



U.S. Army Corps
of Engineers
Buffalo District

Public Notice

Applicant: Stream +
Wetlands Foundation

Published: May 23, 2022
Expires: June 22, 2022

Western Lake Erie Basin Umbrella Mitigation Banking Instrument &
Henry Creek Wetland and Stream Mitigation Bank

Application No: LRB- 2022-00501
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

THIS NOTICE ANNOUNCES A PROSPECTUS THAT HAS BEEN SUBMITTED FOR THE PROPOSED DEVELOPMENT OF A WETLAND AND STREAM UMBRELLA MITIGATION BANKING INSTRUMENT COVERING THE WESTERN LAKE ERIE BASIN WITH AN INITIAL MITIGATION BANK SITE, REFERRED TO AS THE HENRY CREEK WETLAND AND STREAM MITIGATION BANK, PURSUANT TO 33 CFR 332, COMPENSATORY MITIGATION FOR LOSSES OF AQUATIC RESOURCES (FEDERAL REGISTER: APRIL 10, 2008, EFFECTIVE JUNE 9, 2008). DEPARTMENT OF ARMY AUTHORIZATION PURSUANT TO SECTION 404 OF THE CLEAN WATER ACT WOULD BE REQUIRED FOR PROPOSED STREAM AND WETLAND MITIGATION ACTIVITIES THAT WOULD RESULT IN A DICHARGE OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES.

GENERAL INFORMATION

PURPOSE: The U.S. Army Corps of Engineers is soliciting 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 Western Lake Erie Basin Umbrella Mitigation Banking Instrument and the Henry Creek Wetland and Stream Mitigation Bank.

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 a Corps internet 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 or questions pertaining to the work 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 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 a mitigation bank. “Mitigation bank” means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by Department of Army permits. Mitigation banks are operated by third-party sponsors that assume legal responsibility for providing the required compensatory mitigation of multiple permittees at one or more off-site locations. The operation and use of a mitigation bank are governed by a mitigation banking instrument. An umbrella mitigation banking instrument allows future authorization of additional mitigation bank sites to be incorporated by way of a mitigation banking instrument modification.

As indicated in the Corps regulations (33 CFR 332.8(b)), the district engineer will establish an Interagency Review Team (IRT) to review documentation for the establishment and management of mitigation banks. The IRT facilitates the establishment of mitigation banks through the development and review of mitigation banking instruments. The Ohio IRT consists of the following federal and state resource agencies: Corps - Buffalo, Huntington, and Pittsburgh Districts; U.S. Environmental Protection Agency (USEPA); U.S. Fish and Wildlife Service (USFWS); U.S. Department of Agriculture’s Natural Resources Conservation Service; Ohio Environmental Protection Agency (OEPA); and Ohio Department of Natural Resources.

Approval to use an approved mitigation bank 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 mitigation bank to compensate for unavoidable impacts.

PROPOSAL UNDER REVIEW

UMBI/BANK SPONSOR: Stream + Wetlands Foundation, 123 South Broad Street, Suite 238
P.O. Box 369, Lancaster, OH 43130

PROPOSAL: The Bank Sponsor has submitted a prospectus to the Corps, Buffalo District for the Western Lake Erie Basin Umbrella Mitigation Banking Instrument (UMBI) which would service the Western Lake Erie Basin (USGS 6-digit Hydrologic Unit Code 041000) with one initial proposed mitigation bank, the Henry Creek Wetland and Stream Mitigation Bank (“Bank”).

MITIGATION BANK LOCATION: The 151.7-acre proposed Bank is located east of E Broadway Road between Libbey Road and Genoa Road in Perrysburg Township, Wood County, Ohio (latitude: 41.518594, longitude: -83.504617).

OBJECTIVES: The overall objective of the UMBI and the Bank is to generate compensatory mitigation credits to offset unavoidable adverse impacts to wetlands and streams within the Service Area, as described below. Credits would be generated through the restoration (re-establishment and rehabilitation), establishment, enhancement and/or preservation of wetlands and streams and the restoration and/or preservation of upland buffers within the boundaries of Bank and any future mitigation bank sites added to the UMBI.

