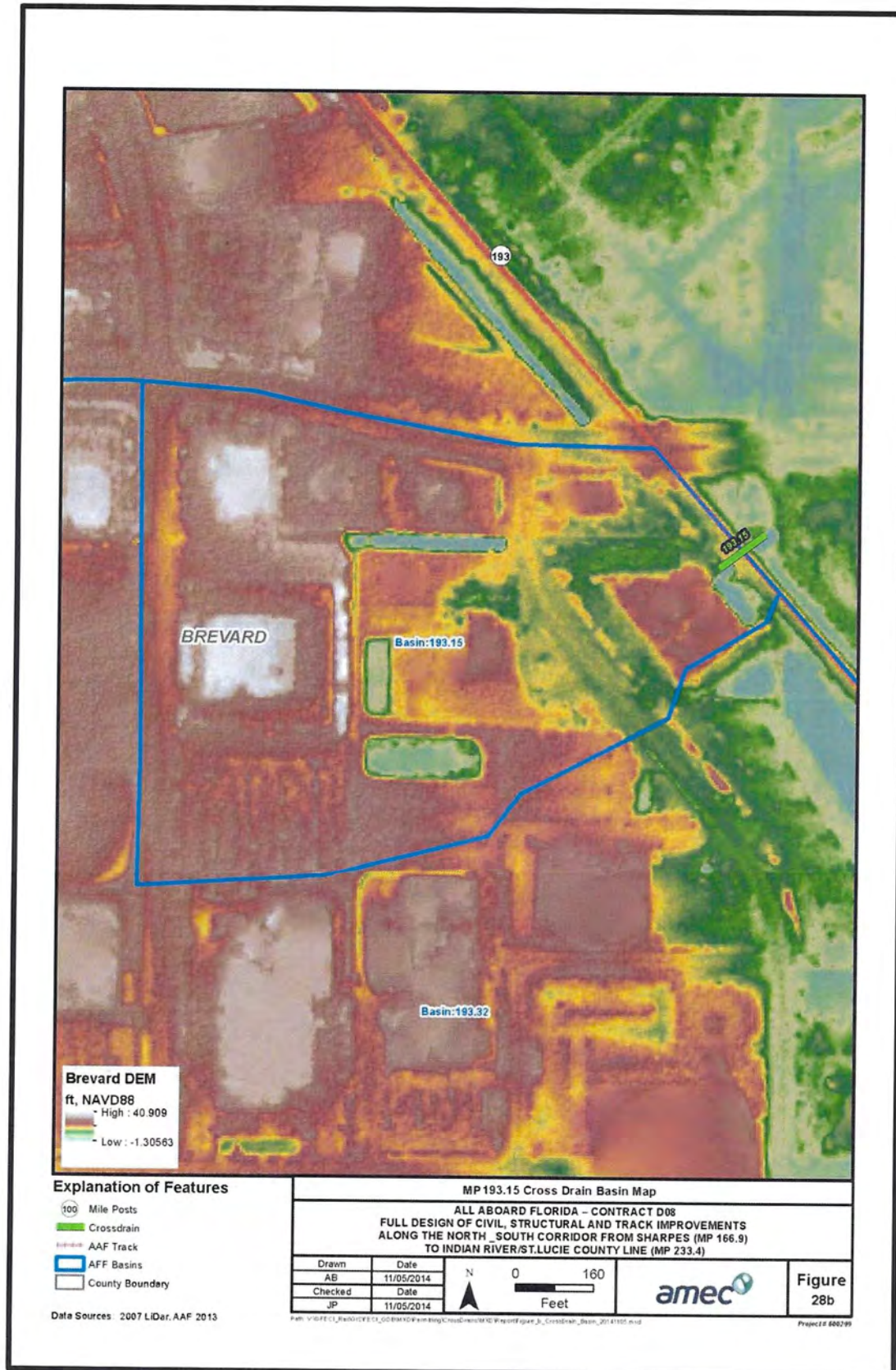


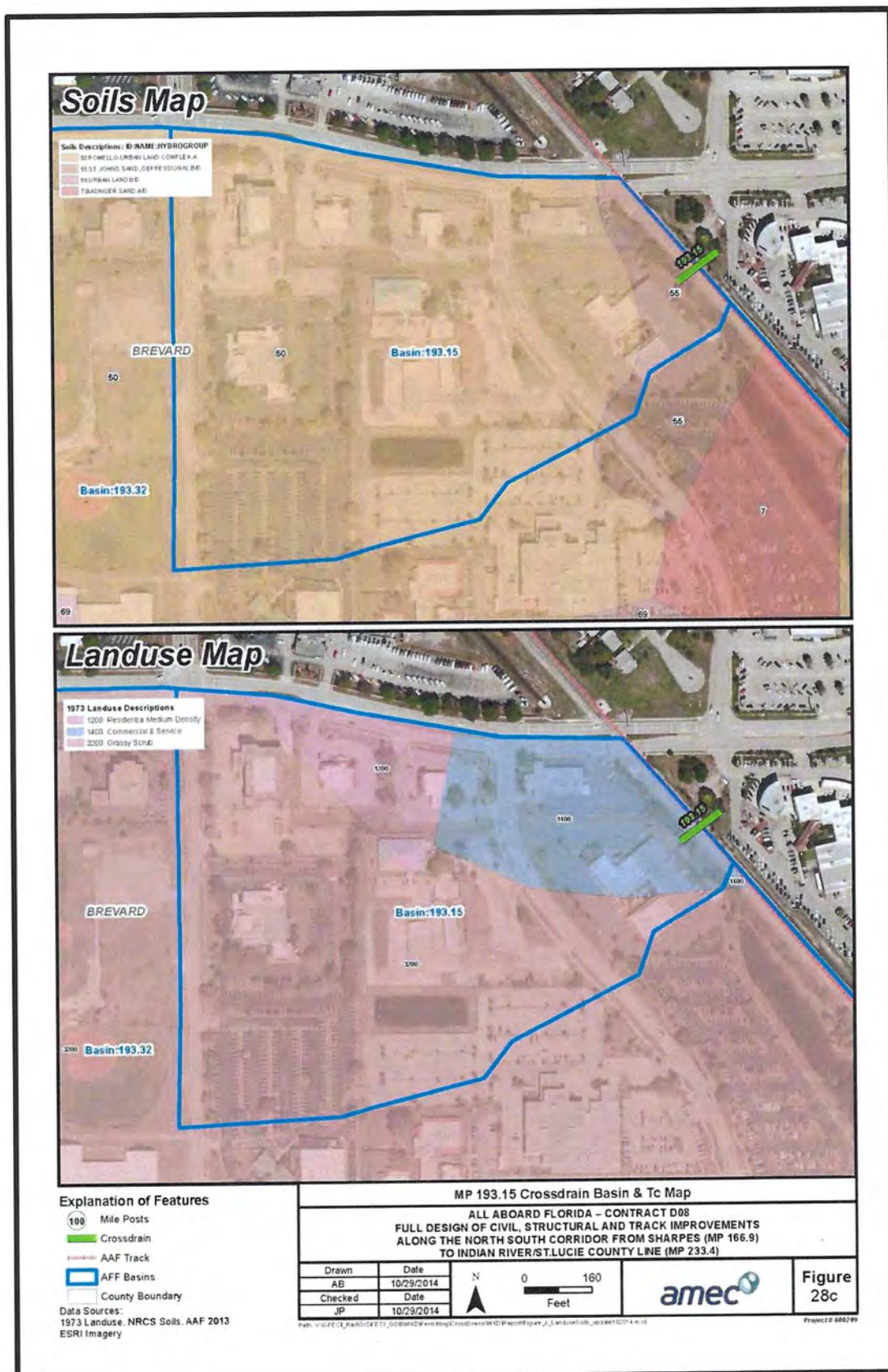
Looking West Toward Contributing Drainage Basin



Looking East Toward Culvert Discharge Location







38.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 193.32 CROSS DRAINS

According to the Track Chart, there are two 40 ft. long 48" oval RCP culverts at MP 193.31. In the field, two 42 ft. long circular 48" by 54" oval RCP culverts with concrete headwalls were found instead at MP 193.32. Additionally, a 53 ft. long 48" circular RCP culvert with headwalls that is not listed on the track chart was located at approximately 30 ft. to the north. While these three culverts are in close proximity, they are two different cross drain structures that work in conjunction with one another to convey drainage eastward. Water was present in the 48" culvert and adjacent ditches, but not at the double 48" by 54" culverts during the inspection. The single 48" culvert was in good condition and appeared to be functioning well in spite of some erosion behind the west endwall. The west (upstream) ditch was overgrown in the areas of these culverts. The double 48" by 54" culverts had some exposed rebar and showed signs of corrosion – which should be addressed by FEC maintenance crews through lining the culverts with HDPE per FDOT criteria. That work is not part of this construction.

The existing drainage basin to the cross drains in this particular area is approximately 214.3 acres draining from west to east and a 25-year, 24-hour event for this system generated a 152 cfs design flow. The proposed construction does not include any pipe extensions and therefore no further hydraulic analysis is required.



MP 193.32 East Headwall and Downstream Side of Single 48" RCP Culvert

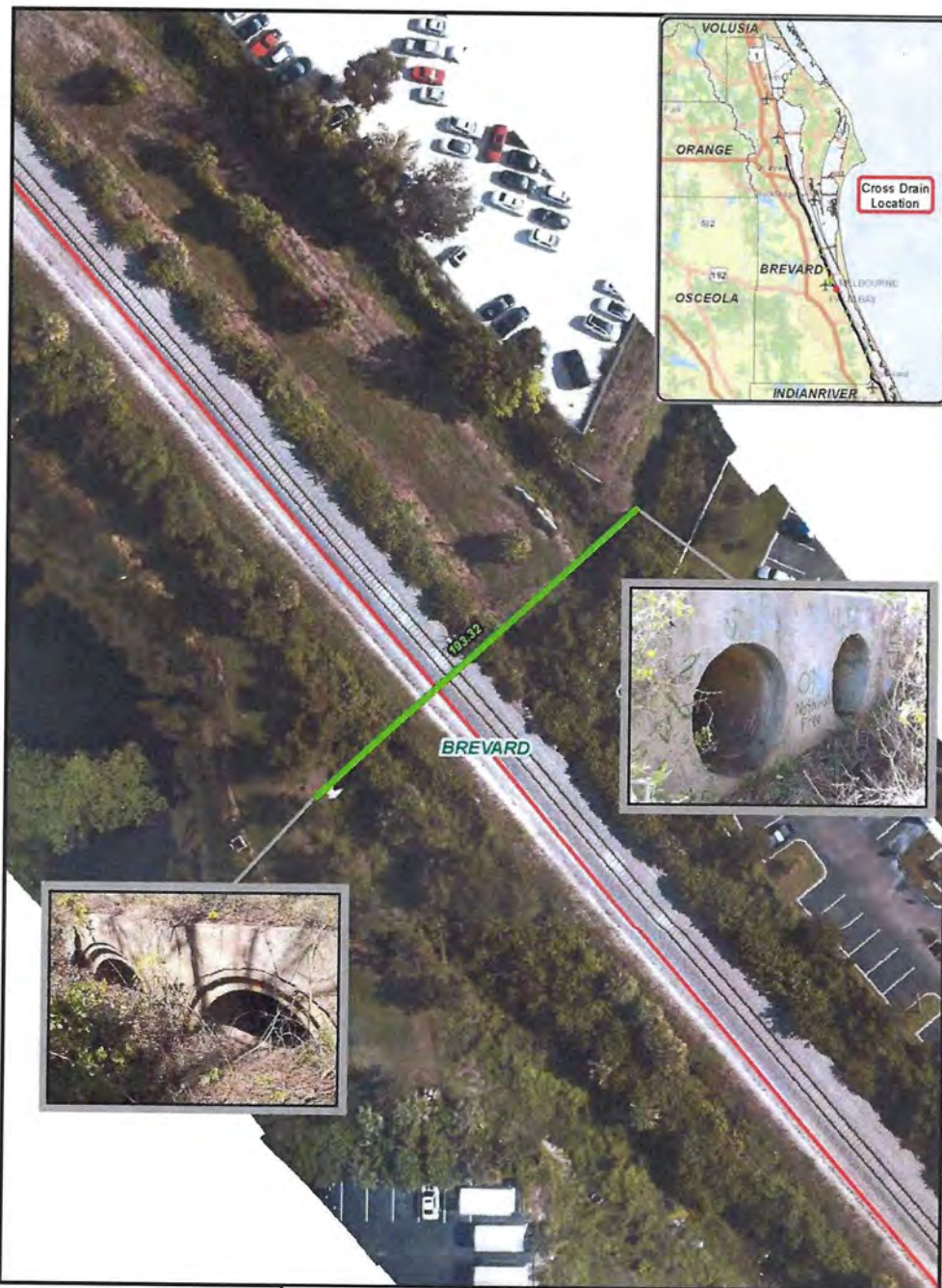
EXHIBIT D



MP 193.32 East Endwall and Downstream Side of Double 48" by 54" RCP Culverts



MP 193.32 Overgrown West (Upstream) Ditch



Explanation of Features

- Mile Posts
- Cross Drain
- AAF Track

Data Sources: ESR1 StreetMap, AAF 2013

Cross Drain at MP193.32

ALL ABOARD FLORIDA – CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVER/ST.LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/31/2014
Checked	Date
JP	10/31/2014



0 20 40
Feet

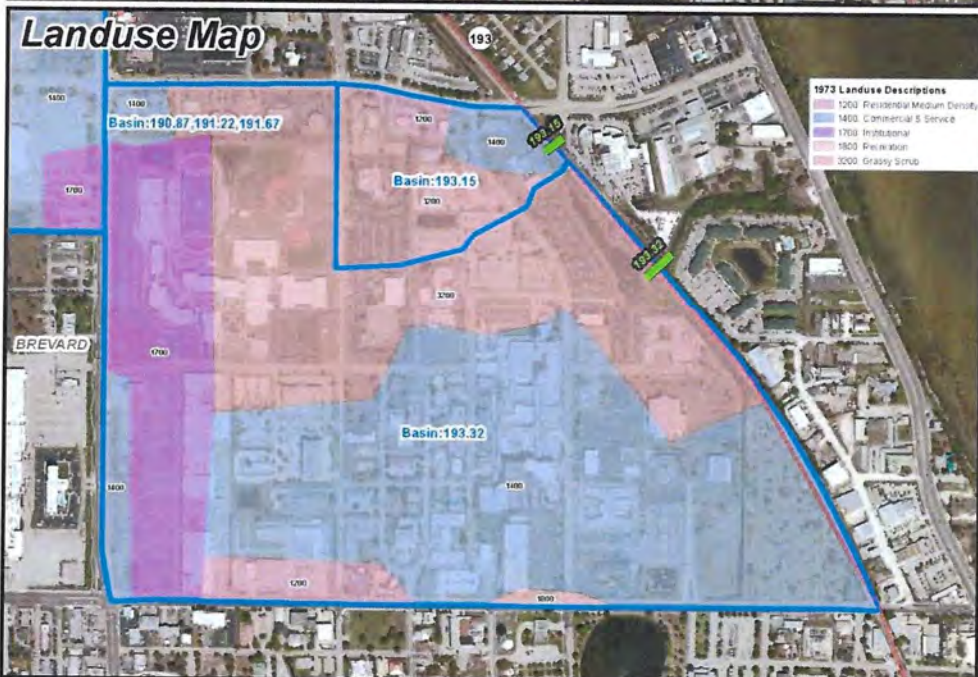


Figure
31 a

Path: Y:\041513_01_RAND\1513_01_000000\FosterWheeler\000000\000000\Figure31a_CrossDrain.mxd

Project 600299

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Explanation of Features

- 100 Mile Posts
- Crossdrain
- AAF Track
- AAF Basins
- County Boundary

Data Sources:
1973 Landuse, NRCS Soils, AAF 2013
ESRI Imagery

MP 193.32 Crossdrain Basin & Tc Map

ALL ABOARD FLORIDA – CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPE (MP 166.9)
TO INDIAN RIVER/ST. LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/29/2014
Checked	Date
JP	10/29/2014



0 440
Feet



Figure
29c

Path: Y:\GFE\11_Rail\1000\11_00\BMA\Drawings\Hydraulic\Crossdrains\MP193\Figure_29c.mxd, 10/29/2014 10:08 AM

Project# 600299

39.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 193.85 CROSS DRAIN

There was not a cross drain identified on the Track Chart at MP 193.85. An 18" RCP culvert was located at MP 193.85 draining eastward from a ditch bottom inlet in the western trackside ditch. An adjacent offsite parking area drains via a flume to the ROW and into the inlet. Its eastern terminus was not located but is assumed to extend past the right of way line east of the tracks. There was minor sediment in the inlet but nothing requiring any corrective action.

No changes will be made to the inlet or the cross drain itself and thus further hydraulic analysis is not required.



Existing Inlet on West Side of Existing Track

40.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 194.17 CROSS DRAIN

There was not a cross drain identified on the Track Chart at MP 194.17. However, a 12" CMP culvert was located at MP 194.17. This culvert conveys drainage west into the catch basin west of the tracks at this location, where it is routed south to Crane Creek through culverts that parallel the tracks. The contributing basin to the cross drain at this location is composed of a small parking area east of the tracks that pre-dates permitting requirements. The eastern terminus of this culvert was not located but is assumed to extend past the right of way line east of the tracks.

No changes will be made to the inlet or the cross drain itself and thus further hydraulic analysis is not required.



Existing Inlet on West Side of Existing Track

41.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 194.23 CROSS DRAIN

There was not a cross drain identified on the Track Chart at MP 194.23. However, a 12" CMP culvert was located at MP 194.23 connecting ditch bottom inlets. This culvert conveys drainage westward under the existing track into the north/south storm sewer trunk line west of the tracks at this location. The contributing basin to the cross drain at this location is the area between the tracks and also the area immediately adjacent to the right of way.

The existing inlet east of the tracks will be replaced with a new one farther to the east – possibly off of the rail right of way on the adjacent FDOT property. At the time of this report's final printing, the exact location of the new inlet is still under discussion with FDOT. Hydraulic calculations were not performed for this location due to indeterminate drainage area. However, to alleviate any concerns with adverse hydraulic conditions, any potential extension of the existing 12" CMP pipe will be made with 15" RCP, i.e. a larger diameter pipe with lower Manning's n and better conveyance characteristics. This larger, smoother pipe will result in no increase in hydraulic grade line or other adverse impacts on the system.

42.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 194.27 CROSS DRAIN

There was not a cross drain identified on the Track Chart at MP 194.27. However, a 15" Terracotta culvert was located at MP 194.27 connecting drainage inlets. This culvert conveys drainage westward under the existing track into the north/south storm sewer trunk line west of the tracks at this location. The contributing basin to the cross drain at this location appears to be primarily offsite area east of the right of way.

Hydraulic calculations were not performed for this location due to no extensions or changes being made to the existing cross drain.

43.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 194.92 CROSS DRAIN (ACTUAL LOCATION MP 194.94)

According to the Track Chart, there are three 56 feet long 24" RCP culverts at MP 194.92. Three 56 ft. long 27" x 24" ERCP's were located at 194.94. There is a concrete headwall at each end of the culverts. The east headwall has minor cracking at the northernmost culvert. A concrete filled rip-rap mattress lines the ditch at the east headwall. An existing 36" HDPE pipe conveys storm water from the north to the culvert location. The combined drainage from the cross drains and the HDPE from the north flows eastward in the lined ditch to an existing 36" x 54" ERCP with a concrete headwall. Water was flowing from west to east at the time of the field investigation. Minimal sediment build-up exists in the pipes.

The basin to the west of the railroad has been altered with development over the years with residential, commercial and service land uses. The land use map for the area was used to calculate the curve number rather than developing a time intensive interconnected pond model to represent the drainage basin.

The existing drainage basin to the cross drain is approximately 92.6 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 104 cfs. There are no changes proposed to the existing culverts and therefore no further hydraulic analysis is required.



Looking at East Headwall at 3 - 24" RCP and the 36" HDPE From the North

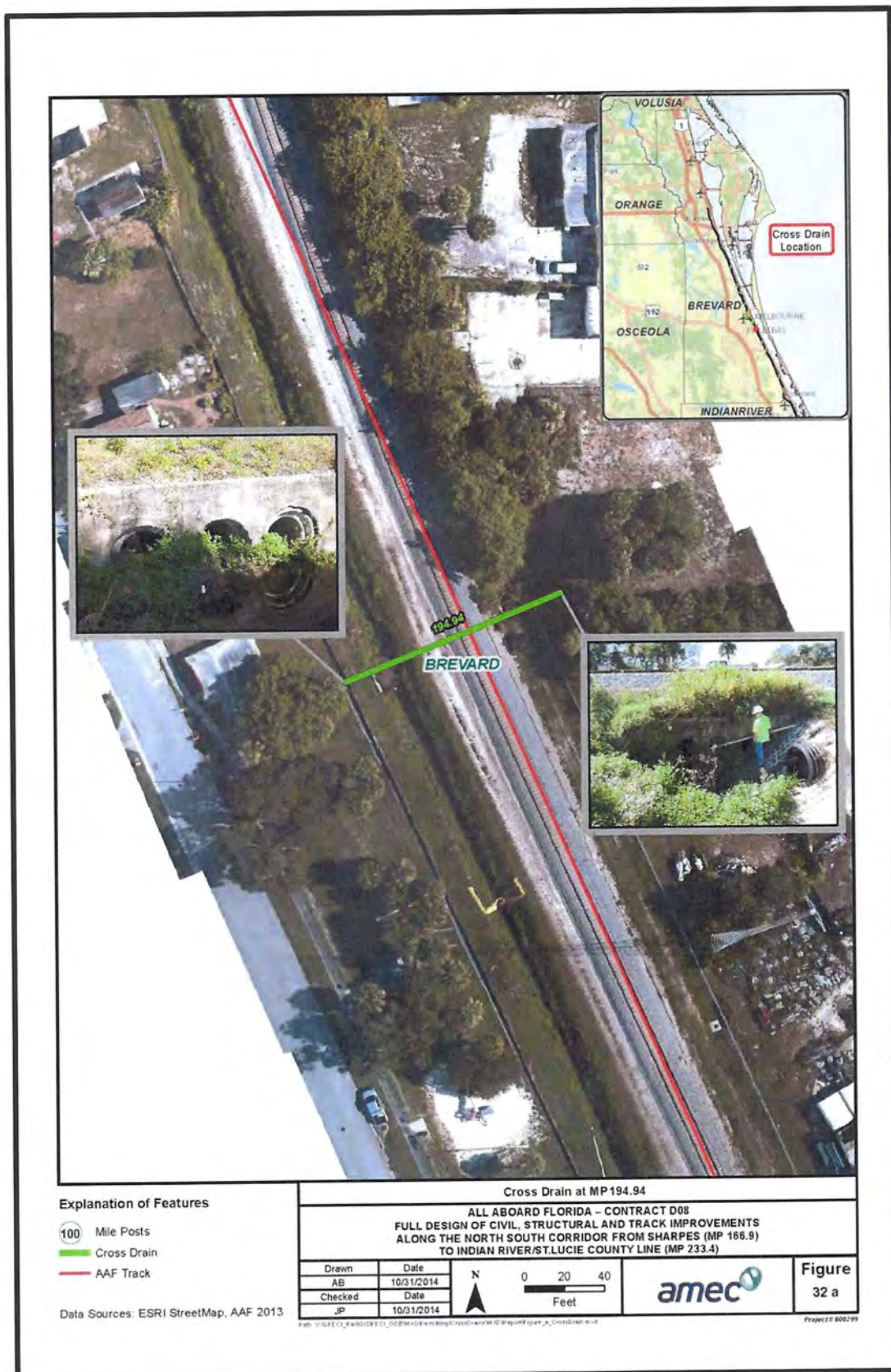
EXHIBIT D

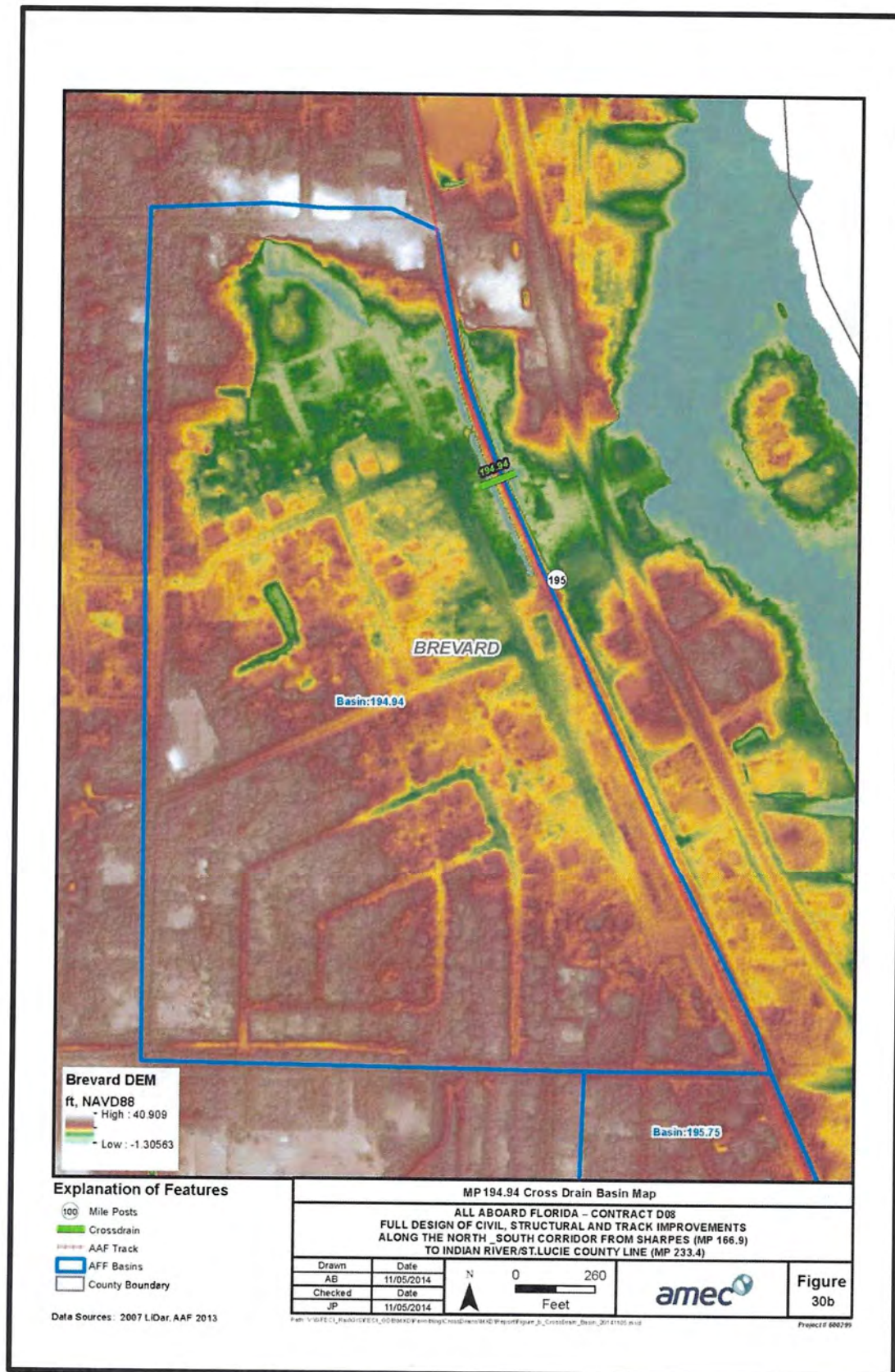


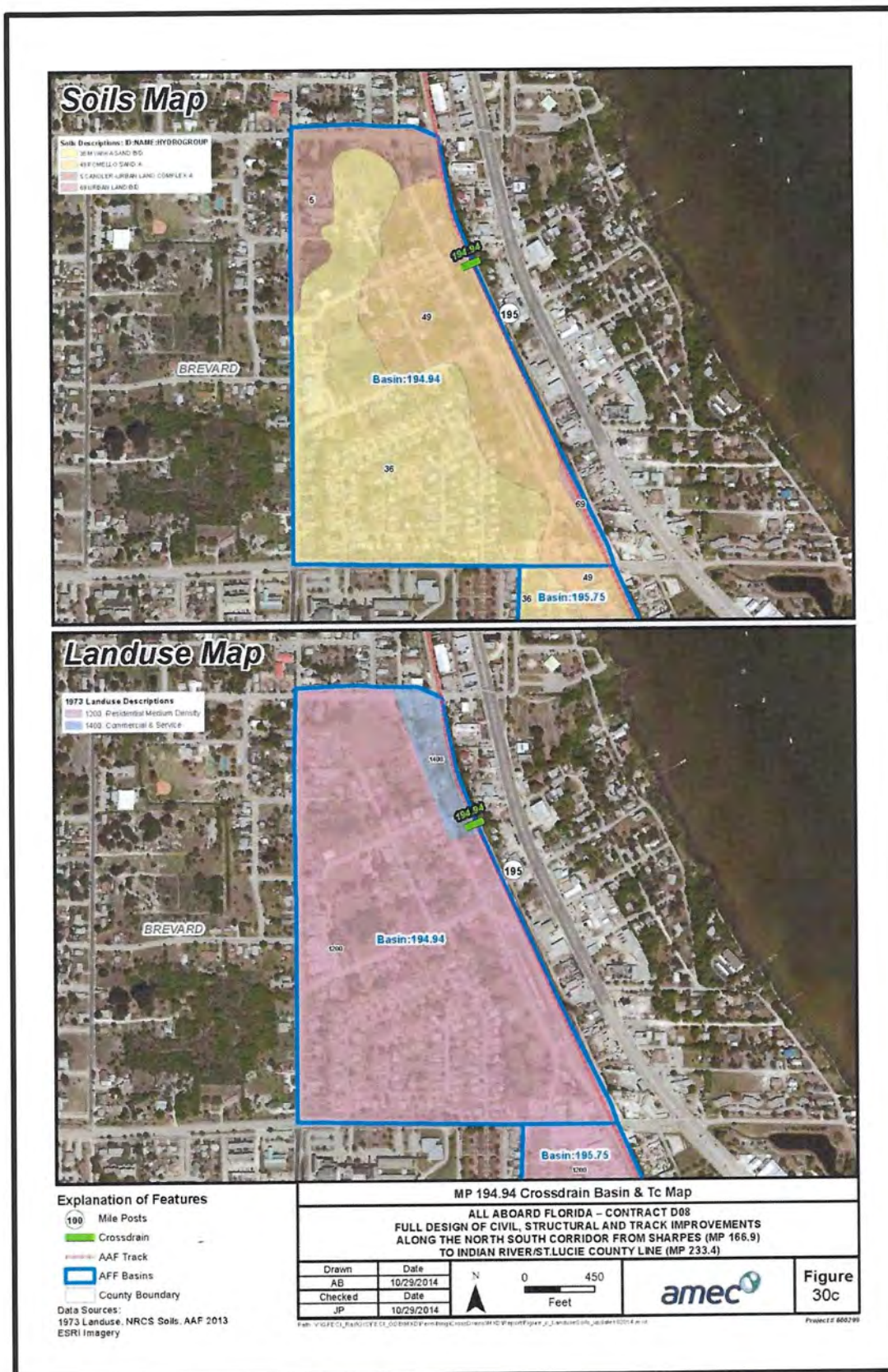
Looking East From the 3 - 24" RCP to the 36" x 54" ERCP Pipe that Carries Discharge From the Cross Drain to the East



Looking South at West Headwall of 3 – 24" RCP Pipes







44.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 195.73 CROSS DRAIN (ACTUAL LOCATION MP 195.75)

According to the Track Chart, there are two 40 ft. long culverts at MP 195.73, both 24" oval RCP. Two 24" round RCP culverts were found with an approximate length of 81 feet. There is a double concrete headwall at the west end of the culverts, but no end treatment on the east end. The structural condition of this cross drain was fair, as there was apparent wear and chipping to the east pipe ends. These culverts were recently altered by SJRWMD ERP Permit Number 40-009-79605-4 (Spain Outfall Drainage Improvements). Excerpts from that permit are provided on the following pages. The As-Built plan set for this permit suggests that 17 ft. of pipe length for each culvert was added on the West side to the previously existing structure. This also permitted the construction of a retrofit retention pond west of the rail which creates attenuation for drainage in the basin. The basin to the west of the railroad largely consists of residential area, but there is also some existing industry. Flow to the culverts comes via a ditch from the south and a ditch from the north. The ditch from the north conveys discharge from the adjacent pond as well as from off-site. Directly east (downstream) of the culvert headwalls is a hydraulically connected system of ditches and ponds, which eventually outfalls into the Indian River.

The existing drainage basin to the cross drain is approximately 116.2 acres draining from west to east; however the adjacent pond just west of the cross drain attenuates a significant amount of the basin's drainage. As displayed on the exhibits in the following pages (the design calculations and plans from the permit file for the adjacent pond), the maximum flow rate through the FEC cross drains at MP 195.73 is 41.1 cfs, considering the controlled rate of discharge from the pond in a 25 yr. – 24 hr. storm event. There are no proposed changes to these culverts and as such, no extension analysis is required.



West (Upstream) End of Cross Drain MP 195.73 and West Endwall

EXHIBIT D



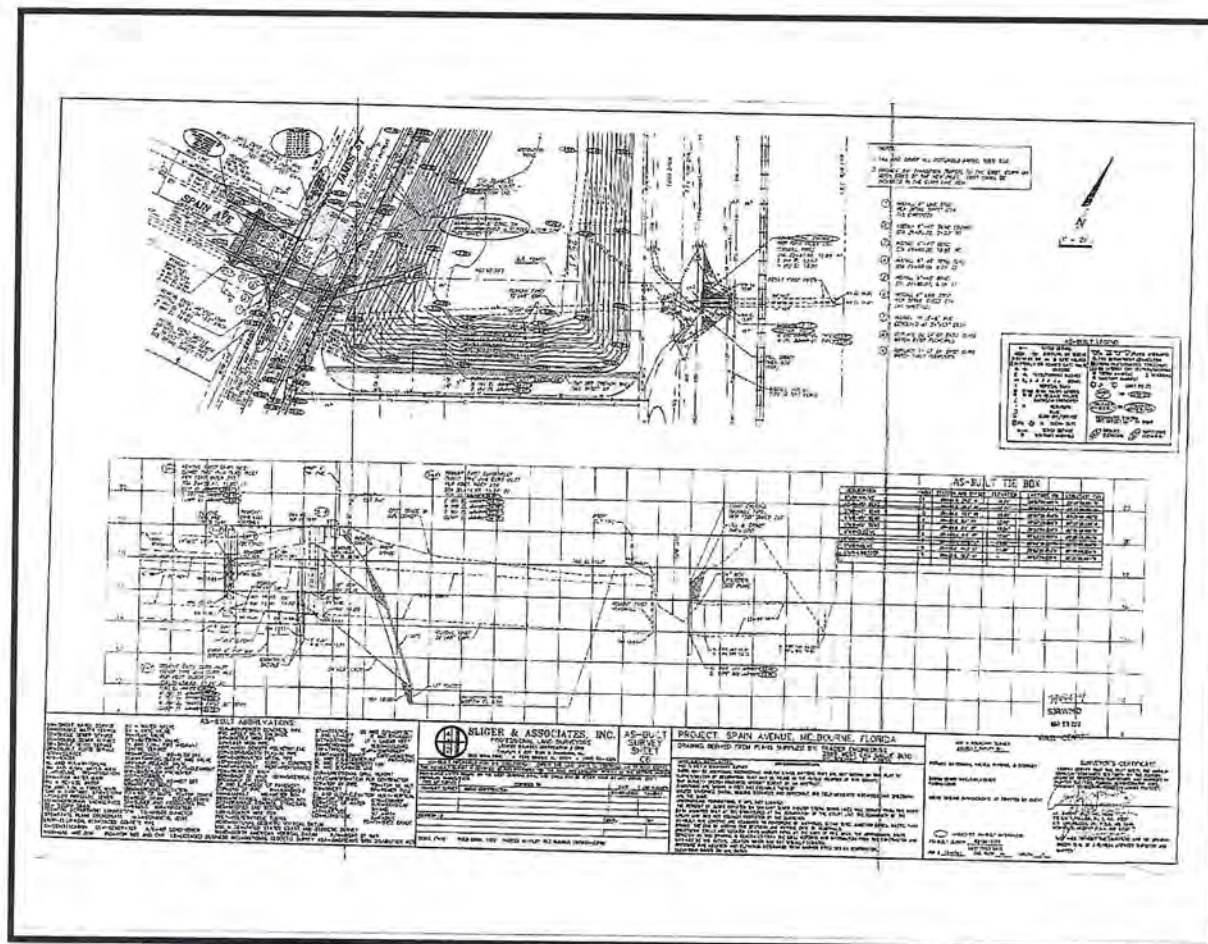
East (Downstream) End of Cross Drain MP 195.73

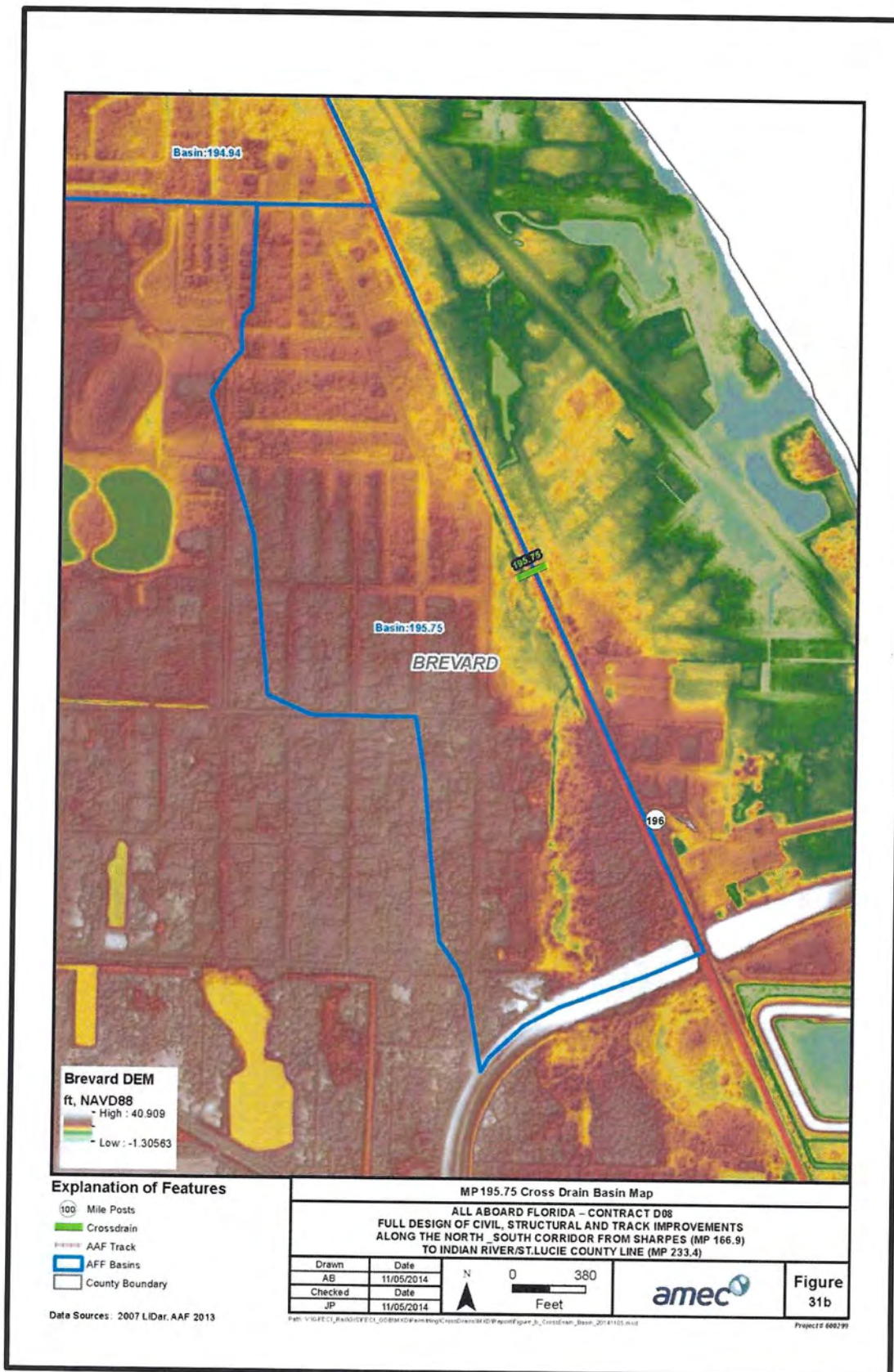


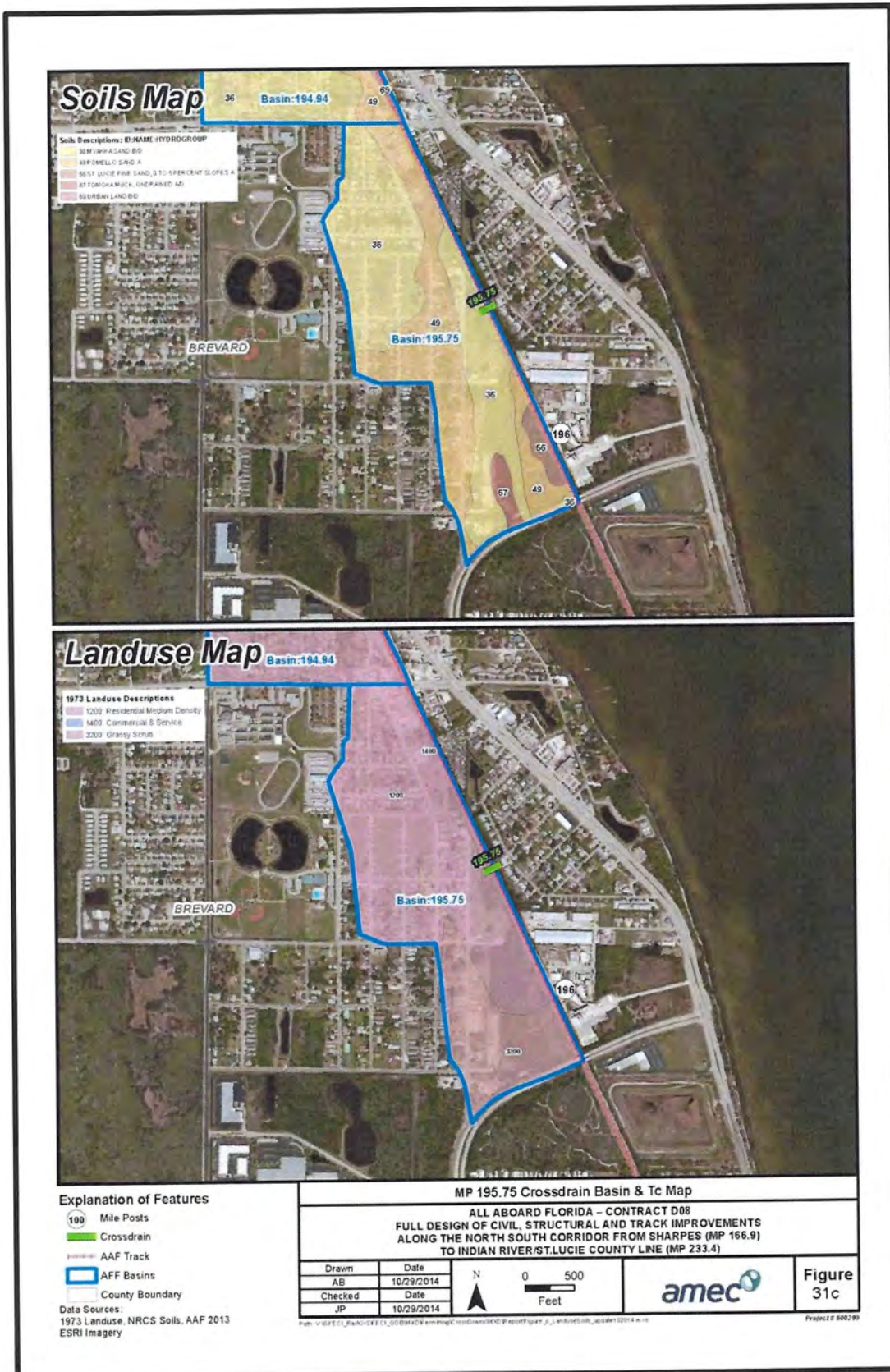
Looking West at Adjacent Pond to FEC Rail

TranSystems
All Aboard Florida – Contract D08
Cross Drain Culvert Hydraulic Analyses – DRAFT

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45.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 197.23 CROSS DRAIN (ACTUAL LOCATION MP 197.24)

According to the Track Chart, there are three 45 ft. long 36" round CMP culverts at MP 197.23. Triple 42 ft. long 36" CMP culverts were observed at MP 197.24. The culverts appear to be CMP liners installed inside of earlier 48" circular RCP culverts. There were also two capped (non-functioning) culverts south of the functioning cross drain and one capped culvert to the north. All capped culverts at this location were measured to be 48" and round in shape. There are endwalls at each side of the cross drain, each large enough to accommodate six culverts (3 functioning and 3 capped). The structural condition of the cross drain was fair but there was apparent wear noticeable on the inside of the CMP culverts including rusting and deterioration. HDPE liners are recommended to be installed in the triple 36" culverts to address the deterioration and prevent any gaps or sinkholes from forming. However, this is considered maintenance work for FEC crews and not the result of the construction and thus it is not included within the construction. There was apparent cracking on the west endwall as well.

The basin to the west of the railroad largely consists of residential (medium density) and industrial land uses. Flow to the culverts comes via a ditch located between the FEC right-of-way and the adjacent Main Street right-of-way. This ditch was recently permitted and constructed for conveyance and treatment under SJRWMD ERP permit number 40-009-125609-1 (Main Street Improvements – Channel Alignment Plans: Phase II). Directly west (upstream) of the culvert headwalls are triple 30" HDPE culverts, which convey water from the permitted ditch under the FEC maintenance berm to a small collection area within the FEC right-of-way from where it drains into the triple 36" CMP culverts through the rail embankment. Flow is then conveyed to the east to a ditch system flowing underneath Orange Blossom Trail and eventually outfalls into Palm Bay.

The existing drainage basin to the cross drain is approximately 271 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 217 cfs. However, the previously mentioned permit installed control structure weirs to provide attenuation in the ditch upstream of the cross drain. The permitted flow rate for a 25 yr. – 24 hr. storm discharging to the FEC ROW is approximately 198 cfs (link ND-030 in the attached permit excerpts. The eastern end of the cross drains will be lengthened 8 ft. and a new headwall constructed. The Hydraflow analysis verifies that the proposed extensions have no appreciable impact on the system hydraulics as the upstream headwater remains unchanged at elevation 14.3, i.e. approximately 2.2 ft. below the top of the tie or at the bottom of the sub-ballast. For the analysis no upstream attenuation was assumed and 217 cfs was utilized.



West (Upstream) Endwall and Cross Drain at MP 197.24. Note: Adjacent Capped Culverts.



Triple 30" HDPE Culverts (Upstream of MP 197.24 Cross Drain)

EXHIBIT D



East (Downstream) Endwall and Cross Drain at MP 197.24. Note: Adjacent Capped Culverts.



Looking West at Upstream Ditch and FEC Collection Basin Area

Worksheet: Results

Station	Group	Simulation	Max Time Stage hrs	Max Stage ft	Maxing Stage ft	Max Depth Stage ft	Max Surf Area sq ft	Max Time Inflow hrs	Max Inflow cfs	Max Time Outflow hrs	Max Outflow cfs
32A-020	3	FR-025	14.51	16.886	12.509	0.0267	23470	10.83	81.369	10.83	410.369
32A-040	3	FR-025	14.55	16.887	13.003	-0.0025	132501	22.83	58.474	20.83	61.369
32A-050	3	FR-025	14.55	16.887	11.100	-0.0047	293916	19.47	52.578	22.83	58.291
32A-060	3	FR-025	14.55	16.887	11.500	0.0027	170264	19.47	502.403	19.47	82.376
32A-070	3	FR-025	14.55	16.887	12.300	-0.0020	132116	21.72	32.881	19.47	602.026
32A-080	3	FR-025	14.56	16.892	16.500	-0.0048	77830	12.12	76.275	21.72	30.435
32A-090	3	FR-025	12.14	17.092	16.760	0.0030	16787	12.08	70.211	12.14	65.370
32A-100	3	FR-025	12.14	17.115	17.260	0.0020	5042	12.18	46.763	12.19	41.985
32A-110	3	FR-025	12.17	17.639	17.360	0.0030	94960	12.36	47.377	12.18	60.765
32A-120	3	FR-025	12.16	17.888	17.600	0.0019	5411	12.38	16.769	12.09	5.443
32A-130	3	FR-025	12.32	18.425	18.242	-0.0020	29	11.84	8.402	11.80	3.459
32A-140	3	FR-025	12.36	19.196	18.600	0.0028	3553	12.38	7.427	12.37	3.320
32A-150	3	FR-025	12.36	19.439	18.535	-0.0109	14363	12.38	-1.156	12.75	3.148
32A-160	3	FR-025	14.44	16.329	14.500	0.0017	14868	12.52	628.886	12.50	127.054
32A-170	3	FR-025	14.32	17.017	19.102	0.0013	23649	12.49	620.031	12.50	609.377
32A-180	3	FR-025	12.97	19.055	18.872	-0.0003	33135	12.33	14.207	12.50	12.826
32A-190	3	FR-025	12.81	17.388	17.922	0.0014	17218	12.47	403.256	12.50	601.062
32A-200	3	FR-025	12.51	17.884	17.262	0.0010	41246	12.48	427.987	12.53	436.250
32A-210	3	FR-025	12.47	19.067	19.462	0.0105	13011	12.16	329.182	12.41	182.780
32A-220	3	FR-025	12.47	19.084	19.532	-0.0078	11307	12.56	58.765	12.19	218.144
32A-230	3	FR-025	12.48	19.043	19.531	-0.0072	127	12.51	58.894	12.18	59.760
32A-240	3	FR-025	12.53	20.121	19.380	-0.0048	93621	12.17	60.745	12.60	111.415
32A-250	3	FR-025	12.53	20.121	19.442	0.0030	83765	12.32	57.213	12.60	33.042
32A-260	3	FR-025	12.59	19.332	17.703	-0.0044	27246	12.34	190.852	12.28	189.213
32A-270	3	FR-025	12.59	19.332	15.930	0.0031	11295	12.33	184.812	12.16	183.119
32A-280	3	FR-025	12.59	19.332	17.880	0.0032	4762	12.33	174.812	12.16	174.354
32A-290	3	FR-025	12.59	19.332	16.260	0.0032	51350	12.25	47.525	12.25	174.842
32A-300	3	FR-025	12.59	19.332	15.920	0.0032	40356	12.27	116.741	12.25	107.719
32A-310	3	FR-025	12.27	20.925	20.400	0.0026	139042	11.96	308.673	12.57	146.469
32A-320	3	FR-025	12.27	20.959	20.490	0.0027	5399	11.29	6.244	20.16	6.723
32A-330	3	FR-025	12.27	20.965	20.613	0.0035	12651	12.02	83.248	12.06	26.521
32A-340	3	FR-025	12.43	19.212	16.829	0.0042	14573	12.47	262.156	12.06	26.521
32A-350	3	FR-025	12.43	19.212	17.700	0.0018	113610	12.32	278.139	12.47	325.667
32A-360	3	FR-025	12.43	19.212	19.590	0.0032	10939	12.28	224.255	12.36	224.540
32A-370	3	FR-025	12.27	20.600	17.960	0.0035	22645	12.33	297.358	12.33	292.846
32A-380	3	FR-025	12.29	20.888	20.360	0.0010	502160	12.00	441.292	12.20	297.358
32A-390	3	FR-025	12.76	20.112	19.260	0.0053	16	12.27	30.190	0.50	0.635
32A-400	3	FR-025	12.75	24.332	24.500	0.0026	26	0.00	0.370	10.23	11.894
32A-410	3	FR-025	0.20	10.600	2.000	0.0020	0	12.16	1.422	0.00	0.030
32A-420	3	FR-025	0.20	12.000	2.000	0.0020	0	12.35	1.014	0.00	0.022
32A-430	3	FR-025	0.20	12.500	2.000	0.0020	0	12.24	1.423	0.00	0.030
32A-440	3	FR-025	0.20	12.800	2.000	0.0020	0	12.18	1.436	0.00	0.030
32A-450	3	FR-025	0.20	13.300	2.000	0.0020	0	12.63	2.014	0.00	0.030
32A-460	3	FR-025	12.62	8.079	8.360	-0.0015	83734	12.59	371.428	12.63	370.641
32A-470	3	FR-025	12.62	8.852	8.960	-0.0012	95782	12.09	399.621	12.59	371.428
32A-480	3	FR-025	12.62	8.852	8.700	-0.0011	70584	12.63	357.133	12.63	307.707
32A-490	3	FR-025	12.75	10.211	12.000	-0.0012	6003	12.78	316.457	12.77	319.488
32A-500	3	FR-025	12.76	15.482	12.000	-0.0031	13737	12.73	319.639	12.76	319.637
32A-510	3	FR-025	12.75	15.753	12.500	-0.0031	15688	12.71	319.811	12.75	319.637
32A-520	3	FR-025	12.75	13.838	12.500	-0.0048	26932	12.71	319.471	12.75	313.138
32A-530	3	FR-025	12.74	14.133	12.500	-0.0050	16719	12.66	313.369	12.71	313.471
32A-540	3	FR-025	12.59	14.546	14.450	0.0008	110249	12.33	157.747	12.54	136.694
32A-550	3	FR-025	12.10	17.621	14.000	0.0031	11306	12.22	484.977	12.42	518.669
32A-560	3	FR-025	14.10	17.621	13.500	-0.0089	44663	12.51	204.747	0.96	26.922
32A-570	3	FR-025	14.10	17.621	13.500	-0.0089	28671	22.74	91.491	21.48	427.303
32A-580	3	FR-025	14.13	17.616	13.500	-0.0051	161122	20.25	72.028	22.74	91.491
32A-590	3	FR-025	14.13	17.616	11.200	-0.0116	303148	27.59	63.880	28.25	72.028
32A-600	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-610	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-620	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-630	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-640	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-650	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-660	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-670	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-680	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-690	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890
32A-700	3	FR-025	14.74	17.613	11.920	-0.0064	182263	22.59	723.486	25.82	87.890

Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Thursday, Oct 30 2014

Existing MP 197.24

Invert Elev Dn (ft) = 8.00
Pipe Length (ft) = 42.00
Slope (%) = 0.24
Invert Elev Up (ft) = 8.10
Rise (in) = 36.0
Shape = Cir
Span (in) = 36.0
No. Barrels = 3
n-Value = 0.024
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

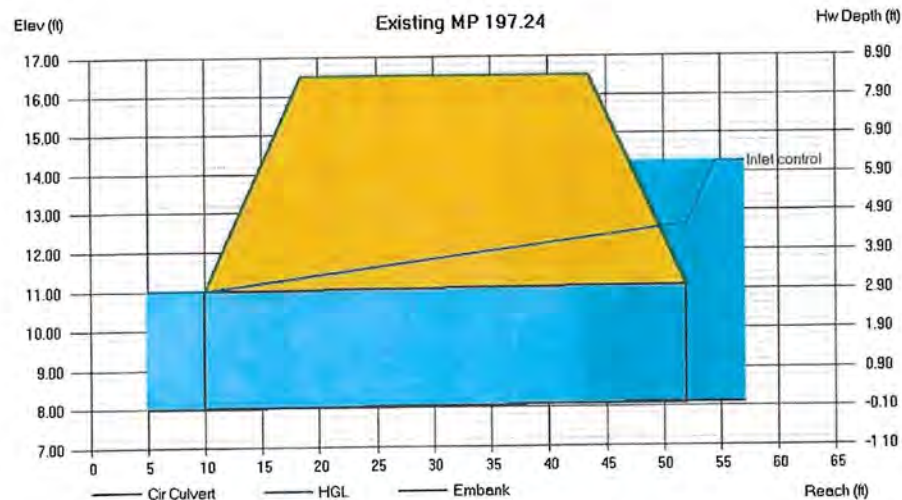
Top Elevation (ft) = 16.50
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 216.70
Qmax (cfs) = 216.70
Tailwater Elev (ft) = Crown

Highlighted

Qtotal (cfs) = 216.70
Qpipe (cfs) = 216.70
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 10.22
Veloc Up (ft/s) = 10.22
HGL Dn (ft) = 11.00
HGL Up (ft) = 12.68
Hw Elev (ft) = 14.26
Hw/D (ft) = 2.05
Flow Regime = Inlet Control



Culvert Report

Hydraulflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, May 6 2015

Proposed MP 197.24

Invert Elev Dn (ft) = 7.98
Pipe Length (ft) = 50.00
Slope (%) = 0.24
Invert Elev Up (ft) = 8.10
Rise (in) = 36.0
Shape = Cir
Span (in) = 36.0
No. Barrels = 3
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

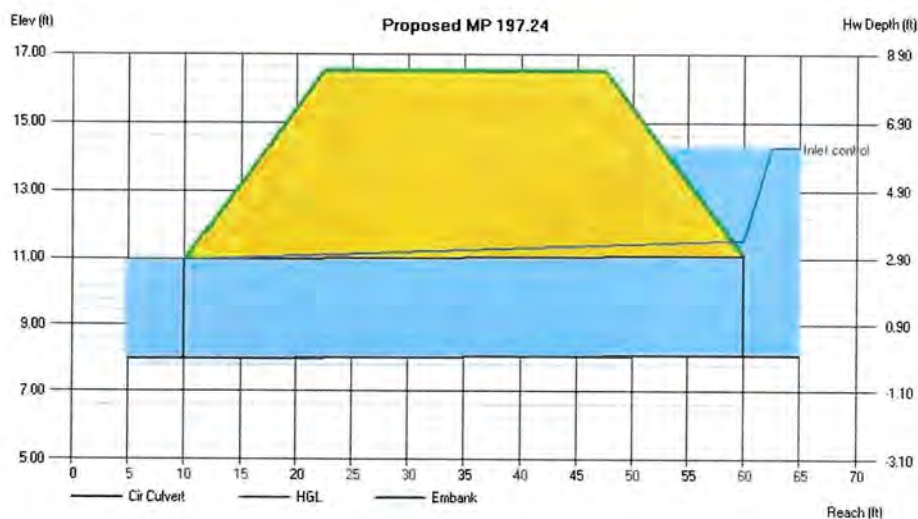
Top Elevation (ft) = 16.50
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 216.70
Qmax (cfs) = 216.70
Tailwater Elev (ft) = Crown

Highlighted

Qtotat (cfs) = 216.70
Qpipe (cfs) = 216.70
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 10.22
Veloc Up (ft/s) = 10.22
HGL Dn (ft) = 10.98
HGL Up (ft) = 11.57
Hw Elev (ft) = 14.26
Hw/D (ft) = 2.05
Flow Regime = Inlet Control



46.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 198.28 CROSS DRAIN
(ACTUAL LOCATION MP 198.32)

According to the Track Chart, there are two 48 ft. long culverts at MP 198.28, both 48" oval RCP. Two (2) 57 ft. long 36" round RCP culverts were found at approximately MP 198.32. There is a double concrete endwall at the east end of the culverts, but no end treatment on the west end. The pipe ends showed signs of deterioration, but the structural condition could not be fully determined since the culverts were primarily submerged. There was also approximately 1 ft. of sediment accumulation at the east (upstream) end of the cross drain. The contributing basin to the east of the railroad consists of medium density residential area and partially developed commercial area. Flow to the culverts comes via the existing east FEC conveyance ditch. A CMP culvert with a damaged/crushed end (approximately 24" – 30") was observed in the vicinity of the FEC cross drain at MP 198.30, appearing to convey drainage from the east contributing basin into the east FEC conveyance ditch. Directly west (downstream) of the culvert headwalls is a hydraulically connected system of ditches and ponds, which eventually outfalls into Turkey Creek.

