Public Notice

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

Applicant:
Nestle R&D Center, Inc.

Published: MAY 17, 2012
Expires: JUNE 15, 2012

Application No: 2007-00264
Section: Ohio

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

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

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

Nestle R&D Center, Inc., 5750 Harper Road, Solon, Ohio, 44139 has applied for a Department of the Army permit to permanently place fill into waters of the United States for activities associated with the construction of a product technology facility on an approximately 16-acre site. Specifically, the applicant has proposed the construction of a new 92,865 square foot building, a 178-space parking lot, access road, and parking aprons for shipping and receiving. The proposed location is adjacent to an existing Nestle facility used for research, production and administrative tasks. The applicant is seeking Department of the Army authorization to permanently fill 2.90 acres of federally jurisdictional wetland (Wetlands A, C and D) during the construction activities (Sheet 3 of 4). The proposed project is located south of Cannon Road, west of U.S. Route 422 and east of Hawthorn Parkway in the City of Solon, Cuyahoga County, Ohio (Sheet 1 of 4).

A Preliminary Jurisdictional Determination (JD) was issued by the Buffalo District on April 27, 2012 verifying the presence of 3.76 acres of federally jurisdictional wetlands under Section 404 of the Clean Water Act (Sheet 2 of 4). Wetland A (2.82 acres) has forested and emergent components. Wetlands B (0.69 acres), C (0.08 acres), D (0.06 acres) and E (0.03 acres) are dominated by emergent vegetation.

To compensate for unavoidable impacts to 2.90 acres of wetland, the applicant has proposed the restoration, enhancement and preservation of 8 acres of wetland on a property in the City of Aurora, Portage County, Ohio. The proposed mitigation property currently contains forest, agricultural fields, streams, a pond and residential structures (Sheet 4 of 4).

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

Comments or questions pertaining to the work described in this notice should be reference the Application Number and be directed to the attention of Audrey Richter, who can be contacted at the above address, by calling (716)-879-4447, or by e-mail at: Audrey.M.Richter@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

The following authorization(s) may be required for this project:
Water Quality Certification (or waiver thereof) from the Ohio Environmental Protection Agency.

Based on preliminary findings, there do not appear to be any properties listed in, or eligible for listing in, the National Register of Historic Places within the permit area as shown on Sheet 3 of 4. Therefore, the Corps has determined that no historic properties will be affected from the proposed project. This notice constitutes initiation of consultation with the Ohio Historic Preservation Office (SHPO) per Section 106 of the National Historic Preservation Act. All currently available historic resource information pertaining to this proposed project if any has been provided to the SHPO. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that information to the SHPO for their review.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting, under separate cover, with the USFWS to evaluate any potential impacts to: Indiana bat (*Myotis sodalis*), kirtland's warbler (*Setophaga kirtlandii*), and piping plover (*Charadrius melodus*), and to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat.

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

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

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

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

The decision to approve or deny this permit request will be based on an evaluation of the probable

