



U.S. Army Corps
of Engineers
Buffalo District

Public Notice

Applicant: The Nature
Conservancy

Published: February 7, 2022
Expires: March 9, 2022

Brandywine Creek In-Lieu Fee Mitigation Site

Application No: LRB-2021-01092
Section: OH

All written comments should reference the above Application No. and be addressed to:
US Army Corps of Engineers, Buffalo District
Regulatory Branch (Attn:) Susan L. Baker
1776 Niagara Street
Buffalo, NY 14207

INTERESTED PARTIES ARE HEREBY NOTIFIED THAT THE NATURE CONSERVANCY HAS PROPOSED THE BRANDYWINE CREEK IN-LIEU FEE MITIGATION SITE TO BE INCORPORATED INTO THEIR IN-LIEU FEE MITIGATION PROGRAM. A MITIGATION PLAN HAS BEEN RECEIVED FOR THIS MITIGATION SITE PURSUANT TO 33 CFR 332, COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES (FEDERAL REGISTER DATED APRIL 10, 2008). DEPARTMENT OF ARMY PERMIT AUTHORIZATION WOULD BE REQUIRED FOR THE DISCHARGE OF DREDGED AND/OR FILL MATERIAL INTO WATERS OF THE U.S. ASSOCIATED WITH THE PROPOSED MITIGATION ACTIVITIES. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT THIS MITIGATION SITE WILL BE APPROVED.

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC; FEDERAL, STATE, AND LOCAL AGENCIES AND OFFICIALS; AMERICAN INDIAN TRIBES; AND OTHER INTERESTED PARTIES IN ORDER TO CONSIDER AND EVALUATE THE PROPOSED BRANDYWINE CREEK IN-LIEU FEE MITIGATION SITE.

GENERAL INFORMATION

COMMENT PERIOD: Comments submitted within 30 days from the date of this notice will be fully considered during the review of this proposal.

DISCLAIMER: 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 Corps web sites. A lack of response will be interpreted

as meaning that there is no objection to the work as proposed. **Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.**

CONTACT: Comments pertaining to the proposed activities described in this notice should reference the Application Number and be directed to the attention of Susan L. Baker, who can be contacted at the above address, by calling (716) 879-4474, or by e-mail at: Susan.L.Baker@usace.army.mil.

BACKGROUND

The Corps has the authority to issue permits under Section 404 of the Clean Water Act for discharges of dredged or fill material into waters of the United States, including jurisdictional wetlands and tributaries, and for structures or work in navigable waters under Section 10 of the Rivers and Harbors Act of 1899. Permittees may be required to provide “compensatory mitigation” for unavoidable impacts to aquatic resources.

One such option for providing compensatory mitigation is through the purchase of credits from an approved in-lieu fee program (ILFP). ILFP means a program involving the restoration, establishment, enhancement, and/or preservation of aquatic resources at one or more mitigation sites through funds paid to a governmental or non-profit natural resources management entity to satisfy compensatory mitigation requirements.

The establishment and use of an ILFP mitigation site must be in accordance with the ILFP instrument signed by the Interagency Review Team (IRT). The IRT is comprised of the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the United States Department of Agricultural Natural Resources Conservation Service, the Ohio Environmental Protection Agency, and the Ohio Department of Natural Resources. The Nature Conservancy ILFP was approved in December of 2014 and is authorized to provide compensatory wetland and stream mitigation via sale of advance credits in forty-four service areas within the State of Ohio, including the Cuyahoga River Service Area (USGS 8-digit Hydrologic Unit Code HUC 04110002).

Approval to use an approved ILFP to offset impacts associated with a specific permit is the decision of the Corps. The Corps provides no guarantee that any particular general or individual permit would be granted authorization to use an approved ILFP to compensate for unavoidable impacts.

Department of Army authorization does convey any property rights, either in real estate or material, or any exclusive privileges. Furthermore, Department of Army authorization does not sanction any injury to property or invasion of rights or any infringement of Federal, state, or local laws or regulations.

