



# Public Notice

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Applicant:  
**John A Shutsa and Associates** Published: **December 28, 2010**  
Expires: **January 26, 2011**

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U.S. Army Corps  
of Engineers  
Buffalo District  
CELRB-TD-R

Application No: **2010-01049**  
Section: Ohio

All written comments should reference the above Application No. and be addressed to:  
Buffalo District U.S. Army Corps of Engineers  
Regulatory Branch (Attn: Keith C. Sendziak)  
1776 Niagara Street  
Buffalo, New York 14207-3199

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**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).**

John A. Shutsa and Associates, 1574 Main Street, Cuyahoga Falls, Ohio 44221 is proposing to construct a commercial development (Seasons Road Commerce Center) on an approximately 161-acre parcel of land located north of Seasons Road, City of Hudson, Summit County, Ohio (Sheet 1 of 3). The applicant has indicated that the main building (Building A) proposed for the site will be a municipal solid waste to energy plant, owned and operated by Patriot Energy LLC (Sheet 2 of 3). This facility will receive upwards of 2,000 tons of municipal solid waste per day which will be converted into 36 megawatts of electricity per day. It is proposed that this will be a source of electricity for the entire business park, which is proposed to contain 10 buildings, of which, 9 will be new construction totaling 1,220,000 square feet (a 140,000 square foot building currently exists onsite).

The applicant has indicated this site provides three essential elements that take into account the waste to energy plant's specialized needs. First, the plant must be located in Summit County to honor pending flow agreements and to capitalize on existing grant money. Secondly, the site must have railroad access which exists immediately east of the proposed project (Sheet 2 of 3). To provide rail access, a railroad spur will be constructed from the existing railroad line to the waste to energy plant. Finally, the site must be located near a sub-station. A sub-station is located just to the south of the property where excess electricity will be integrated into the grid.

During a site visit conducted on August 10, 2010 it was determined that 14 wetlands, totaling 28.878 acres, four streams, totaling 3,007.85 linear feet, and one open water pond, totaling 0.61 acres were

found to be waters of the U.S. In addition, Wetland M (0.003 acres) was considered to be an isolated, non-navigable, intrastate water that is not subject to regulation under Section 404 of the Clean Water Act. An approved jurisdictional determination was issued to the applicant on October 25, 2010 (Sheet 2 of 3).

John A. Shutsa and Associates submitted an application on December 10, 2010 requesting a Department of the Army permit to discharge fill material into waters of the U.S. to construct the Seasons Road Commerce Center. The applicant is requesting authorization to permanently fill 16.63 acres of wetlands (all but 0.003 acres are jurisdictional), 306 linear feet of perennial stream channel, and 0.61 acres of open water pond. This layout will avoid 42 percent of the onsite wetlands, and 90 percent of the onsite stream channel.

To compensate for these impacts the applicant has proposed to enhance 5.784 acres of Wetlands J, K, and L, and to restore 10.738 acres of wetland surrounding Wetlands J, L, and K (Sheet 3 of 3). It is proposed that the enhancement and restoration will be achieved by placing a berm within Stream 1 to improve hydrology within the wetlands. Additionally, the mound in the southern portion of the restoration area will be leveled and used as fill elsewhere onsite as fill material. Excavated hydric soil from elsewhere onsite will then be spread and leveled over the restoration area. The applicant surmises that these hydric soils will contain a wetland seed bank. However, it is proposed that, if necessary, the restoration area will be planted and seeded. In addition, the applicant is proposing to purchase 15 wetland mitigation credits from the Wellington Reservoir Mitigation Bank, which is a North Coast Regional Council of Park Districts run bank whose service area does include the Cuyahoga watershed. The applicant is not proposing any stream mitigation other than onsite preservation of the remaining stream channel.

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. Tony Celebrezze**  
**Ohio Department of Natural Resources**  
**Environmental Policy Coordinator**  
**Office of Legislative Services**  
**2045 Morse Road, Building D-3**  
**Columbus, Ohio 43229**  
**Phone: (614)265-6888**  
**FAX: (614) 267-4764**  
**[tony.celebrezze@dnr.state.oh.us](mailto:tony.celebrezze@dnr.state.oh.us)**

The following authorization(s) may be required for this project:

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

Based on preliminary findings, there are no properties listed in, or eligible for listing in, the National Register of Historic Places within the permit area as shown on Sheet 3 of 3. Based on a description of the proposed undertaking, and the absence of historic properties within the permit area, the Corps has determined that this project, if authorized, will have no effect on any property listed in, or eligible for listing in, the National Register of Historic Places. 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.