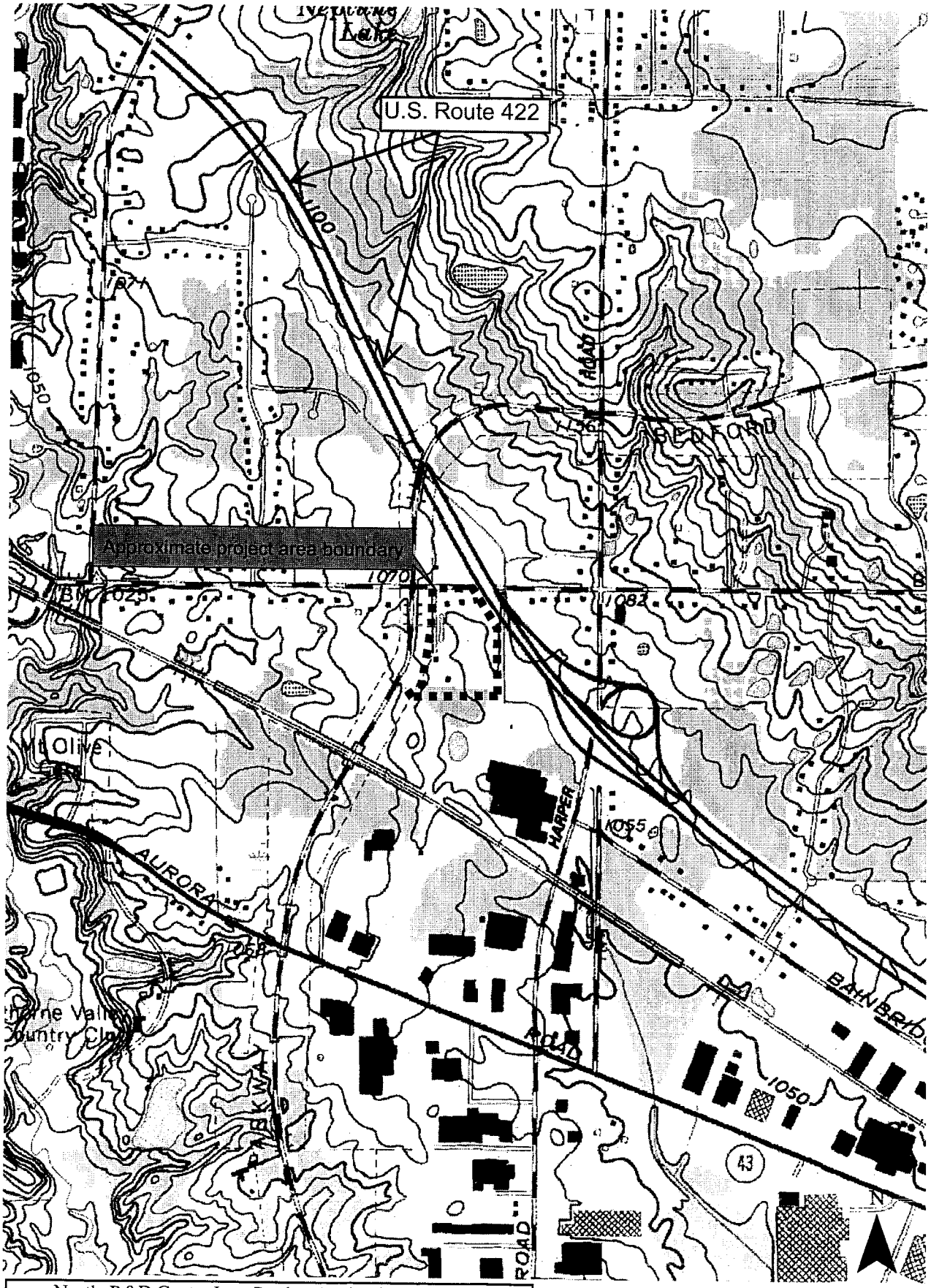
impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably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

