

APPENDIX D

AGENCY COORDINATION LETTERS AND FEMA FLOOD MAP

Austin, Michael

From: Staron, Chris
Sent: Thursday, September 05, 2013 1:03 PM
To: Mitch, Brian; Lung, Joni; Clingan, Peter M LRH; Brett.C.Latta@usace.army.mil; Timothy.M.Long@usace.army.mil; Karen_Hallberg@fws.gov; Sarah_Bowman@fws.gov; Jeromy_Applegate@fws.gov
Cc: Austin, Michael; Durm, Tony; Pettegrew, Mike
Subject: WAS-821-3.68 (PID 91295) Level II ESR

All,

Below is the link to a Level II Ecological Survey Report for the subject project.

This office would like to set up a jurisdictional determination field meeting as soon as possible.

If you have any questions, please contact me.

Thanks

Chris Staron
(614) 466-5112

<http://defaultextranet.dot.state.oh.us/divisions/Planning/enviro/eco/Level%20%20ESR/Forms/AllItems.aspx?RootFolder=%2Fdivisions%2FPlanning%2Fenviro%2Feco%2FLevel%20%20ESR%2FWAS%2D821%2D3%2E68%20%28PID%2091295%29&FolderCTID=0x01200056FC47B37CD9F64F8F4046FFB149A046&View={0AB0FE28-C020-4C92-BCD2-7860164DB09B}>



OHIO DEPARTMENT OF TRANSPORTATION

CENTRAL OFFICE • 1980 WEST BROAD STREET • COLUMBUS, OH 43223
JOHN R. KASICH, GOVERNOR • JERRY WRAY, DIRECTOR

September 5, 2013

Mary Knapp, Supervisor
U.S. Fish and Wildlife Service
4625 Morse Road, Suite 104
Columbus, Ohio 43230

Re: WAS-821-3.68 (PID 91295)
Ecological Coordination

Dr. Knapp:

Enclosed for your review is an Ecological Survey Report for the subject project. The proposed highway maintenance project involves realigning an approximately 0.70 mile segment of SR 821 to avoid a slip plane (landslide). The project area is located three miles north of the City of Marietta, in Muskingum Township, Washington County, Ohio. The proposed realignment will shift southeastward from the existing alignment into an adjacent forested hillside in order to relocate onto a stable foundation. The proposed alignment centerline is a maximum of 100 feet from the existing centerline of the current alignment.

The proposed realignment will require substantial cuts into the adjacent steep forested hillside. Initially, 20.53 acres of impact to terrestrial habitat was anticipated with the preliminary alignment. However, through avoidance and minimization, final terrestrial impacts include 13.09 acres of mixed deciduous forest; 1.9 acres of high intensity land cover (existing SR 821 and sparsely vegetated shoulders) and 0.9 acre of pasture. Stream impacts (fill or cut slope) include 1,960 linear feet of provisional Class I ephemeral stream channel and 200 linear feet of provisional Class II intermittent stream channel. Total "stream" impact is 2,160 linear feet. Stream impacts for the original alignment were similar but included 95 linear feet of additional impact.

In addition, two provisional Category I palustrine emergent non-persistent wetlands formed within low areas and tire ruts along an old logging road/ATV trail within the forest in an area that will be "cut" during construction. Both wetland habitats will be eliminated (fill or cut slope) and total 0.064 acre.

This project is within the known range of the Indiana Bat (*Myotis sodalis*, E), the Bald Eagle (*Haliaeetus leucocephalus*, SC), the Eastern Hellbender (*Cryptobranchus a. alleganiensis*, SC), the Fanshell Mussel (*Cyprogenia stegaria*, E), the Sheepnose Mussel (*Plethobasus cyphus*, PE), and the Pink Mucket (*Lampsilis abrupta*, E), and Snuffbox Mussel (*Epioblasma triquetra*, E).

Indiana bat

This project is located within the East Management Unit as described in the PBO dated January 2007. A survey of the project study area did not identify any portals, openings, cracks, or crevices in rock outcrops that may be an entrance to a cave or mine that would be considered suitable winter hibernacula habitat for the bat. Additionally, the project is located more than 10 miles from the nearest suspect hibernaculum or capture record. The project will impact 13.09 acres of forested habitat. It was determined that the project would be mist netted for Indiana bats. The site was sampled for bats on July 11th and 13th 2012. No Indiana bats were captured. The Mist Net Survey results can be found in the Ecological Survey Report

Appendix. The project would not require seasonal cutting of trees. As proposed, this project **May Affect, but is Not Likely to Adversely Affect** this species.

Bald Eagle

Bald Eagle habitat includes areas adjacent to water bodies that provide suitable feeding (lakes, rivers, oceans) and must include large trees appropriate for roosting and nesting. Bald Eagle nesting sites are present within Hancock County. The closest Bald Eagle nesting site is located 5 miles. No Bald Eagles or nest sites were observed during fieldwork. This project will have no impact to the bald eagle.

Eastern Hellbender, Sheepnose, Snuffbox, Pink Mucket and Fanshell Mussel

The streams being impacted are too small to provide suitable habitat for any of the listed mussels or the hellbender. No records of mussels have been identified within these small headwater streams. The creeks do not contain ideal hydrologic conditions for mussels or the hellbender. A presence/absence survey for mussels did not indicate the presence of any Unionid mussels within the streams. Based on the flow limitations associated with the small drainage areas, there is no suitable habitat for mussels or hellbender. The project will have **no effect** on the species.

If a listed or proposed species is subsequently found to occur in the project area, the Federal Highway Administration will initiate coordination with the U.S. Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act of 1973, as amended.

Your concurrence and/or comments would be appreciated as soon as possible. If comments or notification of when comments will be furnished are not received within 30 days, we will proceed with project development. If you have any questions or concerns, please call Chris Staron, Environmental Specialist, at (614) 466-5112.