The existing drainage basin to the cross drain is approximately 31.9 acres draining from east to west and correlates to a design flow rate of 48 cfs. No extensions are proposed, so no further hydraulic analysis is required.



West (Downstream) End of Cross Drain MP 198.32

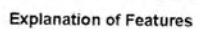
EXHIBIT D



East (Upstream) End of Cross Drain MP 198.32 and Endwall



Looking West at Receiving Ditch System



- 100 Mile Posts
- Cross Drain
- AAF Track

Data Sources: ESRI StreetMap, AAF 2013

Cross Drain at MP 198.32

ALL ABOARD FLORIDA - CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVER/ST.LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/31/2014
Checked	Date
JP	10/31/2014



amec

Figure
35 a

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Project # 60029



Figure 33c

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Project # 600297

47.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 199.26 CROSS DRAIN

According to the Track Chart, there is a 64 ft. long 24" oval RCP culvert at MP 199.26. A single 24" RCP with a concrete headwall on the western end was identified – but the eastern end could not be located.

The existing drainage basin to the cross drain is approximately 13.6 acres draining from east to west and correlates to a design flow rate of 25.6 cfs. No extensions are proposed, so no further hydraulic analysis is required.



48.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 200.15 CROSS DRAIN

According to the Track Chart, there are two 48" RCP culverts at MP 200.15. Two (2) 48" by 54" oval RCP culverts were found at the west side of the track, but the east end of the culverts extended out of the ROW and were not surveyed. According to the Track Chart the culverts length is approximately 72 feet. There is a concrete headwall at the west end of the culverts. Under environmental resource permit (ERP) ERP No. 40-009-68772-1 (excerpts attached) issued by the SJRWMD the east end of the cross drain has been altered by the City of Malabar. There is an existing structure just east of the FEC right-of-way (r/w) that connects the existing pipes to a downstream 36" RCP. There is no apparent sediment buildup on the west end, and there is standing water. The basin to the west of the railroad has been minimally altered with development over the years with residential, commercial and service land uses. Flow to the culverts comes via a ditch from the west that collects most of the drainage from the basin. The west end of the culvert currently has approximately a foot of standing water. Discharge from the culvert on the east side of the tracks was undetermined. Flow from the cross drain is controlled by a weir in a structure approximately 320 feet downstream of the FEC ROW.

A large portion of the drainage basin to the west currently consists of undeveloped land as well as low density residential, commercial & services, grassy scrub, pine flat wood, and lakes & ponds. The existing drainage basin to the cross drain is approximately 217.3 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 188 cfs. No extensions are proposed and therefore no further hydraulic analysis is required.



Looking at West Headwall at 2 - 54" RCP.

STANDARD GENERAL ENVIRONMENTAL RESOURCE PERMIT
 TECHNICAL STAFF REPORT
 February 27, 2001
 APPLICATION #: 40-009-68772-1

DATE RECEIVED:	DATE COMPLETED:	21ST DAY:	28TH DAY:
November 13, 2000	Incomplete	Incomplete	Incomplete

Applicant: Town of Malabar
 2725 MALABAR RD
 MALABAR, FL
 32905-50000
 (321) 723-3261

Consultant: Frazier Engineering, Inc.
 C/O John E. Frazier, P.E.
 2289 West Eau Gallie Boulevard
 Melbourne, FL
 32935
 (321) 253-8131

Project Name:	Camelot Ditch, Drainage Improvements		
Project Acreage:	.660		
Planning Unit:	North Central Indian River Lagoon		
Special Basin Criteria:	N/A		
Receiving Water Body:	Indian River	Class:	II, OFW.
County:	Brevard		
Correct Fee Submitted:	Yes	Amount Received:	\$500.00

Authority: 40C-4.041(2)(b)8

Type of Treatment:	Best Management Practices
Type of Development:	Governmental/Institutional
Type of System:	Modification to an Existing System
Final O&M Entity:	Local Government
Pre/Post Peak Rate Attenuation Provided:	Yes
Pre/Post Volume Attenuation Provided:	N/A
Mean Annual Storm Attenuation Provided:	N/A
Recovery of Water Quality Vol. Within Req. Time:	N/A
Recovery of Peak Attenuation Vol. Within Req. Time:	N/A

LOCATION AND BRIEF DESCRIPTION OF SYSTEM:

The project area is located between the FEC Railroad and U.S Highway No.1, just south of Malabar Road in the Town of Malabar. The construction involves replacement of an existing ditch with a pipe conveyance system.

A PERMIT AUTHORIZING:

the piping of an existing ditch between the FEC railroad tracks and U.S Highway No.1 in the town of Malabar.

OTHER ENGINEERING COMMENTS:

The project is an improvement to an existing outfall which runs between the FEC Railroad and U.S. Highway No.1 in the Town of Malabar, just south of Malabar Road. The existing outfall consists of 334 LF of 36" CMP and 566 LF of open ditch for a total of 900 LF. The ditch has very steep slopes, continuously erodes and has been a maintenance problem for the Town and the adjacent property owners.

The proposed project consists of the piping of the entire ditch (900 LF) which includes the removal and replacement of 334 LF of 36" CMP with a 36" RCP pipe to be used in conjunction with ditch bottom inlets and a shallow swale. The outfall commences at the FEC railroad, connecting to 2 - 48" x 52" culverts under the railroad, (invert elevation 11.5' NGVD), running east, connecting to a 6' x 6' box culvert under U.S. 1 (invert elevation 0.53' NGVD). There are ditch bottom inlets located 325', 699', and 799' from the FEC structure. The first inlet contains a weir, elevation 13.9' NGVD, a 2' wide notch, elevation 12.9' NGVD, a six inch orifice, elevation 10.9' NGVD and a 2' deep closed sump. Incoming and outgoing pipe inverts are 11.0' NGVD. The second inlet has incoming and outgoing inverts of 11.0' NGVD, and a 3' deep closed sump. The third inlet has an incoming invert of 11.0' NGVD, and an outgoing invert of 6.0' NGVD, and a 3' deep closed sump. The connecting structure to the FDOT culverts has an incoming invert of 6.0' NGVD and an existing outgoing invert of 0.53' NGVD.

The orifice, notch and weir control structures, and the flat pipe slopes are designed to limit the peak discharge rates to the pre-developed rates for the mean-annual and the 25-year/ 24 hour storm events prior to discharge into the Indian River Lagoon which is identified as Class II and O.F.W.

The proposed project meets all applicable conditions for permit issuance pursuant to sections 40C-4.301 and 40C-4.302, F.A.C.

ENVIRONMENTAL COMMENTS:

The ditch is approximately 15 feet deep and covered in vines. Some water (approx. 6" deep) can be seen at the bottom. Vegetation is diverse but is mainly comprised of nuisance species such as grape vine, elderberry, primrose willow, and guinea grass. Palm trees line the top of the bank. There are approximately 0.41 acres of surface waters and wetlands within Camelot ditch. The project area also includes 0.25 acres of upland grass. The ditch is upland-cut and will not require mitigation.

Wetland Summary Table

Camelot Ditch, Drainage Improvements	
	acres
Total Surface Waters On-site	0.410
Total Wetlands On-Site	0.000
Impacts that Require Mitigation	0.000
Impacts that Require No Mitigation	0.410

Mitigation

N/A

Interested Parties: No
Objectors: No

Conditions for Application Number 40-009-68772-1:**ERP General Conditions by Rule (October 03, 1995):**

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19

ERP/MSSW/Stormwater Special Conditions (November 09, 1995):

1, 4, 28

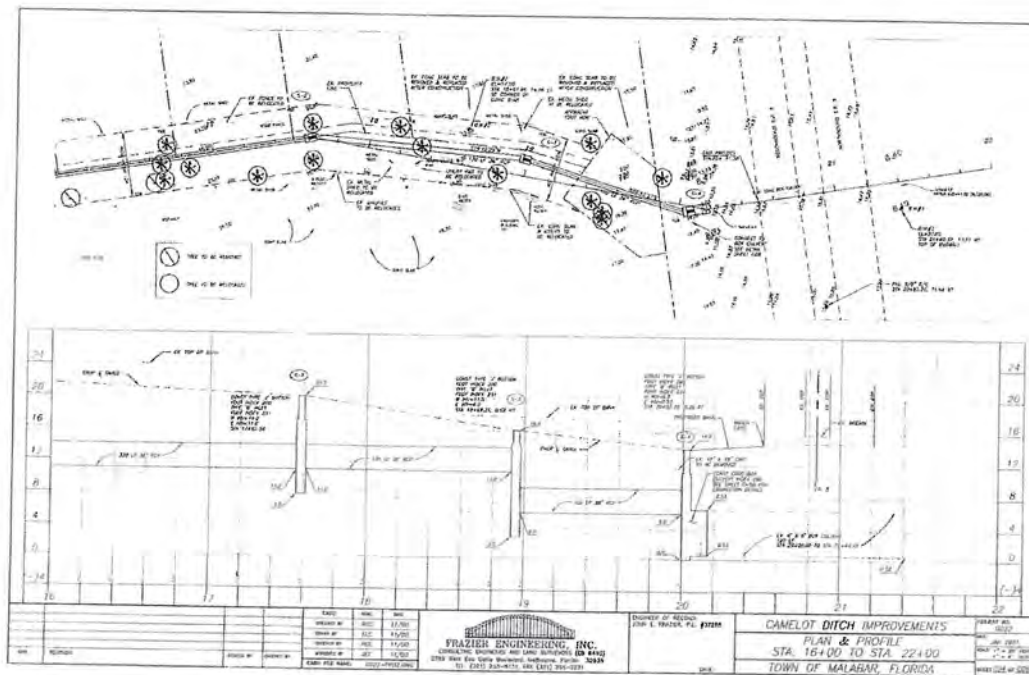
Other Conditions:

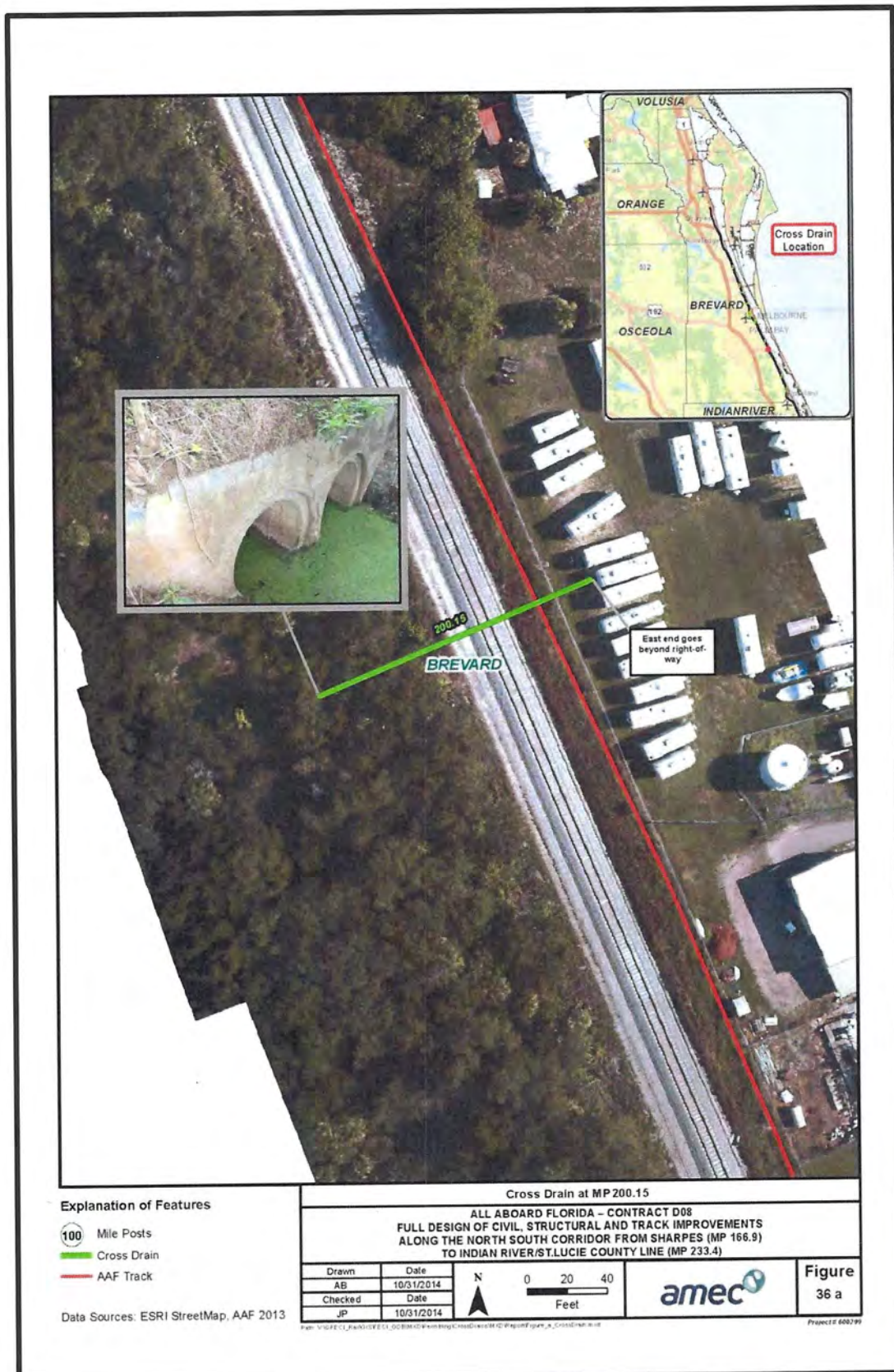
1. The Surface Water Mangement system must be constructed in accordance with the plans submitted to the District on November 13, 2000, amended January 5, 2001, amended January 29, 2001, amended February 22, 2001.

Reviewers: Courtney Rae Lowrance
Wanda Leigh Stewart

TranSystems
All Aboard Florida – Contract D08
Cross Drain Culvert Hydraulic Analyses

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September 2015
Page 240





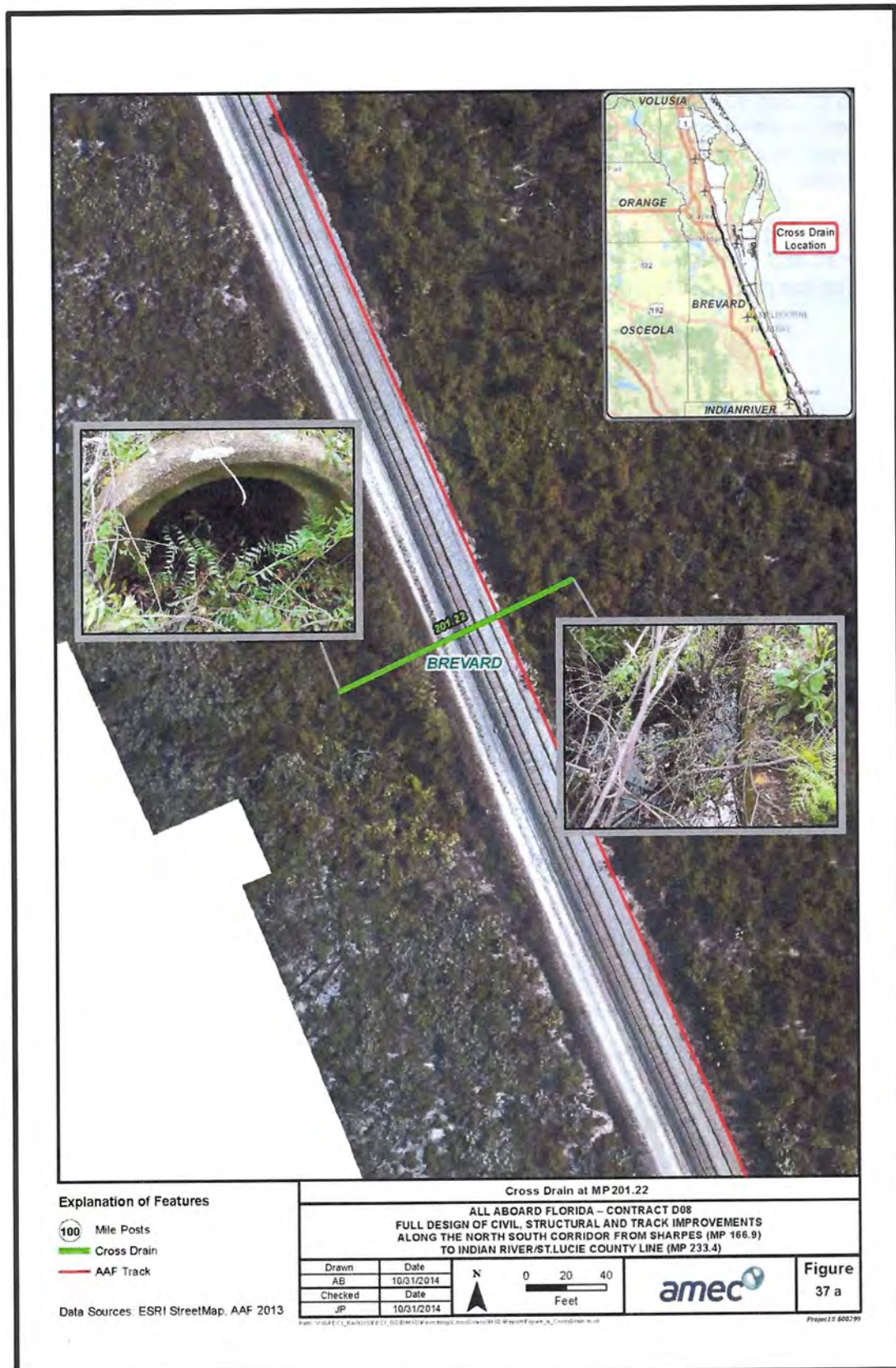
49.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 201.22 CROSS DRAIN

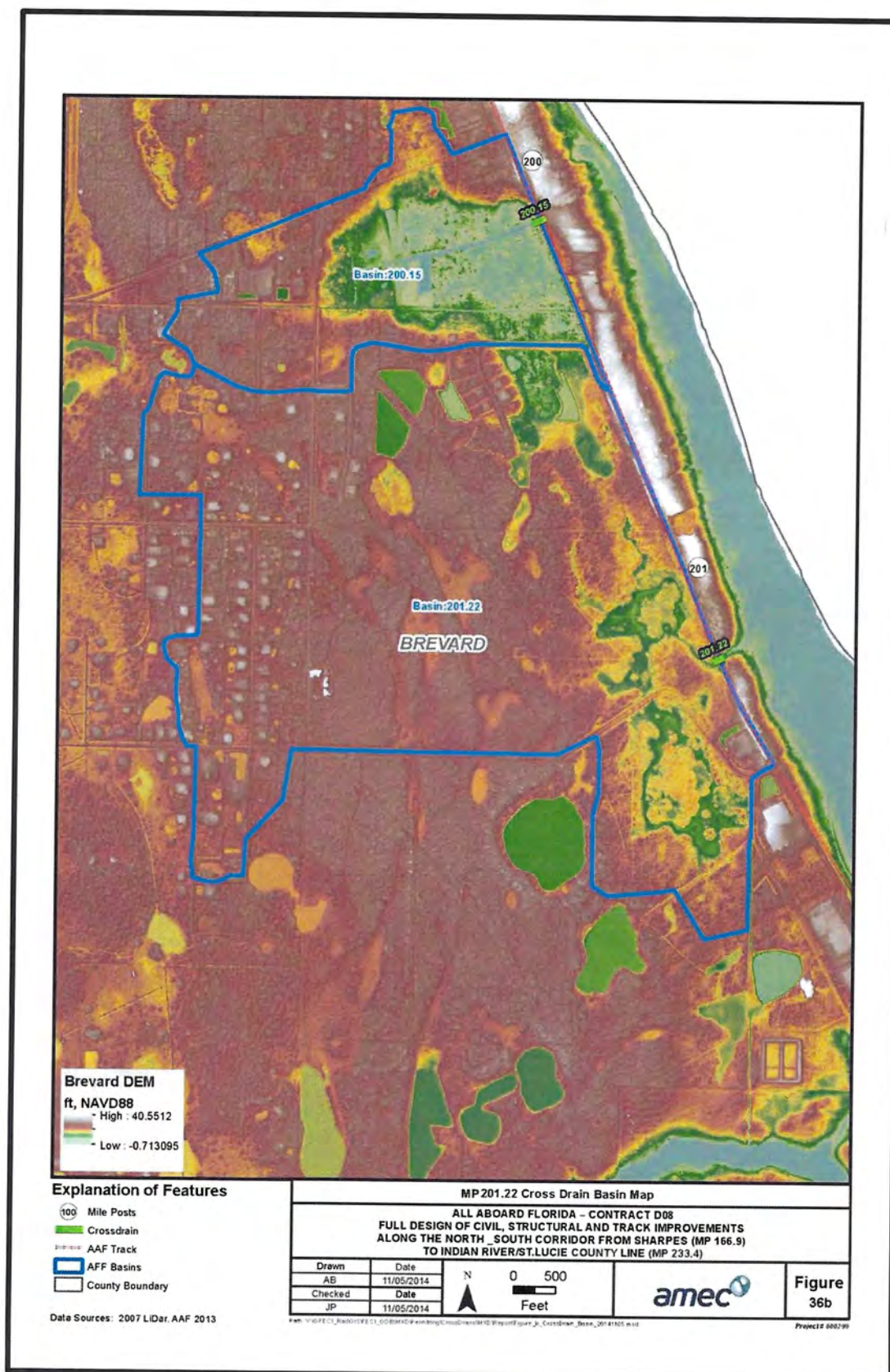
According to the Track Chart, there are double 104 ft. long 30" oval RCP culverts at MP 201.22. Double 65 ft. long 30" by 40" oval RCP culverts were identified in the field. The culverts are in good condition with a concrete on the eastern (downstream) end and no end treatments on the western (upstream) end. The proposed track construction will not require any changes be made to the culverts.

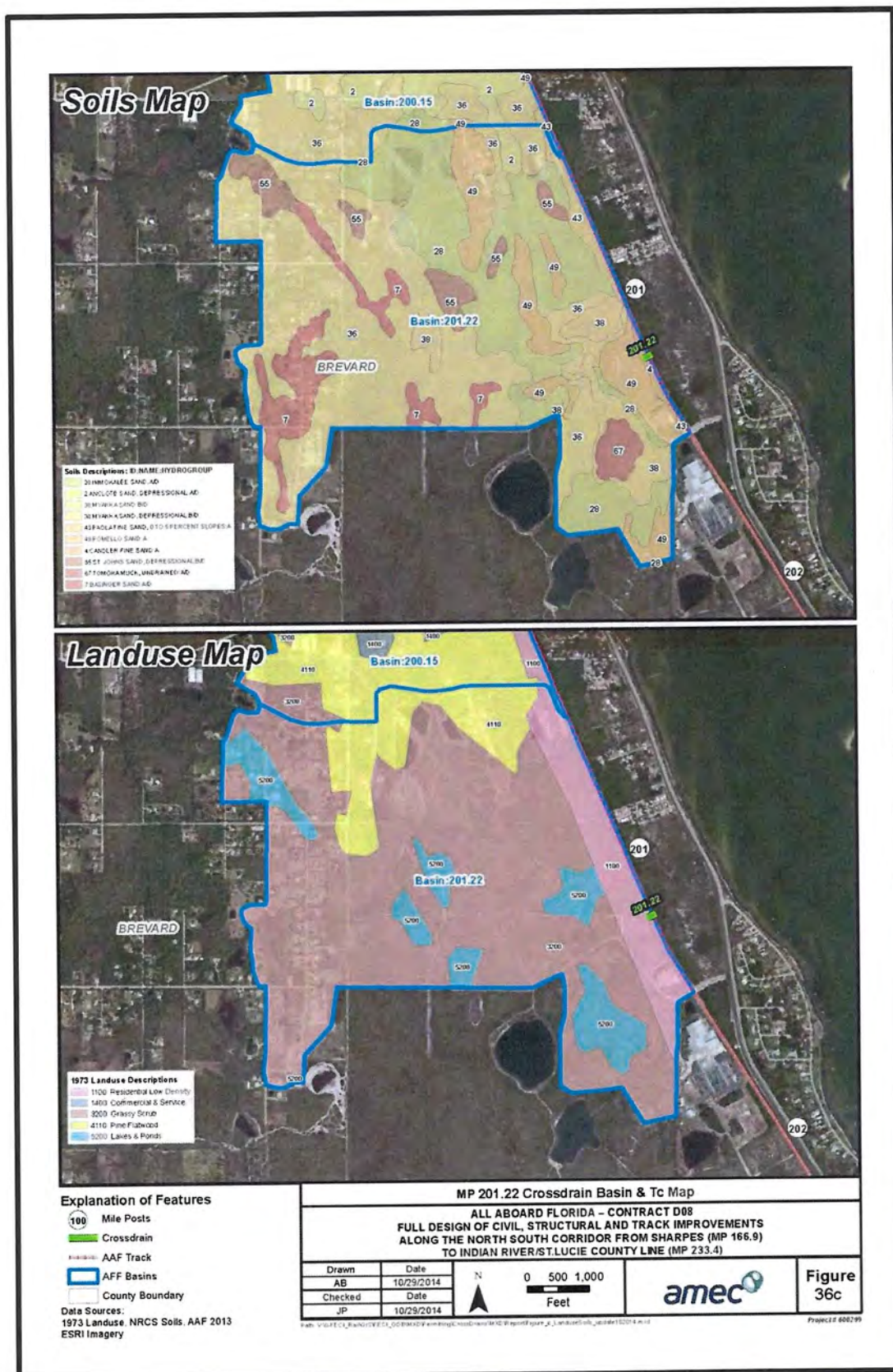
The large existing basin draining to the cross drain totals approximately 754.2 acres; drains from west to east; and correlates to a design flow rate of 210 cfs. The basin is mostly undeveloped. No changes are proposed to the culverts and therefore no further hydraulic analysis is required.



East (Downstream) Endwall and Double 30" x 40" RCP Drain at MP 201.22







50.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 203.27 CROSS DRAIN
(ACTUAL CULVERT LOCATION MP 203.29)

According to the Track Chart, there are three 42-foot long 84" RCP culverts at MP 203.27. Three 42 ft. long 84" by 90" oval RCP's were located at 203.29 with concrete headwalls at each end and 50% - 80% blockage in all three pipes from sediment and ballast. At the time of the field visit there was flow running from west to east through the southernmost culvert.

The basin to the west of the railroad has been minimally altered with development over the years. A large portion of the drainage basin to the west currently consists of undeveloped land. The land use consists of low density residential, transportation (airport), and various undeveloped land uses.

The existing drainage basin to the cross drain is approximately 992.9 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 305.0 cfs. The only proposed changes to this cross drain is the removal of the sediments and blockage within the culverts. No extensions are proposed and therefore no further hydraulic analysis is required.



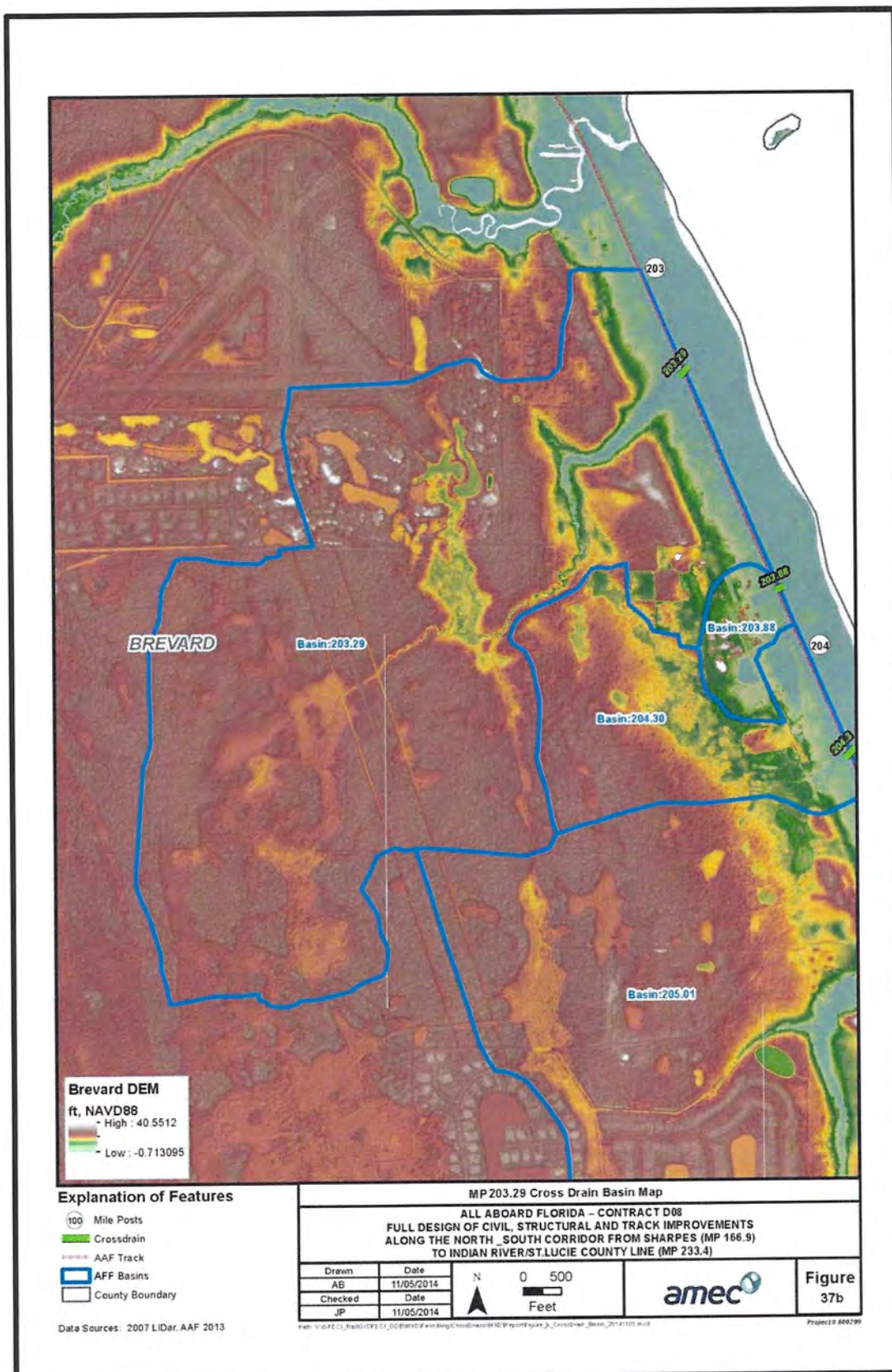
East (Downstream) Endwall and 3 - 84" by 90" RCP Cross Drains at MP 203.29

EXHIBIT D



West (Upstream) Endwall and 3 - 84" by 90" RCP Cross Drains at MP 203.29







51.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 203.88 CROSS DRAIN

According to the Track Chart, there is a single 48 ft. long oval 24" RCP culvert at this location. A single 48 ft. long 24" circular RCP culvert was located in the field. There is an endwall on the upstream (western) end, but no end treatments on the eastern end of the cross drain. The overall structural condition of the system was good but vegetation and sediment are partially clogging both ends. Several inches of standing water was observed in the culverts during the inspection. The cross drain conveys drainage eastward under the tracks.

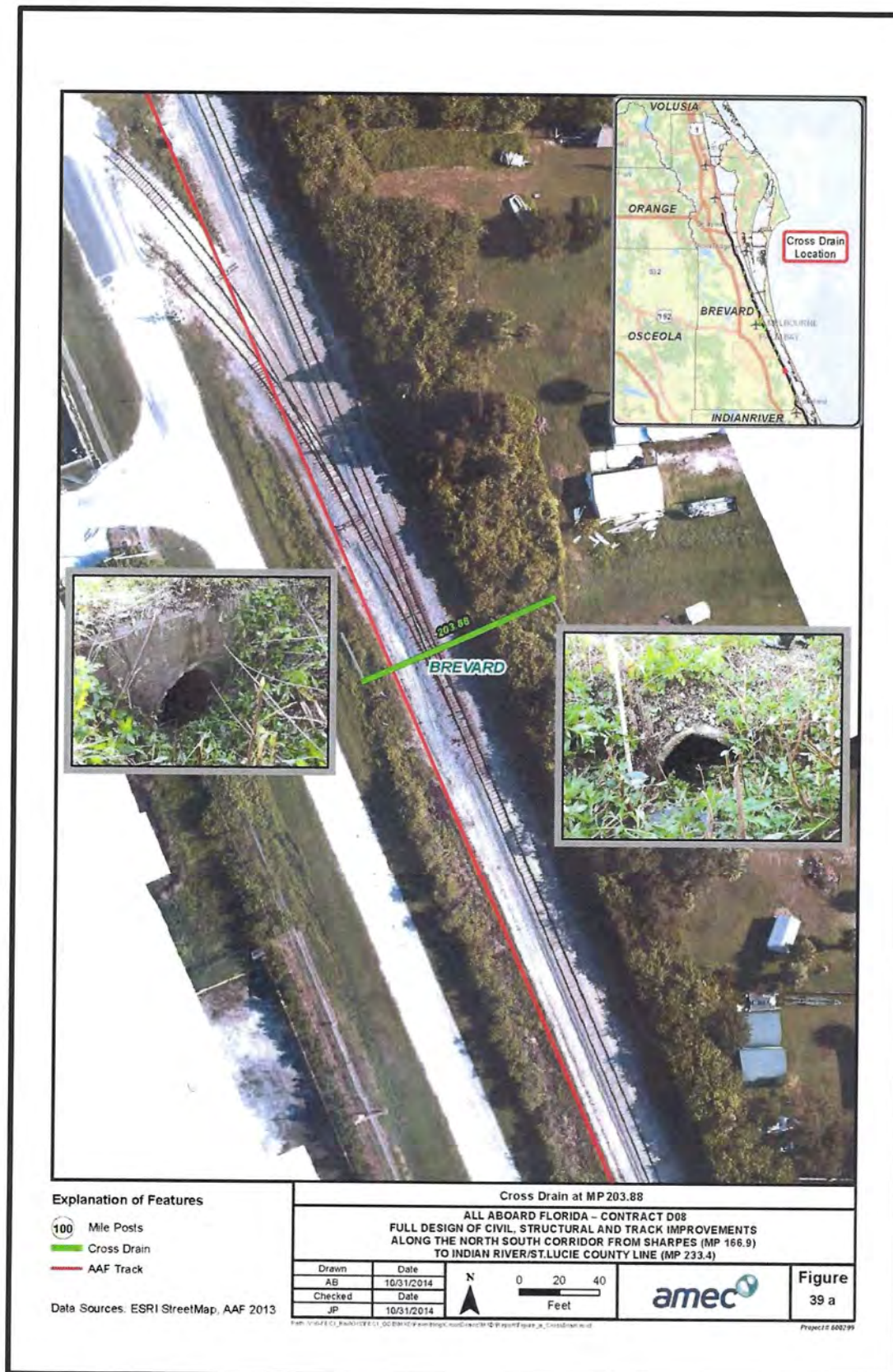
The existing drainage basin to the culvert system is approximately 41.0 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 13 cfs. Vegetation and sediments will be removed from both ends of the culvert. No extensions of the existing culvert are proposed and therefore, no further hydraulic analysis is required.

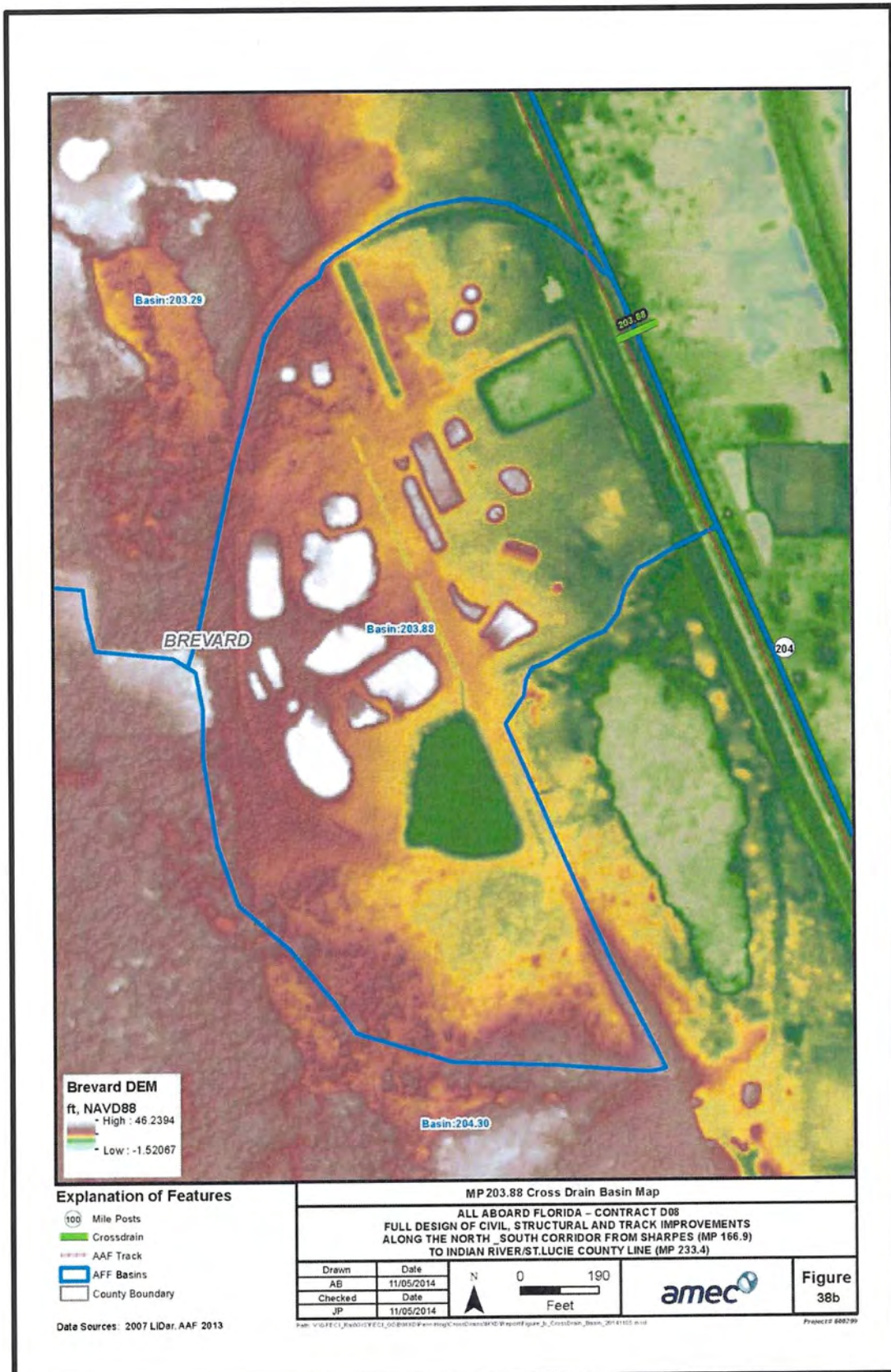


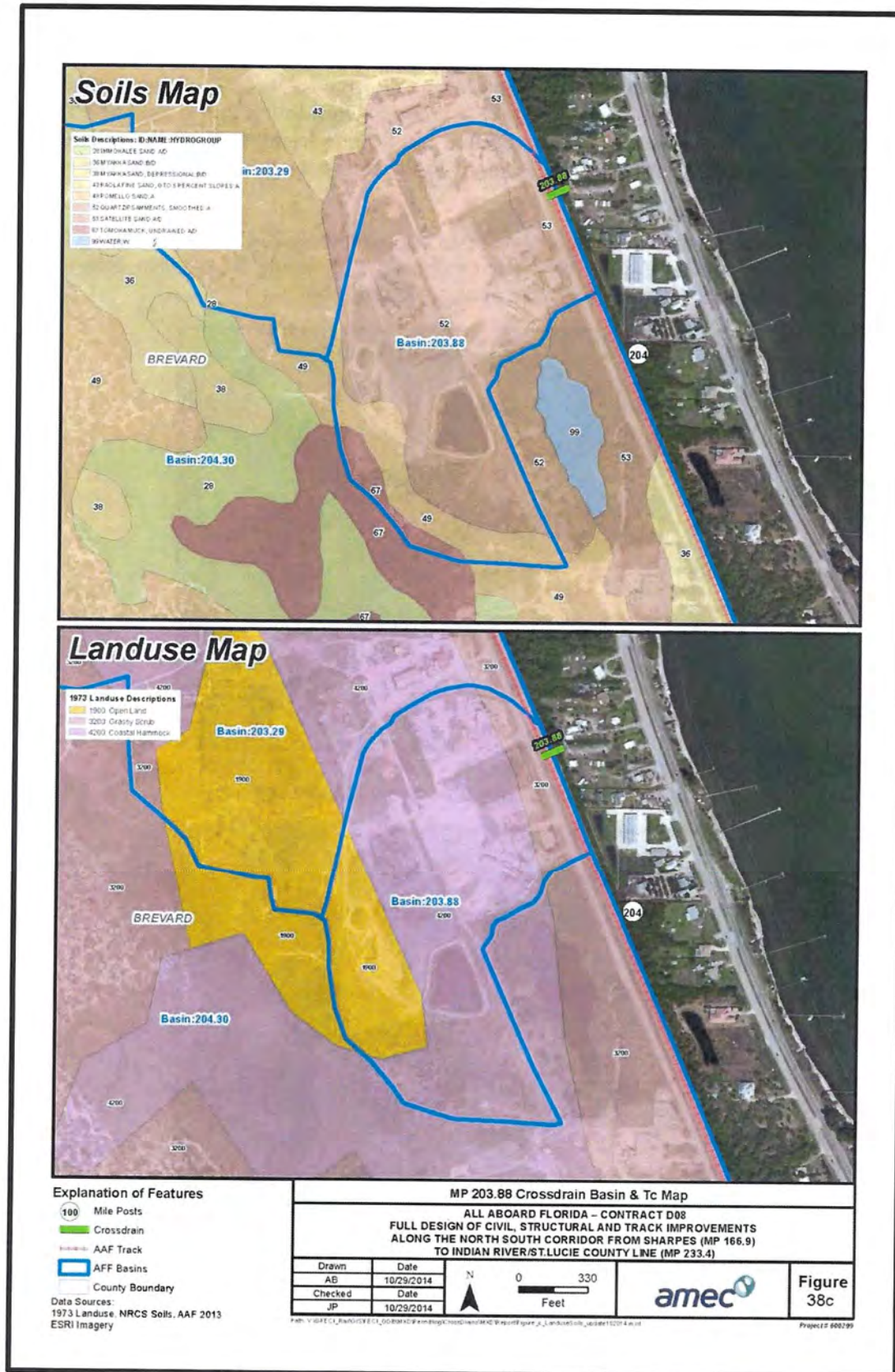
East (Downstream) End of 24" RCP Culvert at MP 203.88.



West (Upstream) End of 24" RCP Culvert at MP 203.88.







52.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 204.32 CROSS DRAIN **(ACTUAL LOCATION MP 204.30)**

According to the Track Chart, there is a single 48 ft. long oval 30" RCP culvert at this location. Instead, double 57 ft. long 24" by 30" oval RCP culverts were found in the field at MP 204.30. There are endwalls on the upstream western end but no end treatments on the eastern end of the cross drain. The overall structural condition of the system was good but vegetation is partially clogging the eastern end.

The existing drainage basin to the culvert system is approximately 214.2 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 91 cfs. No extensions are proposed and therefore no further hydraulic analysis is required



East (Downstream) End of Double 30" RCP Culverts at MP 204.30.
Note: The Severely Overgrown Vegetation.



West (Upstream) Endwall of Double 30" RCP Culverts at MP 204.30



Explanation of Features

- Mile Posts
- Cross Drain
- AAF Track

Data Sources: ESRI StreetMap, AAF 2013

Cross Drain at MP204.3

ALL ABOARD FLORIDA – CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVER/ST. LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/31/2014
Checked	Date
JP	10/31/2014



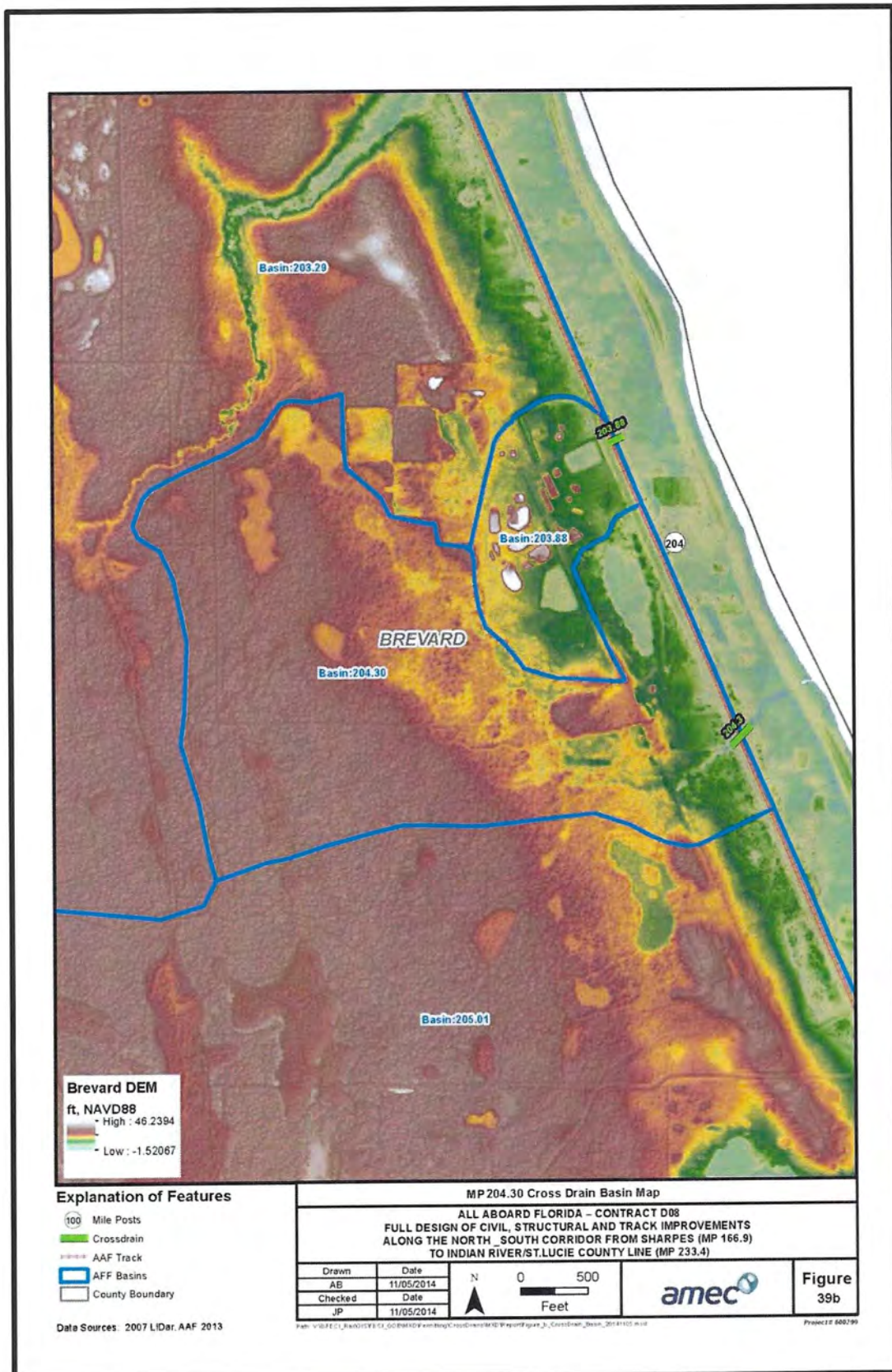
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Project # 600299





53.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 205.01 CROSS DRAIN

According to the Track Chart, there were four pipes at this location: two oval 42 ft. long, 68" RCP culverts and two oval 42 ft. long, 60" CMP culverts. There were four cross drains encountered in the field, however two were plugged and not intended to convey any flow. The other two were 44 ft. long 84" by 90" RCP culverts with 66" circular CMP culverts grouted inside of them. Both pipes had headwalls on each end. The endwalls had cosmetic cracking/chipping, but the system in general seemed to be functioning.

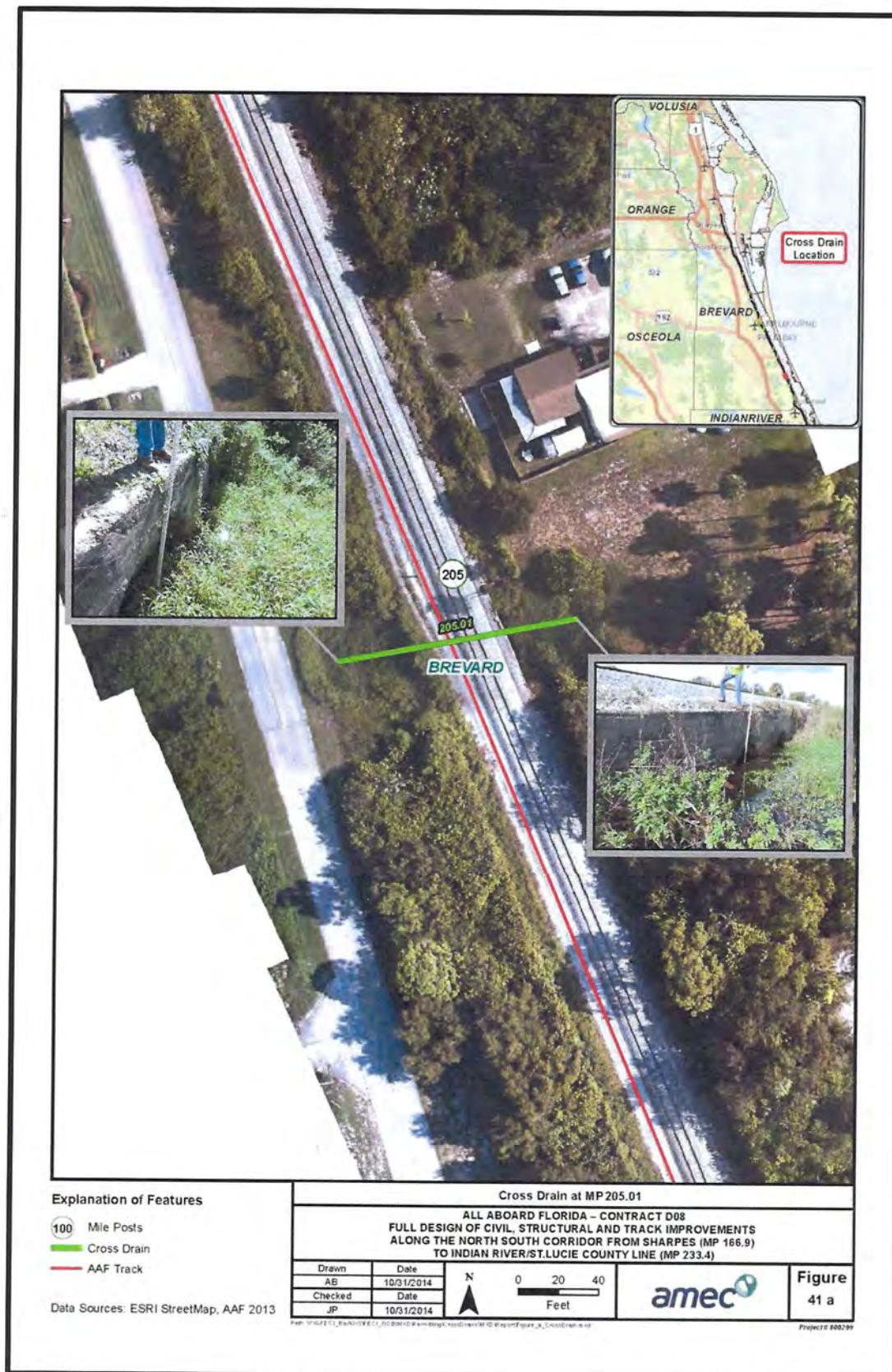
The existing drainage basin to the cross drain is approximately 1545.3 acres draining from west to east and a 25-year, 24-hour event for this system generates a 421 cfs design flow. No extensions or modifications are proposed for this cross drain and therefore no further hydraulic analysis is required.

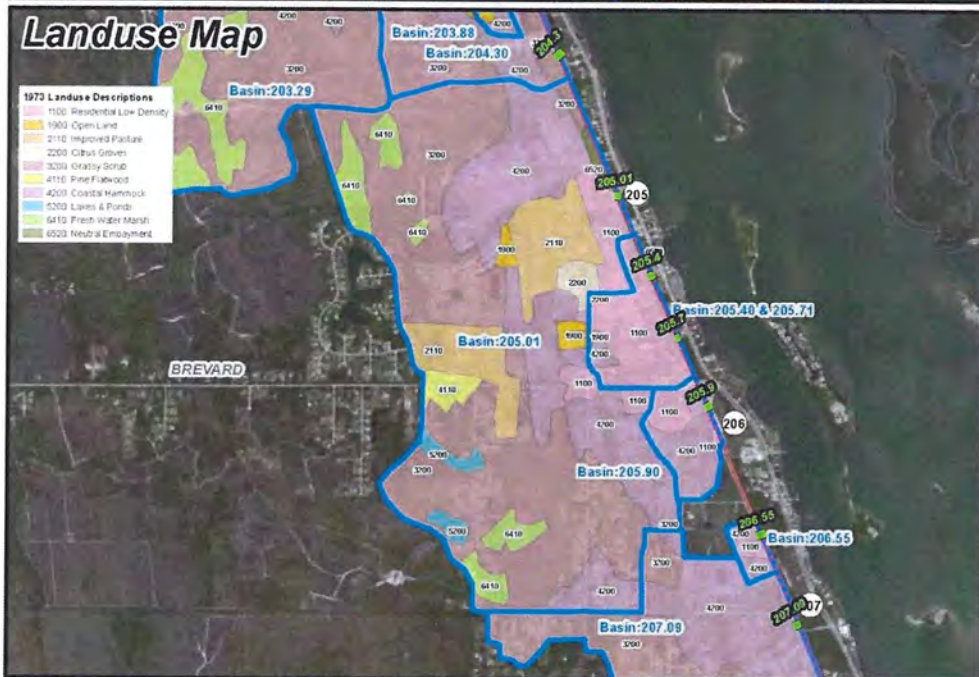


MP 205.01 West Endwall and Upstream Side of Culverts



MP 205.01 East Endwall and Downstream Side of Culverts





Explanation of Features

- 100 Mile Posts
- Crossdrain
- AAF Track
- AAF Basins
- County Boundary

Date Sources:
1973 Landuse, NRCS Soils, AAF 2013
ESRI Imagery

MP 205.01 Crossdrain Basin & Tc Map

ALL ABOARD FLORIDA – CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVER/ST. LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/29/2014
Checked	Date
JP	10/29/2014

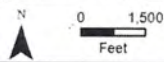


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PROJECT 600299

54.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 205.40 CROSS DRAIN

According to the Track Chart, there are two 48 ft. long 30" oval RCP culverts at this location. Two 48 ft. long 34" circular RCP culverts with no end treatments were located. The system did not appear to be functional, as the pipes were severely blocked with sediment and also submerged at the time of inspection.

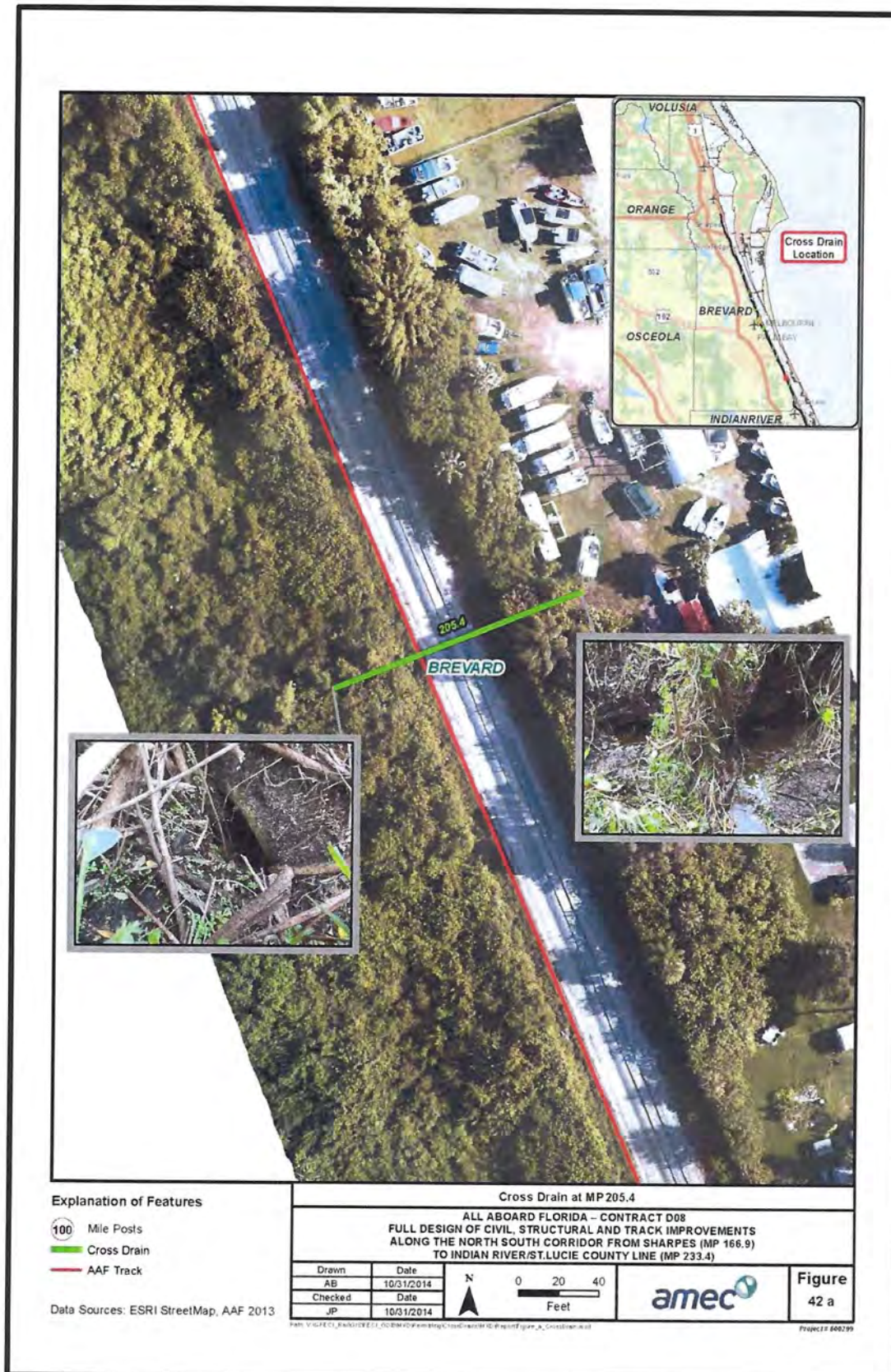
The existing drainage basin to the cross drains is approximately 123.2 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 74 cfs. There are no extensions proposed to the culverts and therefore no further hydraulic analysis is required.

