

#### **Item 4: Correspondence**

As part of the 404 permitting process, the proposed Cedar Creek Estates, Phase II (the Project) has been coordinated with several agencies. A summary of these correspondences can be found below:

Included Items (attached behind this list):

- **Item 4a** – U.S. Army Corps of Engineers (USACE) Jurisdictional Determination
  - Note: Although this JD was issued on October 2, 2009 and has since expired, Triple Properties, LLC (the Applicant) started the process of obtaining the appropriate permits for Phase II before the expiration date (October 2, 2014). USACE deemed this JD acceptable and issued a provisional Individual Permit (IP) and thus the Applicant request the Ohio EPA does so as well.
- **Item 4b** – USACE Public Notice and Provisional IP
  - A public notice for the Project was issued on September 12, 2014 and a provisional IP was subsequently issued on December 9, 2014. The impact footprint authorized by the provisional IP corresponds with the Preferred Design listed in this application.
- **Item 4c** – Ohio Department of Natural Resources (ODNR) Correspondence
  - Formal consultation with ODNR was not completed. However, Mr. Joe Loucek of Ohio EPA informed HzW that since a USACE Public Notice was issued and no ODNR comments were received, the 401 application could be processed without such. An email from Mr. Loucek dated January 6, 2015 stating this is included.
- **Item 4d** – United States Fish & Wildlife Service (USFWS) Threatened and Endangered Species Coordination
  - USACE coordinated with USFWS as part of their 404 permit application review. A record of this coordination is included.



**DEPARTMENT OF THE ARMY**  
BUFFALO DISTRICT, CORPS OF ENGINEERS  
1776 NIAGARA STREET  
BUFFALO, NEW YORK 14207-3199

REPLY TO

October 2, 2009

Regulatory Branch

SUBJECT: Jurisdictional Determination for Department of the Army Application No. 2009-00955

Mr. Ed Lechler  
Triple Properties, LLC  
10950 Pearl Road, Suite A2  
Strongsville, Ohio 44136

Dear Mr. Lechler:

I am writing to you in regard to your request for verification and jurisdictional determination of a 27 acre parcel located east of Prospect Road in the City of Strongsville, Cuyahoga County, Ohio.

Section 404 of the Clean Water Act establishes Corps of Engineers jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands, as defined in 33 CFR Part 328.3.

I am hereby verifying the Federal wetland boundary as shown on the attached wetland delineation map. This verification was confirmed and will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the delineation before the expiration. At the end of this period, a new wetland delineation will be required if a project has not been completed on this property and additional impacts are proposed for waters of the United States. Further, this delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

Based upon my review of the submitted delineation and on-site observations, I have determined that ten wetlands, Wetland A (0.085 acres), Wetland B (1.309 acres), Wetland C (0.228 acres), Wetland D (0.604 acres), Wetland E (1.382 acres), Wetland F (0.103 acres), Wetland G (0.137 acres), Wetland H (0.115 acres), Wetland I (0.005 acres), and Wetland J (0.199 acres) totaling 4.167 acres and one stream, Stream 1 (1,428.68 lf), on the subject parcel are part of a surface water tributary system to a navigable water of the United States as noted on

Regulatory Branch

SUBJECT: Department of the Army Application No. 2009-00955

the attached Jurisdictional Determination form. Therefore, the wetlands are regulated under Section 404 of the Clean Water Act. Department of the Army authorization is required if you propose a discharge of dredged or fill material in these areas.

Finally, this letter contains an approved jurisdictional determination for the subject parcel. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above determination, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Regulatory Review Officer  
Great Lakes and Ohio River Division  
CELRD-PDS-O  
550 Main Street, Room 10032  
Cincinnati, OH 45202-3222  
Phone: 513-684-7261

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **December 2, 2009**.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

A copy of this letter has been sent to Laura Sayre, Flickinger Wetland Services Group.

Regulatory Branch

SUBJECT: Department of the Army Application No. 2009-00955

Questions pertaining to this matter should be directed to me by calling (716) 879-4339, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: [keith.c.sendziak@usace.army.mil](mailto:keith.c.sendziak@usace.army.mil)