SERVICE AREA: Service area means the geographic area within which impacts can be mitigated at a specific mitigation bank or an in-lieu fee program, as designated in its instrument. The Service Area for the UMBI and Bank is proposed as follows:

- For impacts to federal jurisdictional waters, the Service Area is proposed to encompass the entire Western Lake Erie 6-digit Hydrologic Unit Code (HUC 041000) watershed in Ohio.
- For non-jurisdictional waters, the Service Area is proposed as follows:
 - For impacts to isolated Category 1 wetlands of any size and isolated Category 2 wetlands authorized under a level 1 review, the service area would include the entire Ohio portion of USACE Buffalo District (ORC §6111.022).
 - For other impacts, the service area would encompass the entire Western Lake Erie 6-digit Hydrologic Unit Code (HUC 041000) watershed in Ohio.
- Compensatory mitigation of wetland or stream impacts outside the Service Area could be considered by USACE and/or Ohio EPA, as applicable, on a case-by-case basis consistent with applicable state and federal regulations and laws, including but not limited to 33 CFR §332, ORC §6111, and Ohio Administrative Code (OAC) §3745-1-54.
- Approved mitigation credits generated by the mitigation site(s) authorized under this instrument could be considered for use by in-lieu fee program sponsors to fulfill mitigation obligations for impacts located within the Service Area, and outside of the Service Area, on a case-by-case basis as approved by USACE and/or Ohio EPA.

BANK MITIGATION PLAN: The approximately 151.7-acre Bank has been subject to agricultural activities since at least the 1950’s. The Bank Sponsor identified one wetland complex totaling 0.6 acres within the limits of the Bank; this wetland has been regularly disturbed by farming activities. The Bank Sponsor also identified two perennial streams, Henry Creek (253 linear feet) and Stream 2 (2,652 linear feet) within the limits of the Bank. Both Henry Creek and Stream 2 have been historically modified via channelization to improve drainage to the surrounding agricultural fields.

The primary objective of the Bank is to provide compensatory mitigation to offset unavoidable adverse impacts separately authorized by Clean Water Act Sections 404 and 401 permits, Section 10 of the Rivers and Harbors Act, and/or isolated wetlands authorized by ORC Section 6111.

The Bank Mitigation Plan states that the Bank would be designed, constructed, and managed to achieve the following objectives:

- Re-establish high-quality non-forested and forested wetlands. Re-establishment of high-quality wetlands will take place across the majority of the site's active restoration area. To accomplish this objective, hydrology restoration, microtopography restoration, and installation of native trees, shrubs, and seed mixes will take place. Forested, scrub/shrub, emergent marsh plant communities are anticipated to develop across the site depending on restored hydrology and existing site topography. The site will be designed, constructed and planted with the aim of restoring the maximum amount of forested wetlands practicable. These restoration activities, more fully described in the Mitigation Work Plan section of this document, will re-establish a diverse wetland system to an area that likely once supported forested wetlands prior to the conversion of the land to agricultural use. In accordance with 33 CFR 332.2, re-establishment of these areas will result in rebuilding a former aquatic resource and will result in a gain of aquatic resource area and functions.
- Re-establish high-quality forested uplands. Portions of the bank's active restoration area in the existing agricultural fields that do not convert to wetland will be restored to upland forest. These areas will provide valuable habitat adjacent to re-established and rehabilitated wetlands. A mosaic of wetlands is anticipated to develop within the upland forest restoration areas. The restored upland forests will be planted and seeded with native species at similar densities to the re-established and rehabilitated wetlands; however, species will be chosen whose individual hydrology tolerances are suited to drier soil conditions.
- Rehabilitate existing highly-degraded wetlands (no mitigation credits being requested). Rehabilitation of the existing farmed wetlands will take place by restoring the suite of functions currently absent from these highly degraded aquatic resources. Hydrology in these areas has been manipulated through the installation and ongoing maintenance of drainage tile and farm ditches. Restoration activities, including tile removal, ditch plugging, microtopography restoration, invasive species control, seeding, and planting will restore a more dynamic and natural wetland ecosystem with a natural and balanced hydrologic regime. These activities will lead to an immediate increase in plant community richness and wildlife habitat quality, as well as improvements in other wetland functions (e.g., ground water exchange, water storage, sediment retention, etc.). Due to the small size of these areas, no mitigation credit is being requested.
- Restore a new sinuous channel and associated floodplain along the existing agricultural farm ditch. The on-site unnamed "Stream 2" functions as part of an agricultural drainage system that is actively maintained (through dredging) to maximize conveyance of surface runoff and subsurface tile drainage from surrounding agricultural fields. Ongoing maintenance has led to channel instability and disconnected the stream from a functional floodplain. To restore more natural function to this stream, a small meandering channel with associated floodplains will be excavated. This will improve water quality and habitat, as well as allow the stream to access a forested, functional floodplain.

