



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

# Public Notice

In reply refer to Public Notice No.

**LRH-2007-566-LMR**

Issuance Date:

**JUL 2 8 2008**

Stream:

**UNTrib Gladly Run**

Closing Date:

**AUG 2 4 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:** Dan Wilson  
Xenia Self Storage  
1855 Bellbrook Avenue  
Xenia, Ohio 45385

**LOCATION:** The project is located on wetlands abutting an unnamed tributary of Glady Run (locally known as West Junior High Branch) on the southeast side of Bellbrook Avenue south of US 35 in Xenia, Greene County, Ohio. Latitude 39° 40' 03", Longitude 83° 57' 32".

**DESCRIPTION OF PROPOSED WORK:** The applicant has requested an After-The-Fact Permit to authorize completed activities in waters of the United States associated with Xenia Self Storage and Xenia Power Equipment commercial developments. The applicant has placed fill material into approximately 0.45 acre of emergent wetlands abutting an unnamed tributary to Glady Run for the expansion of parking areas for the commercial developments. The applicant also graded and seeded an additional 0.5 acre of wetland to the south for the creation of a grass filter strip. The fill material consisted of clean earthen material, some concrete and small amounts of asphalt obtained from off-site construction sites. Remaining waters of the United States on-site include the unnamed tributary to Glady Run and an estimated 5.2 acres of its abutting wetland.

As previously described, the work was completed without prior authorization. As required by the rules and regulations governing the Department of the Army permit program, our office has determined that since this work does not present an immediate threat to life or property, an after-the-fact application would be accepted and processed. All investigations and legal proceedings will be suspended pending the outcome of the permit review process. This application will be evaluated on its own merits and no consideration will be given to the applicant's unauthorized work activities or prior expenditures.

Plans of the work are attached to this notice.

**MITIGATION PLAN:** The applicant is currently investigating options to compensate for impacts to waters of the United States.

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

**ALTERNATIVES ANALYSIS:** A total of 0.95 acre of jurisdictional wetlands was filled as a result of the project. The project does not require access or proximity to or siting within the wetlands to fulfill its basic purpose and is considered a non-water dependent activity. The Section 404(b)(1) Guidelines state that for non-water dependent activities, practicable alternatives that do not involve wetlands are presumed to be available, unless clearly demonstrated otherwise. The applicant is required to provide an alternatives analysis that must overcome the presumption prior to receiving authorization for the placement of fill material.

**HISTORIC & CULTURAL RESOURCES:** The National Register of Historic Places has been consulted and it has been determined 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 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 Indiana bat (Endangered), clubshell mussel (E), eastern massasauga (Candidate) and snuffbox mussel (Species of Concern).

The Huntington District has consulted the most recently available information and information provided by the applicant, and has determined that habitats suitable for the clubshell and snuffbox mussel are not present in the remaining wetland area; therefore the project would have no effect on the sheepsnose and snuffbox mussel. Limited habitat suitable for the Indiana bat occurs on-site along the stream corridor, but did not occur within the impacted emergent wetland. Based on habitat availability and avoidance of suitable habitat, it has been determined this project would have no effect on the Indiana bat. Some suitable habitat for the eastern massasauga does occur on-site, however the fill area occurred adjacent to a previously developed upland area and more suitable areas were avoided. Based on available information it has been determined that the project may affect, but is not likely to adversely affect the eastern massasauga. This public notice serves as a request to the US Fish and Wildlife Service 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 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.