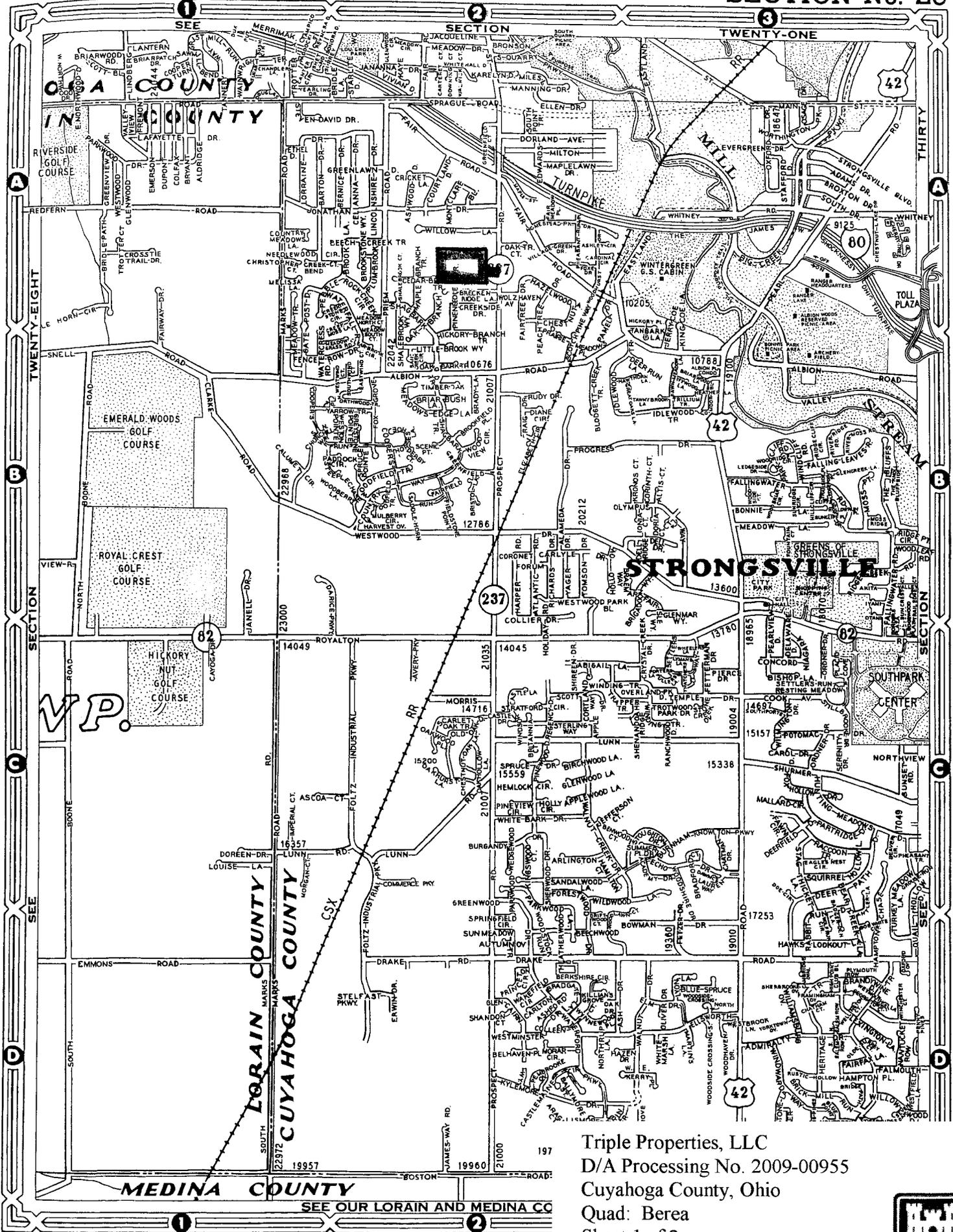
Sincerely,

**SIGNED**

Keith C. Sendziak  
Biologist

Enclosures

SECTION No. 29

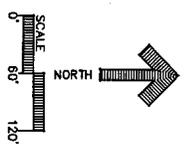


**STRONGSVILLE**

**VP.**

Triple Properties, LLC  
D/A Processing No. 2009-00955  
Cuyahoga County, Ohio  
Quad: Berea  
Sheet 1 of 2





EF LOCATION POINT  
 ⑦ SAMPLE POINT  
 WETLAND AREA = 4.166 ACRES  
 STREAM AREA = 0.098 ACRES  
 1428.68 FEET

Triple Properties, LLC  
 D/A Processing No. 2009-00955  
 Cuyahoga County, Ohio  
 Quad: Berea  
 Sheet 2 of 2



CLIENT	TRIPLE PROPERTIES, LLC
PROJECT	PROSPECT ROAD, 27 ACRES
TITLE	WETLAND DELINEATION
SCALE	1" = 60'
DATE	02-08
JOB NO.	4008
DRAWN BY	PLICKINGER
CHECKED BY	PLICKINGER
DATE PLOTTED	02/08/08
SHEET NO.	1 of 1



Plickinger Wetland Services Group, Inc.  
 554 WHITE POND DRIVE, SUITE D  
 FARLAWN, OHIO 44320 (330) 865-0688



# Public Notice

Triple Properties, LLC

ISSUED: September 12, 2014  
EXPIRES: September 29, 2014

U.S. Army Corps  
of Engineers  
Buffalo District

**Application No: 2009-00955 Section: OH**

All written comments should reference the above Application No. and be addressed to:  
US Army Corps of Engineers, Buffalo District Regulatory Branch, 1776 Niagara Street  
Buffalo, NY 14207-3199

**THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.**

**Application for Permit under Authority of  
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

**APPLICANT:** Mr. Ed Lechler, Triple Properties, LLC, 10950 Pearl Road, Suite A2,  
Strongsville, Ohio 44136.

**WATERWAY & LOCATION:** Federal jurisdictional wetlands and streams on an  
approximately 19-acre parcel located west of Prospect Road, and north of Breckenridge Lane, in  
the City of Strongsville, Cuyahoga County, Ohio (Sheet 1 of 4).

**LATITUDE & LONGITUDE:** Latitude North: 41.33880  
Longitude West: -81.85975

**EXISTING CONDITIONS:**

Description of delineation of waters of the US, if applicable: A jurisdictional determination (JD) was issued October 2, 2009. This JD identified ten wetlands, Wetland A (0.085 acres), Wetland B (1.309 acres), Wetland C (0.228 acres), Wetland D (0.604 acres), Wetland E (1.382 acres), Wetland F (0.103 acres), Wetland G (0.137 acres), Wetland H (0.115 acres), Wetland I (0.005 acres), and Wetland J (0.199 acres) totaling 4.167 acres and one stream, Stream 1 (1,428.68 linear feet (lf)), on the subject parcel that are part of a surface water tributary system to a navigable water of the United States (Sheet 2 of 4).

