

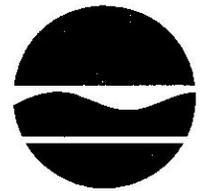
New York State Department of Environmental Conservation

Division of Fish, Wildlife and Marine Resources, Region 9

270 Michigan Avenue, Buffalo, New York, 14203-2999

Phone: (716) 851-7010 • FAX: (716) 851-7005

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

October 10, 2008

Ms. Beverly Barry
26 Palmer Avenue
Kenmore, New York 14217

Dear Ms. Barry:

**Barry Family Trust Property
Freshwater Wetland WO-38 Evaluation
Town of Clarence, Erie County**

This letter was prepared to inform you that Mr. Tom Somerville and I completed a field inspection of the Barry Family Trust property on County Road (SBL 45.00-1-2) on September 25, 2008 to determine whether wetlands present within the site meet New York State Department of Environmental Conservation (NYSDEC) criteria for state wetlands jurisdiction. In particular, we inspected areas currently mapped as Freshwater Wetland WO-38. Based on our inspection, we determined that there is no state-regulated freshwater wetlands jurisdiction within the property.

Specifically, our field inspection determined that wetlands within the site are well under 12.4 acres in size and are separated from other areas currently mapped as Freshwater Wetland WO-38 by greater than 50 meters. In addition, we determined that the wetlands present within the site lack significant features (e.g., resident habitat for endangered or threatened species) and therefore would not qualify for state wetlands jurisdiction under the NYSDEC's "unusual local importance" designation.

Please be advised that the U.S. Army Corps of Engineers may have federal wetlands jurisdiction within the property. Therefore, the Corps should be contacted. Their address is 1776 Niagara Street, Buffalo, New York 14207; telephone (716) 879-4330. They may require that a federal wetlands delineation be completed for the property.

If you have any questions about this wetlands review, feel free to call me at 851-7010.

Sincerely,

Chuck Rosenburg
Senior Ecologist

CPR:sw

cc: Wetland WO-38 File



May 28, 2013

Beverly Barry
26 Palmer Avenue
Kenmore, NY 14217

Subject: Preliminary Wetland Determination Conducted at the County Road 27 Acre Parcel, South of and Adjacent to County Road, Town of Clarence, Erie County, NY; SBL 45.00-1-2

Dear Ms. Barry:

Wilson Environmental Technologies, Inc. (WET), acting on behalf of your client conducted a Preliminary Wetland Determination (PWD) for the purpose of determining whether wetlands subject to jurisdiction under Section 404 of the Clean Water Act are present on parcel of land being proposed for residential development. The site is identified as 0 County Road, SBL 45.00-1-2. The parcel is vacant land and is listed as 27.43± acres (Figure 1). The parcel consists of a mixed successional old field with scattered pockets of trees; a woodlot occupies the east portion of the site. Existing residential and commercial development exist adjacent to County Road. An underground high pressure pipeline bisects the parcel. A tributary to Black Creek flows through the parcel.

This report presents the result of the onsite field investigation which was conducted on May 24, 2013. The purpose of the site visit was to determine whether wetlands, subject Section 404 and Article 24 of the New York State Department of Environmental Conservation (NYSDEC) Law therefore regulated by the U.S. Army Corps of Engineers and/or the NYSDEC exist within the site. A review of the Erie County National Wetlands Inventory Map indicated an expanse of Federal Wetlands mapped within the east portion of the site (Figure 2). In addition, New York State Department of Environmental Conservation Freshwater Wetland WO-38 is also shown within the site (Figure 3), however the mapping has been determined to be inaccurate (NYSDEC letter 10/10/08). The results of the onsite investigation verified that wetlands consistent with Federal criteria exist within the site. No State wetlands exist. It was estimated that approximately 4 – 4.5 acres of the parcel is encumbered by Federal Wetlands. The wetlands are scattered in pockets across the old agricultural portion of the site and within the existing woodlot. The wetland determination was based on the presence or lack thereof of hydrophytic vegetation, hydric soils, and wetland hydrology within the site.