In addition, this office has determined the project is within the range of the Indiana bat (*Myotis sodalis*), and the northern monkshood (*Aconitum noveboracense*). Available evidence indicates that the proposed work will not affect the northern monkshood, as designated by the U.S. Department of the Interior (DOI) as threatened or endangered, nor will it affect the critical habitat of any such species. Available evidence indicates that there is suitable onsite habitat for the Indiana bat. The applicant performed an Indiana bat habitat survey and identified 25 suitable Indiana bat roost trees, of which many are suitable maternity roost trees. Thus, the applicant may be required to perform additional monitoring for the Indiana bat to determine its presence or likely absence prior to the Corps making a Section 7 of the Endangered Species Act effects determination.

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.

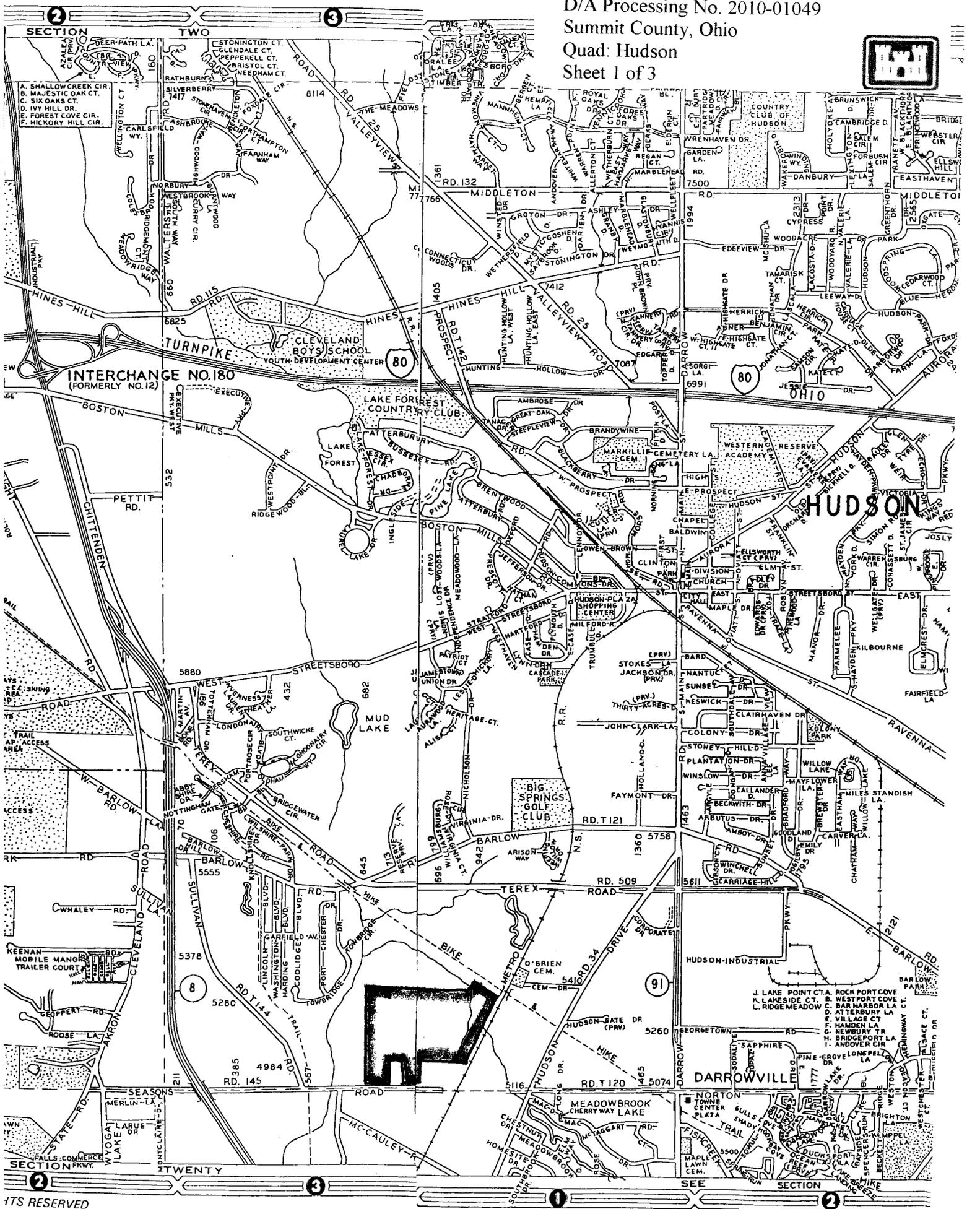
Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information 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.