**PROPOSED WORK:** The applicant previously received Nationwide Permit (NWP) 29 affirmation July 12, 2010 to construct a 12-lot residential subdivision. The NWP affirmation authorized impacts to 0.49 acres of Federal jurisdiction wetland and 146.90 lf of Federal jurisdictional stream (Sheets 2 of 4). Wetland mitigation for these impacts included the purchasing of 1.0 acre of credit from the Edison Woods Mitigation Bank, and placing Block B and C, for a total of 5.14 acres, including approximately 1.6 acres of wetland, into a conservation easement (Sheet 4 of 4). In addition, 1.0 acres of remaining open space was placed into an environmental deed restriction (Sheet 4 of 4). The applicant is currently proposing an additional 0.246 acres of impacts to Federal jurisdictional wetlands in order to construct three of the

previously authorized 12 lots (Sheets 2-4 of 4). Therefore, for this single and complete project the applicant is proposing to impact a total of 0.736 acres of Federal jurisdictional wetlands and 146.90 lf of Federal jurisdictional stream channel.

### **PROJECT PURPOSE**

**Basic:** To construct residential homes on three lots within an existing 12-lot residential subdivision.

**Overall:** To prepare the lots for residential construction such that the lots can be evenly graded. The applicant has indicated that the current configuration affirmed under NWP 29 substantially reduces the usable area within lots 10-12, as grading would result in a grade difference of 4-6 feet between Wetland D and the surrounding upland area. Therefore, the applicant is requesting that these portions of Wetland D be filled to even the grade and to maximize space.

**Water Dependency Determination:** The project does not require access or proximity to or siting within the 0.246 acres of proposed forested wetland impacts to fulfill its basic purpose. Thus, it is not a water dependent activity and practicable alternatives that do not involve wetlands, or other special aquatic sites, are presumed to be available unless clearly demonstrated otherwise.

**Avoidance and Minimization Information:** The applicant has not provided information on avoidance and minimization.

**Proposed Mitigation:** To compensate for wetland impacts the applicant is proposing to purchase an additional 0.6 acres of wetland mitigation credit at the Edison Woods Mitigation Bank. The conservation easement and environmental deed restricted areas will remain in place.

Location and details of the above described work are shown on the attached maps and drawings.

**Comments or questions pertaining to the work described in this notice should be reference the Application Number and be directed to the attention of Keith C. Sendziak, who can be contacted at the above address, by calling (716) 879-4339, or by e-mail at: [keith.c.sendziak@usace.army.mil](mailto:keith.c.sendziak@usace.army.mil). A lack of response will be interpreted as meaning that there is no objection to the work as proposed.**

The applicant has certified that the proposed activity complies with Ohio's approved Coastal Zone Management Program and will be conducted in a manner consistent with that program. Any comments on the consistency of the proposed activity with Ohio's Coastal Zone Management Program should be forwarded to:

Mr. John Kessler  
Ohio Department of Natural Resources  
Office of Real Estate  
2045 Morse Rd.  
Columbus, OH 43229-6605  
phone: 614-265-6621  
email: [john.kessler@dnr.state.oh.us](mailto:john.kessler@dnr.state.oh.us)

The following authorization is required for this project:

**Water Quality Certification (or waiver thereof) from the Ohio Environmental Protection Agency**

Based on preliminary findings, there do not appear to be any properties listed in, or eligible for listing in, the National Register of Historic Places within the permit area as shown on Sheet 2 of 4. This notice constitutes initiation of consultation with the Ohio Historic Preservation Office (SHPO) per Section 106 of the National Historic Preservation Act. All currently available historic resource information pertaining to this proposed project if any has been provided to the SHPO. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that information to the SHPO for their review.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting, under separate cover, with the United States Fish and Wildlife Service (USFWS) to evaluate any potential impacts to: northern long-eared bat (*Myotis septentrionalis*) and Indiana bat (*Myotis sodalis*) and to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

