



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

Public Notice

In reply refer to Public Notice No.

LRH-2008-67-GMR

Issuance Date:

DEC 17 2008

Stream:

Spring Run

Closing Date:

JAN 16 2009

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: Five Rivers MetroParks
1375 East Siebenthaler Avenue
Dayton, Ohio 45414

LOCATION: The proposed project is located on Spring Run and its unnamed tributary on a 363-acre property northeast of the intersection of Little Richmond Road and Lutheran Church Road in Trotwood, Montgomery County, Ohio. Latitude 39° 46' 33", Longitude 84° 20' 23".

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 fulfill new MetroParks objectives related to mitigation bank operation and generate credits to be used as compensatory mitigation for activities authorized by DA permits. Plans include the restoration of a minimum of 40 acres of Category 2 forested and scrub-shrub wetland, the restoration of a minimum of 20 acres of Category 2 emergent wetlands, the restoration of at least 4,500 linear feet of Class II headwater tributaries, and the revegetation of agricultural fields to restore 100 acres of upland buffers. The proposed service area would include seven sub-watersheds in the northern portion of the Lower Great Miami River watershed (8-digit HUC 05080002) and four sub-watersheds in the southern portion of the Upper Great Miami River watershed (8-digit HUC 05080002). At this time there are no stream mitigation banks located within Ohio, and no wetland mitigation banks located within the Great Miami River watersheds.

The proposed stream and wetland bank site is located on a 363-acre property comprised of ten parcels acquired by Five Rivers MetroParks. The property is currently mainly agricultural land with some low-density residential property. Approximately 95% of the proposed site is managed for row crop agriculture and is planted in corn and soybeans. Over half of the soils on-site consist of hydric soils (Brookston silty clay loam and Millsdale silty clay loam) or non-hydric soils with hydric inclusions (Crosby silt loam and Randolph silt loam). An available as-built drawing and filed observations indicate the agricultural fields are underlain by a series of drainage tiles. The headwaters of Spring Run and its unnamed tributary occur on-site. Spring Run is located in the south-central portion of the site and is fed by a grassy swale and drainage tiles. Its tributary, also fed by tiles, flows along the eastern portion of the property. This upper reach of Spring Run is deeply incised, has no riparian buffer and has been modified for agriculture. Although its tributary has a narrow riparian corridor it appears to have been modified for agriculture as well. According to the Ohio Environmental Protection Agency,

Spring Run has an Aquatic Life Use Designation of Warmwater Habitat.

The sponsor proposes to re-establish at least 4,500 linear feet of stream channel within existing vegetated drainage swales. Natural channel design techniques would be used to reconstruct meandering channels with riffle and pool complexes. The sponsor proposes to re-establish a total of 60 acres of wetlands within hydric soils throughout the southern two-thirds of the site. Hydrology to the area would be restored by installing a water control structure to regulate Spring Run and by the selective removal and plugging of drainage tiles. Additional hydrology would be provided by installing grade control structures within restored stream reaches and through the construction of clay compacted berms at select groundwater discharge points. The sponsor proposes to establish four habitat zones: forested wetland, emergent wetland with mudflats, upland forest and tallgrass prairie with prairie potholes. Native tree and shrub plantings are proposed for the forested wetland areas with native wetland seeding to promote the development of vegetative cover and to preclude the establishment of invasive species. In emergent wetland areas, the sponsor proposes native wetland seeding accompanied by plug plantings. Mudflat areas would be seeded with deeper water emergent vegetation supplemented with bareroot plantings. In upland forest areas, the sponsor proposes to re-establish beech-maple and oak-hickory forest complexes through planting bare root seedlings and some larger containerized trees. The areas would be planted with native seed mix initially to minimize establishment of invasive species. In tallgrass prairie areas, the sponsor proposes to establish prairie and oak savanna grasslands by planting a mesic to dry tallgrass prairie seed mix, with native grasses and oak species in the savannah areas. Prairie pothole would be created throughout this area and planted with emergent species.

