



**U S Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to Public Notice No.

LRH-2007-46-TUS

Issuance Date:

March 5, 2008

Stream:

UN Trib to Stillwater Creek

Closing Date:

April 3, 2008

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

PUBLIC NOTICE: The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

REGULATORY PROGRAM: Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

SECTION 10: The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

SECTION 404: The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the Ohio Environmental Protection Agency to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Egypt Valley Stone, LLC
PO Box 188
Morristown, Ohio 43759

LOCATION: The proposed project is located in an adjacent wetland to an unnamed tributary to Stillwater Creek and north of U.S. 40 and east of Egypt North Rd approximately 2.3 miles west

of Morristown, Belmont County, Ohio.

DESCRIPTION OF PROPOSED WORK: According to information provided by the applicant, the project would require the placement of fill material into 0.2 acre (ac) of wetland in association with an industrial minerals mine (IM-2299, Shugert Mine). Specifically, the project would include the extraction of approximately 120,000 tons of limestone annually for the next approximately 10 years. The resulting approximately 275,000 cubic yards of overburden would be partially placed in the jurisdictional wetland. The Ohio DNR Division of Mining and Reclamation management has approved the proposed mine.

Plans of the proposal are attached to this notice.

ALTERNATIVE ANALYSIS: The project does not require siting within a special aquatic site (in this case wetlands) to fulfill its basic purpose and is considered a non-water dependent activity. The Clean Water Act Section 404(b) (1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve special aquatic sites are presumed to be available unless clearly demonstrated otherwise. Therefore, the applicant is required to provide an alternatives analysis which must overcome that presumption prior to receiving authorization for the placement of fill in the wetlands. The applicant has submitted an alternatives analysis for review.

MITIGATION PLAN: The applicant has submitted a conceptual mitigation plan to compensate for the proposed impacts and this plan is currently under review. In order to compensate for the proposed wetland impacts, the applicant has proposed to restore approximately 0.3 ac of wetland upstream of the existing wetland upon completion of the proposed mining activities.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the Ohio Environmental Protection Agency.

HISTORIC & CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined the proposed project would have no effect on any property listed on the Register. As the project would occur in a previously mined area, it is unlikely the project would have an effect on any property eligible for listing on the Register. A copy of this public notice will be furnished to the State Historic Preservation Office for their review. Comments concerning archaeological sensitivity of the project area should be based on collected data.

THREATENED & ENDANGERED SPECIES: The project is located within the known or historic range of the following candidate, threatened, or endangered species:

Indiana bat (E)

The Huntington District has determined that the project may effect, but would not be likely to adversely affect the Indiana bat as long as the applicant only removes trees between September 30 and April 1. As the project would occur in a previously mined area, the site would be unlikely

to contain large, mature trees conducive for this species' habitat. This public notice serves as a request to the USFWS for any additional information they may have on whether any federally listed or proposed species may be present in the area which would be affected by the activity.

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U.S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404(b) (1) of the CWA. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit 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 benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain 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. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

SOLICITATION OF COMMENTS: 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. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. 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.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections.