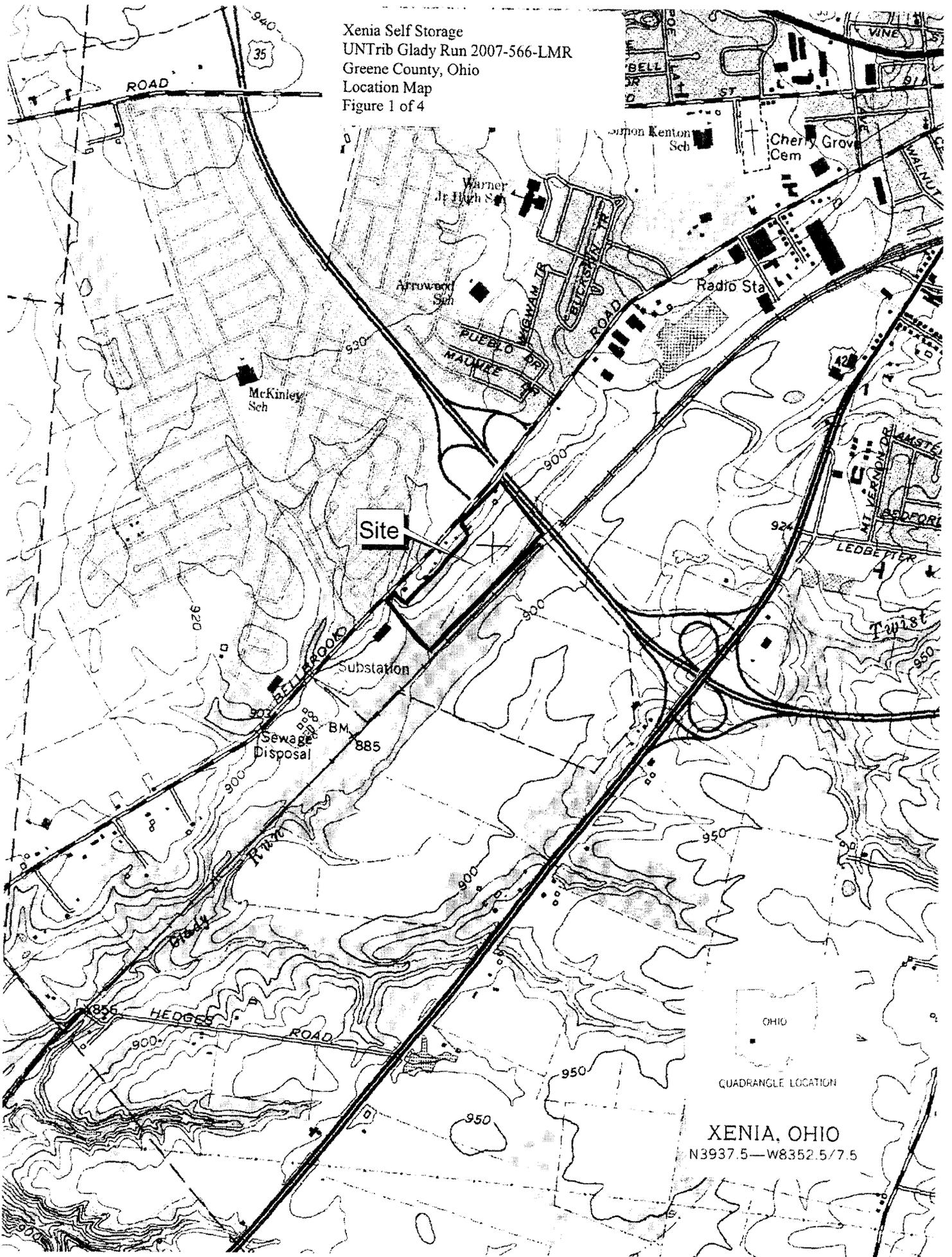
**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests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



