



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

Public Notice

In reply refer to Public Notice No.
LRH-2008-66-ELM

Issuance Date: **JUL 28 2008**

Stream:
East Fork Little Miami River

Closing Date:
AUG 24 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 a stream and wetland mitigation bank, submitted in accordance with 33 CFR Part 332 Compensatory Mitigation for Losses of Aquatic Resources, effective date June 9, 2008. 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 mitigation bank prospectus has been submitted for an evaluation of its potential to provide compensatory mitigation for activities authorized by Department of the Army (DA) permits pursuant to the above referenced sections of law.

SPONSOR: Mr. Eric Mather
Lynchburg Oaks Property I, LLC
Post Office Box 716
Mason, Ohio 45040

LOCATION: The proposed project is located on the East Fork of the Little Miami River and Glady Creek on a 123-acre property on the west side of State Route 134, southeast of Wise Road in Clark Township, Clinton County and Dodson Township, Highland County, Ohio. Latitude 39° 14' 02", Longitude 83° 48' 06".

DESCRIPTION OF PROPOSED WORK: The sponsor has submitted a prospectus to the Huntington District Corps of Engineers and the other members of the regional Interagency Review Team (IRT) to develop and operate a stream and wetland mitigation bank.

Mitigation banks are defined as 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 DA permits pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. In general, units of restored, established, enhanced, or preserved wetlands or streams are expressed as "credits" which may subsequently be withdrawn to offset "debits" incurred at a project development site. The Corps is responsible for authorizing the use of a particular mitigation bank on a project-specific basis and determining the number and availability of credits required to compensate for proposed impacts. Decisions rendered by the Corps will fully consider all comments submitted as part of the permit evaluation process.

The objective of the proposed mitigation bank is to institute an ecologically sound, well-developed and feasible stream and wetland restoration plan that would both promote the goals of the East Fork Watershed Collaborative's May 2006 "East Fork Watershed Management Plan" and generate credits to be used as compensatory mitigation for activities authorized by DA permits. Plans include the restoration of 10 to 15 acres of Category 2 (or better) forested wetland, restoration activities along the on-site reaches of the East Fork Little Miami River, Glady Creek and the unnamed tributary known as Central Ditch, and the revegetation of agricultural fields to create upland buffers. The proposed service area would be the Little Miami River watershed (8-digit HUC 05090202). In addition, the sponsor proposes to reserve the right to expand the service area to extend to the Middle Ohio-Little Miami watershed (6-digit HUC 050902) within the state of Ohio. At this time there are no stream mitigation banks located within Ohio, and no wetland mitigation banks located within the Little Miami River watershed. One wetland mitigation bank does include a portion of the East Fork Little Miami River watershed in its service area.

The proposed wetland bank site is located on a 123-acre property known as Prickett Farm, owned by Lynchburg Oaks Property I, LLC. The property is currently managed for row crop agriculture and is planted in corn and soybeans. The majority of the soils on-site consist of hydric soils (Westland silt loam, overwash) or non-hydric soils with hydric inclusions (Algiers silt loam, Fitchville silt loam, Rossmoyne silt loam, Sleeth silt loam and Sligo silt loam). The agricultural fields in the eastern half of the site are underlain by a series of drainage tiles. Multiple streams occur on-site; the East Fork Little Miami River flows south and west through the western half of the site, its tributary Glady Creek flows south through the western quarter of the property, two unnamed tributaries to Glady Creek flow easterly down a hillside, an unnamed tributary known as Central Ditch and its tributary flow westerly and southerly through the eastern half of the site, and a constructed drainage way known as North Ditch occurs along the northern property line

east of the East Fork Little Miami River. The streams are characterized by incised and entrenched channels with narrow riparian corridors. Agricultural levees have been constructed along portions of the streams. A substantial portion of the property lies within the 100-year floodplains of East Fork Little Miami River and Glady Creek. This reach of the East Fork Little Miami River has an Aquatic Life Use Designation of Exceptional Warmwater Habitat, however it is listed on the Ohio 303(d) List of Prioritized Impaired Waters (Category 5) due to impairments to aquatic life use and recreational use.