As part of Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (USACE) regulates Federal wetland areas as small as 1/10 acres in size. WET conducted the PWD in accordance with the Corps of Engineers Wetland Delineation Manual dated January 1987 and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, dated October, 2009. This manual specifies methods accepted by the U.S. Army Corps of Engineers for its permitting process under Section 404 of the Clean Water Act and Section 10 of the River and Harbors Act of 1899. The Code of Federal Regulations defines a wetland as an area having hydric soils, wetland hydrology and supporting vegetation dominated by hydrophytes. All three of these criteria must be present for an area to qualify as a wetland. Hydrophytic vegetation has been defined as species which due to morphological,

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physiological, and/or reproductive adaptation(s), have the ability to grow, effectively compete, and/or reproduce in persisting anaerobic soil conditions. These species have been given an indicator status defining their probability of occurring in a wetland. These indicator statuses are defined as Obligate Wetland (OBL), Facultative Wetland (FACW), and Facultative (FAC). Non-hydrophytic species are assigned an indicator status of Facultative Upland (FACU) or Obligate Upland (UPL).

Existing Site Description

The area of investigation consisted of the 27.43± acre parcel. The entire site was walked by a Certified Professional Wetland Scientist. The parcel is roughly rectangular in shape; 2076 feet fronting along County Road; 549 feet along the east property line; 487 west property line. The site is crossed by an underground pipeline line which is mowed and maintained to be tree free. The parcel slopes south to north. County Road is at a higher elevation than the parcel. A tributary to Black Creek flows south to north across the east portion of the site. The channel exits the parcel via a culvert under County Road. A man-made ditch exists along County Road. Residential and commercial property exists along County Road. The south property line is bordered by agricultural land.

The site consists of a mixed vegetation communities which are consistent with this geological area of Lake Plain region of Western New York. The site is dominated by a mix of successional old field and shrubland that occupies approximately most of the parcel. The balance of the parcel is occupied by successional woodlands. A hedgerow of mature trees exists along the south property line. An agricultural drainage drains north to south.

The largest wetland area is located within the existing woodlot of the east portion of the parcel. This area is approximately 2± acres in size. The wetland is best classified as a Palustrine, Forested Broad-leaved Deciduous, Seasonally Saturated wetland (PFO1B). Dominant vegetation includes green ash (*Fraxinus pennsylvanica*, FACW), red and silver maple (*Acer rubrum*, FAC; *A. saccharinum*, FACW), cottonwood (*Populus deltoids*, FAC) in the tree and silky dogwood (*Cornus amomum*, FACW), pussy willow (*Salix discolor*, FACW) in the shrub strata. Dominant herbaceous vegetation includes melica manna grass (*Glyceria melicaria*, OBL), wool grass (*Scirpus cyperinus*, FACW) poison ivy (*Toxicodendron radicans*, FAC), sensitive fern (*Onoclea sensibilis*, FACW), rough goldenrod (*Solidago rugosa*, FAC) and others.

The smaller, scattered, pocketed wetlands are best defined as a mix of wet meadow and scrub-shrub dominated wetlands. These pocketed wetlands are small, seasonally saturated wet meadow habitats dominated by wool grass (*Scirpus cyperinus*, FACW), soft rush (*Juncus effusus*, FACW), reed canary grass (*Phalaris arundinacea*, FACW), sensitive fern (*Onoclea sensibilis*, FACW), creeping Jennie (*Lysimachia nummularia*, FACW) and other FACW in the herbaceous strata. Again, silky dogwood (*Cornus amomum*, FACW), pussy willow (*Salix discolor*, FACW) dominate in the shrub strata. The wetlands appeared to be separate pockets and not directly connected to the creek.

The balance of the parcel is upland (non wetland) consistent with abandon agricultural, old field vegetation communities. Dominant vegetation includes wild carrot (*Daucus carota*, UPL), teasel (*Dipsacus sylvestris*, FACU), spotted knapweed (*Centaurea maculosa*, UPL), common dandelion (*Taraxacum officinale*, FACU), heal-all (*Prunella vulgaris*, FACU), timothy (*Phleum pratense*, FACU), Canada goldenrod (*Solidago canadensis*, FACU), in the herbaceous strata with tartarian honeysuckle (*Lonicera tartarica*, FACU), hawthorn (*Crataegus spp.*, FACU), gray and silky dogwood (*Cornus racemosa*, FAC; *C. amomum*, FACW), common buckthorn (*Rhamnus carthartica*, FAC) in the shrub strata.