Sincerely,



Timothy M. Hill
Administrator
Office of Environmental Services

TMH:MAP:cjs
Enclosure

c: District 10 – File



Ohio Department of Transportation
INTER-OFFICE COMMUNICATION
Office of Environmental Services

TO: Ric Queen, OEPA - DSW **DATE:** September 5, 2013
Timothy M. Hill
FROM: Timothy M. Hill, Administrator, Office of Environmental Services
SUBJECT: Pre-application Coordination
PROJECT: WAS-821-3.68 (PID 91295)

The proposed highway maintenance project involves realigning an approximately 0.70 mile segment of SR 821 to avoid a slip plane (landslide). The project area is located three miles north of the City of Marietta, in Muskingum Township, Washington County, Ohio. The proposed realignment will shift southeastward from the existing alignment into an adjacent forested hillside in order to relocate onto a stable foundation. The proposed alignment centerline is a maximum of 100 feet from the existing centerline of the current alignment.

The proposed realignment will require substantial cuts into the adjacent steep forested hillside. Initially, 20.53 acres of impact to terrestrial habitat was anticipated with the preliminary alignment. However, through avoidance and minimization, final terrestrial impacts include 13.09 acres of mixed deciduous forest; 1.9 acres of high intensity land cover (existing SR 821 and sparsely vegetated shoulders) and 0.9 acre of pasture. Stream impacts (fill or cut slope) include 1,960 linear feet of provisional Class I ephemeral stream channel and 200 linear feet of provisional Class II intermittent stream channel. Total "stream" impact is 2,160 linear feet. Stream impacts for the original alignment were similar but included 95 linear feet of additional impact.

In addition, two provisional Category I palustrine emergent non-persistent wetlands formed within low areas and tire ruts along an old logging road/ATV trail within the forest in an area that will be "cut" during construction. Both wetland habitats will be eliminated (fill or cut slope) and total 0.064 acre.

This information is being provided for the purposes of pre-application coordination. Your concurrence and/or comments would be appreciated as soon as possible. If comments or notification of when comments will be furnished are not received within 30 days, we will proceed with project development. If you would like to visit the site before the 401 application is submitted to your office, please contact this office.

If you have any questions or concerns contact Chris Staron, Environmental Specialist, at (614) 466-5112.

TMH:MAP:cjs
Enclosure

c: District 10 - File



**OHIO DEPARTMENT OF TRANSPORTATION
INTEROFFICE COMMUNICATION**
Office of Environmental Services

DATE: September 5, 2013
TO: Brian Mitch, ODNR, Office of Real Estate
FROM: *Timothy M. Hill*
Timothy M. Hill, Administrator, Office of Environmental Services
SUBJECT: Ecological Coordination
PROJECT: WAS-821-3.68 (PID 91295)

Enclosed for your review is an Ecological Survey Report for the subject project. The proposed highway maintenance project involves realigning an approximately 0.70 mile segment of SR 821 to avoid a slip plane (landslide). The project area is located three miles north of the City of Marietta, in Muskingum Township, Washington County, Ohio. The proposed realignment will shift southeastward from the existing alignment into an adjacent forested hillside in order to relocate onto a stable foundation. The proposed alignment centerline is a maximum of 100 feet from the existing centerline of the current alignment.

The proposed realignment will require substantial cuts into the adjacent steep forested hillside. Initially, 20.53 acres of impact to terrestrial habitat was anticipated with the preliminary alignment. However, through avoidance and minimization, final terrestrial impacts include 13.09 acres of mixed deciduous forest; 1.9 acres of high intensity land cover (existing SR 821 and sparsely vegetated shoulders) and 0.9 acre of pasture. Stream impacts (fill or cut slope) include 1,960 linear feet of provisional Class I ephemeral stream channel and 200 linear feet of provisional Class II intermittent stream channel. Total "stream" impact is 2,160 linear feet. Stream impacts for the original alignment were similar but included 95 linear feet of additional impact.

In addition, two provisional Category 1 palustrine emergent non-persistent wetlands formed within low areas and tire ruts along an old logging road/ATV trail within the forest in an area that will be "cut" during construction. Both wetland habitats will be eliminated (fill or cut slope) and total 0.064 acre. No state listed species will be impacted by the proposed project.

ODNR's concurrence and/or comments on the project would be appreciated as soon as possible. If comments or notification of when comments will be furnished are not received within 30 days, we will proceed with project development.

If you have any questions or concerns contact Chris Staron, Environmental Specialist, at (614) 466-5112.

TMH:MAP:cjs
Enclosure

c: District 10 – File



OHIO DEPARTMENT OF TRANSPORTATION

CENTRAL OFFICE • 1980 WEST BROAD STREET • COLUMBUS, OH 43223
JOHN R. KASICH, GOVERNOR • JERRY WRAY, DIRECTOR

U.S. Army Corps of Engineers
Ohio Regulatory Transportation Office
Building 10 Section 10
3990 E. Broad St.
Columbus, OH 43218

September 5, 2013

Re: WAS-821-3.68 (PID 91295)
Ecological Re-Coordination

Dear Mr. Clingan:

Enclosed for your review is an ecological survey report for a proposed project. The proposed highway maintenance project involves realigning an approximately 0.70 mile segment of SR 821 to avoid a slip plane (landslide). The project area is located three miles north of the City of Marietta, in Muskingum Township, Washington County, Ohio. The proposed realignment will shift southeastward from the existing alignment into an adjacent forested hillside in order to relocate onto a stable foundation. The proposed alignment centerline is a maximum of 100 feet from the existing centerline of the current alignment.

The proposed realignment will require substantial cuts into the adjacent steep forested hillside. Initially, 20.53 acres of impact to terrestrial habitat was anticipated with the preliminary alignment. However, through avoidance and minimization, final terrestrial impacts include 13.09 acres of mixed deciduous forest; 1.9 acres of high intensity land cover (existing SR 821 and sparsely vegetated shoulders) and 0.9 acre of pasture. Stream impacts (fill or cut slope) include 1,960 linear feet of provisional Class I ephemeral stream channel and 200 linear feet of provisional Class II intermittent stream channel. Total "stream" impact is 2,160 linear feet. Stream impacts for the original alignment were similar but included 95 linear feet of additional impact.

