



REPLY TO
ATTENTION OF

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

APR 17 2014

Regulatory Division
North Branch
LRH-2014-334-SCR-Salt Creek

NOTICE OF VIOLATION

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

Dear Mr. Perlik:

I refer to the information provided by you on April 15, 2014 disclosing that the Ohio Department of Transportation (ODOT) District 9 has discharged, without proper authorization from this office, dredged material into waters of the United States associated with cleanout operations of nearby roadside ditches. The subject site is located within Salt Creek in western Vinton County just east of the Vinton/Ross County border near the intersection of State Route 671 and State Route 327. This enforcement case has been assigned the following file number: LRH-2014-334-SCR-Salt Creek. Please include this file number on all future correspondence related to this enforcement case.

Section 404 of the Clean Water Act (Section 404), 33 U.S.C. § 1344, prohibits discharges of dredged or fill material into waters of the United States, including wetlands, unless the work has been authorized by a Department of the Army (DA) permit. The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328 and 33 CFR 329. Salt Creek is a direct tributary to the Scioto River, a traditional navigable water of the United States.

We appreciate that you self reported the violation in Salt Creek. The discharge of dredged material into Salt Creek has not been authorized by a DA permit. This unauthorized activity is under investigation, and ODOT District 9 is identified as the responsible party. The courses of action available to my office are contained in 33 CFR 326, et seq. (copy enclosed).

Due to the nature of the unauthorized activities, we are requesting that all material discharged into Salt Creek must be removed. Please submit a restoration plan to this office for approval. The restoration plan should include details on how and when the removal of the dredged material would occur. Please also provide details, including narrative description and drawings, concerning any other measures that would be taken to accomplish restoration activities within Salt Creek. Restoration measures in addition to removal of dredged material may include, but are not limited to, the establishment of a vegetated upland buffer along the stream bank of Salt Creek.

-2-

A copy of this notification is being sent to the United States Environmental Protection Agency (USEPA) for review and coordination in accordance with a Memorandum of Agreement between the DA and the USEPA. A copy of this notification is also being sent to the Ohio Environmental Protection Agency (Ohio EPA).

The information requested above should be received in my office within **15 days** of the date of this letter in order to receive consideration in my evaluation. Further information may be requested in the future if determined to be necessary to resolve the violation.

We look forward to your cooperation in this matter and hope to reach a resolution of your case in the near future. If you have any questions concerning the above, please contact Teresa Spagna at (304) 399-5210, by mail at the above address, or by email at: teresa.d.spagna@usace.army.mil.

Sincerely,



Ginger Mullins, Chief
Regulatory Division

Enclosures

Copy furnished:

Ms. Wendy Melgin
USEPA
Region V, WW-16-J,
77 West Jackson Street,
Chicago, IL 60604-3590

Ms. Rachel Taulbee
Ohio EPA, Division of Surface Water
PO Box 1049
Columbus, OH 43216-1049

Samples of Photos Taken by ODOT OIS Investigator John Shore on April 22, 2014



View from other side of roadway. Cone is where trucks backed up to guardrail and dumped dirt over the rail. Drive and truck in background are on other side of the creek.

Exhibit 2

Page 2 of 5



Standing at guardrail, cone in other pictures is to immediate right. There is approximately 5-10 feet of gradually sloping terrain, and then at tree on far right slope goes to steep embankment, down to river. There is no accumulation (depth) of material at this point, other than what is under the guardrail. Everything else slid down the embankment.

As shown, creek is clearly visible.



This view is from the drive on the opposite side of the creek. The guardrail where the trucks dumped from is here. Estimate that the embankment is 50-60 feet in height.

Exhibit 2

Page 4 of 5



Standing on the 5-10 feet of gradual slope, just on the other side of the guardrail. Obvious how the material slid down the embankment and into the creek. The dirt here is no deeper than sitting on top of the leaves.

Standing at the guardrail, or perhaps in the cab of a dump truck, the creek would be visible.



Another view of material in creek. Obvious how the material slid down the steep embankment.

**OHIO DEPARTMENT OF TRANSPORTATION**

CENTRAL OFFICE • 1980 WEST BROAD STREET • COLUMBUS, OH 43223

JOHN R. KASICH, GOVERNOR • JERRY WRAY, DIRECTOR

May 2, 2014

Department of the Army
Huntington District, Corps of Engineers
502 Eighth Street
Huntington, West Virginia 25701-2070
Attn: Ginger Mullins, Chief

Re: LRH-2014-334-SCR-Salt Creek Notice of Violation

Dear Ms. Mullins:

The Ohio Department of Transportation (ODOT) is providing the attached restoration plan in response to the April 17th, 2014 letter of Notice of Violation from your office. The restoration plan developed by ODOT provides three possible options for removal of fill material placed into Salt Creek without a Department of the Army permit. Following your review of this document, we would like the opportunity to discuss with you the next step in the process of remediating this violation.

If you have any questions or comments regarding this plan, please contact Matt Perlik, at (614) 466-1937.

Respectfully,

A handwritten signature in black ink that reads "Timothy M. Nill".

Timothy M. Nill, Administrator
Office of Environmental Services

TMH:mkp

Electronic Copies: Vaughn Wilson D-9, Troy Huff D-9, Jennifer Townley ODOT-CO, Wendy Melgin USEPA, Peter Clingan USACE, Rachel Taulbee OEPA, Brian Mitch ODNR, OES – File

SALT CREEK STREAM RESTORATION PLAN

Vinton County, Ohio

Harrison Township

Vinton SR 327

7.44 to 7.80 mile marker

Corp of Engineers Case No: LRH-2014-334-SCR-Salt Creek



Prepared by:
J. Troy Huff, P.E.
ODOT District Nine
650 Eastern Avenue
P.O. Box 467
Chillicothe, Ohio 45601

May 2, 2014

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EXECUTIVE SUMMARY

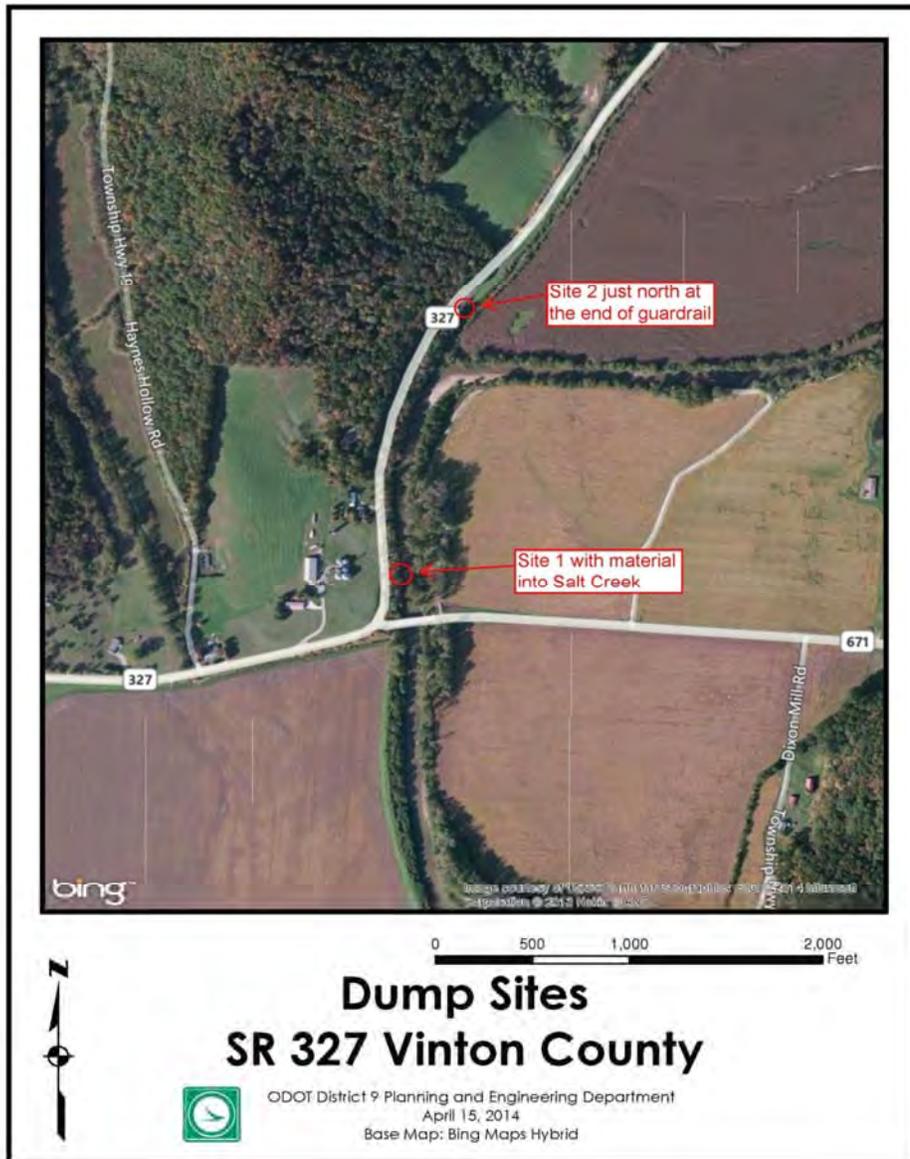
On April 7, 8, 9, and 10, 2014, crews from the Ohio Department of Transportation, District 9 Ross County maintenance garage were performing ditch cleaning operations along state route 327 and United States route 50 in Ross County, Ohio. Both locations were in relative proximity to the Village of Londonderry and the Ross/Vinton County line. The crew elected to dispose of the ditch spoils over and along guardrail at two locations that are located along state route 327 just inside the Vinton County line. Vinton County is part of ODOT, District 10. This activity is a practice used to dispose of ditch spoils as long as it is in an upland area. The spoils can then be levelled and used to widen out the embankment behind guardrail and along the roadway shoulder.