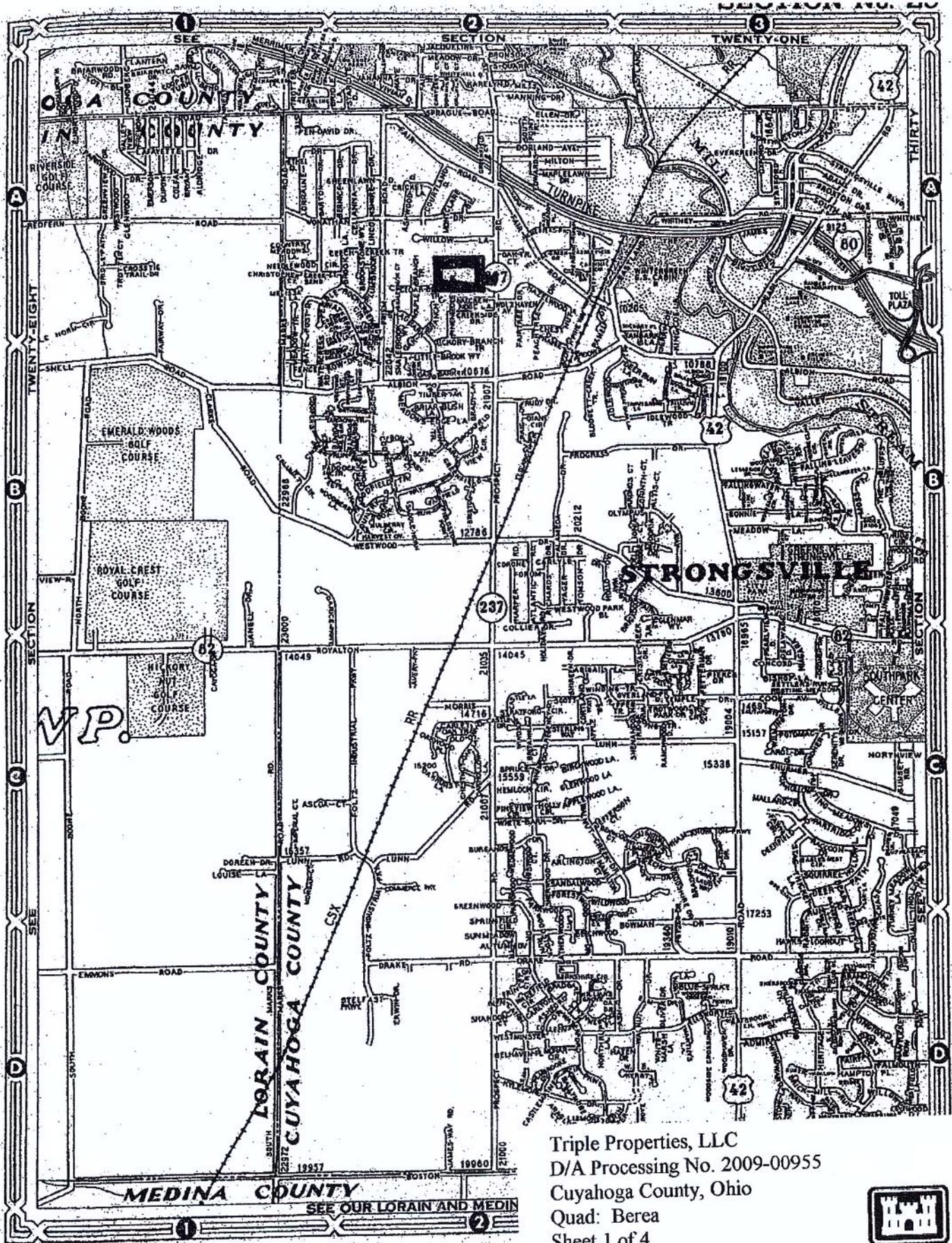
The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

## **SIGNED**

Diane C. Kozlowski  
Chief, Regulatory Branch

**NOTICE TO POSTMASTER:** It is requested that this notice be posted continuously and conspicuously for **15** days from the date of issuance.

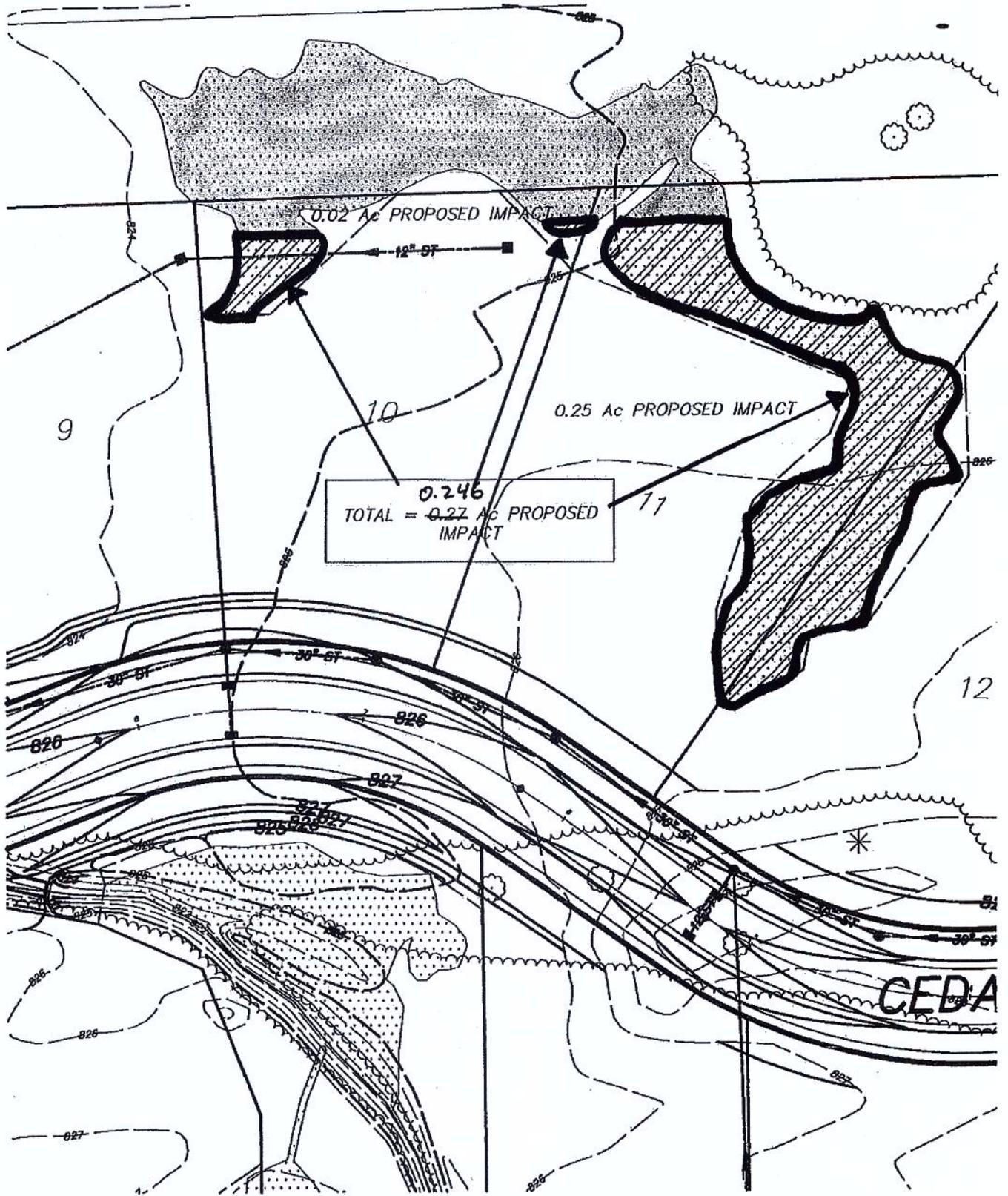


Triple Properties, LLC  
 D/A Processing No. 2009-00955  
 Cuyahoga County, Ohio  
 Quad: Berea  
 Sheet 1 of 4