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Methods

Soil samples and hydrology information were observed at random points throughout the parcel. Soil samples were obtained through the use of a stainless steel hand auger. The borings were examined below the Ap or B1 horizon, typically at a depth of between 10 and 18 inches. Using the Munsell Soil Color Chart, soil samples were checked for hydric soil colorations at a depth of 10 inches, or immediately below the A horizon, whichever is shallower. Samples were further examined for other physical indicators of hydric soils and a determination was made as to whether the hydric soils criterion was met. Hydrology information was visually assessed during the soils investigation and included, but was not limited to, observation of inundation, soil saturation, water marks on trees, wetland drainage patterns, drift lines, water-stained leaves, and oxidized root channels within the Ap Horizon.

As shown on Figure 4 of the USDA Web Soil Survey, soils mapped on and in the vicinity of the site are shown as the somewhat poorly drained Odessa and Poorly drained Lakemont series. Soils within the site were found to correspond to this series. The Odessa series consists of deep, somewhat poorly drained soils on the lowland plain in the northern part of the county. This soil formed in red glacial lake sediment deposits high in clay and silt content. Slope ranges from 0 to 3 per cent, but 0 to 2 per cent is most common. The Ap Horizon is a very dark brown 10YR3/2 silt loam. Soil colorations in the B Horizon consist of a reddish brown 5YR5/3 with common fine distinct strong brown 7.5YR5/6 and common medium distinct gray 5YR5/1 mottles. The B2 Horizon has a hue of 5YR to 2.5YR, values of 3 to 6, and chroma of 2 to 4, except some subhorizons have a 7.5YR hue. Texture in the B2 horizon is silty clay loam to clay. Associated soils include Churchville, Niagara, Cosad Ovid and Rhinebeck soils.

The Lakemont series consists of deep, poorly to very poorly drained soils in nearly level areas or in depressional areas of the lowland lake plain in the northern part of the county. These soils formed in reddish lacustrine deposits dominated by clay and silt. Slope ranges from 0 to 3 per cent but is dominantly 0 to 1 per cent. Soil colorations in the B Horizon are a brown 7.5YR5/2 with many medium distinct light gray 10YR7/1 and strong brown 7.5YR5/6 mottling. The B2 Horizon of these soils has a hue ranging from 2.5Y to 7.5YR, value of 3 through 6, and chroma of 1 through 4. Texture in the B Horizon is a silt clay. The Ap Horizon is a very dark brown 10YR3/2 silt loam. Associated soils include Canandaigua, Getzville, Wayland, and Cheektowaga soils.

At the time of investigation wetland hydrology indicators were found to exist within the wetlands as defined on the parcel. Positive hydrology indicators include inundation, oxidized root zones within the A-Horizon of the soil, watermarks on vegetation stems, drift lines resulting from flooding, sediment deposits as a result of flooding or standing water, or wetland drainage patterns – evidence of drainage flow into or through an area. The presence of any two of these conditions is regarded as positive wetland hydrology in accordance with Federal criteria.

Conclusion

Areas outside the larger 2± acre woodlot (PFO1B) wetland should be reestablished as agricultural land through mowing/clearing with either a Hydro-ax or large brush-hog mower. All shrubs and saplings should be removed; the area should then be root raked to prevent the regrowth of shrubs/saplings. These areas should then be plowed, disked and planted with a cover crop such as rye grass or other hay cover, or an actual crop such as soybean. Certainly hay type grasses are cheaper to apply. If a hay cover

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is planted, the areas must be cut and baled at least twice during a growing season. Care must be taken to avoid creating areas which will pond water. The plowing and disking should be done in a manner that will promote site drainage. Do not mound soil which could prevent drainage into existing or newly cut agricultural collection ditches. The main south to north drainage through the central portion of the parcel is an obvious outlet for any site drainage.