PROPOSAL UNDER REVIEW

ILFP SPONSOR: The Nature Conservancy - Ohio Mitigation In-Lieu Fee Program; 6375 Riverside Drive, Suite 100; Dublin, Ohio 43017-504543110

LOCATION: The 28.8-acre Brandywine Creek In-Lieu Fee Mitigation Site (“Site”) is located north and east of the terminus of Industrial Parkway, City of Hudson, Summit County, Ohio (41.268344, -81.498511).

PROPOSAL: The Sponsor has submitted a mitigation plan to the Corps-Buffalo District to establish the Site. The Site is proposed to be used to fulfill mitigation obligations assumed by The Nature Conservancy through the sale of advance stream credits in Cuyahoga River Service Area (USGS 8-digit Hydrologic Unit Code HUC 04110002).

Historical land alterations at the Site include stream channelization, logging, grazing, row crop production, and the creation of ditches to improve drainage. These past disturbances have resulted in altered hydrology, an increase in sedimentation, and the loss of flood attenuation benefits. Both streams and wetlands persist within the Site however, a full aquatic resource delineation has not been completed to date.

The goals of the Site would be to restore and enhance streams to provide high quality aquatic habitat, improve water quality, regulate watershed hydrology, and attenuate runoff; restore and enhance riparian buffers to increase aquatic habitat quality, improve water quality, regulate watershed hydrology, and attenuate runoff; provide a diverse interspersed of restored habitat features and buffers; establish connectivity within an existing natural area; provide an endowment for the long-term maintenance of the Site, and provide long term Site protection via the execution of a conservation easement.

Restoration would involve increasing instream channel habitat, improving floodplain connectivity, reducing siltation, rehabilitating the riparian area through invasive species treatment, and planting a robust and diverse riparian plant community.

Credits are proposed to be generated in accordance with the following table:

Stream	Method of Compensation	Estimated Linear Feet	Estimated Credit Ratio	Estimated Stream Credits
Unnamed Tributaries of Brandywine Creek (perennial)	Type 1 Level 2	5,524 (lf)	1.75:1	9,667

Location and details of the proposed are shown on the attached documents. The entire mitigation plan for the Site may be found on the Buffalo District’s website along with this Public Notice:

<http://www.lrb.usace.army.mil/Missions/Regulatory/Public-Notices/>

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification may be required from the Ohio Environmental Protection Agency in conjunction with the proposed establishment of the Site.

HISTORIC AND CULTURAL RESOURCES: Based on a review of the Ohio Historic Preservation Office (OHPO) Geocortex Viewer (Viewer), there do not appear to be any known properties listed in, or eligible for listing in, the National Register of Historic Places within the limits of the proposed Site. The Viewer indicates that this Site was previously surveyed for historic/cultural resources in 1997. Based on available information, the Corps has determined that the proposed Site will have no effect on any properties listed in, or eligible for listing in, the National Register of Historic Places. This notice constitutes initiation of consultation with OHPO as per Section 106 of the National Historic Preservation Act. Should any additional information concerning historic properties or cultural resources be submitted to the Corps before the end of the comment period of this notice, the Corps will forward the submitted information to the OHPO for their review.

THREATENED & ENDANGERED SPECIES: Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting with the USFWS to evaluate any potential impacts associated with Site to: Indiana bat (E), northern long-eared bat (T), and northern monkshood (T), 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.

REQUEST FOR PUBLIC HEARING: 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 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 proposal. 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 activities requiring approval or 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.