In addition, two provisional Category 1 palustrine emergent non-persistent wetlands formed within low areas and tire ruts along an old logging road/ATV trail within the forest in an area that will be "cut" during construction. Both wetland habitats will be eliminated (fill or cut slope) and total 0.064 acre.

This office is requesting a jurisdictional determination for the subject project. Your concurrence and/or comments would be appreciated as soon as possible. If comments or notification of when comments will be furnished are not received within 30 days, we will proceed with project development. If you have any questions or concerns contact Chris Staron, Environmental Specialist at (614) 466-5112.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy M. Hill".

Timothy M. Hill
Administrator
Office of Environmental Services

TMH:MAP:cjs

c: District 10 - File



Ohio Department of Natural Resources

JOHN R. KASICH, GOVERNOR

JAMES ZEHRINGER, DIRECTOR

Office of Real Estate
Paul R. Baldrige, Chief
2045 Morse Road – Bldg. E-2
Columbus, OH 43229
Phone: (614) 265-6649
Fax: (614) 267-4764

October 8, 2013

Timothy M. Hill, Environmental Administrator
Office of Environmental Services
Ohio Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

Attn: Matt Perlik, Mike Pettegrew, Chris Staron

Re: 13-432; Ecological Coordination for WAS-821-3.68 (PID 91295)

Project: The proposed highway maintenance project involves realigning an approximately 0.70 mile segment of SR 821 to avoid a slip plane (landslide).

Location: The project area is located three miles north of the City of Marietta, in Muskingum Township, Washington County, Ohio.

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. These comments were generated by an inter-disciplinary review within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the National Environmental Policy Act, the Coastal Zone Management Act, Ohio Revised Code and other applicable laws and regulations. These comments are also based on ODNR's experience as the state natural resource management agency and do not supersede or replace the regulatory authority of any local, state or federal agency nor relieve the applicant of the obligation to comply with any local, state or federal laws or regulations.

Fish and Wildlife: The Division of Wildlife (DOW) has the following comments.

The project is within the range of the Indiana bat (*Myotis sodalis*), a state and federally endangered species. The following species of trees have relatively high value as potential Indiana bat roost trees: Shagbark hickory (*Carya ovata*), Shellbark hickory (*Carya laciniata*), Bitternut hickory (*Carya cordiformis*), Black ash (*Fraxinus nigra*), Green ash (*Fraxinus pennsylvanica*), White ash (*Fraxinus americana*), Shingle oak (*Quercus imbricaria*), Northern red oak (*Quercus rubra*), Slippery elm (*Ulmus rubra*), American elm (*Ulmus americana*), Eastern cottonwood (*Populus deltoides*), Silver maple (*Acer saccharinum*), Sassafras (*Sassafras albidum*), Post oak (*Quercus stellata*), and White oak (*Quercus alba*). Indiana bat habitat consists of suitable trees that include dead and dying trees with exfoliating bark, crevices, or cavities in upland areas or riparian corridors and living trees with exfoliating bark, cavities, or hollow areas formed from broken branches or tops. If suitable trees occur within the project area, these trees should be conserved. If suitable habitat occurs on the project area and trees must be cut, cutting must occur between **October 1 and March 31**. If suitable trees must be cut during the summer months, a net

survey must be conducted between June 15 and July 31, prior to cutting. Net surveys shall incorporate either two net sites per square kilometer of project area with each net site containing a minimum of two nets used for two consecutive nights, or one net site per kilometer of stream within the project limits with each net site containing a minimum of two nets used for two consecutive nights.

The project is within the range of the sheepnose (*Plethobasus cyphus*), a state endangered and federal endangered mussel, the fanshell (*Cyprogenia stegaria*), a state and federal endangered mussel, the pink mucket (*Lampsilis orbiculata*), a state and federal endangered mussel, the washboard (*Megaloniais nervosa*), a state endangered mussel, the snuffbox (*Epioblasma triquetra*), a state endangered and federal endangered mussel, the butterfly (*Ellipsaria lineolata*), a state endangered mussel, the Ohio pigtoe (*Pleurobema cordatum*), a state endangered mussel, the pyramid pigtoe (*Pleurobema rubrum*), a state endangered mussel, and the monkeyface (*Quadrula metanevra*), a state endangered mussel. Due to the location and the type of habitat being affected, **this project is not likely to impact these species.**

The project is within the range of the Eastern hellbender (*Cryptobranchus alleganiensis alleganiensis*), a state endangered amphibian currently being evaluated for Federal Candidate status. This long-lived, entirely aquatic salamander inhabits perennial streams with large flat rocks. A statewide survey has not been completed for this species. However, due to the location and the type of habitat being affected, **this project is not likely to impact this species.**

The project is within the range of the Ohio lamprey (*Ichthyomyzon bdellium*), a state endangered fish. Due to the location and the type of habitat being affected, **this project is not likely to impact this species.**

The project is within the range of the black bear (*Ursus americanus*), a state endangered species. Due to the mobility of this species, the **project is not likely to impact this species.**

The project is within the range of the Eastern spadefoot toad (*Scaphiopus holbrookii*), a state endangered species. This species is found in areas of sandy soils that are associated with river valleys. Breeding habitats may include flooded agricultural fields or other water holding depressions. Due to the location and the type of habitat being affected, this **project is not likely to impact this species.**

The project is within the range of the timber rattlesnake (*Crotalus horridus horridus*), a state endangered species. Due to the location and the type of habitat being affected, this **project is not likely to impact this species.**

The ODNR Natural Heritage Database has no records for rare or endangered species at this project site. We are unaware of any unique ecological sites, geologic features, animal assemblages, scenic rivers, state wildlife areas, nature preserves, parks or forests, national wildlife refuges or other protected natural areas within the project area. Our inventory program does not provide a complete survey of Ohio wildlife, 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.

ODNR appreciates the opportunity to provide these comments. Please contact Brian Mitch at (614) 265-6387 if you have questions about these comments or need additional information.

