APPENDIX G-4

Exhibit 4: USACE Jurisdictional Determination Letter for Chestnut Woods

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

REPLY TO

November 23, 2010

Regulatory Branch

SUBJECT: Jurisdictional Determination for Department of the Army Application No. 1997-4940012

Mr. Gene Troiano
Perrico Property Systems, Inc.
320 Orchard View
Seven Hills, Ohio 44131

Dear Mr. Troiano:

I have reviewed the surface water delineation map you submitted for the Chestnut Woods Subdivision, North of Hillside Road, City of Independence, Cuyahoga County, Ohio.

I am hereby verifying the Federal wetland and stream limits as shown on the attached map. This verification was confirmed on August 10 and September 3, 2010 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 waters 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 all wetlands and streams on the site, except for Wetlands K, Q, and R, are part of a surface water tributary system to a navigable water of the United States as noted on the attached Jurisdictional Determination forms. Therefore, these waters 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 this area. The approved acreage of wetlands, excluding Wetlands K, Q, and R, and footage of streams is provided on Sheet 2 of 3. A complete listing of the attached JD forms is provided on Sheet 3 of 3.

Regulatory Branch
SUBJECT: Jurisdictional Determination for Department of the Army Application No. 2010-01097

In addition, I have determined that there is no clear surface water connection or ecological continuum between Wetlands K, Q, and R on the parcel and a surface tributary system to a navigable water of the United States. Therefore, these waters are considered isolated, non-navigable, intrastate waters and are not regulated under Section 404 of the Clean Water Act. Accordingly, you do not need Department of the Army authorization to commence work in these areas.

Finally, this letter contains approved jurisdictional determinations for the subject parcel. If you object to the determinations, 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:

Ms. Pauline Thorndike
Review Officer
Great Lakes and Ohio River Division
CELRD-PDS-O
550 Main Street, Room 10032
Cincinnati, OH 45202-3222
Phone: 513-684-6212

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 January 22, 2011.

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 provided to Mr. Hugh Crowell, Hull & Associates, 6397 Emereald Parkway, Suite 200, Dublin, Ohio 43016, and to Mr. Randy Bournique, Manager, 401/Wetlands Section, Ohio EPA, Division of Surface Water, P.O. Box 1049, Columbus, Ohio 43216-1049.

Regulatory Branch
SUBJECT: Jurisdictional Determination for Department of the Army Application No. 2010-01097

Questions pertaining to this matter should be directed to me at (716) 879-4262, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: michael.w.smith@usace.army.mil.

Sincerely,

Michael W. Smith
Biologist

Enclosures

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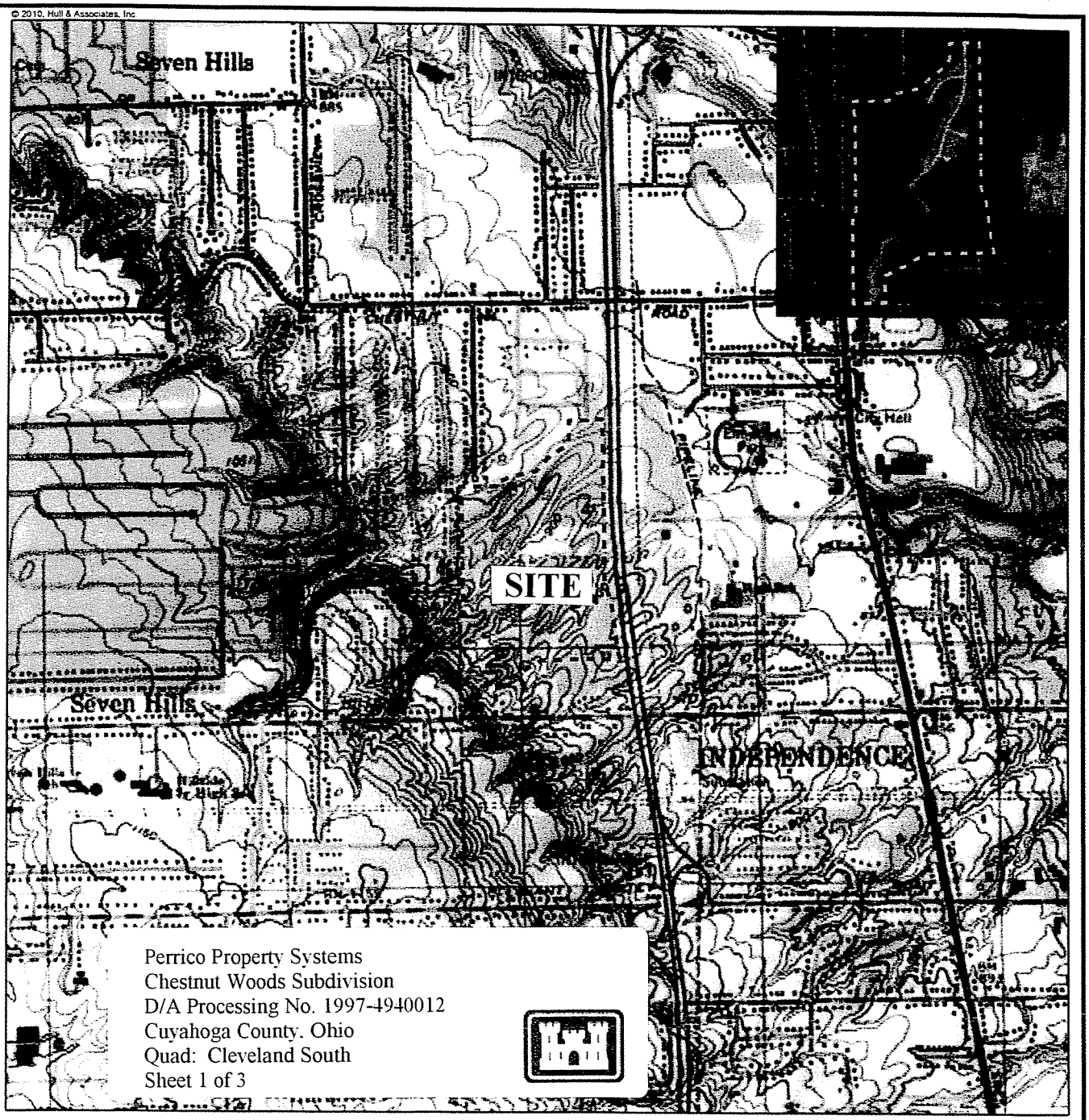


Legend

Approximate Site Boundary

Source: The topographic map was acquired through the USGS Topographic Map web service. Topo quadrangle dated1985.

0 500 1,000 2,000 Feet

1:24,000

N

Hull & associates, inc

6397 Emerald Parkway
Suite #200
Dublin, Ohio 43016

Phone: (614) 793-8777
Fax (614) 793-9070
www.hullinc.com

Surface Water Delineation
Perrico Property Systems, Inc

Site Location Map

Chestnut Woods Subdivision
City of Independence, Cuyahoga County, Ohio

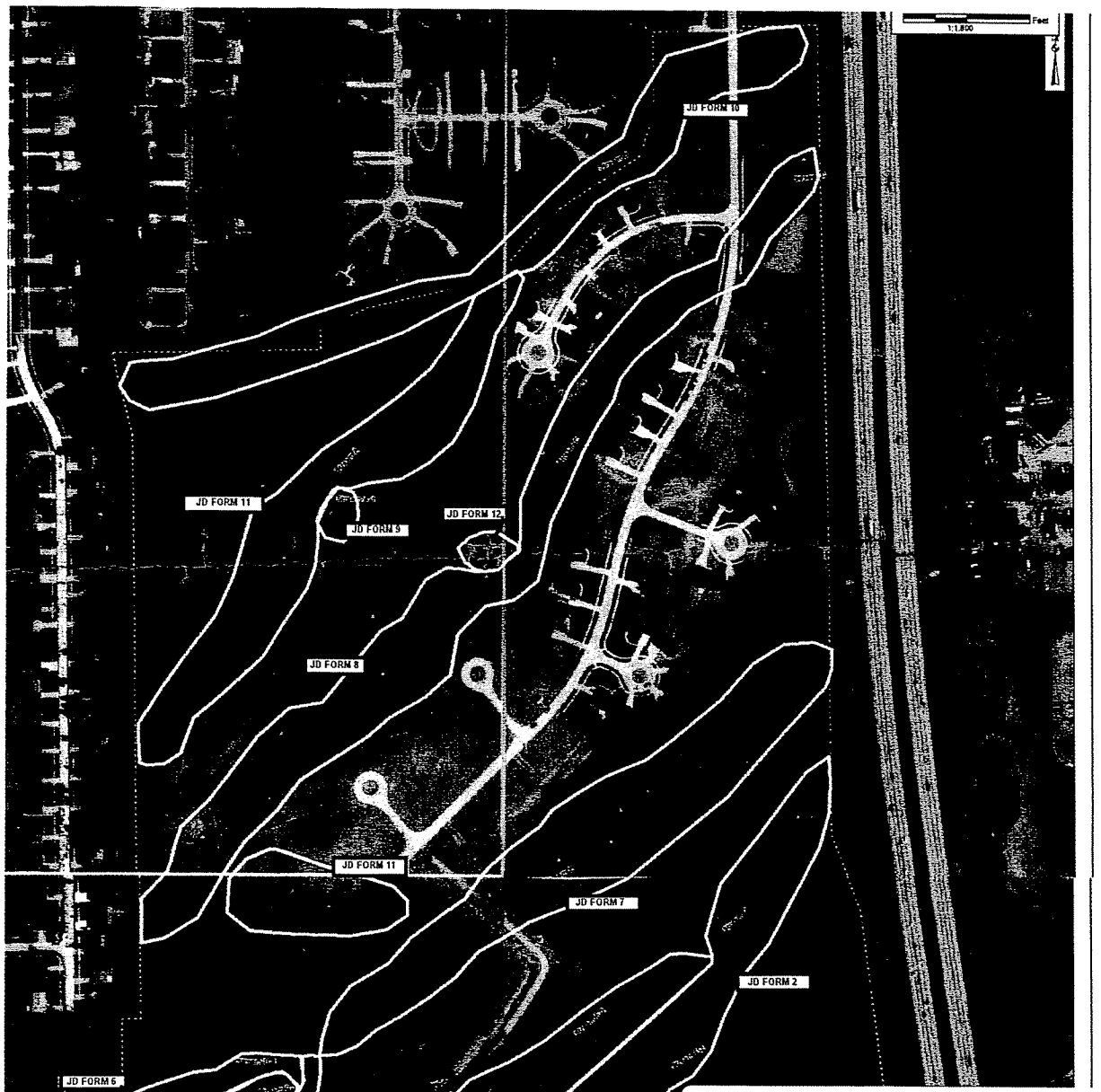
Date:
July 2010

File Name
PPS002_01_Fig01_SiteLocMap.mxd

Edited: 7/7/2010 By: kwildman

Figure
1

Produced using ArcGIS 9.3.1 SP1



Perrico Property Systems
Chestnut Woods Subdivision
D/A Processing No. 1997-4940012
Cuyahoga County, Ohio
Quad: Cleveland South
Sheet 2 of 3