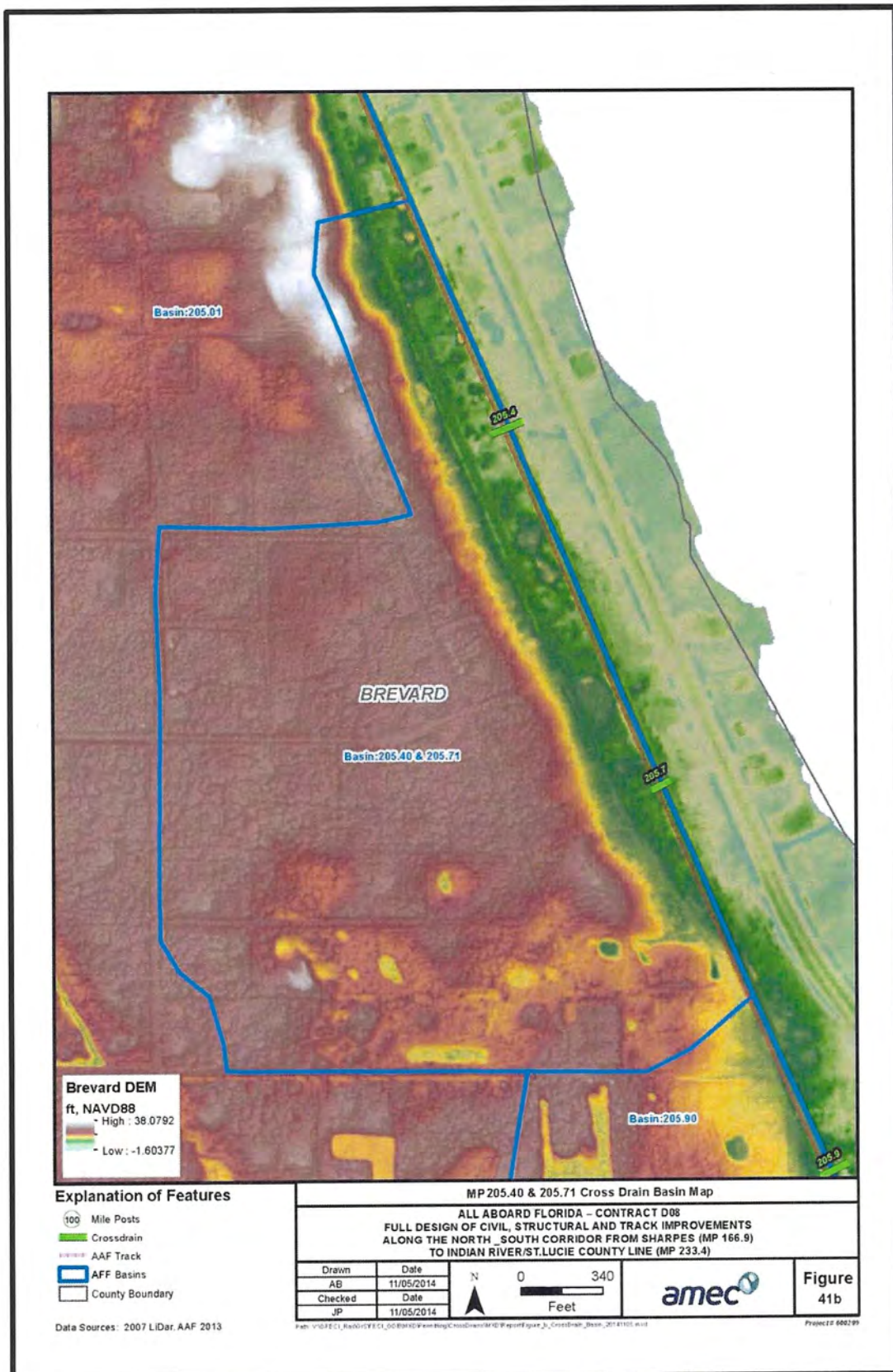


East End of Cross Drain at MP 205.40



West End of Cross Drain at MP 205.40







55.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 205.71 CROSS DRAIN (ACTUAL LOCATION MP 205.70)

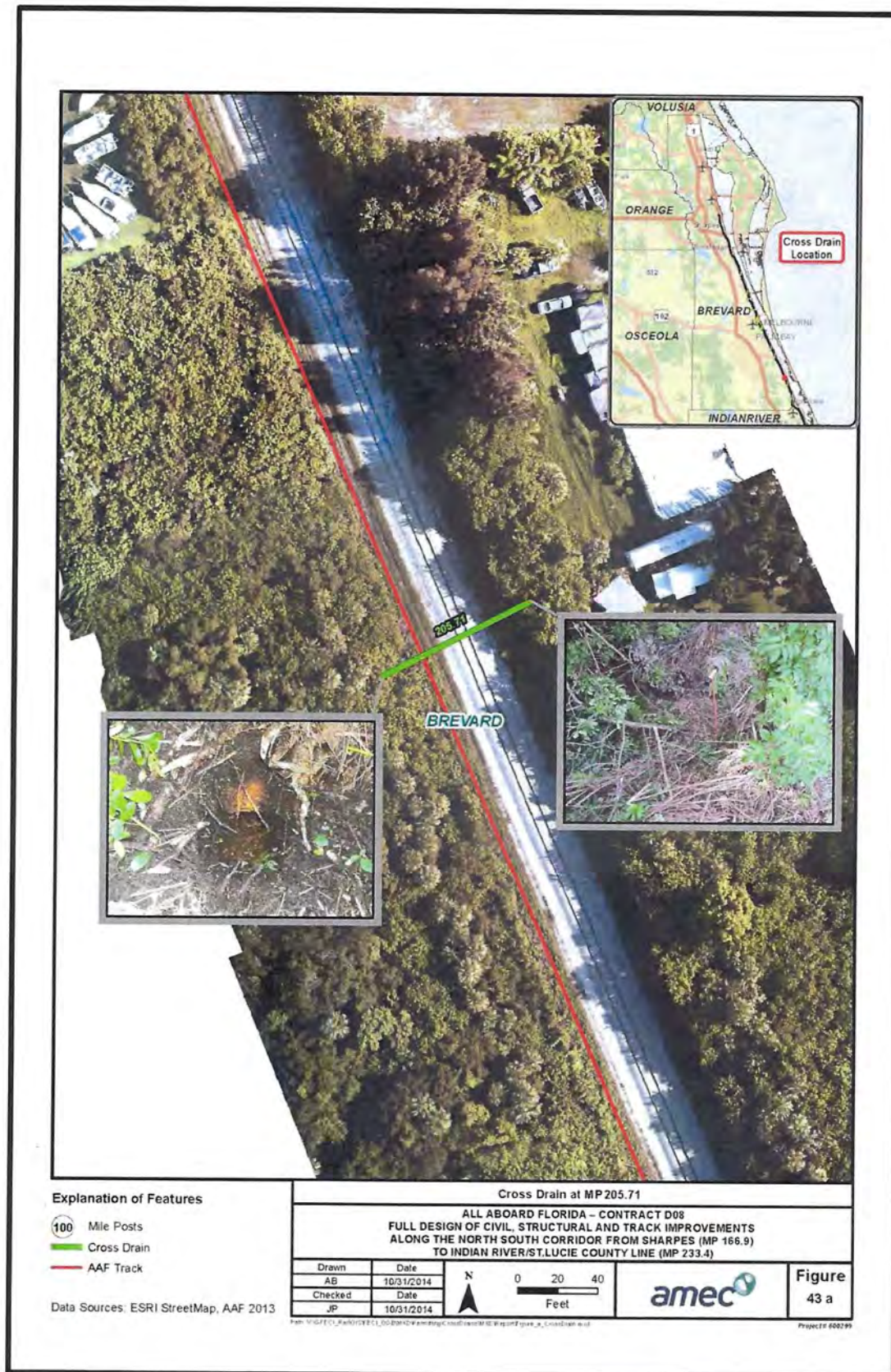
According to the Track Chart, there is a single 40 ft. long 24" box culvert at this location. A completely buried and plugged 15" terra cotta culvert was located at MP 205.70. This culvert is nonfunctional and will be plugged with flowable fill and abandoned in place. The surrounding area drains to the cross drain at MP 205.40.

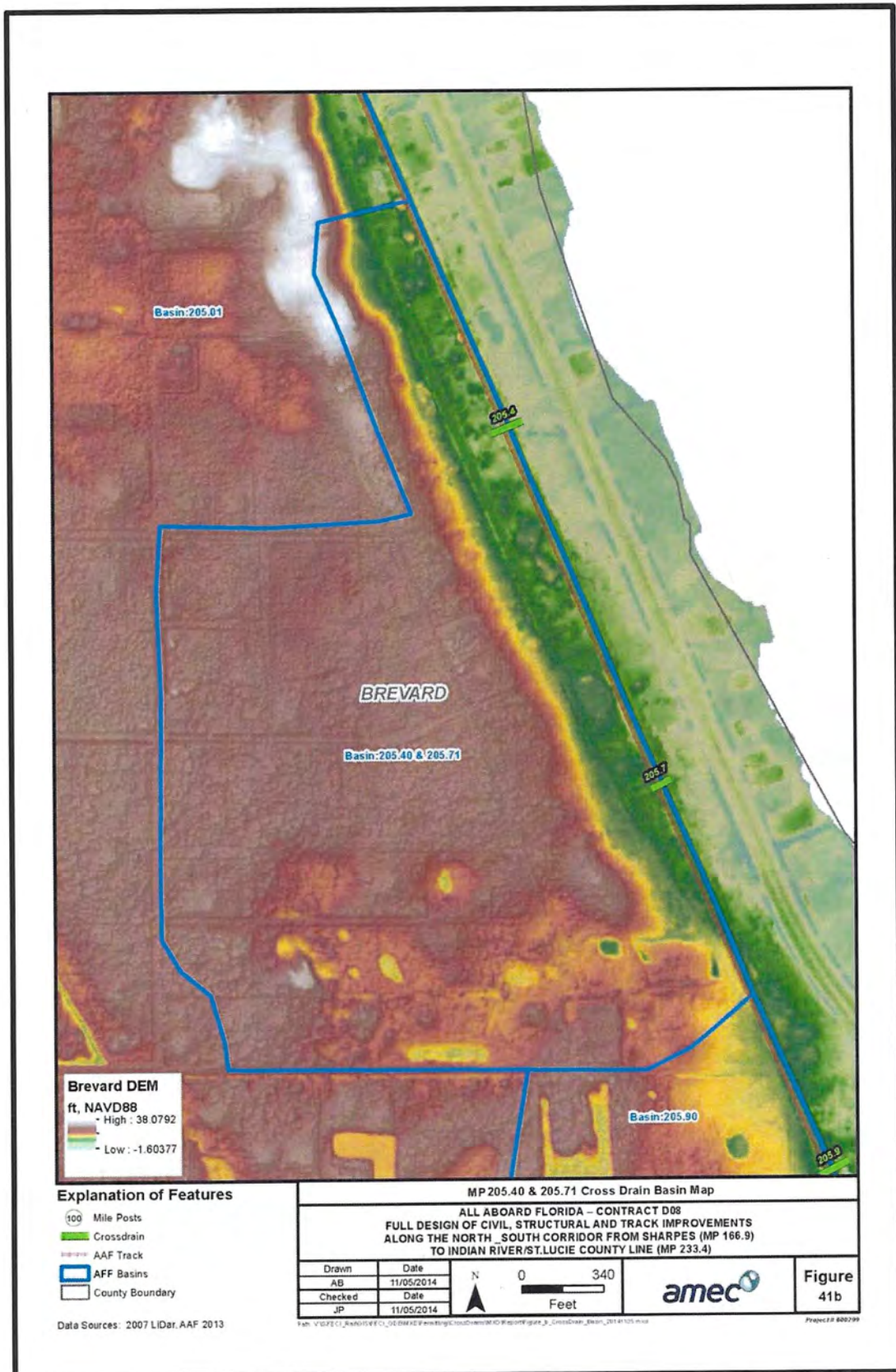


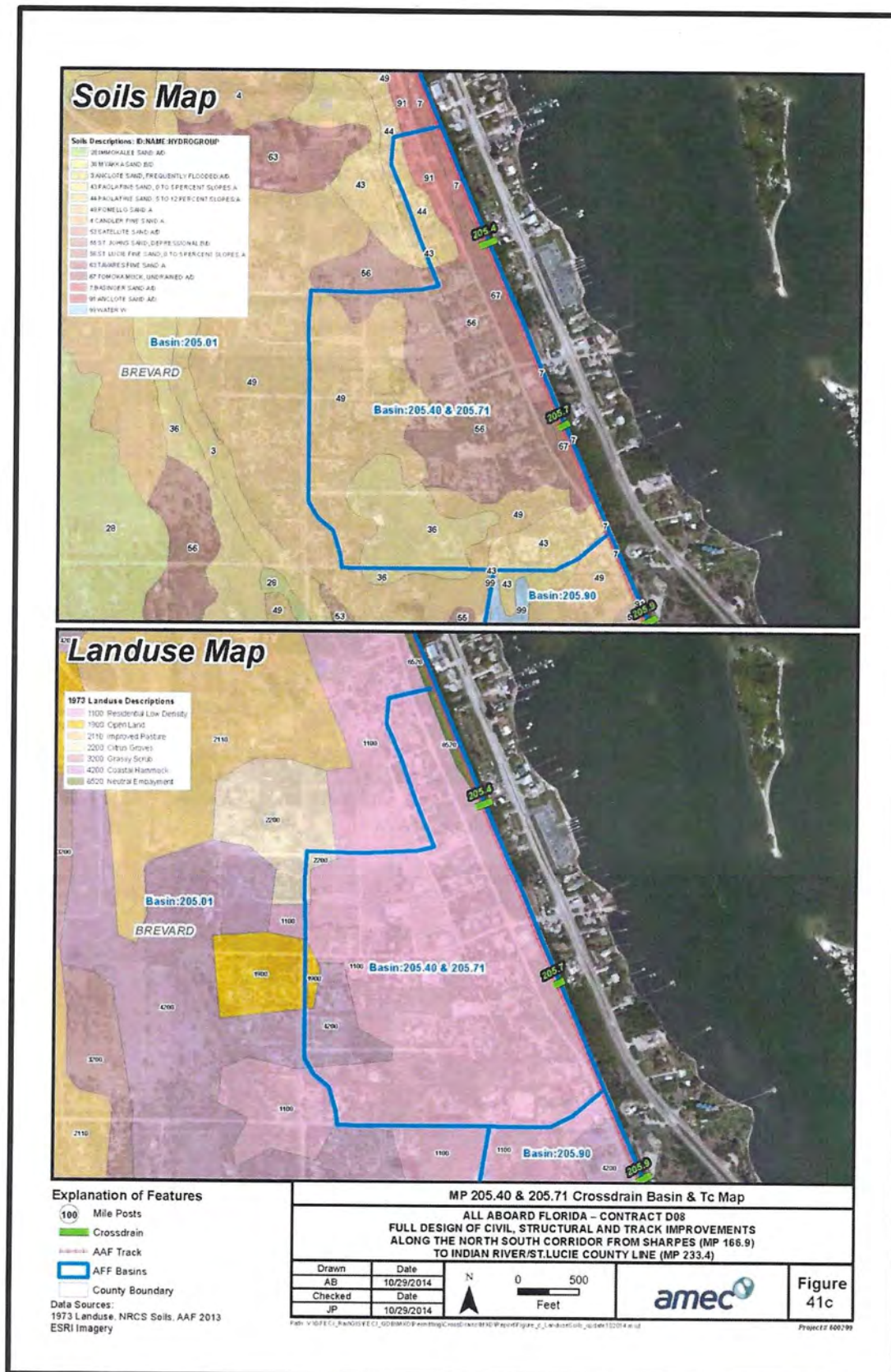
Approximate West (Upstream) End of Buried Cross Drain at MP 205.70



Approximate East (Downstream) End of Buried Cross Drain at MP 205.70







56.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 206.04 CROSS DRAIN
(ACTUAL LOCATION MP 205.90)

According to the Track Chart, there are double 48 ft. long oval 24" RCP culverts at this location. Double 49 ft. long 24" by 27" oval RCP culverts were found in the field at MP 205.90. There is an endwall on the upstream western end but no end treatments on the eastern end of the cross drain. The overall structural condition of the system was good, but the eastern end is completely blocked with ballast. Discharge from the culverts is received by a permitted ditch under SJRWMD ERP permit 40-009-99689-1 for "Old US 1 Drainage Conveyance."

The existing drainage basin to the culvert system is approximately 80.9 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 46 cfs. No extensions are proposed and therefore no further hydraulic analysis is required.

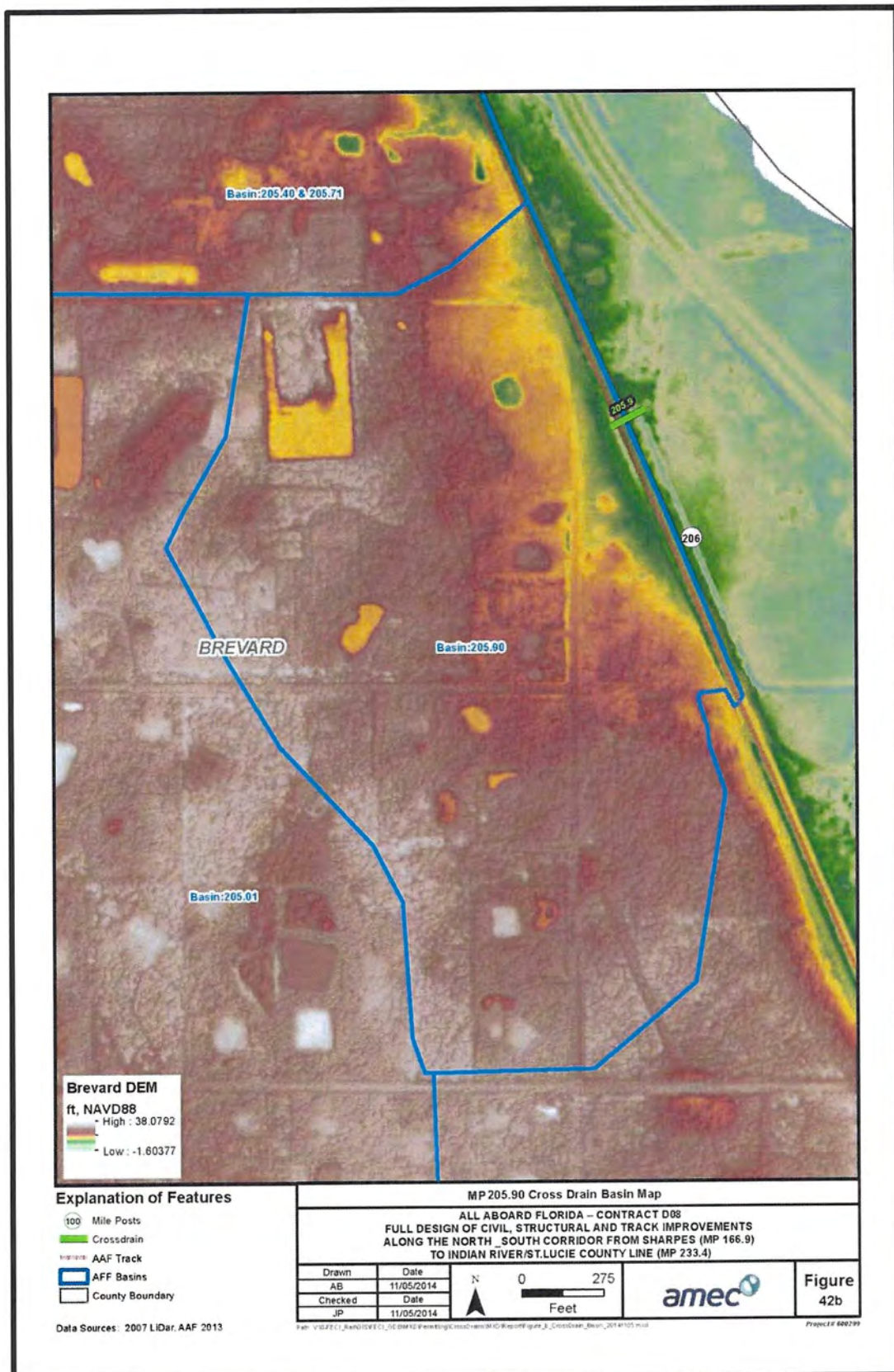


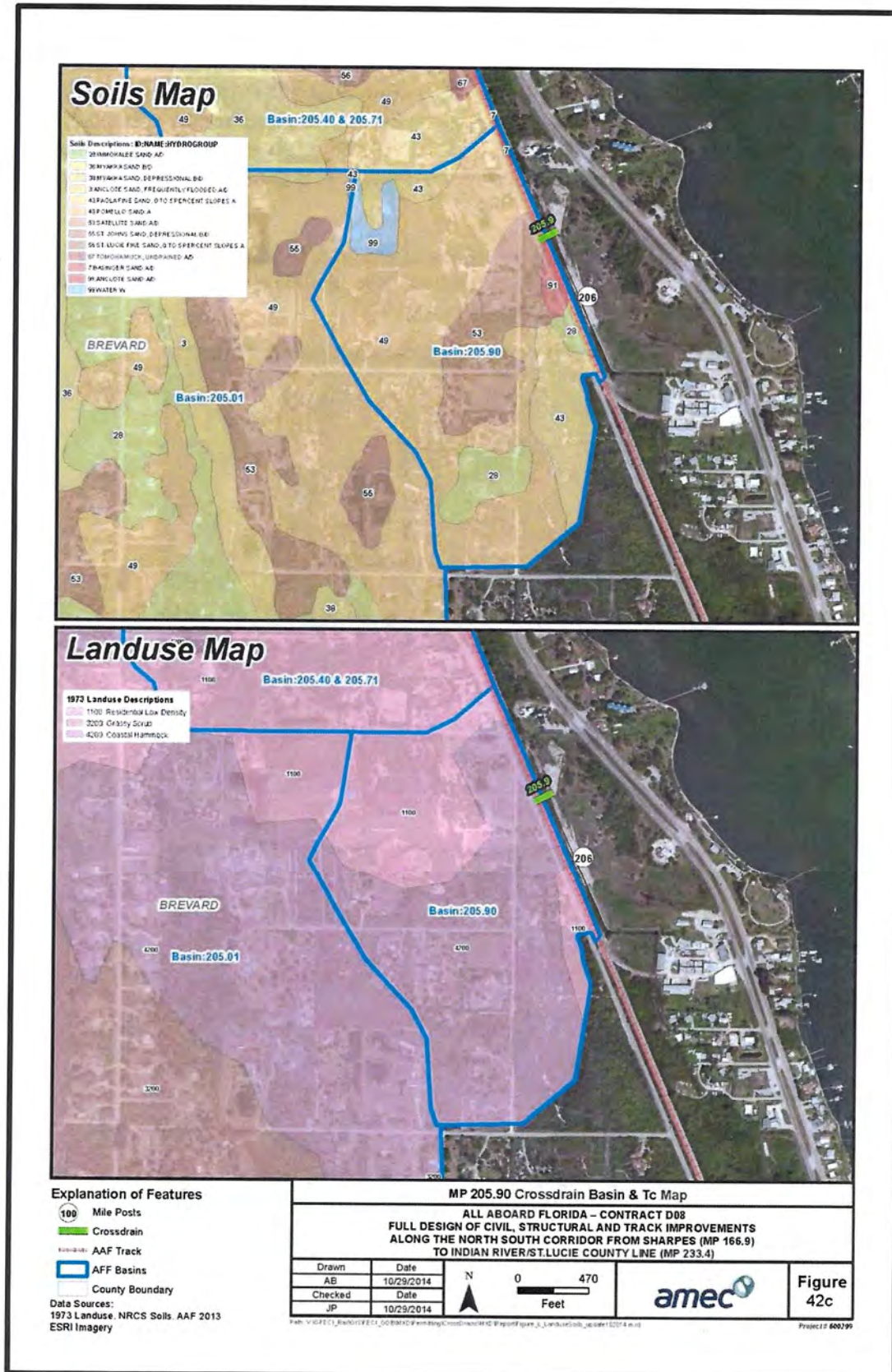
East (Downstream) End of Double Culverts at MP 205.90.
Note: The Severe Blockage of Both Culverts.



West (Upstream) Endwall of Double 24" RCP Culverts at MP 205.90

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57.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 206.66 CROSS DRAIN (ACTUAL LOCATION MP 206.55)

According to the Track Chart, there is a single 40 ft. long oval 24" RCP culvert at this location. Instead, one 49 ft. long 24" by 27" oval RCP circular culvert draining from a catch basin on the western side to the east was located at MP 206.55. There is an endwall on the downstream eastern end. The overall structural condition of the system was good and only minor sediment exists in the culvert and adjacent ditches.

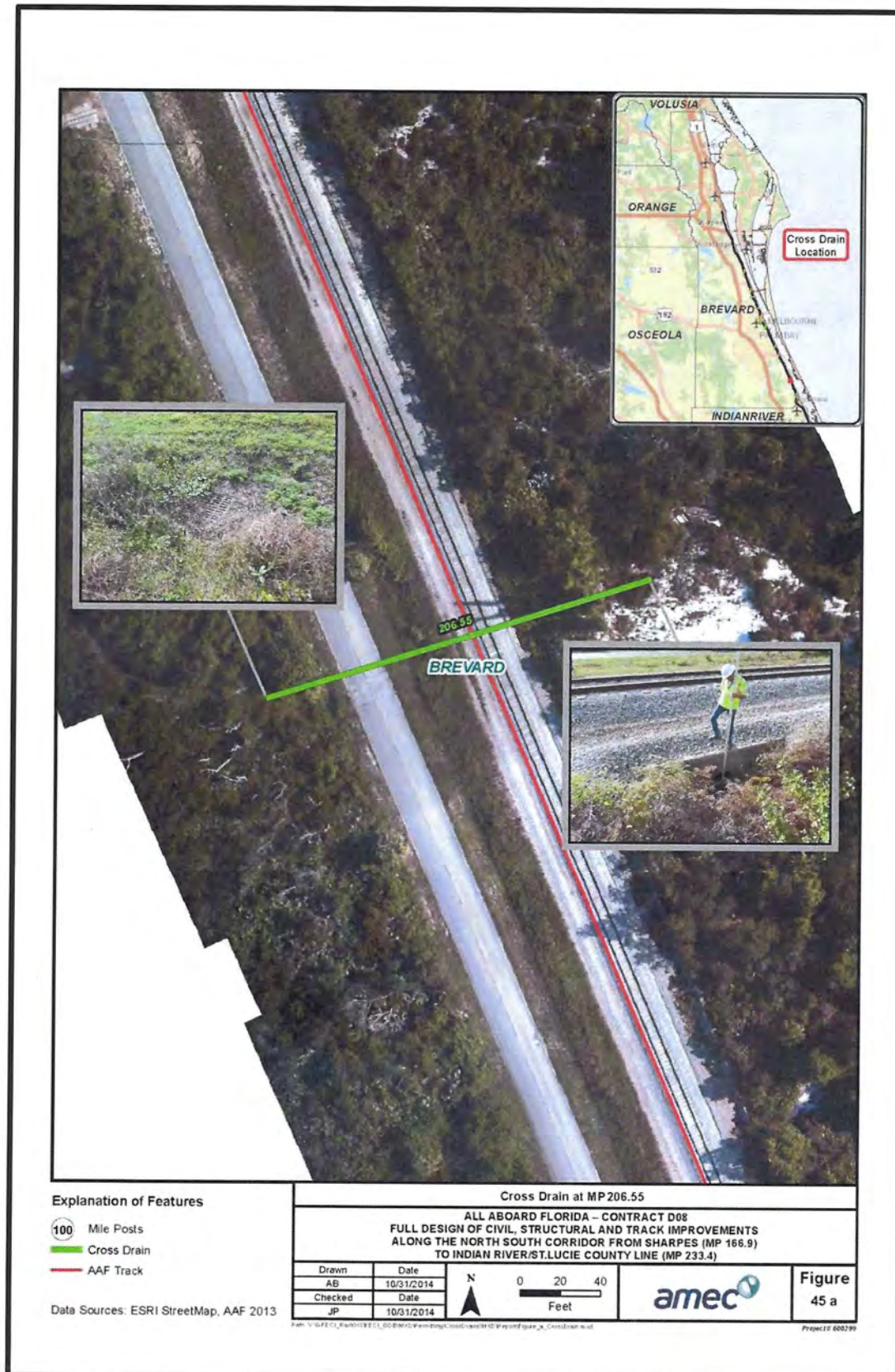
The existing drainage basin to the culvert system is approximately 22.5 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 8 cfs. No extensions are proposed and thus no further hydraulic analysis is required.

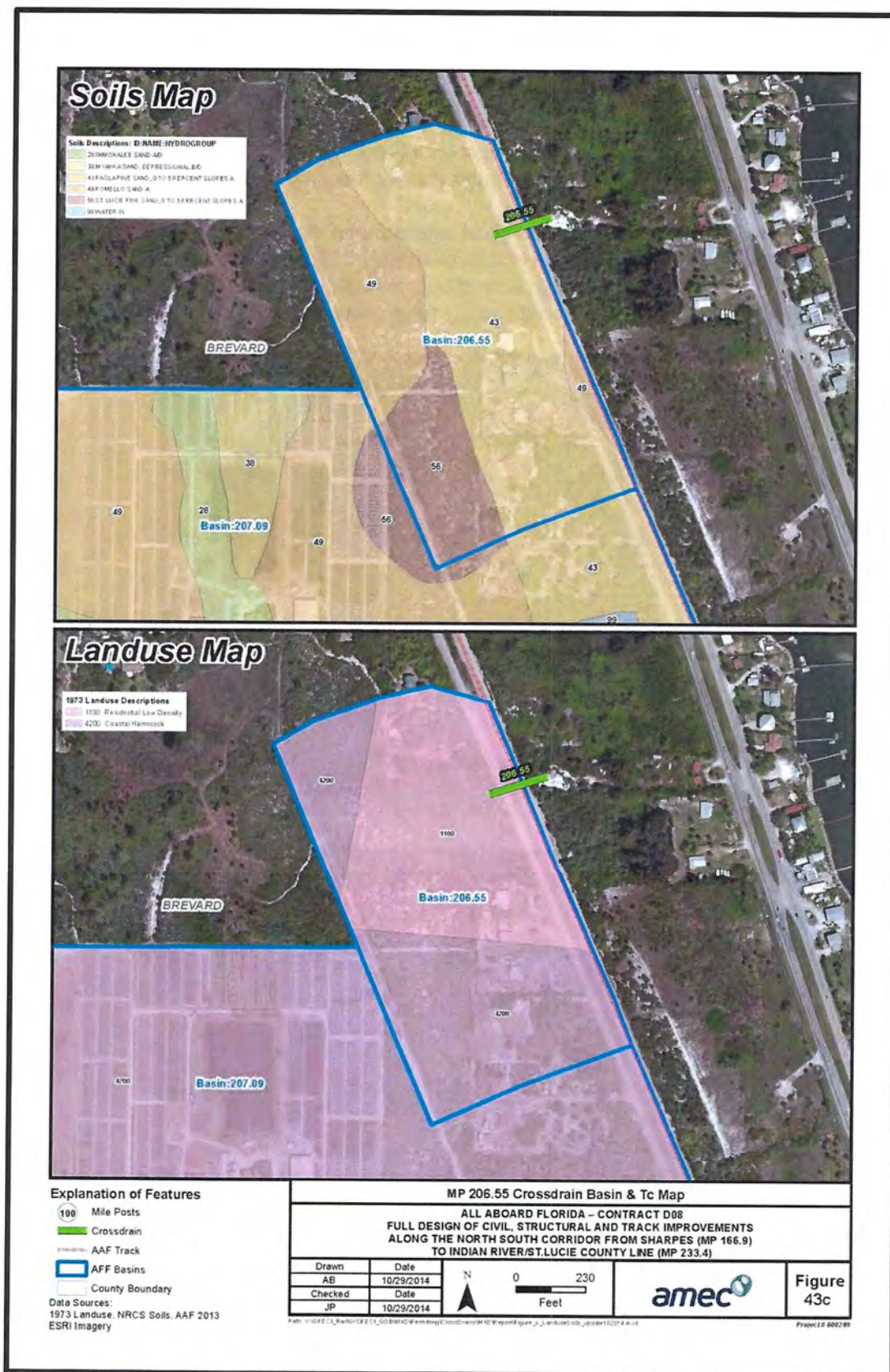


East (Downstream) Endwall of 24" RCP Culvert at MP 206.55.



West (Upstream) Grate Inlet at MP 206.55

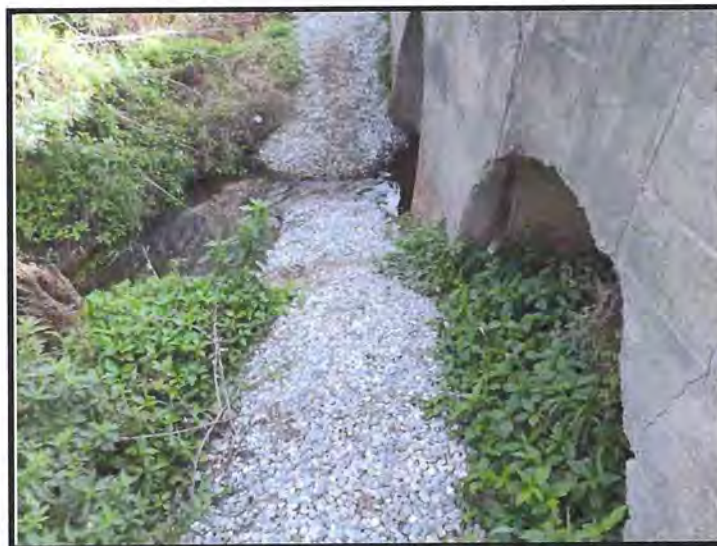




58.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 207.09 CROSS DRAIN

According to the Track Chart, there are two 56-feet long 84" RCP culverts at MP 207.09. Two 42 ft. long 84" by 90" oval RCP's with headwalls on each end were located. The headwall on the east end has some minor cracking. There is sediment and ballast blocking 20% of the northernmost pipe and minimal blockage of the southernmost pipe. At the time of the field visit there was flow running from west to east through the southernmost culvert.

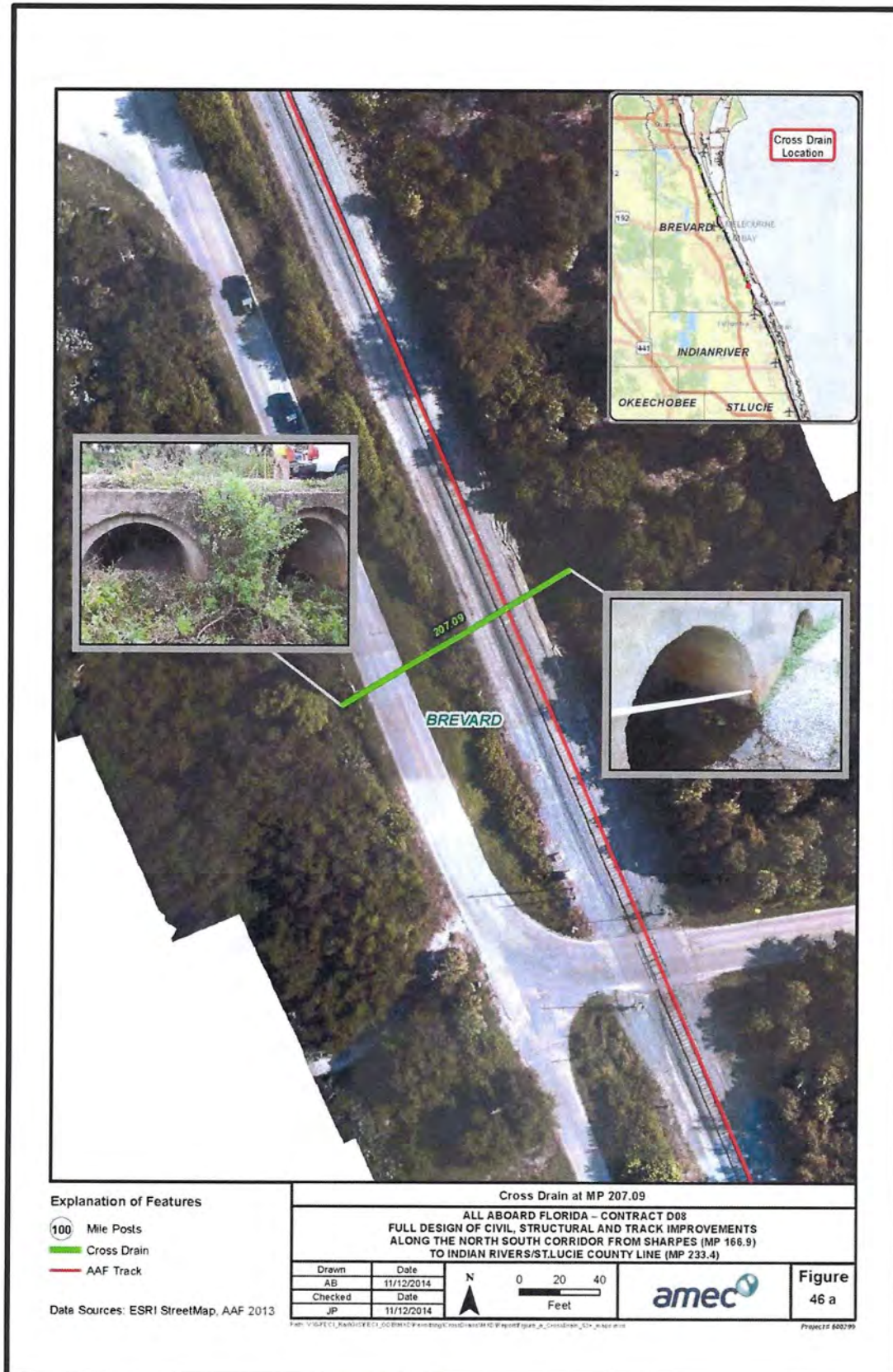
The basin to the west of the railroad has been altered with development over the years. The existing drainage basin to the cross drain is approximately 512.9 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 236 cfs. There are no extensions proposed and therefore no further hydraulic analysis is required.



East (Downstream) Endwall and 2 - 84" by 90" RCP Cross Drains at MP 207.09



West (Upstream) Endwall and 2 - 84" by 90" RCP Cross Drains at MP 207.09



59.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 207.80 CROSS DRAIN

According to the Track Chart, there are two 56 feet long 42" RCP culverts at MP 207.80. Two 56 ft. long 42" by 46" RCPs were located at 207.80 with a concrete headwall at the west end and no end treatment at the east end. The east end of the pipes has rebar showing and should be addressed by FEC maintenance crews by sealing and/or grouting or even constructing a new headwall on the eastern end. That work is considered maintenance by FEC and is not included in this project. The culverts were half full of water at the time of the field investigation. Only minor sediment and vegetation partially obstructs each end of both culverts.

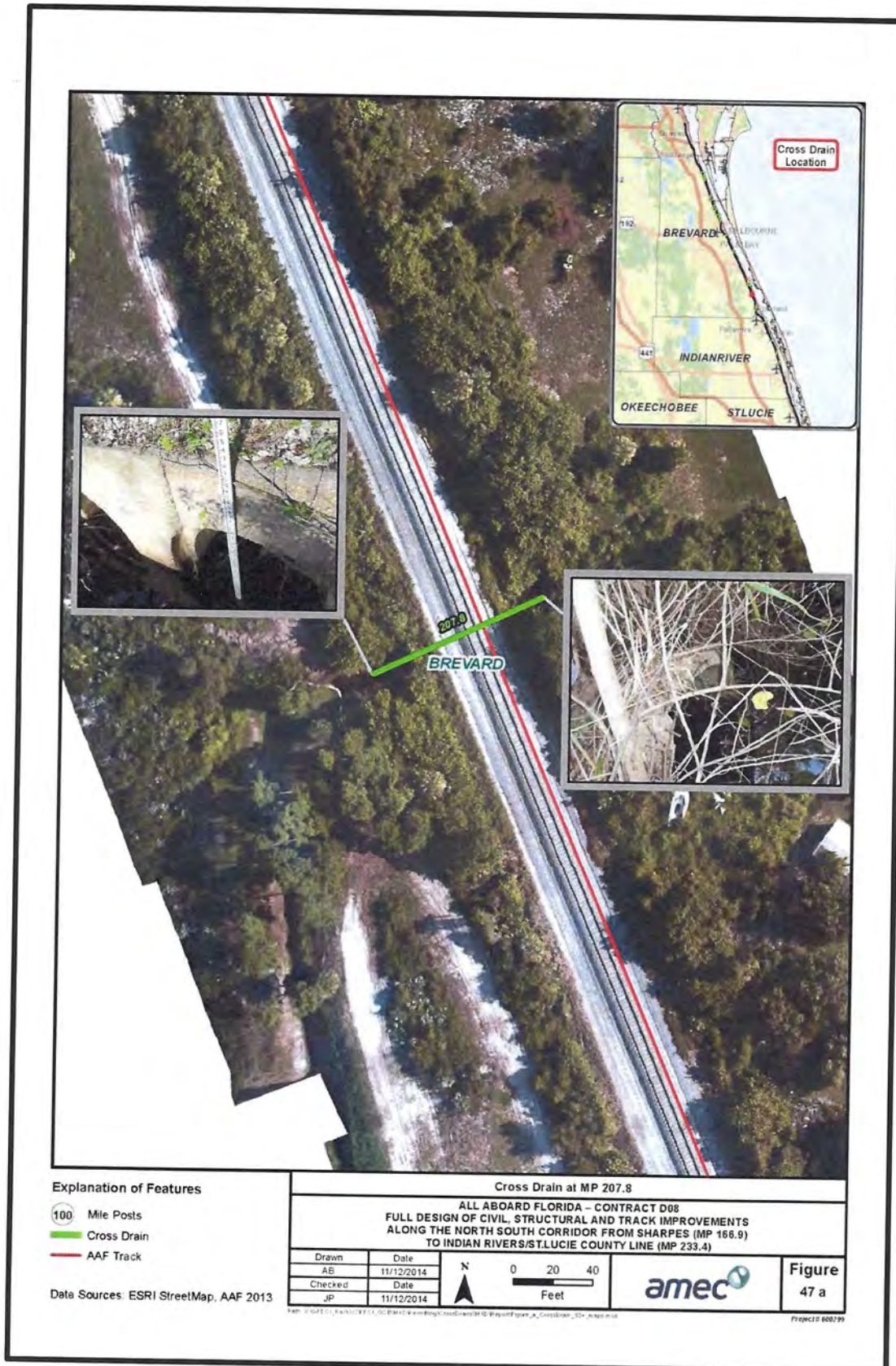
The basin to the west of the railroad has been altered with development over the years with residential, commercial and service land uses. The existing drainage basin to the cross drain is approximately 414.4 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 184 cfs. No pipe extensions are proposed and as such, no further hydraulic analysis is required.

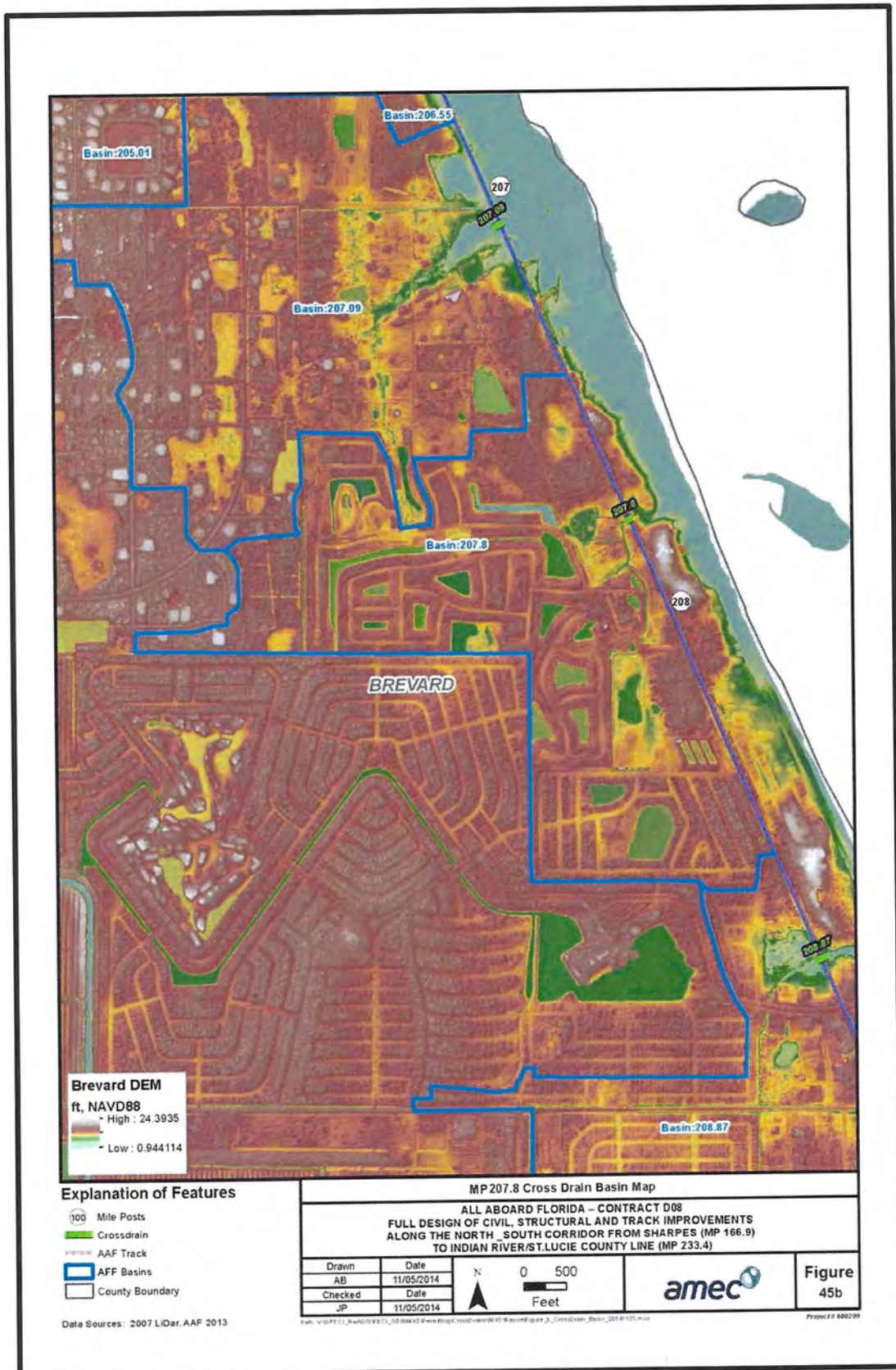


West (Upstream) Endwall and 2 – 42" by 46" RCP Cross Drains at MP 207.80



East (Downstream) End of 2 – 42" by 46" RCP Cross Drains at MP 207.80





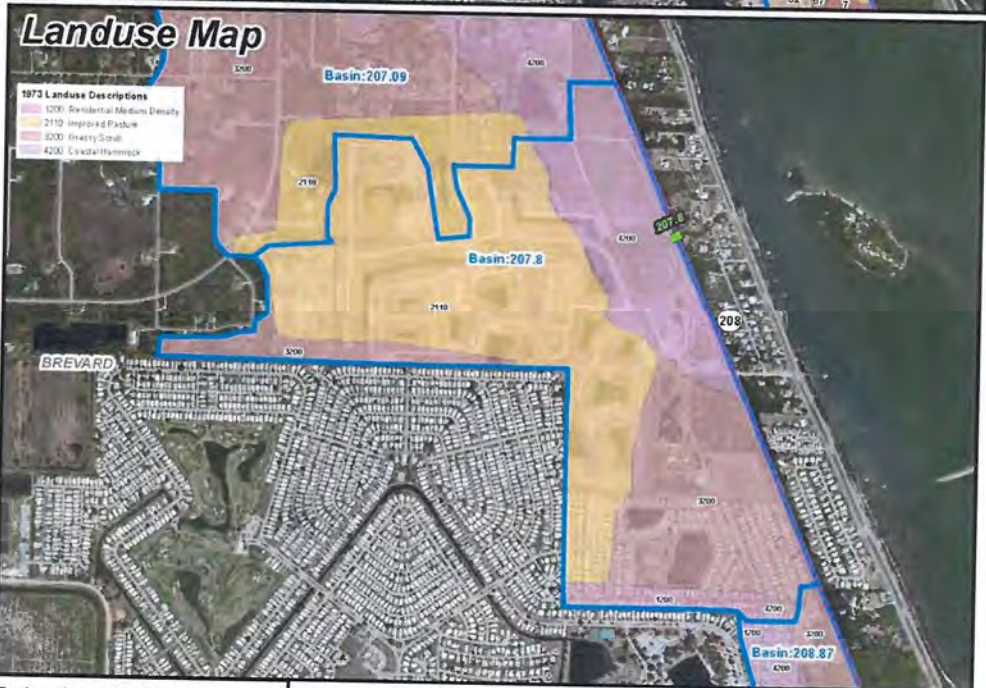


Figure 45c

Path: V:\GFECL\RadGFECL_G08MVD\WormBugs\residData\MAD\Report\Paper_3_LandscapeJob_residue10074.xls

Project # 600291

60.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 208.87 CROSS DRAIN

According to the Track Chart, there is one 72 ft. long 68" oval RCP culvert at this location. The actual cross drain has double 73 ft. long 68" by 75" oval RCP culverts with headwalls on the upstream western end and no end treatments on the east end. There is severe vegetation overgrowth along the west berm and the pipes are blocked approximately 50-80% with sediment. Flow was observed traveling eastward in the south culvert.

The existing drainage basin to the cross drains is approximately 313.2 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 143.4 cfs. No extensions are proposed and therefore no further hydraulic analysis is required.

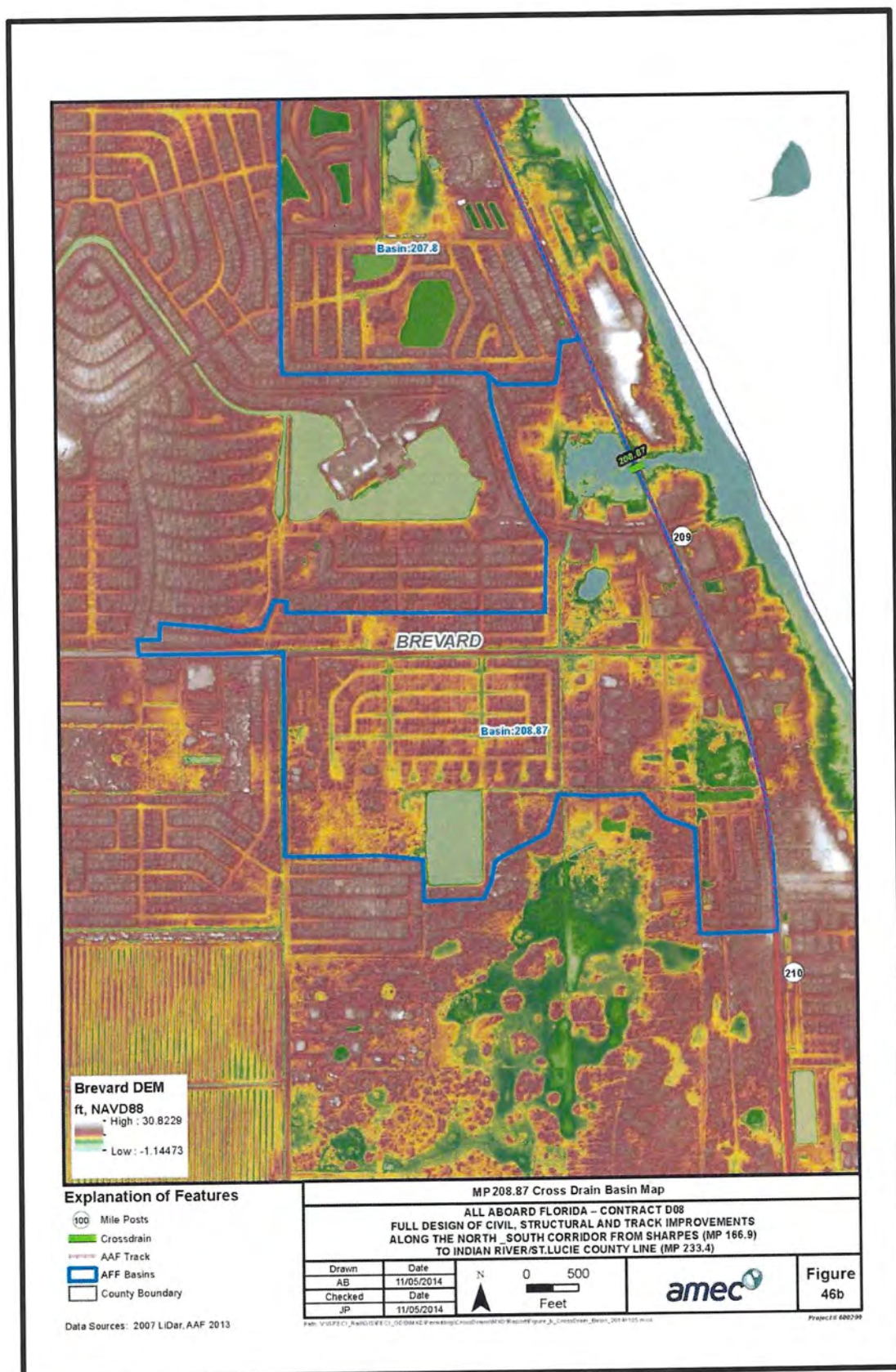


East End of Cross Drain MP 208.87



West End of Cross Drain MP 208.87. Note: Excessive Vegetation







61.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 210.34 CROSS DRAIN (ACTUAL LOCATION MP 210.51)

According to the Track Chart, there is one 40 ft. long 24" oval RCP culvert at this location. A single 49 ft. long 24" by 27" oval RCP culvert with a headwall on the upstream western end and buried eastern outfall was located at approximate MP 210.55. The length could not be definitively confirmed, as the east end of the cross drain was buried under sediment and not visible. However, its approximate east end was estimated through using a probe rod.

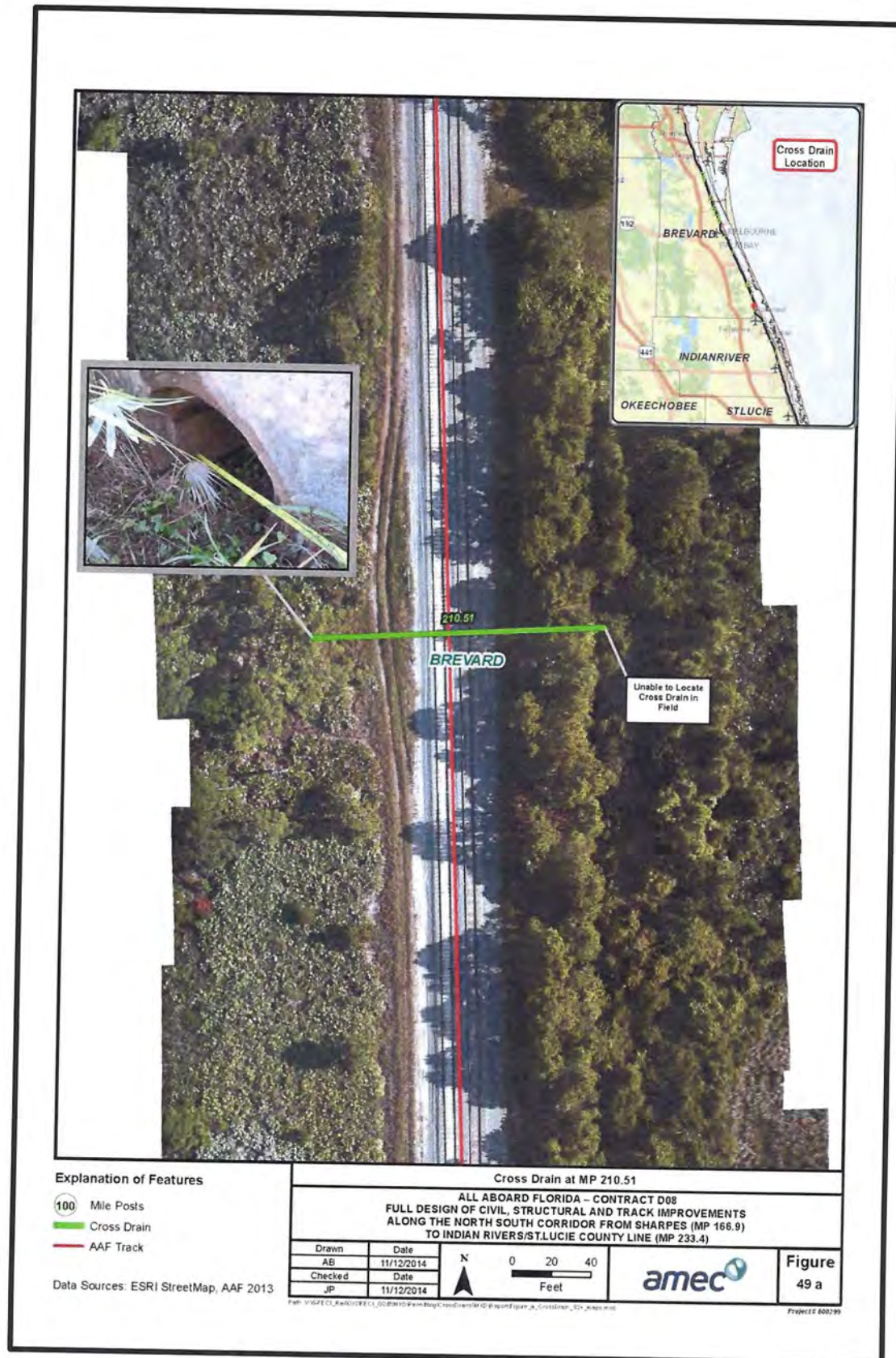
The existing drainage basin to the cross drain is approximately 3.7 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 12 cfs. The eastern end will be excavated, but no extension of the culvert is proposed. Therefore, no further hydraulic analysis is required.