Triple Properties, LLC  
D/A Processing No. 2009-00955  
Cuyahoga County, Ohio  
Quad: Berea  
Sheet 3 of 4







DEPARTMENT OF THE ARMY  
BUFFALO DISTRICT, CORPS OF ENGINEERS  
1776 NIAGARA STREET  
BUFFALO, NEW YORK 14207-3199

FILE COPY

REPLY TO  
ATTENTION OF:

December 9, 2014

Regulatory Branch

SUBJECT: Transmittal of PROVISIONAL Department of the Army Permit No. 2009-00955

Mr. Ed Lechler  
Triple Properties, LLC  
10950 Pearl Road, Suite A2  
Strongsville, Ohio 44136

Dear Mr. Lechler:

This pertains to your proposal to construct 3 lots within an existing 12-lot residential subdivision within an approximately 19-acre parcel located west of Prospect Road, and north of Breckenridge Lane, in the City of Strongsville, Cuyahoga County, Ohio.

Enclosed is a **Provisional Department of the Army Permit**. The provisional permit is **NOT VALID and does not authorize you to do your work**. The provisional permit describes the work that will be authorized, and the General and Special Conditions which will be placed on your final Department of the Army (DA) permit if the State of Ohio requirements are satisfied as described below. **No work is to be performed in the waterway or any wetlands until you have received a validated copy of the DA permit.**

By Federal law no Department of the Army permit can be issued until a Section 401 Water Quality Certification (WQC), or waiver thereof, has been issued by the Ohio Environmental Protection Agency. As of **December 9, 2014** neither WQC, or waiver thereof, nor the CZM have been issued for your project. If the State fails or refuses to act by September 12, 2015 on the WQC, the WQC requirement will be waived.

Conditions contained in the WQC will be incorporated into the final DA permit. Should the State's action preclude validation of the provisional permit in its current form, a modification to the provisional permit will be evaluated and you will be notified as appropriate. Substantial changes may require a new permit evaluation process, including issuing a new public notice.

When you have obtained a WQC, please return this copy of the Provisional DA permit, a copy of the WQC and, if appropriate, a list of any inconsistencies you note between the WQC, and a list of any objections you have to the terms and conditions of the permit. In the event that

CELRE-M  
MALPOO

2014 DEC 9 10:15

Regulatory Branch

SUBJECT: Transmittal of PROVISIONAL Department of the Army Permit No. 2009-00955

the State fails or refuses to act by September 12, 2015 on the WQC, please return this copy of the provisional DA permit and an outline of any objections to the terms and conditions of the permit.

If the State denies the required WQC, then your DA permit is denied without prejudice. Should you subsequently obtain the WQC, you should contact this office to determine how to proceed with your permit application.

If you have any questions concerning your State requirements, please contact:

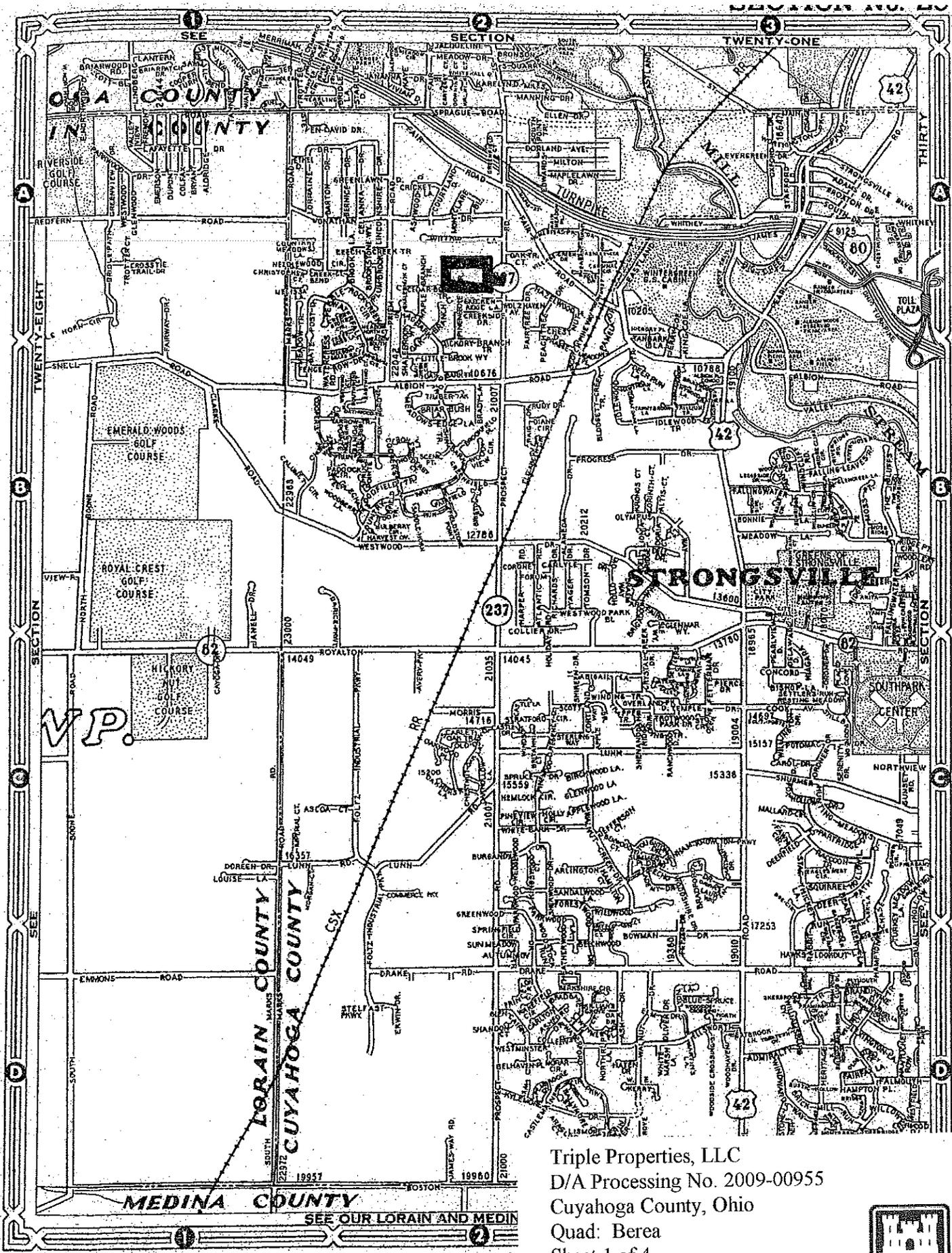
Ms. Rachel Taulbee  
Section 401 Certification Unit  
50 West Town Street, Suite 700  
PO Box 1049  
Columbus, Ohio 43216-1049