As part of Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (USACE) regulates Federal Wetland areas as small as 1/10 acres in size. WET conducted the PWD in accordance with the Corps of Engineers Wetland Delineation Manual dated January 1987 and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, dated October, 2009. This manual specifies methods accepted by the U.S. Army Corps of Engineers for its permitting process under Section 404 of the Clean Water Act and Section 10 of the River and Harbors Act of 1899. The Code of Federal Regulations defines a wetland as an area having hydric soils, wetland hydrology and supporting vegetation dominated by hydrophytes. Agricultural activities are exempt from this regulation. By managing the site, you will eliminate the hydrophytic vegetation within those areas you elect to manage. By keeping the vegetation short and the ditches clear of vegetation, you will promote effective site drainage allowing these areas to promote the growth of upland vegetation which are assigned an indicator status of Facultative Upland (FACU), or Obligate Upland (UPL). Over time these areas will fail to qualify as Federal wetlands by failing to support all three of the necessary criteria for wetlands.

Maintaining your property is a smart investment. Wetlands naturally expand on relatively flat topography over time due to natural conditions. Mowing, root raking, plowing and disking are all management techniques which will aid in the prevention of these processes. These areas must be maintained for at least three to five consecutive growing seasons to achieve the end result. It is assumed that the Town of Clarence will allow the site clearing and farming activities to be reestablished on your parcel.

This report represents the conclusions of Wilson Environmental Technologies, Inc., based on existing site conditions. The results of this report are considered accurate to the best of our ability. WET represents this report based on the on-site investigation conducted on May 24, 2013.

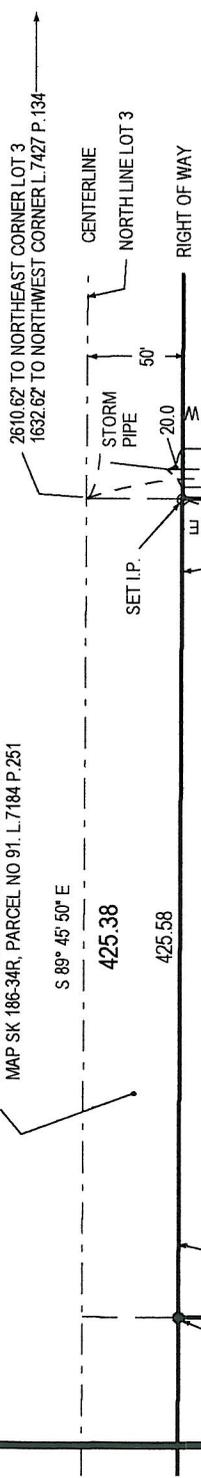
Sincerely,



Donald G. Wilson
Professional Wetland Scientist

COUNTY (100' WIDE) ROAD

PARCEL CONVEYED TO COUNTY OF ERIE
FOR COUNTY ROAD EXTENSION C.R. 282 A.
MAP SK 186-34R, PARCEL NO 91. L.7184 P.251



90° 13' 30"
FD TALL REBAR

506.18
506.18

514.97
564.97

LOT 1
UNFILED MAP

5.000± ACRES
TO RIGHT OF WAY

SOUTH LINE
L.3868 P.173

427.66

FD I.P.

SET I.P.



NOTE: UNAUTHORIZED ALTERATION OR ADDITION TO
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NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF
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BISELLE & STONE

BISELLE, STONE ASSOCIATES
ENGINEERING AND LAND SURVEYING, P.C.
CIVIL ENGINEERING : LAND SURVEYING : SITE PLANNING : CONSULTING
TELEPHONE: (716) 632-7000 FAX: (716) 632-7004

DATE: SEPTEMBER 24, 2013

JOB NO: 56341-1

FIELD BOOK: DC

SCALE 1" = 100'