EVALUATION: The decision to approve or deny this proposal will be based on an evaluation of compliance with 33 CFR 332 (Compensatory Mitigation for Losses of Aquatic Resources, Federal Register: April 10, 2008, Effective June 9, 2008), and 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

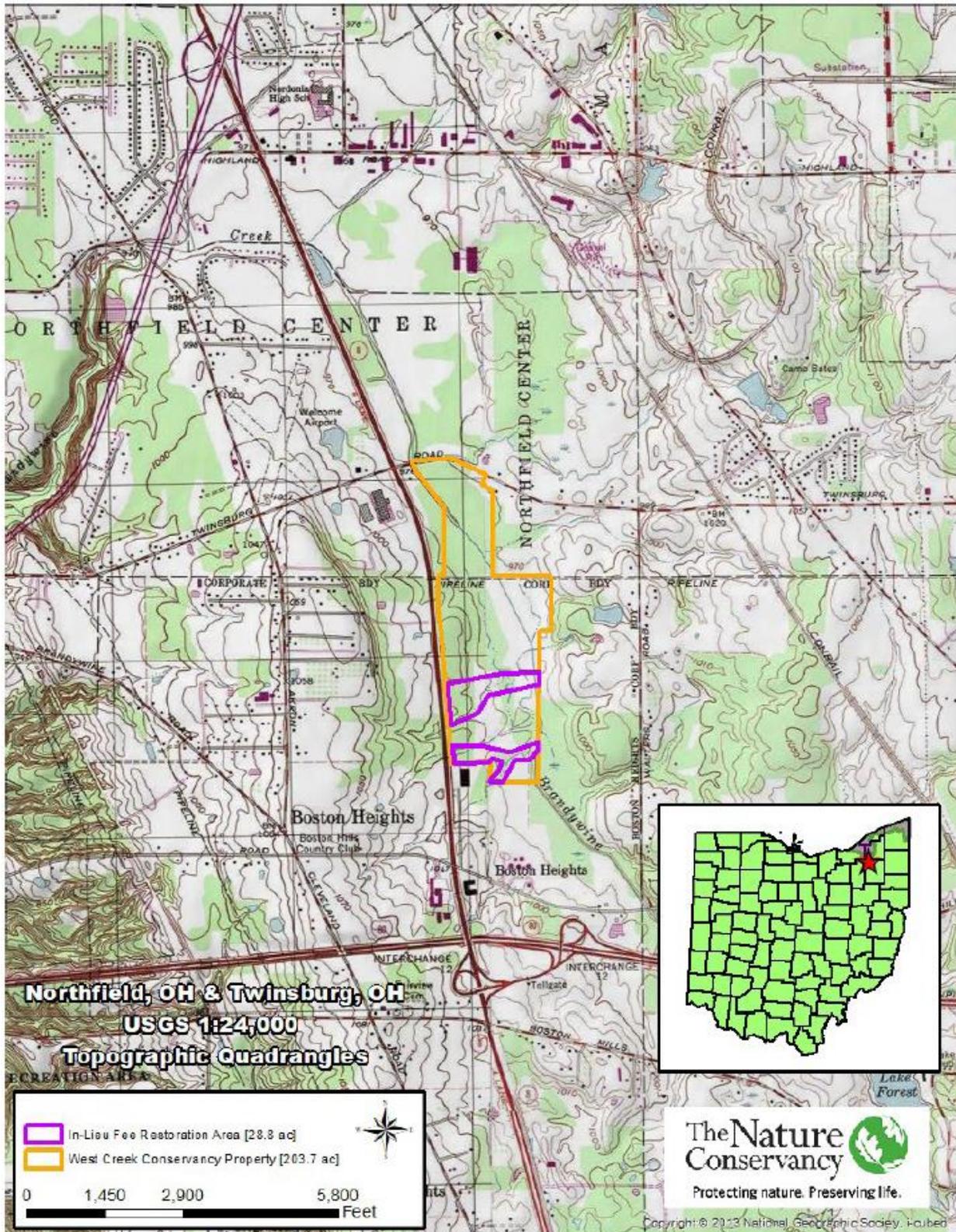
foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain 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. Comments are used in the preparation of an Environmental Assessment 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.