The sponsor proposes to re-establish 10 to 15 acres of wetlands within hydric soils in the northeastern corner of the site by crushing all drainage tiles to restore hydrology to the area. The series of lateral drainage tiles currently discharge to East Fork Little Miami River and Central Ditch. The perimeter of the proposed wetland area would be trenched to retain water in the area; in addition, small earthen mounds may be created if necessary. Surface and groundwater flow from North Ditch would be diverted to this area, providing a source of hydrology. Native tree and shrub plantings are proposed for this area to promote the development of vegetative cover and to preclude the establishment of invasive species.

The sponsor is currently evaluating restoration options for East Fork Little Miami River, Glady Creek, and Central Ditch. The sponsor proposes to pursue one of the following three options for East Fork Little Miami River: Option 1 – Preservation and Riparian Buffer Restoration, Option 2 – Floodplain Bench Creation and Option 3 – Floodplain Bench and Instream Structure Creation. Option 1 would include the removal of invasive species from the existing riparian corridor, the planting of native trees and shrubs and the preservation of 150 feet of forested buffer on each side of the stream. Option 2 would include the planting of native trees and shrubs within 150-foot buffers along both sides of the stream, excavation of floodplain benches along the stream and stabilization of the streambanks through re-sloping and natural material reinforcement. Option 3 would incorporate the activities proposed in Option 2 and would include the installation of instream structures such as vanes and riffles for energy dissipation. The following three options for Glady Creek are proposed: Option 1 – Preservation and Riparian Buffer Restoration, Option 2 – Floodplain Bench Creation and Option 3 – Full-Scale Restoration. Option 1 would include the removal of invasive species from the existing riparian corridor, the planting of native trees and shrubs and the preservation of 75 feet of forested buffer on each side of the stream. Option 2 would include the planting of native trees and shrubs within 75-foot buffers along both sides of the stream, excavation of floodplain benches along the stream and stabilization of the streambanks through re-sloping and natural material reinforcement. Option 3 would involve the relocation of the existing channel using natural channel design methods to improve sinuosity, morphology, habitat, stability and floodplain connectivity and would include planting of native trees and shrubs within 75-foot buffers along both sides of the relocated stream. The sponsor proposes to pursue one of two options for Central Ditch: Option 1 - Floodplain Bench Creation and Option 2 – Full-Scale Restoration. Option 1 would include the planting of native trees and shrubs within 75-foot buffers along both sides of the stream, excavation of floodplain benches along the stream and stabilization of the streambanks through re-sloping and natural material reinforcement. Option 2 would involve the relocation of the existing channel using natural channel design methods to improve sinuosity, morphology, habitat, stability and floodplain connectivity and would include planting of native trees and shrubs within 75-foot buffers along both sides of the relocated stream.

Wetland credits would be sold on a 0.10 acre basis and are proposed to be issued at a 1:1 ratio for restored wetlands. The sponsor proposes to calculate stream restoration credits following the methodology proposed by the Ohio Environmental Protection Agency in the April 14, 2004 draft "Compensatory Mitigation Requirements for Stream Impacts in the State of Ohio, Revision 4.0." Using this methodology, credits would not be calculated based on stream length; credits would instead be calculated based on factors related to the nature of the restoration, the anticipated improvements to stream habitat, riparian corridors and adjacent floodplain, the status of the streams and their priority for restoration, and the watershed location of the restored streams relative to impact sites. Specific details related to stream credit calculation have not yet been determined. Lynchburg Oaks Property I, LLC would be responsible for the successful development of the wetland bank including monitoring and reporting requirements. Mr. Eric Mather, the owner and manager of the organization, has previous experience in constructing restoration projects. The site is currently owned by Lynchburg Oaks Property I, LLC. They would retain ownership through the construction and monitoring phases of the bank, but are exploring the possibility of future fee-simple transfer of the property to a conservation-oriented group. The sponsor is currently considering various non-profit organizations, including wildlife conservation groups, land conservancies and local university associations, to act as Long-Term Manager of the site. The property would be preserved in perpetuity through a Conservation Easement held by an eligible third party.