Questions pertaining to this matter should be directed to Keith C. Sendziak, who may be contacted by calling 716-879-4339, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: keith.c.sendziak@usace.army.mil

Sincerely,

**SIGNED** 

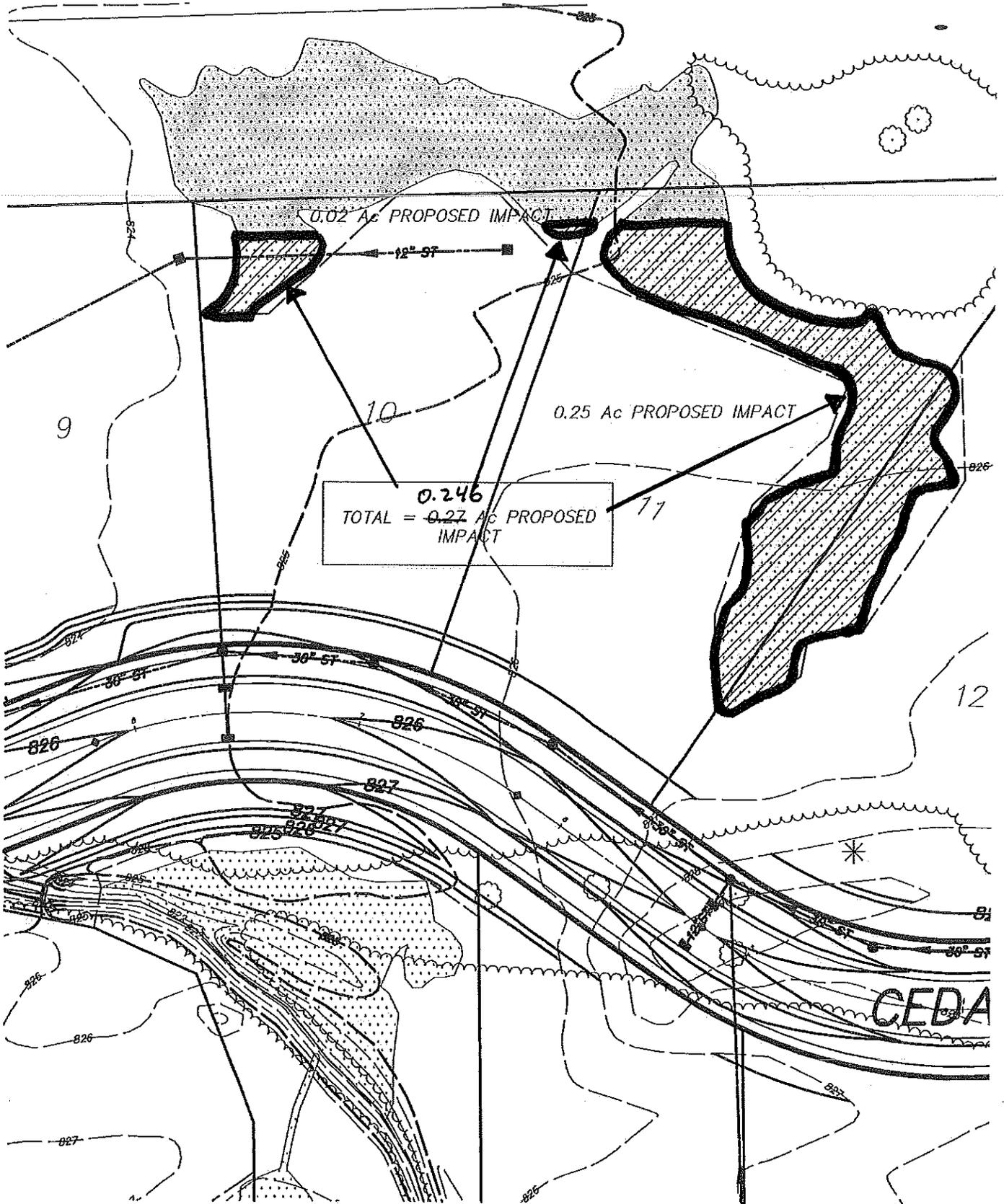
 Diane C. Kozlowski  
Chief, Regulatory Branch