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

SIGNED

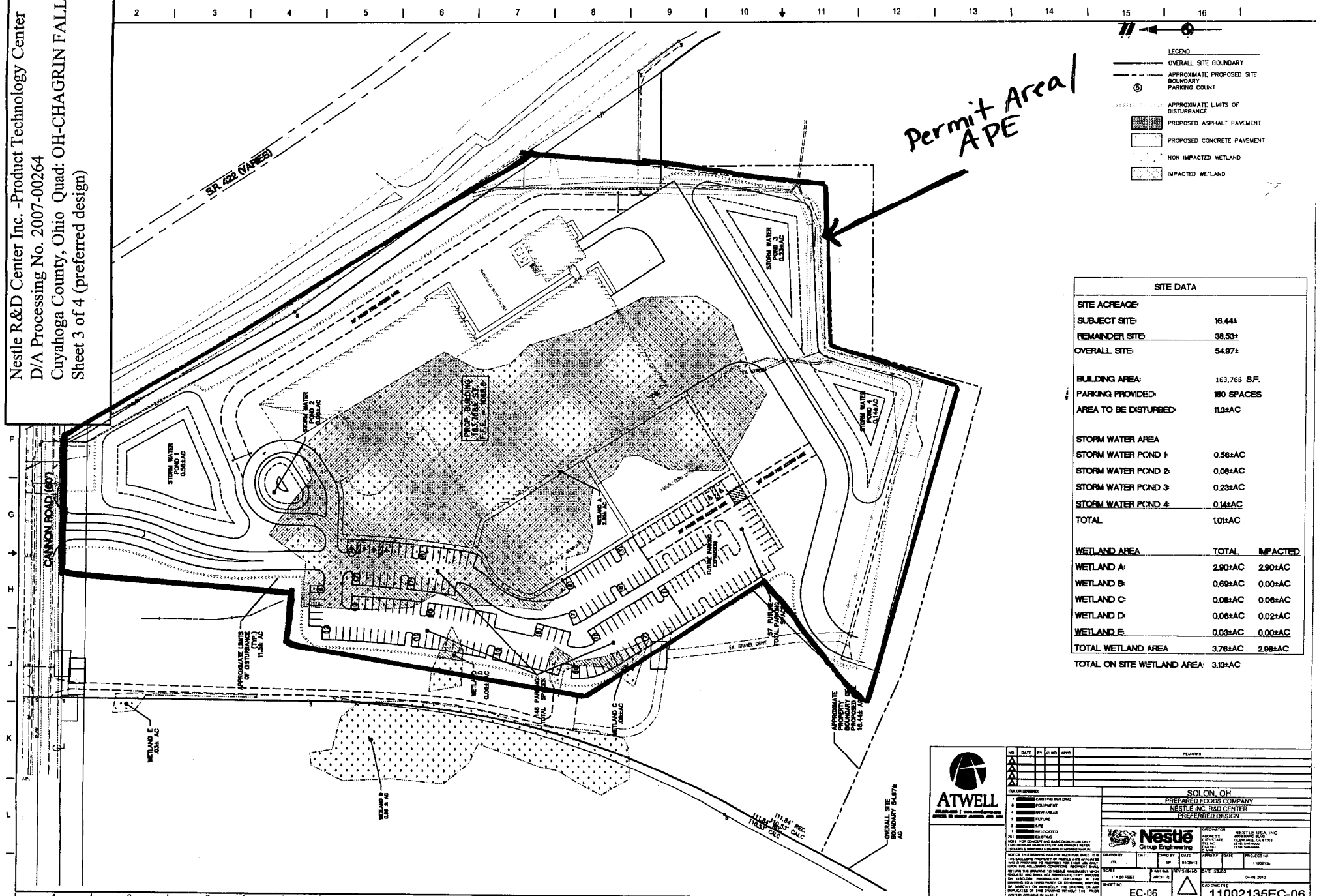
Diane C. Kozlowski
Chief, Regulatory Branch