Wetland credits would be sold in 0.1-acre increments and are proposed to be issued at a 1:1 ratio for restored wetlands. The sponsor proposes to assess stream credits following the calculated impact ratios 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." Stream credits would be sold in 5 linear-foot increments and are proposed to be issued at a 1:1 ratio for restored stream. Upland buffer credits would be sold in 1.0-acre increments and are proposed to be issued at a 10:1 ratio (1 acre of buffer would yield 0.1 credit). Upland buffer credits would only be calculated within 150-foot wide buffers surrounding restored stream and wetland areas. Five Rivers MetroParks would be responsible for the successful development of the stream and wetland bank including monitoring and reporting requirements. Five Rivers MetroParks was established in 1963, and is responsible for the conservation, protection and management of a total of 14,160 acres of both public park land and non-public conservation areas. At least 80% of its total acreage is maintained as natural areas; land acquisition and management plans have been established to sustain this percentage. Five Rivers MetroParks has previous experience in managing and overseeing restoration projects. The site is currently owned by Five Rivers MetroParks; they would retain ownership and would manage the site as a MetroParks Conservation Area. Long-term management of the site would be funded through the establishment of an interest-bearing trust fund into which a percentage of each credit purchased would be deposited. The sponsor proposes to protect the property in perpetuity through an Environmental Covenant held jointly by Five Rivers MetroParks and the Ohio Environmental Protection Agency.

Post-restoration monitoring would be conducted annually, with intensive monitoring procedures conducted every other year. Annual reports would include assessments of the development of the vegetative communities and hydrologic conditions. Vegetation Index of Biotic Integrity assessments would be conducted within the restored wetland area every other year and included in the monitoring report. Data will include total percentage cover of native hydrophytes and invasive species. To track site inundation/saturation, piezometers and staff gauges would be installed across the site. Within stream restoration areas, annual monitoring would include assessments of riparian corridor vegetation, stream bank stability and pool formation downstream of installed riffles.

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. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966. 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, eastern massasauga and rayed bean mussel, candidate species, and snuffbox mussel, a species of concern.

The Huntington District has consulted the most recently available information and information provided by the sponsor and has determined that the project site does not contain habitat suitable for the Indiana bat, eastern massasauga, and rayed bean and snuffbox mussels. Based on the lack of habitat and type of project proposed, the Huntington District has determined the project would have no effect on the Indiana bat, eastern massasauga, and rayed bean and snuffbox mussels. 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).

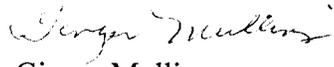
PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by a determination that the proposed mitigation bank has potential for providing appropriate compensatory mitigation for activities authorized by DA permits may request a public hearing. The request must 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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Five Rivers MetroParks Mitigation Bank
 Spring Run 2008-67-GMR
 Montgomery County, Ohio
 Location Map