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

Wetland Re-establishment	Ratio	Area (ac)	Credits		
			Non-forested	Forested	Total
Non-Forested wetlands	1:1	9.8	9.8		9.8
Non-Forested wetlands (setback ¹)	1:2	1.1	0.6		0.6
Forested wetlands	1:1	103.4		103.4	103.4
Forested wetlands (setback ¹)	1:2	10.9		5.5	5.5
Forested wetlands/uplands mosaic	W=1:1	5.5		5.5	5.5
	U=1:4	1.8		0.5	0.5
Forested wetlands/uplands mosaic (setback ¹)	W=1:2	3.5		1.8	1.8
	U=1:4	1.2		0.3	0.3
Forested uplands <100' from wetlands	1:4	5.5		1.4	1.4
Re-establishment Totals		142.7ac	10.4	118.4	128.8
<i>Initial Credit Release</i>		<i>30%</i>	3.1	35.5	38.6
Wetland Rehabilitation	Ratio	Area (ac)	Credits		
			Non-forested	Forested	Total
Non-Forested wetlands	1:2	0.6	n/a		n/a
Rehabilitation Totals		0.6ac	n/a		n/a
<i>Initial Credit Release</i>		<i>15%</i>	<i>n/a</i>		<i>n/a</i>
Wetland Project Total		143.3ac	10.4	118.4	128.8
<i>Initial Credit Release</i>			3.1	35.5	38.6

Stream Mitigation Type	Flow Regime	Ratio	Area	Length (lf)	Credits
Mitigation Type 1, Activity Level 1	perennial	2:1		4,348	8,696
Stream Project Totals				4,348	8,696
<i>Initial Credit Release</i>				<i>30%</i>	<i>2,609</i>

If approved, the Bank Sponsor would provide long-term protection of the Bank through the recordation of a legal site protection instrument. A Corps-approved third-party manager would be responsible for long-term management after Bank closure. Financial assurances would be provided via a 10-year causality insurance policy.

Location and details of the proposed Bank are shown on the attached documents. The entire prospectus for the UMBI and the Bank 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 Bank.

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 Bank. No resources are identified within or near the Bank in Mills 1914

Archeological Atlas of Ohio. Based on the information available, it has been determined that no historic properties would be affected by the proposed Bank establishment and operation. This notice constitutes initiation of consultation with the OHPO per Section 106 of the National Historic Preservation Act; a response is requested within 30 days of the date of this notice. 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 under separate cover to evaluate any potential impacts associated with Bank to: Indiana bat (E) and northern long-eared bat (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 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

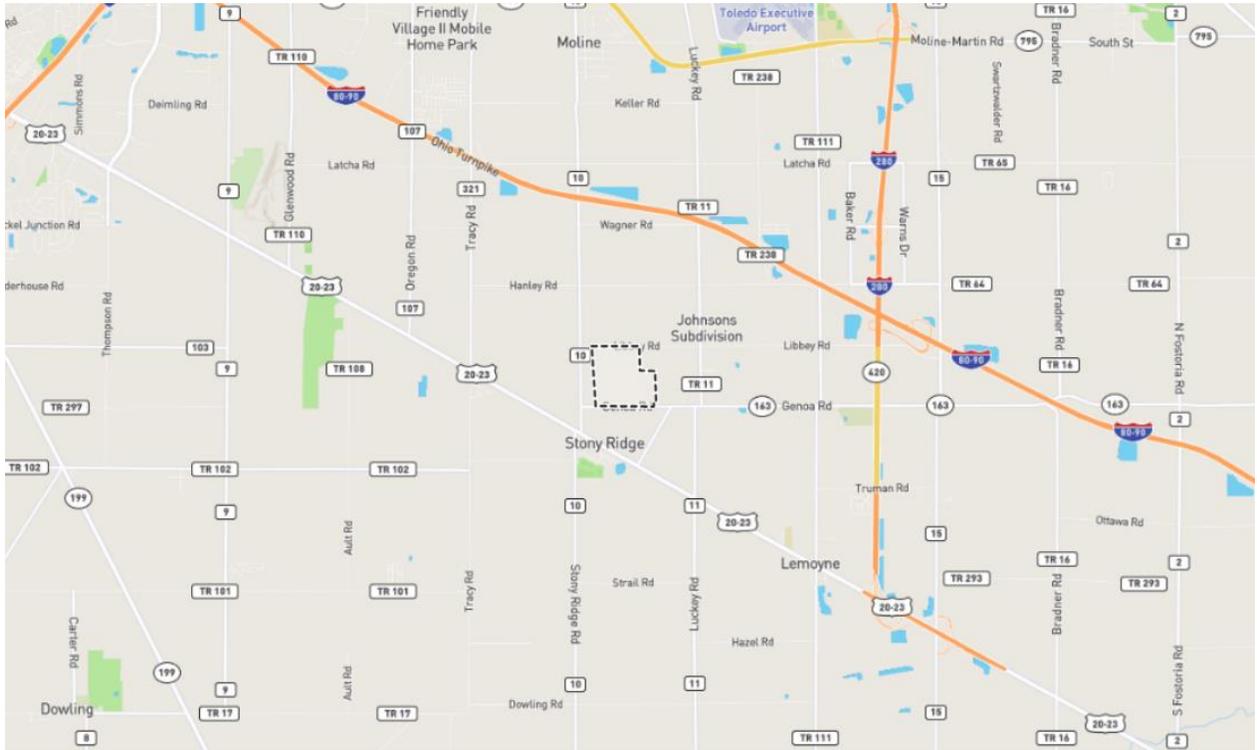
National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SIGNED