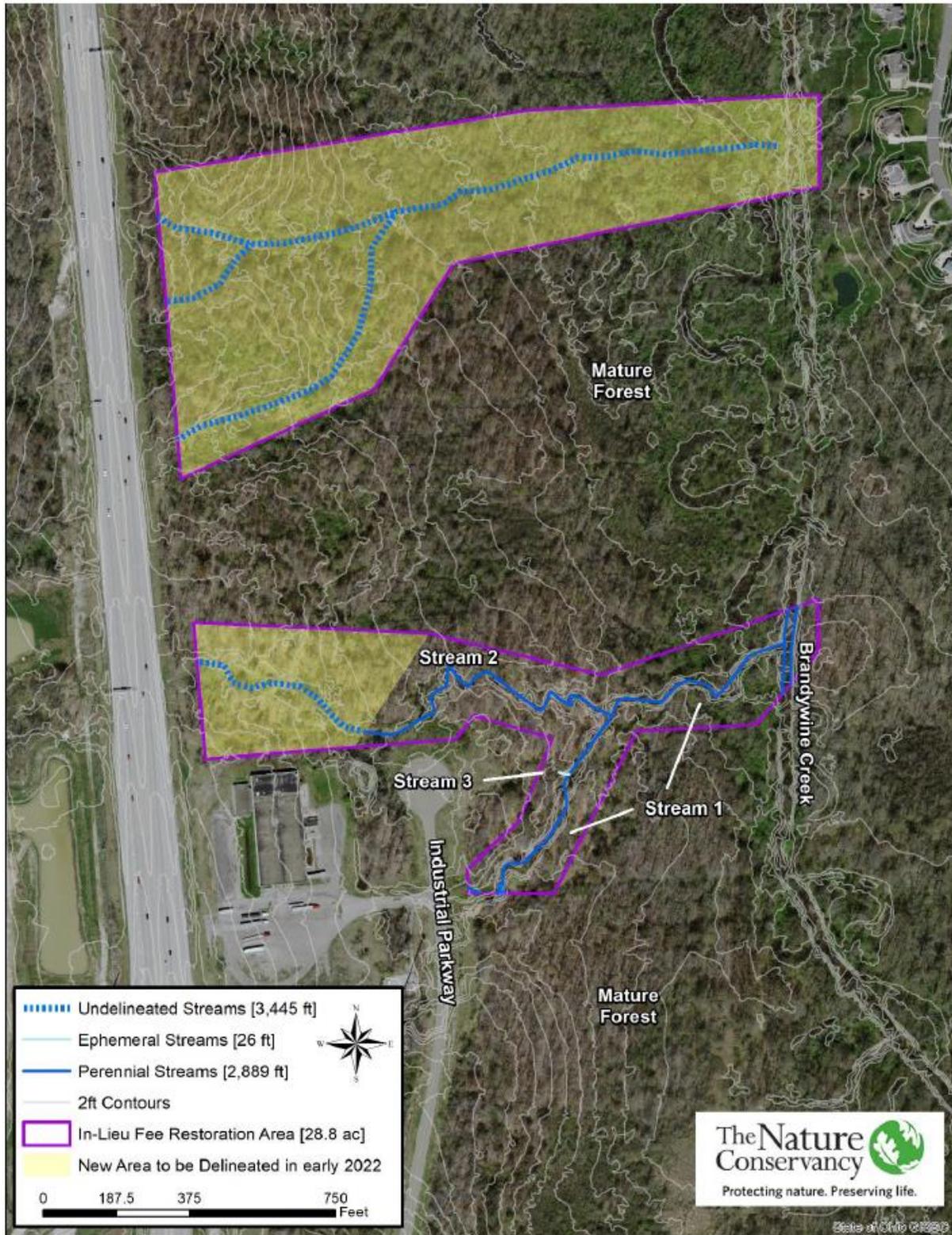
SIGNED

Steven V. Metivier
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.

TNC- Brandywine Creek In-Lieu Fee Mitigation Site
Department of Army No: LRB-2021-01092
Quad: Northfield, OH
Summit County, Ohio
Sheet 1 of 4: Location Map





Wetlands Resource Center – Congress Lake Wetland Mitigation Bank
Department of Army No: LRB-2021-01011
Quad: Hartville, OH
Stark County, Ohio
Sheet 3 of 4: Proposed Restoration Map