On April 9, 2014, a Transportation Manager assigned to the Vinton County ODOT garage happened to be passing by the above location in the a.m. where Ross County crews were dumping ditching spoils. The manager became alerted to the spoils being dumped into Salt Creek and immediately located the ditching crew leader and asked them to stop dumping in Vinton County and salt creek. The transportation manager proceeded to contact District 10 Environmental Coordinator, Tony Durm. Tony then contacted D-9 Environmental Coordinator, Greg Manson. Greg then made appropriate notification within ODOT of discharge of ditch material without proper authorization into waters of the United States.

On April 15, 2014, Matt Perlik from ODOT, Office of Environmental Services, coordinated with Peter Clingan at the USACE ORTO in Columbus Ohio of the illegal discharge. Peter Clingan then notified USACE Huntington, West Virginia Headquarters. On April 17, 2014, Ginger Mullins, Chief of the Regulatory Division of the Corps of Engineers, issued a Notice of Violation to the department and asked for a restoration plan.

Discharge site #1 is located in Vinton County along state Route 327 at the 7.45 mile marker. Approximately 15 to 20 dump truck loads of ditch spoils were discharged into Salt Creek at one location. Assuming 5 yards per truck, the estimate is 100 cubic yards discharged. Water imprint area is approximately 30 feet into stream and 40'-50' wide.

A second area of dumping was identified but no materials were placed in Waters of the US. Discharge site is located in Vinton County along state Route 327 at the 7.76 mile marker. Approximately 5-6 dump truck loads of loads of ditch spoils were dumped along stream bank of Pike Run, a tributary of Salt Creek. Assuming 5 cubic yards per truck, the estimate is 30 cubic yards disposed. None of the fill material reached the stream but the area will be stabilized.



1.0 PROJECT SITE LOCATION

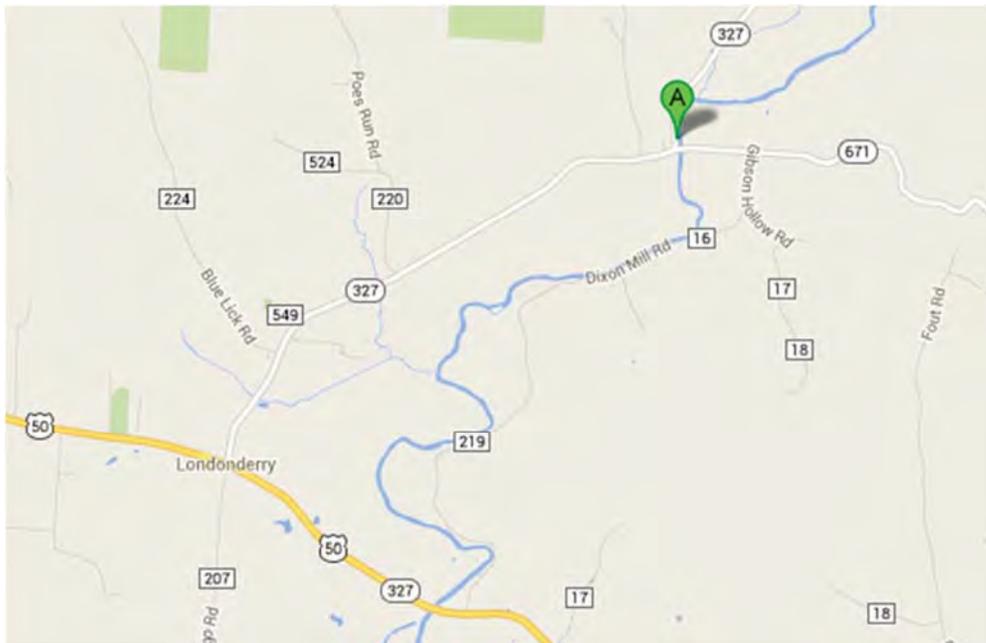
1.1 Directions to Site

Site is located approximately 3 miles northeast of Village of Londonderry, Ohio and lies in southwest Vinton County. Take United States Route 50 from Chillicothe, Ohio for approximately 12 miles to Londonderry, Ohio. Turn left onto state Route 327 in Londonderry and travel approximately 3 miles. The site is located on the right side of the road approximately 250 feet north of the state Route 327 and state Route 671 intersection. Latitude 39°17'29", Longitude 82°44'45".

1.2 USGS HUC DESIGNATION

This site is located within the United States Geological Survey (USGS) "Ratcliffburg" and 15-digit Hydrologic Unit Code 39082-C6-TF-024. Salt Creek is a direct tributary to the Scioto River, a traditional navigable water of the United States. Thus, Salt Creek by definition becomes regulated water as well. Salt Creek flows in a south to south-western direction. According to ODOT Office of Environmental Services, this site is not a wetland area.

1.3 PROJECT VICINITY MAP



2.0 WATERSHED CHARACTERIZATION

2.1 DRAINAGE AREA

Site is located on Salt Creek with a watershed of approximately 171,519 acres (268 square miles) in size utilizing Ohio StreamStat to calculate.

2.2 STREAM CHARACTERISTICS

Salt Creek is an Exceptional Warm Water Habitat with a drainage area of 268 square miles at the site.

2.3 HISTORICAL LAND USE AND DEVELOPMENT TRENDS

The watershed is a mixture of forested lands, agricultural row crops, two-lane roadways, farm roads, and sporadic single family homes. The area adjacent to site is mostly agricultural with some localized forested areas. No zoning exist in this part of Vinton County and little development is expected.

2.4 PROTECTED SPECIES

Visual survey of the site found the following potential species classified as protected and subject to review by the United States Fish and Wildlife Service:

Federal

- Indiana Bat (*Myotis sodalis*)
- Eastern Hellbender (*Cryptobranchus alleganiensis*)
- Northern Long-eared Bat (*Myotis septentrionalis*)
- Running buffalo Clover (*Trifolium stoloniferum*)
- American Burying Beetle (*Nicrophorus Americanus*) species of concern
- Timber Rattlesnake (*Crotalus horridus*) species of concern
- Bald Eagle (*Haliaeetus leucocephalus*) species of concern

State

Fragile Papershell mussel (*Lepedea fragilis*)

FatMucket mussel (*Lampsilis radiata luteola*)

Plain Pocketbook mussel (*Lampsilis cardium*)

Cylindrical Papershell mussel (*Anodontoidea ferussaciana*)

Wabash Pigtoe mussel (*Fusconaia flava*)

Pink Heelsplitter mussel (*Potamilus alatus*)