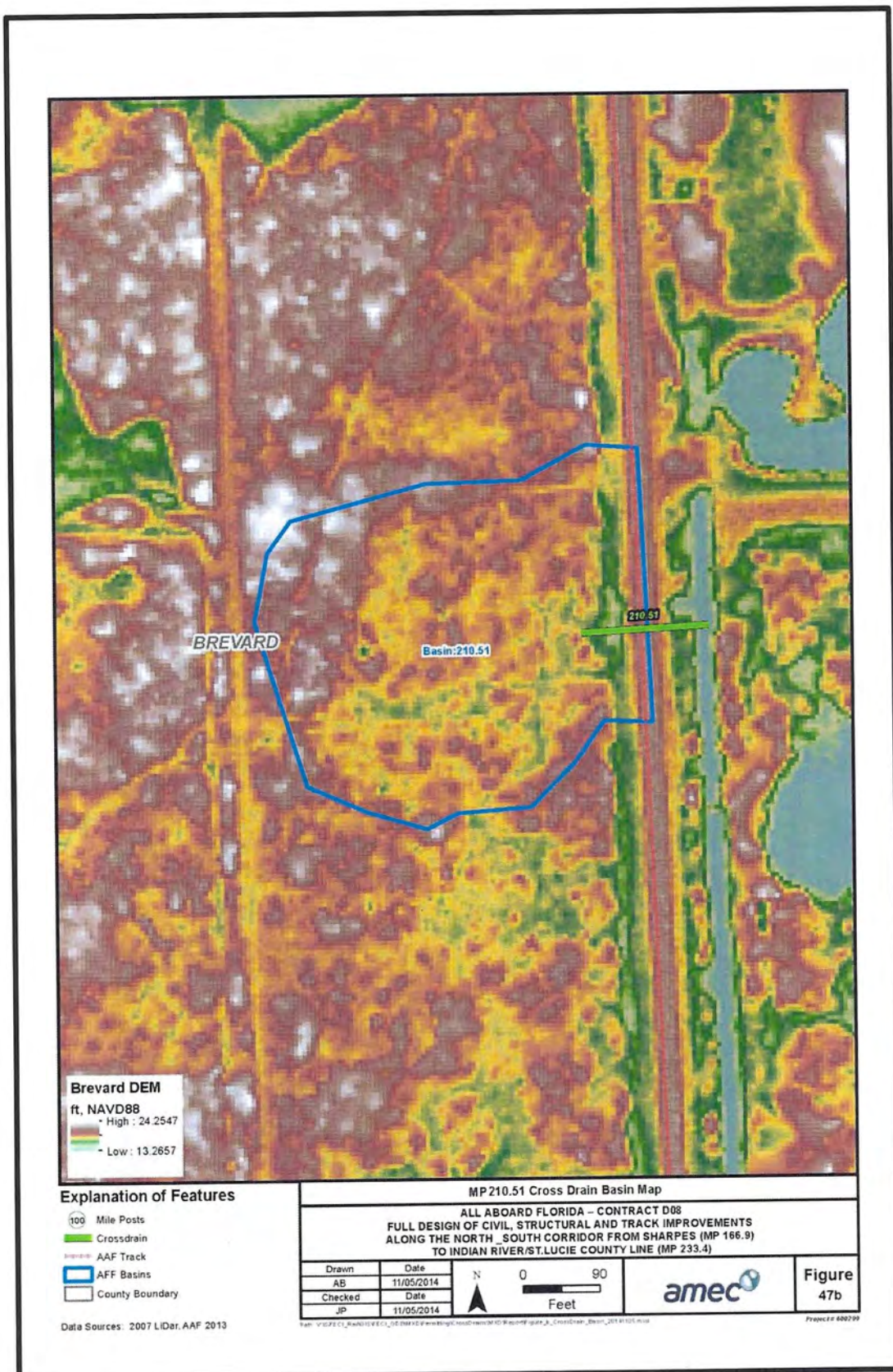


West End of Cross Drain MP 210.51



Approximate Location of East End of Cross Drain MP 210.51







62.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 210.97 CROSS DRAIN

According to the Track Chart, there is one 40 ft. long 24" oval RCP culvert at this location. A single 48 ft. long 24" by 27" oval RCP culvert was located. The west end of the cross drain had a headwall that was severely damaged and nonfunctional. This wall will be removed and replaced as part of a 10 ft. extension on the western end of the culvert. Pipe damage was observed at each end of the cross drain. The damaged sections will be replaced as well on the west side, however, the east side is not impacted by this project and the pipe damage on that end should be addressed as part of normal maintenance by FEC crews and is not part of this project. The culvert was estimated to have approximately 50% blockage at each end primarily due to sediment accumulation, as shown below.

The existing drainage basin to the cross drain is approximately 10.6 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 15 cfs. The Hydraflow analysis verifies that the culvert extension will have only minor impact on the hydraulics. The upstream headwater will rise from elevation 18.4 to 18.5. This is approximately 2 ft. below the top of the tie and 0.2 ft. above the bottom of the sub-ballast. In reality, though, because the culvert is currently largely blocked, the project will significantly lower the actual headwater experienced in the field.



East End of Cross Drain MP 210.97 and Sediment Accumulation

EXHIBIT D



Severely Damaged/Non-functioning Endwall and Damaged West End of Cross Drain MP 210.97

Culvert Report

Hydratlow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, May 6 2015

Existing MP 210.97

Invert Elev Dn (ft) = 15.40
Pipe Length (ft) = 48.00
Slope (%) = 1.38
Invert Elev Up (ft) = 16.06
Rise (in) = 24.0
Shape = Cir
Span (in) = 24.0
No. Barrels = 1
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K, M, c, Y, k = 0.0098, 2, 0.0398, 0.67, 0.5

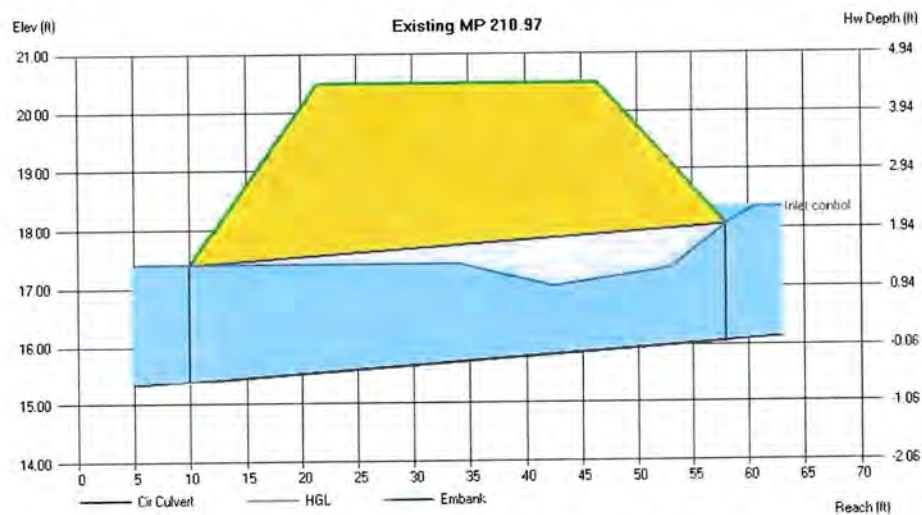
Embankment
Top Elevation (ft) = 20.50
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 15.17
Qmax (cfs) = 15.17
Tailwater Elev (ft) = Crown

Highlighted

Qtotal (cfs) = 15.17
Qpipe (cfs) = 15.17
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 4.83
Veloc Up (ft/s) = 6.42
HGL Dn (ft) = 17.40
HGL Up (ft) = 17.47
Hw Elev (ft) = 18.34
Hw/D (ft) = 1.14
Flow Regime = Inlet Control



Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Thursday, Oct 30 2014

Proposed MP 210.97

Invert Elev Dn (ft) = 15.40
Pipe Length (ft) = 58.00
Slope (%) = 1.38
Invert Elev Up (ft) = 16.20
Rise (in) = 24.0
Shape = Cir
Span (in) = 24.0
No. Barrels = 1
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

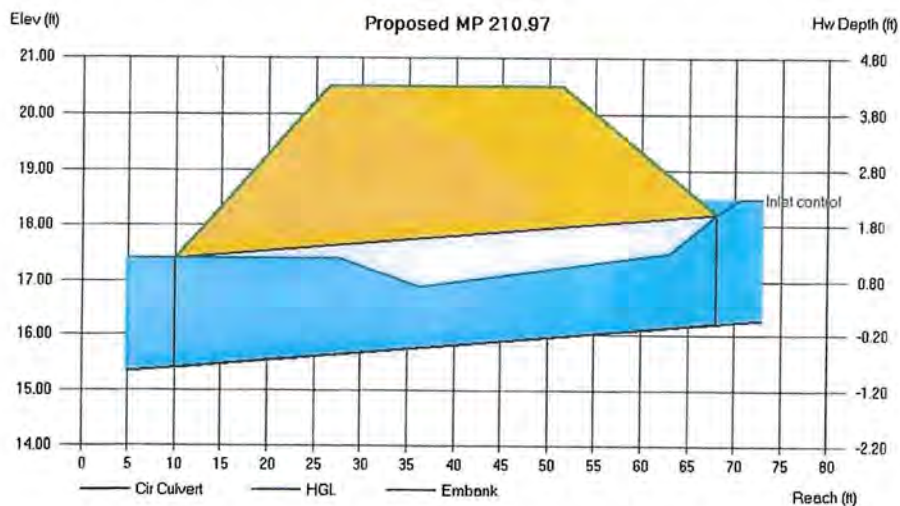
Top Elevation (ft) = 20.50
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

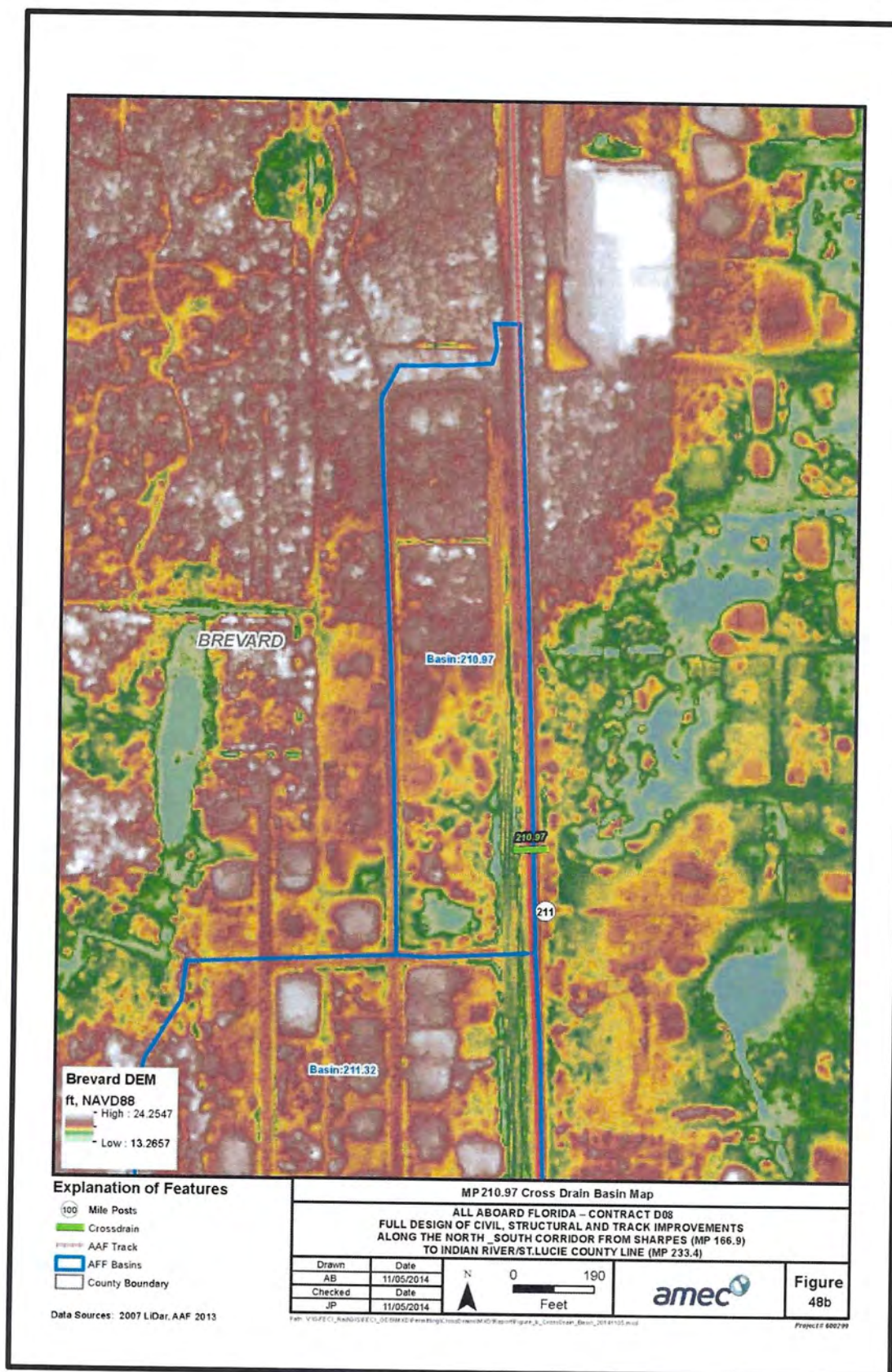
Qmin (cfs) = 15.17
Qmax (cfs) = 15.17
Tailwater Elev (ft) = Crown

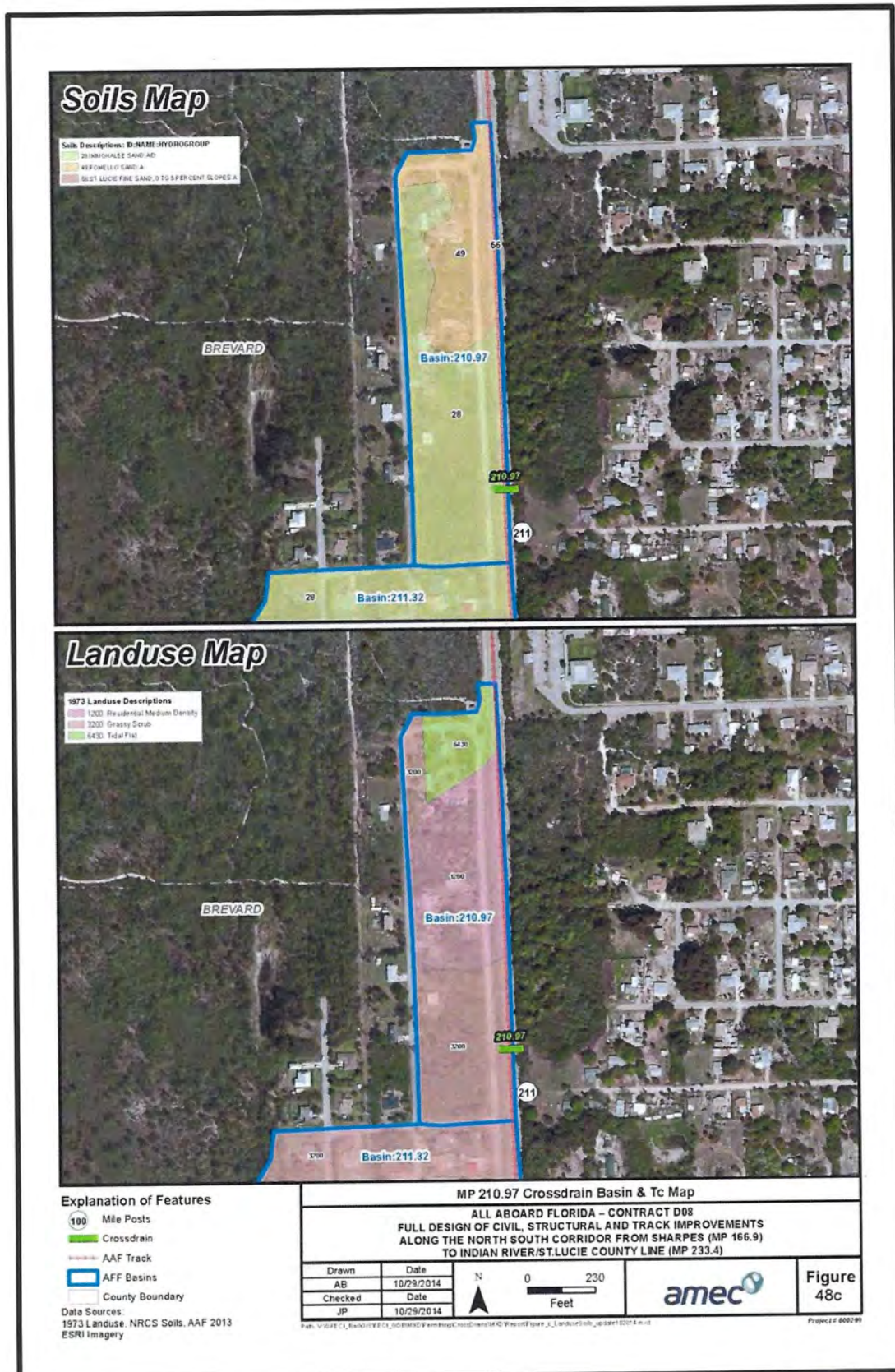
Highlighted

Qtotal (cfs) = 15.17
Qpipe (cfs) = 15.17
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 4.83
Veloc Up (ft/s) = 6.42
HGL Dn (ft) = 17.40
HGL Up (ft) = 17.61
Hw Elev (ft) = 18.48
Hw/D (ft) = 1.14
Flow Regime = Inlet Control









63.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 211.32 CROSS DRAIN

According to the Track Chart, there is a single 48 ft. long 42" RCP at this location. A single 57 ft. long 42" by 48" oval RCP cross drain was located with a headwall on the western end but no end treatment on the east end. Minor sediment was noted at the cross drain inlet and outlet areas, but the structure appeared to be mostly functional.

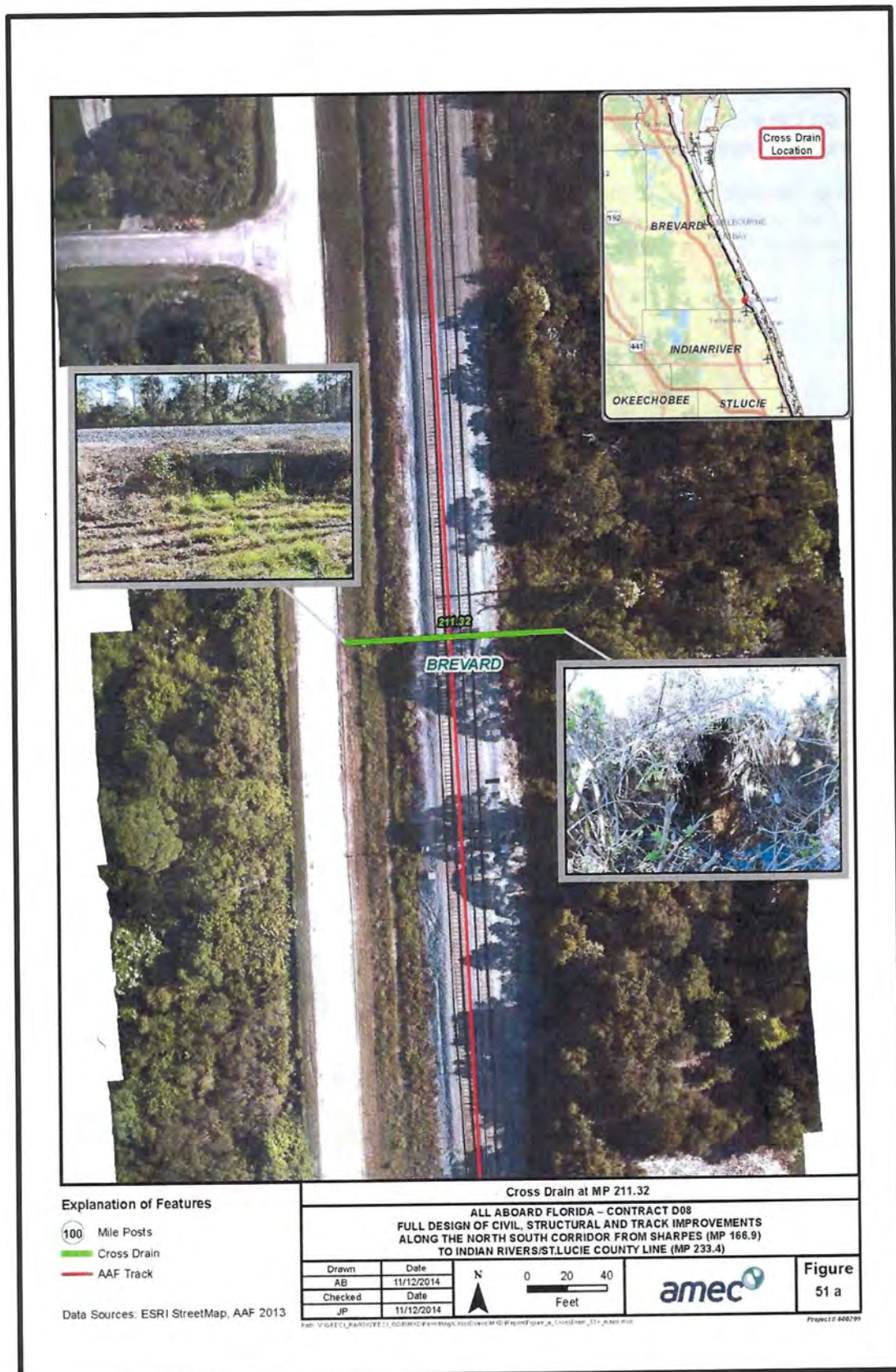
The existing drainage basin to the culvert system is approximately 46.3 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 73 cfs. No extensions are proposed and therefore no further hydraulic analysis is required.

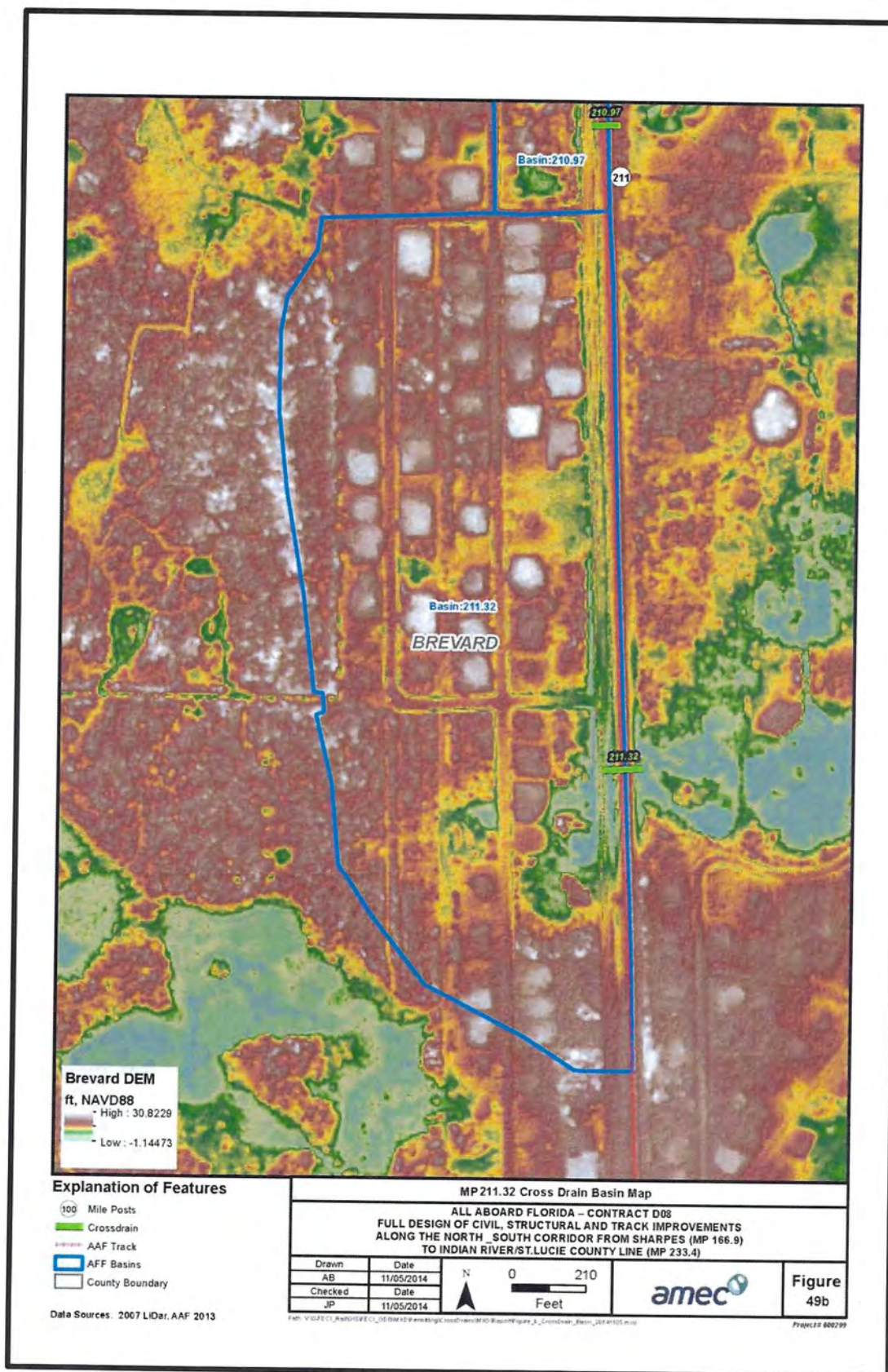


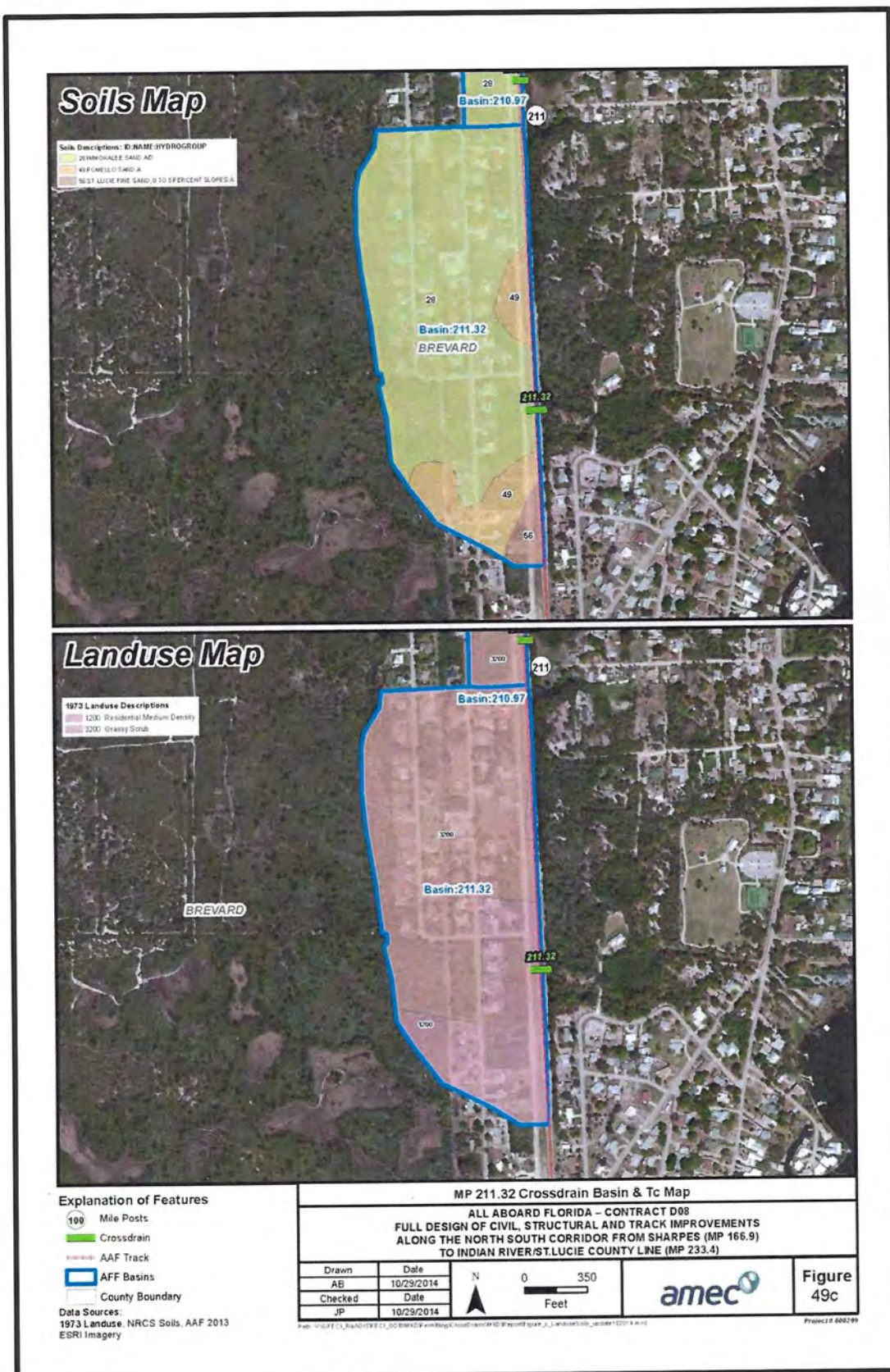
West (Upstream) Endwall and 42" by 48" RCP at MP 211.32



East (Downstream) End of 42" by 48" RCP at MP 211.32







64.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 212.93 CROSS DRAIN

According to the Track Chart, there are two 56 ft. long 36" RCP culverts at this location. Two 57 ft. long 36" by 42" oval RCP culverts were located at approximate MP 212.93. There is a damaged endwall on the east end of the culverts, but no end treatment on the west end. Sediment has accumulated in the flow path of these culverts, estimated at 50-80% blockage at both ends. Also, the areas adjacent to the structure's inlet and outlet were heavily overgrown. Due to the blockage and vegetation, a full evaluation of the condition of the cross drain could not be conclusively determined. It appears the current function of the cross drain is to connect wetlands on either side of the rail with flow primarily east to west.

The existing drainage basin to the culvert system is approximately 161.6 acres draining from east to west. This generates a 25-year, 24-hour design flow of 213 cfs. The sediment and vegetation will be cleared away. No culvert extensions are proposed and so no further hydraulic analysis is required.

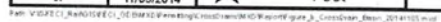


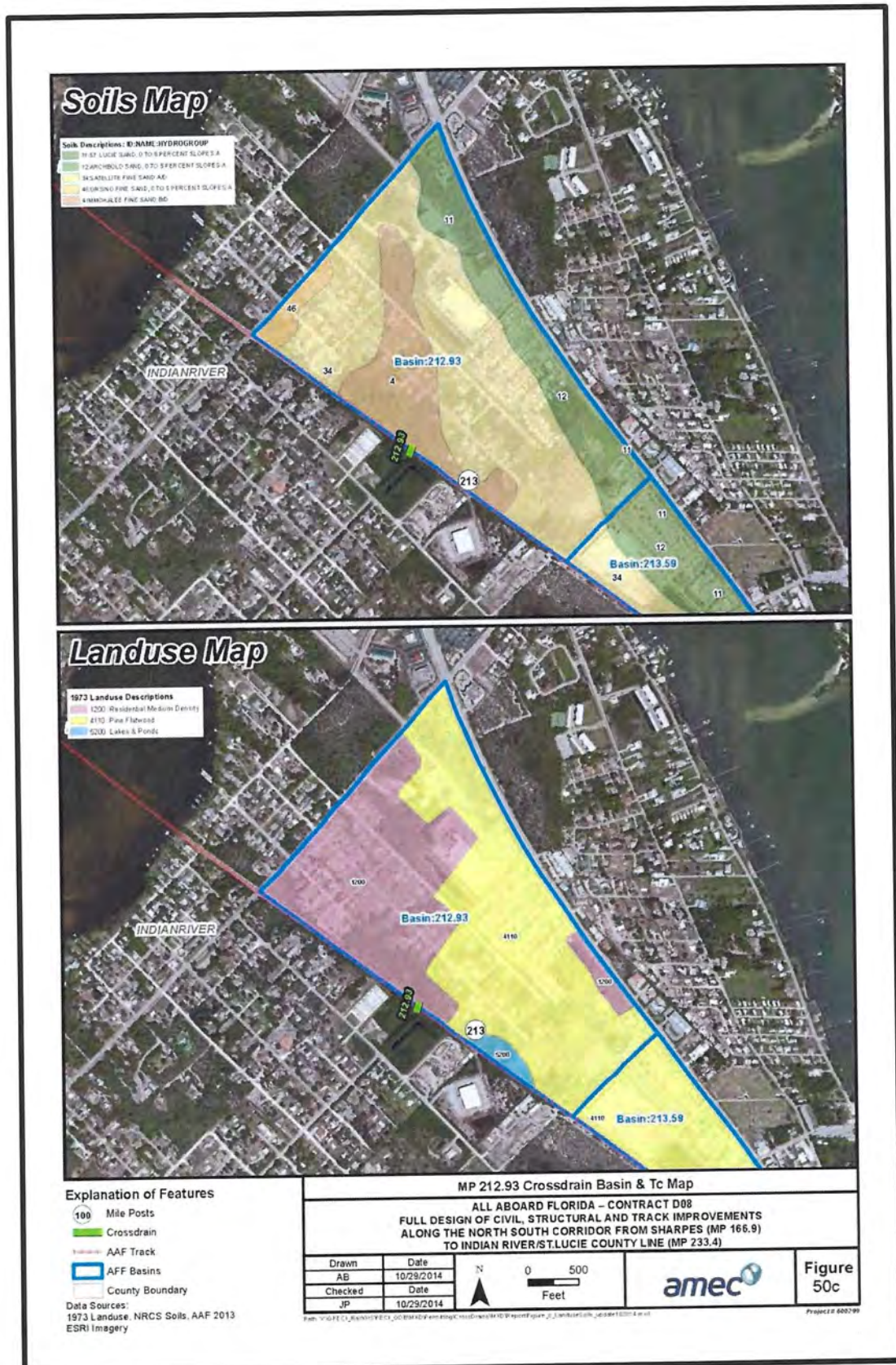
West End of MP 212.93 Cross Drain



East End of MP 212.93 Cross Drain and Endwall

Amec Foster Wheeler Project No. 600299
September 2015
Page 309





65.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 213.59 CROSS DRAIN

According to the track chart, there are double 48 ft. long 36" oval RCP culverts at MP 213.59. Two submerged and almost-completely blocked 49 ft. long 36" by 48" oval RCP culverts with a concrete headwall on the eastern end were found during the inspection. Due to the sediment and vegetative blocking of the culverts, their condition could not be properly evaluated.

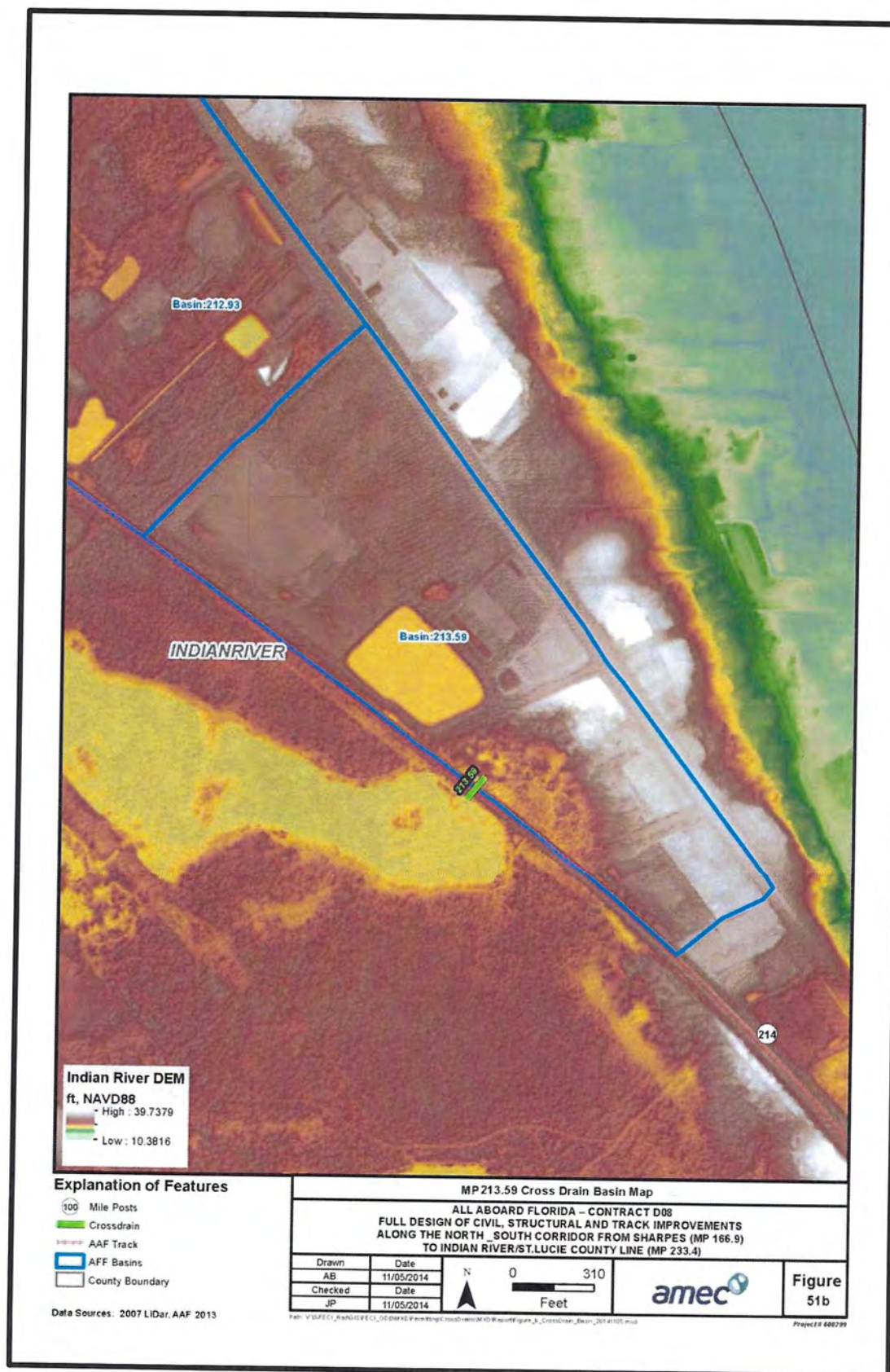
The existing drainage basin to the cross drain is approximately 47.7 acres draining from east to west and generating a 25-year, 24-hour design flow of approximately 43 cfs. No extensions are proposed. Therefore, no further hydraulic analysis is required.



Submerged West End of Double 36" RCP at MP 213.59



East Endwall and Double 36" RCP Culverts at MP 213.59



66.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 214.85 CROSS DRAIN

According to the Track Chart, there is a single 72 ft. long 24" oval RCP culvert at this location. The cross drain identified in the field was a single 73 ft. long 24" circular RCP culvert with concrete headwalls on both sides. On the western (upstream) end, there is an additional 5 ft. long 24" CMP culvert that appears to have been jammed into the western end in a crude attempt to extend the cross drain length. That 24" CMP has been partially crushed and collapsed. As a result, there is a significant amount of debris and vegetation that has collected immediately upstream in a sump area armored with sand cement bags in poor condition as well. The debris, vegetation and sediment have accumulated in the flow path of the culvert and the flow is restricted. Due to the amount of blockage, a full evaluation of the condition of the cross drain could not be determined.

It appears the current function of the cross drain is to connect the upstream (west) sump to the downstream (east) sump for conveyance. This cross drain has been heavily affected by subsequent development in its vicinity. The following pictures document the existing condition. In 1996, ERP 40-061-0096AG was issued for the "CR 512 Corridor Improvements" project by Indian River County. That project captured the entire contributing drainage basin to this cross drain and routed it through a new storm sewer and treatment pond before discharging it to the cross drain. Unfortunately, what was constructed in the field deviates from the permitted plans and has created a concern at the western end of the cross drain. According to the permitted plans, the new pond system was to be piped directly to a junction box ("S-11 Special Structure" on the attached permit excerpt) which was to be connected through a new 24" culvert and another junction box (S-10 on attached excerpt) to the existing cross drain. This 24" culvert and structure S-10 were not constructed. Instead, the junction box discharges to a small sump through a short run of 24" RCP. This sump extends to the western end of the FEC cross drain, where a short run of 24" CMP was jammed into the existing 24" RCP cross drain and left to jut out into the sump. That CMP has been partially collapsed and is forming a blockage at the western end of the cross drain – which is covered with debris, vegetation, sediment, plus being blocked by the crushed CMP itself.

On the eastern (downstream) side of the FEC right of way, the 24" cross drain empties into a small sump that is drained through an 18" MES and RCP culvert leading downstream through the permitted storm sewer and treatment system. During our site reconnaissance, Amec Foster Wheeler spoke with an adjacent property owner (Mr. Smith) on this eastern (downstream) side. Mr. Smith stated that several times a year, the small sump is overloaded with flow from the cross drain and that flow builds up and sheet flows across his property to the east and ultimately to US 1 at the front of his property. Researching this further, it was noted in the permitted construction plans for "CR 512 Corridor Improvements" that the MES and culvert were supposed to be 24" but Amec Foster Wheeler verified in the field that the MES and culvert are only 18". This could certainly contribute to the periodic overwhelming of the system. The 18" culvert leads to an adjacent catch basin and ultimately to an exfiltration trench system farther to the north that was also a part of the permitted system. Amec Foster Wheeler did not investigate the permitted or constructed system any farther to document its condition, because these other components are outside of FEC control.

The existing drainage basin to the culvert system is approximately 90.4 acres draining from west to east. This generates a 25-year, 24-hour design flow of nearly 77 cfs. However, the permitted design for the adjacent "CR 512 Corridor Improvements" project limited the discharge to only 18.8 cfs. The proposed construction will not include any extensions of the culvert or other modifications and therefore no further hydraulic analysis is required.



Looking Toward Track at Existing Sump Upstream (West) End of MP 214.85 Cross Drain.
Note: The Survey Rod is at the end of the Collapsed CMP Extending from Headwall into Sump.

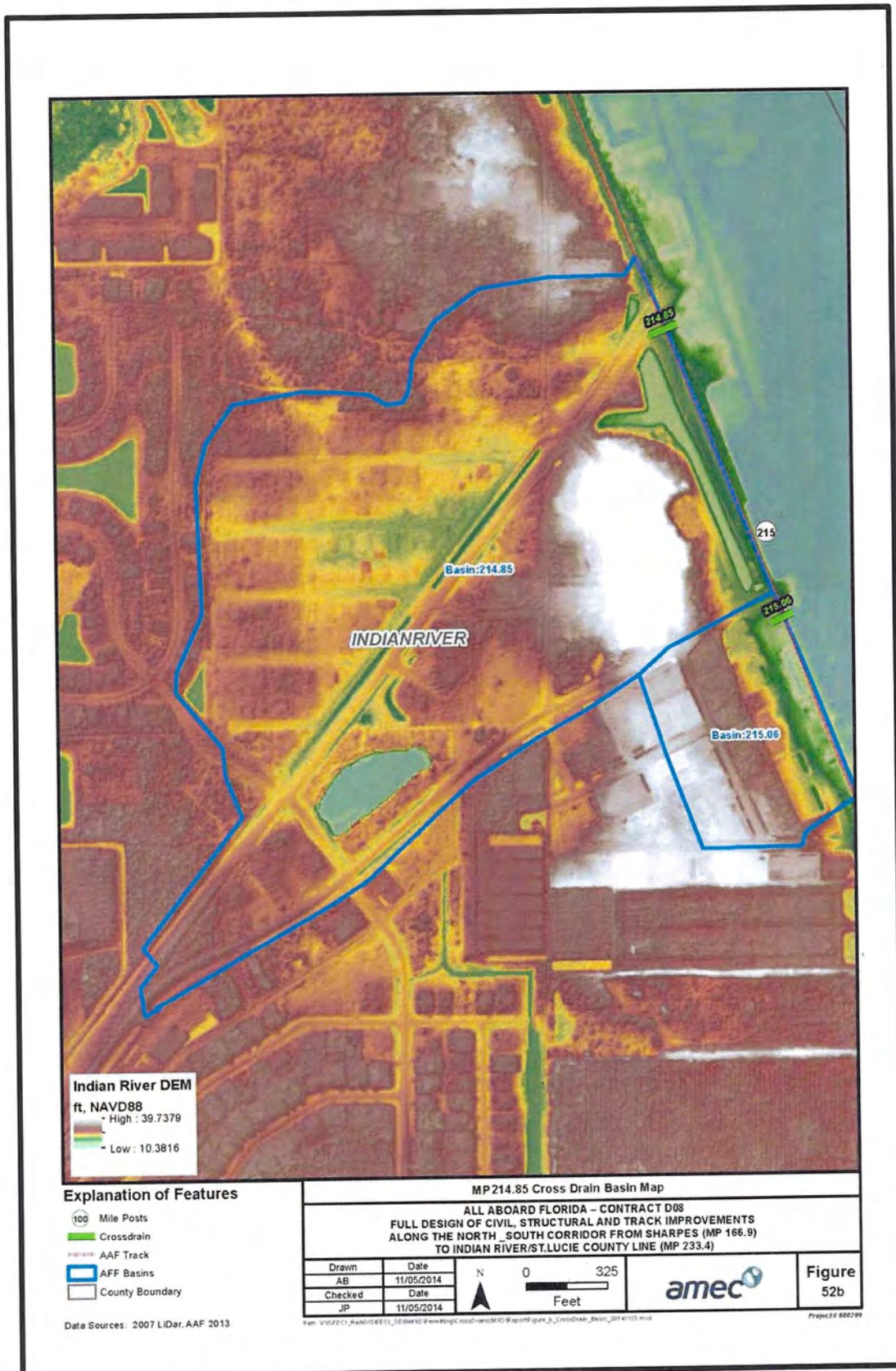


Looking Westward at Sump Area West (Upstream) of the Western End of the MP 214.85 Cross Drain. Picture Shows Junction Box and 24" RCP Discharge from CR 512 Pond System.

EXHIBIT D



Looking West at Eastern (Downstream) End of MP 214.85 Cross Drain and Headwall. The Mitered End Section at the Bottom of the Photo is the 18" RCP (That was permitted to be a 24") Discharge from the Receiving Sump Draining to the Exfiltration Trench and Storm Sewer to the North



67.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 215.06 CROSS DRAIN

According to the Track Chart, there is a single 48 ft. long 24" oval RCP culvert at MP 215.06. A single 49 ft. long 24" by 27" oval RCP with headwalls on each end was located. Both ends were overgrown with vegetation before it was cleared for surveying.

The existing drainage basin to the cross drain is approximately 13.1 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 2.4 cfs. There are no extensions proposed to the cross drain and therefore no further hydraulic analysis is required.



Western Headwall of 24" by 27" Oval RCP Culvert at MP 215.06



Eastern Headwall of 24" by 27" Oval RCP Culvert at MP 215.06



Explanation of Features

- 100 Mile Posts
- Cross Drain
- AAF Track

Data Sources: ESRI StreetMap, AAF 2013

Cross Drain at MP 215.06

ALL ABOARD FLORIDA – CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVERS/ST. LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	11/12/2014
Checked	Date
JP	11/12/2014

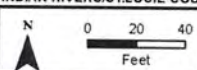
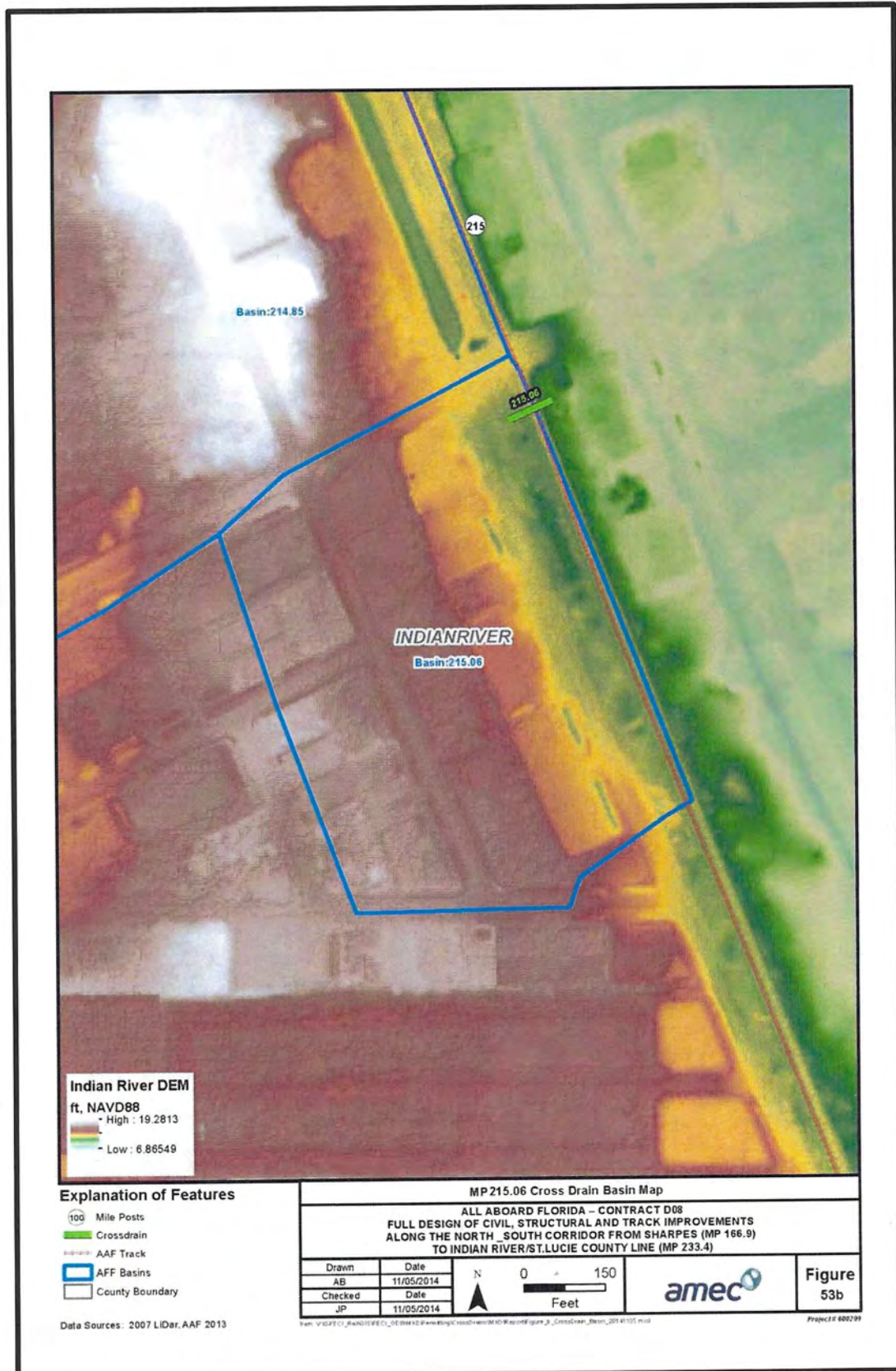


Figure
55 a

Path: Y:\AFCL\KARL\STEC\100208\Drawings\cross-drain\100208\Figure_55a.dwg

Project: 600299





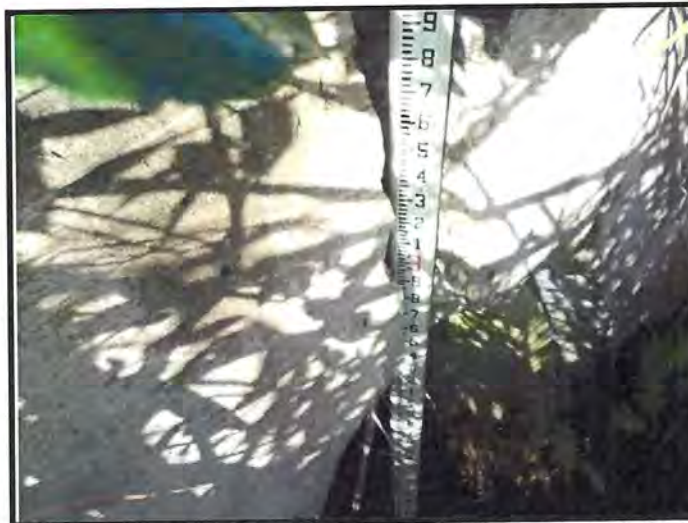
68.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 218.57 CROSS DRAIN
(ACTUAL LOCATION MP 218.56)

According to the Track Chart, there is one 48 ft. long 24" oval RCP cross drain at MP 218.57. One 49 ft. long, 24" by 27" oval RCP culvert with endwalls on both ends was located at MP 218.56. Both pipe ends had minor vegetative growth and sediment present. The existing culvert conveys drainage from the FEC ditch west of the tracks to an eastwardly flowing ditch.

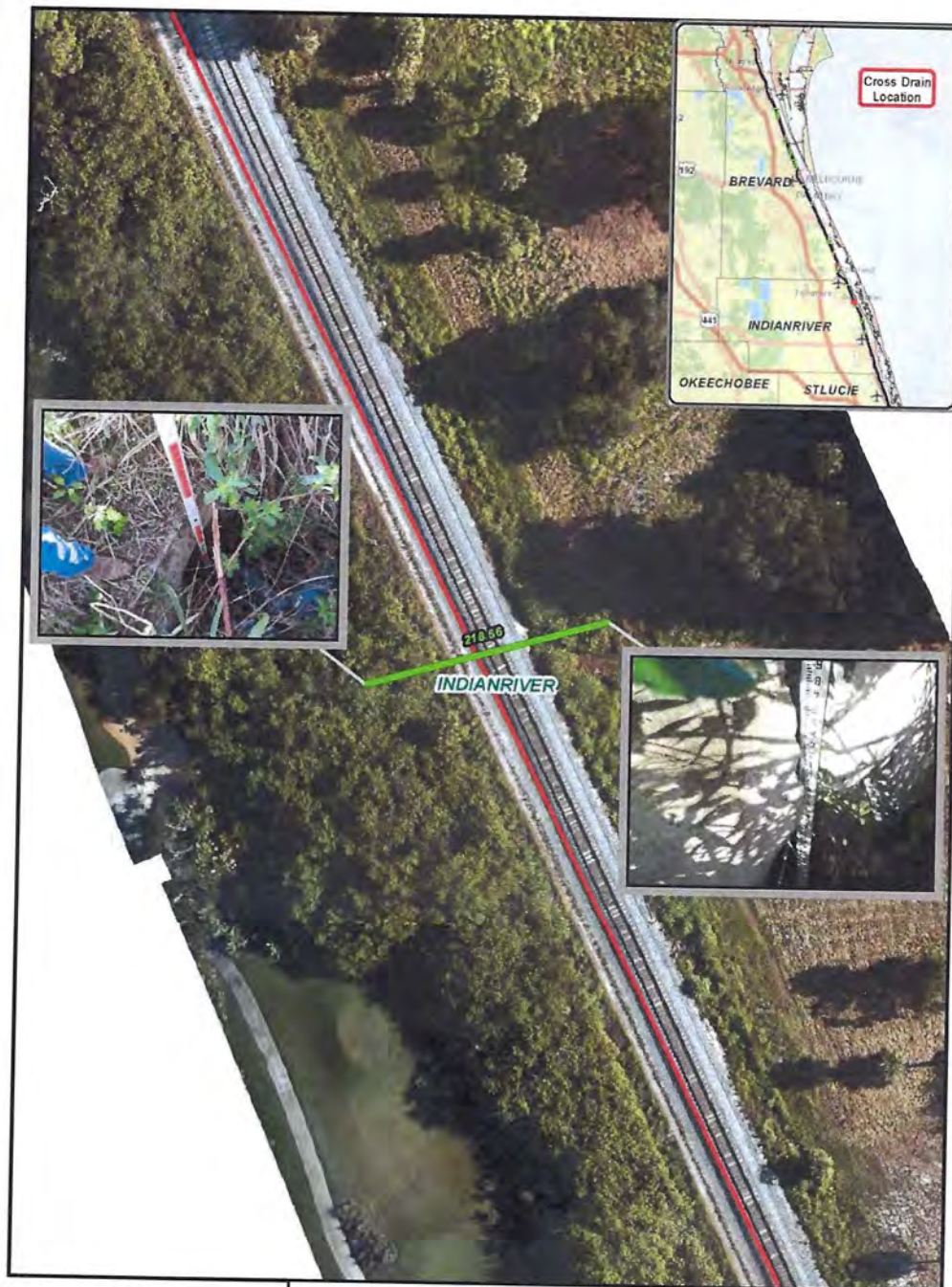
The 63.8 acre drainage basin generates a 25-year, 24-hour design flow of approximately 31 cfs. There are no culvert extensions proposed and therefore no further hydraulic analysis is required. Headwalls on both ends of the culvert are severely damaged and should be replaced by FEC maintenance crews. That work is maintenance and as such is not included with this construction project.