Brian Mitch
ODNR Office of Real Estate
2045 Morse Road, Building E-2
Columbus, Ohio 43229-6693
(614) 265-6387
brian.mitch@dnr.state.oh.us



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

October 21, 2013

Timothy M. Hill, Administrator
Office of Environmental Services
Ohio Department of Transportation
1980 West Broad Street, Mail Stop 4170
Columbus, OH 43216-0899

TAILS: 03E15000-2013-I-1566
03E15000-2013-CPA-0755

Attn: Michael Pettegrew, Chris Staron

RE: **WAS-821-3.68 (PID 91295)**

Dear Mr. Hill:

This letter is in response to your September 5, 2013 request for site-specific review of the above referenced project, pursuant to section 7 of the Endangered Species Act of 1973, as amended (ESA). Your request was received in our office on September 5, 2013. The project, as proposed, involves realigning an approximately 0.70 mile segment of SR 821 to avoid a slip plane (landslide). The proposed realignment would result in impacts to 13.09 acres of forest, 2,160 linear feet of Class 1 and Class 2 streams, and 0.064 acre of Category 1 wetland.

Fish & Wildlife Coordination Act Comments:

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. We support and recommend mitigation activities that reduce the likelihood of invasive plant spread and encourage native plant colonization. Prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats. All disturbed areas in the project vicinity should be mulched and revegetated with native plant species.

FEDERALLY LISTED SPECIES:

The project is located within the range of the **Indiana bat** (*Myotis sodalis*), a federally listed endangered species. The proposed project would result in impacts to approximately 13.09 acres of forest containing more than 50 suitable Indiana bat roosts (including potential maternity roosts). **A mist net survey for Indiana bats was conducted on July 11 and 13, 2012. No Indiana bats were detected. One northern long-eared bat (*Myotis septentrionalis*) was captured.** ODOT has confirmed, via a September 26, 2013 email from Chris Staron, that any unavoidable tree clearing would occur prior to **April 1, 2014.** The Service concurs with your determination that the project, as proposed, *may affect but is not likely to adversely affect*, the Indiana bat.



The project lies within the range of the federally endangered **sheepnose** (*Plethobasus cyphus*), **snuffbox** (*Epioblasma triquetra*), **pink mucket** (*Lampsilis abrupta*), and **fanshell** (*Cyprogenia stegaria*), and the Federal Candidate **eastern massasauga** (*Sistrurus catenatus*). You have determined that the project will have no effect on these five species. Therefore, consultation pursuant to section 7(a)(2) of the ESA is not required for these species.

The proposed project lies within the range of the **eastern hellbender** (*Cryptobranchus a. alleganiensis*), a Federal species of concern and an Ohio endangered species. We agree that the project will have no effect on this species.

Bald Eagle:

You have determined that the project will have no effect on the **bald eagle** (*Haliaeetus leucocephalus*). We agree with your assessment and believe that take of bald eagles resulting from the proposed project is unlikely.

These comments have been prepared under the authority 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 are consistent with the intent of the National Environmental Policy Act of 1969, and the U.S. Fish and Wildlife Service's Mitigation Policy.

This concludes consultation on this action as required by section 7(a)(2) of the Endangered Species Act. Should, during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be reinitiated to assess whether the determinations are still valid. If you have any questions regarding our response or if you need additional information, please contact Jeromy Applegate at extension 21.

Sincerely,



Mary Knapp, Ph.D.
Field Supervisor

cc: J. Kessler, ODNR, Office of Real Estate, Columbus, OH (email only)
P. Clingan, USACE, Ohio Regulatory Transportation Office, Columbus, OH (email only)
J. Lung, OEPA, Columbus, OH (email only)
B. Mitch, ODNR, Office of Real Estate, Columbus, OH (email only)

Austin, Michael

From: Applegate, Jeromy <jeromy_applegate@fws.gov>
Sent: Friday, January 03, 2014 9:20 AM
To: Staron, Chris
Cc: Sarah_Bowman@fws.gov; Karen_Hallberg@fws.gov; Austin, Michael; Pettegrew, Mike; Clingan, Peter M LRH; Kessler, John; Lung, Joni; Mitch, Brian
Subject: Re: WAS-821-3.68 (PID 91295) Northern Long-eared Bat Write-up

Chris,

Thank you for coordinating with the U.S. Fish and Wildlife Service (Service) regarding potential impacts from the subject project on the northern long-eared bat (*Myotis septentrionalis*), a species proposed for federal listing as endangered. As referenced in your December 5, 2013 email, below, ODOT originally consulted with the Service on this project in September 2013. At that time, the northern long-eared bat was not yet proposed for listing.

Based on the information provided in your current email as well as ODOT's Ecological Survey Report, submitted with the September 2013 request for consultation, it is possible that suitable maternity colony habitat for the species may be removed for construction of this project. Therefore, we are unable to concur with your effect determination that the WAS-821-3.68 project may affect but is not likely to adversely affect the northern long-eared bat. However, due to the project size, type, and location, the project, as proposed, is not likely to jeopardize the continued existence of the species.

These comments have been prepared under the authority of section 7(a)(4) of the Endangered Species Act, of 1973, as amended. This concludes informal conference on this action. Should, during the term of this action, additional information on listed or proposed species or their critical habitat become available, if a proposed species becomes officially listed, or if new information reveals effects of the action that were not previously considered, conferencing with the Service should be reinitiated to assess whether this determination is valid.

Please contact me with any questions.