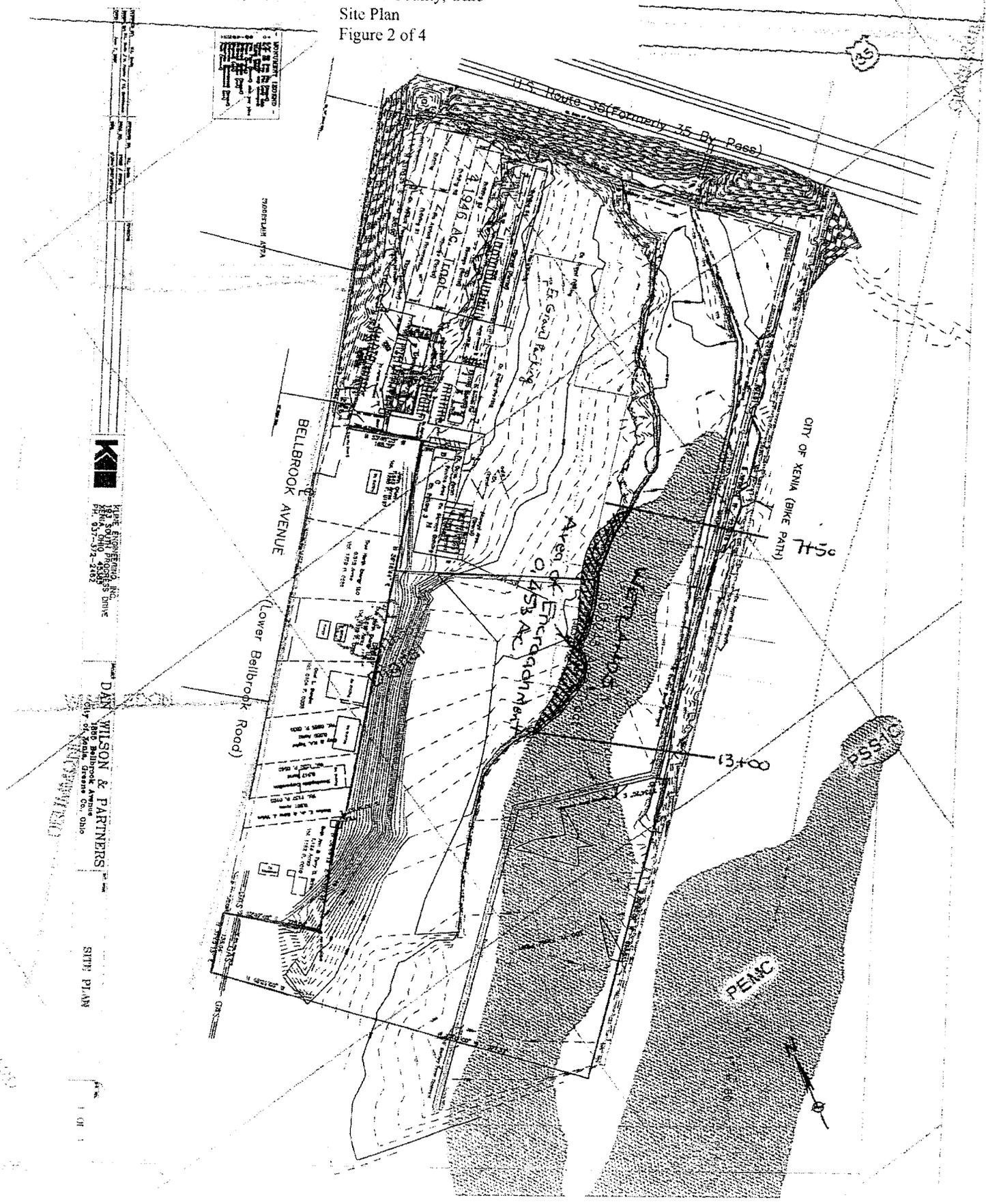
Ginger Mullins  
Chief, Regulatory Branch

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Xenia Self Storage  
UNTrib Gladly Run 2007-566-LMR  
Greene County, Ohio  
Location Map  
Figure 1 of 4



Xenia Self Storage  
UNtrib Gladly Run 2007-566-LMR  
Greene County, Ohio  
Site Plan  
Figure 2 of 4