Triple Properties, LLC  
 D/A Processing No. 2009-00955  
 Cuyahoga County, Ohio  
 Quad: Berea  
 Sheet 1 of 4











REPLY TO  
ATTENTION OF

## DEPARTMENT OF THE ARMY

BUFFALO DISTRICT, CORPS OF ENGINEERS  
1776 NIAGARA STREET  
BUFFALO, NEW YORK 14207-3199

PERMITTEE: Triple Properties, LLC

PERMIT NUMBER: 2009-00955

EFFECTIVE DATE: \_\_\_\_\_

NOTE: The term you and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below. (and continue on page 5)

**PROJECT DESCRIPTION: TRIPLE PROPERTIES, LLC, 10950 PEARL ROAD, SUITE A2, STRONGSVILLE, OHIO 44136, IS HEREBY AUTHORIZED BY THE SECRETARY OF THE ARMY TO: PERMANENTLY PLACE FILL MATERIAL INTO 0.246 ACRES OF FEDERAL JURISDICTIONAL WETLANDS TO CONSTRUCT 3 LOTS WITHIN AN EXISTING 12-LOT RESIDENTIAL DEVELOPMENT IN ACCORDANCE WITH THE GENERAL AND SPECIAL CONDITIONS, AND THE PLANS AND DRAWINGS AND ANY ADDITIONAL SPECIAL CONDITIONS ATTACHED HERETO WHICH ARE INCORPORATED IN AND MADE A PART OF THIS PERMIT.**

**PROJECT LOCATION: THE PROJECT IS LOCATED WEST OF PROSPECT ROAD, AND NORTH OF BRECKENRIDGE LANE, IN THE CITY OF STRONGSVILLE, CUYAHOGA COUNTY, OHIO.**

## PERMIT CONDITIONS

### GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on **3 YEARS**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you must make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity, or should you desire to abandon it without a good faith transfer, you may obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archaeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

### FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

#### **Section 404 of the Clean Water Act (33 U.S.C. 1344).**

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as this specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity

authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

---

(PERMITTEE)

---

(DATE)

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

Karl D. Jansen, Lieutenant Colonel, Corps of Engineers  
(DISTRICT COMMANDER)

---

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below. A copy of this signed permit and statement shall be forwarded to the Buffalo District at the following address:

U.S. Army Corps of Engineers  
Buffalo District  
Regulatory Branch  
1776 Niagara Street  
Buffalo, New York 14207

---

(TRANSFEREE)

---

(DATE)

## SPECIAL CONDITIONS:

1. You are responsible for ensuring that the contractor and/or workers executing the activities authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.
2. At the request of an authorized representative of the Buffalo District, U.S. Army Corps of Engineers, the permittee must allow access to the project site to determine compliance with the conditions of this permit.
3. As mitigation for the permanent and unavoidable loss of 0.246 acres of Federal jurisdictional wetlands, the permittee must purchase 0.6 credits from the Edison Woods Wetland Mitigation Bank. Prior to commencing the work authorized by this permit, the permittee must supply this office with a copy of the Edison Woods Wetland Mitigation Bank executed mitigation agreement and verification of the transfer of funds to the Edison Woods Wetland Mitigation Bank. The executed agreement and verification of funds must be sent to the attention of Mr. Harold Keppner, Chief, Monitoring & Enforcement Section, U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199.
4. To reduce any potential adverse effects on the federally endangered Indiana bat (*Myotis sodalis*), trees (woody stems greater than 5 inches Diameter at Breast Height and greater than 10 feet tall) must not be cut between April 1 and September 30, of any year.
5. The Water Quality Certification issued for this project by the State of Ohio is part of this Department of the Army permit pursuant to Section 401(d) of the Clean Water Act. Noncompliance with any limitations or requirements stated in the certification may be a basis for suspension, revocation or modification of this permit.
6. Should human remains be encountered during any phase of the proposed project, such person or persons encountering the human remains shall immediately cease work and will make a reasonable effort to refrain from disturbing or removing the human remains, protect the exposed portions of the human remains from inclement weather and vandalism, and immediately notify the applicant. The applicant will immediately notify the U.S. Army Corps of Engineers and the Ohio State Historic Preservation Office. If the human remains are not subject to a criminal investigation by local, state, or Federal authorities, the Ohio SHPO's Policy Statement on Treatment of Human Remains (1977) will be used as guidance.
7. That the mechanical equipment used to execute the work authorized herein shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.
8. All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures or utilities. They shall remain in place until construction is completed and the area is stabilized.
9. That the fill material shall be free of fines, oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.

**From:** [Loucek, Joseph](#)  
**To:** [Ben Latoche](#); [Taulbee, Rachel](#)  
**Cc:** [Blasick, Richard](#); [Jason McKenney](#)  
**Subject:** RE: Cedar Creek Estates 401  
**Date:** Tuesday, January 06, 2015 3:01:43 PM

---

Who was the original consultant, Ben (Firm and actual staffer)? What were the dates? Does the Corps have the Ohio EPA/Corps ORAM Verification cover sheet? If so, what is the date that Lauren signed off on it? What is the Corps NWP No.?