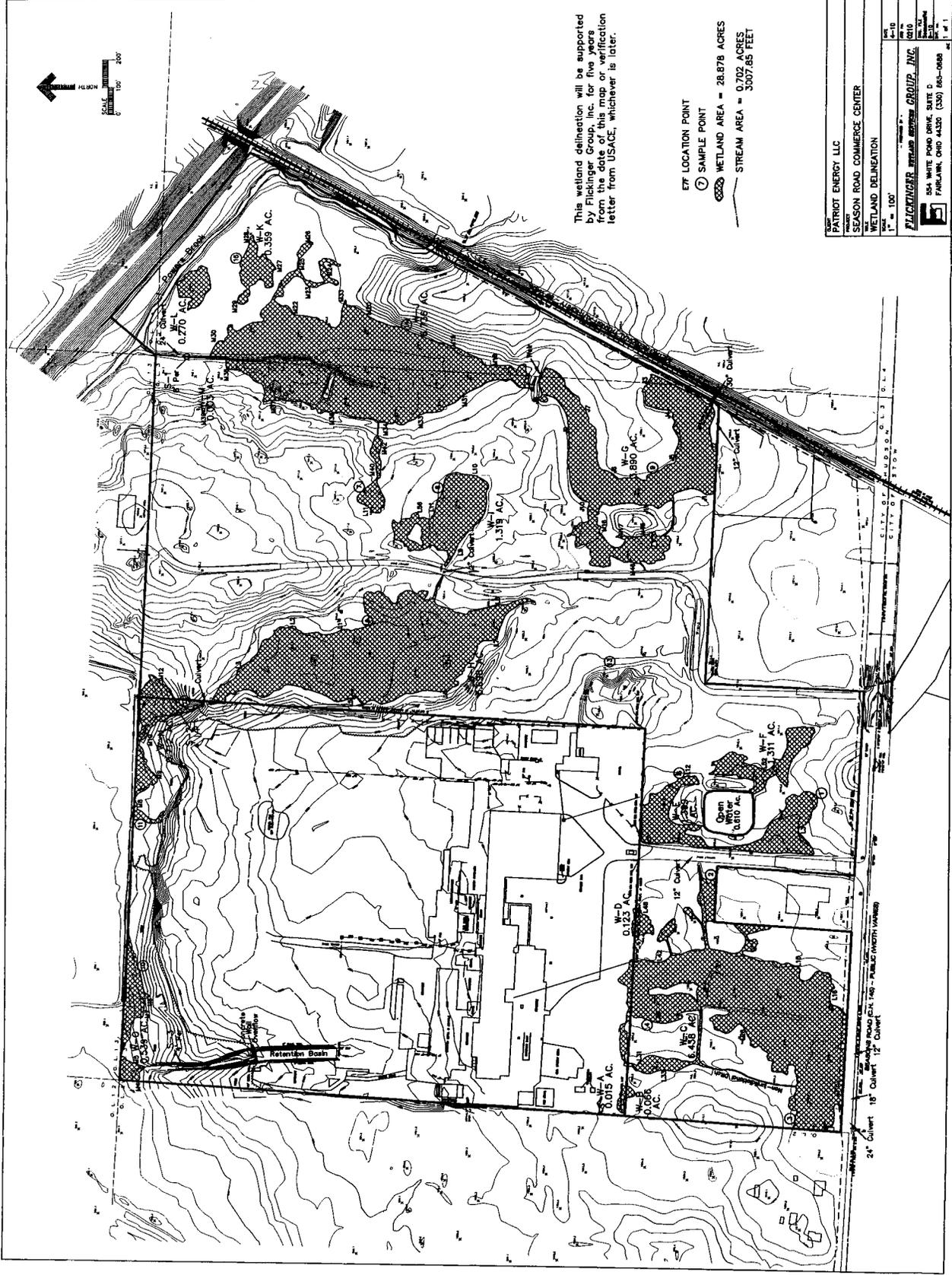
The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine 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.