Existing West Endwall and End of Cross Drain at MP 218.56



Note: Severe Crack on Existing East Endwall at MP 218.56



Explanation of Features

- 100 Mile Posts
- Cross Drain
- AAF Track

Data Sources: ESRI StreetMap, AAF 2013

Cross Drain at MP 218.56	
ALL ABOARD FLORIDA – CONTRACT D08	
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS	
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)	
TO INDIAN RIVERS/ST. LUCIE COUNTY LINE (MP 233.4)	
Drawn	Date
AB	11/12/2014
Checked	Date
JP	11/12/2014

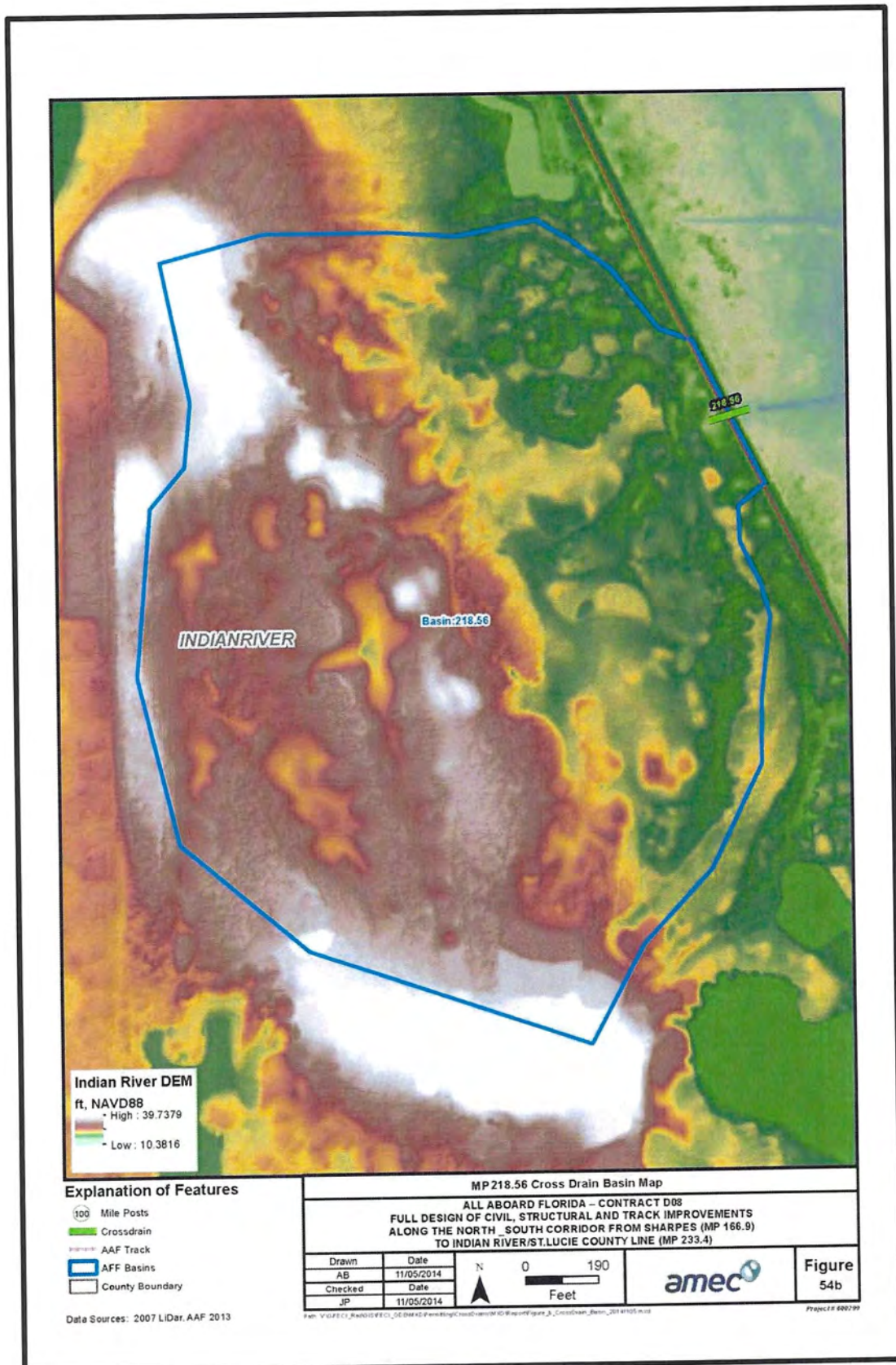


0 20 40
Feet



Figure
56 a

Path: V:\01\01_Plan\01\01_CrossDrain\01\01_CrossDrain_01.dwg Project: 600299





69.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 219.56 CROSS DRAIN

According to the track chart, there is a single 56 ft. long 42" oval RCP culvert at MP 219.56. A single 57 ft. long 42" by 46" oval RCP culvert with headwalls at each end was located. The culvert had some minor sedimentation but appeared to be primarily clear of blockage and functioning well. Both headwalls are damaged and should be replaced or repaired as part of normal FEC maintenance work – but this is not included within the current construction project.

The existing drainage basin to the cross drain is approximately 55.3 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 45 cfs. Because no extensions are proposed, there is no further hydraulic analysis required.

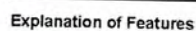


East Headwall of 42" by 46" RCP at MP 219.56



West Headwall of 42" by 46" RCP at MP 219.56

Note: Severe Crack in Endwall



- 100 Mile Posts
Cross Drain
AAF Track

Data Sources: ESRI StreetMap, AAF 2013

Cross Drain at MP 219.56

ALL ABOARD FLORIDA - CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVERS/ST.LUCIE COUNTY LINE (MP 233.4)

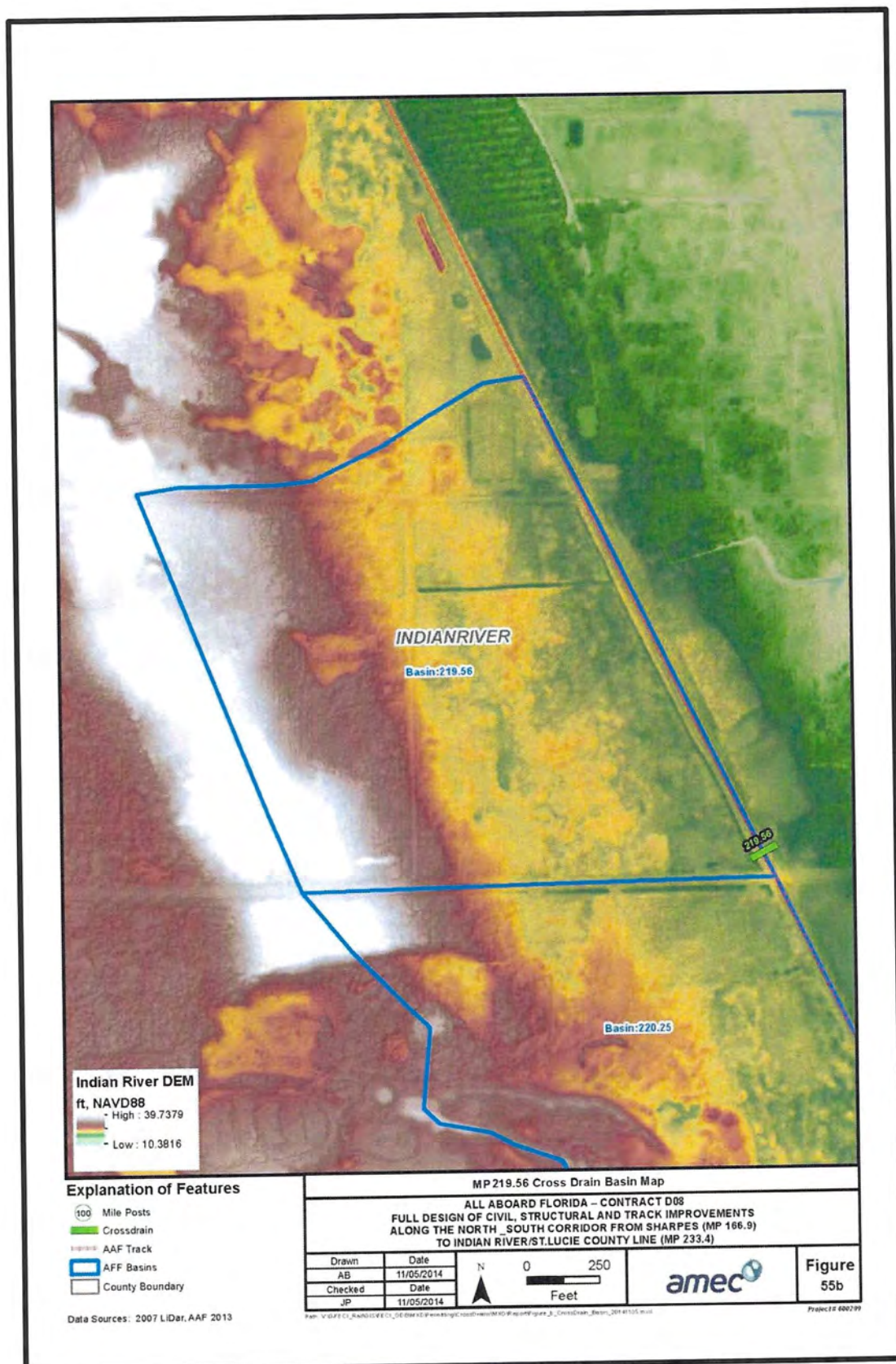
Drawn	Date
AB	11/12/2014
Checked	Date
JP	11/12/2014

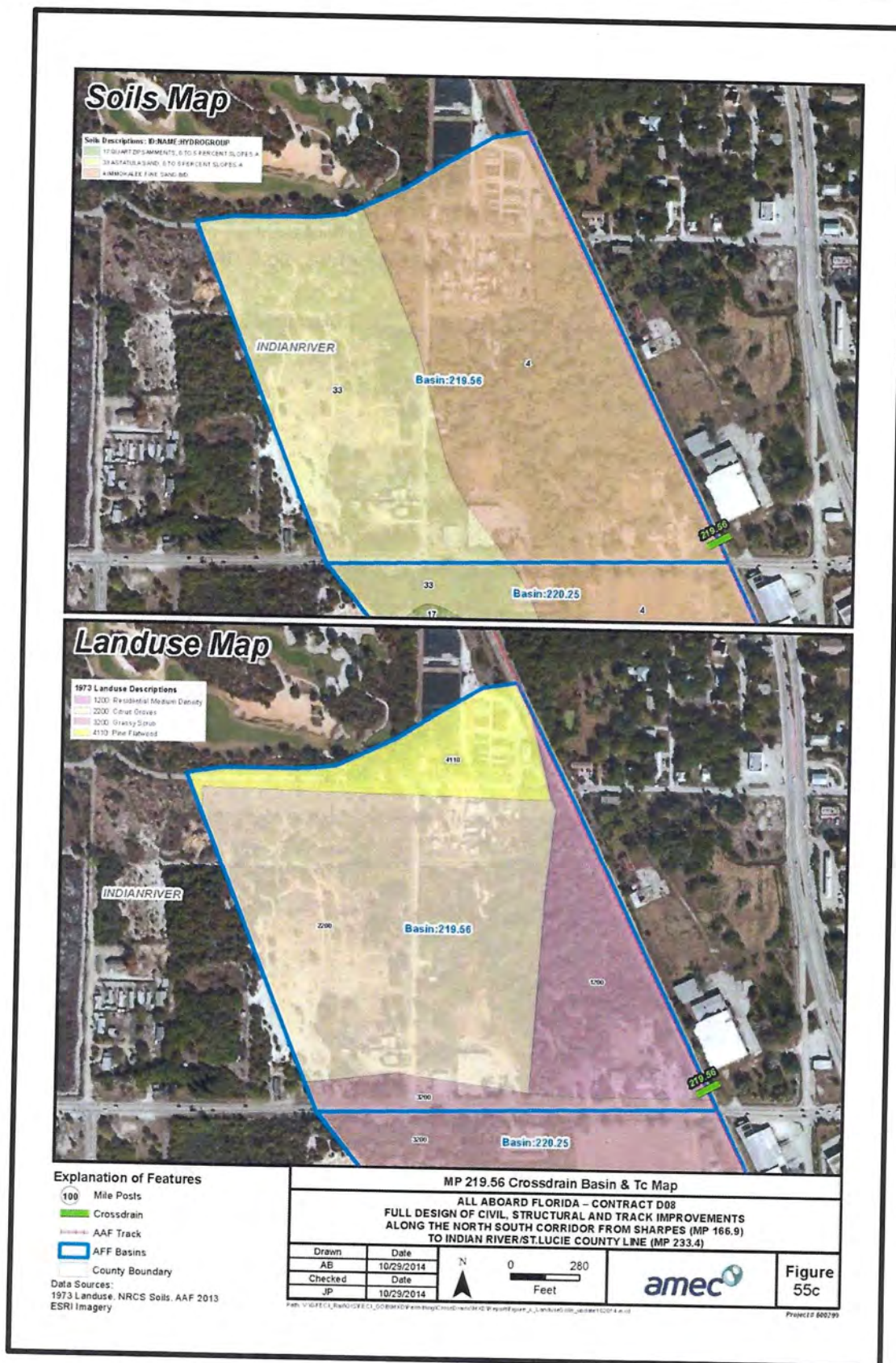


Figure
57 a

Path: V:\PFC1_Rand\SWFC1_000002\Femlog\Chord\wq3\WQ3_Vegon\Figures_A_CrossBrain_52.nap.m

Project # 60529





70.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 220.25 CROSS DRAIN

According to the track chart, there are double 48 ft. long 36" oval RCP culverts at MP 220.25. Two 49 ft. long, 36" by 39" oval RCP culverts with endwalls on both ends were found during the inspection. The culverts appeared to be in good condition and functioning well, with only minor sediment and adjacent vegetation providing minimal blockage.

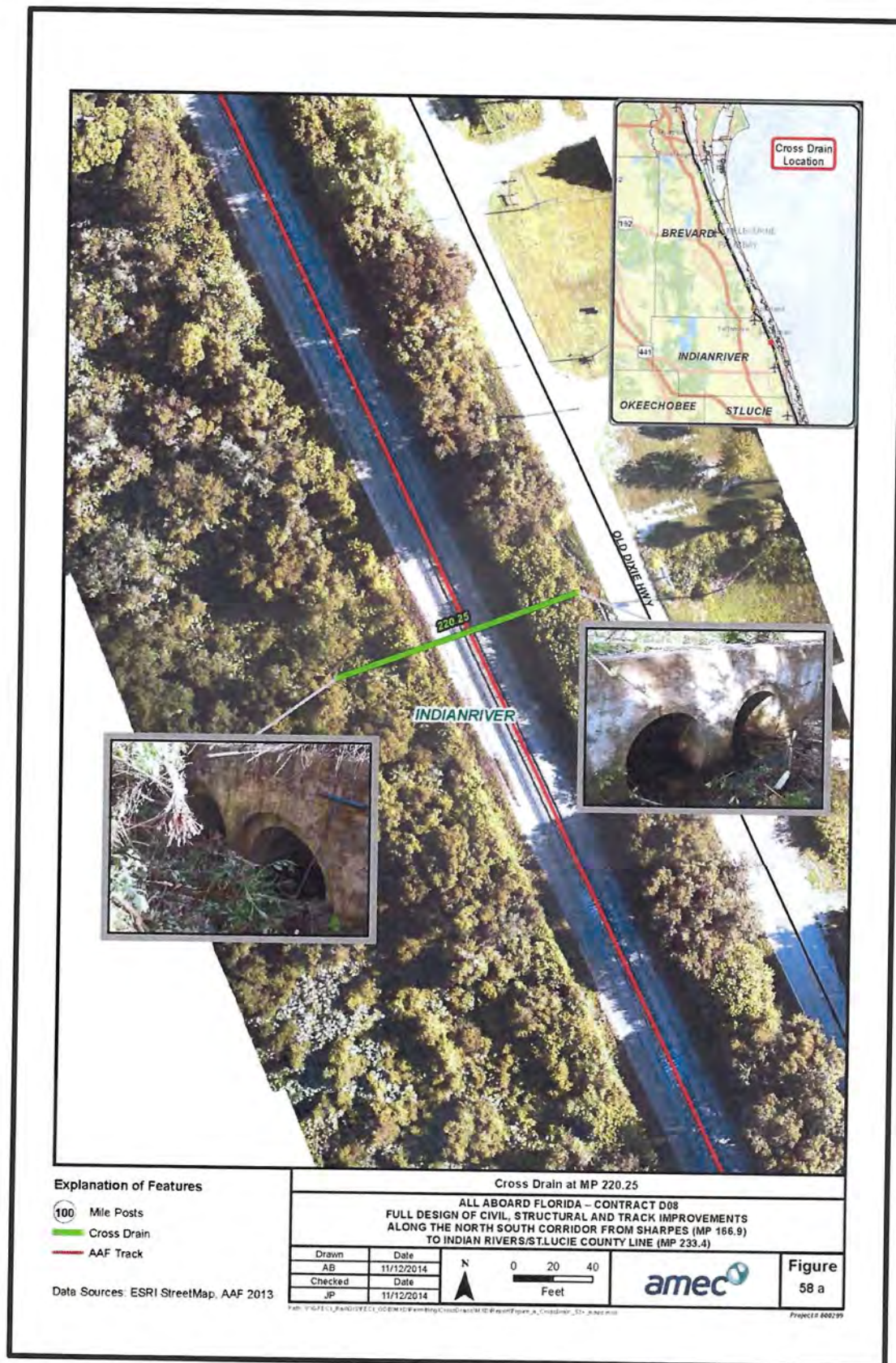
The existing drainage basin to the cross drain is approximately 190.4 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 81 cfs. The sediments will be removed, but no culvert extensions are required. Therefore, no further hydraulic analysis is required.

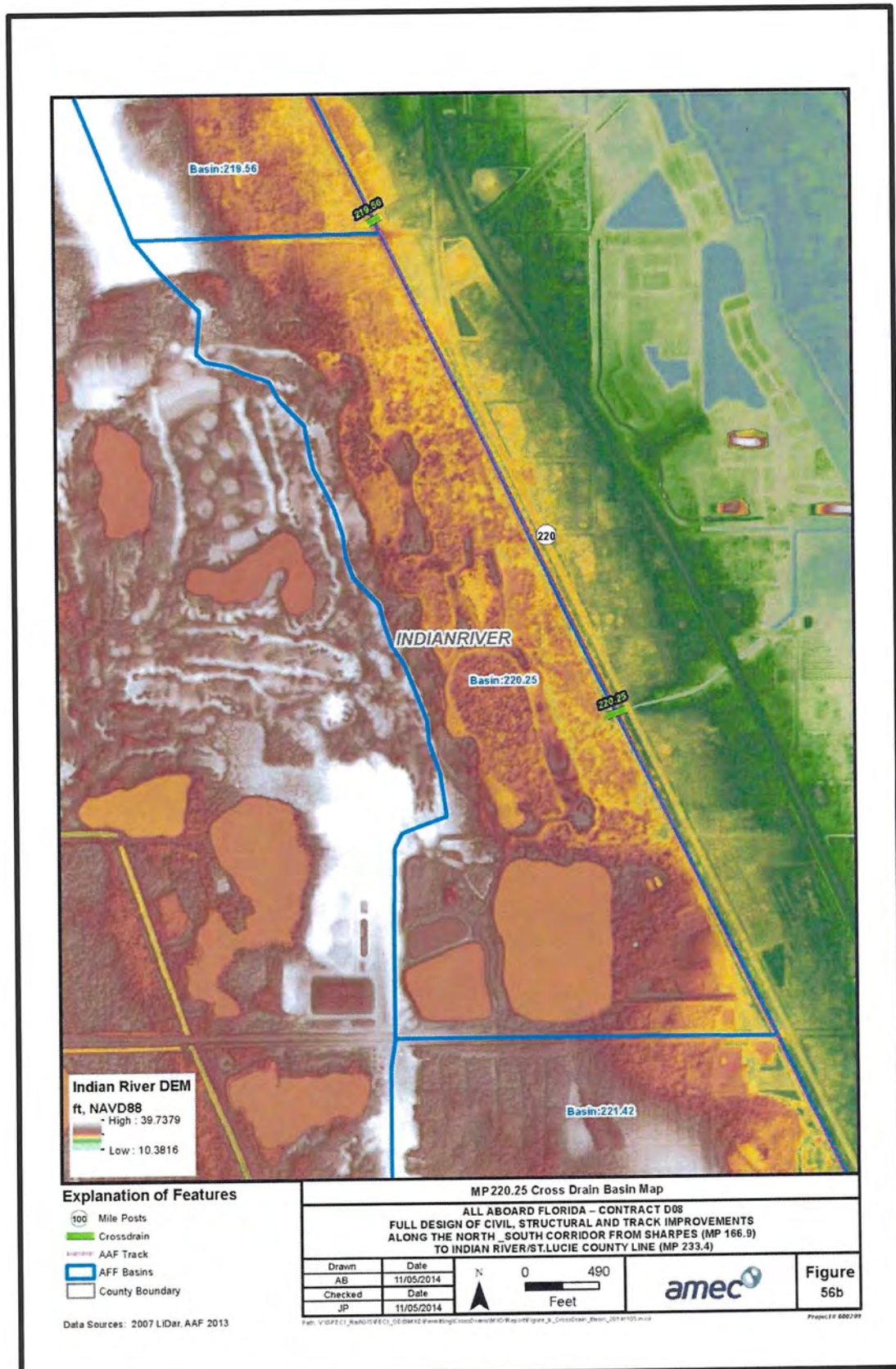


West Endwall of Double 36" RCP Culverts at MP 220.25



East Endwall of Double 36" RCP Culverts at MP 220.25







71.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 221.42 CROSS DRAIN

According to the track chart, there are double 48 ft. long 48" oval RCP culverts at MP 221.42. Two 49 ft. long 48" by 53" oval RCP culverts with headwalls on each end were located. The culverts were mostly clear, with only minor sediment and adjacent vegetation providing minimal blockage, and appeared to be in good condition and functioning well.

The existing drainage basin to the cross drain is approximately 422.3 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 129 cfs. The upstream western end will be extended 12 ft. and a new headwall constructed. The Hydraflow analysis verifies that the upstream headwater elevation remains unchanged at 10.1, i.e. 3.9 ft. below top of tie and 1.7 ft. below bottom of sub-ballast.



West End of Double 48" RCP at MP 221.42



East Endwall of Double 48" RCP Culverts at MP 221.42

Culvert Report

Hydraulow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc

Wednesday, May 6 2015

Existing MP 221.42

Invert Elev Dn (ft) = 5.80
Pipe Length (ft) = 49.00
Slope (%) = 0.49
Invert Elev Up (ft) = 6.04
Rise (in) = 48.0
Shape = Cir
Span (in) = 48.0
No. Barrels = 2
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

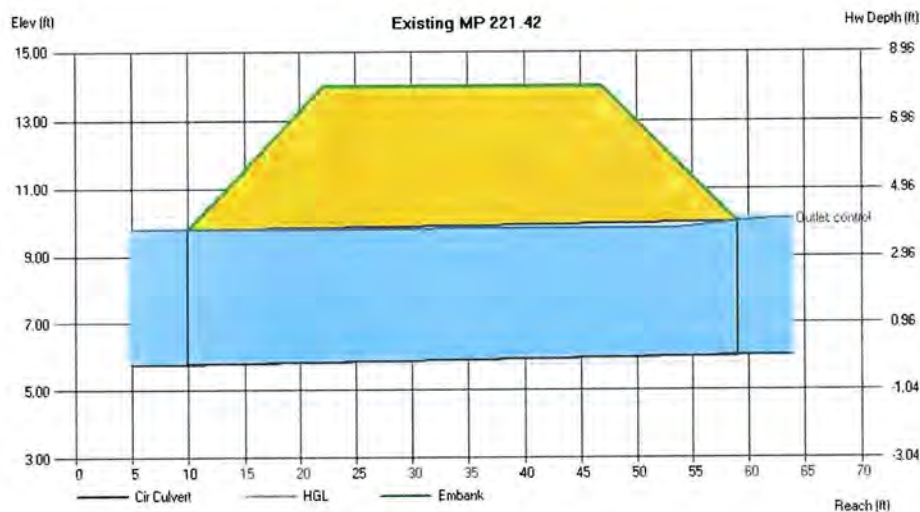
Top Elevation (ft) = 14.00
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 129.40
Qmax (cfs) = 129.40
Tailwater Elev (ft) = Crown

Highlighted

Qtotal (cfs) = 129.40
Qpipe (cfs) = 129.40
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 5.15
Veloc Up (ft/s) = 5.22
HGL Dn (ft) = 9.80
HGL Up (ft) = 9.88
Hw Elev (ft) = 10.09
Hw/D (ft) = 1.01
Flow Regime = Outlet Control



Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Wednesday, May 6 2015

Proposed MP 221.42

Invert Elev Dn (ft) = 5.80
Pipe Length (ft) = 61.00
Slope (%) = 0.49
Invert Elev Up (ft) = 6.10
Rise (in) = 48.0
Shape = Cir
Span (in) = 48.0
No. Barrels = 2
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

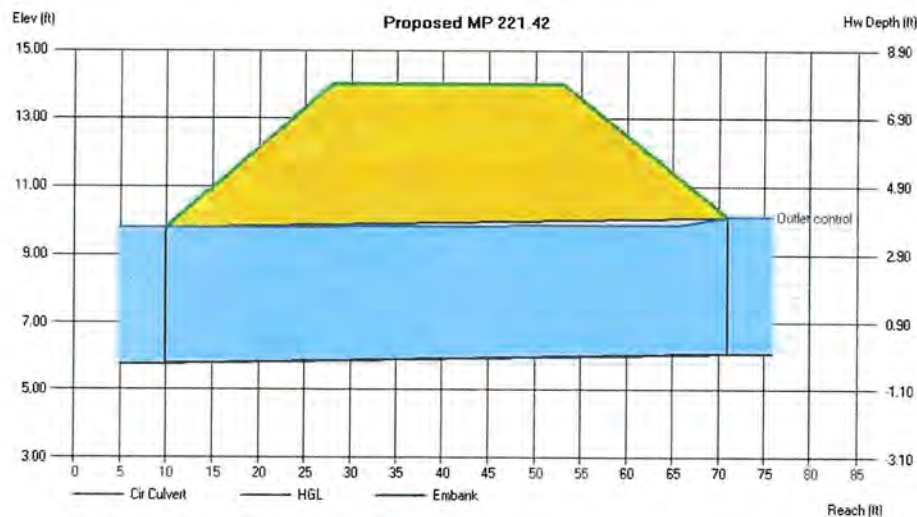
Top Elevation (ft) = 14.00
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

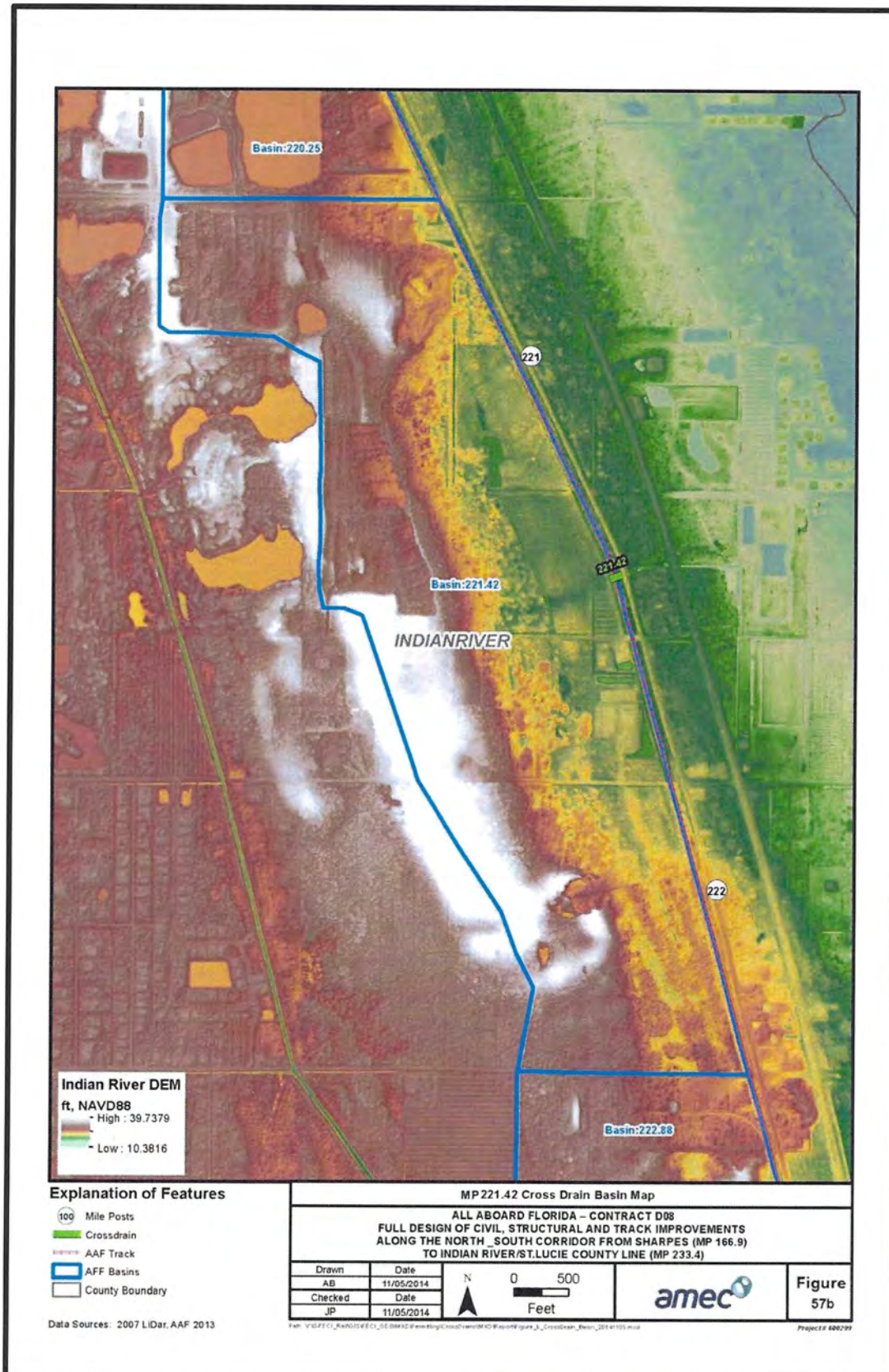
Qmin (cfs) = 129.40
Qmax (cfs) = 129.40
Tailwater Elev (ft) = Crown

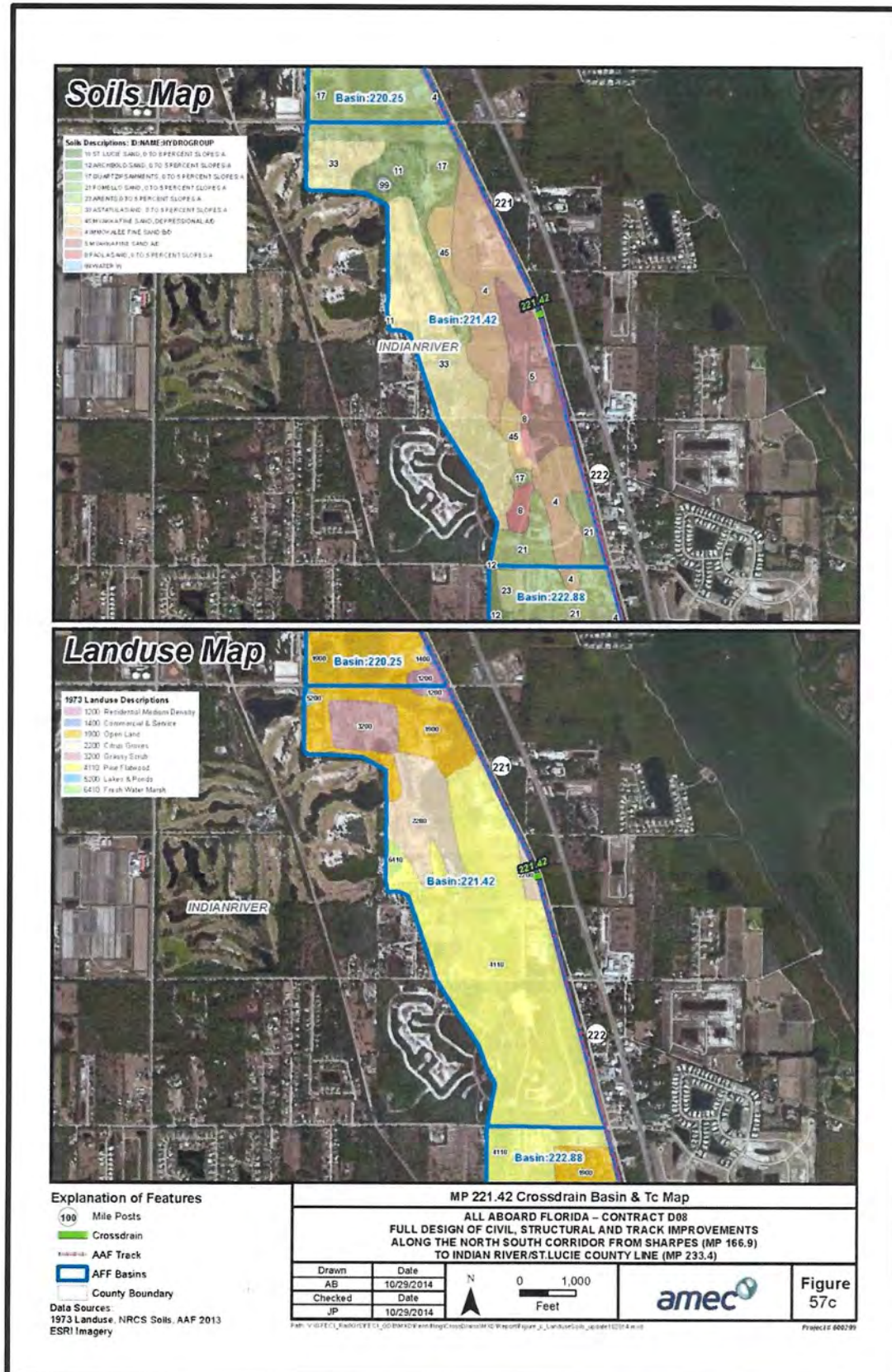
Highlighted

Qtotal (cfs) = 129.40
Qpipe (cfs) = 129.40
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 5.15
Veloc Up (ft/s) = 5.25
HGL Dn (ft) = 9.80
HGL Up (ft) = 9.90
Hw Elev (ft) = 10.11
Hw/D (ft) = 1.00
Flow Regime = Outlet Control









**72.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 222.54 CROSS DRAIN
(ACTUAL LOCATION MP 222.88)**

According to the Track Chart, there is one 56 ft. long 48" oval RCP cross drain at approximately MP 222.54. There was no culvert located at MP 222.54. Instead, a 56 ft. long 48" by 53" oval RCP with no existing end treatments was surveyed at MP 222.88. The pipe itself was in good condition and appeared to be functioning well. Both pipe ends had vegetative growth and minor sediment present. The function of the existing culvert appears to convey drainage eastwardly from the FEC ditch west of the tracks to another FEC ditch east of the tracks.

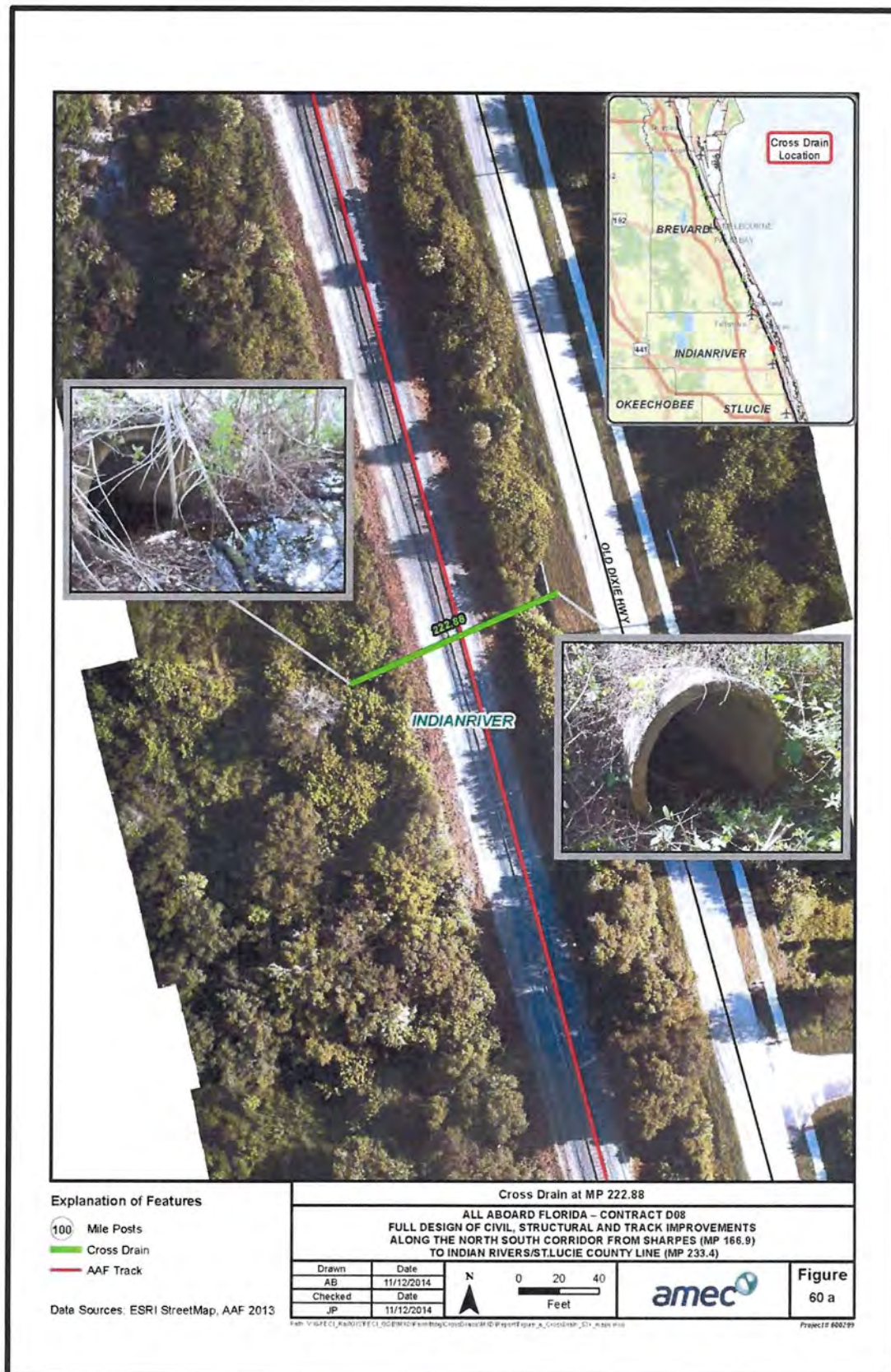
The existing drainage basin of 105.8 acres generates a 25-year, 24-hour design flow of approximately 32 cfs. Sediments and vegetation will be removed but the culverts will not be extended. As such, no further hydraulic analysis is required.

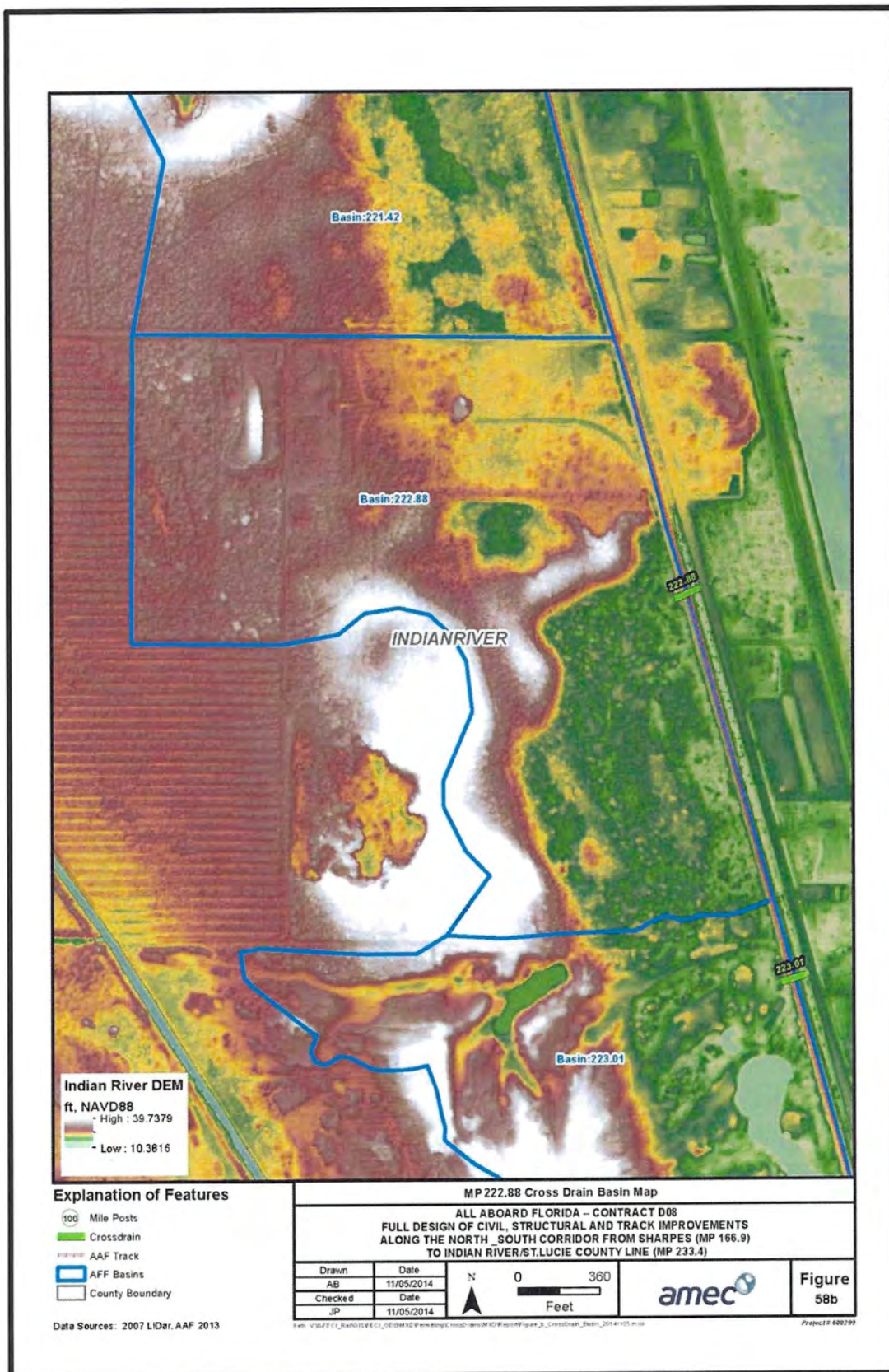


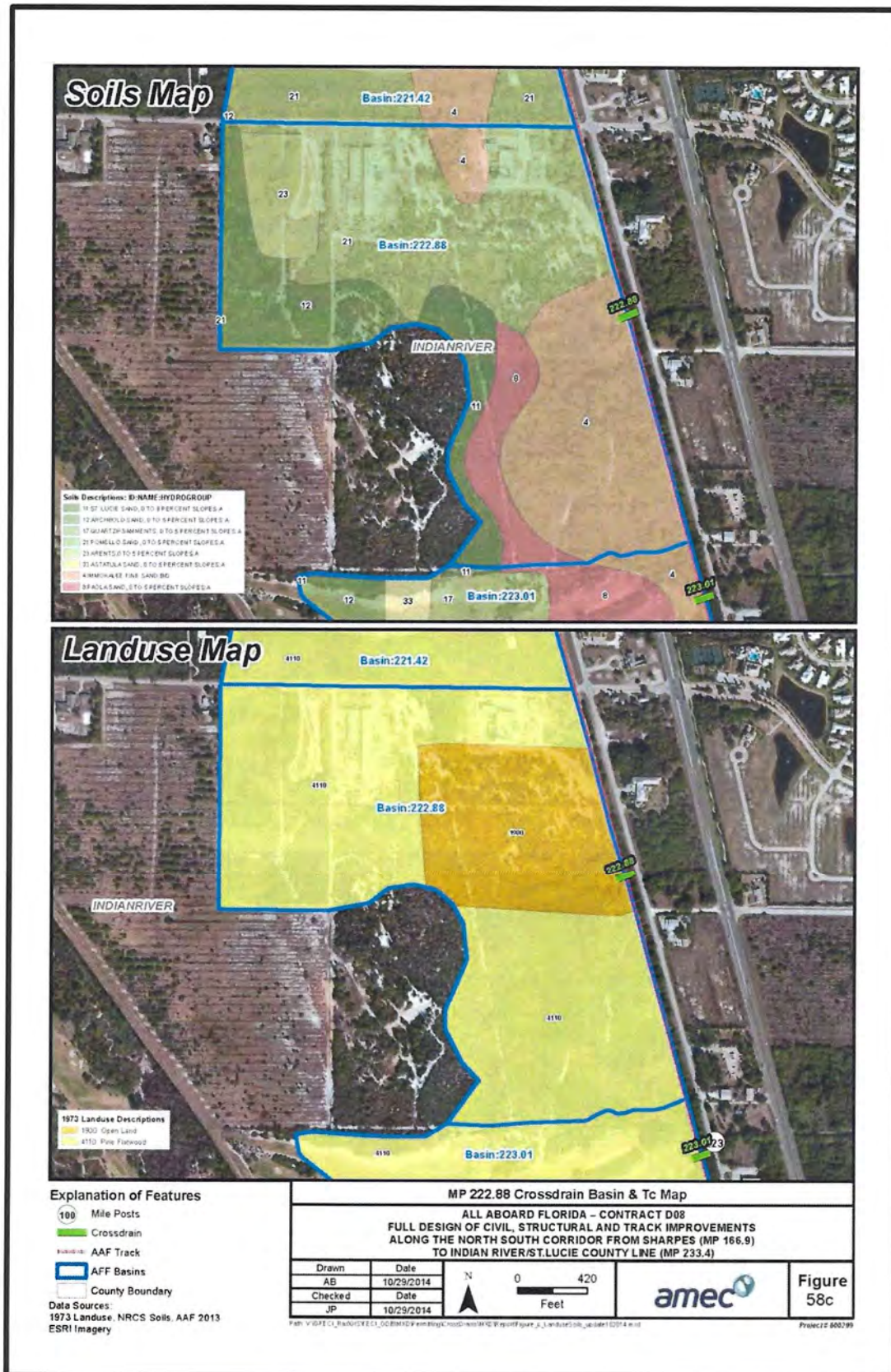
Existing West End of Cross Drain at MP 222.88



East End of Cross Drain at MP 222.88 and Adjacent Ditch







73.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 222.88 CROSS DRAIN
(ACTUAL LOCATION MP 223.01)

According to the Track Chart, there is one 56 ft. long 48" oval RCP cross drain at MP 222.88 and no other culverts north of Hawks Nest Road. A single 56 ft. long 48" by 53" oval RCP culvert was located in the field at MP 223.01. This structure has no existing end treatments, but the pipe itself was in good condition and appeared to be functioning well. Both pipe ends had vegetative growth and minor sediment present. The function of the existing culvert appears to convey drainage from the FEC ditch west of the tracks to another FEC ditch east of the tracks.

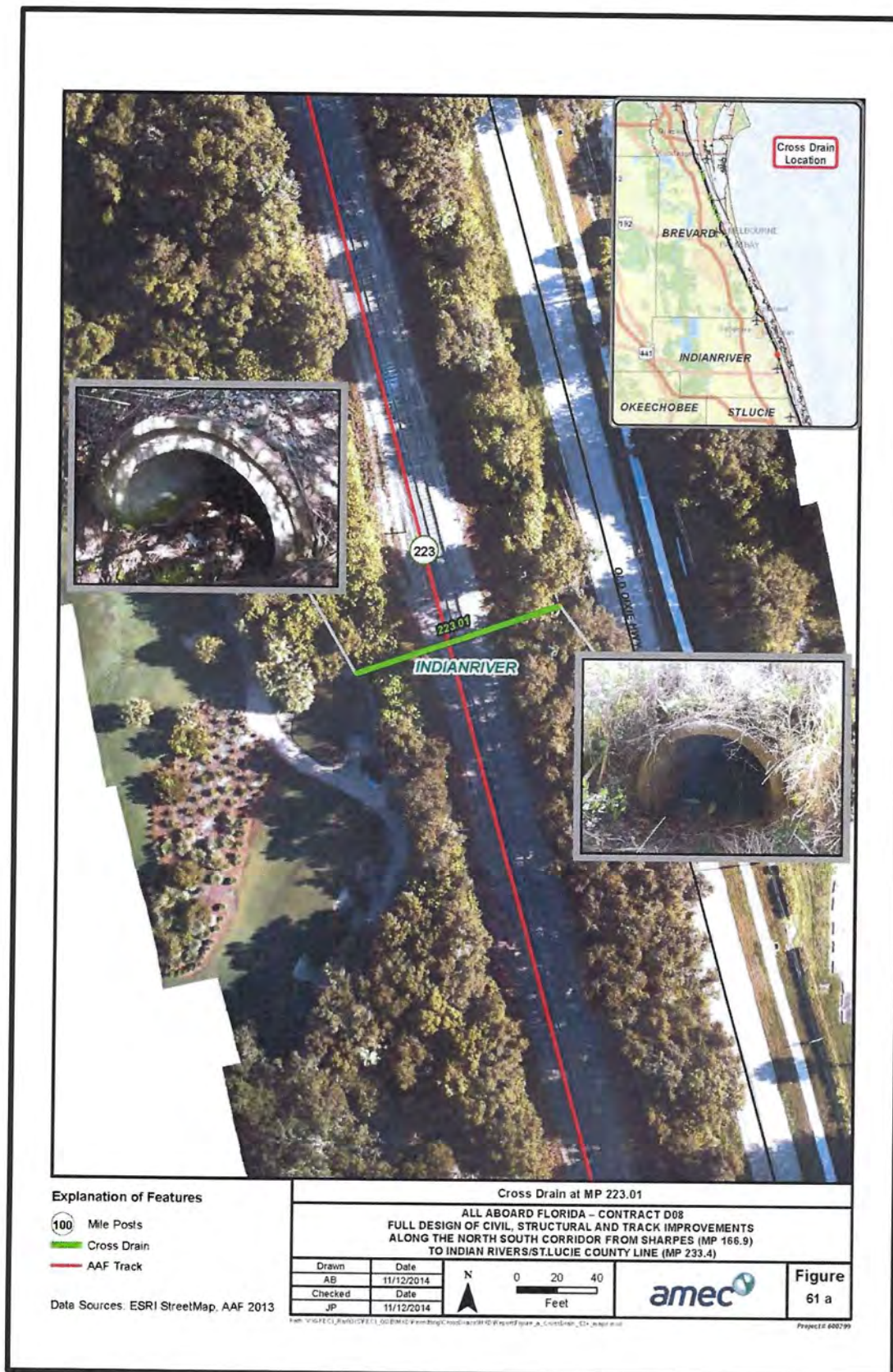
The existing drainage basin of 58.6 acres generates a 25-year, 24-hour design flow of approximately 15 cfs. Sediments and vegetation will be removed, but no culvert extensions are proposed. As such, no further hydraulic analysis is required.

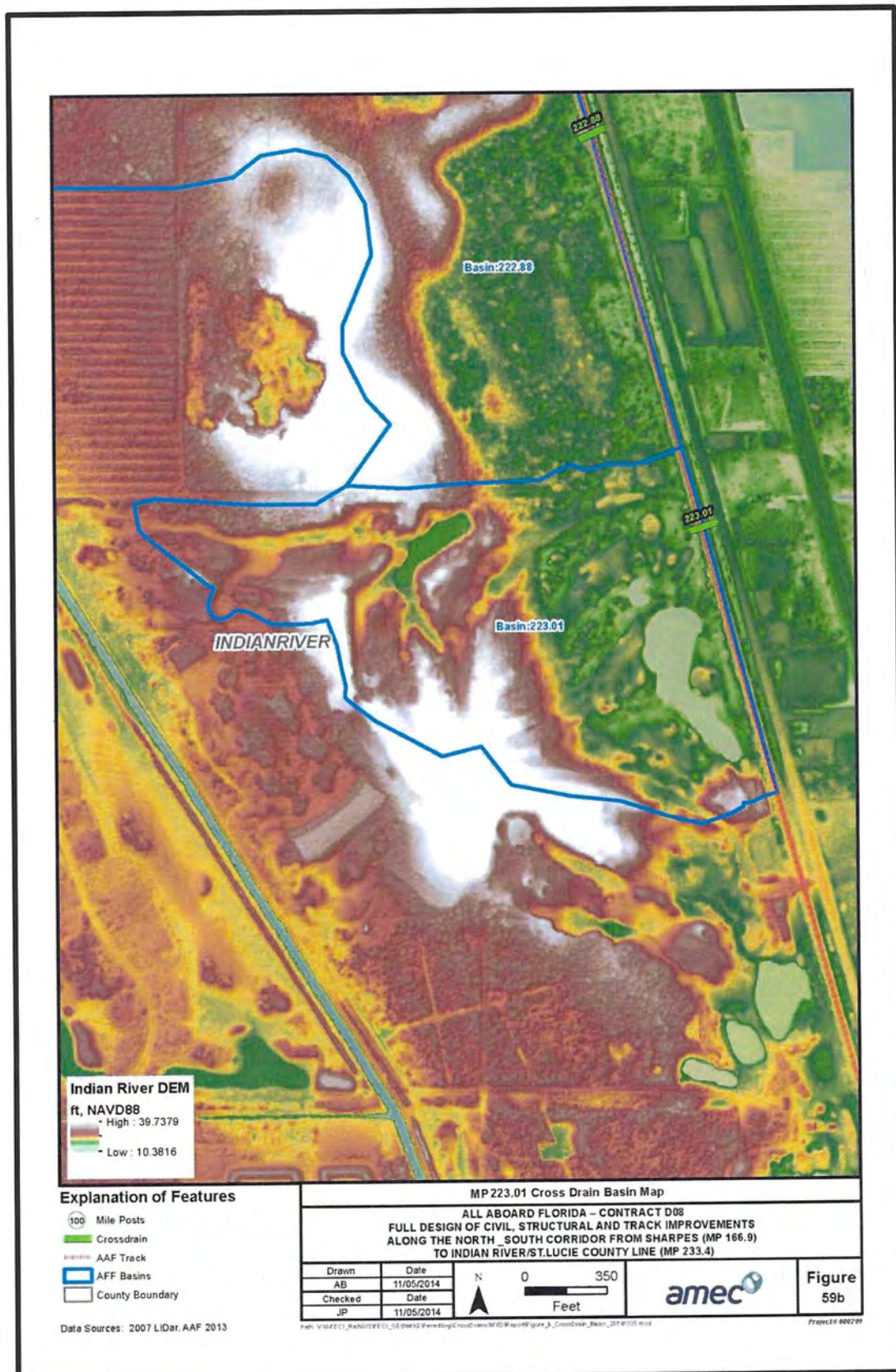


Existing West End of Cross Drain at MP 223.01



Existing East End of Cross Drain at MP 223.01







74.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 224.25 CROSS DRAIN

According to the Track Chart, there are currently triple 62 ft. long 30" oval RCP culverts at MP 224.25. Triple 65 ft. long 30"x34" oval RCP culverts with a concrete headwall on the west end and no end treatment on the east end were identified. The function of the culverts is to convey flow from the ditch west of the tracks to a ditch east of the tracks that drains to double 42" RCP culverts under CR 5A.

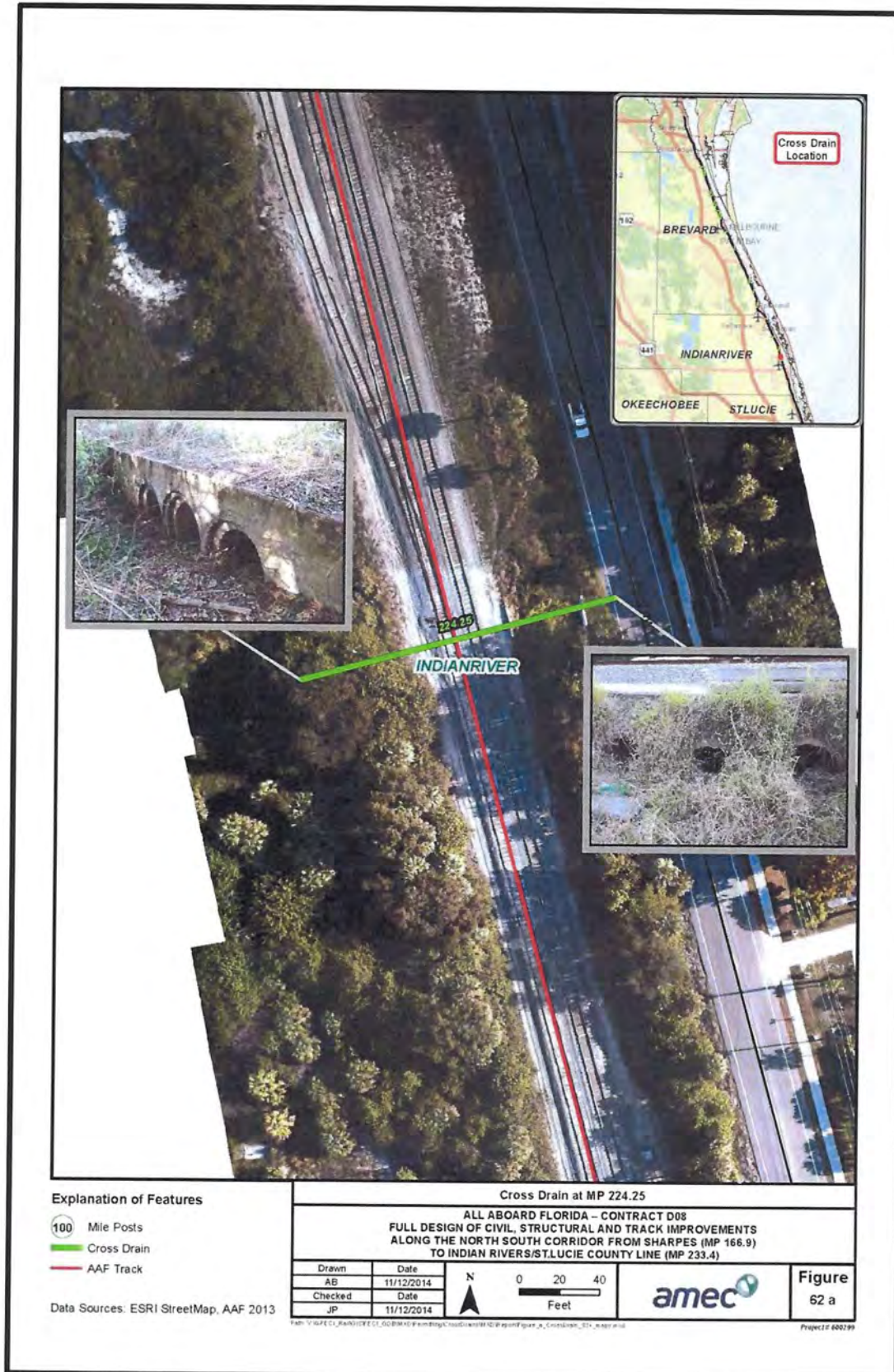
The existing drainage basin of 54.1 acres generates a 25-year, 24-hour design flow of approximately 25 cfs. Sediments and vegetation will be removed and a new headwall added on the eastern, but no culvert extensions are proposed. As such, no further hydraulic analysis is required.