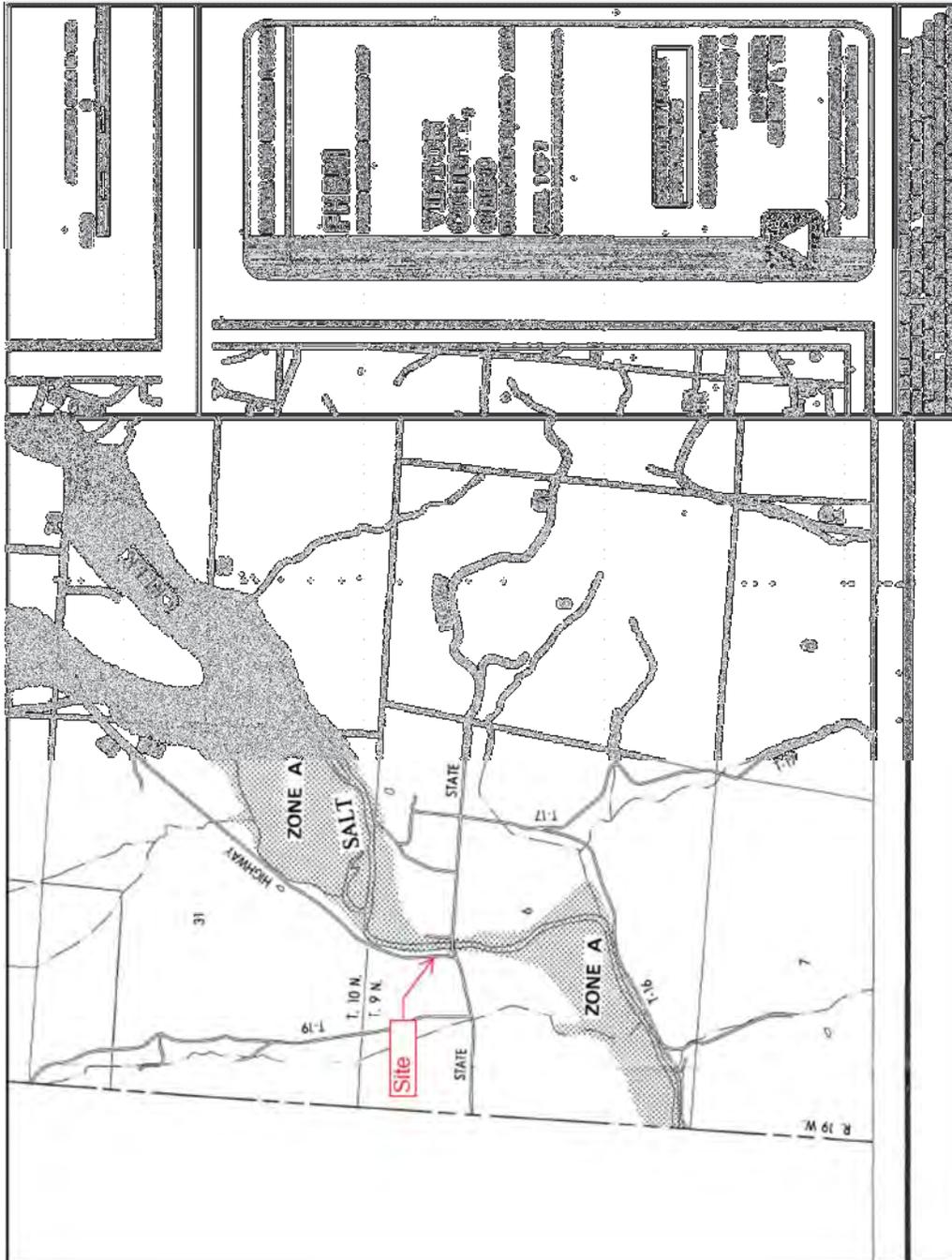
Mud Salamander (*Pseudotriton montanus*)

Black Kingsnake (*Lampropeltis Getula Nigra*)

Eastern Sand Darter (*Ammocrypta pellucida*)

A mussel survey may be needed preformed before any excavating would occur.

2.5 FEMA MAP



3.0 SITE RESTORATION

3.1 RESTORATION PLAN

Approximately 15 to 20 dump truck loads of ditch spoils were discharged into Salt Creek at one location. Assuming 5 yards per truck, the estimate is 100 cubic yards discharged. Water imprint area is approximately 30 feet into stream and 40'-50' wide. All material discharged into Salt Creek must be removed. The discharge area is located within the floodplain and below the ordinary high water mark. The area is not in a wetland. Disturbed area should be less than one acre.

There are several challenges to overcome due to the topography of the site and the methods of restoration we propose are not something we do on a daily basis.

Proposed methods of restoration:

- 1.) Hydraulic Dredging - utilize a hydraulic pump and hose to remove fill. This could be accomplished by placing a hydraulic pump on the opposite stream bank from the fill. Float suction lines across the stream and suck the material over to the opposite stream bank and place in trucks or dumpsters lined with plastic. This material can then be moved to an upland area to be dewatered and then leveled and seeded and strawed. This method would create the least disturbance to the stream and capture almost 100% to the fill. This method is not a process we have used in District 9 and is investigating this technique.
- 2.) Mechanical Dredging – utilize a large crane with clam bucket placed on opposite stream bank. Crane would reach across the stream and remove the fill. Removed fill would be placed in trucks or dumpsters lined with plastic. The material can then be moved to an upland area to be dewatered and then leveled and seeded and strawed. This method would create more disturbances in the stream than hydraulic dredging and would maybe capture 75% of the fill.
- 3.) Mechanical Dredging – utilize a stone causeway from the opposite stream bank to reach the fill. Use trackhoe to remove fill from causeway. Removed fill would be placed in trucks or dumpsters lined with plastic. The material can then be moved to an upland area to be dewatered and then leveled and seeded and strawed. This method would create the most disturbances in the stream than the above two options and would maybe capture 75% of the fill.

Remediation of the material on the bank slope is questionable due to bank slope, numerous large trees and many rock layers.

Next Step:

Each of the above proposed methods of restoration need to be analyzed for benefit/cost comparisons. We are currently performing research on each technique to identify potential contractors available to perform this work. ODOT would like to discuss these options with the USACE.

3.2 POTENTIAL CONSTRAINTS

3.2.1 Property Ownership

To complete the restoration, the state would need to acquire a right to enter private property agreement with the property owner who owns the land on the opposite stream bank from the discharge site. If the property owner is not cooperative to granting access, then ODOT would need to discuss with USACE alternative options for remediating this violation.

3.2.2 Site Access

The top of the discharge site is easily accessible from SR 327. However, we feel it is neither reasonable nor practical to access the stream from SR 327 because the stream bank is very steep with 40 foot plus drop to water, numerous large trees and many rock layers. Several large trees would need removed. Removing the trees is problematic because they are potential Indiana bat habitat. To access the fill in the stream we must enter private property across the stream from the fill. Accessing the site from SR 671 is problematic due to bridge height, right of way widths, and slope grades.

3.2.3 Stream Restrictions

Salt Creek has in-stream work restrictions from April 15 through June 30. Therefore, restoration work could not begin until July 1 unless a waiver is granted. The waiver would be sought through the USACE/ODNR DOW established waiver process if work needs to begin before July 1.

3.2.4 Utilities

No utilities are known to exist within the project area.