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



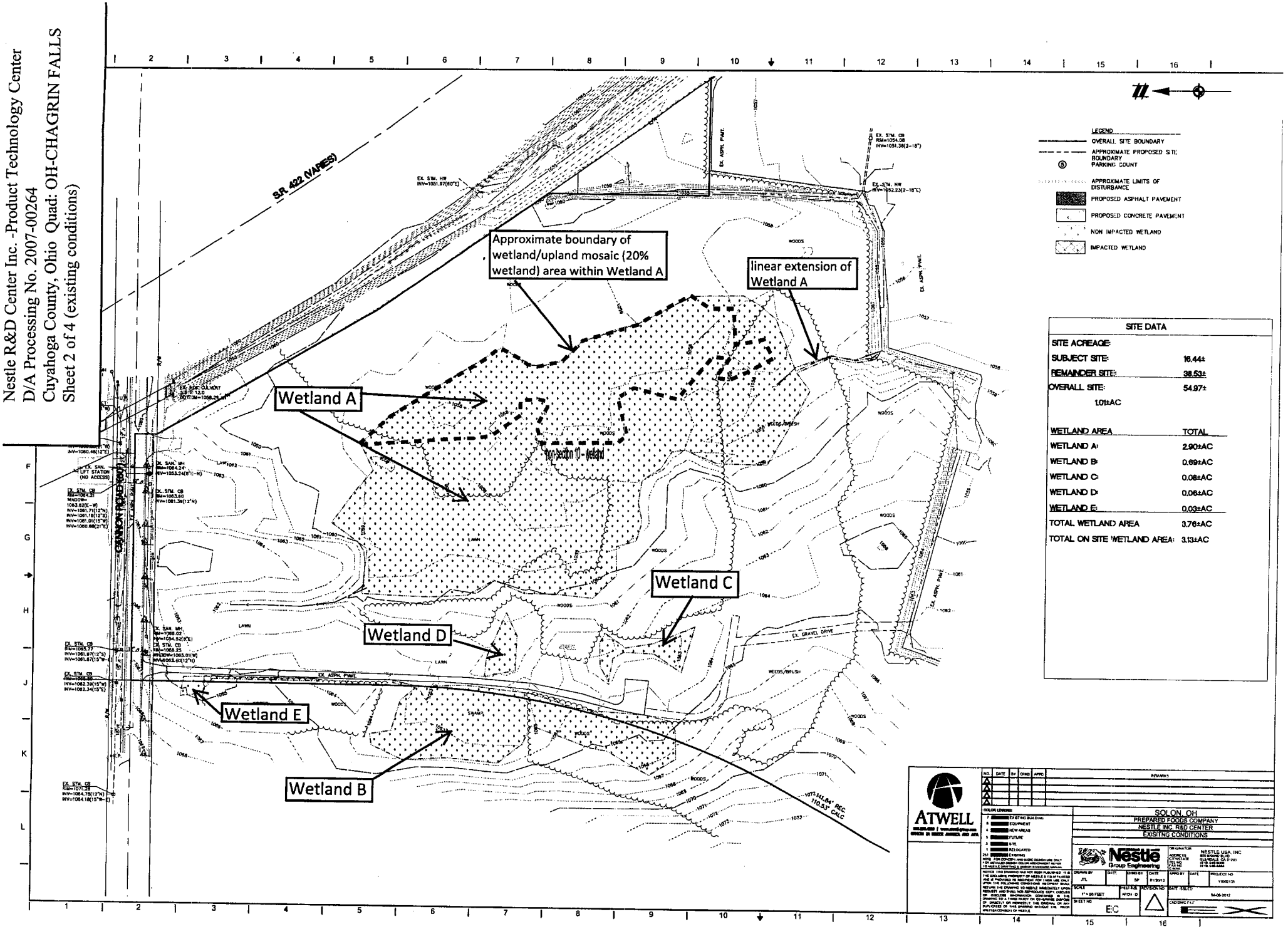
Nestle R&D Center Inc. -Product Technology Center
D/A Processing No. 2007-00264
Cuyahoga County, Ohio Quad: OH-CHAGRIN FALLS
Sheet 1 of 4

Nestle R&D Center Inc. -Product Technology Center
D/A Processing No. 2007-00264
Cuyahoga County, Ohio Quad: OH-CHAGRIN FALLS
Sheet 3 of 4 (preferred design)