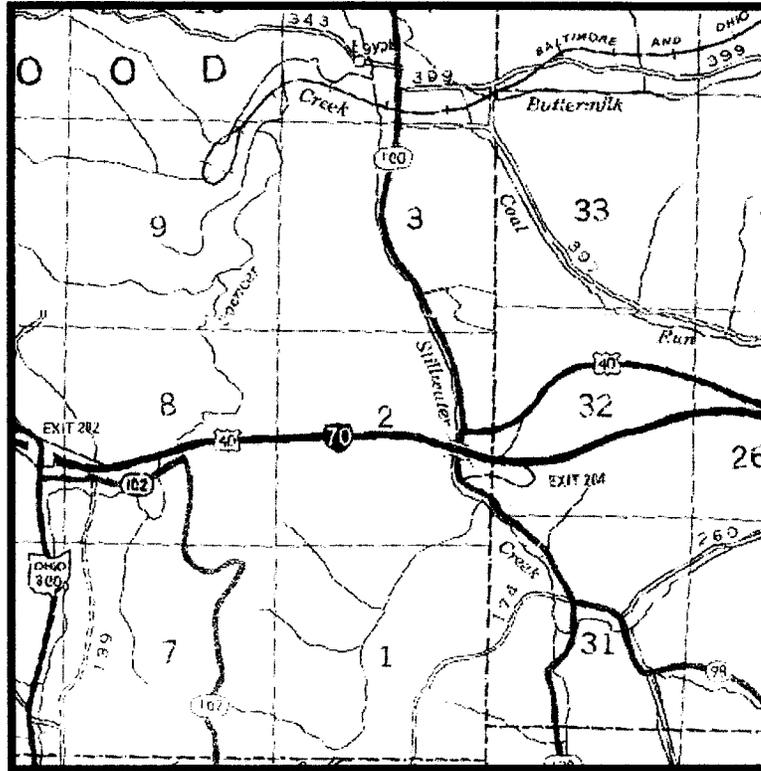
Comments and requests for additional information should be submitted to:

Mr. Jim Spence
North Regulatory Section, CELRH-OR FN
U. S. Army Corps of Engineers Huntington District
502 Eighth Street
Huntington, West Virginia 25701-2070.

Please note, the names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please contact Mr. Jim Spence of the North Regulatory Section at 304-399-5210 or james.b.spence@usace.army.mil.


Ginger Mullins, Chief
Regulatory Branch

(O)