SURVEY OF PART OF LOT 3
TOWN OF CLARENCE

SECTION 4

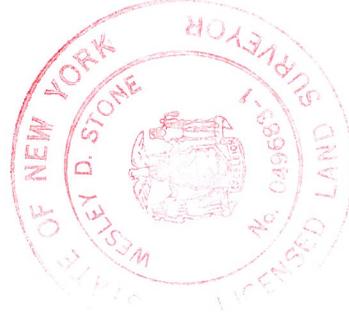
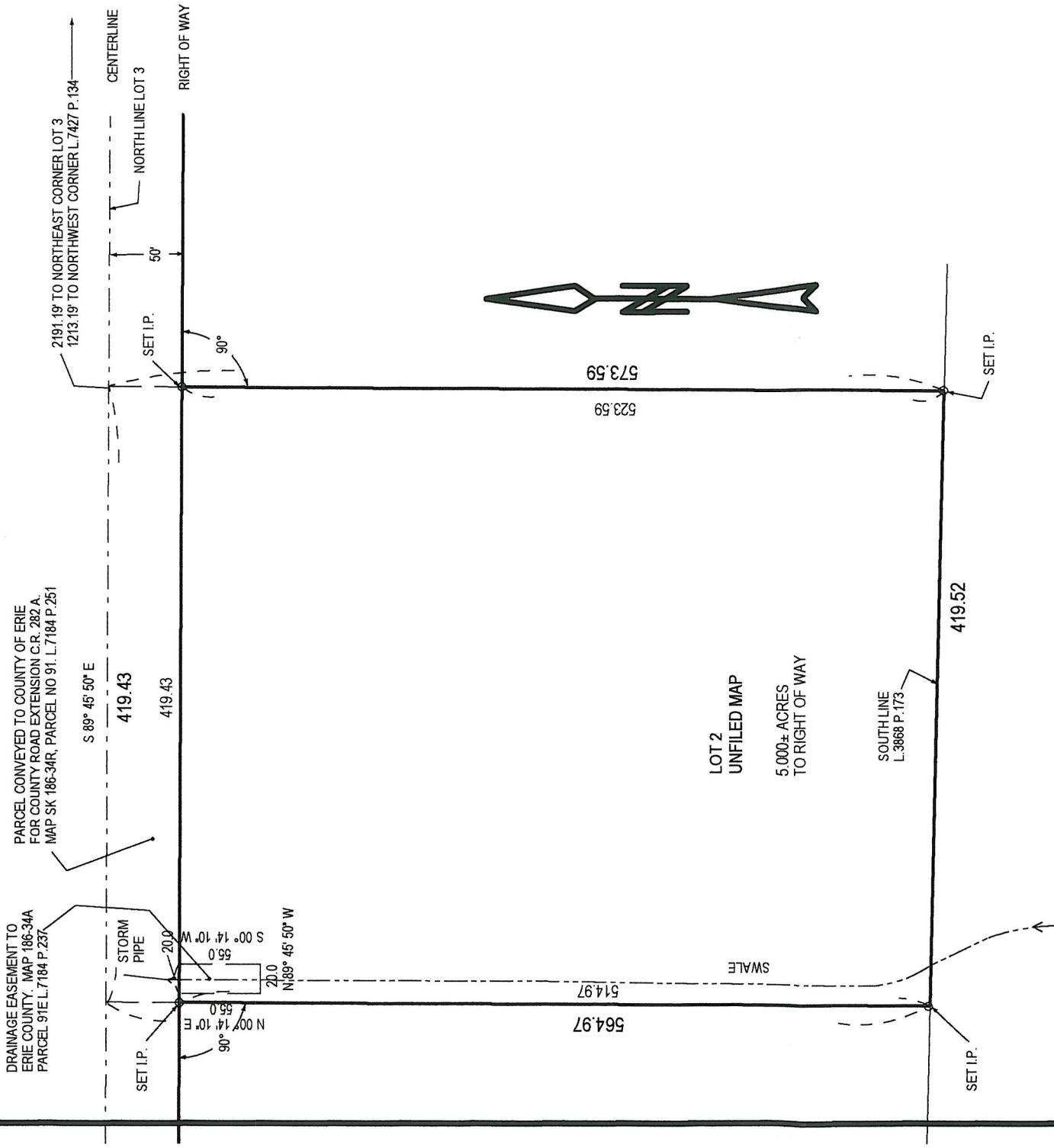
TOWNSHIP 12