Wetland	Size (ac)	ORAM score	Category	Sample #	Photos	Isolation
A	0.073	46	2	SP1	1,2	Non-Isolated
B	0.94	46	2	SP2, SP3, SP4, SP6, SP7	3-8, 10	Non-Isolated
C	0.019	28	1	SP50	53	Non-Isolated
D	0.02	29	1	ND	54	Non-Isolated
E	0.439	37	Modified 2	SP8	12	Non-Isolated
F	0.061	33	Modified 2*	SP9	ND	Non-Isolated
G	0.18	48.5	2	SP10	13	Non-Isolated
H	0.964	48.5	2	SP11	14	Non-Isolated
I	0.106	35	Modified 2	SP13	16	Non-Isolated
J	0.662	49	2	SP16	17-18	Non-Isolated
K	0.027	15.5	1	SP18	20-21	Isolated
L	0.124	30	Modified 2*	SP20	23-25	Non-Isolated
M	0.663	40	Modified 2	SP21	26,32,33	Non-Isolated
N	0.305	50	2	SP23,SP24	29-31	Non-Isolated
O	0.131	39.5	Modified 2	SP53	57	Non-Isolated
P	0.121	20	1	ND	ND	Non-Isolated
Q	0.011	21	1	SP28	35	Isolated
R	0.168	22	1	SP17	ND	Isolated
Total	4.994					

ND = no data
* ORAM score is in category 1/2 gray zone, assumed to be Category 2

	Length (ft)	Drainage (mi²)	HHEI Score	QHEI Score	Receiving Aquatic Life Use	Flow	Photos
	1815.4	0.05	28	n/a	Class I PHWH	Ephemeral	36-37
	55.4	<0.1	29*	n/a	Class I PHWH*	Ephemeral	ND
	2202.7	0.89	n/a	58.5	Warmwater Habitat	Perennial	38-39
	3291	0.06	57	n/a	Class II PHWH	Intermittent	40
	124	<0.1	57*	n/a	Class II PHWH*	Intermittent	ND
	194.3	<0.1	50	n/a	Class II PHWH	Intermittent	41
	435.5	<0.1	35	n/a	Class II PHWH	Intermittent	42
	254.2	<0.1	23	n/a	Class I PHWH	Ephemeral	ND
	561.5	<0.1	30	n/a	Class II PHWH	Intermittent	ND
	2107.0	0.21	60	n/a	Class III PHWH	Perennial	43-45
	1622	<0.035	42	n/a	Class II PHWH	Intermittent	46-47
	357.2	<0.035	37	n/a	Class II PHWH	Intermittent	49-51
	681	0.07	48	n/a	Class II PHWH	Intermittent	52
	14,901.80						

n/a = data
boundary channel, assumed same HHEI score and Class as receiving stream, no HHEI performed

Legend
- Wetlands
- Streams
- Approximate Site Boundary
- Culvert
- Sample Point

Hull & Associates, Inc.
6397 Emerald Parkway
Suite #200
Dublin, Ohio 43016
Phone (614) 793-8777
Fax (614) 793-9070
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September 2010

Surface Water Delineation
Perrico Property Systems, Inc

Surface Water Delineation Map

Chestnut Woods Subdivision
City of Independence, Cuyahoga County, Ohio

Figure 2

Perrico Property Systems/Chestnut Woods Subdivision (Corps Id 1997-4940012)			
JD Form	Streams	Wetlands	Waters
1	F-1	A, B, C	RPW (Seasonal) with Abutting Wetlands
2	F-2, G	D, E, J	RPW (Seasonal) with Abutting Wetlands
3	F, G	D-3	Non-RPW with Adjacent Wetlands
4	D-2	G, H	RPW (Seasonal) with Abutting Wetlands
5	D-1	H	RPW (Seasonal) with Abutting Wetlands
6	D-4	H	RPW (Seasonal) with Abutting Wetlands
7	E	I, O	RPW (Perennial) with Adjacent and Abutting Wetlands
8	C	L, M, P	RPW (Seasonal) with Abutting Wetlands
9	A-1	N	Non-RPW with Adjacent Wetlands
10	B		RPW (Perennial) with No Adjacent/Abbutting Wetlands
11	A	N (jurisdictional), K (Isolated), Q (Isolated), R (Isolated)	Non-RPW with Adjacent Wetlands and Isolated Waters
12	C-1	M	RPW (Seasonal) with Abutting Wetlanc

Perrico Property Systems
Chestnut Woods Subdivision
D/A Processing No. 1997-4940012
Cuyahoga County, Ohio
Quad: Cleveland South
Sheet 3 of 3

APPENDIX G-5

Exhibit 5: Ohio EPA Wetland and Stream Verification Letter for Chestnut Woods

Ohio | Environmental Protection Agency

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

November 3, 2010

RE: PERRICO PROPERTY SYSTEMS
CHESTNUT WOODS SUBDIVISION
INDEPENDENCE / CUYAHOGA COUNTY

Mr. Keith Carr
Hull & Associates, Inc.
3401 Glendale Ave. Ste. 300
Toledo, Ohio 43614

Dear: Mr. Carr:

This letter is in response to your request of the final ORAM scores from our site visit conducted on September 22, 2010. The project area is known as the Perrico Property Systems located north of Hillside Road in the City of Independence, Cuyahoga County, Ohio. The wetland delineation refers to this project as the Chestnut Woods Subdivision.

The site visit consisted of walking the majority of the site and reviewing 17 wetlands on the property. The results of the verified wetland ORAM scores, by this office, are listed below.

Wetland ID	ORAM Score	Wetland Category	Forested / Non-Forested
A and B	46	II	Forested
C	28	I	Non-Forested
D	28	I	Non-Forested
E	37	II	Non-Forested
F	33	II	Non-Forested
G & H	48.5	II	Forested
I	35	II	Forested
J	47.5	II	Forested
K	15.5	I	Non-Forested
L	30	II	Forested
M	40	II	Forested
N	50	II	Forested
O	38.5	II	Forested
P	20	I	Non-Forested
Q	21	I	Non-Forested

If there are any questions or concerns with the results provided, please contact Ed Wilk at (330) 963-1172.

Respectfully,

Ed Wilk
Environmental Specialist 401/ Wetlands
Division of Surface Water

EW/mt

Northeast District Office
2110 East Aurora Road
Twinsburg, OH 44087-1924

330 | 963 1200
330 | 487 0769 (fax)
www.epa.ohio.gov

APPENDIX G-6

Exhibit 6: USFWS Listed Species by County

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994

Federally-Listed Species by Ohio Counties
January 2011

COUNTY	SPECIES
ADAMS	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), timber rattlesnake (SC)
ALLEN	Indiana bat (E), rayed bean (PE), bald eagle (SC)
ASHLAND	Indiana bat (E), bald eagle (SC), eastern hellbender (SC)
ASHTABULA	Indiana bat (E), Kirtland's warbler (E), piping plover (E), clubshell (E), snuffbox (PE), eastern massasauga (C), bald eagle (SC)
ATHENS	Indiana bat (E), American burying beetle (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), timber rattlesnake (SC)
AUGLAIZE	Indiana bat (E), rayed bean (PE)
BELMONT	Indiana bat (E), sheepnose (PE), snuffbox (PE), bald eagle (SC), eastern hellbender (SC)
BROWN	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), bald eagle (SC)
BUTLER	Indiana bat (E), rayed bean (PE), bald eagle (SC)
CARROLL	Indiana bat (E)
CHAMPAIGN	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
CLARK	Indiana bat (E), rayed bean (PE), eastern prairie fringed orchid (T), eastern massasauga (C)
CLERMONT	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE)
CLINTON	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
COLUMBIANA	Indiana bat (E), sheepnose (PE), snuffbox (PE), eastern massasauga (C), bald eagle (SC), eastern hellbender (SC)
COSHOCTON	Indiana bat (E), clubshell (E), fanshell (E), purple cat's paw pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC), eastern hellbender (SC)
CRAWFORD	Indiana bat (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)
CUYAHOGA	Indiana bat (E), Kirtland's warbler (E), piping plover (E), bald eagle (SC)

DARKE	Indiana bat (E), rayed bean (PE)
DEFIANCE	Indiana bat (E), clubshell (E), northern riffleshell (E), white cat's paw pearly mussel (E), rayed bean (PE), copperbelly water snake (T), eastern massasauga (C), bald eagle (SC)
DELAWARE	Indiana bat (E), clubshell (E), rayed bean (PE), snuffbox (PE), bald eagle (SC)
ERIE	Indiana bat (E), Kirtland's warbler (E), piping plover (E/CH), Lake Erie watersnake (T), Lakeside daisy (T), eastern massasauga (C), bald eagle (SC)
FAIRFIELD	Indiana bat (E), clubshell (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)
FAYETTE	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
FRANKLIN	Indiana bat (E), Scioto madtom (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC)
FULTON	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
GALLIA	Indiana bat (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), timber rattlesnake (SC)
GEAUGA	Indiana bat (E), bald eagle (SC)
GREENE	Indiana bat (E), clubshell (E), rayed bean (PE), snuffbox (PE), eastern massasauga (C)
GUERNSEY	Indiana bat (E), bald eagle (SC)
HAMILTON	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), bald eagle (SC)
HANCOCK	Indiana bat (E), clubshell (E), rayed bean (PE), bald eagle (SC)
HARDIN	Indiana bat (E), clubshell (E), rayed bean (PE), copperbelly water snake (T), eastern massasauga (C), bald eagle (SC)
HARRISON	Indiana bat (E), bald eagle (SC)
HENRY	Indiana bat (E), rayed bean (PE), bald eagle (SC)
HIGHLAND	Indiana bat (E), rayed bean (PE), bald eagle (SC)
HOCKING	Indiana bat (E), American burying beetle (E), running buffalo clover (E), northern monkshood (T), small whorled pogonia (T), timber rattlesnake (SC)
HOLMES	Indiana bat (E), eastern prairie fringed orchid (T), bald eagle (SC), eastern hellbender (SC)
HURON	Indiana bat (E), eastern massasauga (C), bald eagle (SC)
JACKSON	Indiana bat (E), timber rattlesnake (SC)
JEFFERSON	Indiana bat (E), sheepnose (PE), snuffbox (PE), eastern hellbender (SC)
KNOX	Indiana bat (E), bald eagle (SC), eastern hellbender (SC)
LAKE	Indiana bat (E), Kirtland's warbler (E), piping plover (E/CH), snuffbox (PE), bald eagle (SC)