VICINITY MAP
SCALE 1" = 1 MILE

BETHESDA & FAIRVIEW
QUADRANGLES

STATE PLANE COORDINATES
AT WETLAND A

X: 2,305,288
Y: 359,832

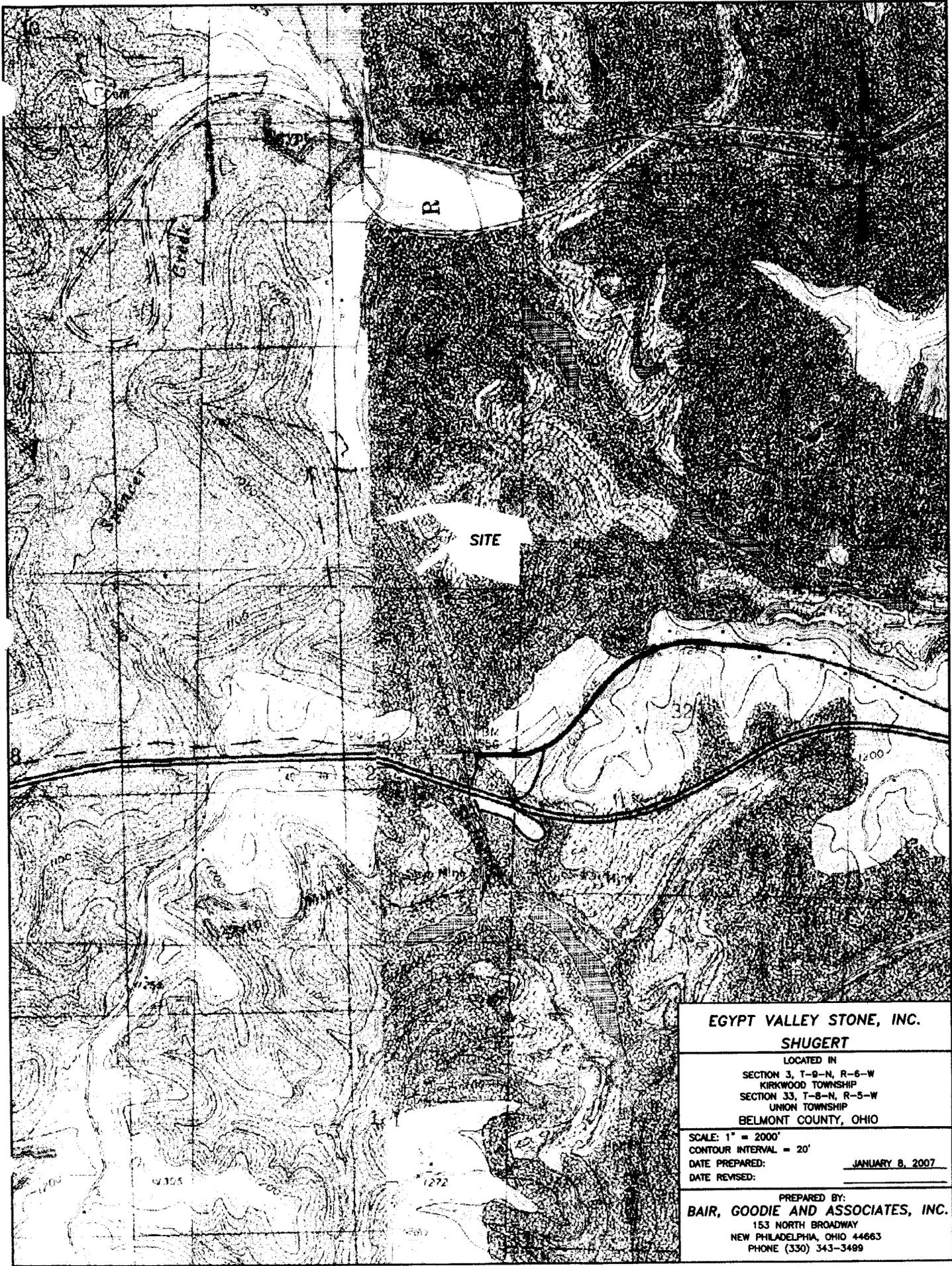
STILLWATER CREEK DRAINAGE BASIN

**EGYPT VALLEY STONE LLC
IM-2299**

LOCATED IN
SECTION 3, T-9-N, R-6-W
KIRKWOOD TOWNSHIP
SECTION 33, T-9-N, R-6-W
UNION TOWNSHIP
BELMONT COUNTY, OHIO

DATE PREPARED: DECEMBER 14, 2007

PREPARED BY:
BAIR, GOODIE AND ASSOCIATES, INC.
153 NORTH BROADWAY
NEW PHILADELPHIA, OHIO 44663
PHONE (330) 343-3499



EGYPT VALLEY STONE, INC.
SHUGERT
LOCATED IN
SECTION 3, T-9-N, R-6-W
KIRKWOOD TOWNSHIP
SECTION 33, T-8-N, R-5-W
UNION TOWNSHIP
BELMONT COUNTY, OHIO

