
Public Notice



**US Army Corps
of Engineers**
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 200100145

Date: September 7, 2007

Notice No. 07-40

Closing Date: September 25, 2007

1. TO ALL 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 (33 U.S.C. 1344).
2. APPLICANT: Ohio County Development Authority [OCDA]
Mr. Gregory L. Stewart, Secretary/Treasurer
1500 Chapline Street, Room 215
Wheeling, WV 26003
3. LOCATION: Storch's Run, near the City of Wheeling, Ohio County, West Virginia.
4. PURPOSE AND DESCRIPTION OF WORK: The Ohio County Development Authority (OCDA) is proposing to begin site preparation for Phase V of The Highlands Development for the proposed Wild Escape Amusement Theme Park which will adjoin other previously constructed phases of The Highlands Development. This Individual Permit is proposed for impacts to resources resulting from Phase V of The Highlands Development. Several additional phases have been previously permitted and future phases are proposed by the OCDA. All phases of The Highlands Development will be evaluated based on cumulative impacts of such requests in consideration of past impacts on a watershed basis.
In particular the impacts involved in construction of Phase V Wild Escape Amusement Park Site will include the following;
 - A.) The total depths of fill required to partially fill the Storch's Run valley will vary from 10' to 230' deep and require a volume of 13,700,000 cubic yards of engineered embankment material consisting of on-site soil and rock. The total acreage of disturbance for Phase V is 217 acres, which will result in a level to gently sloping pad of approximately 125 acres on which to construct the amusement park. No amusement park site lay-out plan is available at this time.
 - B.) Total Wetlands impacts for Phase V are 0.23 Acres.
 - C.) Total Stream impacts for Phase V are 8,141 Linear Feet

comprised of: 4,764 Linear Feet of Perennial Stream (including Storch's Run), 709 Linear Feet of Intermittent Stream, and 2,668 Linear Feet of Ephemeral Stream.

In regard to wetland mitigation, the Nationwide Permit #39 which was issued by this office on February 10, 2003 to the OCDA for impacts to existing resources on previous Phases of The Highlands Development required the construction of a 1.0 Acre wetland. This 1.0 acre wetland has not been constructed. This 1.0 acre wetland is now proposed to be constructed along Middle Wheeling Creek and will be increased for impacts resulting from Phase V (0.23 Acre). The permit decision for this Phase V of The Highlands Development will not occur until previously agreed upon wetland mitigations are detailed and under contract for their construction, or until appropriate financial assurances are posted. No detailed stream mitigation has been proposed at this time for Phase V development impacts.

File review has indicated that previous unpermitted impacts occurred during the construction of Phases IV and VIII of The Highlands Development. These impacts resulted in the filling of approximately 850 Linear Feet of Intermittent Stream (Phase VIII) and 350 Linear Feet of Ephemeral channel reach (Phase IV). Federal Section 404 Authorization for these reaches is being included in this permit evaluation.

Drawings of the proposed project (Sheets 1 thru 10) are attached to this notice. Full sized color drawings of Phase V are available for examination at the District Office.

5. WEST VIRGINIA CERTIFICATION: This permit decision will not be final until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification. Previously, on March 12, 2007 the WVDEP denied without prejudice the Water Quality Certification for this Phase V portion of the project based on lack of actions by the applicant to complete mitigation for previously issued Corps of Engineers Permits. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. Therefore, the applicant must re-apply directly to the WVDEP for Individual Water Quality Certification. The WVDEP will also consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws. Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:

West Virginia Department of Environmental Protection
Division of Water & Waste Management
401 Certification Program
601 57th Street SE
Charleston, West Virginia 25304

Telephone: 304-926-0495

Re: Public Notice CELRP-OP-F No. 07-40

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to 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 U. S. 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). A partial copy of OCDA's consultant's (Wallace & Pancher) Fish Abundance and Diversity Survey (September 2007) conducted on Storch's Run is enclosed which characterizes the aquatic resources. Summary results of Stations 9 thru 11, are attached to this Public Notice (Sheets 7 thru 10).

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, 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 - Public Law 89-665 as amended (including Public Law 96-515).

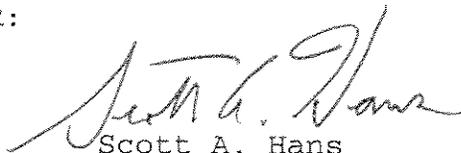
8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing. The Corps of Engineers will consider all responses and determine if any new information about the project may be revealed that would warrant a public hearing.