LAWRENCE	Indiana bat (E), running buffalo clover (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), timber rattlesnake (SC)
LICKING	Indiana bat (E), eastern massasauga (C), bald eagle (SC)
LOGAN	Indiana bat (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)
LORAIN	Indiana bat (E), Kirtland's warbler (E), piping plover (E), eastern massasauga (C), bald eagle (SC)
LUCAS	Indiana bat (E), Karner blue butterfly (E), Kirtland's warbler (E), piping plover (E), rayed bean (PE), eastern prairie fringed orchid (T), eastern massasauga (C), bald eagle (SC)
MADISON	Indiana bat (E), Scioto madtom (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), rabbitsfoot (C)
MAHONING	Indiana bat (E), bald eagle (SC)
MARION	Indiana bat (E), clubshell (E), rayed bean (PE), snuffbox (PE), eastern massasauga (C), bald eagle (SC)
MEDINA	Indiana bat (E), eastern massasauga (C), bald eagle (SC)
MEIGS	Indiana bat (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE)
MERCER	Indiana bat (E), rayed bean (PE), bald eagle (SC)
MIAMI	Indiana bat (E), rayed bean (PE), snuffbox (PE)
MONROE	Indiana bat (E), sheepnose (PE), snuffbox (PE), eastern hellbender (SC)
MONTGOMERY	Indiana bat (E), rayed bean (PE), snuffbox (PE), eastern massasauga (C), bald eagle (SC)
MORGAN	Indiana bat (E), American burying beetle (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), bald eagle (SC)
MORROW	Indiana bat (E), rayed bean (PE), bald eagle (SC)
MUSKINGUM	Indiana bat (E), fanshell (E), sheepnose (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC), eastern hellbender (SC)
NOBLE	Indiana bat (E), bald eagle (SC)
OTTAWA	Indiana bat (E), Kirtland's warbler (E), piping plover (E), rayed bean (PE), Lake Erie watersnake (T), Lakeside daisy (T), eastern prairie fringed orchid (T), eastern massasauga (C), bald eagle(SC)
PAULDING	Indiana bat (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)
PERRY	Indiana bat (E), American burying beetle (E)
PICKAWAY	Indiana bat (E), Scioto madtom (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), rabbitsfoot (C), bald eagle (SC)
PIKE	Indiana bat (E), clubshell (E), northern riffleshell (E), rayed bean (PE), bald eagle (SC), timber rattlesnake (SC)
PORTAGE	Indiana bat (E), Mitchell's satyr (E), northern monkshood (T), eastern massasauga (C), bald eagle (SC)

PREBLE	Indiana bat (E), rayed bean (PE), eastern massasauga (C)
PUTNAM	Indiana bat (E), rayed bean (PE), bald eagle (SC)
RICHLAND	Indiana bat (E), bald eagle (SC), eastern hellbender (SC)
ROSS	Indiana bat (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), bald eagle (SC), eastern hellbender (SC), timber rattlesnake (SC)
SANDUSKY	Indiana bat (E), Kirtland's warbler (E), piping plover (E), rayed bean (PE), eastern prairie fringed orchid (T), eastern massasauga (C), bald eagle (SC)
SCIOTO	Indiana bat (E), running buffalo clover (E), clubshell (E), fanshell (E), northern riffleshell (E), pink mucket pearly mussel (E), rayed bean (PE), sheepnose (PE), snuffbox (PE), small whorled pogonia (T), Virginia spiraea (T), bald eagle (SC), eastern hellbender (SC) timber rattlesnake (SC)
SENECA	Indiana bat (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)
SHELBY	Indiana bat (E), rayed bean (PE)
STARK	Indiana bat (E), eastern massasauga (C), bald eagle (SC)
SUMMIT	Indiana bat (E), northern monkshood (T), bald eagle (SC)
TRUMBULL	Indiana bat (E), clubshell (E), snuffbox (PE), eastern massasauga (C), bald eagle (SC)
TUSCARAWAS	Indiana bat (E), bald eagle (SC), eastern hellbender (SC)
UNION	Indiana bat (E), Scioto madtom (E), clubshell (E), northern riffleshell (E), rayed bean (PE), snuffbox (PE), rabbitsfoot (C)
VAN WERT	Indiana bat (E), rayed bean (PE)
VINTON	Indiana bat (E), American burying beetle (E), bald eagle (SC), eastern hellbender (SC), timber rattlesnake (SC)
WARREN	Indiana bat (E), running buffalo clover (E), rayed bean (PE), eastern massasauga (C)
WASHINGTON	Indiana bat (E), fanshell (E), pink mucket pearly mussel (E), sheepnose (PE), snuffbox (PE), bald eagle (SC), eastern hellbender (SC)
WAYNE	Indiana bat (E), eastern prairie fringed orchid (T), eastern massasauga (C), bald eagle (SC)
WILLIAMS	Indiana bat (E), clubshell (E), northern riffleshell (E), white cat's paw pearly mussel (E), rayed bean (PE), copperbelly water snake (T), rabbitsfoot (C), bald eagle (SC)
WOOD	Indiana bat (E), rayed bean (PE), bald eagle (SC)
WYANDOT	Indiana bat (E), rayed bean (PE), eastern massasauga (C), bald eagle (SC)

IMPORTANT NOTE: This list reflects data available as of January 2011, and will change as new data become available. For this reason, searches for listed species should not necessarily be limited to the counties noted above. Any decisions in that regard should be made only after calling the USFWS (614/416-8993) for guidance.

E = Endangered C = Candidate
PE = Proposed Endangered SC = Species of Concern
T = Threatened CH = Critical Habitat

APPENDIX G-7

Exhibit 7: USFWS Response

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / FAX (614) 416-8994

April 15, 2010

Ms. Sarah Harrelson
Hull and Associates, Inc.
6397 Emerald Parkway, Suite 200
Dublin, Ohio 43016

TAILS: 31420-2010-TA-0477

Dear Ms. Harrelson:

This letter is in response to your March 17, 2010 letter requesting information on threatened and endangered species within the vicinity of a proposed project to complete construction of a residential development. The project is located in Independence, Cuyahoga County, Ohio. The project landscape currently consists of more than thirty wetlands, multiple streams, and second-growth deciduous forest areas.

The Service recommends that impacts to streams and wetlands be avoided, and buffers surrounding these systems be preserved. Streams and wetlands provide valuable habitat for fish and wildlife resources, and the filtering capacity of wetlands helps to improve water quality. Naturally vegetated buffers surrounding these systems are also important in preserving their wildlife-habitat and water quality-enhancement properties. Prevention of non-native, invasive plant establishment is critical in maintaining quality habitats. All disturbed areas should be mulched and re-vegetated with native plants. The proposed activities do not constitute a water-dependent activity, as described in the Section 404(b)(1) guidelines, 40 CFR 230.10. Therefore, practicable alternatives that do not impact the special aquatic site (i.e., wetlands) are presumed to be available, unless clearly demonstrated otherwise. Therefore, before applying for a Section 404 permit, the client should closely evaluate all project alternatives that do not affect wetlands, and if possible, select an alternative that avoids impacts to the aquatic resource. Any proposed project should implement best construction techniques to minimize erosion and prevent impacts to aquatic resources. Staging areas should be kept well away from streams and wetlands.

The project lies within the range of the **bald eagle** (*Haliaeetus leucocephalus*), a species protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. Due to the project type, location, and onsite habitat, this species would not be expected within the project area, and no impact to this species is expected. Relative to this species, this precludes the need for further action on this project as required by the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

ENDANGERED SPECIES COMMENTS:

The proposed project lies within the range of the **Indiana bat** *(Myotis sodalis)*, a federally listed endangered species. Since first listed as endangered in 1967, their population has declined by

nearly 60%. Several factors have contributed to the decline of the Indiana bat, including the loss and degradation of suitable hibernacula, human disturbance during hibernation, pesticides, and the loss and degradation of forested habitat, particularly stands of large, mature trees. Fragmentation of forest habitat may also contribute to declines. During winter, Indiana bats hibernate in caves and abandoned mines. Summer habitat requirements for the species are not well defined but the following are considered important:

(1) dead or live trees and snags with peeling or exfoliating bark, split tree trunk and/or branches, or cavities, which may be used as maternity roost areas;
(2) live trees (such as shagbark hickory and oaks) which have exfoliating bark;
(3) stream corridors, riparian areas, and upland woodlots which provide forage sites.

This project is located within the vicinity of a known record for the Indiana bat. You have indicated that the project site contains multiple streams and forested habitat. In order for the Service to evaluate potential impacts to the Indiana bat, additional information is required. We recommend including the following information:

1. A map of the site with all forested areas indicated, and a general description of the habitat, including acreage, dominant species composition, age, density of understory, and canopy cover, and representative photos of these areas.
2. A map identifying the location of any exposed bedrock that supports caves, crevices, fissures, or sinkholes, or abandoned mines of any kind, and representative photos of these areas.
3. A map indicating the location of suitable roost trees (dead or live trees with peeling bark, cracks, or crevices), and describe species, condition (live or dead), size (dbh), and canopy cover. In particular, potential maternity roost trees should be located and quantified. Potential maternity roosts are typically large diameter trees with peeling bark that receive solar exposure for at least half the day. Please include representative photos of these trees.
4. A map indicating the location of any wetlands, streams, ponds, and cleared paths or trails.
5. A description and quantification of any forested parcels and potential roost trees onsite that will be preserved.
6. A description of any other forested properties within the vicinity of the project that are protected in perpetuity (ex. parks, conservation easements, etc.).
7. A description of the connectivity of forested areas onsite and other adjacent forested parcels.
8. A list of avoidance and minimization measures to protect the bat and its habitat (such as preservation of suitable habitat, seasonal tree clearing, etc.).
9. Using the information above as justification, please include your determination of whether or not the project is likely to adversely affect the Indiana bat.

Based on this information, the Service will evaluate potential impacts to the Indiana bat from the proposed project. Depending on the extent of impacts to suitable Indiana bat habitat, we may recommend mist net or emergence surveys to determine bat usage of the project area. These surveys must be designed and conducted in coordination with this office, and *may only be completed between May 15 and August 15*. In lieu of first providing the above information for Service evaluation, you may elect to forgo a habitat evaluation and conduct a mist net survey on the property. If this option is selected, you should contact this office immediately for a list of permitted Indiana bat surveyors, and to ensure that the appropriate survey protocol is

implemented. Furthermore, if the habitat evaluation and/or mist net surveys do not provide sufficient information to document a "not likely to adversely affect" determination, formal consultation under section 7 of the Endangered Species Act of 1973, as amended, will be necessary.

The project lies within the range of the **piping plover** (*Charadrius melodus*), a federally listed endangered species. Due to the project type, location, and onsite habitat, this species would not be expected within the project area, and no impacts to this species are expected. Relative to this species, this precludes the need for further action on this project as required by the 1973 Endangered Species Act.

This technical assistance letter is submitted in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the Endangered Species Act of 1973, as amended, and is consistent with the intent of the National Environmental Policy Act of 1969 and the U.S. Fish and Wildlife Service's Mitigation Policy. Please note that consultation under section 7 of the ESA may be warranted for this project if suitable habitat for listed species may be impacted by this project. This letter provides technical assistance only and does not serve as a completed section 7 consultation document.

If you have any questions regarding our response or if you need additional information, please contact Jennifer Finfera at extension 13.

Sincerely,

Mary Knapp

Mary Knapp, Ph.D.
Field Supervisor

cc: ODNR, DOW, SCEA Unit, Columbus, OH

APPENDIX G-8

Exhibit 8: Ohio Department of Natural Resources - DNAP Response

Ohio Department of Natural Resources

TED STRICKLAND, GOVERNOR | SEAN D. LOGAN, DIRECTOR

Division of Natural Areas and Preserves
Anthony J. Celebreeze, III, Acting Chief
2045 Morse Rd., Bldg. F-1
Columbus, OH 43229-6693
Phone: (614) 265-6453; Fax: (614) 267-3096

March 29, 2010

Sarah Harrelson
Hull & Associates, Inc.
6397 Emerald Parkway, Suite 200
Dublin, OH 43016

Ms. Harrelson:

I have reviewed our Natural Heritage maps and files for the Chestnut Woods residential development project area, including a one mile radius, on Hillside Rd. in Independence, Cuyahoga County, and on the Cleveland South and Broadview Heights Quads (PPS002). We have no records for rare or endangered species or other significant natural features within the project area. However, please note the location of the Cuyahoga Valley National Park (National Park Service), within a one mile radius to the east of the project site and as shown in green on the attached map.