Jeromy

Jeromy Applegate
Fish and Wildlife Biologist
U S Fish and Wildlife Service
Ohio Ecological Services Field Office
4625 Morse Rd., Suite 104
Columbus, OH 43230
Phone: 614-416-8993 ext. 21
FAX: 614-416-8994

On Thu, Dec 5, 2013 at 10:16 AM, Staron, Chris <Chris.Staron@dot.state.oh.us> wrote:

Sarah,

This project proposes to realign approximately 0.70 mile segment of SR 821 to avoid a slip plane in the hillside. This shift in alignment will impact approximately 13.09 acres of mixed deciduous forest. The project impacted potential bat maternity and roost trees. It was determined that a mist net survey would be performed for the project. No Indiana bats were capture but one Northern Long-eared bat was captured. These potential bat trees are not part of a riparian travel corridor. They are part of an upland woodlot. There are no barns, sheds or houses to be razed by this project. No caves or abandoned mines are found in the project area. This project **May Affect, but is Not Likely to Adversely Affect** the Northern Long-eared bat. ODOT will follow cutting restriction dates of September 30 to April 1.

The subject project was coordinated to your office on September 5, 2013 and comments received on October 21, 2013. The coordination letter, USFWS comments and the mist net survey can be found at the link below.

If you have any questions, please contact this office.

Thanks

Chris

(614) 466-5112.

<http://defaultextranet.dot.state.oh.us/divisions/Planning/enviro/eco/Level%20%20ESR/Forms/AllItems.aspx?RootFolder=%2Fdivisions%2FPlanning%2Fenviro%2Feco%2FLevel%20%20ESR%2FWAS%2D821%2D3%2E68%20%28PID%2091295%29%20NLEB%20coordination&FolderCTID=0x01200056FC47B37CD9F64F8F4046FFB149A046&View={0AB0FE28-C020-4C92-BCD2-7860164DB09B}&InitialTabId=Ribbon%2EDocument&VisibilityContext=WSSTabPersistence>

Austin, Michael

From: Latta, Brett C LRH <Brett.C.Latta@usace.army.mil>
Sent: Thursday, June 27, 2013 8:54 AM
To: Austin, Michael
Cc: Tarlton, Tara; Staron, Chris
Subject: RE: Map request for WAS-821-3.68 (UNCLASSIFIED)
Attachments: Page from Revised ACOE_field_review_6_26_2013.pdf

Classification: UNCLASSIFIED
Caveats: NONE

Mike:

You are correct. There are 7 streams not 6. I made changes on the attached plan sheet to clarify. Everything else looks great.

Thanks,

Brett

-----Original Message-----

From: Austin, Michael [mailto:Michael.Austin@dot.state.oh.us]
Sent: Thursday, June 27, 2013 7:34 AM
To: Latta, Brett C LRH
Cc: Tarlton, Tara; Staron, Chris
Subject: RE: Map request for WAS-821-3.68 (UNCLASSIFIED)

Brett,

I am a little confused. I came up with 7 streams not 6. See the attached plans with my designations and see if they correspond with your field notes. If there are changes or differences can you let me know??

thanks

-----Original Message-----

From: Latta, Brett C LRH [mailto:Brett.C.Latta@usace.army.mil]
Sent: Wednesday, June 19, 2013 8:59 AM
To: Austin, Michael
Subject: RE: Map request for WAS-821-3.68 (UNCLASSIFIED)

Classification: UNCLASSIFIED
Caveats: NONE

Thanks Mike

-----Original Message-----

From: Austin, Michael [mailto:Michael.Austin@dot.state.oh.us]
Sent: Wednesday, June 19, 2013 7:23 AM
To: Latta, Brett C LRH

Subject: RE: Map request for WAS-821-3.68 (UNCLASSIFIED)

Brett,

As requested. See you Wednesday.

Mike

-----Original Message-----

From: Latta, Brett C LRH [mailto:Brett.C.Latta@usace.army.mil]

Sent: Tuesday, June 18, 2013 4:10 PM

To: Austin, Michael

Subject: Map request for WAS-821-3.68 (UNCLASSIFIED)

Classification: UNCLASSIFIED

Caveats: NONE

Mike:

Can you send me a USGS map of the project location/project limits for the field review on June 26?

Brett C. Latta, CPG

Regulatory Project Manager

U.S. Army Corps of Engineers - Huntington District Building 10 / Section 10 PO Box 3990 Columbus, OH 43218-3990

Phone: (614) 692-4672

Classification: UNCLASSIFIED

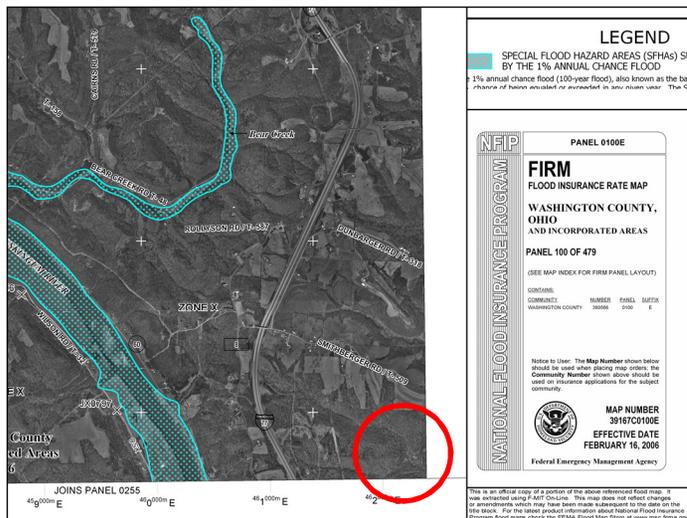
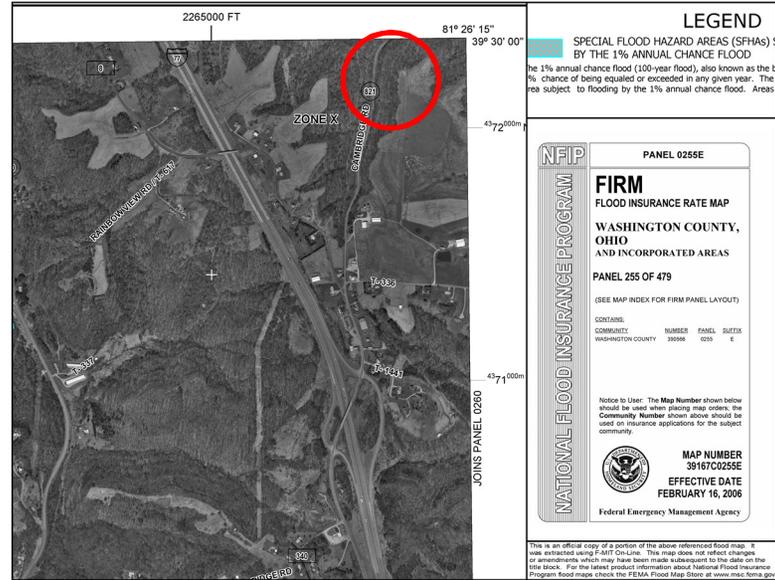
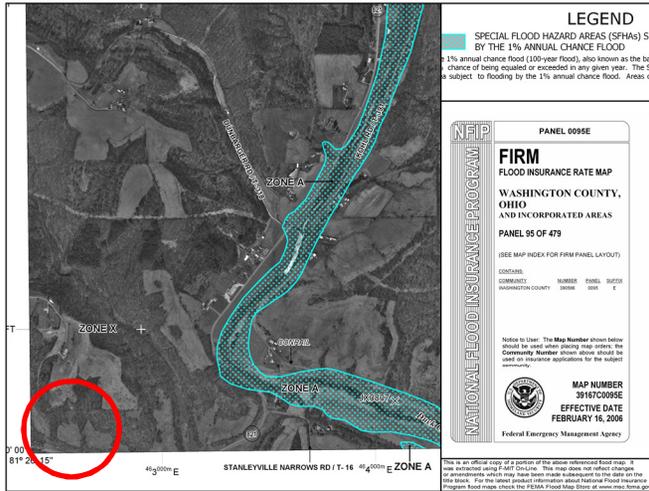
Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE