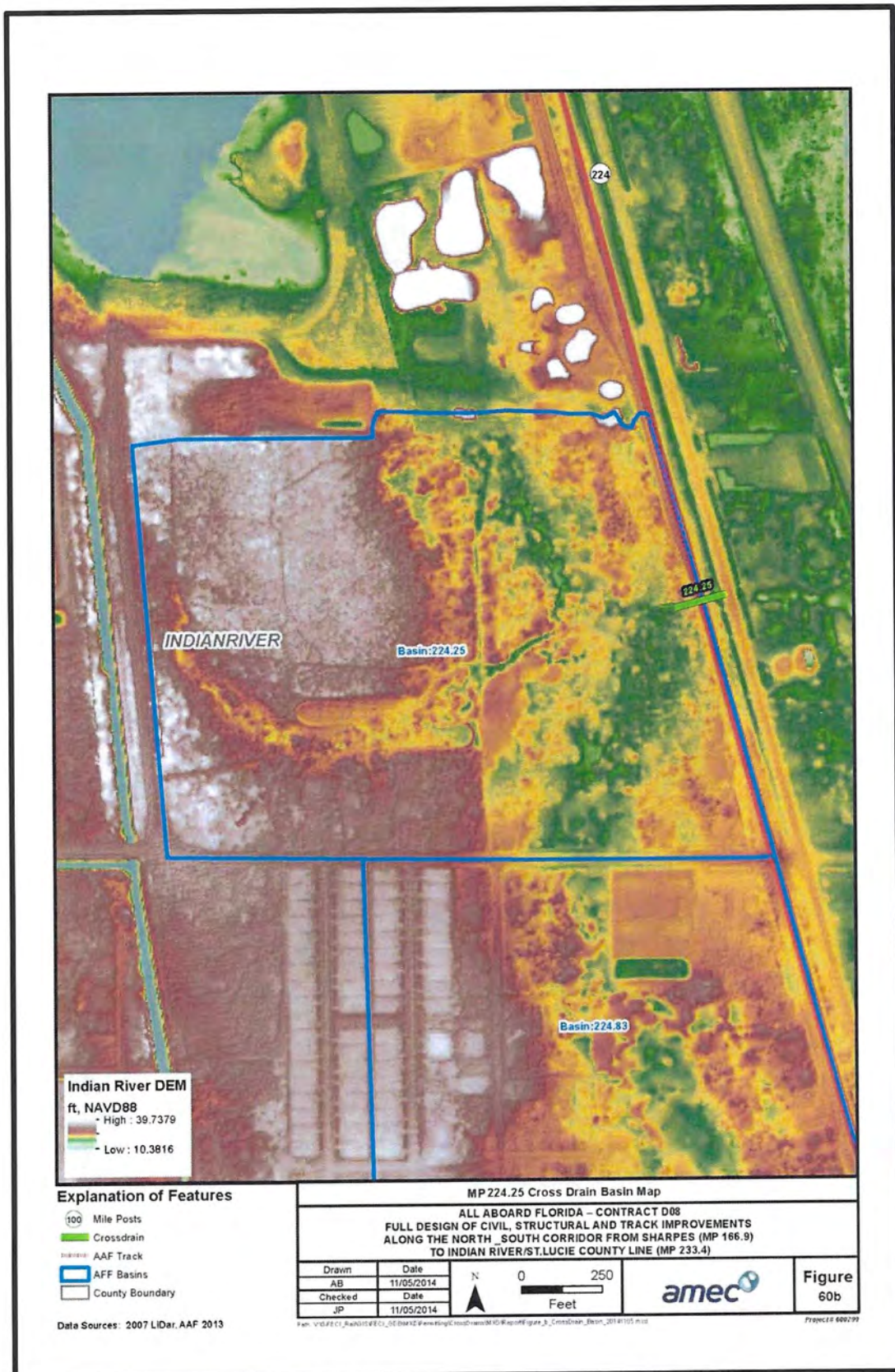


West (Upstream) End of Triple 24"x30" Culverts at MP 224.25



Receiving (East) Ditch and Double 42" Cross Drains Under CR 5A





75.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 224.83 CROSS DRAIN

According to the Track Chart, there are currently four 64 ft. long 42" oval RCP culverts at MP 224.83. Four 66 ft. long 42" by 46" oval RCP culverts with headwalls at both ends were located. Both ends of the culverts had minor sediment that will be removed. No other changes are proposed to the cross drain.

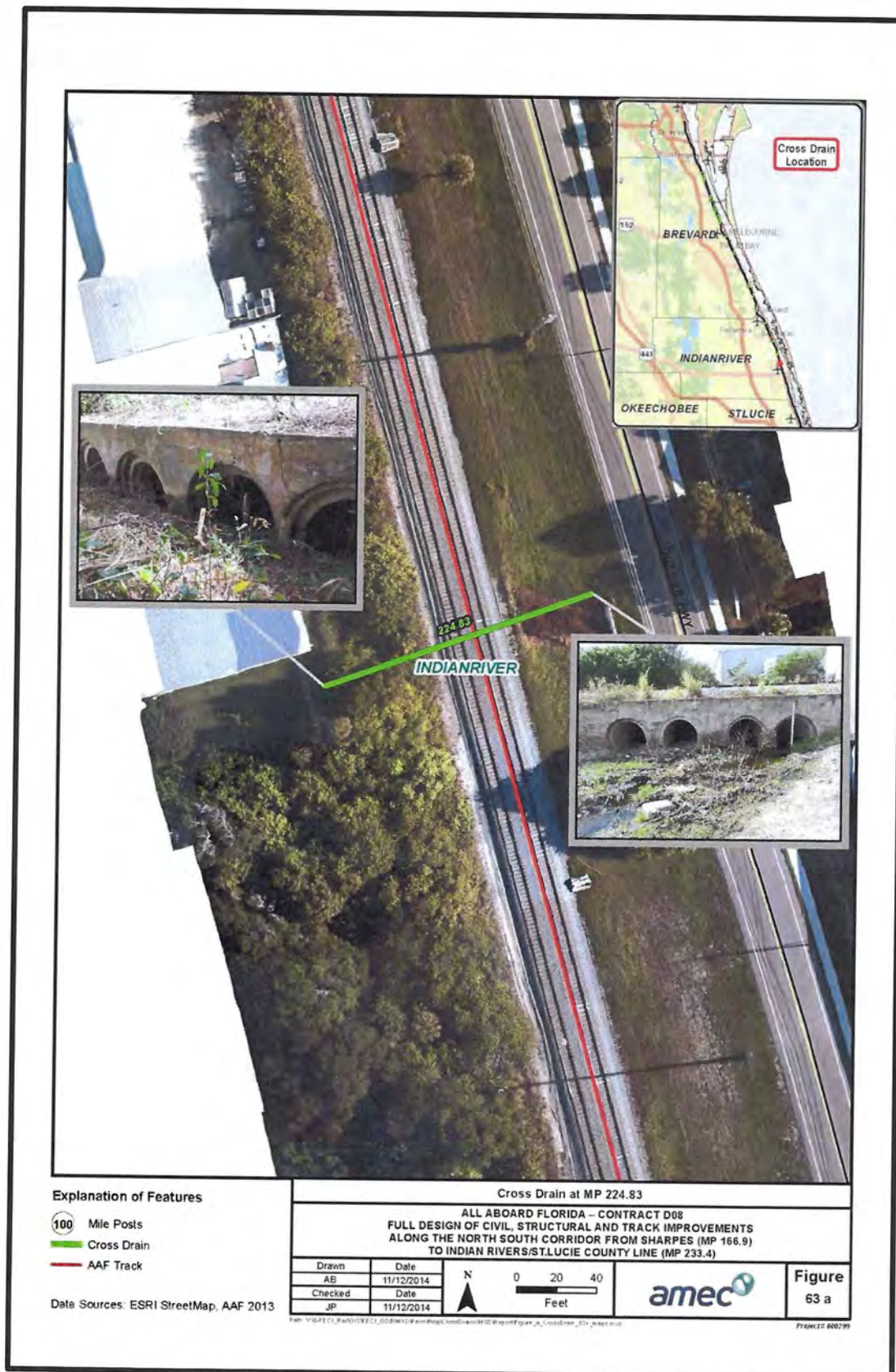
The existing drainage basin of 118.9 acres generates a 25-year, 24-hour design flow of approximately 102 cfs draining west to east toward CR 5A and US-1. Sediments and vegetation will be removed but no culvert extensions are proposed. As such, no further hydraulic analysis is required.

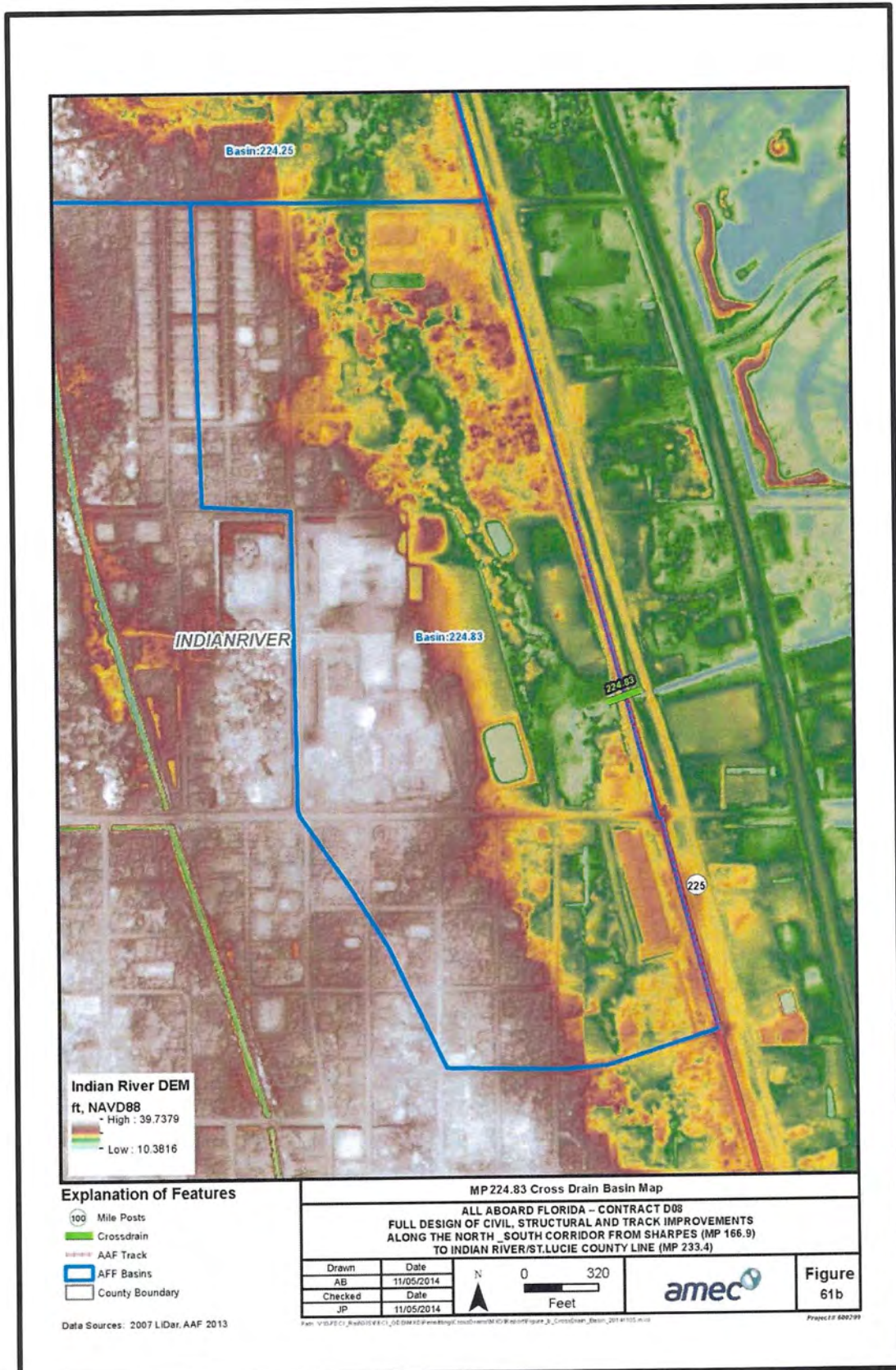


East (Downstream) End of 4-42" by 46" Culverts and Headwall at MP 224.83



West (Upstream) End of 4-42" by 46" Culverts and Headwall at MP 224.83





**76.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 226.22 CROSS DRAIN
ACTUAL LOCATIONS MP 226.26**

According to the Track Chart, there are triple 48 ft. long oval 30" RCP culverts at this location. Triple 30" by 33" oval RCP culverts were identified in the field at MP 226.26. There are endwalls on both ends, and both endwalls are severely cracked and should be replaced by FEC maintenance crews but will not be done as part of the current construction. The culverts themselves appear to be in satisfactory condition and have only minor sediment. The primary purpose of this cross drain is to convey drainage eastward under the tracks. The existing drainage basin to the culvert system appears to be only approximately 2.0 acres draining from west to east and generating a 25-year, 24-hour design flow of only 2.3 cfs. It appears that historically more flow came to these culverts from the west, but the establishment of the airport and its modifications to regional drainage have significantly reduced the drainage basin to the cross drain.

There are currently double tracks at this location that will be replaced almost in the same location by two new tracks. There are no culvert extensions proposed and therefore no further hydraulic analysis is required.

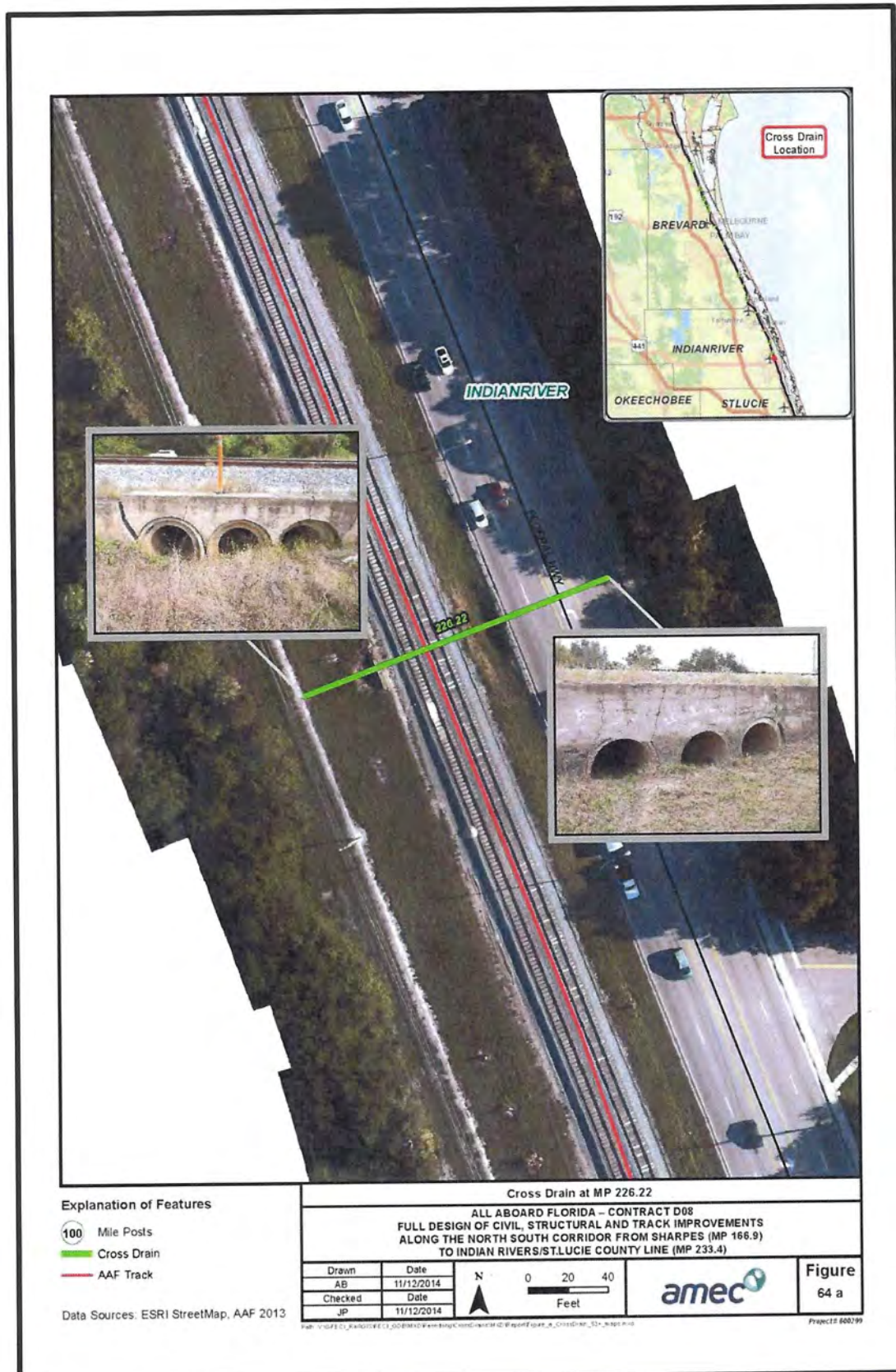


West (Upstream) End of Triple 30" RCP Culverts at MP 226.26.
Note: The Severely Cracked Endwall.

EXHIBIT D



East (Downstream) End of Triple 30" RCP Culverts at MP 226.26.
Note: The Severely Cracked Endwall.







77.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 228.13 CROSS DRAIN

According to the Track Chart, there are double, 80 ft. long 24" oval RCP culverts at this location. Double 24" by 27" RCP culverts with a concrete headwall on the western end were verified. The northern culvert ends in a catch basin inlet with an internal weir on its eastern end (likely constructed for the adjacent storage facility) – just outside the ROW. The east end of the south pipe could not be located and appears to continue past the ROW line farther east.

The existing drainage basin to the cross drain is approximately 3.2 acres draining from east to west and generating a 25-year, 24-hour design flow of approximately 5 cfs. No modifications are proposed to the cross drain and therefore no further hydraulic analysis is required.



Existing West End of Cross Drain at MP 228.13



Catch Basin at East End of Cross Drain at MP 228.13

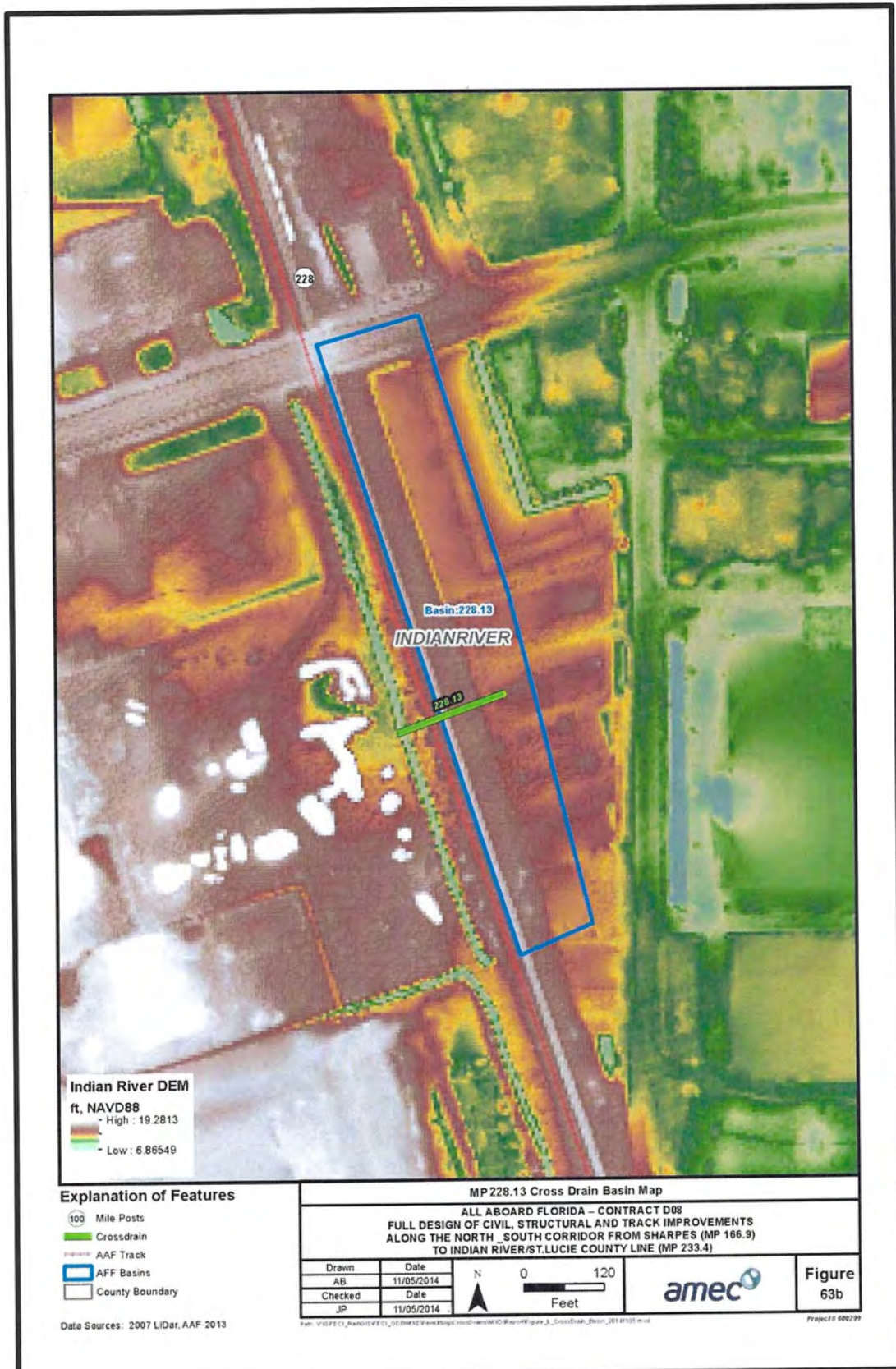
EXHIBIT D

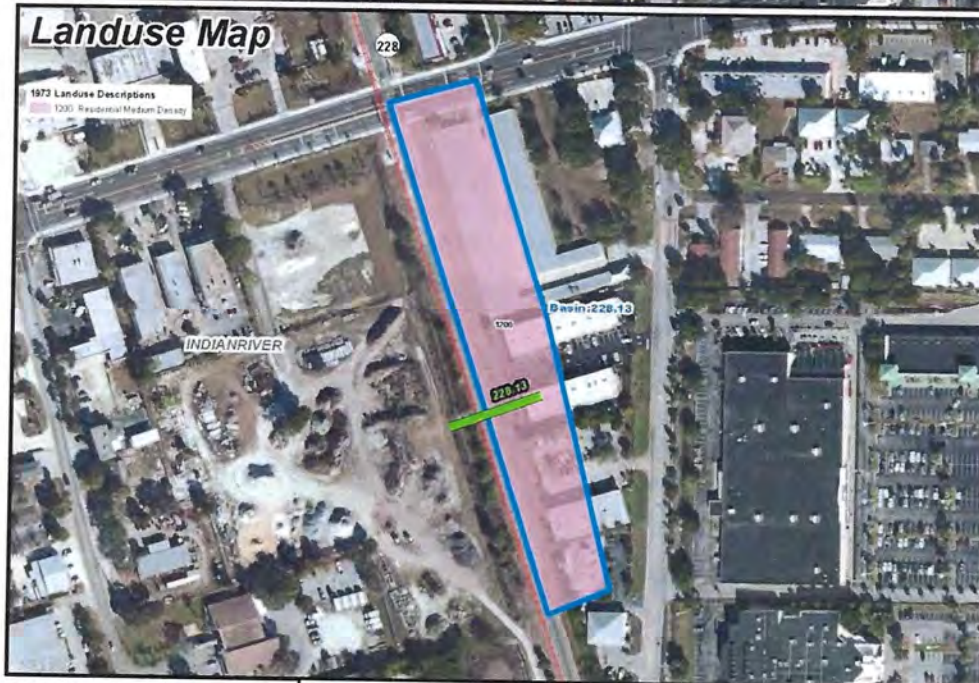
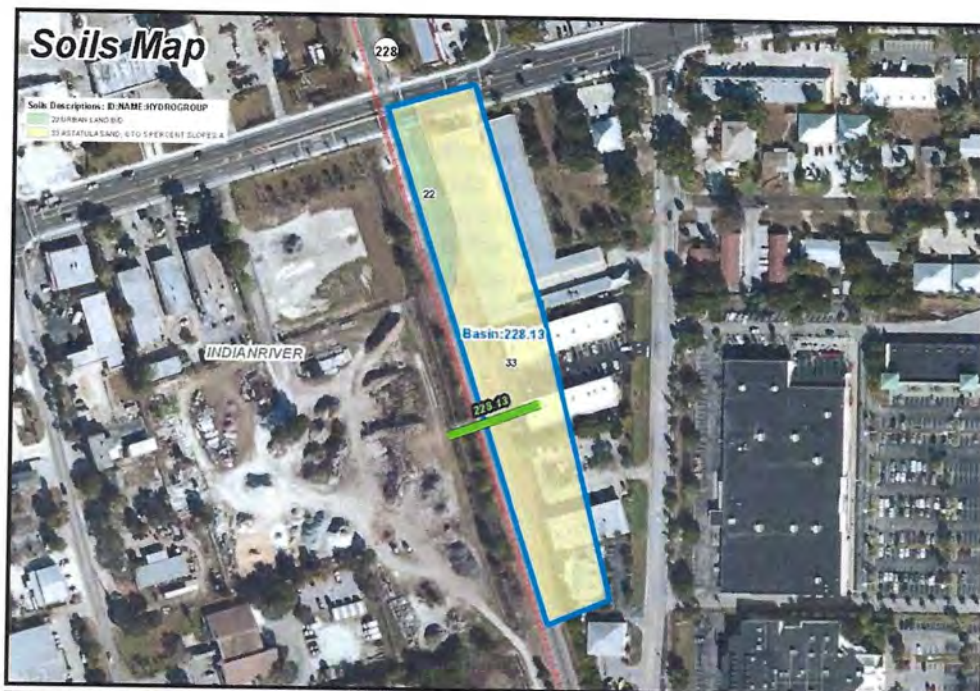
Note that there was a weir inside of the catch basin located at the east end of the cross drain, likely acting as a control structure for the system. Also, there is an 18" RCP connected to the south end of the catch basin. These details are shown in the picture below.



Inside of Catch Basin at East End of Cross Drain







Explanation of Features

-  Mile Posts
-  Crossdrain
-  AAF Track
-  AFF Basins
-  County Boundary

Data Sources:
1973 Landuse, NRCS Soils, AAF 2013
ESRI Imagery

MP 228.13 Crossdrain Basin & Tc Map

ALL ABOARD FLORIDA - CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPES (MP 166.9)
TO INDIAN RIVER/ST.LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/29/2014
Checked	Date
JP	10/29/2014



A scale bar labeled "Feet" with markings at 0 and 150.



Figure 63c

Project # 60029

78.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 229.76 CROSS DRAIN

According to the Track Chart, there are triple, 48 ft. long 36" oval RCP culverts at MP 229.76. Triple, 49 ft. long 36" by 40" oval RCP culverts with a concrete headwall on the west end but no end treatments on the east, where the culverts extend from the existing embankment. The system appears to be in good structural condition and contains minimal blockage. The culvert conveys water from the upstream western FEC ditch eastward to a channel which outfalls into the South Relief Canal. The existing drainage basin to the culvert system is approximately 163.7 acres of mixed-use land draining from west to east. This generates a 25-year, 24-hour design flow of nearly 146.3 cfs. The east end of the culverts will be extended 8 lf and a new headwall will be constructed, as well as additional rip rap on the adjacent slope. The Hydraflow analysis confirms that the extension will have no appreciable impact on the hydraulics because the upstream headwater remains unchanged at elevation 9.4, i.e. approximately 3.6 ft. below the top of the tie and 1.4 ft. below the bottom of the sub-ballast.



East Receiving Ditch of MP 229.76 Culvert System
(Conveys Drainage to South Relief Canal)



West End of MP 229.76 Culverts and Endwall

Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Tuesday, Dec 16 2014

Existing MP 229.76

Invert Elev Dn (ft) = 5.32
Pipe Length (ft) = 49.00
Slope (%) = 0.39
Invert Elev Up (ft) = 5.51
Rise (in) = 36.0
Shape = Cir
Span (in) = 36.0
No. Barrels = 3
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

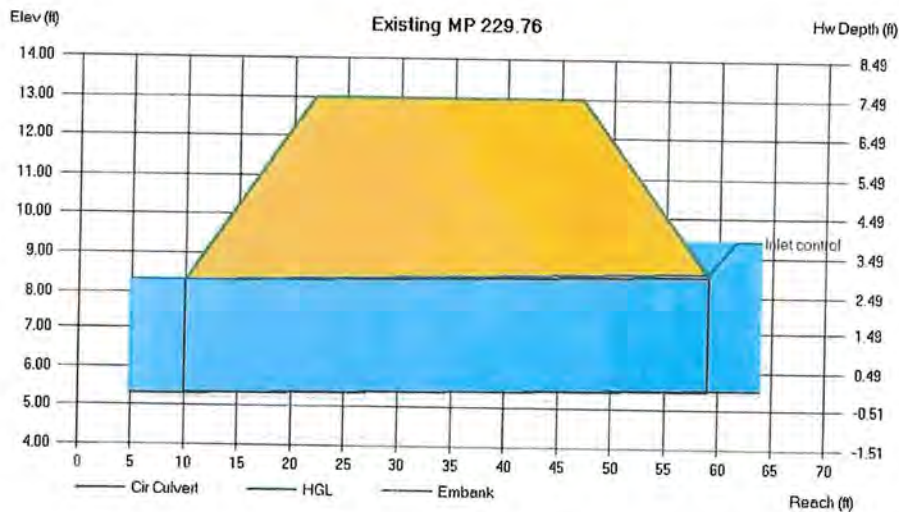
Embankment
Top Elevation (ft) = 13.00
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 146.30
Qmax (cfs) = 146.30
Tailwater Elev (ft) = Crown

Highlighted

Qtotal (cfs) = 146.30
Qpipe (cfs) = 146.30
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 6.90
Veloc Up (ft/s) = 6.90
HGL Dn (ft) = 8.32
HGL Up (ft) = 8.58
Hw Elev (ft) = 9.41
Hw/D (ft) = 1.30
Flow Regime = Inlet Control



Culvert Report

Hydraflow Express Extension for AutoCAD® Civil 3D® 2009 by Autodesk, Inc.

Tuesday, Dec 16 2014

Proposed MP 229.76

Invert Elev Dn (ft) = 5.27
Pipe Length (ft) = 57.00
Slope (%) = 0.42
Invert Elev Up (ft) = 5.51
Rise (in) = 36.0
Shape = Cir
Span (in) = 36.0
No. Barrels = 3
n-Value = 0.013
Inlet Edge = Sq Edge
Coeff. K,M,c,Y,k = 0.0098, 2, 0.0398, 0.67, 0.5

Embankment

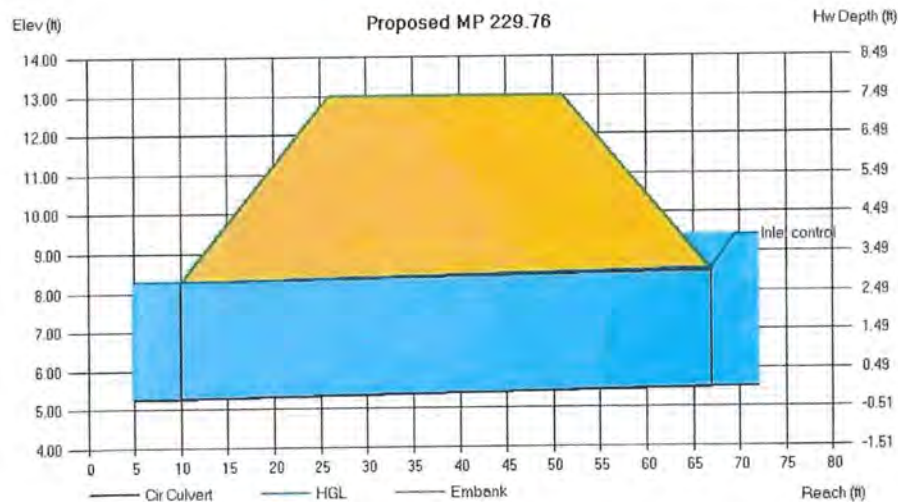
Top Elevation (ft) = 13.00
Top Width (ft) = 25.00
Crest Width (ft) = 1.00

Calculations

Qmin (cfs) = 146.30
Qmax (cfs) = 146.30
Tailwater Elev (ft) = Crown

Highlighted

Qtotal (cfs) = 146.30
Qpipe (cfs) = 146.30
Qovertop (cfs) = 0.00
Veloc Dn (ft/s) = 6.90
Veloc Up (ft/s) = 6.90
HGL Dn (ft) = 8.27
HGL Up (ft) = 8.58
Hw Elev (ft) = 9.41
Hw/D (ft) = 1.30
Flow Regime = Inlet Control





Explanation of Features

- 100 Mile Posts
- Crossdrain
- AAF Track
- AAF Basins
- County Boundary

Data Sources:
1973 Landuse, NRCS Soils, AAF 2013
ESRI Imagery

MP 229.8 Crossdrain Basin & Tc Map

ALL ABOARD FLORIDA – CONTRACT D08
FULL DESIGN OF CIVIL, STRUCTURAL AND TRACK IMPROVEMENTS
ALONG THE NORTH SOUTH CORRIDOR FROM SHARPE (MP 166.9)
TO INDIAN RIVER/ST. LUCIE COUNTY LINE (MP 233.4)

Drawn	Date
AB	10/29/2014
Checked	Date
JP	10/29/2014

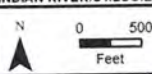


Figure
64c

Path: \\F:\Projects\15\150000\150000.dwg; Project: 150000.dwg; User: jason; Date: 10/29/2014

Project: 600299

79.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 230.51

According to the Track Chart, there are triple 48 ft. long 24" oval RCP culverts at MP 230.51. Double 48 ft. long 24" by 27" oval RCP culverts with concrete headwalls on each end plus a single 53 ft. long 36" RCP were located at MP 230.51. Due to their close proximity, all three culverts are presented in this culvert extension analysis and are assumed to work in conjunction with one another. Flow was observed during the site inspection through the single 36" RCP culvert, but no water was present at the double 24" RCP culverts. The headwalls appear to be showing signs of aging through cracks and chipping, but all culverts appear to be primarily clear of sediment and functioning.

The existing drainage basin to the cross drains is approximately 109.7 acres draining from west to east and a 25-year, 24-hour event for this system generated a 111 cfs design flow. No extensions are proposed to the culverts, therefore no further hydraulic analysis is required.

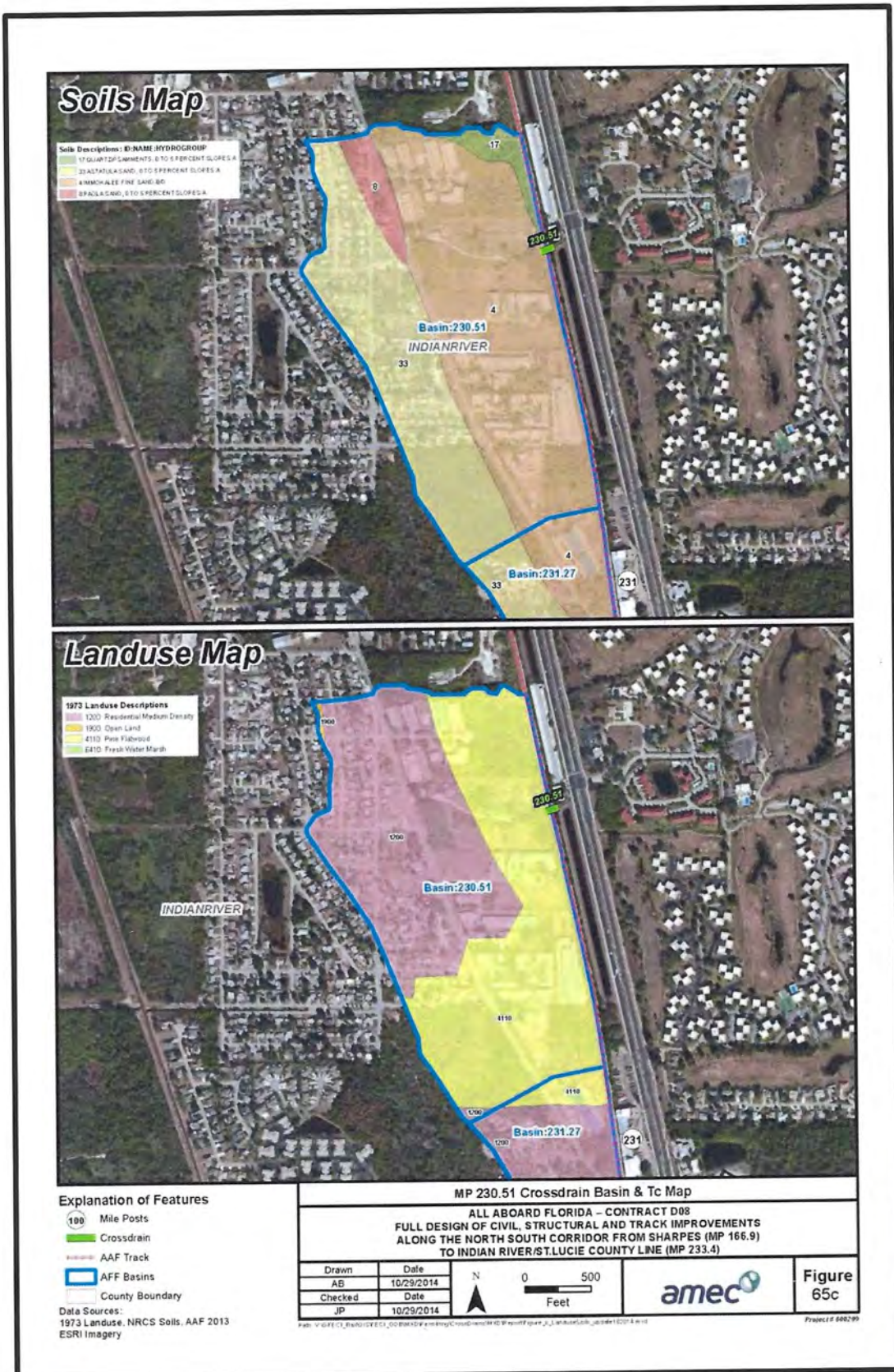


Looking at MP 230.51 West Headwall and Upstream Side of Double 24" by 27" RCP Culverts



Looking East at Downstream Side of MP 230.51 Single 36" Culvert and Receiving Ditch





80.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 231.56 CROSS DRAIN
(ACTUAL LOCATION MP 231.27)

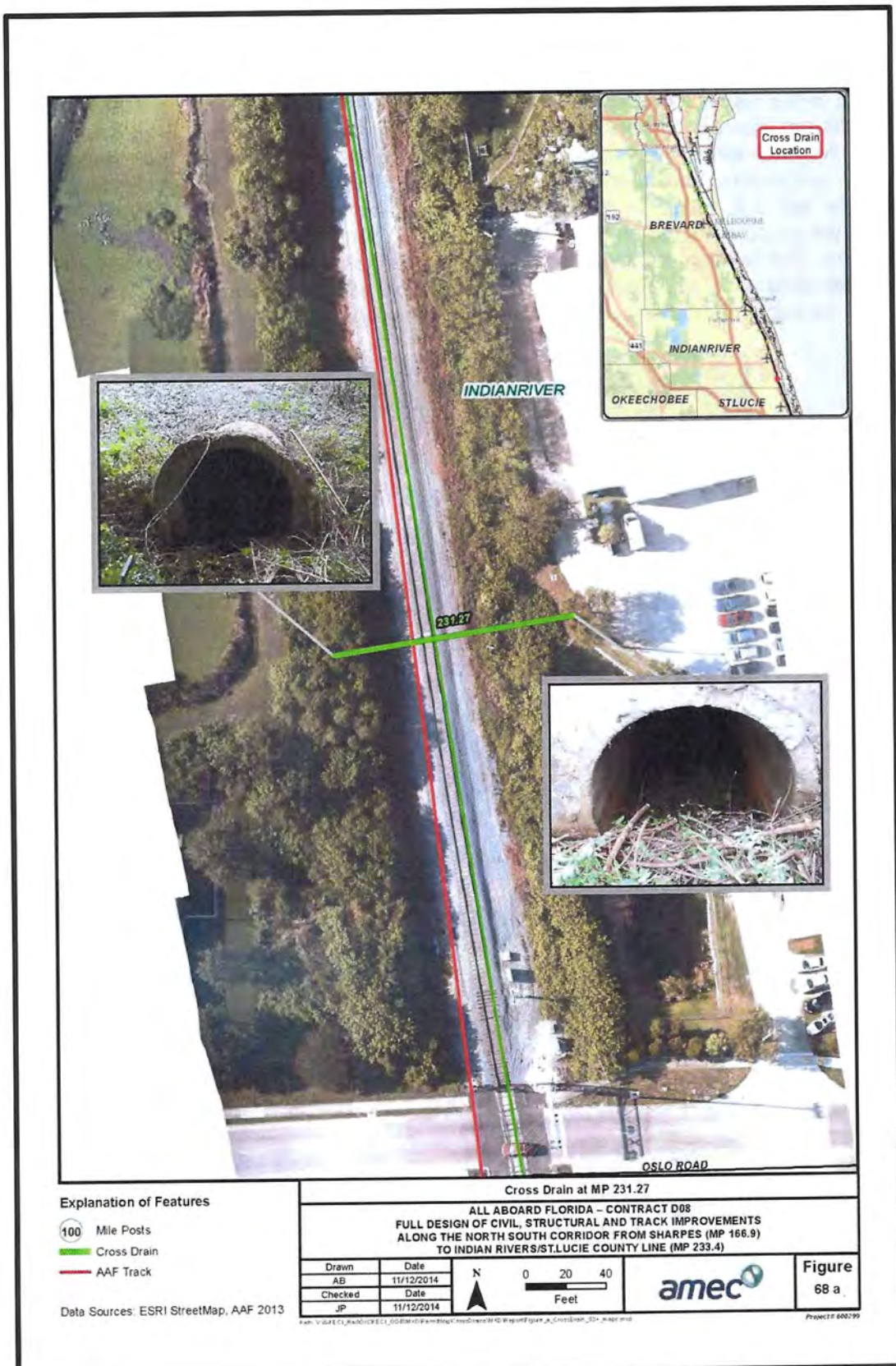
According to the Track Chart, there is a single 56 ft. long 42" oval RCP culvert at MP 231.56. This culvert was not located. However, a single 57 ft. long 42" by 46" oval RCP was located at MP 231.27. The east side of the culvert has an endwall in good condition, but the west side is damaged and has no end treatment. Amec Foster Wheeler is recommending to remove and replace the last 8 ft. "stick" of 42" by 46" RCP and replace it with a 42" circular RCP. A new headwall will be constructed on the west end and the crack in the existing eastern headwall will be repaired. The existing drainage basin of 40.9 acres generates a 25-year, 24-hour design flow of approximately 45.4 cfs. Sediments and vegetation will be removed, but no extensions are required. As such, no further hydraulic analysis is required.

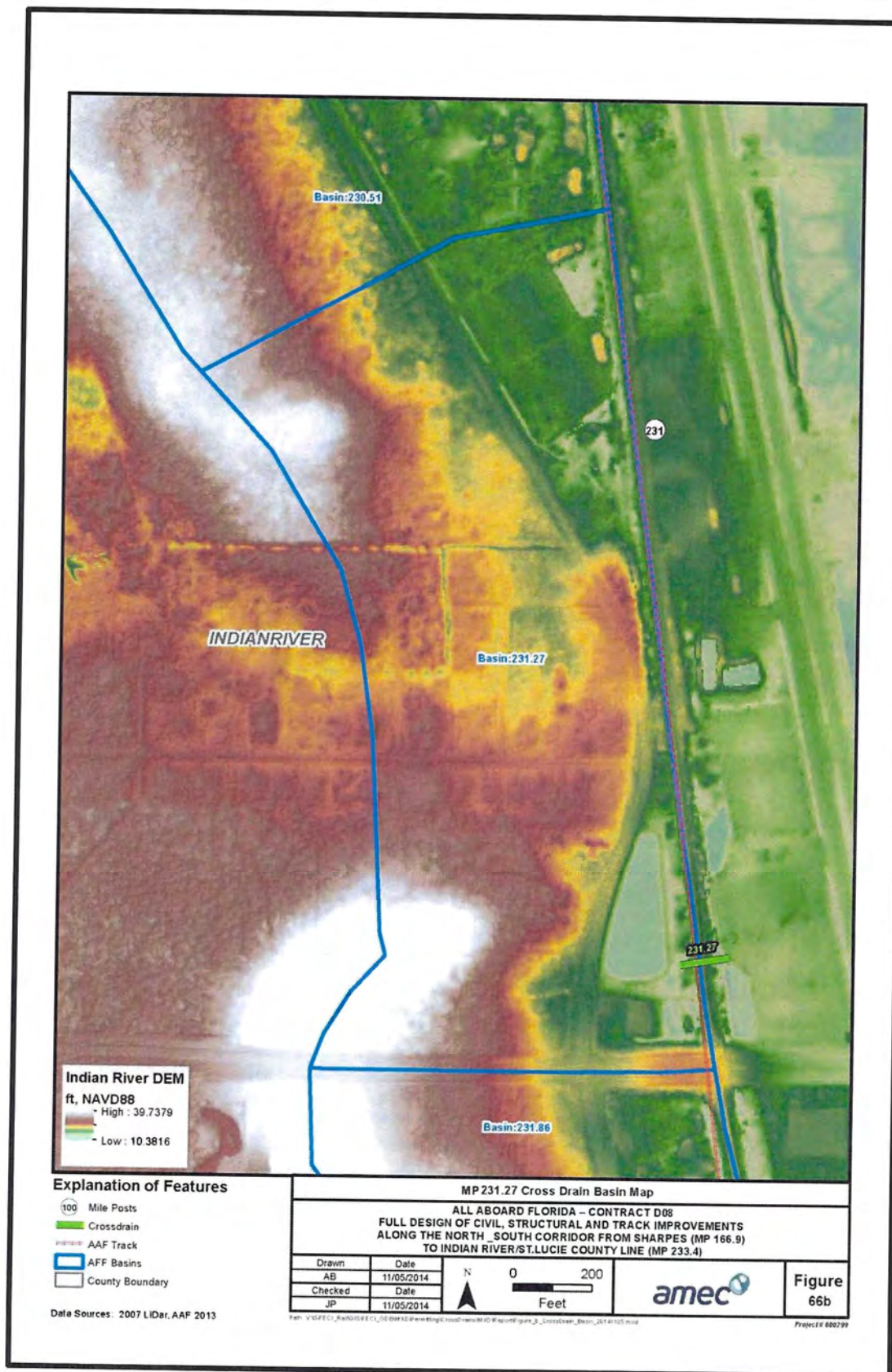


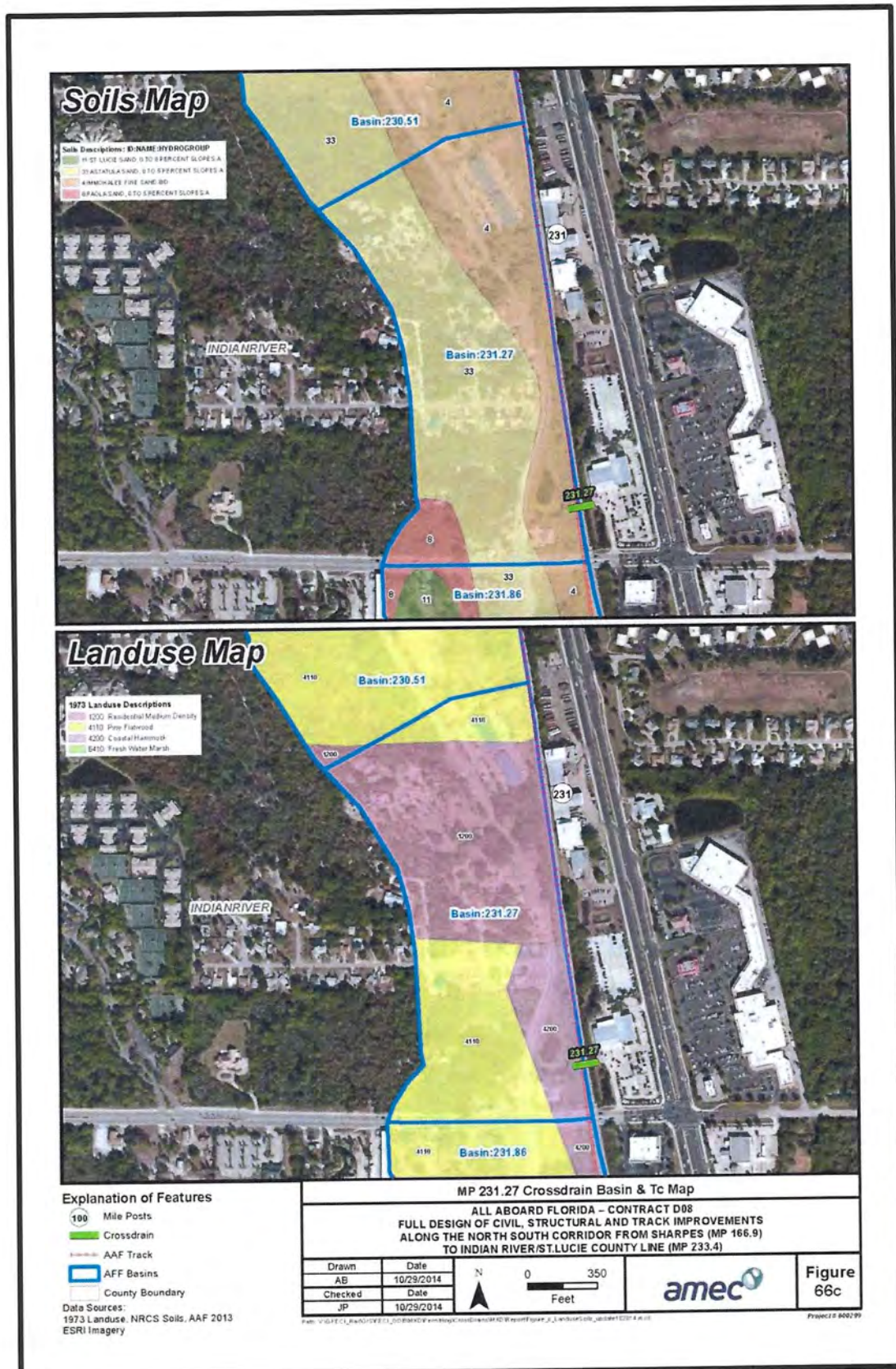
Existing Headwall on East Side of Cross Drain at MP 231.27



Existing Damaged West End of Cross Drain at MP 231.27







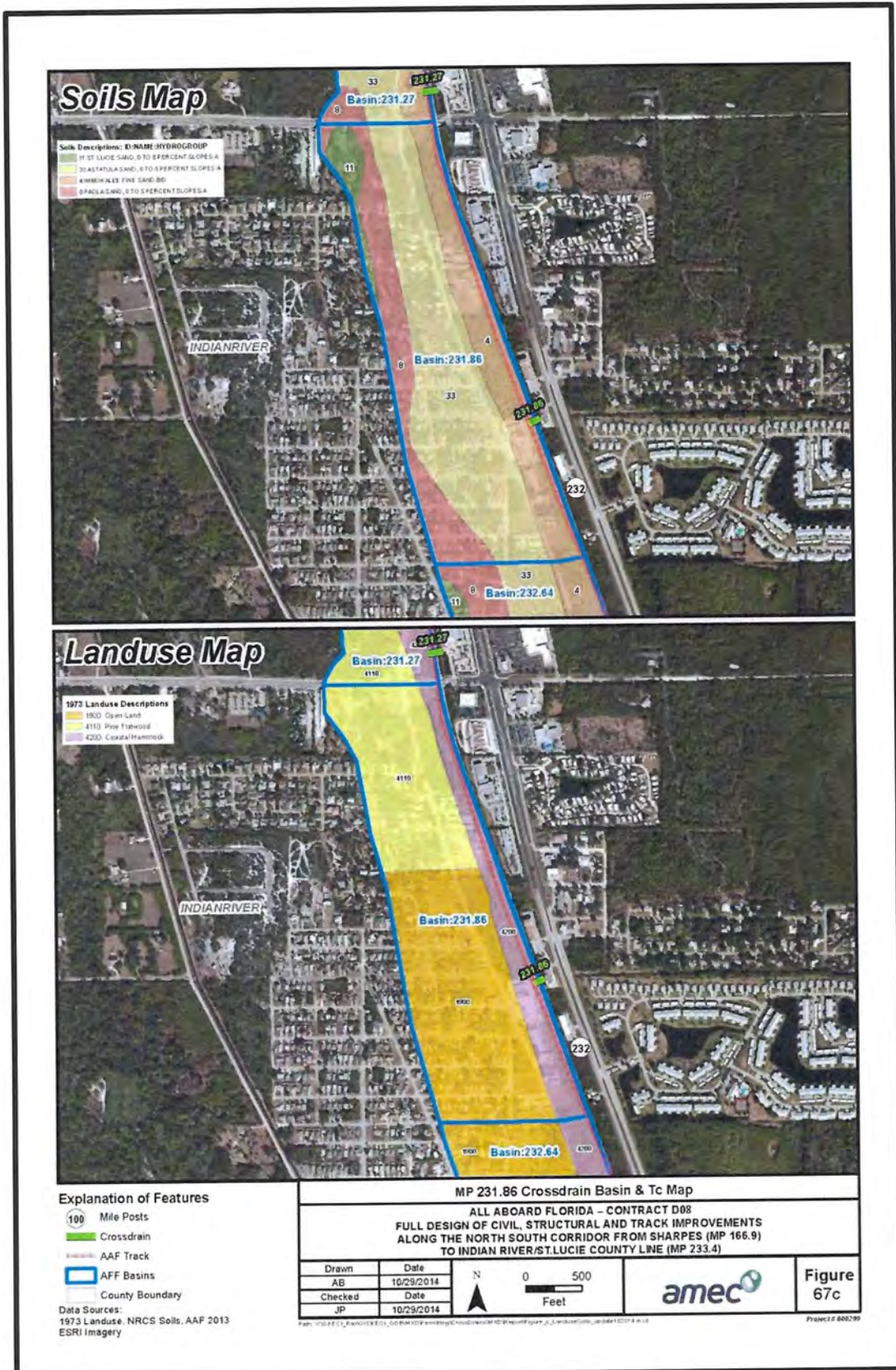
81.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 231.86 CROSS DRAIN

According to the track chart, there are double 48 ft. long 48" oval RCP culverts at MP 231.86. Two 49 ft. long 48" by 54" oval RCP culverts were surveyed. There are damaged headwalls on both ends that should be repaired or replaced by FEC maintenance crews but will not be included in the current construction project. The primary purpose of this cross drain is to convey drainage eastward under the tracks. The existing drainage basin to the culvert system is approximately 102.5 acres draining from west to east and generating a 25-year, 24-hour design flow of 37.5 cfs. There are no extensions proposed to the culverts and therefore no further hydraulic analysis is required.



West Endwall and Double 48" RCP Culverts at MP 231.86

The existing drainage basin to the cross drain is approximately 102.5 acres draining from west to east and generating a 25-year, 24-hour design flow of approximately 38 cfs.



82.0 CULVERT EXTENSION ANALYSIS FOR TRACK CHART MP 232.64 CROSS DRAIN

According to the Track Chart, there is one 48 ft. long 36" oval RCP at this location. The actual cross drain found in the field was a single 49 ft. long 36" by 40" oval RCP culvert at approximate MP 232.64. The east side of the culvert has an endwall, but the west side has no end treatment. The overall structure appeared to be in good condition and functioning, with no significant sediment accumulation and only minor vegetation growth. The west end of the culvert is shown below with some vegetation growth around the culvert inlet. The existing drainage basin of 135 acres generates a 25-year, 24-hour design flow of approximately 76 cfs. Sediments and vegetation will be removed, but no extensions are required. As such no further hydraulic analysis is required. The eastern headwall is cracked and should be repaired or replaced by FEC maintenance crews – but is not included with this construction project.