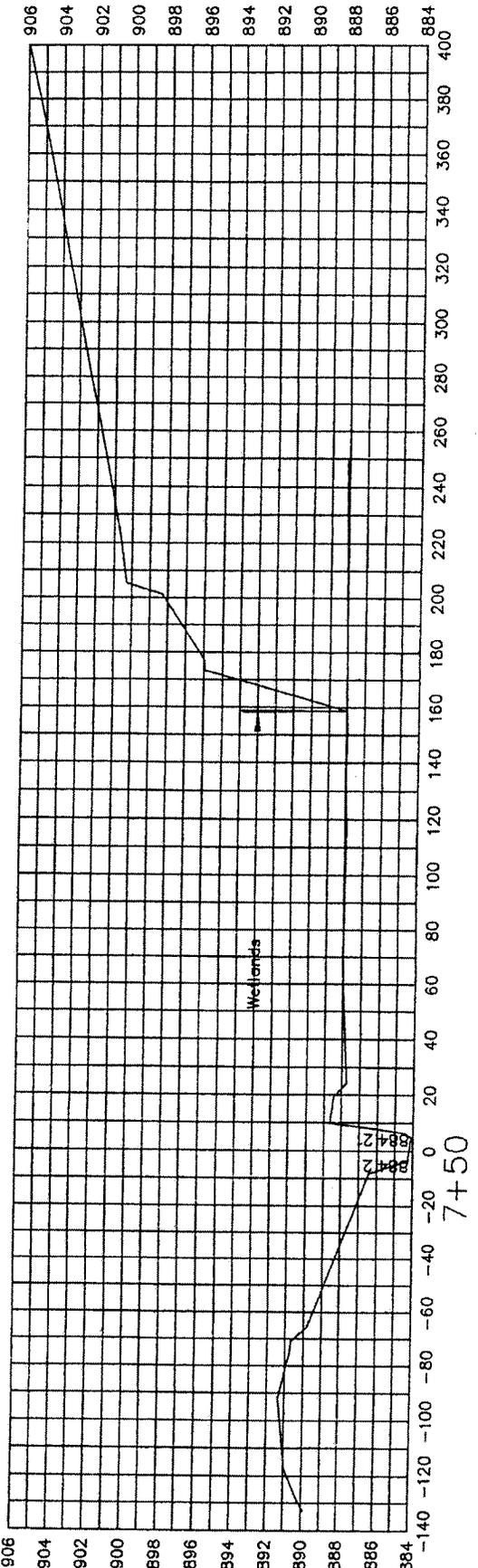
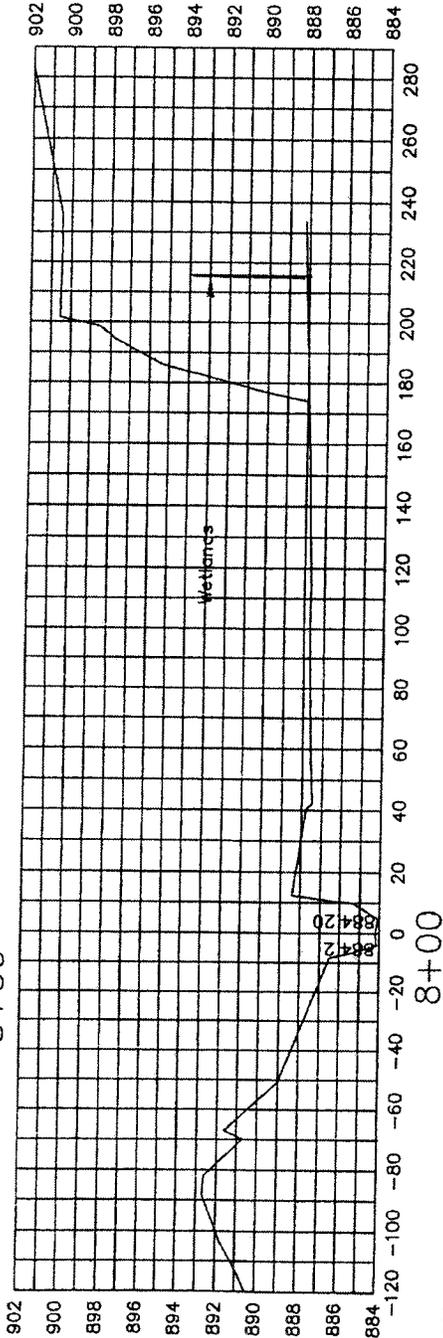
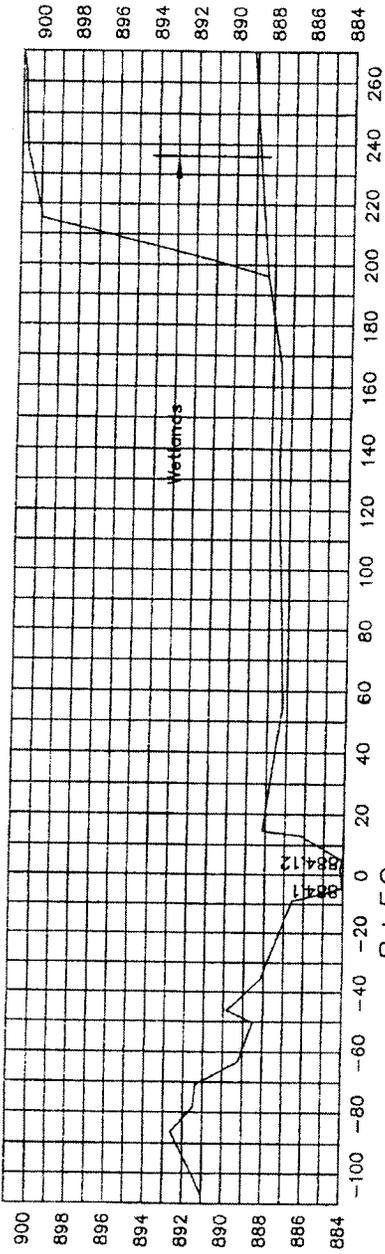


K&K ENGINEERING, INC.  
1871 SOUTH PROGRESS DRIVE  
PO BOX 2100  
XENIA, OHIO 45384

DAN WILSON & PARTNERS  
1885 Bellbrook Road  
Xenia, Ohio 45384

SITE PLAN

Xenia Self Storage  
 UNtrib Glady Run 2007-566-LMR  
 Greene County, Ohio  
 Wetland Fill Area Cross Sections - North  
 Figure 3 of 4



Xenia Self Storage  
 UNTriB Glady Run 2007-566-LMR  
 Greene County, Ohio  
 Wetland Fill Area Cross Sections - South  
 Figure 4 of 4