Post-restoration monitoring would be conducted annually. Annual reports would include assessments of wetland plant composition and cover, habitat development, hydrologic conditions and wildlife. Vegetation Index of Biotic Integrity assessments would be conducted within the restored wetland area and included in the annual monitoring report. To track site inundation/saturation, a hydrologic monitoring well would be installed within the wetland area. Within stream restoration areas, annual monitoring would include assessments of riparian corridor vegetation, channel stability, in-stream habitat, aquatic life, hydrology and water quality. Evaluation of the presence of invasive species throughout the site would be included in the monitoring reports.

General plans of the proposed work are attached to this notice. The full prospectus is available for review upon request.

HISTORIC ISSUES: The National Register of Historic Places has been consulted and it has been determined that there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the State Historic Preservation Office (SHPO) for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

THREATENED & ENDANGERED SPECIES: The project is located within the known or historic range of the Indiana bat, an endangered species, and eastern massasauga, a candidate species.

The Huntington District has consulted the most recently available information and information provided by the sponsor and has determined that the project site contains some habitat suitable

for the Indiana bat. Based on the type of project proposed, the Huntington District has determined the project is not likely to adversely affect the Indiana bat, provided the sponsor does not cut suitable habitat trees during the designated summer roosting months for this species. Based on a lack of suitable habitat for the eastern massasauga, it has been determined the project would have no effect on this species. Based on this information, the proposed project is not likely to adversely affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This public notice serves as a request to the USFWS for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by a determination that the proposed mitigation bank has potential for providing appropriate compensatory mitigation for activities authorized by DA permits 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 proposal will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to approve this activity 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. If it is determined that the proposed mitigation bank has potential for providing appropriate compensatory mitigation for activities authorized by DA permits, the sponsor will be allowed to proceed with preparation of a draft instrument for the establishment of a mitigation bank unless its approval 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 potential of the proposed mitigation bank to provide appropriate compensatory mitigation for activities authorized by DA permits and to 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.