RANGE 6

- ERIE COUNTY, NEW YORK - HOLLAND LAND COMPANY

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COUNTY (100' WIDE) ROAD



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DATE: SEPTEMBER 24, 2013

JOB NO: 56341-2

FIELD BOOK: DC

SCALE 1" = 100'

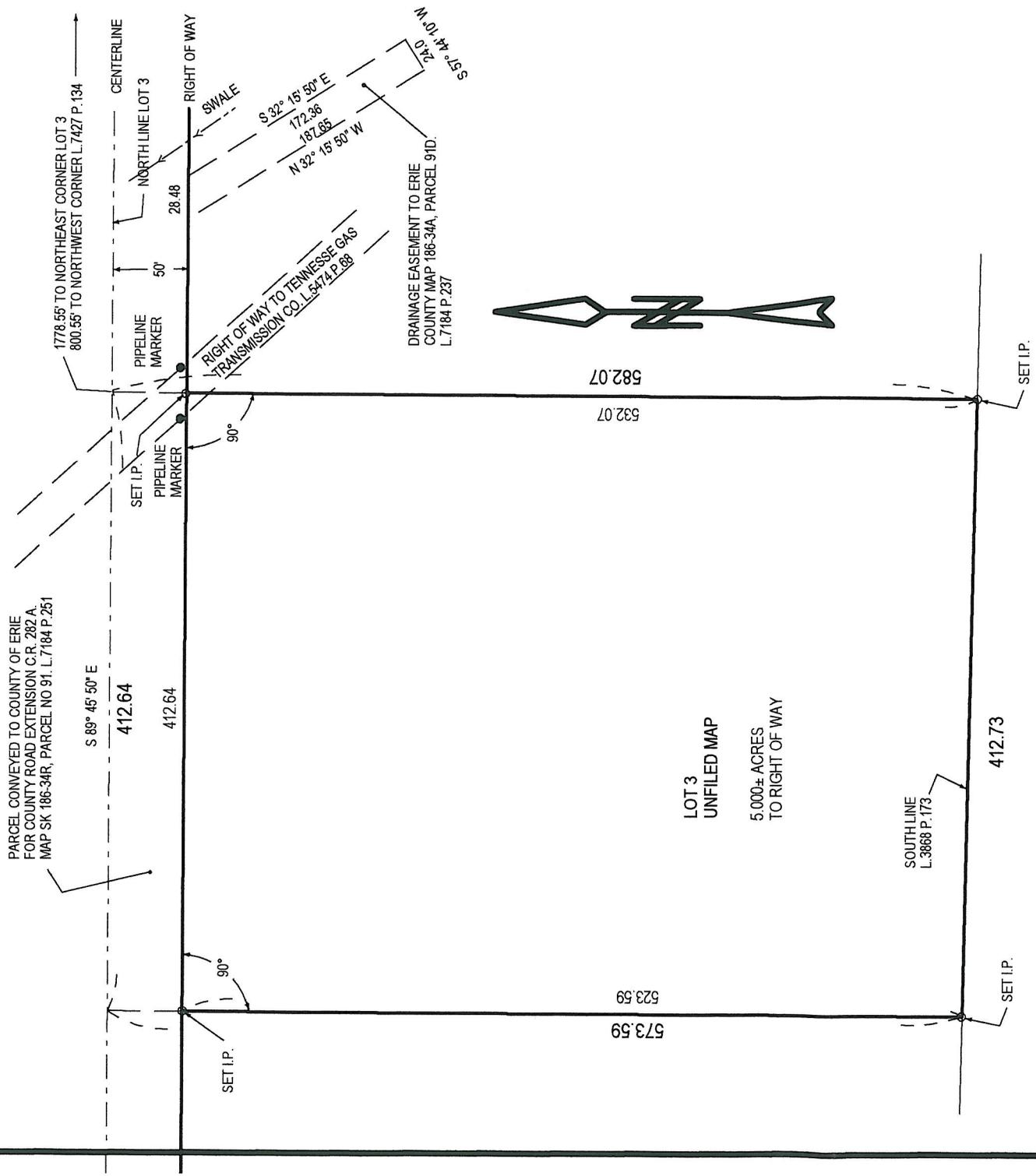
SURVEY OF PART OF LOT 3
 TOWN OF CLARENCE