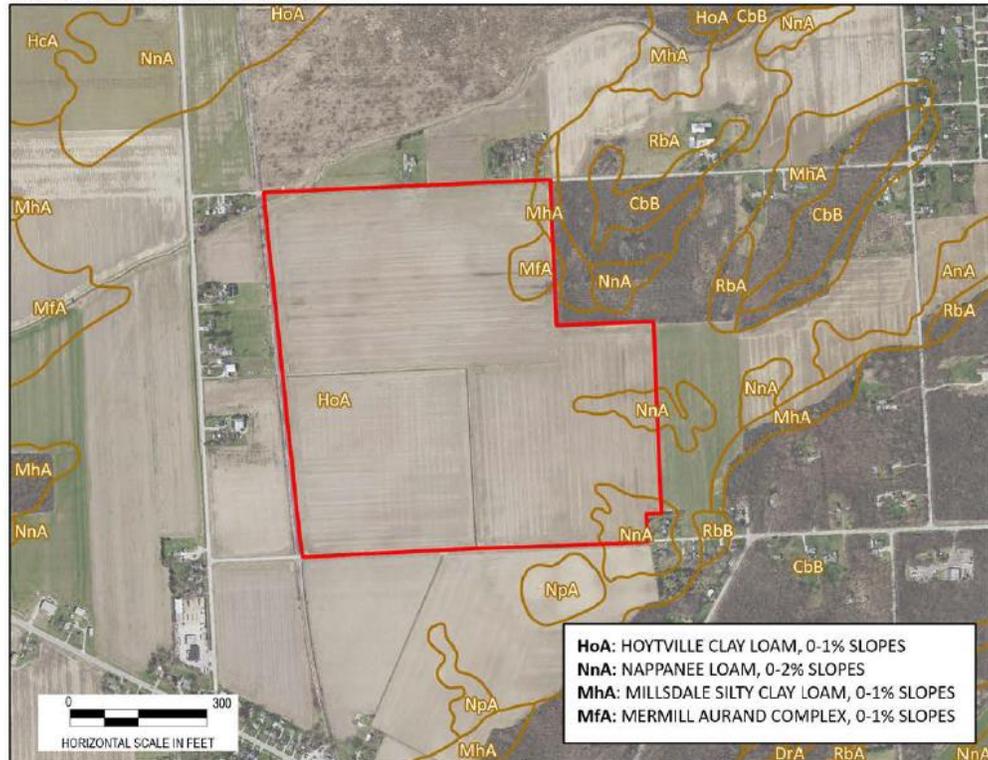
Steven V. Metivier
Chief, Regulatory Branch