4.0 SITE – PICTURES

Looking West at discharge from opposite steam bank of Salt Creek



Looking West at discharge from opposite steam bank of Salt Creek



4.0 SITE – PICTURES

Looking North (upstream) of Salt Creek from SR 671 Bridge



Looking north on SR 327 at discharge location



4.0 SITE – PICTURES

Looking south on SR 327 at discharge location



Standing on SR 327 looking East at discharge location at Salt Creek

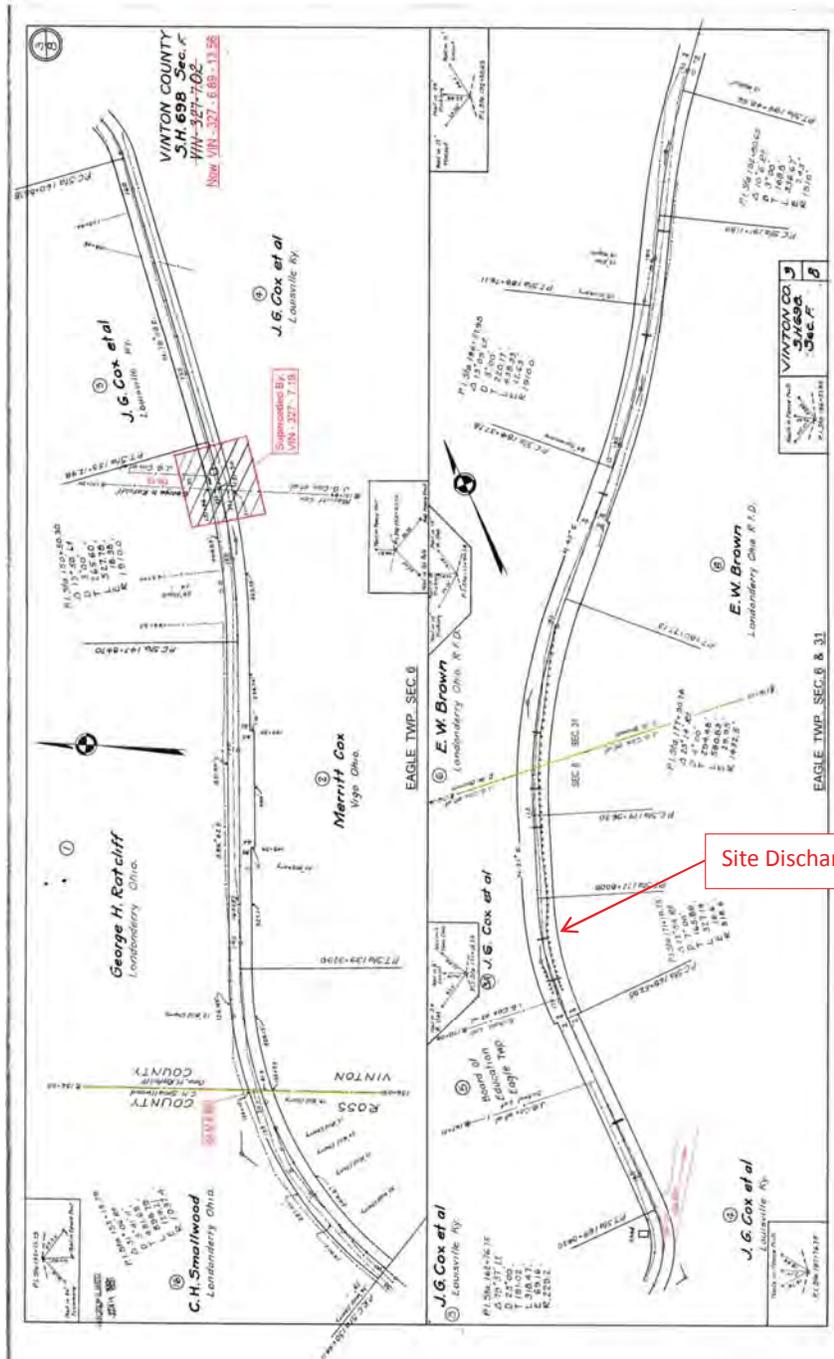


4.0 SITE – PICTURES

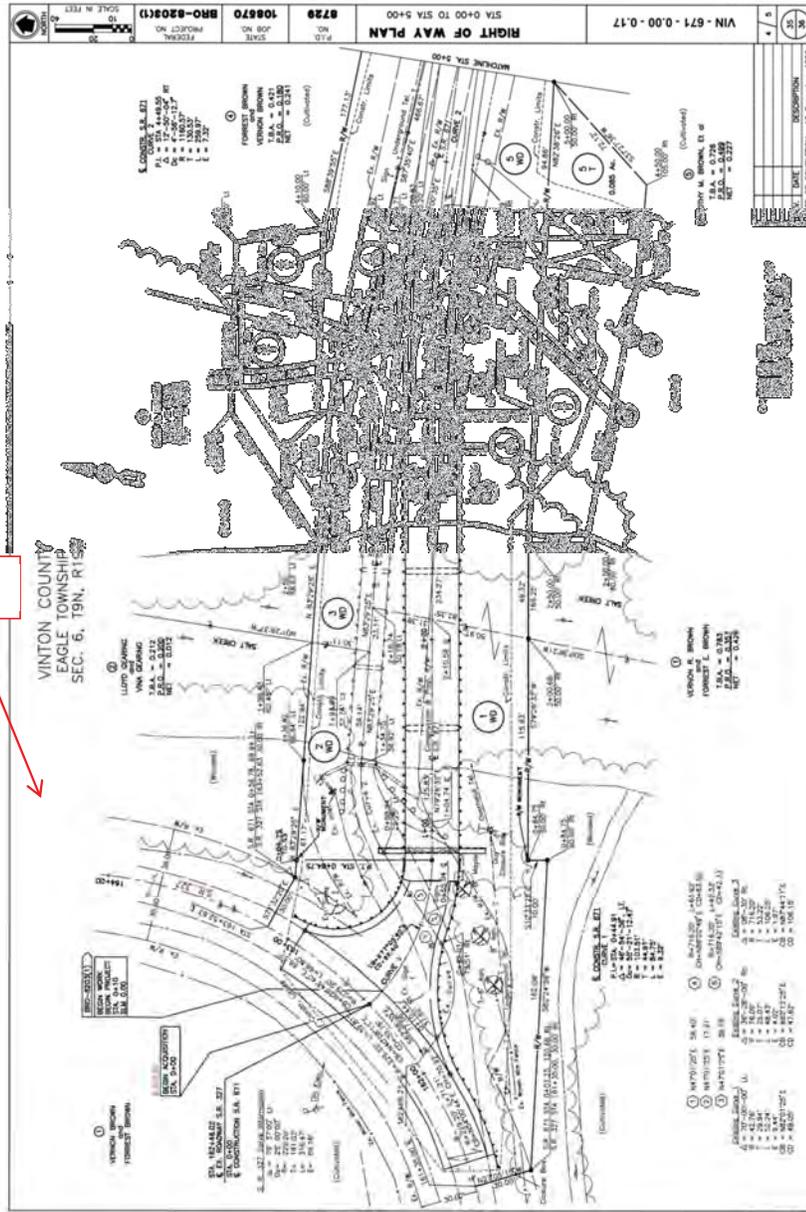
Standing on SR 327 looking East at discharge location at Salt Creek



5.0 RIGHT OF WAY AND PROPERTY MAPS

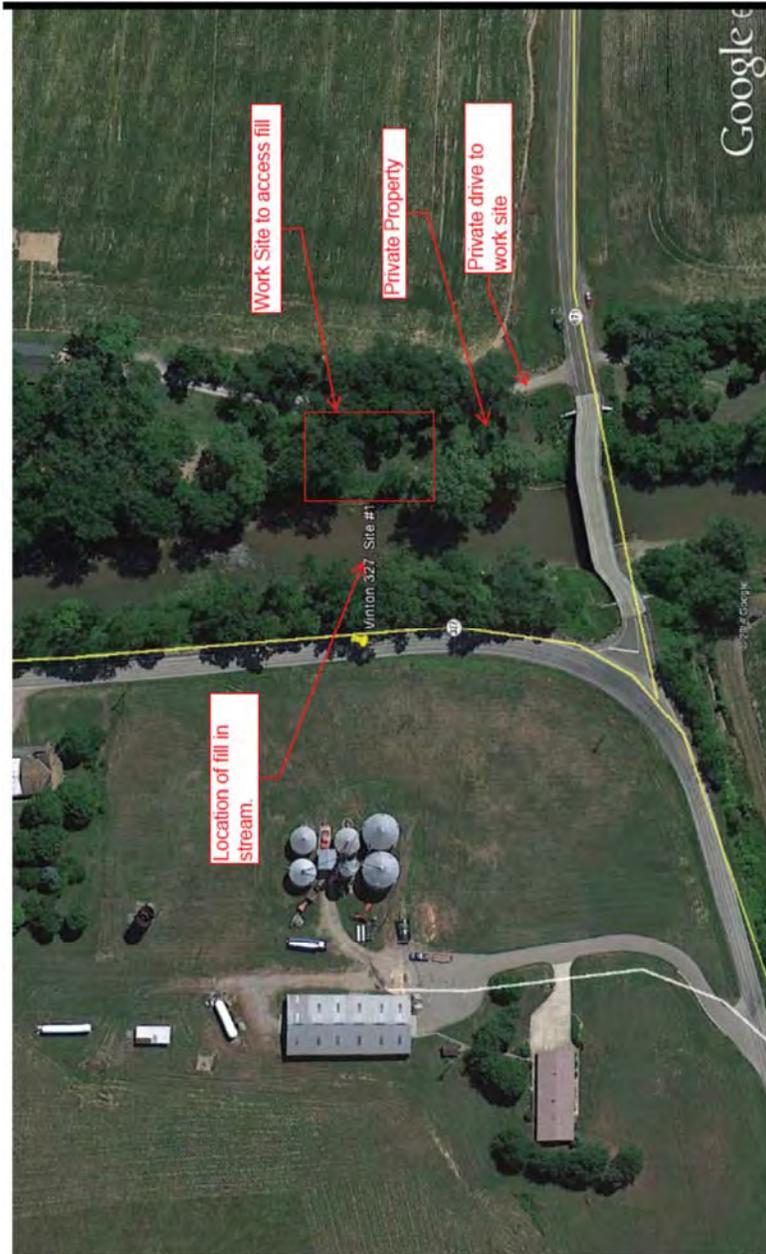


5.0 RIGHT OF WAY AND PROPERTY MAPS



Site Discharge

6.0 AERIAL VIEW OF WORK SITE





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

FEB 6 2015

REPLY TO THE ATTENTION OF:

WW-16J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Jerry Wray
Director
Ohio Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223



Re: In the Matter of Ohio Department of Transportation
Consent Agreement and Final Order: Docket No. CWA-05-2015-0004

Dear Mr. Wray:

Enclosed please find a copy of the signed fully executed Consent Agreement and Final Order (CAFO) in resolution of the above case. An original of the CAFO was filed with the Regional Hearing Clerk on February 6, 2015.

Please ensure you pay the civil penalty in the amount of \$35,000 in the manner prescribed in paragraphs 29-31 of the CAFO and reference the check with the docket number. Your payment is due within 30 days of the filing date.

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Swenson".

Peter Swenson, Chief
Watersheds and Wetlands Branch

Enclosures

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CAFO, including the assessment of the civil penalty specified below.

JURISDICTION AND WAIVER OF RIGHT TO HEARING

7. Respondent stipulates that U.S. EPA has jurisdiction over the subject matter of this CAFO and waives any jurisdictional objections it may have.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. By executing this CAFO, Respondent does not admit liability or admit Complainant's factual allegations set forth in this CAFO. Respondent's execution of this CAFO does not constitute a waiver or admission of any kind, including without limitation a waiver of any defense, legal or equitable, which Respondent may have in this or any other administrative or judicial proceeding, other than a proceeding to enforce this CAFO.

STATUTORY AND REGULATORY BACKGROUND

10. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), states that: "Whenever, on the basis of any information available the Administrator finds that any person has violated [Section 301 of the CWA, 33 U.S.C. § 1311], ... the Administrator ... may, after consultation with the State in which the violation occurs, assess a ... class II civil penalty under [Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B)]."

11. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), states that "Except as in compliance with [Section 404 of the CWA] the discharge of any pollutant by any person shall be unlawful."

North, Range 19 West along State Route 327, mile marker 7.45 in Vinton County, Ohio (the Site). The Site is within the Ohio State Route 327 right-of-way, which is under the ownership of the Respondent.

20. Respondent, using a dump truck, discharged approximately 15-20 dump truck loads of ditch spoil into Salt Creek from April 7 -- 10, 2014. The purpose of the activity was to dispose of ditch spoil excavated during ditch clearing operations along State Route 327 and United States Route 50 in Ross County, Ohio.

21. Respondent's activities at the Site using a dump truck resulted in the discharge of ditch spoil consisting of sediment and dirt that impacted approximately 50 linear feet of Salt Creek, including 30 feet into the stream channel. Respondent's dump truck constituted a "point source" within the meaning of the definition set forth in Section 502(14) of the CWA, 33 U.S.C. § 1362(14). The sediment and dirt constituted "pollutants" within the meaning of the definition set forth in Section 502(6) of the CWA, 33 U.S.C. § 1362(6). The addition of sediment and dirt into the stream on the Site constituted a "discharge of pollutants" within the meaning of the definition set forth in Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

22. Salt Creek flows to the Scioto River, a traditional navigable water.

23. Salt Creek is a "waters of the United States" pursuant to 40 C.F.R. § 232.2.

24. At no time during the activities referenced in paragraph 20 did the Respondent possess a permit from the Secretary of the Army, through the Army Corps of Engineers, under Section 404(a) of the CWA, 33 U.S.C. § 1341(a), authorizing the fill activities in the streambed at the Site.

25. Respondent's deposition of sediment and dirt into the streambed at the Site constitutes

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Kerryann Weaver (WW-16J)
Wetlands Enforcement Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Susan Tennenbaum (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

32. This civil penalty is not deductible for federal tax purposes.
33. If Respondent does not timely pay the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States' enforcement expenses for the collection action. Respondent acknowledges that the validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.
34. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue.

GENERAL PROVISIONS

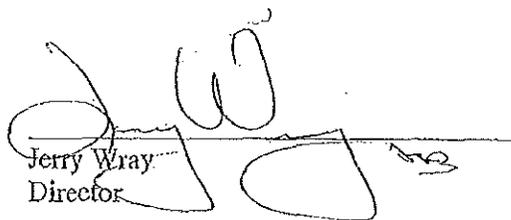
35. This CAFO resolves Respondent's liability, and any liability of Respondent's owners,

In the Matter of: Ohio Department of Transportation, Columbus, Ohio

Docket No:

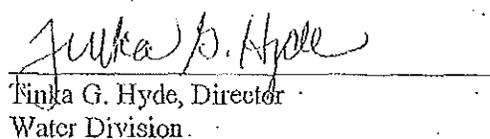
Ohio Department of Transportation, Respondent

11-7-2014
Date

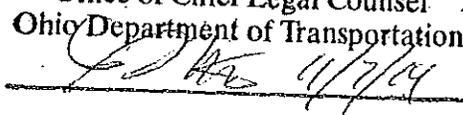

Jerry Wray
Director

U.S. Environmental Protection Agency, Complainant

11-24-14
Date


Finla G. Hyde, Director
Water Division

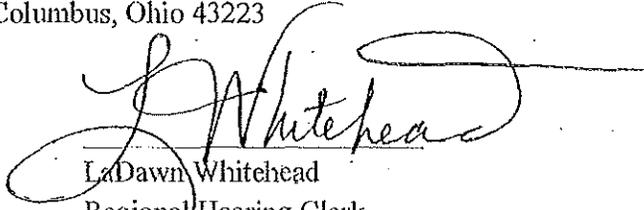
Reviewed as to Form
Office of Chief Legal Counsel
Ohio Department of Transportation


11/7/14

CERTIFICATE OF SERVICE

I, LaDawn Whitehead, hereby certify that an original of the Consent Agreement and Final Order Docket No. CWA-05-2014-0004 was filed with the Regional Hearing Clerk on February 6, 2015 and that a copy was served by United States Mail, Certified and Postage Prepaid, on the February 6, 2015 upon the following:

Ohio Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223



LaDawn Whitehead
Regional Hearing Clerk



REPLY TO
ATTENTION OF

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

MAR 09 2015

Regulatory Division
North Branch
LRH-2014-334-SCR-Salt Creek

PRELIMINARY JURISDICTIONAL DETERMINATION AND
NATIONWIDE PERMIT NO. 32 VERIFICATION

Mr. Jerry Wray
Ohio Department of Transportation (ODOT)
Office of Environmental Services
1980 West Broad Street, Mail Stop 4170
Columbus, Ohio 43223

Dear Mr. Wray:

I refer to your request for a Department of the Army (DA) permit authorization to discharge of fill material into waters of the United States in conjunction with the implementation of the Salt Creek Restoration Order (VIN-327-7.45 and PID 98489). The project site is located within Salt Creek and an abutting wetland in the NE ¼ of Section 06, Township 09 North, Range 19 West, along State Route 327 mile marker 7.45 in western Vinton County just east of the Vinton/Ross County border near the intersection of State Route 671 and State Route 327. Salt Creek is a direct tributary to the Scioto River, a traditional navigable water of the United States. This enforcement case has been assigned the following file number: LRH-2014-334-SCR-Salt Creek. Please reference this file number on all future correspondence related to this project.

Authority

The United States Army Corps of Engineers (Corps) authority to regulate waters of the United States 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 requires a DA permit be obtained prior to discharging dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 requires a DA permit be obtained for any work in, on, over or under a navigable water.

Background Information

On April 17, 2014, this office issued a Notice to Violation to the ODOT District 9 for the unauthorized discharge dredged and/or fill material into Salt Creek. In accordance with the 1989 *Memorandum of Agreement Between the Department of the Army and the Environmental Protection Agency Concerning Federal Enforcement for the Section 404 Program of the Clean Water Act*, on April 28, 2014, the lead enforcement authority for this case was transferred to the United States Environmental Protection Agency (USEPA), Region V. On December 30, 2014, the Corps received your DA permit application for the discharge of fill material into waters of

- 2 -

the United States in conjunction with the implementation of the Salt Creek Restoration Order. On March 2, 2015, the Corps received the USEPA's signed Administrative Compliance Order on Consent (Docket No. V-404-AO-15-05).

Preliminary Jurisdictional Determination

You have chosen to accept a preliminary jurisdictional determination (PJD) regarding the waters on the proposed project site in accordance with the Regulatory Guidance Letter for Jurisdictional Determinations (JDs) issued by the Corps on June 26, 2008 (Regulatory Guidance Letter No. 08-02). Based upon a review of the submitted information, approximately 235 linear feet of perennial stream (Salt Creek) and 0.2 acre of wetlands are present in the proposed project area. These aquatic resources are listed in Table 1 of the enclosed PJD form and have been evaluated as if they are waters of the United States.

Enclosed please find two (2) copies of the PJD form. If you agree with the findings of this PJD and understand your options regarding the same, please sign and date one copy of the PJD 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:

United States Army Corps of Engineers
Huntington District
Attn: North Branch
502 Eighth Street
Huntington, West Virginia 25701.

The proposed project, as described in the submitted information, has been reviewed in accordance with Section 404 and Section 10. Based on your description of the proposed work, and other information available to us, it has been determined that this project will not involve activities subject to the requirements of Section 10. However, this project will include the discharge of dredged or fill material into waters of the United States subject to the requirements of Section 404.

Nationwide Permit 32

In the application materials received in this office on December 30, 2014, you have requested a DA authorization to permanently discharge of fill material into 100 linear feet of Salt Creek (0.04 acre) and to temporarily discharge of fill material into 100 linear feet of Salt Creek (0.01 acre) and 0.01 acre of Wetland 1. The restoration project will involve the removal of unauthorized fill material discharged into Salt Creek. The proposed restoration activities, as detailed in the *Salt Creek Restoration Plan* dated October 10, 2014, will include the:

- 3 -

- temporary discharge of fill material in 100 linear feet of Salt Creek (0.01 acre) and 0.01 acre of Wetland 1 in conjunction with the placement of a temporary sandbag dam around the impacted area to facilitate the unauthorized fill material removal;
- hydraulic excavation of approximately 50 cubic yards of material previously discharged below the ordinary high water mark of Salt Creek; and
- stabilization of approximately 100 linear feet (0.04 acre) of the right descending bank of Salt Creek with topsoil, erosion control blankets, and native seeding.

Per the Ohio Administrative Code (OAC) 3745-1-09, the aquatic life use designation for Salt Creek is an Exceptional Warmwater Habitat (EWH). Salt Creek is also designated as an Outstanding State Water based on exceptional ecological values as promulgated in the OAC 3745-1-05. To reduce impacts to indigenous aquatic species and their habitat, the Ohio Department of Natural Resources (ODNR), Division of Wildlife (DOW) recommends no in-water work may occur in EWH during the restricted period of 15 April to 30 June. **Enclosure 1** of this letter lists the information that must be provided to the ODNR to request a waiver to perform in-water during the restricted period.