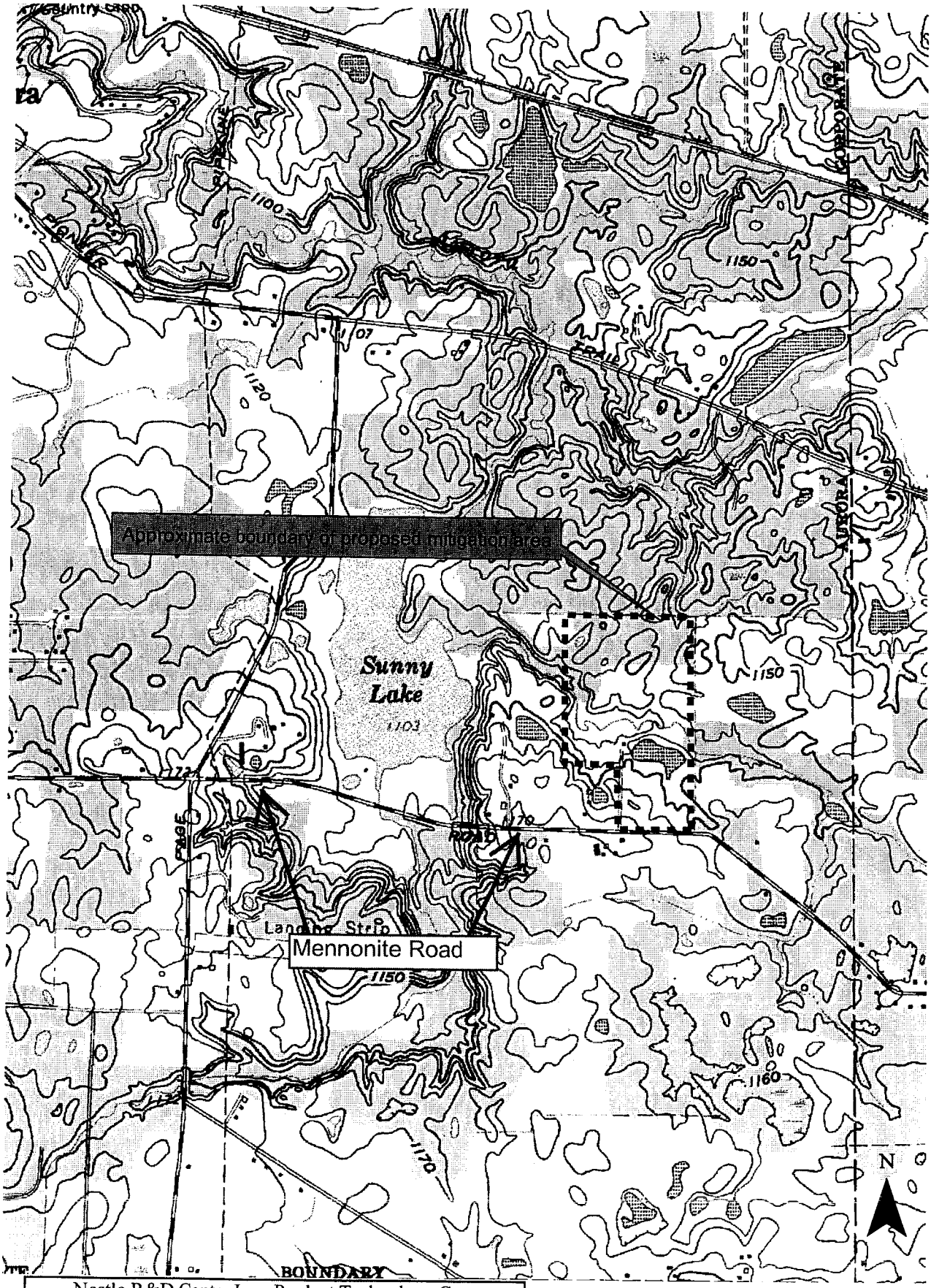


SITE DATA		
SITE ACREAGE:		
SUBJECT SITE:	16.44±	
REMAINDER SITE:	38.53±	
OVERALL SITE:	54.97±	
BUILDING AREA:	163,768 S.F.	
PARKING PROVIDED:	180 SPACES	
AREA TO BE DISTURBED:	11.3±AC	
STORM WATER AREA		
STORM WATER POND 1:	0.56±AC	
STORM WATER POND 2:	0.08±AC	
STORM WATER POND 3:	0.23±AC	
STORM WATER POND 4:	0.14±AC	
TOTAL	1.01±AC	
WETLAND AREA	TOTAL	IMPACTED
WETLAND A:	2.90±AC	2.90±AC
WETLAND B:	0.69±AC	0.00±AC
WETLAND C:	0.08±AC	0.06±AC
WETLAND D:	0.06±AC	0.02±AC
WETLAND E:	0.03±AC	0.00±AC
TOTAL WETLAND AREA	3.76±AC	2.98±AC
TOTAL ON SITE WETLAND AREA:	3.13±AC	

Nestle R&D Center Inc. -Product Technology Center
D/A Processing No. 2007-00264
Cuyahoga County, Ohio Quad: OH-CHAGRIN FALLS
Sheet 2 of 4 (existing conditions)



SITE DATA	
SITE ACREAGE:	
SUBJECT SITE:	16.44±
REMAINDER SITE:	38.53±
OVERALL SITE:	54.97±
1.01±AC	
WETLAND AREA	TOTAL
WETLAND A:	2.90±AC
WETLAND B:	0.69±AC
WETLAND C:	0.08±AC
WETLAND D:	0.06±AC
WETLAND E:	0.03±AC
TOTAL WETLAND AREA	3.76±AC
TOTAL ON SITE WETLAND AREA:	3.13±AC



Nestle R&D Center Inc. -Product Technology Center
D/A Processing No. 2007-00264
Cuyahoga County, Ohio Quad: OH-CHAGRIN FALLS
Sheet 4 of 4 (proposed mitigation area)