Figure 1 of 4

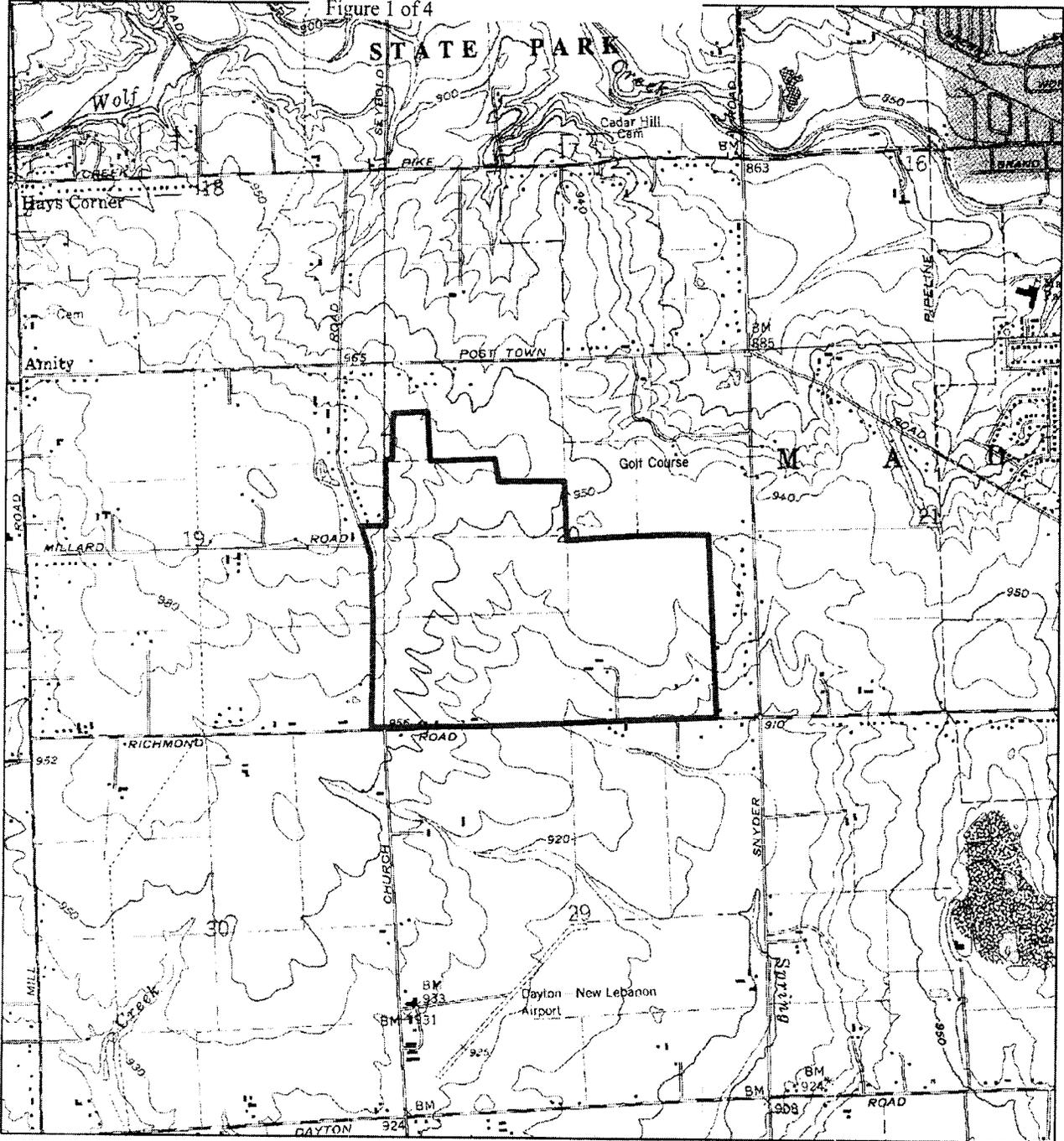
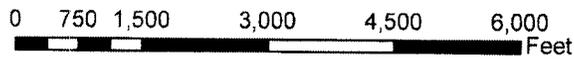


Figure 2: USGS Topographic Map
 Great Miami Wetland Mitigation Bank
 Five Rivers Metro Parks
 Trotwood (OH) Quadrangle
 Trotwood, Montgomery Co., OH



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Five Rivers MetroParks Mitigation Bank
 Spring Run 2008-67-GMR
 Montgomery County, Ohio
 Proposed Service Area Map
 Figure 2 of 4