There are no dedicated state nature preserves or scenic rivers at the project site. We are also unaware of any unique ecological sites, geologic features, animal assemblages, state parks, state forests or state wildlife areas within a one mile radius of the project area.

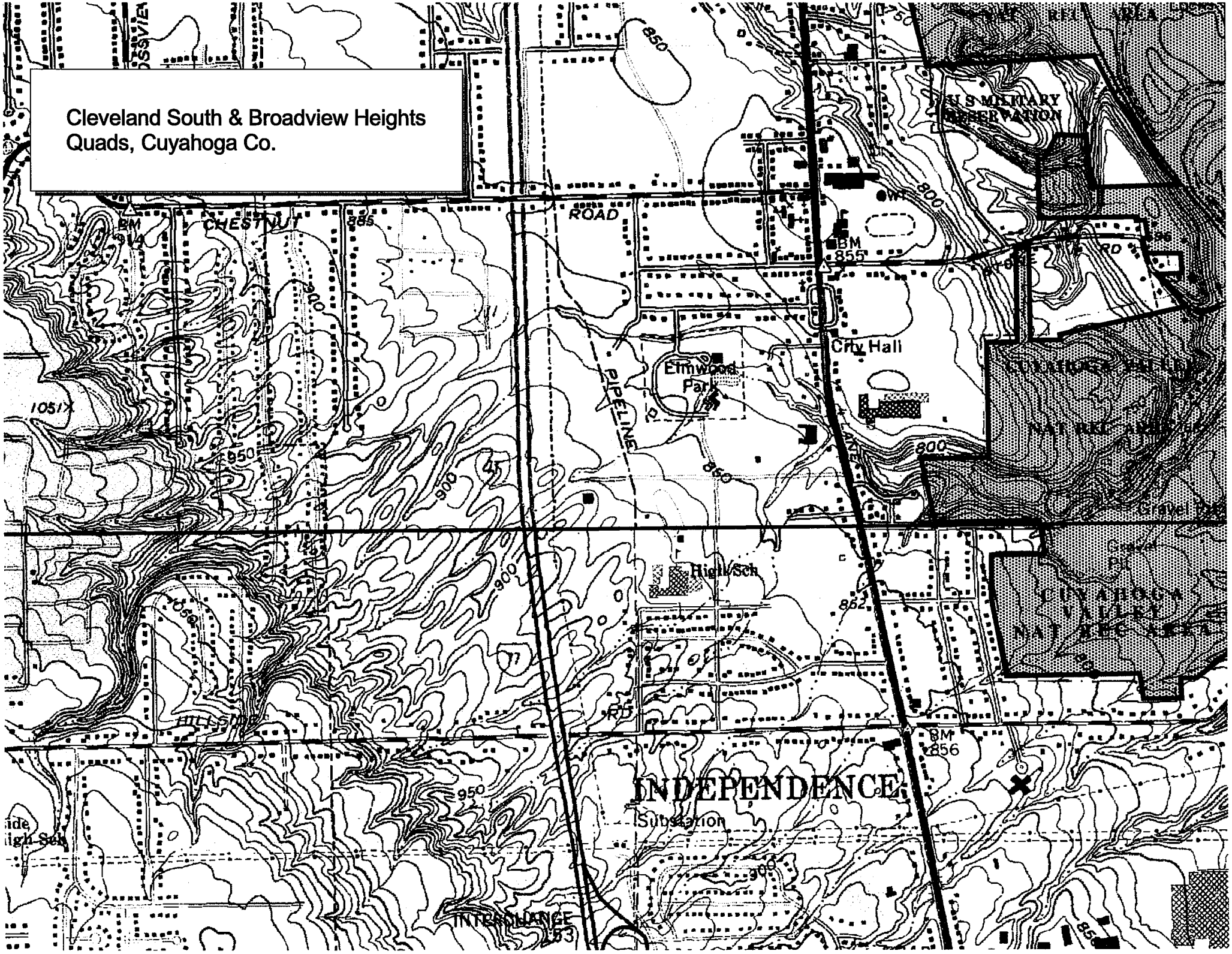
Our inventory program has not completely surveyed Ohio and relies on information supplied by many individuals and organizations. Therefore, a lack of records for any particular area is not a statement that rare species or unique features are absent from that area. Please note that although we inventory all types of plant communities, we only maintain records on the highest quality areas.

Please contact me at 614-265-6818 if I can be of further assistance.

Sincerely,

Debbie Woischke, Ecological Analyst
Natural Heritage Program

Cleveland South & Broadview Heights
Quads, Cuyahoga Co.



APPENDIX H

Proposed Compensatory Stream and Wetland Mitigation

APPENDIX H-1

Proposed Compensatory Stream Mitigation – Preferred Alternative

WEST CREEK PRESERVATION COMMITTEE

Mailing Address
P.O. Box 347113
Parma, OH
44134
T: 216-749-3720
F: 216-749-3730

Office Location
Rockside Office Plaza
1440 Snow Road
Suite 329
Parma, OH
44134

www.westcreek.org

February 23, 2011

City of Independence
6800 Brecksville Road
Independence, OH 44131

RE: Chestnut Woods Residential Development

To Whom It May Concern:

Please accept this letter of behalf of West Creek Preservation Committee (WCPC) in regards to the Chestnut Woods residential development off Hillside Road within the City of Independence, and its intent to work with Gene Troiano and Perry Homes on the establishment of Conservation Land (via Conservation Easements) within the dedicated riparian and open spaces of the proposed development.

WCPC and Perry Homes (Gene Troiano) will negotiate the terms of the conservation easement and the monitoring thereof and incorporate, as necessary, the terms and conditions as set forth by the City.

This letter is to serve as the intent of both parties to move forward with negotiations and to demonstrate to the City of Independence the willingness of WCPC to protect, monitor, and enforce as necessary the conservation lands within the Chestnut Woods residential development.

Thank you for your consideration and we look forward to working with the City on this project.

_____ _____

David M. Lincheck Gene Troiano

CONCEPTUAL MITIGATION PLAN
FOR CHESTNUT WOODS SUBDIVISION

Adequate compensatory mitigation for the proposed surface water impacts described in this application will consist of restoration of stream functions in 540 linear feet of currently degraded stream habitat for the Preferred Alternative (Attached Figures 1-9). All stream mitigation will occur on-site.

Mitigation Goal and Objectives

The overall goal of this stream mitigation project is to significantly improve physical habitat for aquatic life and natural flows within three (3) reaches of two (2) unnamed tributaries to the Cuyahoga River. The resulting restored stream reach segments will be 540 linear feet for the Preferred Alternative.

- This overall goal will be achieved through accomplishment of the following objectives:
- To remove three culverts associated with two streams (Streams F-1 and F-2) on existing headwater streams on-site.
- To provide increased quantity and quality of aquatic habitat through culvert removal and stream restoration in conjunction with removing barriers to upstream organism migration.
- To provide adequate bank stabilization through installation of longitudinal peaked stone toe protection and revegetation with native species.
- To allow the stream to access a constructed floodplain during storm events that exceeds bankfull flow (approximately the 1 to 2-year flood).
- To restore a more natural stream fluvial morphology, including cross-sectional dimensions, longitudinal slope profile, floodplain access and increased entrenchment ratio.
- To increase the stream's stability relative to transport of sediment bedload without aggrading or degrading.

Baseline Information for Area of Proposed Stream Restoration Segments

Streams F-1 and F-2 are located in the southeast portion of the Chestnut Woods Subdivision site (see Appendix A, Figure 3). These streams flow through a second growth wooded upland plant community comprised of sugar maple (*Acer saccharum*), American elm (*Ulmus americana*), red oak (*Quercus rubra*), and beech (*Fagus grandifolia*) in the canopy, spice bush (*Lindera benzoin*) in the shrub layer, and poison ivy (*Toxicodendron radicans*), Indian hemp (*Apocynum cannabinum*), white grass (*Leersia virginica*), and sensitive fern (*Onoclea sensibilis*), in the understory. Other species observed in the canopy include witch hazel (*Hamamelis virginiana*), red maple (*Acer rubrum*), and muscle wood (*Carpinus caroliniana*).

Stream F-1 is an unnamed tributary that enters the Site on the southwest side and flows northeast to Stream G which continues off-site in a northeast direction to where it flows into

Stream B, a direct unnamed tributary to the Cuyahoga River (Appendix B, Figures 1 and 3). The stream has a watershed area of less than 0.035 square miles and maximum pool depths of 8 cm, and therefore it was evaluated using the Headwaters Habitat Evaluation Index (HHEI) (Appendix E). The stream does not have an assigned Aquatic Life Use designation and has not been monitored by Ohio EPA for aquatic life and chemical parameters.

The HHEI score for Stream F-1 identifies it as a Class II Intermittent PHWH Stream (HHEI score 42), which constitutes this stream's existing use (Appendix E). The assessed reach had substrate consisting primarily of sand and silt. The stream had a moist channel with isolated pools at the time of evaluation. Based on this evidence and its small watershed, Hull believes this stream to be intermittent.

Stream F-2 is an unnamed tributary that enters the Site on the south side and flows northeast to Stream G which continues off-site in a northeast direction to where it flows into Stream B, a direct unnamed tributary to the Cuyahoga River (Appendix B, Figures 1 and 3). The stream has a watershed area of less than 0.035 square miles and maximum pool depths of 3 cm, and therefore it was evaluated using the Headwaters Habitat Evaluation Index (HHEI) (Appendix E). The stream does not have an assigned Aquatic Life Use designation and has not been monitored by Ohio EPA for aquatic life and chemical parameters.

The HHEI score for Stream F-2 identifies it as a Class II Intermittent PHWH Stream (HHEI score 37), which constitutes this stream's existing use (Appendix E). The assessed reach had substrate consisting primarily of sand and silt. Water was flowing at the time of sampling, but because of its small watershed, Hull believes this stream to be intermittent.

Restoration Reach Investigation Methods

An initial stream investigation was performed to collect preliminary data on the condition of the reach to be restored (herein referred to as the 'restoration reach'). The investigation included identification and general measurements and observations/notes of the restoration reach's fluvial geomorphological features, both longitudinally and laterally, and examination of the streambed materials at areas immediately downstream of the culverts.

The restoration reach begins where each of the three culverts are located (Figures 1-9). Each of the three restoration reach segments have been culverted in the past under Nationwide Permit 26. The stream banks below each of the culverts in each of the restoration reaches exhibit moderate to severe erosion and lack functioning floodplains. The overall slope of each existing stream reach is approximately 0.5%.