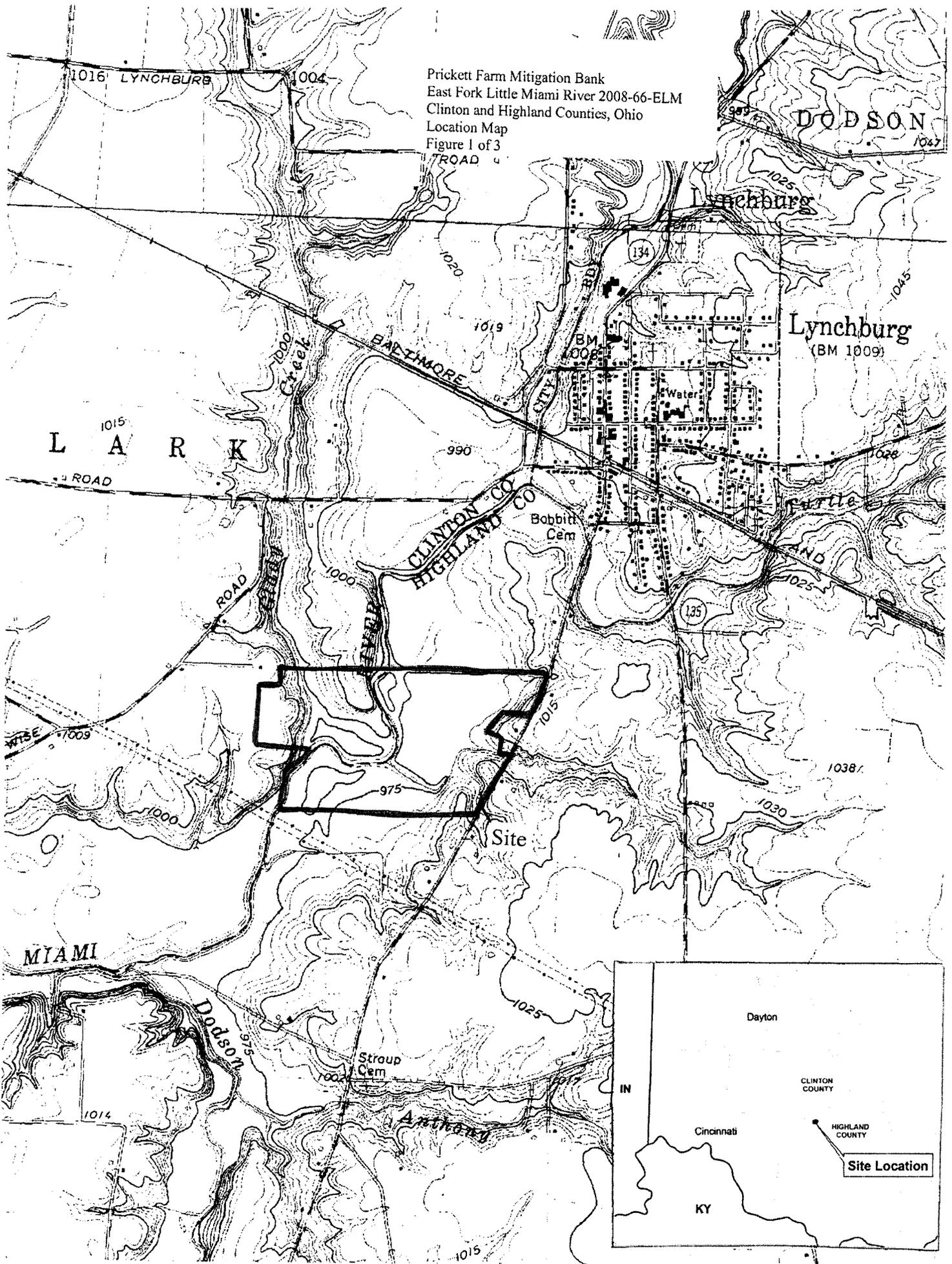
Any comments received will be considered by the Corps of Engineers to determine whether the proposed mitigation bank has the potential for providing appropriate compensatory mitigation for activities authorized by DA permit. To make this decision, comments are used to assess impacts on endangered species, 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: Ms. Denise Marmer, Project Manager, North Regulatory Section, CELRH-OR-FN, USACE Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note 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 Ms. Denise Marmer of the North Regulatory Section, Cincinnati Regulatory Field Office, at 513-825-4518.


Ginger Mullins, Chief
Regulatory Branch

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Prickett Farm Mitigation Bank
East Fork Little Miami River 2008-66-ELM
Clinton and Highland Counties, Ohio
Location Map
Figure 1 of 3



Prickett Farm Mitigation Bank
 East Fork Little Miami River 2008-66-ELM
 Clinton and Highland Counties, Ohio
 Restoration Areas
 Figure 2 of 3

ENVIRONMENTAL MITIGATION BANK

Prickett Farm
 Conceptual Mitigation Areas
 Exhibit 3A

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DATE: 11/11/08
 DRAWN BY: J. L. BROWN
 CHECKED BY: J. L. BROWN

Legend

- County Boundary
- Site Boundary
- Line of Restoration/Preservation
- Line of Floodplain Buffer
- Unimpaired Tributary to Current Drain
- Unimpaired Relative to New
- Hydrography
- Contour