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

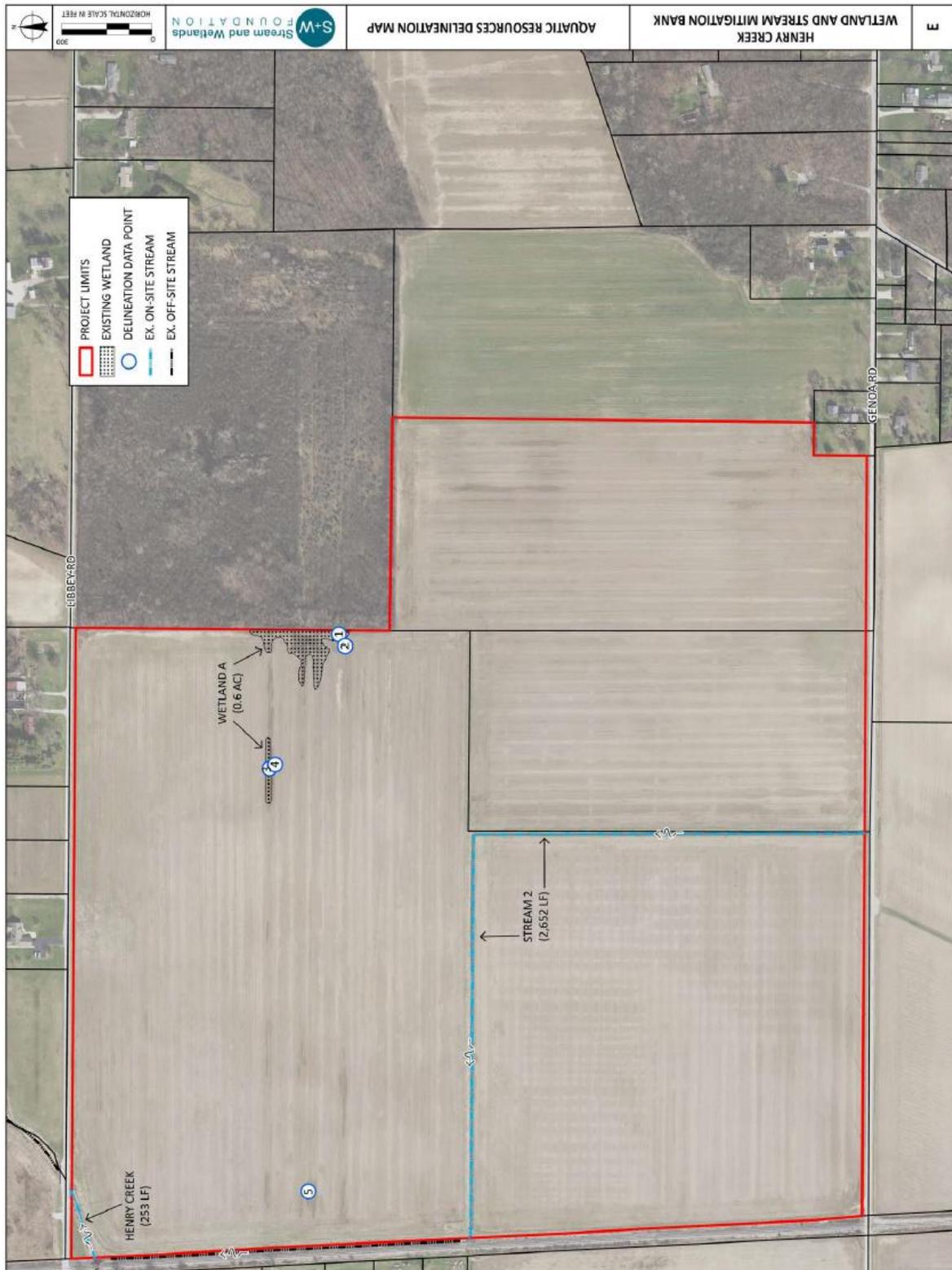
Stream + Wetlands Foundation: Western Lake Erie Basin Umbrella Mitigation Banking Instrument &
 Henry Creek Wetland and Stream Mitigation Bank
 Department of Army No: LRB-2022-00501
 Quad: Rossford, OH
 Wood County, Ohio
 Sheet 1 of 3



WOOD COUNTY SOIL SURVEY MAP



Stream + Wetlands Foundation: Cuyahoga River UMBI and Fish Creek South Wetlands and Stream Mitigation Bank
Department of Army No: LRB- 2008-01578
Quad: Kent, OH
Portage County, Ohio
Sheet 2 of 3



Stream + Wetlands Foundation: Cuyahoga River UMBI and Fish Creek South Wetlands and Stream Mitigation Bank
 Department of Army No: LRB- 2008-01578
 Quad: Kent, OH
 Portage County, Ohio
 Sheet 3 of 3