Design Methods for the Restored Stream Reach Segments

Full conceptual design of the restored stream segments will be performed during the Final Mitigation Design Plan phase pending regulatory approval and acceptance of this Conceptual Mitigation Plan. The Final Mitigation Plan will reference Dr. David Rosgen's techniques throughout the design process (Rosgen, 1996), and restoration techniques developed by David Derrick of USACE, as applicable. Fluvial morphology field survey data and pebble count data will be collected and entered into RiverMorph 4.0 software, which will be used to generate a longitudinal profile, riffle and pool cross-sections, and particle-size distribution statistics (RiverMorph 4.0 data outputs will be included in the Final Mitigation Design Plan). Soil bioengineering techniques, including use of coir fiber erosion control matting, live staking and joint staking, may be incorporated into the streambank stabilization design as needed.

Stream Design for the Preferred Alternative

The proposed stream mitigation will account for all stream impacts on-site by restoring at least 540 linear feet (Preferred Alternative) of restored stream habitat thus replacing all lost stream habitat functions proposed in either Alternative with in-kind stream mitigation for a net gain in linear feet of stream on-site. Removal of the culverts will significantly reduce the tendency of Streams F-1 and F-2 to erode and incise, and the floodplain and vegetation restoration will greatly enhance stream values and functions over the existing deteriorating stream segments.

To compensate for stream impacts, the Conceptual Mitigation Plan proposes to remove two existing culverts on Stream F-1 and one existing culvert on Stream F-2, restore the stream bed, banks and adjacent floodplain, and restore active floodplain and stabilize eroding stream banks along 300 feet of Stream F-2. (Appendix B of 404/401 Application, Table 13). The three existing culverts were installed under a USACE nationwide permit in the late 1990s in association with previous development plans on this property and have become partially clogged with sediment and debris and are essentially non-functioning today. As a result of installation of these culverts, the increased energy of the stream flowing through, around, and over these obstructions is causing streambank erosion along the existing stream channels. On Stream F-1, the erosion is moderate and relatively limited, and the stream does not appear to be incising. On Stream F-2, the stream has incised to a depth of 1 to 1.5 feet and become entrenched, and stream bank erosion is severe. Additionally, the concentrated velocities have scoured the banks and destroyed the natural floodplain and riparian vegetation downstream of the Stream F-2 culvert. To compensate for the proposed project stream impacts, the existing culverts will be removed, the stream bed, banks and floodplains adjacent to the removed culverts will be restored, and a new floodplain will be restored via excavation along Stream F-2 downstream of the culvert. The Stream F-2 banks will be armored with longitudinal peaked stone toe protection (LPSTP) on the outside of meanders where necessary and the banks and restored floodplain will be replanted with native vegetation comprised of herbs, trees and shrubs common to the surrounding area.

Habitat Features

The habitat features incorporated into this conceptual mitigation plan will provide habitat for macroinvertebrates and other aquatic life currently found upstream and downstream of the existing culverts. Additionally, the specified soil bioengineering techniques will encourage a variety of wildlife common to the area to utilize and inhabit the stream corridor.

Performance Criteria

The following performance criteria are proposed for this stream restoration project:

Physical Habitat: The 540 linear feet (Preferred Alternative) of restored stream channel described herein will exhibit a minimum HHEI score of 42 within five years after completion of construction.

Aquatic communities: The stream within the restored segments, totaling 540 linear feet (Preferred Alternative) of restored stream channel, will perform sufficiently to fully attain the Ohio Primary Headwater Habitat stream Class II classification, based either on HHEI score or the Headwater Macroinvertebrate Field Evaluation Index (HMFEI) or other appropriate qualitative biological sampling protocol to verify headwater stream classification.

Riparian zone: The riparian zone of the 540 linear feet (Preferred Alternative) of restored stream channel will contain a minimum of 80% native Ohio woody cover, and a maximum of 10% cover of non-native herbaceous cover.

Stability: The restored stream segments will transport water and sediments throughout a representative range of stream flows such that it does not aggrade or degrade.

Site Protection and Management

A conservation easement for the stream restoration areas, including the stream channel and constructed floodplain, will be donated to and held by:

West Creek Preservation Committee
P.O. Box 347113
Parma, OH 44134

Contact:
Mr. David M. Lincheck,
Executive Director
(216) 749-3720

The conservation easement will be drafted and executed so as to meet the requirements of such easements for Clean Water Act Section 404 and 401 permitting. The conservation easement will be monitored in perpetuity by The Land Conservancy of Ohio, Inc.

As described in the Monitoring Plan and Adaptive Management Plan Sections of this conceptual mitigation plan, it is anticipated that the Applicant will abide by the proffered 404 permit and 401 Water Quality Certification which will outline the Applicant's specific responsibilities for monitoring, success and establishment of the stream restoration within the first 3 to 5 years post-construction.

Monitoring Plan

The Applicant anticipates mitigation monitoring requirements in association with this proposed mitigation project for a minimum of three and a maximum of five years, the typical monitoring period required of Clean Water Act Section 404 and 401 permittees.

The Applicant or its contractor will perform the monitoring activities as outlined in the permits received for this project. Based on similar projects with similar mitigation techniques proposed, the following represents the anticipated requirements:

- Photographs taken at established observation points along the restored stream reach;
- HHEI evaluation of the restored stream reach will be conducted at one location for each restored stream segment;
- Evaluation of overall channel stability using the Pfankuch-Rosgen method or equivalent;
- Channel morphology at one riffle and one pool will be recorded and compared with as-built dimensions (first and third monitoring years);
- Wolman pebble counts will be performed for an active riffle and a representative count;

- Measure field water quality parameters (temperature, dissolved oxygen, pH and conductivity);

- Identify dominant species and estimate percent cover of streambank vegetation; and

- Identify invasive, non-native vegetation and estimate cover within the riparian zone.

These annual monitoring data will be presented and discussed in an annual Mitigation Monitoring Report. The first annual Mitigation Monitoring Report will be submitted by December 31 of the year following completion of the mitigation construction. The first Mitigation Monitoring Report will include baseline information and a list of all modifications made from the agency approved original Final Mitigation Design Plan.

Adaptive Management Plan

Successful mitigation requires effective contingency planning in the event that mitigation performance criteria are not met. If performance criteria are not being met, as determined during Mitigation Monitoring, a decision will be made in consultation with Ohio EPA and the Corps about implementing additional management or remediation steps to bring the mitigation into compliance. These management or remediation steps may include, without limitation:

- Stream bank stabilization;

- Additional riparian area planting;

- Invasive plant removal; and

- Contingency mitigation could include one of the several stream restoration projects identified on the Ohio EPA's Surface Water Enhancement, Restoration, and Protection (SWERP) Clearinghouse Website (http://wwwapp.epa.ohio.gov/dsw/gis/swerp/index. php) in association with either the West Creek Preservation Committee or the Cuyahoga Valley National Park.

All Mitigation Monitoring Reports will include a summary statement regarding the success of the stream mitigation. If the stream mitigation is found to be failing with respect to any of the established performance criteria, the Mitigation Monitoring Report will identify steps to be taken to correct the issue.

If by Monitoring Year 3 the mitigation project is shown to have accomplished its overall goal and to be meeting its Performance Criteria, the permittee will request a waiver of the requirements for monitoring in years 4 and 5. A site meeting will be held in Monitoring Year 3, to which Ohio EPA and the Corps will be invited. Any additional management or remediation steps suggested by these agencies will be evaluated and implemented as appropriate and practicable.

Financial Assurances

The Applicant will undertake all mitigation, monitoring, and contingency efforts required by the Section 404 and 401 permits. The Applicant has a substantial financial interest in maintaining compliance with these permits.

References Cited

Rosgen, D. 1996. Applied River Morphology. 2nd Edition. Wildland Hydrology, Pagosa Springs, CO.

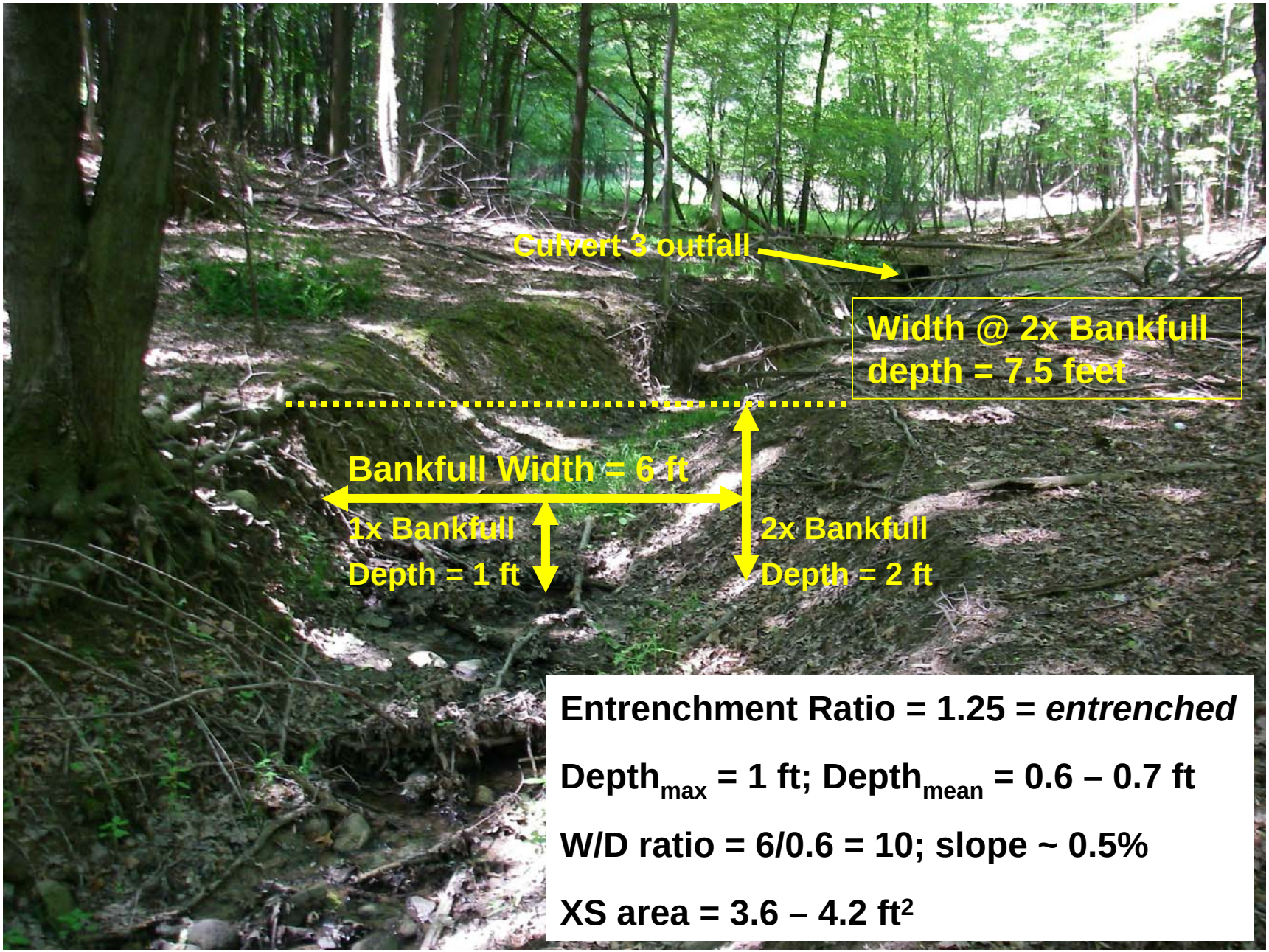


Figure 1: Stream F-1, Existing Condition (typical)