Please be aware the subject site must be restored in accordance with the October 14, 2014 restoration plan and the USEPA's signed Administrative Compliance Order on Consent (Docket No. V-404-AO-15-05). After completion of the restoration, you must contact this office to arrange a site inspection. The site must be restored to a condition satisfactory to the District Engineer and the USEPA. After the site inspection, you will receive written confirmation that the site has been successfully restored or any additional restoration measures that may be required to obtain successful restoration.

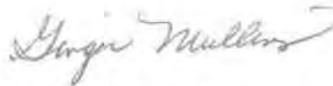
Based on the provided information, it has been determined the discharge of fill material waters of the United States associated with the implementation of the Salt Creek Restoration Order (VIN-327-7.45 and PID 98489) meets the criteria for Nationwide Permit (NWP) No. 32 (enclosed) under the February 21, 2012 Federal Register, Reissuance of NWPs (77 FR 10184) provided you comply with all terms and conditions of the enclosed material, the enclosed special conditions, and the enclosed 401 Water Quality Certification issued for this NWP by the Ohio Environmental Protection Agency on March 30, 2012.

Please be aware this NWP verification does not obviate the requirement to obtain any state or local assent required by law for the activities. Upon completion of the activity authorized by this nationwide permit verification, the enclosed certification must be signed and returned to this office along with as-built drawings showing the location and configuration, as well as all pertinent dimensions and elevations of the activity authorized under this nationwide permit verification.

- 4 -

As a reminder, the restoration of the affected on-site aquatic resources must be completed in accordance with the USEPA's signed Administrative Compliance Order on Consent (Docket No. V-404-AO-15-05). If you have any questions concerning the above, please contact Ms. Teresa Spagna of the North Branch at (304) 399-6910, by mail at the above address, or by email at teresa.d.spagna@usace.army.mil.

Sincerely,



Ginger Mullins, Chief
Regulatory Division

Enclosures

Copies furnished:

Mr. Peter Swenson
USEPA, Region V, WW-16-J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

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

Ms. Rachel Taulbee
Ohio EPA, Division of Surface Water
Post Office Box 1049
Columbus, Ohio 43216-1049

Ms. Joni Lung
Ohio EPA, Division of Surface Water
Post Office Box 1049
Columbus, Ohio 43216-1049

- 5 -

**NATIONWIDE PERMIT NO. 32 VERIFICATION
SPECIAL CONDITIONS FOR OHIO DEPARTMENT OF TRANSPORTATION
LRH-2014-334-SCR-Salt Creek**

1 of 2

1. This nationwide permit verification authorizes the permanent discharge of fill material into 100 linear feet of Salt Creek (0.04 acre) and the temporary discharge of fill material into 100 linear feet of Salt Creek (0.01 acre) and 0.01 acre of Wetland 1 associated with the implementation of the Salt Creek Restoration Order (VIN-327-7.45 and PID 98489). The restoration activities must be conducted in accordance with the Salt Creek Restoration Plan dated 10 October 2014.
2. A copy of the verification letter, special conditions, and the enclosed drawings must be kept at the site during construction. The permittee will supply a copy of these documents to their project engineer responsible for the implementing the restoration plan and installing the new culvert in Stream A.
3. Construction activities will be performed during low flow conditions. All appropriate site specific best management practices or sediment and erosion control must be fully implemented during construction and restoration activities at the site. No area for which grading has been completed will be unseeded or unmulched for longer than 14 days. All disturbed areas will be seeded and/or re-vegetated with native species and approved seed mixes (where practicable) after completion of construction activities for stabilization and to help preclude the establishment of invasive species.
4. The project lies within the range of the Indiana bat (*Myotis sodalis*) a Federally-listed endangered species and the northern long-eared bat (*Myotis septentrionalis*), a proposed endangered species.
 - a. Summer habitat requirements for the Indiana bat are not well defined but the following are considered important:
 - i. 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.
 - ii. Live trees (such as shagbark hickory and oaks) which have exfoliating bark.
 - iii. Stream corridors, riparian areas, and upland woodlots which provide forage sites.

**NATIONWIDE PERMIT NO. 32 VERIFICATION
SPECIAL CONDITIONS FOR OHIO DEPARTMENT OF TRANSPORTATION
LRH-2014-334-SCR-Salt Creek**

2 of 2

- b. Summer habitat requirements for the northern long-eared bat are not well defined but the following are considered important:
 - i. Roosting habitat in dead or live trees and snags with cavities, peeling or exfoliating bark, split tree trunk and/or branches, which may be used as maternity roost areas;
 - ii. Foraging habitat in upland and lowland woodlots and tree lined corridors; and
 - iii. structures such as barns and sheds.

Based upon the provided information, there are six trees located along the right descending bank that exhibit suitable habitat for the Indiana bat and northern long-eared bat. The permittee has stated that none of these trees will be removed to implement the restoration plan. Therefore, the Corps has determined the proposed restoration measures will have no effect on either the Indiana bat or the northern long-eared bat. However, if it is determined the proposed restoration plan facilitates the removal of trees of any of these six trees further consultation under Section 7 of the Endangered Species Act will be necessary. The United States Fish and Wildlife Service may be contacted by mail at 4625 Morse Road, Suite 104, Columbus, Ohio, by fax at (614) 416-8994, or phone at (614) 416-8993. The permittee must also contact the Regulatory Division in the event tree removal is required.

- 5. Section 7 obligations under Endangered Species Act must be reconsidered if new information reveals impacts of the project that may affect federally listed species or critical habitat in a manner not previously considered, the proposed project is subsequently modified to include activities which were not considered during Section 7 consultation with the United States Fish and Wildlife Service, or new species are listed or critical habitat designated that might be affected by the subject project.
- 6. Should new information regarding the scope and/or impacts of the project become available that was not submitted to this office during our review of the proposal, the permittee will submit written information concerning proposed modification(s) to this office for review and evaluation, as soon as practicable.

Enclosure 1

- Name of Corps contact:
- Corps Permit number:
- Ohio EPA ID No.
- Name of permit holder:
- Reason the work cannot be done during the open environmental window:
- Approximate dates work will be started and completed:
- Type of dredging (such as suction or clamshell) if applicable:
 - Type of dredge, such as suction or clamshell
 - Total material to be removed for the project
 - Amount of material that remains to be removed
 - Location of the dredge disposal site
 - BMPs to be used during dredging
- Total material to be placed/removed for the project:
- Amount of material that remains to be removed, if applicable:
- Location of the dredge disposal site, if applicable:
- Indicate if a waiver has been requested for this permit in previous years and, if so, indicate when, why and whether it was granted.
- Submit a map showing the location of the project, and location of work within the project area.
- List of BMPs to be used.



September 23, 2014

Mr. Matthew K. Perlik
Assistant Environmental Administrator
Office of Environmental Services
Ohio Department of Transportation
1980 West Broad Street
Columbus, OH 43223

RE: Revised Proposal for VIN-327 (PID 98489) Salt Creek Remedial Activities and Ecological Survey/Oversight

VAR-STW Environmental Mitigation No. 2012-2
PID No. 90551
Agreement No. 16631
Task Order Number: 14-13-04, ODT183.600.0001

Dear Mr. Perlik:

Hull & Associates, Inc. (Hull) is pleased to present the following revised Scope of Work and Cost Estimate for removal of fill from Salt Fork in Vinton County, Ohio and for Ecological Survey and remediation oversight (Hull Project # ODT183). The purpose of this document is to establish the Scope of Work and to provide a fee schedule for the project through completion.

Two (2) copies of the cost proposal have been included for your use and distribution. The total cost for these services is Eighty-Three Thousand Three Hundred Twenty (\$83,320.00) Dollars. Should you have any questions concerning this scope and cost estimate, please do not hesitate to contact me at the telephone number listed below.

Sincerely,

A handwritten signature in black ink that reads "Brad M. Falkinburg".

Brad M. Falkinburg, PWS
Senior Project Manager

A handwritten signature in black ink that reads "Hugh F. Crowell".

Hugh F. Crowell, MS, PWS
Senior Project Manager/Principal

Attachments

**ATTACHMENT A
FOR
MASTER SERVICES AGREEMENT FOR PROFESSIONAL SERVICES**

HULL & ASSOCIATES, INC.
TASK ORDER NO: 14-13-04
HULL PROJECT CODE: ODT183
CONTRACT NUMBER: 16631

Subject to the terms and conditions of the above referenced Contract, the Consultant agrees to perform the following summary Scope of Work, as fully detailed in Consultant's letter proposal dated September 23, 2014 (Hull Document #ODT183.600.0001):

PROJECT DESCRIPTION

This project involves the removal of up to 100 cubic yards of fill material placed into Salt Creek in Vinton County, Ohio by using a subcontractor (SUNPRO) and to provide any requested Ecological Survey and remediation oversight (Hull Project # ODT183).