SCALE: 1" = 2000'
CONTOUR INTERVAL = 20'
DATE PREPARED: JANUARY 8, 2007
DATE REVISED: _____

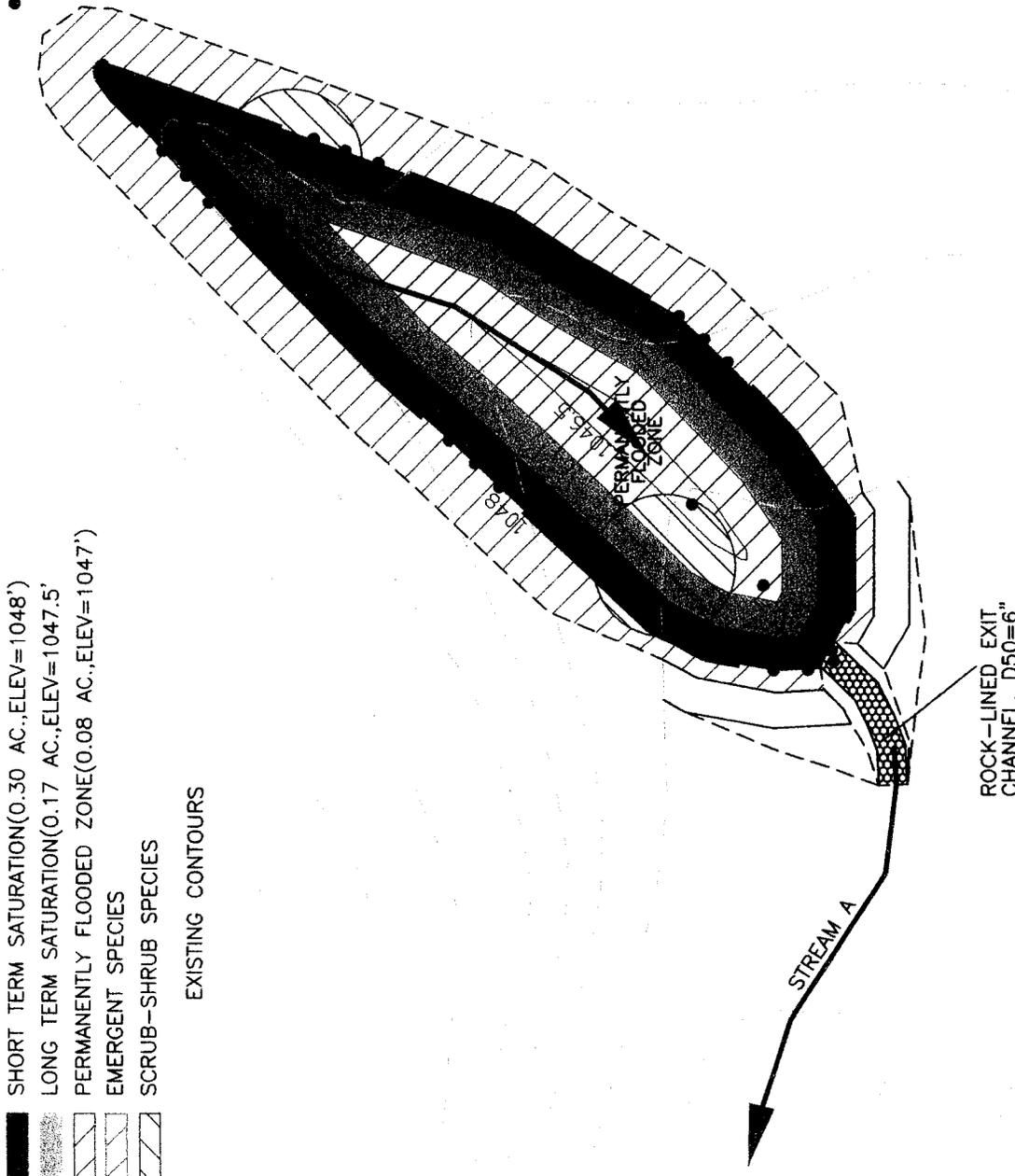
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PHONE (330) 343-3499

NOTE: PERMANENTLY FLOODED ZONE WILL REMAIN WET YEAR ROUND.
 SHORT TERM ZONE WILL BE SATURATED IN THE SPRING OR AFTER HEAVY RAIN.
 LONG TERM ZONE WILL BE SATURATED IN ALL BUT THE DRIEST SEASONS.

- SHORT TERM SATURATION(0.30 AC.,ELEV=1048')
- ▨ LONG TERM SATURATION(0.17 AC.,ELEV=1047.5')
- ▧ PERMANENTLY FLOODED ZONE(0.08 AC.,ELEV=1047')
- ▩ EMERGENT SPECIES
- SCRUB-SHRUB SPECIES

EXISTING CONTOURS

PERMIT LIMITS



**COMPENSATORY WETLAND
 MITIGATION**

PERMIT NO. IM-2299
 EGYPT VALLEY STONE LLC

LOCATED IN
 SECTION 3
 T-9-N, R-6-W
 KIRKWOOD TOWNSHIP
 BELMONT COUNTY, OHIO

CONTOUR INTERVAL = 10'
 SCALE: 1" = 50'
 DATE PREPARED: JANUARY 18, 2007
 DATE REVISED:

PREPARED BY:
BAIR, GOODIE AND ASSOCIATES, INC.
 153 NORTH BROADWAY
 NEW PHILADELPHIA, OHIO 44663
 PHONE (330) 343-3499