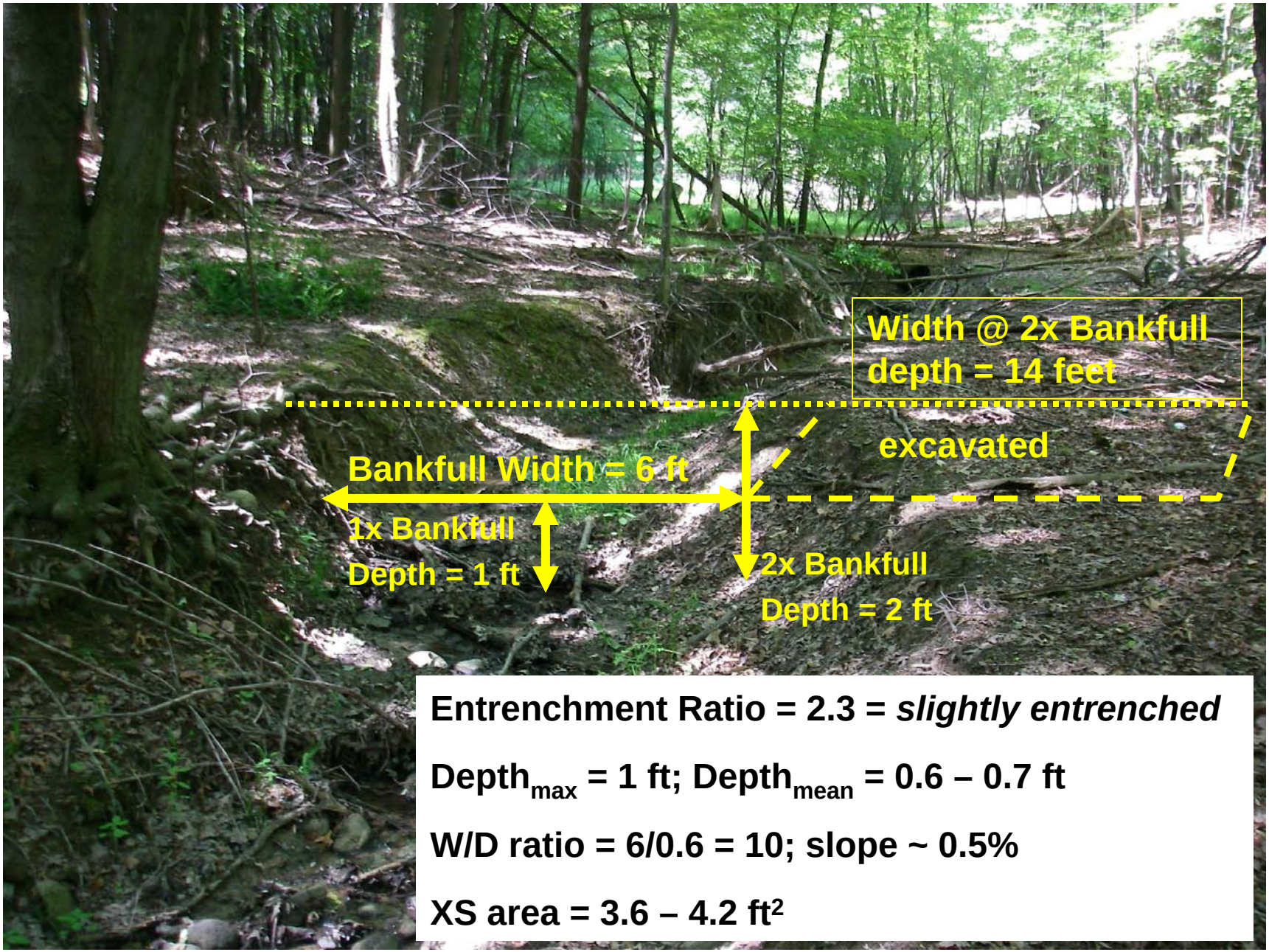


Figure 2: Stream F-1, with floodplain restoration (typical)

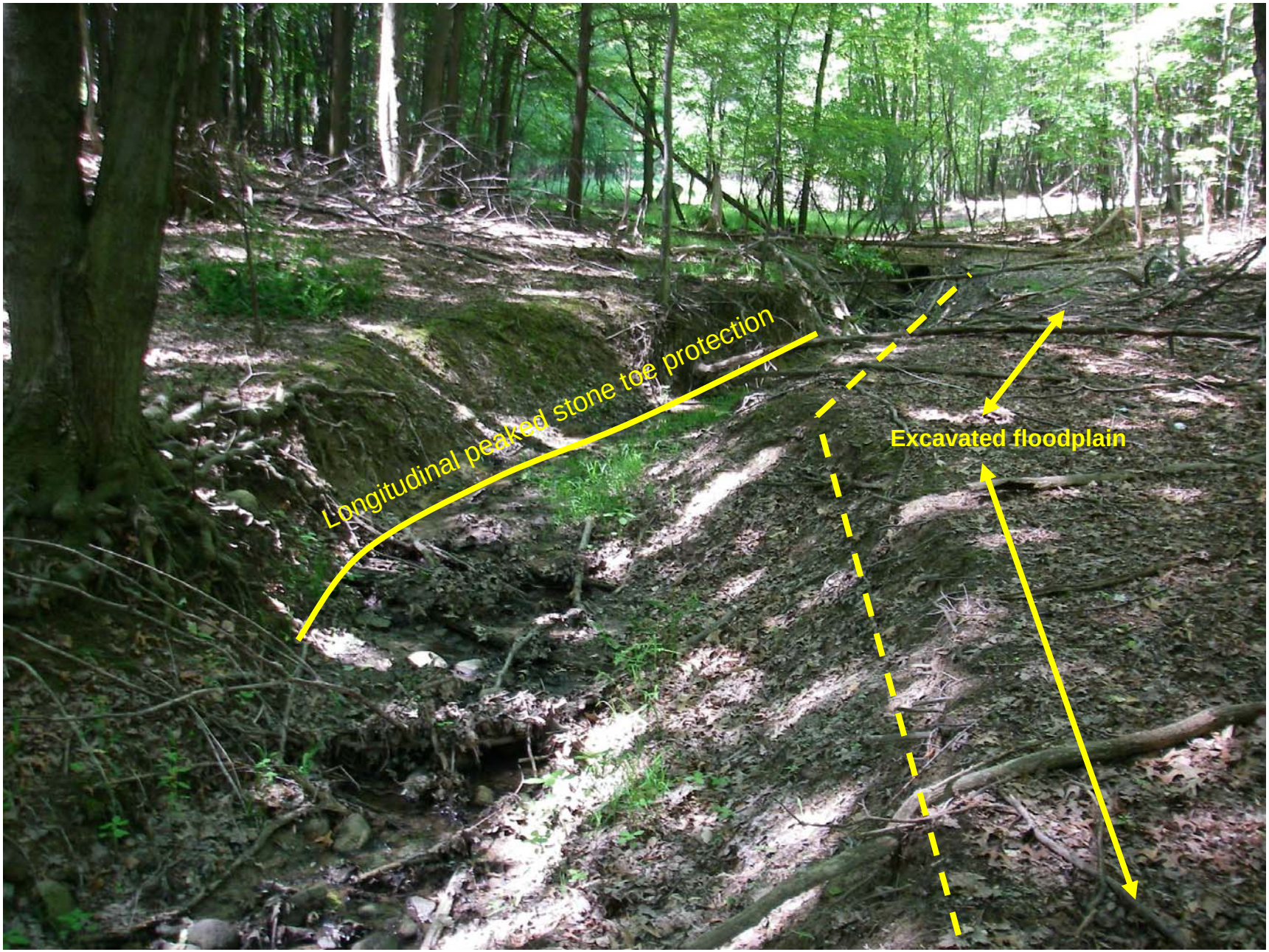


Figure 3: Stream F-1, with floodplain restoration & stone toe protection (typical)

Longitudinal Peaked Stone Toe Protection (LPSTP)

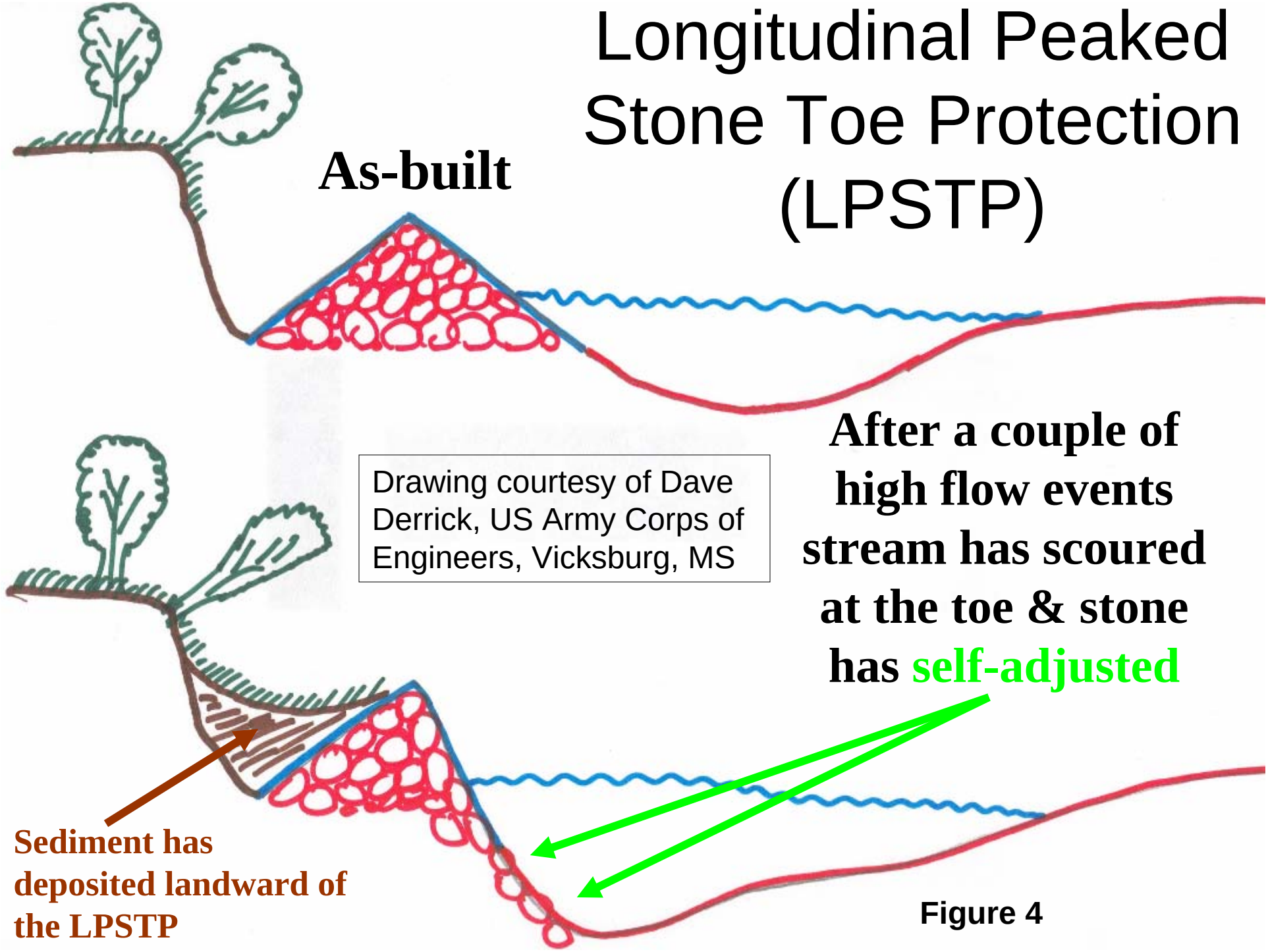


Figure 4

Functions and Attributes of Longitudinal Peaked Stone Toe Protection*

- **Resists** the erosive flow of the stream, only stabilizes the toe, does not protect mid and upper bank areas.
- "Smoothed" longitudinal alignment results in improved flow near toe.
- Success depends on ability of stone to launch into scour hole.
- Bank grading is not needed (existing vegetation is not disturbed).
- Weight of stone (loading of toe) might resist some shallow-fault geotechnical bank failures.
- Captures alluvium & upslope failed material on bank side of structure.
- Good where outer bank alignment makes abrupt changes, where the bank must be built back out into the stream (realignment of channel, or construction of a backfilled vegetative bench or terrace for habitat improvement and/or velocity attenuation), where a minimal continuous bank protection is needed, or where a “false bankline” is needed.
- Works well in combination with other methods (Bendway Weirs, or bioengineering within the stone {joint planting, Bent willow poles} or immediately behind stone {Live Siltation, Living Dikes}, & in mid to upper bank areas {brush layering, Slit Brush Layering, Live Staking, rooted stock or container plants}).