SCOPE OF WORK

Hull proposes to use SUNPRO to remove fill material from Salt Fork (see attached proposal from SUNPRO). Hull will manage invoicing associated with this project.

Task 1. Ecological Survey/Oversight

Hull will provide unspecified professional ecological assistance as requested by ODOT for this project in addition to oversight and documentation of the sediment remediation services requested by ODOT and conducted by SUNPRO (see Task 2). This could include mussel survey, hellbender survey, or other ecological assistance that may be necessary to complete the task of sediment removal. Hull will provide oversight and documentation of the excavated materials and ensure that the material is properly disposed of at an approved upland location or facility and that material is not placed in any waters of the US or environmental features. EMHT is providing primary oversight of the restoration project; any work conducted by Hull will be done in concert and coordination with EMHTs efforts.

Task 2. Sediment Remediation within Salt Creek

The Ohio Department of Transportation (ODOT) has identified a spill of sediment/soil that has impacted Salt Creek along State Route 327 near SR671. The release has covered the hillside and filled an approximate 20' x 25' area of the creek with 2' of solids. ODOT has requested pricing to perform the vacuum removal of the solids/sediment from the creek bed area and adjacent shoreline (est. 45tons). The material on the hillside will be left in place, while the vacuum excavated shoreline will be filled/raked with clean fill, seeded and covered with straw matting.

SUNPRO plans to install a sandbag dam around the impacted area. Once the identified soils have been removed, the sand bags will be pulled to shore and then vacuum removed with the bulk material for disposal (See attached SUNPRO proposal).

SCHEDULE

Upon authorization and approval from the USEPA, the consultant will immediately initiate SUNPRO's services on a case by case basis while working closely with ODOT-OES on requested services and tasks. There is no defined overall task completion time; however, timeframes of individual tasks will be communicated by ODOT to Hull and its subcontractors.

**ATTACHMENT A
FOR
MASTER SERVICES AGREEMENT FOR PROFESSIONAL SERVICES**

HULL & ASSOCIATES, INC.
TASK ORDER NO: 14-13-04
HULL PROJECT CODE: ODT183
CONTRACT NUMBER: 16631

ESTIMATED COST TASK 1 : \$12,000
ESTIMATED COST TASK 2 : \$71,320
TOTAL TASKS 1-4 : \$83,320

NUMBER OF COPIES OF DELIVERABLE: Variable, depending on specific Task

ESTIMATED TOTAL COST: \$83,320

HULL & ASSOCIATES, INC. PROJECT CONTACT: Brad M. Falkinburg, PWS

CLIENT PROJECT CONTACT: _____

CLIENT AUTHORIZATION: _____ DATE: _____

(Please return one signed original to Hull & Associates, Inc.'s Project Contact and retain one signed original for Client's records.)

ODOT RE 222
Rev. 03/2013

ROE
State

CONTRACT FOR RIGHT OF ENTRY

PARCEL(S): 1T
VIN-327-7.45

This Agreement is by and between the State of Ohio, Department of Transportation ["State"] and Marshall Wilburn ["Owner"]; "Owner" includes all of the foregoing named persons or entities]. State and Owner are referred to collectively in this Agreement as "Parties."

In consideration of the mutual promises, agreements and covenants herein contained, the Parties hereto do hereby contract as follows:

1. Price and Consideration

State shall pay to Owner the sum of \$2,500.00, which sum shall constitute the entire amount of compensation due Owner for granting to State the rights, interests and privileges hereinafter described immediately below in Section 2 Rights of Possession and Use.

Except as otherwise specified in this Agreement, in no event shall Owner be entitled to receive from State any interest, rent or other compensation of any kind whatsoever for the period of time during which State occupies, possesses and uses the real property described in Exhibit A attached hereto and by this reference incorporated herein.

2. Rights of Possession and Use

On and after August 1, 2015, State, its employees, agents, consulting engineers, contractors, subcontractors, utility companies and any other representatives of State shall have the irrevocable right to enter upon, occupy and have exclusive possession of the real property described in Exhibit A for the purposes of constructing thereon a highway or a facility incidental thereto.

Upon payment of the aforementioned sum to Owner, State shall have the right to physical possession of any and all buildings, houses, garages, sheds or any other types of structures, fixtures and other property, if any, located within or upon the real property described in Exhibit A.

The foregoing rights of possession shall be subject to the terms and conditions set forth in Exhibit B attached hereto and by this reference incorporated herein.

3. Owner's Covenant of Title

Owner hereby covenants with State that Owner is either (a) the true and lawful owner of the fee simple in and of the real property described in Exhibit A or (b) the true and lawful owner of all those rights, titles and interests required by law to occupy, use and enjoy the real property described in Exhibit A. Owner covenants further that Owner is the true owner of any property described in Exhibit B; and that Owner has the right and full power to grant to State the rights, interests and privileges described above in Section 2 Rights of Possession and Use.

4. Terms and Conditions Relevant to Appropriation of Owner's Property

(A) One of the express purposes of this Agreement is to allow State to enter upon, occupy and have exclusive possession of the real property described in Exhibit A for the purposes of constructing thereon a highway or facility incidental thereto, while the Parties attempt to negotiate further the sale and purchase of the property described in Exhibits A and B, and the conveyance and transfer thereof by Owner to State.

(B) Owner shall notify State of any prospective transfer of any of Owner's rights, titles or interests in the property. Owner shall provide to State such notification in writing not less than 14 days prior to the date on which the prospective transfer is to be closed or otherwise consummated; provided, however, if the prospective transfer will be closed or otherwise consummated less than 14 days after Owner agrees to such prospective transfer, then Owner shall provide to State such notification in writing immediately.

(C) Owner acknowledges that State has the right to commence an action to appropriate the property described in Exhibits A and B at any time it appears to the State that further negotiations with Owner are not warranted.

(D) State agrees to commence promptly an action to appropriate the property described in Exhibits A and B upon State's receipt from Owner of a written notice to commence an action to appropriate.

(E) The Parties agree that the hereinabove mentioned \$2,500.00 shall be credited to and applied against the total purchase price the Parties may negotiate for the sale and purchase of the property described in Exhibits A and B, and the conveyance and transfer thereof by Owner to State.

(F) The Parties agree that if State acquires the property described in Exhibits A and B by way of an action to appropriate the same, then the abovementioned \$2,500.00 shall be credited to and applied against any amount awarded to Owner in such appropriation action.

(G) Owner acknowledges that State has explained to Owner that no owner of property can be required to surrender possession of the same to State prior to:

- (i) the payment of the total, agreed upon purchase price by State; or
- (ii) the deposit by State with the court having jurisdiction over an action to appropriate property, for the benefit of the owner thereof, of an amount equal to not less than State's approved appraisal of the fair market value of the property.
- (iii) if the deposit described immediately above in paragraph 4(G)(ii) is not made, then upon the deposit by State with the court having jurisdiction over an action to appropriate property for the benefit of the owner thereof, of an amount equal to the amount assessed by the trier of fact (i.e., the court or a jury) and awarded to the owner upon a trial of such action.

5. Owner's Waiver of Right to Refuse Possession

Notwithstanding the rights described above in paragraphs 4(G)(i) and (ii), Owner hereby expressly waives the right to refuse to permit State to occupy, possess and use the property described in Exhibits A and B.

6. Preservation of All Other Rights

Except and unless otherwise specifically modified by the terms and conditions of this Agreement, any and all rights, privileges, titles and interests in or to the property described in Exhibit A and Exhibit B are preserved and retained by Owner.

7. Binding Agreement

Any and all of the terms, conditions and provisions of this Agreement shall be binding upon and shall inure to the benefit of State and Owner and their respective heirs, executors, administrators, successors and assigns.

8. Multiple Originals

This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute but one and the same instrument.

9. Entire Agreement

This instrument contains the entire agreement between the Parties, and it is expressly understood and agreed that no promises, provisions, terms, warranties, conditions or obligations whatever, express or implied, other than herein set forth, shall be binding upon either State or Owner.

10. Amendments and Modifications

No amendment or modification of this Agreement shall be valid or binding upon the Parties unless it is made in writing, cites this Agreement and is signed by State and Owner.

IN WITNESS WHEREOF, the State of Ohio, Department of Transportation, and Marshall Wilburn have executed this Agreement on the date(s) indicated immediately below their respective signatures

Marshall Wilburn
MARSHALL WILBURN

Date: 7-27-2015

STATE OF OHIO, COUNTY OF Ross ss:

BE IT REMEMBERED that on the 27th day of July, 2015, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Marshall Wilburn, who acknowledged the foregoing instrument as his voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.