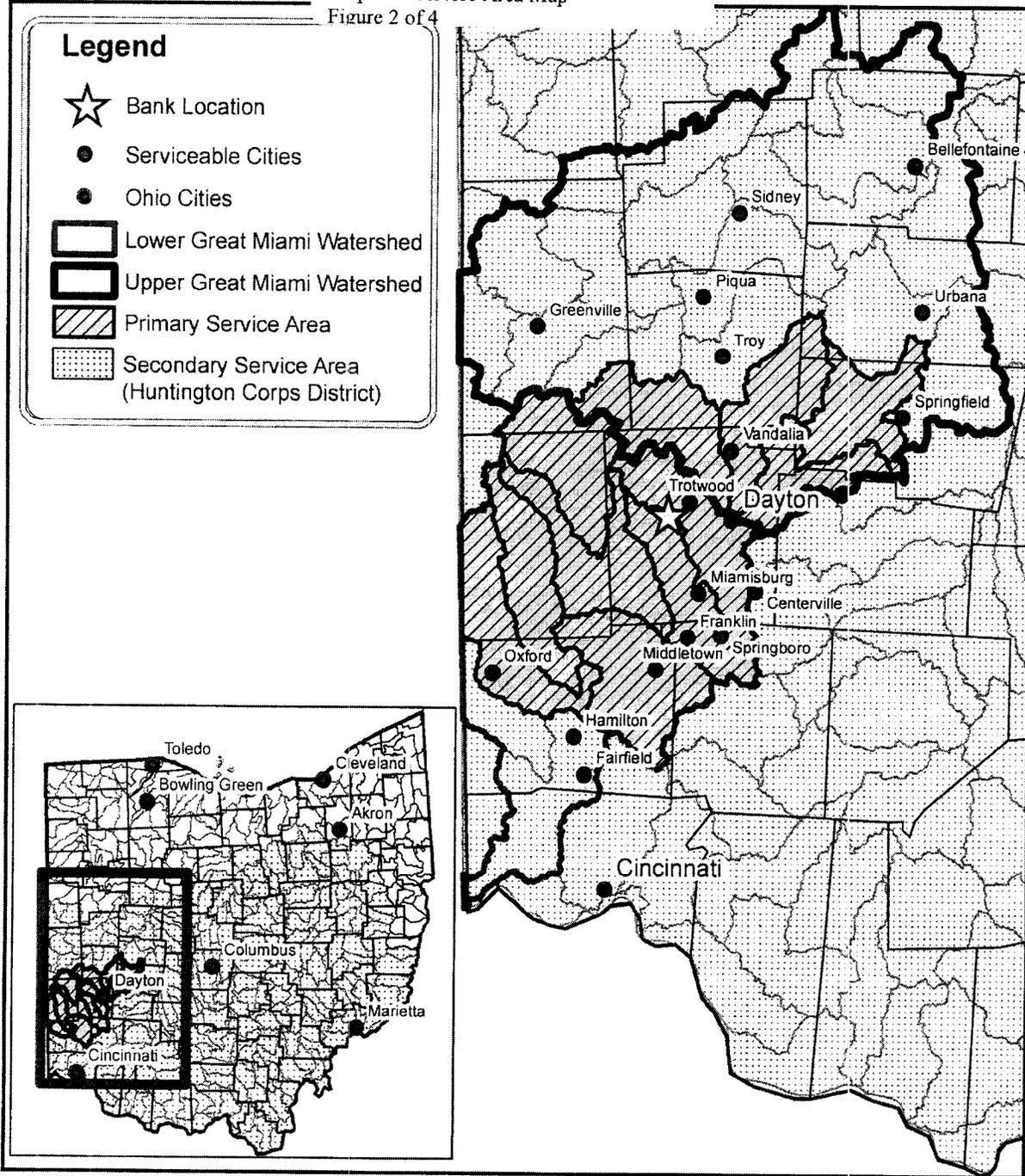
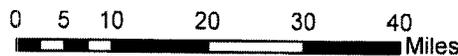


Figure 4: Proposed Geographic Service Area
 Great Miami (Trotwood) Mitigation Bank
 Five Rivers Metroparks
 Montgomery Co., OH



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EXHIBIT A: Conceptual Great Miami Mitigation Bank Restoration Plan