SECTION 4

TOWNSHIP 12

RANGE 6
 - ERIE COUNTY, NEW YORK - HOLLAND LAND COMPANY

COUNTY (100' WIDE) ROAD



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BISSELL STONE

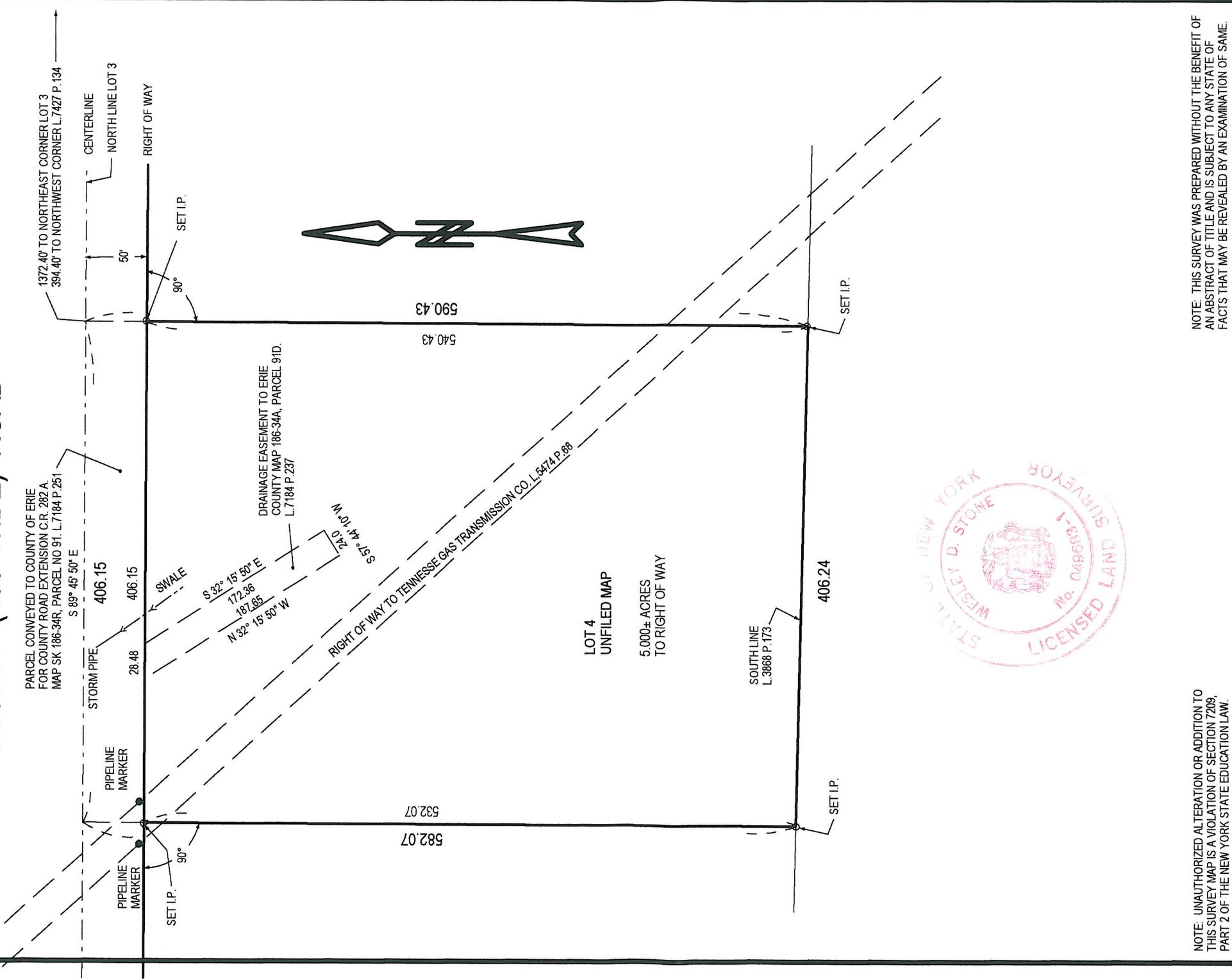
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DATE: SEPTEMBER 24, 2013 JOB NO: 56341-3 FIELD BOOK: DC SCALE 1" = 100'