Classification: UNCLASSIFIED

Caveats: NONE



WAS-821-3.79 (PID 91295) – Project location(s)
 (3-individual FEMA maps – with small sections of SR 821 on each) in relation to regulated 100 year flood plains. The project area is not within a regulated 100 year flood plain.



DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

REPLY TO
ATTENTION OF

January 15, 2014

Regulatory Division
South/Transportation Branch
LRH-2013-00599-OHR – Un Tribs New Year's Creek
WAS-821-3.68, PID: 91295

Mr. Timothy Hill
Ohio Department of Transportation
Office of Environmental Services
1980 West Broad Street, Mail Stop 4170
Columbus, Ohio 43223

Dear Mr. Hill:

I refer to the Level Two Ecological Survey Report (ESR) received on September 5, 2013. The ESR was prepared for a proposed highway maintenance project along State Route (SR) 821 in Muskingum Township, Washington County, Ohio. Approximately 0.7-mile of SR 821 would be realigned to achieve a more stable roadway foundation. Waters in the review area drain into Duck Creek.

The United States Army Corps of Engineers (Corps) authority to regulate waters of the United States (U.S.) is based on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Section 404 of the Clean Water Act (CWA) requires that a Department of the Army (DA) permit be obtained prior to discharging dredged or fill material into waters of the U.S., including wetlands. Section 10 of the Rivers and Harbors Act of 1899 requires that a DA permit be obtained for any work in, on, over or under a navigable water.

The Corps has performed a preliminary jurisdictional determination (PJD) for aquatic resources within the review area for the proposed project. Based on the provided information and other information available to us, this office has determined that Streams 1-7 and Wetlands 1-2 within the review area may be jurisdictional waters of the U.S. This PJD has been made in accordance with the Regulatory Guidance Letter (RGL) for Jurisdictional Determinations issued by the Corps on June 26, 2008 (RGL No. 08-02). As indicated in the guidance, this PJD is non-binding and cannot be appealed (33 CFR 331.2), and only provides a written indication that waters of the U.S., including wetlands, may be present on-site.

You have declined to exercise the option to obtain an approved jurisdictional determination for these aquatic resources in this instance and at this time. For the purposes of the determination of impacts, compensatory mitigation, and other resource protection measures

for activities that require authorization from this office, the aquatic resources described in the attached PJD will be evaluated as if they are waters of the U.S.

Attached please find two copies of the PJD. If you agree with the findings of this PJD and understand your options regarding the same, please sign and date one copy of the form and return it to this office within 30 days of receipt of this letter. You should submit the signed copy to the following address:

Mr. Brett C. Latta, CPG (LRH-2013-00599-OHR)
U.S. Army Corps of Engineers - Huntington District
Ohio Regulatory Transportation Office
Building 10 / Section 10, PO Box 3990
Columbus, Ohio 43218-3990

If you have any questions concerning the above, please contact Brett C. Latta of the Columbus Field Office at (614) 692-4672.

Sincerely,



Susan A. Porter
Chief, South/Transportation Branch

Enclosures

Copy furnished w/ enclosures via e-mail:

Joni Lung
Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049
Joni.Lung@epa.state.oh.us

Adrienne Earley
Ohio Department of Transportation
1980 West Broad Street
Mail Stop 4170
Columbus, Ohio 43223
Adrienne.Earley@dot.state.oh.us

Mike Pettegrew
Ohio Department of Transportation
1980 West Broad Street
Mail Stop 4170
Columbus, Ohio 43223
Mike.Pettegrew@dot.state.oh.us

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): 15 January 2014

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:

Ohio Department of Transportation
Office of Environmental Services
1980 West Broad Street, Mail Stop 4170
Columbus, Ohio 43223

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

Huntington District, WAS-821-3.68, PID 91295, 2013-00599-OHR

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

State: Ohio
County: Washington
City: Muskingum Township
Center coordinates of site: 39.4988 North, 81.4416 West
Name of nearest waterbody: Un Tribs New Year's Creek

Identify (estimate) amount of waters in the review area:

Non-wetland waters: There is one (1) seasonal-intermittent stream and seven (7) ephemeral streams located within the review area. Refer to the attached tables and maps of this *Preliminary Jurisdictional Determination Form* for a detailed summary.