RANDALL D WELSH
Notary Public State of Ohio
My Commission Expires

Randall D. Welsh

NOTARY PUBLIC
My Commission expires: 9-19-2016

STATE OF OHIO
DEPARTMENT OF TRANSPORTATION

Jerry Wray / 07
Jerry Wray, Director

Date: 7/27/15

By: Dan Frazee
District 9 Real Administrator

STATE OF OHIO, COUNTY OF ROSS ss:

BE IT REMEMBERED, that on the 27th day of July, 2015, before me the subscriber, a Notary Public in and for said state and county, personally came the above named Dan Frazee, the duly authorized representative of the State of Ohio, Department of Transportation, who acknowledged the foregoing instrument to be the voluntary act and deed of the State of Ohio, Department of Transportation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.



RANDALL D WELSH
Notary Public State of Ohio
My Commission Expires

Randall D. Welsh

NOTARY PUBLIC
My Commission expires: 9-19-2016

EXHIBIT A

Page 1 of 2

Rev. 06/09

RX 286 T

Ver. Date 07/27/2015

PID 98489

**PARCEL 1-T
VIN-327-7.45
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY TO
REMOVE DEBRIS FROM A WATERWAY
FOR 6 MONTHS FROM DATE OF ENTRY BY THE
STATE OF OHIO, DEPARTMENT OF TRANSPORTATION**

[Surveyor's description of the premises follows]

Situate in the State of Ohio, Vinton County, Eagle Township, Section 6, Township 9 North, Range 19 West, and being part of a 2.893 acre tract conveyed to Marshall Wilburn and Lillie E. Wilburn, by deed recorded in Official Record 109, Page 207 in the Vinton County Recorder's office, and being more particularly described as follows:

BEGINNING at a point at the Grantor's southwest corner, at the northwest corner of a 0.116 acre parcel conveyed to the Ohio Department of Transportation by deed recorded in Official Record Volume 38, Page 761, and on the existing northerly Right-of-Way line of State Route 671, said point being 62.48 feet left of centerline Station 1+98.43;

Thence **North 01° 29' 37" West**, a distance of **475.00** feet along the Grantor's westerly line, and along the easterly line of a 12 acre tract conveyed to Lloyd Gearing and Vina Gearing by deed recorded in Deed Book 99, Page 13, to a point 531.54 feet left of centerline Station 2+73.27;

Thence **South 87° 02' 09" East**, a distance of **199.72 feet** across the Grantor's tract, to a point on the Grantor's easterly line, and on the westerly line of a 142.19 acre tract conveyed to Vernon R. Brown and Forrest E. Brown by deed recorded in Deed Book 91, Page 642, 491.53 feet left of centerline Station 4+23.43;

Thence **South 03° 42' 32" West**, a distance of **440.00 feet** along the Grantor's easterly line, and along the westerly line of said Brown tract, to the Grantor's southeasterly corner, and the northeasterly corner of said 0.116 acre Ohio Department of Transportation tract, 59.07 feet left of centerline Station 3+57.09;

Thence along the Grantor's southerly line, the northerly line of said 0.116 acre Ohio Department of Transportation tract and the existing northerly Right-of-Way line of State Route 671, the following four courses:

EXHIBIT A

RX 286 T

Page 2 of 2

Rev. 06/09

- 1) **South 81° 41' 17" West**, a distance of **40.03 feet** to a point 60.00 feet left of centerline Station 3+19.02;
- 2) **South 10° 33' 28" East**, a distance of **6.71 feet** to a point 53.29 feet left of centerline Station 3+19.02;
- 3) Westerly a distance of **31.54 feet** along the arc of a curve deflecting to the left, having a radius of **746.20 feet**, a chord bearing of **South 84° 42' 00" West** and a chord length of **31.54 feet** to a point 56.18 feet left of Station 2+87.61;
- 4) **South 83° 29' 25" West**, a distance of **89.40 feet** to the TRUE POINT OF BEGINNING.

The above described area contains 1.884 acres of land, more or less, of which the present road occupies 0.000 acres of land, more or less which is part of the Vinton County Auditor's Permanent Parcel number 04-00434.000.

This description was prepared on July 27, 2015, by Michael James Ware, Professional Surveyor Number 8054.

Instrument reference as of the date this survey was prepared: Official Record 109, Page 207, Recorder's Office, Vinton County, Ohio.

All stations and offsets contained in this description are referenced to the VIN-671-0.00 Right-of-Way plans prepared for the Ohio Department of Transportation.

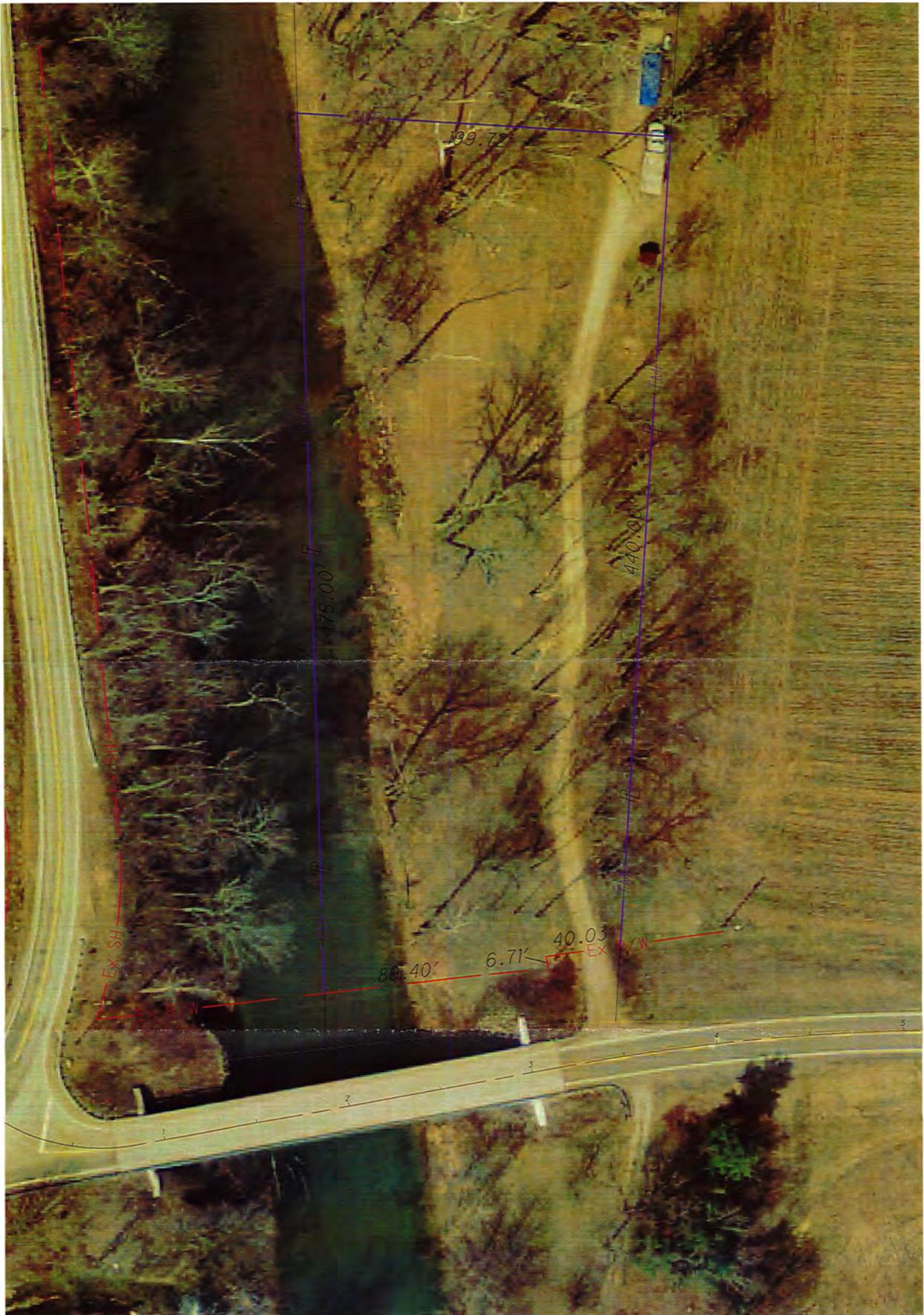
Bearings for this description are based on the VIN-671-0.00 Right-of-Way plans prepared for the Ohio Department of Transportation.

Michael James Ware
Professional Surveyor S-8054

Date

Exhibit 7

Page 8 of 10



ODOT RE 222-B
Rev. 06/09

ROE
State

EXHIBIT B
TO
CONTRACT FOR RIGHT OF ENTRY

PARCEL(S): 1T
VIN-327-7.45

State's right to physical possession of any and all buildings, houses, garages, sheds or other types of structures as provided for in Section 2 of the *Contract For Right of Entry* to which this document is attached as Exhibit B shall be subject to only the following restrictions [if "none" then so indicate]: NONE

TERMS AND CONDITION OF ROE

- 1.) Lump sum \$2,500 rent for duration of work.
- 2.) Two inches maximum of 411 stone placed and compacted on the entire driveway when work is completed
- 3.) All disturbed areas levelled, seeded and mulched when work is complete.