SURVEY OF PART OF LOT 3 SECTION 4 TOWNSHIP 12 RANGE 6
 TOWN OF CLARENCE - ERIE COUNTY, NEW YORK - HOLLAND LAND COMPANY

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COUNTY (100' WIDE) ROAD



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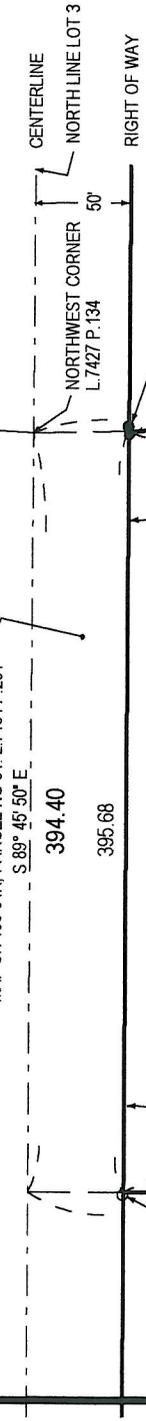
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SURVEY OF PART OF LOT 3 SECTION 4 TOWNSHIP 12 RANGE 6
 TOWN OF CLARENCE - ERIE COUNTY, NEW YORK - HOLLAND LAND COMPANY

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 DESIGN SYSTEM COLLABORATIVE; THE BISSELL CO.

COUNTY (100' WIDE) ROAD

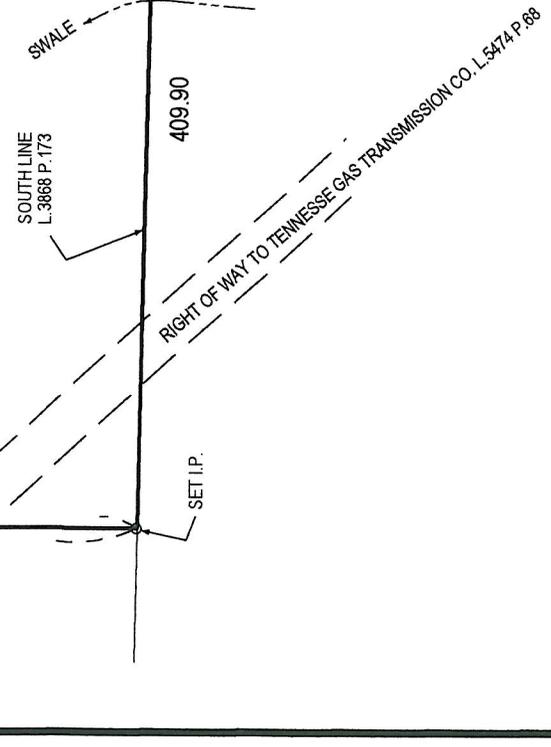
PARCEL CONVEYED TO COUNTY OF ERIE
FOR COUNTY ROAD EXTENSION C.R. 282 A.
MAP SK 186-34R, PARCEL NO 91. L.7184 P.251



LOT 5
UNFILED MAP
5.035± ACRES
TO RIGHT OF WAY



WEST LINE
L.7427 P.134



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DATE: SEPTEMBER 24, 2013

JOB NO: 56341-5

FIELD BOOK: DC

SCALE 1" = 100'

SURVEY OF PART OF LOT 3
TOWN OF CLARENCE

SECTION 4

TOWNSHIP 12

RANGE 6

- ERIE COUNTY, NEW YORK - HOLLAND LAND COMPANY

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