* Courtesy of Dave Derrick, US Army Corps of Engineers, Vicksburg, MS

Figure 5 – Culvert 1, Stream F-1, looking downstream (Wetland C on top)

Figure 6 – Culvert 1, Stream F-1, looking upstream (Wetland C on top)

Figure 7 – Culvert 2, Stream F-1

Figure 8 – Culvert 3, Stream F-2, looking downstream (Wetland D on top)

Figure 9 – Conceptual culvert removal and stream restoration – three culverts

APPENDIX H-2

Proposed Compensatory Wetland Mitigation – Preferred & Minimal Degradation Alternatives

Brad Falkinburg

From: Brad Falkinburg
Sent: Wednesday, June 01, 2011 11:08 AM
To: 'vderr@envirotechcon.com'
Subject: Chestnut Woods Subdivision Mitigation Request

Hello Vicki,

John and I discussed the Wellington Reservoir site as good fit for 1.2 acres of wetland mitigation needed for the subject project. My client will be impacting 0.463 acres of Cat 2 forested wetland habitat in the Cuyahoga River watershed (HUC 04110002). As I understand it, the Wellington site is capable of adding stems to satisfy our need for forested credits. Could you please confirm 1) you have the capacity to handle 1.2 acres of forested wetland mitigation, 2) the agencies likelihood of accepting this proposed method of achieving forested wetland mitigation (typically how it's done or that they've accepted it in the past), and 3) any additional costs/acre to add forested stems.

Please reply back to this email with the answers. I plan to include this as part of my conceptual mitigation plan that will be submitted with a 404/401 application this week...

Thanks!

Brad

Brad M. Falkinburg, PWS
Senior Project Manager

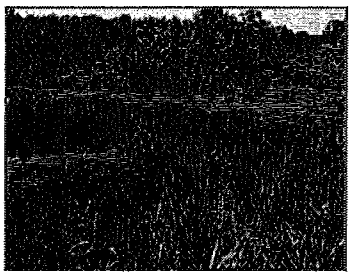
Hull & Associates, Inc.
4 Hemisphere Way
Bedford, Ohio 44146

p. 440.232.9945
c. 440.666.2890
bfalkinburg@hullinc.com

Wetland Mitigation.

Edison Woods Preserve

Apply for Mitigation Credits



The Edison Woods Preserve mitigation site is located in Erie County, Ohio. The site is contained within the larger Edison Woods Preserve, which encompasses over 1300 acres of forest, wetland, and prairie habitats. The wetland mitigation will restore approximately 140 acres of wetland forest within the ±280 acre mitigation site area.

The Edison Woods Preserve mitigation wetlands will be bordered by parklands on all sides that will be maintained as buffer. All restored wetlands will be category 2 or 3 forested wetlands and managed and maintained as wetlands in perpetuity. While the Preserve will continue to be used as public parkland, providing recreational and educational benefits for the surrounding communities, the primary focus of Erie MetroParks is the preservation of its unique habitat and continued study of its flora and fauna. Working with extensive public input, the park district's plans for Edison Woods Preserve include: existing and improved hiking and equestrian trails, bird and wildlife observation areas in wetlands and grasslands, regular public and school programs, wetland and meadow education centers, and interpretive features and hikes.

Subject to the approval of the regulatory agencies, this site is an appropriate location for mitigation for wetlands impacts to category 2 or 3 wetlands in the same (HUC #04100012, Huron-Vermilion River) or adjacent watersheds (HUC #04100011, Sandusky River and HUC #04110001, Black-Rocky River), and for impacts to category 1 wetlands and for impacts to 3 acres or less of category 2 isolated wetlands anywhere within the boundaries of the Buffalo District, U.S. Army Corps of Engineers.

Credits are available for $25,000 per acre.

Copyright ©2011 WetlandsandWatershed.com
c/o Envirotech Consultants, Inc.
5380 Township Rd. 143 NE
Somerset, OH 43783
740.743.1669

Mitigation Agreement

This Mitigation Agreement is entered into at LaGrange, Ohio, the _____ day of _____, 2011, between the North Coast Regional Council of Park Districts ("NCRCPD") and GENE TROIANO ("Client").

RECITALS

A. The NCRCPD was organized to plan, develop and promote the restoration and enhancement of wetlands and has developed a regional mitigation bank known as the North Coast Regional Mitigation Bank (the "Regional Mitigation Bank") containing mitigation sites in Wood, Sandusky, Erie, Lorain and Medina counties.

B. Mitigation for unavoidable impacts to wetlands can be located at mitigation banks, such as the Regional Mitigation Bank, subject to regulatory approval on a project specific basis under the Clean Water Act (33 U.S.C. §§ 1251-1387) by the United States Army Corps of Engineers (the "COE") and/or the Ohio Environmental Protection Agency ("OEPA") under Chapter 6111 of the Ohio Revised Code.

C. The Client desires to provide for the restoration and/or enhancement of wetlands at the Regional Mitigation Bank to be considered by the COE and OEPA as fulfilling the Client's mitigation requirement pursuant to Sections 401 and 404 of the Clean Water Act or Chapter 6111 of the Ohio Revised Code.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Client and the NCRCPD agree to be bound by the following terms and conditions.

PROVISIONS

1. General Provisions

A. The Client will complete Attachment 1 locating the project, and describing the wetland impacts and expected mitigation requirements for which the Client requests that mitigation be provided by the NCRCPD at its Regional Mitigation Bank. An executed copy of this Mitigation Agreement, Attachment 1 and the initial deposit should be returned to NCRCPD at the address set forth at the end of this Mitigation Agreement. The Client agrees that the NCRCPD has the right to substitute a revised Attachment 1 based on the actual acres mitigated.

B. The initial mitigation deposit made by the Client shall be held by the NCRCPD in a separate fund until such time as the Client receives the necessary Clean Water Act permit or isolated wetland permit from the COE and/or the OEPA.

C. If the COE denies the Client's request for a Section 404 individual or nationwide permit for the wetland impacts within six (6) months from the receipt of Client's initial deposit, the Client may terminate this Mitigation Agreement and be refunded its deposit. If the OEPA denies the Client's request for a Section 401 water quality certification or isolated wetland permit within six (6) months

from the receipt of Client's initial deposit, the Client may terminate this Mitigation Agreement and be refunded its deposit.

D. If the Client fails to receive the necessary Clean Water Act permit(s) or isolated wetland permit from the COE and/or OEPA within six (6) months from the receipt of the Client's initial deposit, the NCRCPD has the right to terminate this Mitigation Agreement and refund the Client's deposit.

E. If the Client requires additional time to pursue and receive its Clean Water Act permit and/or isolated wetland permit, it shall request such additional time in writing, specifying the amount of additional time required. The NCRCPD shall have the right, but not the obligation, to grant such additional time. If the NCRCPD grants such additional time, then an additional mitigation deposit will be required to be deposited by the Client with the NCRCPD not later than five (5) days after the NCRCPD notifies the Client that such additional time has been granted.

2. Obligations of the Client

A. Pursuant to the requirements of Sections 401 and 404 of the Clean Water Act or the requirements of Chapter 6111 of the Ohio Revised Code, and the regulations promulgated by the COE and the OEPA, the Client is obligated to mitigate for wetland impacts at its project as more specifically described in Attachment 1. In order to mitigate for these impacts and meet the permit requirements of the Clean Water Act permit program and/or Chapter 6111 of the Ohio Revised Code, the Client hereby provides for the restoration and/or enhancement, monitoring and maintenance of wetlands as set forth herein.

B. The NCRCPD will apply the Client's payment to fund the restoration or enhancement of wetlands at the Regional Mitigation Bank. The Client hereby agrees to pay to NCRCPD in consideration for its restoration or enhancement of wetlands at the Regional Mitigation Bank the sum set forth in Attachment 1. The Client's initial deposit of ten percent (10%) of the mitigation cost will be based on the anticipated mitigation requirements at the time of execution of this Mitigation Agreement.

C. The balance of the Client's mitigation cost is due within ten (10) days following the issuance of the Clean Water Act permits or isolated wetland permit by the COE and/or the OEPA, copies of which will be provided by the Client to the NCRCPD. Should the Client's final mitigation requirements vary from its expected mitigation requirements, the Client will be notified by the NCRCPD of the balance of the mitigation cost due.

D. Client shall have no other obligation for future payments for maintenance of the restored and/or enhanced wetlands.

3. Obligations of The North Coast Regional Council of Park Districts

A. The NCRCPD will restore and/or enhance wetlands at the Regional Mitigation Bank in accordance with the MBRT Agreement effective December 27, 2001, and will monitor and maintain the restored or enhanced habitats in accordance with the MBRT Agreement. All restored habitats will be integrated into the NCRCPD member district's county park system.

B. In consideration of the payment by the Client of the mitigation cost set forth in Attachment 1, the NCRCPD hereby agrees to restore and/or enhance wetlands at its Regional Mitigation Bank. The

NCRCPD shall have sole responsibility to provide for the restoration and/or enhancement and the monitoring and maintenance of the wetlands as provided herein and in the MBRT Agreement.

C. The NCRCPD will provide an annual accounting to the COE and/or the OEPA of the restoration and/or enhancement of the wetlands in the Regional Mitigation Bank. The accounting will identify the Client, the mitigation site, and the acres of wetlands restored and/or enhanced pursuant to this Mitigation Agreement. In addition, the COE and OEPA will be supplied with annual monitoring reports for five (5) years documenting the development of the restored and/or enhanced wetland habitats.

D. The Client may submit the executed copy of this Mitigation Agreement to the COE and/or the OEPA to document its commitment to mitigate for permitted impacts to wetlands. Unless the COE and/or OEPA expressly condition the Client's Clean Water Act permit(s) or isolated wetland permit on a specific location, the NCRCPD reserves the right to locate the Client's mitigation at the most appropriate and/or proximate site within the Regional Mitigation Bank.