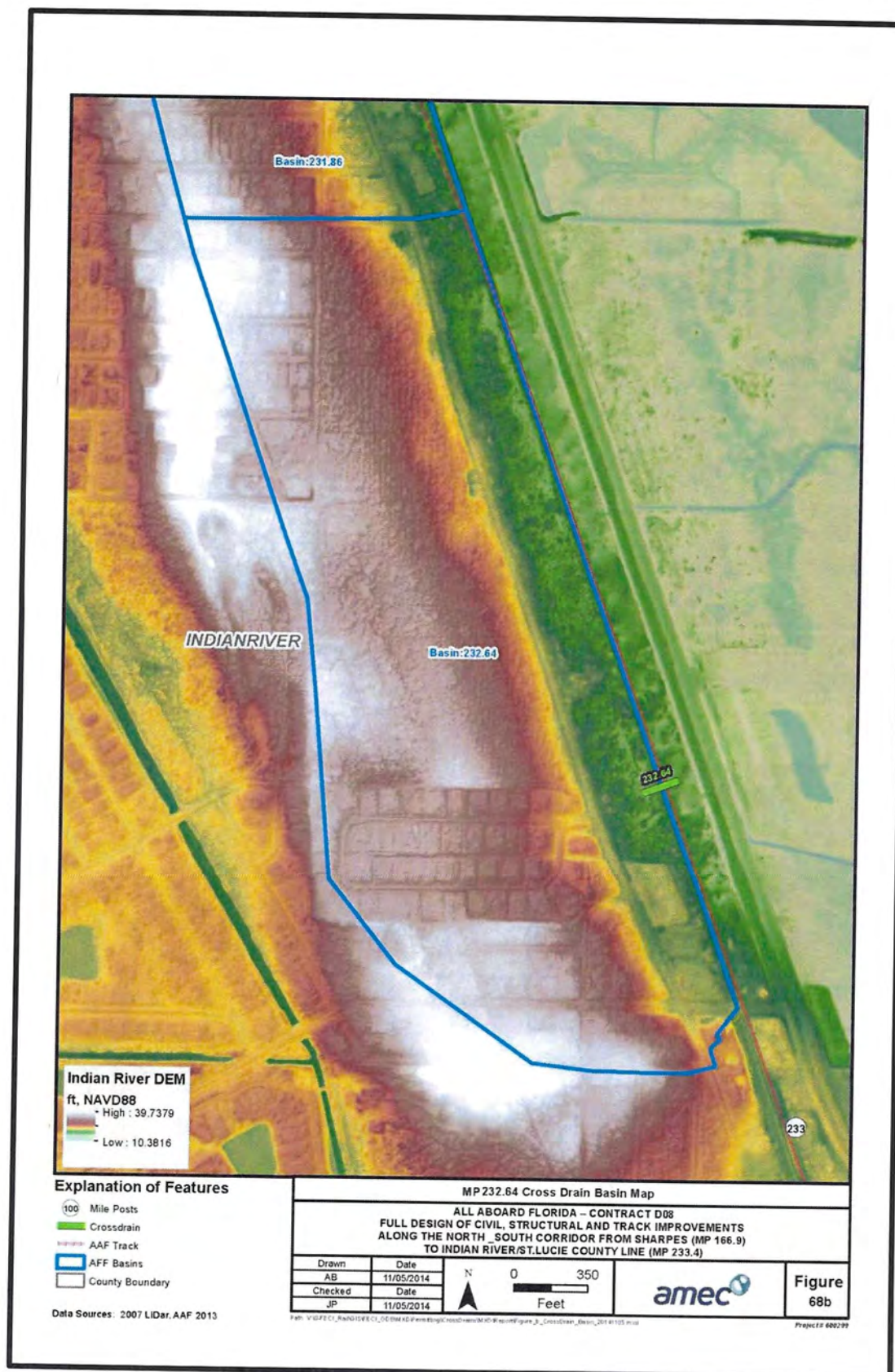


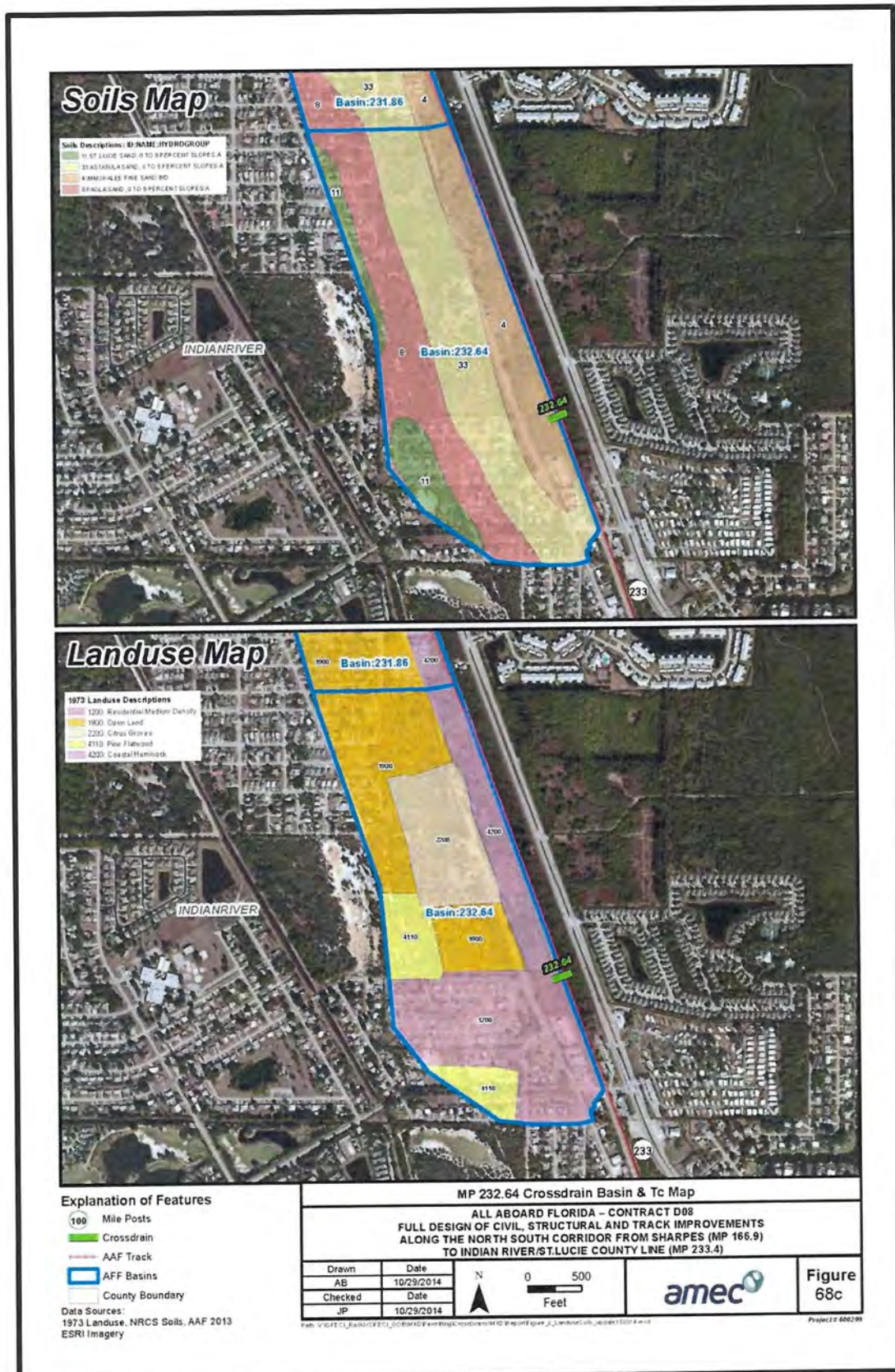
Existing West End of Cross Drain at MP 232.64



Existing Endwall and East End of Cross Drain at MP 232.64







83.0 PROPOSED NEW CROSS DRAIN CULVERTS

There are three locations (MP 169.63, MP 169.72, and MP 169.80) where existing FDOT culverts convey drainage from US 1 and several of its related ponds westward to the eastern limit of the FEC right of way. There are no existing cross drains at these locations to carry the drainage under the tracks to the western side of the FEC right of way. Instead, the eastern portion of the right of way contains several drainage ditches that provide retention storage of the discharge from the culverts. The proposed rail construction will include relocating the existing and proposed tracks in this area farther east in the right of way to facilitate the curve connecting the north/south portion of the rail with the east/west section leading to the Orlando Airport. This relocation will result in the filling of the existing drainage ditches east of the tracks where the FDOT water currently is stored before it can infiltrate into the ground. Construction plans for the rail include excavating storage compensation areas west of the tracks and construction of new cross drains to convey the drainage from the FDOT culverts through the FEC right of way to the new compensation areas west of the tracks. The new excavation areas will provide comparable storage volume to what is currently provided in the eastern ditches.

The existing culverts are all connected to the new storm sewer system currently under construction as part of FDOT Financial Project ID 237592-2 for US 1. The proposed new FEC cross drains are all designed to be one standard pipe size larger than their corresponding existing culvert to eliminate any concern over additional head loss in the culverts. Therefore, at MP 169.63 the existing 36 inch RCP will be extended 74 feet +/- with a 42 inch RCP; at MP 169.72, the existing 24 inch RCP will be extended 85 feet +/- with a 30 inch RCP under the tracks to a new manhole, from which an additional culvert will be installed northward; and at MP 169.80, the existing 30" RCP will be extended approximately 76 feet with a 36" RCP. Because the existing culverts are part of an ongoing construction project, the exact lengths and locations may vary slightly. In all cases, however, it is assumed that using a larger pipe diameter for the extensions will eliminate additional head loss concerns. Excerpts from the FDOT Financial Project ID 237592-2 for US 1 are provided on the following pages to illustrate the existing storm sewers that are being extended through the FEC right of way. Details of the proposed construction are provided on the Drainage Structure Sheets in the construction plan set for the AAF Segment 08 project.

At MP 169.63, the existing 36 inch RCP will have a new endwall constructed at the right of way line as part of the ongoing US 1 project. As part of the FEC project, this endwall will be removed and the new 42" extension will be connected to the 36" RCP with a concrete collar. The new 42" RCP will terminate at a new mitered end section (MES) to be constructed on its western end in the new storage compensation excavation area.

At MP 169.72, the existing 24 inch RCP ends at a concrete headwall at the right of way line that will not be modified as part of the ongoing US 1 project. As part of the FEC project, this headwall will be removed and the new 30" extension will be connected to the 24" RCP with a concrete collar. The new 30" RCP will cross under the tracks and connect to a new manhole proposed west of the tracks. Due to the existing SR 528 embankment, it is not possible to daylight the new pipe here or to excavate the new storage compensation excavation area. Therefore, from the manhole, an additional run of 30" RCP will be installed northward where it will terminate at a new mitered end section (MES) to be constructed on its northern end in the new storage compensation excavation area.

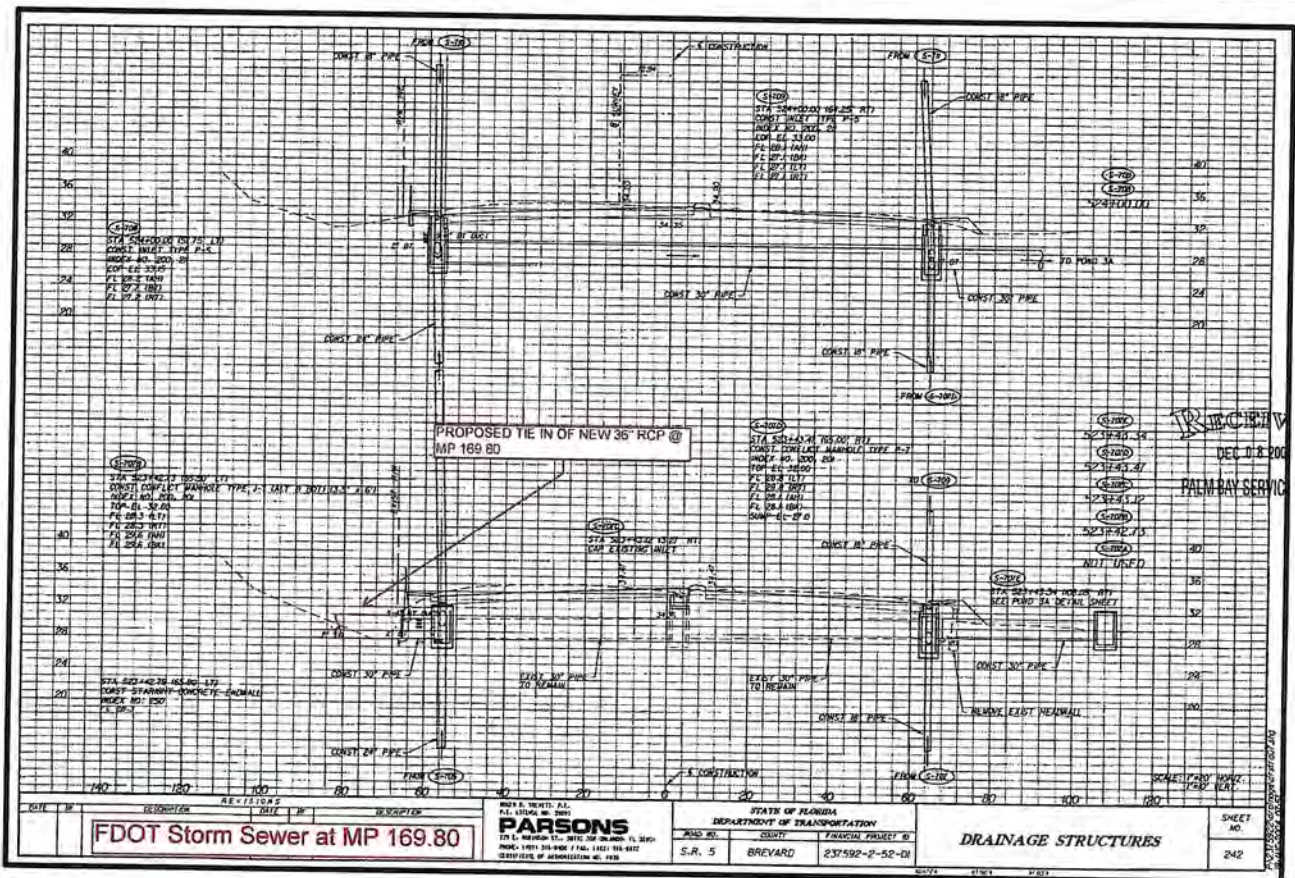
At MP 169.80, the existing 30 inch RCP is being extended approximately 10 feet to the right of way line where a new concrete endwall is proposed as part of the ongoing US 1 project. As part

of the FEC project, this endwall will be removed and the new 36" extension will be connected to the 30" RCP with a concrete collar. The new 36" RCP will terminate at a new mitered end section (MES) to be constructed on its western end in the new storage compensation excavation area.

Each of these proposed cross drain systems will effectively extend the existing FDOT storm sewer to the western side of the FEC right of way, where new storage compensation areas will be excavated to receive the discharges.

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Cross Drain Culvert Hydraulic Analyses

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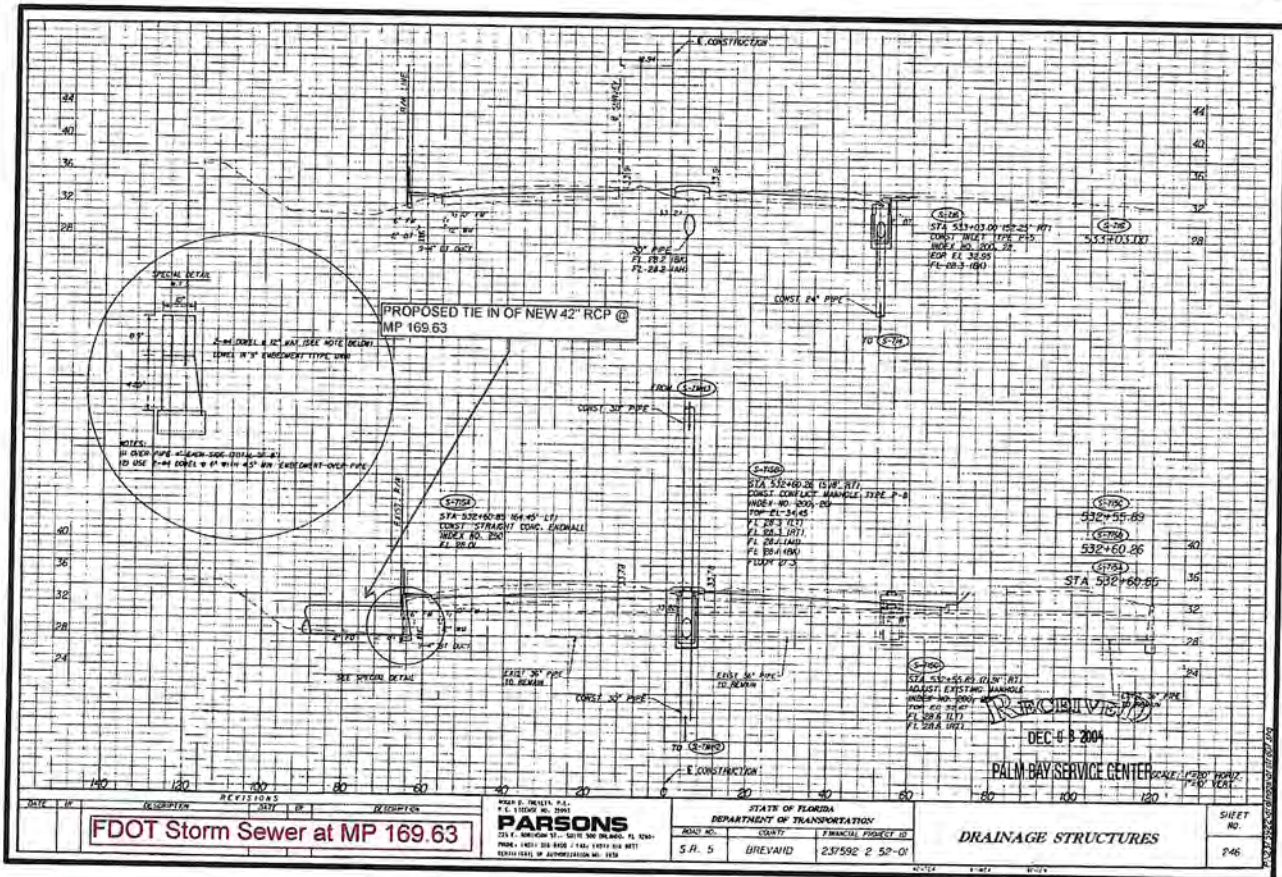


EXHIBIT D

**JOINT APPLICATION FOR
INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT/
AUTHORIZATION TO USE STATE-OWNED
SUBMERGED LANDS/
FEDERAL DREDGE AND FILL PERMIT**

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION/
WATER MANAGEMENT DISTRICTS/
U.S. ARMY CORPS OF ENGINEERS

Effective October 1, 2013



**US Army Corps
of Engineers®**

PLAINTIFF'S
EXHIBIT

H

EXHIBIT

H

INSTRUCTIONS FOR USE OF THIS FORM:

This form is designed to assist you in submitting a complete application. All applications must include Section A-General Information for All Activities. Sections B through H list typical information that is needed based on the proposed activities, and are only required as applicable. Part 1-C of Section A will guide you to the correct sections needed based on your proposed activities. Applicants are advised to consult Chapter 62-330, F.A.C., and the Environmental Resource Permit Applicant's Handbook Volumes I and II for information regarding the ERP permitting process and requirements while preparing their application. Internet addresses for Chapter 62-330, F.A.C. and the Applicant's Handbook, Agency contact information, and additional instructions for this form can be found in Attachment 1.

What Sections of the Application Must I Fill Out?

Does the project involve....	Section						
	A- General Information	B- Single Family Projects	C- Wetlands and other Surface Waters	D- Structures or Works in Surface Waters	E- Stormwater Management System	F- State-owned Submerged Lands	H- Mines G- Mitigation Banks
Fill in wetlands or waters for a single family residence?							
Docks, shoreline stabilization, seawalls associated with a single family residence?							
Wetland impacts (other than associated with an individual residence)?	X		X	X	X	X	
Boating facilities, a marina, jetty, reef, or dredging?	X		X	X		See Appendix 8 for SSL Concurrence Letter	
Any work on state owned submerged land?	X		X	X		See Appendix 8 for SSL Concurrence Letter	
Construction of a stormwater management system?	X		X	X	X		
Constructing a mitigation bank?							
Creating a mine?							

Note- if you are required to provide Section B, then you do not have to provide any other Sections, unless the activities are on state-owned submerged lands. In that case, Section F will also be required.

If you have any questions, or would like assistance completing this form, please contact the staff of the nearest office of either the Florida Department of Environmental Protection (DEP) or a Water Management District (WMD) (see Attachment 2).

Section A: General Information for All Activities

PART 1: NAME, APPLICATION TYPE, LOCATION, AND DESCRIPTION OF ACTIVITY

A. Name of project, including phase if applicable: **All Aboard Florida North South Rail Corridor Segment D08 (FEC Railroad from MP 166.9 to MP 233.4)**

B. This is for (check all that apply):

- ☒ Construction or operation of **new** works, activities and/ or a stormwater management system
- ☐ **Conceptual Approval** of proposed works, activities and/ or a stormwater management system
- ☒ Modification or Alteration of **existing** works activities and / or a stormwater management system. Provide the existing DEP or WMD permit #, if known: **50-10364-P/130809-4, 135214-1** Note: Minor modifications do not require completion of this form, and may instead be requested by letter.
- ☒ **Maintenance or repair** of works, activities and/ or stormwater management system previously permitted by the DEP or WMD Provide existing permit #, if known: _____
- ☐ Abandonment or removal of works, activities and/ or stormwater management system Provide existing DEP or WMD permit #, if known: _____
- ☐ Operation of an **existing unpermitted** stormwater management system.
- ☐ Construction of additional phases of a permitted work, activity and/ or stormwater management system. Provide the existing DEP or WMD permit #, if known: _____

C. **List the type of activities proposed. Check all that apply, and provide the supplemental information requested in each of the referenced application sections. Please also reference Applicant's Handbooks I and II for the type of information that may be needed.**

- ☐ Activities associated with one single-family residence, duplex, triplex, or quadruplex that do not qualify for an exemption or a General Permit: **Provide the information requested in Section B. Do not complete Section C.**
- ☒ Activities within wetlands or surface waters, or within 25 feet of a wetland or surface water, (not including the activities associated with an individual residence). *Examples include dredging, filling, outfall structures, docks, piers, over-water structures, shoreline stabilization, mitigation, reclamation, restoration/enhancement.* **Provide the information requested in Section C.**
- ☒ Activities within navigable or flowing surface waters such as a multi-slip dock or marina, dry storage facility, dredging, bridge, breakwaters, reefs, or other offshore structures: **In addition to Section C, also provide the information requested in Section D.**
- ☒ Activities that are (or may be) located within, on or over state-owned submerged lands (See Chapter 18-21, F.A.C. <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=18-21>): **In addition to Section B or C, also provide the information requested in Section F**

Please see the letter of concurrence from the FDEP regarding state-owned submerged lands is included in Appendix 8.

- ☒ Construction or alteration of a stormwater management system serving residential, commercial, transportation, industrial, agricultural, or other land uses, or a solid waste facility (excluding mines that are regulated by DEP). **Provide the information requested in Section E.**
- ☐ Creation or modification of Mitigation Bank (refer to Chapter 62-342, F.A.C. <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=62-342>): **Provide the information requested in Section G.**
- ☐ Mines (as defined in Section 2.0 of Applicant's Handbook Volume I) that are regulated by the DEP: **Provide the information requested in Section H.**
- ☐ Other, describe: Please contact the Agency to determine which additional sections of the application are needed. See Attachment 1 for Agency contacts.
- D. Describe in general terms the proposed project, system, works, or other activities. For permit modifications, please briefly describe the changes requested to the permit:

All Aboard Florida – Operations LLC (AAF) is proposing to develop a 235-mile intercity passenger railroad system that will connect Orlando, Florida and Miami, Florida, with intermediate stops in Fort Lauderdale and West Palm Beach, Florida (Project). The proposed Project will fulfill several public policy objectives, by, among other things, reducing our state's dependence on fossil fuels, relieving transportation congestion in the region and improving air quality as a result. Furthermore, the Project will serve as a means to enhance job creation and economic development in the state.

This ERP Application has been prepared for Segment D08, which is part of the overall Miami to Orlando All Aboard Florida Project. Segment D08 of the All Aboard Florida Intercity Passenger Rail Project spans approximately 67 miles from MP 166.9 to MP 233.4, beginning adjacent to SR 528 in eastern Brevard County and extending south to the Indian River – St. Lucie County Line. The entire D08 segment was determined to be historically double tracked and an exemption request has been granted for the following proposed activities within the 67-mile project area: replacing approximately 51 miles of rail that will restore the second main track within the existing FEC corridor; install new additional proposed track totaling 74,250 LF of additional track in addition to the restoration of the historic double track; and installing approximately 3.2 miles of upland train crossovers (pedestrian crossovers) at MP 173.4, MP 174.1, MP 182.6, MP 190.1, MP 197.2, MP 200.4, MP 211.4, MP 220.8, MP 226.7, and MP 231.5. Additionally, in regards to curve modification work areas, it has been determined that as long as the existing drainage configuration is maintained or replaced with an equivalent system, no stormwater treatment will be required for the curve reductions (Appendix 1a, Section 2.2).

The D08 work activities proposed for this ERP and included in this section (Section A) are:

- **Bridge work at Horse Creek (MP 187.37), Goat Creek (MP 202.59), North Canal (MP 223.7), Main Canal (MP 226.8), and South Canal (MP 230.03). Appendix 2b provides bridge design plans for each of these bridges, and Appendix 3 provides ecological evaluation reports for these bridges. Appendix 6 shows the Erosion and Sediment Control Plans for each of these bridges. These bridges are not navigable and therefore do not require USCG bridge permits.**
- **Multiple areas with installation of additional tracks requiring stormwater treatment. See Appendix A of the Water Quality and Quantity Calculations Report (Appendix 1a of this permit application) for details. These areas are also discussed in Sections C and E of this ERP Application.**

- *Curve modification areas – in order to be able to accommodate the high speed nature of the proposed rail, it will be necessary to modify some of the horizontal curves within the alignment. To this end, it has been determined that as long as the existing drainage configuration is maintained or replaced with an equivalent system, and in areas where there used to be a second track in existence, no stormwater related permitting will be required. Please see the Drainage Design Report in Appendix 1a for additional information.*
- *Culvert extensions/modifications will be required at a number of existing culverts. See Appendix 1b for the Cross Drain Culvert Hydraulic Analyses report. Note that per the report, these extensions do not negatively affect the hydraulic capacity of the culverts.*

Note that the Figures and Plans referenced in this ERP application include the entire 67-mile project segment of D08. Although the project area encompasses the entire FECR corridor within the above referenced 67-mile D08 segment, this ERP application does not include the potential future replacement of the St. Sebastian River, Crane Creek, Turkey Creek, and Eau Gallie River Florida East Coast Railroad (FECR) bridges. The four aforementioned bridges are currently being reviewed by the State Historic Preservation Officer (SHPO) and will be submitted for permitting following SHPO's concurrence on their design. Please refer to the MP locations given above for specific work locations addressed in this permit application.

In voluntarily applying for the permit [or other form of state approval] [or agreeing to voluntarily adhere to certain state regulatory requirements], All Aboard Florida ("AAF") is expressly not waiving its rights or the rights of its affiliated entity, FECR, to assert that the state's permitting [or other regulatory actions or requirements] are preempted by federal railroad law. Specifically, such state actions or requirements may be subject to the preemption of state law that is embodied in Section 10501(b) of the Interstate Commerce Commission Termination Act, 49 U.S.C. § 10501(b). That statute provides for the exclusive and preemptive jurisdiction of the federal Surface Transportation Board over regulated rail transportation, including transportation provided over the tracks and bridges on which FECR operates and AAF will operate. In addition, state regulatory actions and requirements, as applied to AAF and FECR, may be preempted by the Federal Railroad Safety Act, 49 U.S.C. §20106, which preempts certain state actions with respect to matters addressed by specified federal rail safety and security regulations.

- E. For activities in, on, or over wetlands or other surface waters, check the type of federal dredge and fill permit requested (if known): ☐ Individual ☐ Programmatic General permit #: SAJ
☐ General ☒ Nationwide permit #: NWP ☐ Not Applicable ☐ Not sure
- F. Project/Activity Street/Road Address or other location (if applicable):

See Appendix 1a, Section 1 for project location information, as well as Figure 1 in Appendix 4 for a Project Location Map.

City: N/A County(ies): **Brevard, Indian River** Zip: **The 67-mile project area encompasses the following zip codes: 32927, 32926, 32922, 32955, 32940, 32935, 32901, 32905, 32950, 32949, 32976, 32958, 32967, 32960, 32962**

Note: For utility, road, or ditch/canal activities, provide a starting and ending point using street names and nearest house numbers or provide length of project in miles along named streets or highways.

This project encompasses approximately 67 miles of railway, within the existing FECR corridor.

- G. Project location map and Section, Township, and Range information (use additional sheets if needed):
Please attach a location map showing the location and boundaries of the proposed activity in relation to major intersections or other landmarks. The map should also contain a north arrow and

a graphic scale; show Section(s), Township(s), and Range(s); and must be of sufficient detail to allow a person unfamiliar with the site to find it.

Section(s):	Township:	Range:	Land Grant name, if applicable:
Section(s):	Township:	Range:	
Section(s):	Township:	Range:	

A project location map is provided Appendix 4, Figure 1. See Appendix 6, Sheet C100 for Section, Township, and Range information.

- H. **Begin (north end of 67-mile project area):** Latitude (DMS) **28°26'48.5281"N** Longitude (DMS) **-81°18'22.3114"W** **End (south end of 67-mile project area):** Latitude (DMS) **28°27'8.3418"N** Longitude (DMS) **-80°57'42.2318"W** **(Taken from central location of the activity).** Explain source for obtaining latitude and longitude (i.e. U.S.G.S. Quadrangle Map, GPS, online resource): **GIS projected coordinates.**

- I. Tax Parcel Identification Number(s):

See Appendix 4, Figure 5 for Tax Parcel Identification Numbers for the Adjacent Properties. Please refer to the Track Maps in Appendix 10 for ownership information of the railroad right of way. Please note, due to the age of the corridor, there are not Parcel ID numbers for the entire length. Please see below for available Tax Parcel ID Numbers by County.

Brevard County

MP 169.68 through MP 171.03—Third Track - Parcel ID 23-36-31-00-268, 24-36-06-00-289, 24-36-07-00-37, 24-36-18-00-12, 24-36-17-00-260, 24-36-17-00-261, 24-36-20-00-14

MP 170.94 through MP 172.99— Curve Modification - Parcel ID NA

MP 173.47 through MP 174.12 —Third Track - Parcel ID NA

MP 174.47 through MP 176.96— Curve Modification - Parcel ID NA

MP 177.97 through MP 178.62— Curve Modification - Parcel ID NA

MP 178.83 through MP 180.63—Third Track and Curve Modification - Parcel ID 25-36-26-00-257, 25-36-35-00-60, 25-36-36-00-534

MP 187.37— Bridge - Parcel ID 27-37-05-00-261

MP 187.78 through MP 189.51—Third Track and Curve Modification - Parcel ID 27-37-05-00-261, 27-37-08-00-26, 27-37-09-00-546

MP 195.13 through MP 196.83—Third Track - Parcel ID 28-37-11-00-287, 28-37-11-00-522, 28-37-14-00-21, 28-37-13-00-500

MP 202.59— Bridge - Parcel ID 29-38-08-00-273

MP 202.50 through MP 202.80— Curve Modification - Parcel ID NA

Indian River County

MP 221.23 through MP 221.56— Curve Modification - Parcel ID NA

MP 223.70— Bridge - Parcel ID 32390400000888800000

MP 225.44 through MP 225.67— Curve Modification - Parcel ID NA

MP 226.22 through MP 226.57— Curve Modification - Parcel ID NA

MP 226.78— Bridge - Parcel ID 32393500000888800000

MP 229.02 through MP 230.03— Curve Modification - Parcel ID NA

MP 230.03— Bridge - Parcel ID 32390400000888800000

MP 230.98 through MP 231.74— Curve Modification - Parcel ID NA

[Number may be obtained from property tax bill or from the county property appraiser's office; if on multiple parcels, provide multiple Tax Parcel Identification Numbers]

- J. Directions to Site (from major roads; include distances and landmarks as applicable):

Segment D08 of the All Aboard Florida Intercity Passenger Rail Project spans approximately 67 miles, beginning adjacent to SR 528 in eastern Brevard County and extending south to the Indian River – St. Lucie County Line. This segment is part of the overall Miami to Orlando All Aboard Florida Project and runs within the existing FECR railway corridor, parallel to US Highway 1.

- K. Project area or phase area:

The 67-mile segment D08 includes a total of 680 acres within the Limits of Construction in the All Aboard Florida Intercity Passenger Rail Project.

- L. Name of waterbody(ies) (if known) in which activities will occur or into which the system will discharge:

Activities will occur in Horse Creek (MP 187.37), Goat Creek (MP 202.59), North Canal (MP 223.7), Main Canal (MP 226.8), and South Canal (MP 230.03). The activities associated with these bridges and their locations are shown in Appendix 2b Bridge Designs, as well as in Appendix 11, Bridge Hydraulic Reports. See Figures 2 and 7 in each report. The basins, with activities associated with the cross drains, are shown in Appendix 2b, Cross Drain Culvert Hydraulic Analyses, Sections 4 through 82 of the report. Wetland and Surface Water Impacts are shown in Appendix 6 on the Erosion and Sediment Control plans throughout Sheets C301 through C508 and in Table F Impact Table on Sheets C201 through C204.

The following questions (M-O) are not applicable to activities related to a single-family residence, including private single-family residential docks, piers, seawalls or boat ramps.

- M. Is it part of a larger plan of development or sale? ☒ yes ☐ no

- N. Impervious or semi-impervious area excluding wetlands and other surface waters (if applicable):
No impervious area is proposed within this project area. The track is considered pervious, see Appendix 1a, Water Quality and Quantity Calculations, Section 2.2 Proposed Site Conditions. Proposed semi-impervious area includes 5.32 acres. Note that this area includes only the work activity proposed at the additional track areas and does not include work activities at the exempt historic second track areas.

Footprint of Disturbance Area: 14.74 acres or 638,147.43square feet

- O. Volume of water the system is capable of impounding (if applicable): **176,225 cf or 4.05 acre-feet.**
This is the treatment volume designed for impoundment and treatment for the proposed system. See Summary Tables 6a through 6c as well as Appendix A in Appendix 1, Water Quality and Quantity Calculations.

PART 2: SUPPLEMENTAL INFORMATION, AND PERMIT HISTORY

- A. Is this an application to modify an existing Environmental Resource Permit, or to construct or implement part of a multi-phase project, such as a project with a Conceptual Approval permit? ☒ Yes ☐ No *If you answered "yes", please provide permit numbers below:*

AGENCY	DATE	PERMIT/APPLICATION NO.	PROJECT NAME
SFWMD	10/10/13	50-10364-P/130809-4	All Aboard Florida Cocoa To West Palm Beach
SJRWMD	8/12/2013	135214-1	All Aboard Florida Intercity Passenger Rail Project

- B. Indicate if there have been any **pre-application meeting(s)** or other discussions about the proposed project, system or activity. If so, please provide the date(s), location(s) of the meeting, and the name(s) of Agency staff that attended the meeting(s):

AGENCY	DATE	LOCATION	MEETING ATTENDEES
USACE	03/30/2012	Jacksonville District Corps Office	USACE
FDEP	04/05/2012	Tallahassee FDEP Office	FDEP Multiple Tiger Team Meetings from 2012 through present
SJRWMD	08/16/2012	SJRWMD Office	SJRWMD
SJRWMD	08/07/2015	SJRWMD Palm Bay Service Center	Melisa Diolosa, Fariborz Zanganeh

- C. **Attach a depiction (plan and section views), which clearly shows the works or other activities proposed to be constructed.** Use multiple sheets, if necessary, a scale sufficient to show the location and type of works, and include a north arrow and a key to any symbols used. **Specific information to be included in the plans is based on the activities proposed and is further described in Sections B-H.** However, supplemental information may be required based on the specific circumstances or location of the proposed works or other activities.

See Appendix 2A, Design Plans for track construction plans and details, as well as Appendix 2b for the bridge construction plans and details. Appendix 6, Erosion and Sediment Control Plans shows the BMPs proposed for the project. Note that the Design Plans and Erosion and Sediment Control Plans show areas that are exempt (historic double tracking) in addition to work activity proposed under this permit application.

- D. Processing Fee: **Please submit the application processing fee along with this application form and supplemental information.** Processing fees vary based on the size of the activity, the type of permit applied for, and the reviewing Agency. Please reference Attachment 3 to determine the appropriate fee.

PART 3: APPLICANT AND ASSOCIATED PARTIES INFORMATION

Instructions: Permits are only issued to entities having sufficient real property interest as described in Section 4.2.3 (d) of Applicant's Handbook Volume I. Please attach evidence of sufficient real property interest over the land upon which the activities subject to the application will be conducted, including mitigation (if applicable). Refer to Section 4.2.3 (d) for acceptable ownership or real property interest documentation. For corporations, list a person who is a registered agent or officer of the corporation who has the legal authority to bind the corporation.

A. APPLICANT (ENTITY MUST HAVE SUFFICIENT REAL PROPERTY INTEREST)			
☐ THIS IS A CONTACT PERSON FOR ADDITIONAL INFORMATION			
Name: Last: Cobb	First: Kolleen	Middle:	
Title: Vice President	Company: All Aboard Florida – Operations, LLC.		
Address: 2855 Le Jeune Road, 4th Floor			
City: Coral Gables	State: FL	Zip: 33134	
Home Telephone:	Work Telephone: 305-520-2416		
Cell Phone:	Fax: 305-415-7564		
E-mail Address: Kolleen.Cobb@feci.com and Jose.Gonzalez@feci.com			
Correspondence will be sent via email. Check here to receive correspondence via US Mail: ☐			
B. LAND OWNER(S) (IF DIFFERENT OR IN ADDITION TO APPLICANT)			
☐ CHECK HERE IF LAND OWNER IS ALSO A CO-APPLICANT			
Name: Last: Ledoux	First: Robert	Middle: B.	
Title:	Company: Florida East Coast Rail Way, LLC		
Address: 7411 Fullerton Street, Suite 10			
City: Jacksonville	State: FL	Zip: 32256	
Home Telephone:	Work Telephone: 904-538-6032		
Cell Phone:	Fax:		
E-mail Address: Robert.Ledoux@fecrwy.com			
Correspondence will be sent via email. Check here to receive correspondence via US Mail: ☐			
C. OPERATION AND MAINTENANCE ENTITY (see Applicant's Handbook I, Section 12.3)			
Name: Last: All Aboard Florida – Operations, LLC.	First: Kolleen	Middle:	Name: Last: Cobb
Title:	Company: All Aboard Florida – Operations, LLC.		
Address: 2855 Le Jeune Road, 4th Floor			
City: Coral Gables	State: FL	Zip: 33134	
Home Telephone:	Work Telephone: 305-520-2416		
Cell Phone:	Fax:		
E-mail Address: Kolleen.Cobb@feci.com and Jose.Gonzalez@feci.com			
Correspondence will be sent via email. Check here to receive correspondence via US Mail: ☐			

D. CO-APPLICANT (IF DIFFERENT OR IN ADDITION TO APPLICANT AND OWNER)		
Name: Last:	First:	Middle:
Title:	Company:	
Address:		
City:	State:	Zip:
Home Telephone:		Work Telephone:
Cell Phone:		Fax:
E-mail Address:		
Correspondence will be sent via email. Check here to receive correspondence via US Mail: ☐		
E. ENGINEERING CONSULTANT ☐ THIS IS A CONTACT PERSON FOR ADDITIONAL INFORMATION		
Name: Last: Cintron	First: Ricardo	Middle: A
Title: Drainage Design Lead	Company: HNTB Corporation	
Address: 8529 South Park Circle Suite 140		
City: Orlando	State: FL	Zip: 32819
Home Telephone:		Work Telephone: 407-391-1185
Cell Phone:		Fax: 866-205-1648
E-mail Address: rcintron@hntb.com		
Correspondence will be sent via email. Check here to receive correspondence via US Mail: ☐		
F. ENVIRONMENTAL CONSULTANT ☐ THIS IS A CONTACT PERSON FOR ADDITIONAL INFORMATION		
Name: Last: Stroehlen	First: Charlene	Middle: A
Title: Senior Associate Engineer	Company: Amec Foster Wheeler Environment & Infrastructure, Inc.	
Address: 404 SW 140th Terrace		
City: Newberry	State: FL	Zip: 32669
Home Telephone:		Work Telephone: 352-332-3318
Cell Phone:		Fax: 352-333-6622
E-mail Address: charlene.stroehlen@amecfw.com		
Correspondence will be sent via email. Check here to receive correspondence via US Mail: ☐		
G. AGENT AUTHORIZED TO SECURE PERMIT (IF DIFFERENT FROM CONSULTANT) ☒ THIS IS A CONTACT PERSON FOR ADDITIONAL INFORMATION		
Name: Last: Stroehlen	First: Charlene	Middle: A
Title: Senior Associate Engineer	Company: Amec Foster Wheeler Environment & Infrastructure, Inc.	
Address: 404 SW 140th Terrace		
City: Newberry	State: FL	Zip: 32669
Home Telephone:		Work Telephone: 352-332-3318
Cell Phone:		Fax: 352-333-6622
E-mail Address: charlene.stroehlen@amecfw.com		
Correspondence will be sent via email. Check here to receive correspondence via US Mail: ☐		

If necessary, please add additional pages for other contacts and property owners related to this project.

PART 4: SIGNATURES AND AUTHORIZATION TO ACCESS PROPERTY

Instructions: For multiple applicants please provide a separate Part 4 for each applicant. For corporations, the application must be signed by a person authorized to bind the corporation. A person who has sufficient real property interest (see Section 4.2.3 (d) of Applicant's Handbook Volume I) is required in (B) to authorize access to the property, except when the applicant has the power of eminent domain.

A. By signing this application form, I am applying for the permit and any proprietary authorizations identified above, according to the supporting data and other incidental information filed with this application. I am familiar with the information contained in this application and represent that such information is true, complete and accurate. I understand this is an application and not a permit, and that work prior to approval is a violation. I understand that this application and any permit issued or proprietary authorization issued pursuant thereto, does not relieve of any obligation for obtaining any other required federal, state, water management district or local permit prior to commencement of construction. I agree to operate and maintain the permitted system unless the permitting agency authorizes transfer of the permit to a different responsible operation and maintenance entity. I understand that knowingly making any false statement or representation in this application is a violation of Section 373.430, F.S. and 18 U.S.C. Section 1001.

**Amec Foster Wheeler
Environment & Infrastructure, Inc.**

Typed/Printed Name of Applicant or
Applicant's Authorized Agent

Signature of Applicant or Applicant's
Authorized Agent

Date

Senior Associate Engineer

(Corporate Title if applicable)

B. CERTIFICATION OF SUFFICIENT REAL PROPERTY INTEREST AND AUTHORIZATION FOR STAFF TO ACCESS THE PROPERTY:

I certify that:

☒ **I possess sufficient real property interest in or control, as defined in Section 4.2.3 (d) of Applicant's Handbook Volume I**, over the land upon which the activities described in this application are proposed and I have legal authority to grant permission to access those lands. I hereby grant permission, evidenced by my signature below, for staff of the Agency and the U.S. Army Corps of Engineers to access, inspect, and sample the lands and waters of the property as necessary for the review of the proposed works and other activities specified in this application. I authorize these agents or personnel to enter the property as many times as may be necessary to make such review, inspection, and/ or sampling. Further, I agree to provide entry to the project site for such agents or personnel to monitor and inspect permitted work if a permit is granted.

OR

☐ I represent an entity having **the power of eminent domain and condemnation authority**, and I/we shall make appropriate arrangements to enable staff of the Agency and the U.S. Army Corps of Engineers to access, inspect, and sample the property as described above.

Florida East Coast Railway, LLC

Typed/Printed Name

Signature

Date

Robert Ledoux, V.P.

(Corporate Title if applicable)

C. DESIGNATION OF AUTHORIZED AGENT (IF APPLICABLE):

I hereby designate and authorize **Amec Foster Wheeler/Charlene Stroehlen** to act on my behalf, or on behalf of my corporation, as the agent in the processing of this application for the permit and/or proprietary authorization indicated above; and to furnish, on request, supplemental information in support of the application. In addition, I authorize the above-listed agent to bind me, or my corporation, to perform any requirements which may be necessary to procure the permit or authorization indicated above. I understand that knowingly making any false statement or representation in this application is a violation of Section 373.430, F.S. and 18 U.S.C. Section 1001.

**All Aboard Florida – Operations,
LLC**

Typed/Printed Name of Applicant

Signature of Applicant

Date

Kolleen Cobb, Vice President

(Corporate Title if applicable)

officers, directors, managing agents or other person(s) knowledgeable to testify on its behalf regarding the following subjects:

1. Discovery requests, written discovery responses, and responsive documents served in this matter by any party.
2. Defendant's organizational structure and all individuals and departments affiliated with Defendant, including management of Defendant since January 1, 2020 as it related to the operation, construction, maintenance of the tracks adjacent to the Property.
3. The train tracks owned by the Defendant adjacent to the Property including their historical and current layout and design including any changes made to the tracks since January 1, 2020.
4. The construction of the new line for Brightline at the train tracks owned by the Defendant adjacent to the Property
5. Any documents regarding or referencing flooding near the Property since January 1, 2020.
6. The drainage plan from the tracks owned by the Defendant adjacent to the Property since January 1, 2020.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Case No. 6:24-cv-1691

2145 AVOCADO LAND TRUST and
HOME WRECKERS, INC.,

Plaintiffs,

vs.

FLORIDA EAST COAST RAILWAY, LLC,

Defendant.

FLORIDA EAST COAST RAILWAY, LLC'S ANSWER TO COMPLAINT

Defendant, Florida East Coast Railway, LLC ("FECR"), hereby answer the Complaint of Plaintiffs, 2145 Avocado Land Trust and Home Wreckers, Inc. (collectively "Plaintiffs"), as follows:

PARTIES¹

1. Plaintiff, 2145 AVOCADO LAND TRUST (individually, "ALT"), is a land trust that owns real property located in Brevard County, Florida.

Answer: Without knowledge.

2. Plaintiff, HOME WRECKERS, INC. (individually, "Home Wreckers"), is a Florida corporation doing business in Brevard County, Florida at the property owned by ALT.

Answer: Without knowledge.

¹ Headings are included for reference only. To the extent a heading includes a factual allegation, it is denied.

PLAINTIFF'S
EXHIBIT

I

EXHIBIT

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Case No. 6:24-cv-1691

3. Defendant, FLORIDA EAST COAST RAILWAY, LLC, is a Florida limited liability corporation with the power to sue and be sued in its own name and with the power of eminent domain. See § 361.025, Fla. Stat. (2023).

Answer: Admitted.

JURISDICTION AND VENUE

4. This is an action brought under 42 U.S.C. § 1983 (“§ 1983”) for damages arising out of a taking without just compensation in violation of the Takings Clause of the Fifth Amendment to the United States Constitution.

Answer: Admitted that Plaintiffs attempt to allege a claim under § 1983. Denied that Plaintiffs are entitled to any relief and that this is the proper forum for the claim.

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367(a).

Answer: Admitted only that Plaintiffs attempted to allege a claim purporting to be under the laws of the United States, denied as to the remainder.

6. Pursuant to 28 U.S.C. § 1391(b), venue lies within the United States District Court for the Middle District of Florida, Orlando Division as a substantial part of the events or omissions giving rise to the claims herein occurred within its judicial district, and such district is where the principal place of business for the Defendant business is located.

Answer: Admitted.

GENERAL ALLEGATIONS

7. Plaintiff ALT is the owner of that certain property (“Property”) located in Brevard County, Florida, more particularly described as Lots 2, 3, 4, 5, and 6, West of FEC Railway, Block 33, Village Plat of Eau Gallie, according to the plat thereof, recorded in Plat Book 1, Page 47 of

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the Public Records of Brevard County, Florida AND Lots 10 and 11, Block 5, Plat of the Subdivision of Out Lots No. 21, 22, and 23 of the Town of Eau Gallie, according to the Plat thereof, recorded in Deed Book FF, Page 600 of the Public Records of Brevard County, Florida TOGETHER WITH vacated directly adjacent to Lots 10 and 11, Block 5, Plat of the Subdivision of Out Lots No. 21, 22, and 23 of the Town of Eau Gallie, according to the plat thereof, recorded in Deed Book FF, Page 600, as vacated in Ordinance No. 2019-14 recorded in Official Records Book 8379, Page 1033, of the Public Records of Brevard County, Florida and also known as 2145 Avocado Avenue, Melbourne, Florida.

Answer: Without knowledge.

8. ALT leases the Property to Home Wreckers, who operates a construction business out of the Property.

Answer: Without knowledge.

9. Directly adjacent to the eastern boundary of the Property is a railway owned and operated by Defendant.

Answer: Admitted.

10. In preparation for Brightline trains to begin service from Orlando to Miami, the railway tracks and area adjacent to the Property had to be upgraded and renovated.

Answer: Admitted that work was done by Brightline on the railway tracks adjacent to the Property as part of the Brightline expansion from Miami to Orlando. Denied as to the remainder.

11. Defendant performed or supervised the upgrade and renovation of the tracks and adjacent areas.

Answer: Denied.

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12. As a part of the renovation, the drainage pattern of the tracks and right of way upon which the tracks sit was changed.

Answer: Without knowledge.

13. As a result of the above-described renovation, Defendant now directs water away from the railway and right of way, and onto the Property.

Answer: Denied.

14. This new drainage pattern has caused flooding of the Property.

Answer: Denied.

15. Plaintiffs have retained the law firm of Widerman Malek, P.L. to represent their interests in the above-styled case, and have obligated themselves to pay said firm reasonable attorneys' fees.

Answer: Without knowledge.

GENERAL STATEMENT OF §1983 CLAIMS

16. This is an action under 42 U.S.C. § 1983 arising out of the Defendant's taking on Plaintiffs' Property without just compensation in violation of the Fifth Amendment to the U.S. Constitution.

Answer: Denied.

17. Section 1983 acknowledges the right of private parties to bring civil actions against state actors for violations of rights, privileges, or immunities recognized by the Constitution.

Answer: The paragraph is a legal conclusion to which no response is required.

18. Defendant, as a private entity granted the power of eminent domain pursuant to § 361.025 of the Florida Statutes, is subject to civil liability in § 1983 because it performs "a public function that was traditionally the exclusive prerogative of the state", or in other words, it passes

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the “public function” test. *See Charles v. Johnson*, 18 F. 4th 686, 694 (11th Cir. 2021) (citing *Rayburn ex rel. Rayburn v. Hogue*, 241 F. 3d 1341, 1347 (11th Cir. 2001)). Eminent domain is one of the few functions granted to private actors that is considered to rise to the level of constituting state action. *See Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 352-353 (1974) (“If we were dealing with the exercise of Metropolitan of some power delegated to it by the State which is traditionally associated with sovereignty, such as eminent domain, our case would be quite a different one.”)

Answer: Admitted that FECR is granted certain limited powers of eminent domain under Florida Statutes. Denied that FECR is a state actor. The remainder of the paragraph is a legal conclusion to which no response is required.

COUNT I – FIFTH AMENDMENT TAKINGS

FECR incorporates and realleges its responses to the allegations in paragraphs 1-18.

19. Defendant, in discharging water onto the Property, has committed a taking of the Property.

Answer: Denied.

20. Defendant, having been granted the power of eminent domain by Florida Statutes, is considered a “state actor” for purposes of the Fifth Amendment and § 1983 when exercising such power.

Answer: The paragraph is a legal conclusion to which no response is required.

21. Defendant has not compensated Plaintiffs for the taking of the Property.

Answer: Admitted that FECR has not paid Plaintiffs. Denied as to the remainder, and specifically denied that a taking has occurred or that FECR owes Plaintiffs any compensation.

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COUNT II – TRESPASS (FLORIDA COMMON LAW)

(ALTERNATIVE ACTION)

FECR incorporates and realleges its responses to the allegations in paragraphs 1-18.

22. Plaintiff ALT owns the Property, and Plaintiff Home Wreckers leases the Property.

Answer: Without knowledge.

23. Defendant continuously cause a substance to enter onto the Property.

Answer: Denied.

24. Plaintiffs have not authorized this or any entry onto the Property by Defendant.

Answer: Denied.

25. Defendant's continued entries are the cause of injuries to the Property.

Answer: Denied.

WHEREFORE, Defendant, Florida East Coast Railway, LLC respectfully requests that the Court:

(1) Bifurcate the case for the Court to address whether a taking has occurred prior to empaneling a jury;

(2) Enter judgment in favor of FECR and against Plaintiffs on all claims;

(3) Award FECR its attorneys' fees, expert fees and costs pursuant to 42 U.S.C. § 1988;

and

(4) Enter such further relief as the Court deems just and proper.

GENERAL DENIAL

To the extent any allegation in the Complaint is not expressly admitted, qualified, or denied above, it is hereby denied.

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AFFIRMATIVE DEFENSES**First Affirmative Defense**
(Failure to State a Claim)

The Complaint, in whole or in part, fails to state a claim upon which relief can be granted under the Fifth Amendment, 42 U.S.C. § 1983, or Florida common law.

Second Affirmative Defense
(Preemption)

Plaintiffs' claims are preempted by the Interstate Commerce Commission Termination Act ("ICCTA"), 49 U.S.C. § 10501(b). As more fully set out in FECR's Motion to Dismiss [DE 13], incorporated by reference herein, Plaintiffs' claims relate to railroad design, construction and maintenance of railroad tracks, and thus the claims must be brought to the Surface Transportation Board. "The Surface Transportation Board ('STB' or 'Board') has exclusive jurisdiction over interstate rail transportation." *CSX Transp., Inc. v. Surface Transp. Bd.*, 774 F.3d 25, 27 (D.C. Cir. 2014). The ICCTA preempts state law claims related to the design and construction of railroad tracks, including takings claims. *E.g., Thomas Tubbs, Trustee -- Pet. for Declaratory Order*, 2014 WL 5508153, at *4 (STB Served Oct. 31, 2014) (*affirmed in Tubbs v. Surface Transp. Bd.*, 812 F.3d 1141, 1145-46 (8th Cir. 2015)), *In re Katrina Canal Breaches Consol. Litig.*, 2009 WL 224072 (E.D. La. Jan. 26, 2009) and *Texas Cent. Bus. Lines Corp. v. City of Midlothian*, 669 F.3d 525 (5th Cir. 2012); *Maynard v. CSX Transp., Inc.*, 360 F. Supp. 2d 836, 841-842 (E.D. Ky. 2004); *Pere Marquette Hotel Partners, L.L.C. v. U.S.*, 2010 WL 925297, at *5-6 (E.D. La. Mar. 10, 2010). Plaintiffs' claims are preempted by the ICCTA.

Third Affirmative Defense
(Failure to Exhaust Administrative Remedies)

Plaintiffs' claims are barred because Plaintiffs have not exhausted their administrative remedies by bringing their claims to the Surface Transportation Board. As more fully set out in

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FECR's Motion to Dismiss [DE 13], incorporated by reference herein, Plaintiffs' claims relate to railroad design, construction and maintenance of railroad tracks, and thus the claims must be brought to the Surface Transportation Board. The ICCTA provides the STB with exclusive jurisdiction over interstate rail transportation, including over takings claims, and is exclusive to both state and federal laws. 49 U.S.C. § 10501(b). Congress mandated that Plaintiffs exhaust their administrative remedies before the Surface Transportation Board prior to bringing a claim under § 1983 or seeking other remedies in federal courts.

Fourth Affirmative Defense
(Lack of Causation)

Any alleged flooding, damage, diminution in value, or other injury to Plaintiffs' property was caused, in whole or in part, by factors and conditions over which FECR had no control, including, but not limited to, natural precipitation events, pre-existing topography, drainage patterns unrelated to FECR's property, and actions of third parties. Plaintiffs' Property is low-lying property and nearly entirely covered by concrete. When there are heavy rains, Plaintiffs' property can flood without any water draining from FECR's right-of-way. Plaintiffs, themselves, have eliminated drainage on their property. Additionally, the properties adjacent to Plaintiffs' property that are not owned by FECR also drain onto Plaintiffs' Property, contributing to any flooding Plaintiffs experience. If any injury occurred (which FECR denies), such injury was caused or contributed to by the acts, omissions, or negligence of persons, entities or forces other than FECR, thereby barring or reducing any recovery.

Fifth Affirmative Defense
(Acts or Omissions of Third Parties)

Any alleged flooding, damage, diminution in value, or other injury to Plaintiffs' property was caused, in whole or in part, by factors and conditions over which FECR had no control,

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including, but not limited to, drainage from third-parties. Plaintiffs' Property is low-lying property and nearly entirely covered by concrete. When there are heavy rains, Plaintiffs property can flood as a result of drainage from properties adjacent to Plaintiffs' property that are not owned by FECR. If any injury occurred (which FECR denies), such injury was caused or contributed to by the acts, omissions, or negligence of persons or entities other than FECR, thereby barring or reducing any recovery.

Sixth Affirmative Defense
(Failure to Mitigate)

Plaintiffs' damages, if any, must be reduced because Plaintiffs failed to take reasonable steps to prevent or mitigate their alleged damages, including but not limited to maintenance of adequate on-site drainage, thereby barring or reducing any recovery.

Seventh Affirmative Defense
(Standing)

Home Wreckers lacks any ownership interest in the real property at issue and therefore lacks standing to assert a Fifth Amendment takings claim. Likewise, ALT lacks standing to seek damages allegedly suffered exclusively by its tenant.

Eighth Affirmative Defense
(Res Judicata)

Plaintiffs' claims are barred by the doctrine of res judicata because Plaintiffs' claims in this case are the same or based on the same elements as its claims in the state case, *2145 Avocado Land Trust and Home Wreckers, Inc. v. Florida East Coast Railway, LLC*, Case No. 05-2023-CA-054704 (Fla. 18th Jud. Cir.).

Case No. 6:24-cv-1691

/s/ John W. Terwilleger

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*Counsel for Defendant, Florida East Cost Railway,
LLC***CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 2, 2025, the foregoing document was submitted for filing to the Clerk of the Court by using the Court's Case Management/Electronic Case Filing ("CM/ECF") System which will send a Notice of Electronic Filing to all counsel of record.

/s/ John W. Terwilleger

John W. Terwilleger, Esq.

ACTIVE:38014049.1

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CASE NO.: 6:24-cv-1691

2145 AVOCADO LAND TRUST and HOME WRECKERS, INC.,
Plaintiffs,
vs.
FLORIDA EAST COAST RAILWAY, LLC,
Defendant.

DEPOSITION OF: ROBERT ROBB
DATE: THURSDAY, SEPTEMBER 25, 2025
TIME: 10:27 A.M. - 11:30 A.M.
PLACE: LAW OFFICES OF WIDERMANN MALEK
1990 W. NEW HAVEN AVENUE
SECOND FLOOR
MELBOURNE, FLORIDA 32904

STENOGRAPHICALLY

REPORTED BY: ANNE MARIE HAMILL, RPR

1 A P P E A R A N C E S:

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6

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10 APPEARING ON BEHALF OF THE DEFENDANT

11 ALSO PRESENT: Drew Contreras, Videographer

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I N D E X

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1 P R O C E E D I N G S

2 *****

3 THE VIDEOGRAPHER: Good morning. We are now on
4 the record at 10:27 a.m. on September 25th, 2025.
5 Please note that the microphones are sensitive and may
6 pick up whispering or private conversations. Please
7 mute your phones at this time. Audio and video
8 recording will continue to take place unless all parties
9 agree to go off the record. This is the video
10 deposition of Robert Robb taken in the matter of 2145
11 Avocado Land Trust, et al versus Florida East Coast
12 Railway, LLC. The location of this deposition is
13 Melbourne, Florida. My name is Drew Contreras, the
14 videographer. The court reporter is Anne Marie Hamill.
15 We're both here on behalf Veritext Legal Solutions.

16 At this time will all counsel present state
17 their appearances, whom they represent, after which the
18 court reporter will then swear in the witness.

19 MR. MELOON: Good morning. Nathan Meloon for
20 the plaintiffs.

21 MR. TERWILLEGER: And John Terwilleger for
22 defendant.

23 THE REPORTER: Would you raise your right hand,
24 sir.

25 Do you solemnly swear or affirm, under the

1 penalties of perjury, that the testimony you are about
2 go give in this matter will be the truth, the whole
3 truth, and nothing but the truth.