Wetlands: There are two (2) emergent wetlands within the review area. Each wetland appears to have a continuous surface or subsurface connection and/or adjacency to a water of the United States (U.S.). Refer to the attached tables and maps of this *Preliminary Jurisdictional Determination Form* for a detailed summary.

Name of any water bodies on the site that have been identified as Section 10 waters:

None

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination: Date: 7 January 2014
- Field Determination: Date(s): 26 June 2013

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved

jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring “pre-construction notification” (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant’s acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there “*may be*” waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Refer to Level Two Ecological Survey (ESR) for WAS-821-3.68, PID 91295 dated 15 August 2013.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.

- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas: 05030201-HUC retrieved from ORM database
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s): Marietta, OH-WV and Lower Salem, OH 7.5-minute maps retrieved from ORM database.
- USDA Natural Resources Conservation Service Soil Survey. Refer to Level Two ESR for WAS-821-3.68, PID 91295, Appendix 1.
- National wetlands inventory map(s):
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Refer to Level Two ESR for WAS-821-3.68, PID 91295, Appendix 1 (date unknown).
 - or Other (Name & Date): Refer to Level Two ESR for WAS-821-3.68, PID 91295, Appendix 2 (dates unknown).
- Previous determination(s). File no. and date of response letter:
- Other information (please specify): **See the following Tables 1-2 and attached maps.**

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

LATTA.BRETT
C.1381469340

Digitally signed by
LATTA.BRETT.C.1381469340
DN: c=US, o=U.S. Government,
ou=DoD, ou=PKI, ou=USA,
cn=LATTA.BRETT.C.1381469340
Date: 2014.01.15 13:07:21 -05'00'

Signature and date of
Regulatory Project Manager
(REQUIRED)

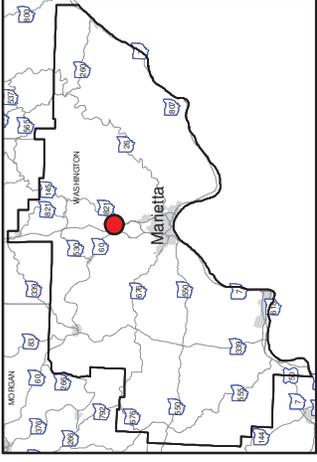
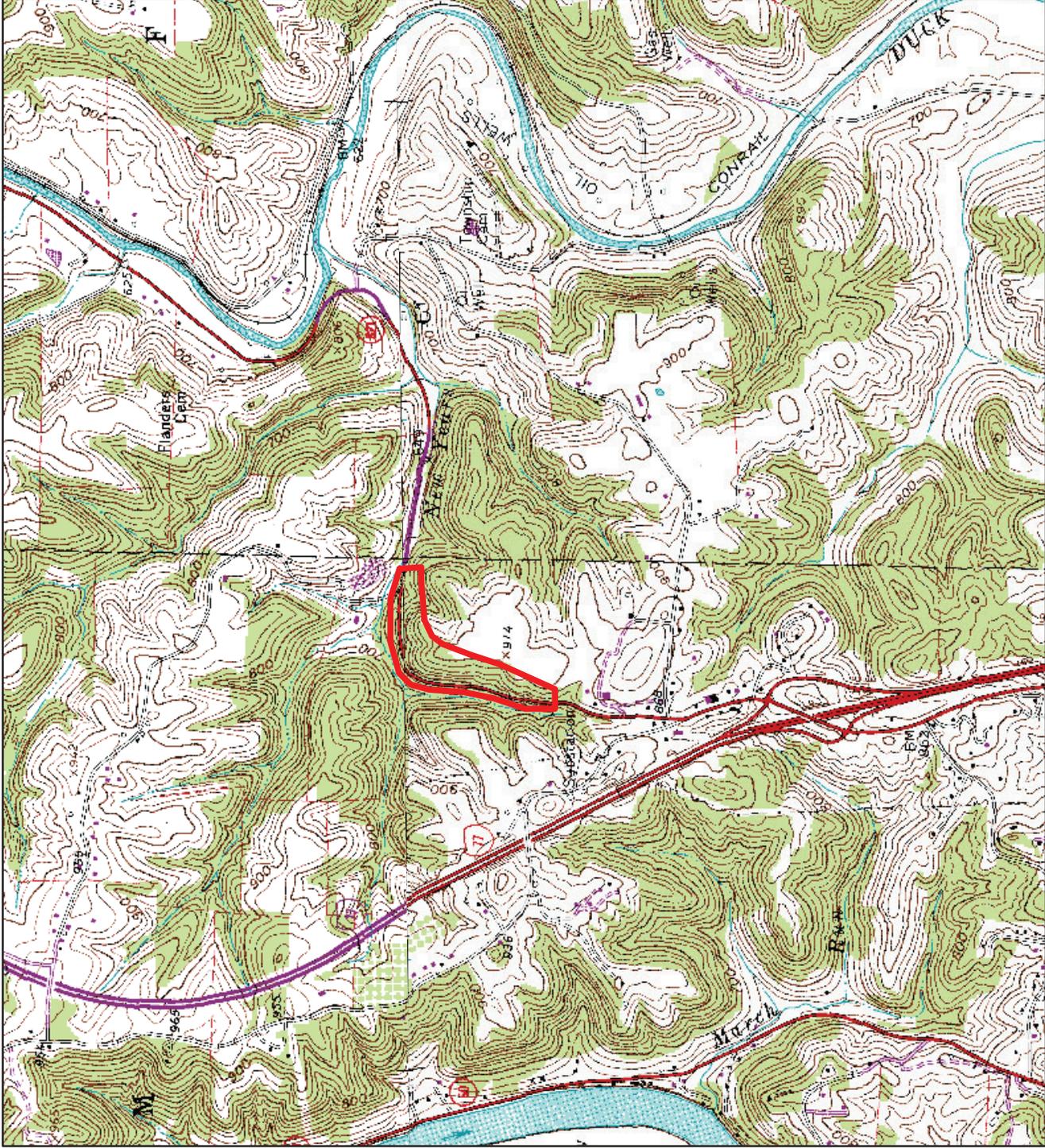
Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining the
signature is impracticable)