IN WITNESS WHEREOF, the parties hereto have executed this Mitigation Agreement on the date and year first written above.

CLIENT: PERRICO PROPERTY SYSTEMS
(Please print Client Name)

By: _____

Please print name: GENE TROIANO

Title: PRESIDENT

Address: 320 ORCHARD VIEW AVE., SEVEN HILLS, OH 44131

Telephone: 216-524-4414

Telecopy: _____

Email: gtroiano@sbcglobal.net

Date: _____

NORTH COAST REGIONAL COUNCIL OF PARK DISTRICTS

By: _____

Title: _____

Date: _____

Make Check Payable To: NCRCPD

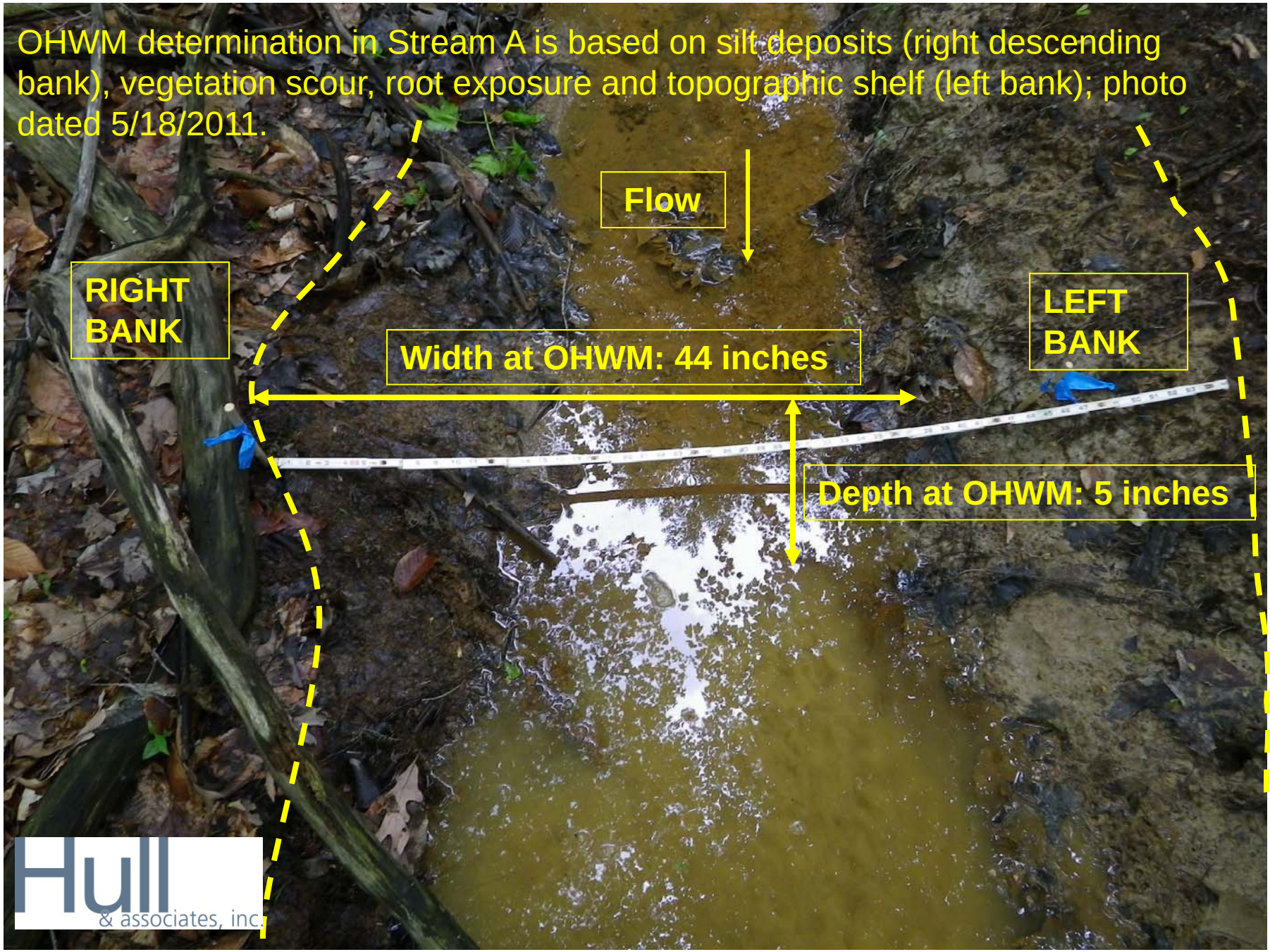
Mail To: Neil Munger, Secretary, NCRCPD
c/o Wood County Park District
18729 Mercer Road
Bowling Green, Ohio 43402
Telephone: (419) 353-1897
Telecopy: (419) 353-7765
Email: nmunger@wcparks.org

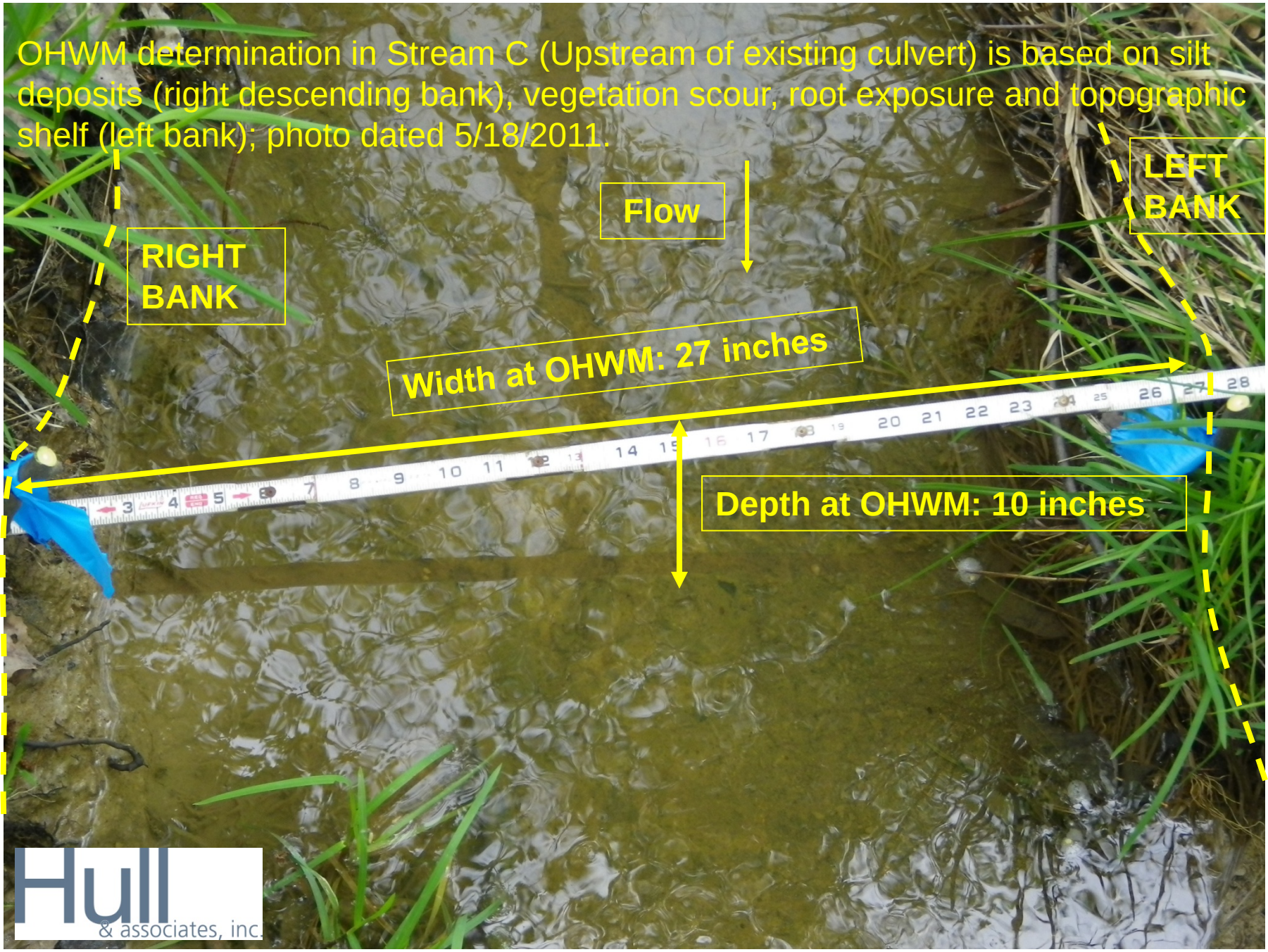
ATTACHMENT 1
TO BE COMPLETED BY CLIENT

Description Name of Client's Project		CHESTNUT WOODS SUBDIVISION			
Location of Client's Project		Street address or Township and County CUYAHOGA CO. GREAT OAKS PARKWAY, INDEPENDENCE, OH			
Impacts to Wetlands (in acres)		HUC Code: 04110002-0602			
		Category 1	Category 2	Category 3	Total
404 Wetlands	Forested		0.463		0.463
	Nonforested				
Isolated Wetlands	Forested				
	Nonforested				
Wetland Totals			0.463		0.463
Mitigation Requirements Wetland Mitigation (in acres to nearest 1/10 acre).		From permit application; amount and type specified by COE and/or OEPA. Provide copy of permit when issued.			
1.20		0.463 ac x 2.5 = 1.16 Rounded ↑ to 0.10			
Mitigation Costs Wetland Mitigation @ $25,000 per acre times acres required.		$25,000 x 1.2 = $30,000			
		$30,000			
Permit Conditions Tree Planting Surcharge, if any, @ $____ per acre.		-0-			
Payment Terms Initial: 10% on execution.		10% x $30,000 = $3,000			
Balance: due within 10 days of receipt of COE and/or OEPA permits or NCRCPD notification.		BALANCE = 90% = $27,000			
Total:		$ 30,000			
Client's Name, Address, Telephone, Telecopy and Email:		gtroiano@sbcglobal.net GENE TROIANO 320 ORCHARD VIEW AVE. SEVEN HILLS, OH 44131 216.524.4414			
Consultant's Name, Address, Telephone, Telecopy and Email:		hcrowell@hullinc.com 6397 Emerald Parkway, Suite 200 Dublin, Ohio 43016 P-614-793-8777			

APPENDIX I

Documented Ordinary High Water Mark (OHWM) for Stream Crossings for Stream A, Stream C, and Stream F-1


OHWM determination in Stream A is based on silt deposits (right descending bank), vegetation scour, root exposure and topographic shelf (left bank); photo dated 5/18/2011.
Flow
RIGHT BANK
LEFT BANK
Width at OHWM: 44 inches
Depth at OHWM: 5 inches
Hull
& associates, inc.


OHWM determination in Stream C (Upstream of existing culvert) is based on silt deposits (right descending bank), vegetation scour, root exposure and topographic shelf (left bank); photo dated 5/18/2011.
Flow
LEFT BANK
RIGHT BANK
Width at OHWM: 27 inches
Depth at OHWM: 10 inches
Hull & associates, inc.