4 THE DEPONENT: I do.

5 THE REPORTER: Thank you, sir.

6 DIRECT EXAMINATION

7 BY MR. TERWILLEGER:

8 Q. Good morning, sir. Could you please state
9 your name, for the record.

10 A. Robert Robb.

11 Q. And, Mr. Robb, have you ever been deposed
12 before?

13 A. Been --

14 Q. Have you ever been deposed before?

15 A. Once. One time.

16 Q. Okay. When was that?

17 A. 2000. Around 2000, maybe.

18 Q. So a little while ago.

19 A. Yeah.

20 Q. Okay. Were you an expert in that case?

21 A. Yes.

22 Q. So before I get too far ahead, just to
23 refresh your recollection because it's been a little
24 while since you've been deposed, when we're getting the
25 record here, the court reporter is writing down

1 everything we say. So I just ask that if I'm asking a
2 question, you wait for me to finish it before you start
3 answering. I'll do the same for you. If you're
4 answering, I'll do my best to wait until you're finished
5 answering before I respond. That way we'll get a clean
6 record.

7 Also, if you could answer verbally. Head nods
8 don't get on the record, so if you could state yes or
9 no; is that fair?

10 A. Yes.

11 Q. And if I ask you a question that you don't
12 understand, just please tell me you don't understand it
13 or ask me to rephrase. I want to make sure that you
14 understand the question. So if you answer the question,
15 I'll assume that you understand what I'm asking; is that
16 fair?

17 A. Yes.

18 Q. Also if you need to take a break, just let me
19 know. We'll be taking a break about every hour or so
20 anyway. But the only requirement before taking a break
21 is that you answer the question that's pending.
22 Otherwise you can take that break whenever you need to.

23 A. Okay.

24 Q. So in that case in about 2000, what were you
25 testifying about?

1 A. It was two single family homeowners that were
2 arguing about a -- one was an existing house, the other
3 one was a house under construction. And they had some
4 erosion and one was complaining about the other one.

5 Q. Did you go to court?

6 A. No.

7 Q. In this case, you had -- have you been
8 retained as an expert by plaintiffs?

9 A. Yes.

10 Q. What is -- what are you an expert in in this
11 case?

12 A. I have 31 years of land development
13 experience: Drainage, roadway, water/sewage design,
14 hydraulics.

15 Q. Did you provide a CV or resume or anything to
16 plaintiff's counsel in this case?

17 A. No.

18 Q. Where do you currently work?

19 A. Robb & Taylor Engineering.

20 Q. Do you have any certifications?

21 A. Licensed PE in the State of Florida.

22 Q. Anything else?

23 A. No.

24 Q. You said 31 years of experience. Has that
25 all been at the same company?

1 A. No.

2 Q. Tell me about your -- your previous
3 employment.

4 A. Originally, I was with William and Bishop
5 Consulting Engineers in Tallahassee. That's who --
6 right out of college, I was with them. I was with them
7 for two and a half years. I was with Creech Engineers
8 in Stuart, Florida for about six years. I left there
9 and went to a land developer here in Melbourne for four
10 years. And opened up Robb & Taylor Engineering in 2008.

11 Q. What degrees do you have?

12 A. Civil engineering.

13 Q. Where is -- is that a bachelor's?

14 A. Florida State, bachelor's, civil engineering.

15 Q. Other than that case where you testified as
16 an expert in 2000, have you been an expert in any other
17 cases?

18 A. No.

19 Q. What specific experience do you have in
20 dealing with flooding issues?

21 A. For 31 years every project I work on. State
22 of Florida is very big on storm water design. So it's
23 something that I do every day.

24 Q. You said the State of Florida is very big on
25 storm water design. Can you explain a little more about

1 that?

2 A. Every City, County, State of Florida, St.
3 John's River Water Management District has a storm water
4 design component that I have to meet. So running
5 models, looking at existing conditions, it's something I
6 do on a daily basis to evaluate flood concerns, how to
7 mitigate flooding.

8 Q. Anything else?

9 A. No.

10 Q. Is there a requirement in Melbourne, and any
11 of the jurisdictions that overlap with Melbourne, that
12 water be retained on property?

13 A. Yes.

14 Q. What's that requirement?

15 A. You have to meet pre and post. So I evaluate
16 existing conditions. So if it's a -- if I'm going to
17 design a project, I have to evaluate existing conditions
18 and determine what the potential runoff would be in the
19 existing conditions. I cannot exceed that runoff when I
20 do my post-development design. That would be the flood
21 continuation component of it.

22 Q. You cannot increase the runoff at the --

23 A. Cannot. Cannot increase the runoff.

24 THE REPORTER: I'm sorry. Say that question
25 again.

1 Q. (BY MR. TERWILLEGGER) You cannot increase the
2 runoff in the design?

3 THE REPORTER: And your answer, sir?

4 THE DEPONENT: Correct. You cannot increase the
5 runoff.

6 Q. (BY MR. TERWILLEGGER) Here you -- the
7 property we're talking about today is 2145 Avocado
8 Avenue; is that right?

9 A. Yes.

10 Q. Okay. And just for ease of discussion, if I
11 say the property, we agree that's the property we're
12 talking about?

13 A. Yes.

14 Q. Did you do any inspection of the property?

15 A. Yes.

16 Q. Did you evaluate it for -- and let's talk
17 about the property itself, not property surrounding it.
18 Have you evaluated the property for any changes or any
19 work done for that -- on the property?

20 A. Yes.

21 Q. What did you do?

22 A. I did two things. I did a field
23 investigation, walked the property. And I ordered a
24 survey of the property so I could have a clear
25 understanding of the drainage patterns.

1 Q. As an expert in this case, do you have some
2 opinions?

3 A. I do.

4 Q. What are your opinions?

5 A. I -- after doing all the research, the
6 hydrology of the system was altered.

7 Q. We'll come back and get more details on that.
8 But any other opinions besides the hydrology system was
9 altered?

10 A. No.

11 Q. So what do you mean by the hydrology system
12 was altered?

13 A. There were construction -- there was
14 construction that changed the hydraulics of the ditch
15 system. There is an existing ditch or canal to the
16 north of the subject property. The drains, a fairly
17 large draining basin. There are three pipes that go
18 under the railroad. And I have prior knowledge of what
19 the conditions were before the railroad was constructed.

20 Back in 2018 -- I'm sorry, 2017, I was hired by
21 Towboat USA to help them with an issue that they had
22 with the City of Melbourne. At that time I ordered a
23 boundary survey, topographic survey of the area. So I
24 know exactly what was there prior to the railroad
25 widening. Comparison of the old survey and the new

1 survey shows some significant changes in the hydrology.

2 That was probably the biggest basis of my -- my
3 decision. I have photos. I talked to the City of
4 Melbourne. The pre/post comparison was clear that there
5 was hydrologic changes.

6 Q. Where is Towboat USA located, or where was it
7 located in 2017?

8 A. On -- on the subject property.

9 Q. And so what was the work specifically you
10 were doing for Towboat USA in 2017?

11 A. He was, obviously, operating a boat salvage
12 service. He would collect boats that were derelict.
13 And the City of Melbourne gave him a citation for having
14 a junk yard. So he needed to clean it up. And I don't
15 believe there was an approved site plan for his
16 property, so they wanted a site plan so that they could
17 in the future if there was a call for code compliance,
18 there would be a site plan that they could reference.
19 So I put the site plan together for him.

20 He also wanted some pavement added. So I did
21 some design work for him over the course of, probably --
22 I mean, we had public hearings. It was, probably, a
23 six-month process that I was working with him.

24 Q. Did you evaluate the hydrology of the
25 property at that time?

1 A. I did storm water design because we added
2 some pavement. Yes.

3 Q. What went into the storm water design?

4 A. Calculating predevelopment runoff discharges
5 adding the -- what the new runoff would be with the new
6 concrete pavement and providing a small storm water
7 retention basin to meet pre and post development
8 discharges.

9 Q. And when you say the retention basin, is that
10 the retention area that's in the middle of the property,
11 sort of, in the middle of a U in the driveway?

12 A. Yes. Yes.

13 Q. So you added that?

14 A. Yes.

15 Q. That was not there before 2017?

16 A. It was not there.

17 Q. And what was the reason for adding that?

18 A. When you add pavement or any kind of
19 imperious surface to a property, you're going to
20 increase the runoff. So that is a retention that,
21 basically, stores the increased volume of runoff that I
22 created by putting the pavement down, which that's what
23 you have to do to meet St. John's River Water Management
24 District in the City of Melbourne.

25 Q. Does it drain anywhere?

1 A. I don't think it pop off -- it doesn't pop
2 off anywhere. It just holds the volume. And then it --
3 once it gets to a certain elevation, it will go over the
4 parking lot and go into the -- the canal to the north.

5 Q. When you did the calculation in 2017, how
6 frequently was water exceeding that retention and
7 flowing down to the north?

8 A. It's designed for the 25-year storm event.

9 Q. Did you do calculations for the 25-year storm
10 event in 2017?

11 A. Yes. Its a requirement.

12 Q. Do you still have those calculations?

13 A. I'd have to look, I don't know.

14 Q. Did you use those calculations in preparing
15 your expert report in this case?

16 A. No.

17 Q. Did you prepare any 25-year storm
18 calculations for this case?

19 A. I didn't run any storm events for this case.

20 Q. So in 2017, was it your -- in 2017, did you
21 run any -- any calculations, other than for 25 years, 10
22 years or five years?

23 A. No, that's the -- possibly, the mean annual.
24 I'd have to look at the -- the report.

25 Q. But you didn't consult that or use that at

1 all in this case?

2 A. No.

3 Q. And you did not create any models in this
4 case?

5 A. I did not.

6 Q. Do you have any opinions in this case that
7 are not disclosed in your report?

8 A. No.

9 Q. Is there anything that you considered in
10 coming up with these opinions that is not identified in
11 your report?

12 A. No.

13 Q. Is it your opinion that Florida East Coast
14 Railway is causing the property to flood?

15 A. Based on -- based on everything that I
16 researched, I would say yes, that's the cause of the
17 flooding.

18 Q. What is the basis of that decision?

19 A. Historical flooding -- historical runoff
20 patterns are something we deal with on a daily basis.
21 This property was developed in the early 1960s. I don't
22 know exactly when the railroad came. But everything
23 that we do as an engineer, we look at historical
24 drainage patterns. So everything upstream from the
25 triple culverts that go under the railroad would have

1 been the basis of the historical patterns. Everything
2 upstream would have been designed based on those water
3 elevations. So every subdivision, every roadway,
4 everything would have been designed based on the
5 historical.

6 Anytime you do development, you have to look at
7 historical drainage patterns so that you are, for sure,
8 you're not going to alter those patterns because if you
9 do, everything upstream has been altered.

10 In evaluating this property, the -- when they
11 widened the railroad, they had to extend the triple
12 culverts to get them past the new -- the new railroad.
13 When they extended those culverts, they raised the
14 invert of the pipe. The invert of the pipe is the
15 bottom -- the most bottom elevation of the pipe where
16 the water begins to flow. So those inverts of the pipe
17 were raised between seven and eight inches. So that
18 would have automatically increased the water level in
19 the canal by seven to eight inches.

20 Historically, there was a longitudinal ditch
21 running along the railroad on the west side of the
22 railroad that would have provided flood storage for
23 larger storms. So as the rain begins to fall, water
24 goes down the canal. It stages up higher now because
25 the inverts of the pipes were raised. The drainage

1 ditch that used to be along the railroad is no longer
2 there. So as heavier rains come, the water doesn't have
3 the ability to spread down the ditch in the railroad.
4 The ditch, basically, provided storage. And the raising
5 of the -- the three culverts and the elimination of
6 the -- the railroad ditch system altered the hydrology
7 of the system.

8 Q. Where do the three culverts drain to?

9 A. They go under the railroad and then,
10 eventually, discharge into the Indian River Lagoon.

11 THE REPORTER: I'm sorry. Discharge into?

12 THE DEPONENT: Indian River.

13 Q. (BY MR. TERWILLEGGER) Underneath US1?

14 A. Yeah.

15 Q. Did you observe those three culverts?

16 A. The ones that go into the railroad?

17 Q. Yes.

18 A. Yes, I looked at them.

19 Q. Was there water in the ditch when you went
20 there?

21 A. There was no -- there was water in the ditch.
22 There's always water in the ditch. The water is
23 controlled by those three pipes. So the water was,
24 pretty much, at the -- at the invert of the pipe.

25 Q. You were able to see the water flowing

1 through?

2 A. It wasn't flowing at the time because it
3 hadn't rained. So there was -- it, basically, stops
4 flowing when it reaches the bottom of the pipe.

5 Q. So in doing this evaluation then, you assumed
6 that nothing had changed upstream from those three
7 culverts?

8 A. Correct.

9 Q. Did you do any kind of analysis to determine
10 whether anything had changed upstream?

11 A. Nothing would be allowed to be changed
12 upstream because the State, the County, and the City of
13 Melbourne would regulate the design and permitting of
14 the system. That's the pre/post. There shouldn't be
15 any more water discharging through the system than was
16 historic.

17 Q. So you're assuming then that the City, the
18 County, the water management district were ensuring that
19 permits for work done upstream would comply with the
20 requirements?

21 A. Yes.

22 Q. Do you know if the permit -- there were
23 permits granted for the changing -- for this work on the
24 three culverts?

25 A. I do not know.

1 Q. And would you assume that the same as
2 upstream work, that permits were granted by the City,
3 County --

4 A. Correct.

5 Q. -- water management district, they would
6 still -- they would also comply with the requirements
7 for drainage?

8 A. Yes.

9 Q. So then, if there were permits that were
10 granted for this work, the -- you would then assume that
11 the -- those requirements for the water management
12 district, County, had determine there was no change in
13 the hydrology, right?

14 A. Correct.

15 Q. Did either the plaintiffs or their attorney
16 tell you to make any assumptions when you were doing
17 this work?

18 A. No.

19 Q. Did they tell you any facts?

20 A. The owner said that -- he gave me a little
21 bit of information as to what he was told. But -- and,
22 I think, the only thing he told me was there was a storm
23 water pond that was built by the railroad, I think, I
24 believe, south of his property, maybe, 150, 200 feet
25 away.

1 Q. Did he tell you anything else?

2 A. No.

3 Q. So let's talk a little bit about what you--
4 you did in preparing your -- and your investigation.
5 Let's talk about your investigation before the report.
6 You went to the site and -- and saw -- observed the
7 property?

8 A. Right.

9 Q. And what else did you do beyond that?

10 A. So I did the inspection of the property. I
11 walked the railroad. Walked the perimeter. I pulled
12 the old survey from 2017. I ordered the new survey,
13 2025. I contacted the City of Melbourne and requested
14 complaints, photos, anything they had from public works.

15 Q. Did you receive anything from the City?

16 A. Yes.

17 Q. What did you receive?

18 A. Photographs.

19 Q. Are those photos included in your report?

20 A. Yes.

21 Q. Are there any photos that you received that
22 were not included in your report?

23 A. I did not -- I do not have any photos that
24 were not included. They -- they sent me photos public
25 works took while they were out there investigating the

1 complaints of flooding.

2 Q. Did they tell you what -- did they tell you
3 when the photos were taken?

4 A. At the time of delivering the photos, they
5 just -- they just e-mailed me the photos. I didn't have
6 exact times. So when I prepared the report, they knew
7 it was within the past few years, but I did not have
8 anything specific. After the report was generated, then
9 they -- they had to go back through their history and
10 they sent me the dates that they were to -- all 2022 and
11 2024.

12 Q. Are those dates listed -- identified in the
13 report?

14 A. I didn't have the dates prior to the report.

15 Q. If I show you -- we'll look at the report
16 here in a few minutes. Will you be able to identify
17 which photos were from which year?

18 A. I doubt it. I don't think so.

19 Q. Did they tell you what happened that
20 caused -- that happened just before those photos were
21 taken?

22 A. They did not know what happened. It was
23 public works inspectors. They did not know why the
24 flooding was occurring. They just took pictures and
25 that was it.

1 Q. Did you speak to the public works inspectors?

2 A. No. I'd spoke to the City engineer and the
3 secretary. They're the ones that did the research for
4 me.

5 Q. Did the City engineer and the secretary tell
6 you that they didn't -- they didn't know what the --
7 what was happening with flooding on the photos?

8 A. They did not get into details. They just
9 said that they would pull files.

10 Q. When was it you visited the property?

11 A. Which? The most current time?

12 Q. Well, let's -- let's -- in -- as part of your
13 retention as an expert investigator --

14 A. Okay.

15 Q. -- when was the first time you visited the
16 property?

17 A. I don't have an exact date. I'd have to go
18 back through my records. But I'm going to say a month
19 and a half ago.

20 Q. Did you go more than once or just one time?

21 A. I was there three times.

22 Q. How close together were those visits?

23 A. Week, week and a half apart.

24 Q. Was it raining any time you went?

25 A. No.

1 Q. Are you aware of any flooding on the property
2 that's happened this year?

3 A. I am not aware of it.

4 Q. Is it your opinion that a taking has occurred
5 as to the property?

6 A. A what?

7 Q. That a taking has occurred.

8 A. What do you mean by taking?

9 Q. Is it your opinion that Florida East Coast
10 Railway has taken part of this property?

11 A. Part of the subject property?

12 Q. Yes.

13 A. I don't believe they've taken his property,
14 no.

15 Q. When did the first flooding issue happen to
16 the subject property after the work at the Brightline
17 expansion occurred?

18 A. The only thing I have are the -- the photos.
19 So it would have been in 2022 and 2024.

20 Q. Do you have any opinion of what the damages
21 were to the property?

22 A. Whatever -- I don't know. That's -- I
23 didn't -- I am not an expert on that area. I know -- I
24 know the water level was significantly high. So I don't
25 know what exactly was inundated.

1 Q. That's outside the scope of your -- your work
2 in this case?

3 A. Outside the scope that I was requested to do,
4 yes.

5 Q. You mentioned earlier that the owner had told
6 you something about the property. We'll talk about that
7 some more a little bit later.

8 Did the owner's attorney tell you anything, Mr.
9 Meloon?

10 A. No.

11 Q. Okay. So let's look at the report.

12 MR. TERWILLEGER: Mark this Exhibit 1.

13 (Deposition Exhibit 1 was marked.)

14 Q. (BY MR. TERWILLEGER) Mr. Robb, when you get
15 that, can you look at it and tell me if that's your
16 report?

17 A. It is.

18 Q. And you prepared this report?

19 A. Yes.

20 Q. And it's dated September 2nd, 2025?

21 A. Yes.

22 Q. So let's flip back to back. Look at Exhibit
23 8. Page number on the bottom is four.

24 A. Okay.

25 Q. Where did this photo -- this first photo come

1 from?

2 A. The City of Melbourne.

3 Q. Do you know what date this photo was taken?

4 A. I do not.

5 Q. Do you know if a hurricane had just come
6 through prior to this photo being taken?

7 A. I do not.

8 Q. Did you receive any photos from plaintiff or
9 plaintiff's attorney?

10 A. No.

11 Q. Okay. And for page five, was that a photo
12 from the City?

13 A. Yes.

14 Q. What -- what is this a photo of? What are we
15 looking at? Is this the road or is this the ditch?

16 A. This is the roadway.

17 Q. This is Avocado Avenue?

18 A. Yes.

19 Q. Do you know where the person who took this
20 photo is standing?

21 A. It looks like he's standing in the subject
22 property on the driveway, the south driveway.

23 Q. Is that mailbox then the subject property's
24 mailbox or the southern neighbor's mailbox?

25 A. I do not know.

1 Q. And going back to page four, what is that a
2 photo of?

3 A. That is a photo, approximately, standing by
4 the triple culverts looking toward Avocado.

5 Q. Looking at these two photos, would you say
6 this is likely a typical rain event?

7 A. There's no way -- I don't know.

8 Q. Did you do any type of analysis on these
9 photos to determine whether this was a 25-year event,
10 10-year event?

11 A. I did not.

12 Q. And going to page six, is this a photo from
13 the City of Melbourne?

14 A. Yes.

15 Q. And you don't know when this photo was taken?

16 A. No.

17 Q. Where is -- what are we looking at in this
18 photo?

19 A. That's looks like, again, taken from the
20 subject property looking to the north where the pipes go
21 under Avocado.

22 Q. On the pipes going under Avocado, I guess,
23 let me strike that and start over.

24 So the -- if you look, kind of, middle of the
25 photo, there's a --

1 A. A handrail.

2 Q. Let's take a look at the power lines. Those
3 are on the west side of Avocado Avenue?

4 A. Yes. Yeah.

5 Q. So that's the, you mentioned, upstream. The
6 flood water is coming that way?

7 A. Correct. You see the handrail right next to
8 the power pole. The handrails would be the handrail
9 protecting somebody from going into the canal.

10 Q. And all of Avocado looks like it's flooded,
11 correct?

12 A. Yes.

13 Q. And going upstream also?

14 A. Yes.

15 Q. So go to Exhibit 9. It's the next page.
16 This was also a photo from the City of Melbourne?

17 A. Yes.

18 Q. And what is this a photo of?

19 A. That is a photo of the railroad retaining
20 wall where the triple pipes are.

21 Q. This is the ditch just to the north of the
22 subject property?

23 A. Yeah, where the ditch intersects with the
24 railroad right-of-way.

25 Q. And the pipes are, the three culverts are

1 actually completely under water in this photo, right?

2 A. Correct.

3 Q. Would it matter if they were six inches
4 higher or lower? Would that affect whether the water
5 would get this high?

6 A. It would, yes.

7 Q. How would it affect it?

8 A. Hydraulics. It would be -- the more weight
9 of water sitting on the culvert pushes the water through
10 faster. So if the culverts were lower, there would be
11 more head pressure in the pipes, which would allow the
12 water to push through faster.

13 Q. And is it your opinion that if the pipes were
14 six inches or seven or eight inches lower that this
15 flood would not have happened?

16 A. Correct.

17 Q. And what did you do to decide that?

18 A. So when the rainfall starts when you raise
19 the pipe, now you're staging seven to eight inches of
20 water, it has to stage up prior to it getting released
21 into the pipe. It goes nowhere. It just stays in the
22 canal. So you automatically have a seven or eight inch
23 deep water before the water starts to release, then the
24 original -- as the water rises, the water was, prior to
25 development, the water was allowed to flow north and

1 south along the railroad right-of-way along the ditch
2 that used to be there. So it allowed the water room to
3 spread and without causing any flooding.

4 As -- as the water rises and the water,
5 basically, eats up more area, you're giving the flood
6 volume places to go with this railroad side ditch. When
7 you take the ditch away, the volume has to go somewhere.
8 So the volume stays in the ditch. It rises higher. It
9 starts to spread. I mean, some of the photos you see
10 that you can't even see the canal anymore. The water is
11 over top the canal. So the water is going -- it can't
12 go along the road right-of-way, so it's going to find
13 other places to go. And that is what is happening here.
14 It lost storage volume at the railroad, so it's finding
15 storage volume somewhere else upstream. And that is
16 topping the bank, flooding the roadways, flooding the
17 neighboring properties.

18 Q. I think I asked that question poorly. As to
19 this specific event, what calculations did you do to
20 determine whether the flood would have occurred but for
21 these culvert extensions?

22 A. To be able to analyze that, you would analyze
23 the entire drainage basin, which is in this case,
24 probably, thousands of acres. It could go all the way
25 back to Wickham Road. So I was not hired to analyze a

1 storm event. I was hired to determine whether or not
2 the flooding was caused by the railroad widening. And
3 looking at my historical survey, looking at the new
4 survey, comparing the two, seeing the differences in
5 pipe elevation, seeing the difference in flood storage
6 volume capacity, I determined that the hydraulics of the
7 system had been altered.

8 Q. And so you determined that generally the
9 hydraulic system had been altered, but not anything
10 specific as to this specific photo, Exhibit 9, we're
11 talking about? You did not analyze the specific event
12 that occurred that --

13 A. No.

14 Q. -- gave rise to this photo?

15 A. No. That would be a much more extensive
16 analysis.

17 Q. And you don't know whether this was a hundred
18 year event, 25-year event, 10-year event?

19 A. I do not.

20 Q. So go to the next photo. This is labeled
21 page two, page two of Exhibit 9. This was also a
22 photo --

23 A. You said page two?

24 Q. It's got two on the bottom.

25 A. Okay.

1 Q. It's on Exhibit 9 still.

2 A. Okay. That's the aerial photo?

3 Q. No. Thi is still on Exhibit 9, just the next
4 page from the last photo we had. Exhibit 9 to the next
5 page. It's got a two on the bottom.

6 A. Okay. I see it.

7 Q. Is this also a photo from the City of
8 Melbourne?

9 A. Yes.

10 Q. What is this photo of?

11 A. It looks like it's a photo of Avocado Avenue
12 looking east toward the railroad.

13 Q. At the -- where are you standing on Avocado?

14 A. You're standing, probably, in the middle of
15 the road on Avocado.

16 Q. On that bridge we were looking at where
17 the -- the place where the handrail is?

18 A. The handrails would be behind you, yes.

19 Q. Okay. And the next photo on page three, is
20 that a photo from the City of Avocado -- I'm sorry --
21 from the City of Melbourne?

22 A. Yes.

23 Q. And what is this photo of?

24 A. On Avocado looking south along Avocado
25 Avenue. You can see the handrail a little bit to the

1 right.

2 Q. And then the next page, page four, this was
3 also a photo from the City of Melbourne?

4 A. Yes.

5 Q. And where was this photo taken?

6 A. This is standing in the middle of Avocado
7 Avenue looking west along the drainage canal.

8 Q. What did -- what, specifically, did you ask
9 for when you asked for the -- when you asked the City
10 for information?

11 A. I asked if they have had any complaints in
12 the past involving flooding.

13 Q. And these were the two, the two times that
14 there were complaints involving flooding the City had
15 records of?

16 A. Yes. I didn't give them a whole lot of time.
17 They only had a couple days to gather information.

18 Q. What did you do to determine historical
19 flooding at the site prior to the Brightline expansion?

20 A. I didn't provide -- I didn't do any
21 calculations to determine historical flooding. I relied
22 on the City giving me information. And I relied on an
23 old survey, new survey. So I was hired to,
24 specifically, just determine whether or not there was a
25 change in the hydrology of the system, which would have

1 increased the flood stage.

2 Q. And is it the City giving information, was
3 that, that was the photos that we looked at?

4 A. Correct.

5 Q. Was there anything else --

6 A. No.

7 Q. -- other than what we talked about?

8 If you go to the actual written part of your
9 report --

10 A. Okay.

11 Q. -- first page. On that bottom paragraph, you
12 mention a drainage ditch along the north property line.
13 That's the ditch we've been talking about with the three
14 culverts in it now?

15 A. Yes.

16 Q. And then you said discharging into a large
17 linear ditch extending north and south of the three 36
18 inch culvert pipes. Where was that large linear ditch
19 prior to the Brightline expansion?

20 A. It was running along the west side of the
21 railroad.

22 Q. Whose property was that on?

23 A. I'm assume -- I don't know. I'm assuming it
24 was on the railroad or a portion of the railroad,
25 portion of the development. I don't know.

1 Q. Where did that ditch drain into?

2 A. The ditch would have been running north and
3 south. And it drained -- excuse me -- it drained
4 through the three pipes, the three culverts, that we've
5 been discussing.

6 Q. Anywhere else?

7 A. I'm sure there's multiple pipes that go under
8 the railroad spread further apart, but I don't know
9 where the other ones are.

10 Q. And so it was going a long way north and
11 south of the subject property?

12 A. Yeah. It would have -- so the rainfall would
13 have started, filled up the ditch. Water would have
14 been going through the pipes. As the pipes fill up,
15 water would have dispersed north and south along the
16 ditch to give additional flood -- flood storage.

17 Q. There at the next sentence, kind of, running
18 onto the next page, the ditch area is wooded. What do
19 you mean by wooded?

20 A. It was full of Brazilian peppers. It was
21 vegetated. It had Brazilian peppers. Nobody maintained
22 it.

23 Q. Is there any kind of ditch on the -- let's
24 step back.

25 So using the retaining wall as, sort of, our

1 line, the retaining wall is on the west side of the
2 railroad property now?

3 A. Yes.

4 Q. Okay. Is there any ditch on the east side of
5 that retaining wall now?

6 A. No. There's gravel. The railroad cross
7 section is large gravel. The gravel goes right up
8 against the rail -- the retaining wall.

9 Q. Are there -- I'm sorry. I didn't mean to
10 interrupt you. Go ahead.

11 A. There's, yeah, the gravel goes right up
12 against the retaining wall on the east side.

13 Q. Are there any culverts or any drainage on the
14 east side?

15 A. None that I can see.

16 Q. On the west side of the retaining wall, is
17 there any ditch?

18 A. There is a concrete flume that was
19 constructed along the -- the -- the retaining wall to
20 convey water.

21 Q. Does that run -- how far does that run?

22 A. I believe, it runs most of the subject
23 parcel.

24 Q. Does it go north of the ditch? Is there a
25 similar flume?

1 A. No. No.

2 Q. Does it go -- so you think most of the
3 subject parcel. It doesn't reach the southern end of
4 the subject parcel?

5 A. I believe so.

6 Q. Why was that installed?

7 A. The gravel that was placed for the railroad
8 is highly permeable. So the water is going to go
9 somewhere. The retaining wall that was built along the
10 property line is a segmental retaining wall. So it has
11 openings, expansion joints, gaps in the -- in the wall.
12 So as the rain would have fallen on the gravel, the
13 water would have flown -- it would flow through the
14 retaining wall. It would have went on the subject
15 property. So they put a small concrete flume running
16 along the base of the retaining wall to channel the
17 water.

18 Q. Water also goes through the gravel on the
19 railroad?

20 A. Excuse me.

21 Q. So we're talking about the gravel that's on
22 the railroad right-of-way.

23 A. Right.

24 Q. The water also flows through that also?

25 A. The water -- yeah, the water would flow

1 through the gravel. And then it's coming out the -- the
2 seams, gaps, and the construction of the wall.

3 Q. Did you see any evidence of water passing
4 through the wall when you were there?

5 A. I didn't see water flowing through it.
6 There's staining on the wall.

7 Q. Did you do any calculations or any studies to
8 determine how much water is coming through?

9 A. No.

10 Q. Is that flume on the -- that flume is on the
11 subject property you said, right?

12 A. I don't know where the property line is
13 exactly, but it's -- the concrete flume is built
14 directly adjacent to the retaining wall. And it extends
15 all the way over to the concrete on the property. So,
16 yeah, it's somewhere along the property line.

17 Q. And it drains into the ditch?

18 A. Yes.

19 Q. Does it need to be kept clean to drain
20 effectively?

21 A. It looked like it's fairly clean. It has
22 some slope to it. So I'm sure the velocity of water
23 running on the concrete flume would clean itself.

24 Q. Prior to the expansion, the Brightline
25 expansion, was that retaining wall that we're talking

1 about built (unintelligible) ?

2 A. No. The retaining wall was built as part of
3 the expansion.

4 Q. So prior to that retaining wall being built,
5 would the subject parcel have drained onto the railroad
6 property?

7 A. No. I don't know. I'd have to look at the
8 topo (sic.)

9 Q. You didn't investigate that?

10 A. No.

11 Let me rephrase. Yes, it would have. It would
12 have got to the railroad property because the drainage
13 outfall is the ditch to the north. So all the water on
14 the west side of the railroad would have went through
15 that existing ditch and through those three culverts.

16 Q. So is it your opinion that prior to the
17 Brightline expansion, that the railroad property was,
18 essentially, acting as a retention for the subject
19 property and for all the properties around there?

20 A. It was acting as a storage for rain events.
21 And it would be considered a historical, yeah,
22 historical drainage feature. So the roadside or the
23 railroad side ditch provided storage volume.

24 Q. And so that water was coming from the subject
25 property?

1 A. Yeah. It would have been coming from
2 everything west of the railroad.

3 Q. Is there a culvert -- going back to the
4 flume. Is there a culvert to the south or southern end
5 of the property near that flume?

6 A. There is a storm structure and a culvert,
7 yes. I think, it's pretty close to the, maybe, the
8 south property line of the subject property. And close
9 to the south property. I don't know exactly where, but
10 it's close.

11 Q. What would that accomplish?

12 A. That would provide conveyance of runoff once
13 the water elevation reached that structure.

14 Q. Would it catch any of the runoff from the
15 gravel on the railroad property?

16 A. No, because it's farther. It's farther
17 south. There's -- I'm going to -- I'm going to guess
18 it's, probably, 20, 25 feet south of the wall.

19 Q. And as to the property, the property that's
20 similar, similar to this, 20 feet south of the wall,
21 would that be catching any of that railway runoff?

22 A. I believe the water -- the structure you're
23 talking about is, kind of, placed at a high point. So
24 it's not really -- water is not flowing to it. Water is
25 actually flowing away from it. The only -- the only

1 time water would be flowing through it is once the flood
2 stage is high enough and the water reached the
3 structure. So it would fill up the canal on the north
4 side of the subject property. Water would stage up. As
5 the water staged up, it would run up the concrete flume
6 we discussed earlier. And the water would keep staging.
7 Water would continue to run uphill -- it's not running
8 uphill -- water would continue to stage higher and
9 higher and higher until it reached the elevation of the
10 storm inlet that is south of the subject property. A
11 ballpark is -- it would need to stage up three and a
12 half feet above the triple culverts to be able to start
13 flowing water through that structure.

14 Q. Did you evaluate that as part of your
15 analysis?

16 A. I didn't analyze it. But it's part of my --
17 we picked it up on the survey. So I know the elevations
18 of it.

19 Q. And if we go to the second page of your
20 written report, first full paragraph, I guess, you
21 mentioned this earlier, you said the owner noted there
22 was a storm water management facility?

23 A. Yes.

24 Q. Did you investigate that facility at all?

25 A. I didn't. It's -- when I -- that was one of

1 the reasons why I went back to the property, was to look
2 to see if that storm water pond or low area was helping
3 or assisting with flood -- flood continuation. And so
4 if you start at the triple culvert, the flume rises
5 significantly until you get to the structure we were
6 just talking about. It's on the south side. Then the
7 storm water pond that was proposed or built is another
8 few hundred feet south of the storm inlet. So for --
9 for -- the storm inlet is, basically, the high point.
10 So any water from the storm inlet that was constructed,
11 anything north of that, flows north. It does not flow
12 to the storm water pond. Anything south of that inlet
13 could -- could go to the storm water pond. So the storm
14 water pond really doesn't contribute -- I didn't include
15 it in my report as an important factor because it
16 doesn't provide any storage of the flood continuation
17 that is in the ditch itself, the ditch along the north
18 side.

19 Q. Your analysis then is limited to the ditch on
20 the north side of the property?

21 A. Yes. So once -- once the water starts rising
22 in the ditch in the -- along on the north, eventually
23 the water will reach that new storm inlet that the
24 railroad built. The water will start flowing through
25 that structure and it will never reach the -- the storm

1 water pond.

2 Q. Did you visit the storm water pond
3 personally?

4 A. Yeah.

5 Q. And just to summarize, you said it's
6 irrelevant to your analysis here?

7 A. It really didn't contribute anything to the
8 drainage basin that I was looking at.

9 Q. Did you do any analysis as to whether the
10 property can flood from rain falling directly on the
11 property?

12 A. I didn't run any calculations for the
13 project. I -- my -- my knowledge of the project was
14 working with the prior owner for approximately six
15 months getting him through the permit process. We added
16 some pavement. During that time he never mentioned, can
17 you help me with flooding, I have flooding concerns. So
18 there was -- there was no concern about flooding back
19 then. So I was not looking for flooding prior to the
20 current conditions.

21 Like I said earlier, I was hired to evaluate the
22 existing conditions to see if there were hydraulic
23 changes. I wasn't hired to analyze everything to see
24 what -- how high the water went. I was just hired to,
25 specifically, determine if there was any hydrologic

1 changes to the system.

2 Q. Those hydrologic changes are changes coming
3 from that ditch and the culverts area?

4 A. Yes.

5 Q. So your opinions as to the property flooding
6 are limited to, basically, that ditch flooding,
7 overflowing and then going on the property?

8 A. I could -- I could tell you there were
9 hydrologic changes even without seeing photos. The
10 removal of storage volume automatically alters the
11 hydrology. Changing the inverts of the pipes
12 automatically changes the hydrology. The photos just
13 supported my -- my initial review of the situation.

14 Q. My question was, if you're talking about the
15 property flooding. You said earlier your opinion is the
16 property is flooding as a result of the Brightline
17 expansion?

18 A. It extends way beyond the property, but yes.

19 Q. That flooding is coming from the ditch
20 overflowing and coming onto the property?

21 A. Yes.

22 Q. Did your analysis look at anything else, any
23 other areas where replaceable water can come from?

24 A. I'm not sure I understand.

25 Q. So we have the -- we're talking about -- the

1 ditch is on the north side of the property. And we
2 looked at water or you looked at water coming from that
3 ditch and flooding the property. Did you look at water
4 coming from the neighbor to the south, from the road,
5 from water -- from rain falling on the property? Did
6 you look at how any of that could flood the property?

7 A. No.

8 Q. And your understanding that there was no
9 historical issue of flooding here is based just because
10 the prior owner did not complain about flooding when you
11 worked with him?

12 A. Correct.

13 Q. Does your report say that the Florida East
14 Coast Railway is causing the property to flood?

15 A. I believe the last paragraph says that it's
16 my belief that the hydrology has been altered.

17 Q. Okay. Hydrology of the system has been
18 altered, you're talking about the last paragraph on page
19 two?

20 A. Yeah.

21 Q. Do you say in the report that hydrology of
22 the system isn't altered to increase flooding events?

23 A. I just state that the hydrology has been
24 altered.

25 Q. And altered could be improved or made it

1 worse, right? So changed?

2 A. Sure.

3 Q. I think we touched on this before, I just
4 want to clarify, make sure. You don't have an
5 opinion -- it's not the scope of your engagement to
6 determine the value of the property?

7 A. No.

8 Q. Or the change in the value of the property?

9 A. No.

10 Q. Did you ask either the owner or their
11 attorney for any information as part of your --

12 A. No.

13 Q. -- report?

14 I think, you may have said, but during the
15 previous four years, have you been an expert witness in
16 any case by trial or deposition?

17 A. I was deposed. It never went to trial.

18 Q. I'm limiting it by time. So in the past four
19 years?

20 A. I don't think it was -- I think, it was more
21 than four years ago.

22 Q. And what's your -- your compensation for this
23 case?

24 A. I believe, it's a hundred and -- I'd have to
25 look at my billing report. I think it's \$155 an hour.

1 I don't remember exactly.

2 Q. That was not in the report, though, right?

3 A. No.

4 Q. And there was nothing in your report about
5 your previous testimony in court as an expert witness?

6 A. No.

7 Q. And there's nothing about your qualifications
8 or publications authored?

9 A. No. Specific to the request that they asked
10 for.

11 Q. Have you authored any publications in the
12 past 10 years?

13 A. No.

14 Q. And the report contains all of the exhibits
15 that you relied on, correct?

16 A. Yes.

17 Q. And also contains all the facts and data you
18 considered?

19 A. Everything that was relevant, yes.

20 Q. What would be an example of something that
21 was irrelevant that you did not consider or you did not
22 include in your report?

23 A. Every -- for instance, the drainage pond. I
24 didn't feel that that was relevant. It was outside
25 the -- the -- it didn't contribute to flooding. It

1 didn't help or make it worse. The -- I did not include
2 the storm inlet that was built on the south edge of the
3 property.

4 I think, once the water gets to that, the
5 flooding has already occurred. That would -- that would
6 limit the flooding, but it did not stop the flooding.

7 Q. Anything else?

8 A. No.

9 Q. Did you ask anyone, other than the City of
10 Melbourne, about flooding events on the property?

11 A. No.

12 Q. Do you think it would be fair to compare
13 flooding at the property when a hurricane comes through
14 as part of determining whether the Brightline expansion
15 is causing the property to flood?

16 A. I think every -- every rainfall event is
17 different. You would have to evaluate each of them to
18 see what happens during each rainfall event.

19 Q. Would you expect, going back before the
20 Brightline expansion, the work that you did on the
21 property in 2017 and after that, would you expect the
22 property to flood if a hurricane came through?

23 A. I -- I wouldn't know. I would have to
24 analyze it.

25 Q. And after the Brightline expansion has

1 occurred, would you expect the hurricane -- the property
2 to flood if a hurricane came through?

3 A. Again, I would have to analyze it. It
4 shouldn't. Whatever -- whatever the predevelopment
5 conditions were, they should not have been altered.
6 That's the historic drainage rules in Florida. You're
7 not allowed to alter the historic hydrology of the
8 system because, like I said, everybody upstream from
9 that system, they built houses based on the flood
10 elevation. And as soon as you make changes downstream,
11 that alters the entire -- the entire system.

12 Q. So that -- you would expect then the
13 likelihood of the flooding would be the same before and
14 after the expansion, right, if you're not changing the
15 system?

16 A. If you didn't change the system, yes. You
17 shouldn't increase the level of water in the system,
18 correct.

19 Q. Did you do anything to investigate the
20 property -- any properties adjacent to the subject
21 property?

22 A. No.

23 Q. Did you do anything to determine how high
24 those properties are?

25 A. No. We only surveyed the subject property

1 and the adjacent railroad.

2 Q. Did you do anything on the subject property
3 to determine what the owner could do to mitigate any
4 flooding?

5 A. I did not.

6 Q. Did you look at any of the -- the Brightline
7 documents, the permit applications, the --

8 A. I did not.

9 MR. TERWILLEGER: Okay. That -- actually,
10 that's all the questions I have for you, Mr. Robb.

11 THE DEPONENT: Okay.

12 MR. MELOON: I have a few follow ups, very
13 brief.

14 CROSS-EXAMINATION

15 BY MR. MELOON:

16 Q. In your opinion, has the Florida East Coast
17 Railway property caused the Homewreckers at the 2145
18 property to flood?

19 A. I believe it has increased the flood
20 evaluation, yes.

21 Q. And then you said, oh, they haven't taken the
22 property. Do you know if that would -- if this would
23 require a drainage easement or another interest in the
24 property in your experience as an engineer?

25 A. Without getting into detail design elements,

1 I -- I don't know.

2 Q. Do you know if Florida East Coast Railway has
3 a drainage easement over the Homewrecker 2145 Avocado
4 property?

5 A. I do not.

6 Q. You said ballpark for the stage up. Where
7 did you get the ballpark for?

8 A. Photos. I don't think I was hired to
9 determine the peak stage of the storms. The intent I
10 was hired for was, has the hydraulic -- has the
11 hydrology changed that would alter the storm events.

12 Q. I think one of the questions you asked was,
13 the hydrology changing, that could be improving or
14 making it worse. Did you, in your opinion, has the
15 hydrology improved or made it worse?

16 A. It's worse.

17 Q. And you also said that the storage
18 facility -- the storm water storage facility was
19 irrelevant. Why is it irrelevant?

20 A. The storm water -- the storm water facility
21 that was constructed is significantly higher elevation
22 than what this subject property is. So the water does
23 not get to the storm water pond, at least, in this
24 basin. There might be a drainage basin to the south
25 that throws water in it. But this drainage basin does

1 not appear to throw any water in it.

2 Q. Now, on page two of your report, the first
3 full paragraph has the sentence it says, based on the
4 topographic survey, Exhibit 3, the storm water
5 management area is, approximately, four feet higher than
6 the triple 36 inch culvert pipes. Is that what you base
7 the irrelevant storm water on?

8 MR. TERWILLEGER: Sorry, what were you looking
9 at?

10 MR. MELOON: Page two, first full paragraph,
11 sentence that begins based on the.

12 MR. TERWILLEGER: I see it. Sorry.

13 A. That was the based on the photos and staining
14 on the walls.

15 Q. (BY MR. MELOON) And as an engineer, what
16 does staining on the walls show you?

17 A. That would -- there's a lot of contaminants
18 in storm water runoff that would create a -- a stain on
19 the wall. It picks up nutrients from the soil, from the
20 vegetation. So it leaves a stain.

21 Q. What else is in the storm water, other than
22 just the water molecules?

23 A. Oh, there's sediment particles. There's --
24 you have fertilizers. You have pesticides. You have
25 everything that -- you have oils when -- when water runs

1 across the roads and cleans the roads, it cleans
2 people's yards. That's the whole reason why we have
3 storm water retention facilities is to try to clean the
4 water before it goes into Indian River Lagoon because
5 there was a lot of contaminants in the water.

6 Q. What makes you think that the prior owner
7 would have told you about the complaints about the
8 flooding when you were doing the site plan work?

9 A. He hired an engineer to -- to assist him
10 through a code enforcement violation, which I
11 wouldn't -- I wouldn't think he would ask me to do any
12 design or evaluation to just get him out of being in
13 trouble. But when he started asking me to add parking
14 and add components to the site and I was doing -- we did
15 a topographic survey to be able to do the design and
16 permitting for the property, I would have thought he
17 would have asked, can you help me with flooding, or --
18 I'm speculating. But you would have thought he would
19 have said something. I'm an engineer; that's what I do.

20 Q. So your work with him went beyond just fixing
21 the code enforcement complaint?

22 A. Correct. Yes.

23 Q. There were other things that you fixed as
24 well?

25 A. Yes.

1 Q. What, in your opinion, what could be done to
2 fix the flooding or stop the flooding?

3 A. That's a difficult one. You could add more
4 pipes. Add another pipe under the railroad. You could
5 provide more storage somewhere to compensate for the
6 storage that was lost when the railroad was widened.
7 Those are, probably, the two most straightforward
8 options.

9 Q. Could the pipes be replaced down to their
10 previous elevation?

11 A. That would help. It's still not going to
12 replace the volume. So as rainfall intensity increases,
13 flood levels are going to rise. So once you take away
14 storage volume, that -- that volume that used to go into
15 the ditch is going to find other places to go.

16 Q. So, perhaps, moving it down and then adding a
17 fourth pipe?

18 A. A pipe would definitely help, yes. I'm not
19 sure that would be allowed, but that would be,
20 definitely, something you could look into.

21 Q. What is your -- your daily work that you do?

22 A. I do land development, which is a client
23 hires me to build 7-Elevens, Waltmarts. I do roadway
24 design, roadway construction. I do storm water master
25 plans. I do water and sewer distribution and collection

1 system master plans. And, I mean, so land development
2 is my area of focus. And every -- every project I work
3 has a storm water component to it.

4 Q. So the information that's in your report, it
5 would fair be to say that that's similar to the work you
6 do every day as an engineer?

7 A. Yes.

8 MR. MELOON: I have nothing further.

9 MR. TERWILLEGER: Just a couple follow ups on
10 that.

11 REDIRECT EXAMINATION

12 BY MR. TERWILLEGER:

13 Q. You mentioned that they increased -- there's
14 increased flood elevation based on the changes to the --
15 from the Brightline expansion?

16 A. Yes.

17 Q. How much is the increase?

18 A. I would have to run computer models to do
19 that. And it would be, probably, extensive surveying to
20 be able to do that. I would have to have a survey of
21 the drainage basin area. And once I had the basin area,
22 I could run models to determine what -- what the peak
23 stage would be.

24 Q. You don't have an opinion on that now?

25 A. I was not hired to do a storm water master

1 plan study of the entire drainage basin.

2 Q. And you don't have any opinion on how
3 frequently the flood elevation -- I'm sorry. Strike
4 that.

5 You don't have an opinion on how frequently
6 flooding was occurring on the property, do you?

7 A. No.

8 Q. You mentioned -- you were asked about what
9 you would do to fix this flooding. There's nothing in
10 your report about remedies to fix that?

11 A. No, I did not look at remedies.

12 Q. Okay. And you don't have any knowledge about
13 whether there was there any additional water coming from
14 upstream more than there was in the past, right?

15 A. I don't have any knowledge. I would say
16 based on state regulations and local regulations, there
17 shouldn't be any changes.

18 Q. And that's relying on these projects
19 upstream, everything upstream should have permitted and
20 approved?

21 A. Correct.

22 MR. TERWILLEGER: I have nothing else.

23 MR. MELOON: You have the ability to read your
24 deposition just to make sure the court reporter got
25 everything down correctly --

1 THE DEPONENT: Okay.

2 MR. MELOON: -- or waive it.

3 He'll read.

4 THE DEPONENT: I'll read.

5 THE VIDEOGRAPHER: Before we go off, is anyone
6 ordering the transcript or the video at this time?

7 MR. TERWILLEGGER: We'll get a transcript, just
8 the transcript.

9 THE VIDEOGRAPHER: Then this concludes today's
10 deposition. We're off the video record at 11:30.

11 THE REPORTER: Mr. Meloon, are you ordering the
12 transcript?

13 MR. MELOON: No.

14 * * * * *

15 WHEREUPON, the within proceedings were concluded
16 at the approximate hour of 11:38 a.m. on the 25th day of
17 September, 2025.

18 * * * * *

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CERTIFICATE OF OATH

STATE OF FLORIDA:

COUNTY OF ORANGE:

I, Anne Marie Hamill, RPR and Notary Public, State of Florida, do hereby certify that ROBERT ROBB appeared before me on September 25, 2025 and was duly sworn and produced Florida Driver's License as identification.

Signed this 25th day of September, 2025.



Anne Marie Hamill, RPR
My Commission No.: HH 479868
Expires: January 10, 2028

1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA:

3 COUNTY OF ORANGE:

4
5 I, Anne Marie Hamill, RPR, Notary Public, State of
6 Florida, certify that I was authorized to and did
7 stenographically report the deposition of ROBERT ROBB;
8 that a review of the transcript was requested; and that
9 the foregoing transcript, pages 1 through 60, is a true
10 and accurate record of my stenographic notes.

11 I further certify that I am not a relative,
12 employee, or attorney, or counsel of any of the parties,
13 nor am I a relative or employee of any of the parties'
14 attorneys or counsel connected with the action, nor am I
15 financially interested in the action.

16
17 DATED this 2nd day of October, 2025.

18
19 

20 Anne Marie Hamill, RPR
21
22
23
24
25

1 W. NATHAN MELOON, ESQUIRE
Nmeloon@uslegalteam.com

2
3 October 2, 2025

4 RE: 2145 AVOCADO LAND TRUST, et al v. FLORIDA EAST
COAST RAILWAY, LLC
(9-25-25/ROBERT ROBB/7585197)

5
6 The above-referenced transcript is available for
7 Review.

8 ROBERT ROBB should read the testimony to
9 verify its accuracy. If there are any changes,
10 ROBERT ROBB should note those with the reason
11 on the attached Errata Sheet.

12 ROBERT ROBB should, please, date and sign the
13 Errata Sheet and email to the deposing attorney as well
14 as to Veritext at Transcripts-fl@veritext.com and copies
15 will be emailed to all ordering parties.

16 It is suggested that the completed errata be
17 returned 30 days from receipt of testimony, as
18 considered reasonable under Federal rules*, however,
19 there is no Florida statute to this regard.

20 If the witness fails to do so, the transcript may
21 be used as if signed.

22 Yours,

23 Veritext Legal Solutions

24 *Federal Civil Procedure Rule 30(e)/Florida Civil
25 Procedure Rule 1.310(e).

2145 AVOCADO LAND TRUST, et al v. FLORIDA EAST COAST
RAILWAY, LLC

(9-25-25/ROBERT ROBB/JOB# 7585197)

E R R A T A S H E E T

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REASON_____

Under penalties of perjury, I declare that I have read
the foregoing document and that the facts stated in it
are true.

ROBERT ROBB

DATE

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FLORIDA RULES OF CIVIL PROCEDURE

Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

EXHIBIT E

the deposition wholly or partly, on motion under
rule 1.330(d)(4).

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

EXHIBIT E

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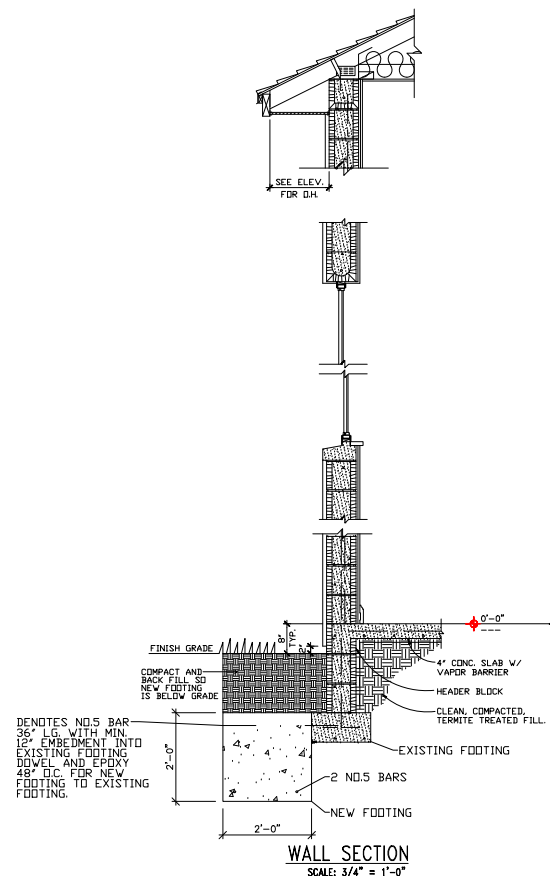
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LEGEND	
(B.B.)	BASIS OF BEARING
(M)	MEASURED
(P)	PROPOSED
(G)	GRADES
(I)	IRON
(P)	T.B.D. - TO BE DETERMINED
(R)	IRON ROD
(N)	NO
(N)	NAIL AND DISC
(I&T)	IRON AND TIN TAP
(C)	CONCRETE
(P)	PERMANENT REFERENCE MARK
(P)	PERMANENT
(T)	TEMPORARY BENCHMARK
(D)	D.I.T. - EXIST. 1000' - EXISTING GRADES
(F)	FINISH
(A)	ARC LENGTH
(L)	LENGTH
(CH)	CHORD LENGTH
(P.O.B.)	POINT OF BEGINNING
(P)	POINT OF CURVATURE
(T)	POINT OF TANGENCY
(I)	INTERSECTION
(P)	POINT OF REVERSE CURVE
(P)	POINT
(S.B.)	BUILDING SETBACK LINE
(H)	OVERHEAD WIRE
(E)	EDGE OF PAVEMENT
(P.U.)	PUBLIC UTILITY EASEMENT
(D)	DRAINAGE DRAIN
(E)	ELEVATION
(M)	MATERIAL
(C)	CONCRETE
(C.P.)	REINFORCED CONCRETE PIPE
(M)	METAL PIPE
(C)	CENTERLINE
(L)	LICENSED BUSINESS
(L.S.)	LOCAL LAND SURVEY



WIND LOAD INFORMATION

THIS BUILDING HAS BEEN DESIGNED AS AN
ENCLOSED STRUCTURE IN ACCORDANCE WITH
THE 2023 FLORIDA BUILDING CODE.

1. BASIC WIND SPEED - 150 MPH
2. WIND IMPORTANCE FACTOR - 1
3. BUILDING CATEGORY - II
4. WIND EXPOSURE - C
5. INTERNAL PRESSURE COEFFICIENT - +18
6. COMPONENT & CLADDING DESIGN WIND PRESSURE
7. THIS RESIDENCE OCCURS WITHIN THE WIND-BORNE DEBRIS REGION FOR 150 MPH AND ABOVE, ACCORDING TO THE 2023 FLORIDA BUILDING CODE.

SCOPE OF WORK

THIS BUILDING HAS BEEN DESIGNED AS AN
ENCLOSED STRUCTURE IN ACCORDANCE WITH
THE 2023 FLORIDA BUILDING CODE.

1. BASIC WIND SPEED - 150 MPH
2. WIND IMPORTANCE FACTOR - 1
3. BUILDING CATEGORY - II
4. WIND EXPOSURE - C
5. INTERNAL PRESSURE COEFFICIENT - ± 18
6. COMPONENT & CLADDING DESIGN WIND PRESSURE
7. THIS RESIDENCE OCCURS WITHIN THE WIND-BORNE DEBRIS REGION FOR 150 MPH AND ABOVE, ACCORDING TO THE 2023 FLORIDA BUILDING CODE.

CERTIFICATION OF PLAN BY DESIGN PROFESSIONAL
FOR THE INTENDED USE AND OCCUPANCY, THE MATERIALS, COMPONENTS AND THEIR INSTALLATION, AS DESCRIBED, COMPLY WITH THE FLORIDA BUILDING CODE, 8TH EDITION (2023); ITS RESIDENTIAL AND BUILDING VOLUMES; AS WELL AS APPLICABLE STANDARDS REFERENCED THEREIN.

CERTIFICATION OF DIGITAL DOCUMENT
THIS ITEM HAS BEEN ELECTRONICALLY SIGNED AND SEALED BY MICHAEL E HOWELLER, PE ON THE DATE AND/OR TIME STAMP SHOWN
USING A DIGITAL SIGNATURE.

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Michael E Howeller
Date: 2026.08.19
15:27:31 -04'00'

MICHAEL E HOWELLER, PE
STATE OF FLORIDA PROFESSIONAL ENGINEER
LICENSE NO. 51556

CONTRACTOR:
PHONE:

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ENGINEER: JOE SIMMONS
PHONE (321) 543-4645
ADDRESS: 470 OXFORD AVE.
M.I., FL. 32953

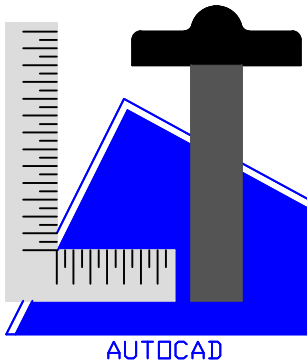
PAGE NO.

1 OF 1

DRAWN BY W. PAIGE

SITE ADDRESS: 2145 AVOCADO AVE.
MELBOURNE, FL.

EXHIBIT G



P.E. MICHAEL HOWELLER

PHONE (321) 543-4645

AUGUST 19, 2026

ATTN: CHAD/ HOME WRECKERS INC.
REGARDING: COMPROMISE OF EXISTING FOUNDATION AT EAST FACING
WALL OF EXISTING BUILDING
SITE ADDRESS: 2145 AVOCADO AVE. MELBOURNE, FL.

CONVERSATION NARRATIVE

PER MY JOBSITE VISIT ON JULY 18, 2026 I FIND THAT THE EAST FACING FOUNDATION, IT WAS DETERMINED THAT THE SWALE INTENDED TO ALLEVIATE THE FLOODING ISSUE WAS IMPROPERLY CONSTRUCTED AND OVER EXCAVATED. WITHOUT ADEQUATE PROTECTION, THE FOUNDATION WAS LEFT EXPOSED TO THE ELEMENTS. LEADING TO EROSION DURING FREQUENT PERIODS OF ELEVATED WATER. IMMEDIATE REPAIRS ARE REQUIRED.

RESPECTFULLY,

**Michael E
Howeller** Digitally signed by
Michael E Howeller
Date: 2026.08.19
15:25:23 -04'00'

P.E. MICHAEL HOWELLER P.E. NO. 51556

EXPERT Arrangement, Architectural, Detail, Structural, Mechanical,
Machine and Electrical
PHONE (321)-543-4645