  
for Diane C. Kozlowski  
Chief, Regulatory Branch

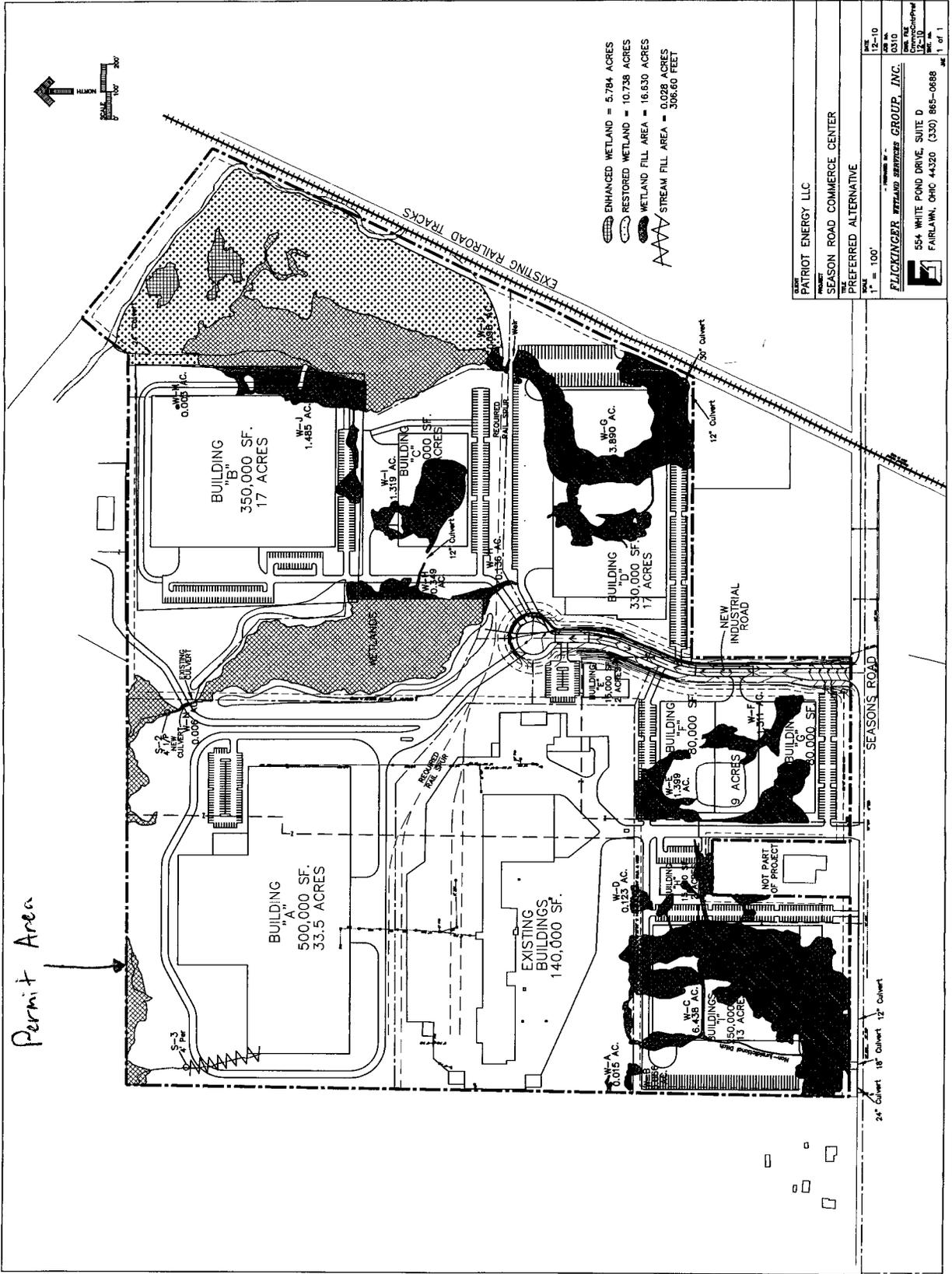
**NOTICE TO POSTMASTER:** It is requested that this notice be posted continuously and conspicuously for **30 days** from the date of issuance.



John A. Shutsa and Associates  
 D/A Processing No. 2010-01049  
 Summit County, Ohio  
 Quad: Hudson  
 Sheet 2 of 3



John A. Shutsa and Associates  
 D/A Processing No. 2010-01049  
 Summit County, Ohio  
 Quad: Hudson  
 Sheet 3 of 3



OWNER: PATRIOT ENERGY LLC  
 PROJECT: SEASON ROAD COMMERCE CENTER  
 THE PREFERRED ALTERNATIVE  
 SCALE: 1" = 100'  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 DATE: 12-10-10  
 SHEET NO. 0310  
 PROJECT NO. 2010-01049  
 DRAWING NO. 1 OF 1

**FLICKINGER WETLAND SERVICES GROUP, INC.**  
 554 WHITE POND DRIVE, SUITE D  
 FAIRLAWN, OHIO 44320 (330) 865-0688