**Table 1 – Potentially Jurisdictional Streams Summary
2013-00599-OHR: WAS-821-3.68, PID 91295**

| Stream ID / Name | Flow Regime | Linear Feet |
|-------------------------------------|-----------------------|--------------------|
| Stream 1 (Un Trib New Year's Creek) | Seasonal-intermittent | 200 |
| Stream 2 (Un Trib New Year's Creek) | Ephemeral | 230 |
| Stream 3 (Un Trib New Year's Creek) | Ephemeral | 400 |
| Stream 4 (Un Trib New Year's Creek) | Ephemeral | 150 |
| Stream 5 (Un Trib New Year's Creek) | Ephemeral | 40 |
| Stream 6 (Un Trib New Year's Creek) | Ephemeral | 970 |
| Stream 7 (Un Trib New Year's Creek) | Ephemeral | 170 |
| Total | | 2,160 |

**Table 2 – Potentially Jurisdictional Wetlands Summary
2013-00599-OHR: WAS-821-3.68, PID 91295**

| Wetland ID | Cowardin Class | Acre(s) |
|-------------------|-----------------------|----------------|
| 1 | PEM | 0.007 |
| 2 | PEM | 0.057 |
| Total | | 0.064 |



Location of project in Washington County, Ohio.



Location of Washington County, Ohio



OHIO DEPARTMENT OF TRANSPORTATION
 DISTRICT 10, 338 MUSKINGUM DRIVE
 MARIETTA, OH 45750
 CREATED BY: MAUSTIN
 DATE CREATED: 10/2/2012

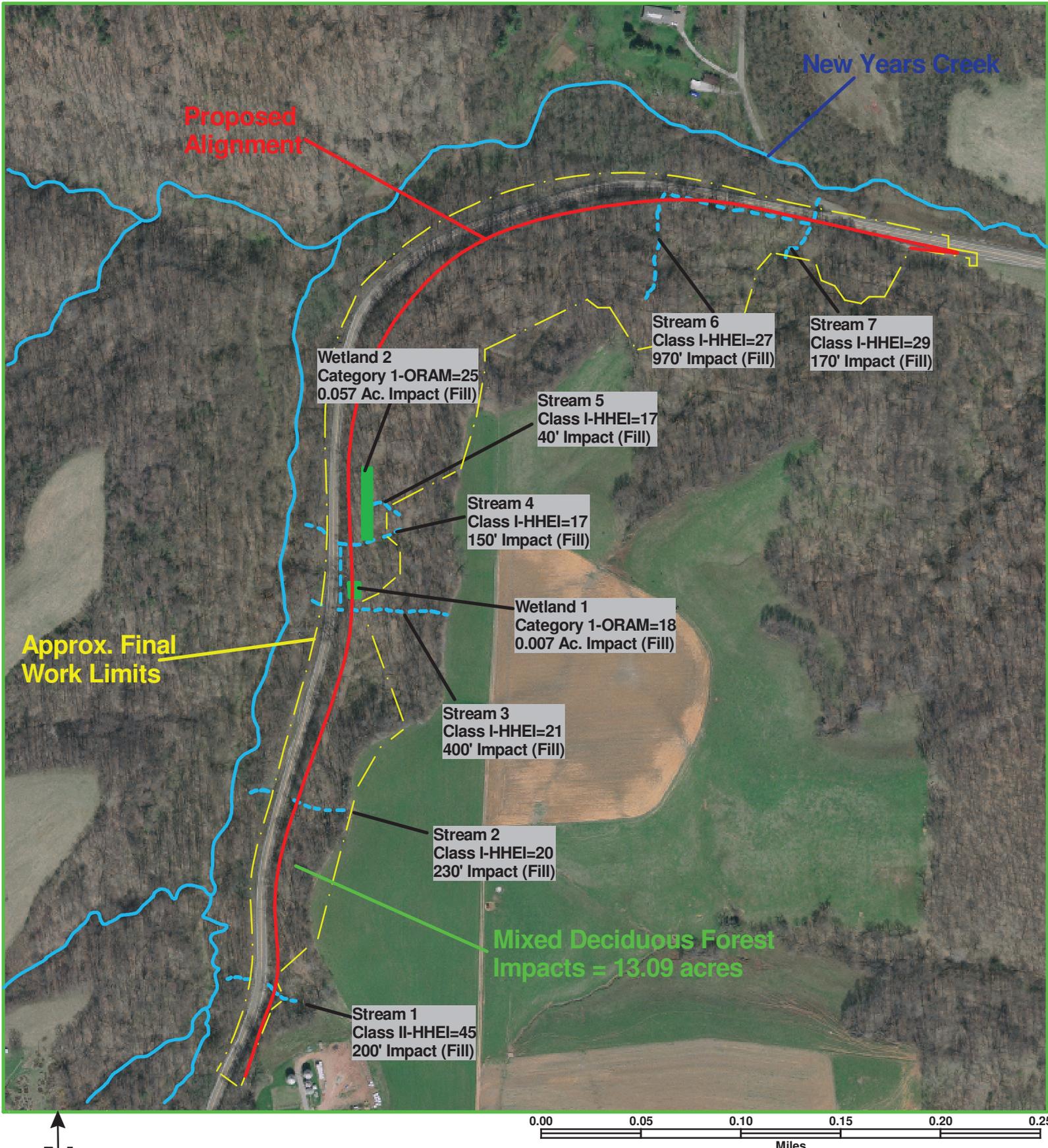
BASE MAP: Marietta and Lower Salem, OH - 7.5 Minute USGS Topographic Quads.



Study Area



Figure 1. WAS-821-3.79 (PID 91295)
 Location and Study Area for Landslide Repair
 Realignment of SR 821



WAS-821-3.68 (PID: 91295)
Figure 3: Proposed Alignment, Work Limits and Impacts