We generally consider ORAM verifications to be good for 5 years unless we have reason to believe there is compelling reason to reconsider (like the Corps with delineations).

That will be good for ODNR and USFWS consultation, so long as they are for this new permit and not the original NWP.

Fees are based on the 401 permit impacts, not the previous NWP impacts. So it would be the impacts (arbitrarily) from 0.5 acres to 0.75 acres (or put another way, assessed on 0.25 acres).

---

**From:** Ben Latoche [mailto:BLatoche@hzwenv.com]  
**Sent:** Tuesday, January 06, 2015 2:34 PM  
**To:** Taulbee, Rachel  
**Cc:** Loucek, Joseph; Blasick, Richard; Jason McKenney  
**Subject:** Cedar Creek Estates 401

Hello Rachel,

We are working with Triple Properties to achieve a 401 WQC for the Cedar Creek Estates Subdivision in Strongsville, Ohio. This project was originally permitted under a NWP (those lots have been permitted, mitigated, and constructed) but has since expanded and now requires a WQC/IP. Triple Properties has worked with the Corps and a provisional IP is imminent. It is now up to HzW to procure the WQC, but I have a few questions first:

- We do not have color photos of the resources to be impacted. The delineation report has been converted to microfilm (B&W) at the Corps and Triple Properties does not have any other copies. It is my understanding that this report, including photos, was sent to Ms. Lauren McEleney of Ohio EPA for ORAM verification purposes. Any chance this document is still in a file somewhere? Let me know, we can travel to the project area and take new pictures if need be.
- It is also my understanding that Ms. Eleney concurred with the originally submitted ORAM

forms (another item we do not have). If I can retrieve the 1-page form sent to the Corps affirming these scores, will this suffice for the WQC submittal? The full forms may have also made their way into the same file that the delineation report is in, if your office still retains it.

- We intend to submit USFWS' comments to the Corps regarding the project to fulfill a portion of the agency coordination requirement. Additionally, I am in the process of finding out whether a public notice has been issued for the project. If this public notice has been issued and ODNR notified, can we consider this as coordination, or should I begin a separate consultation with ODNR?
- In regards to the permitting/fees, are we permitting only the additional impacts (~0.25ac) or the entire project since inception (~0.75ac)? As I've said, Triple Properties is in compliance with the NWP's that have been issued. However, I am unsure how Ohio EPA assesses the fees.

Sorry to burden you with all these questions, but we are essentially starting from scratch as we cannot retrieve the information from the previous consultant. We are hoping the Corps will be able to provide us with the information to fill all the gaps so that we may submit a complete WQC permit to your office when it is ready.

Thanks!

-Ben

Benjamin Latoche, M.S.  
Environmental Scientist I  
HzW Environmental Consultants, LLC  
6105 Heisley Road  
Mentor, Ohio 44060  
Phone: 440-357-1260  
Fax: 440-357-1510  
Email: [BLatoche@hzwenv.com](mailto:BLatoche@hzwenv.com)



**DEPARTMENT OF THE ARMY**  
 BUFFALO DISTRICT, CORPS OF ENGINEERS  
 1776 NIAGARA STREET  
 BUFFALO, NEW YORK 14207-3199

To: U.S. Fish and Wildlife Service, Reynoldsburg Ohio Ecological Services Office

FAX: 614-469-6919 or  
 E-mail: [Megan\\_Seymour@fws.gov](mailto:Megan_Seymour@fws.gov)

**Request for review pursuant to:**

- Section 7(a)(2) of the Endangered Species Act of 1973
- Fish and Wildlife Coordination Act

*03E15000-2010-I-0638*

Date: September 29, 2014 DA. No.: 2009-00955

Project Name: Triple Properties, LLC - Prospect Road Site

County: Cuyahoga Corps Contact: Keith C. Sendziak (716) 879-4339

**Listed/candidate species and/or designated critical habitat with potential to occur in proposed project area:**

- |   |   |
|---|---|
| <input type="checkbox"/> Clubshell mussel               | <input type="checkbox"/> Lakeside daisy                 |
| <input type="checkbox"/> Copperbelly watersnake         | <input type="checkbox"/> Mitchell's satyr butterfly     |
| <input type="checkbox"/> Eastern massasauga rattlesnake | <input type="checkbox"/> Northern monkshood             |
| <input type="checkbox"/> Eastern prairie fringed orchid | <input type="checkbox"/> Northern riffleshell mussel    |
| <input checked="" type="checkbox"/> Indiana bat         | <input type="checkbox"/> Piping plover critical habitat |
| <input type="checkbox"/> Karner blue butterfly          | <input type="checkbox"/> Rayed bean mussel              |
| <input type="checkbox"/> Lake Erie watersnake           | <input type="checkbox"/> White cat's paw pearly mussel  |

**The U.S. Army Corps of Engineers has determined the proposed project:**

- will result in no effect to \_\_\_\_\_
- may affect \_\_\_\_\_
- may affect, but is not likely to adversely affect Indiana bat
- is likely to adversely effect \_\_\_\_\_

See attached project description (including any conservation measures that are part of the proposal), permit conditions, permit application details, and rationale for the above-listed determinations.

**The U.S. Army Corps of Engineer's requests:**

- USFWS concurrence with our determination
- Additional assistance to make our determination

**The U.S. Fish and Wildlife Service:**

- Requests additional time for review
- Concurs with your determination and has no further ESA comments
- Will provide FWCA comments separately
- Has no comments pursuant to FWCA

USFWS Contact (s): *Jay M. Gyzal, Jeromy M. Applegate*  
 Date: *10-1-2014*