9. EVALUATION: 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. The Corps decision will reflect the National concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against

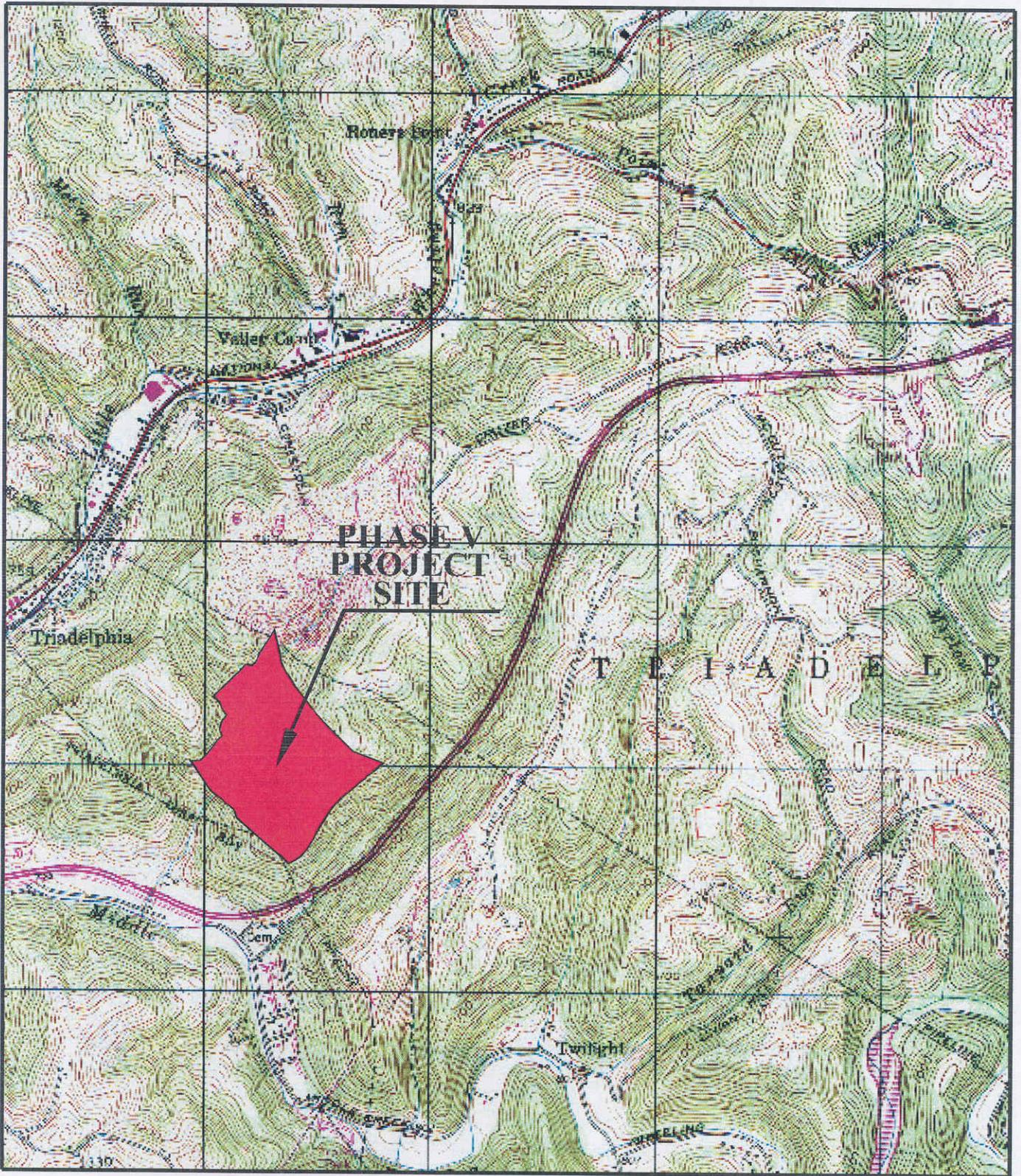
its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, 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. 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. 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 overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for resolution before the determination is made whether to issue or deny the requested Department of the Army Permit. All responses to this notice should be directed to the Regulatory Branch, ATTN: Mr. Fred Pozzuto, Project Manager at the above address, by telephoning (412) 395-7275, or by e-mail at Fred.Pozzuto@usace.army.mil. Please refer to CELRP-OP-F 200100145, PN 07-40 in all responses.

FOR THE DISTRICT ENGINEER:



Scott A. Hans
Acting Chief, Regulatory Branch

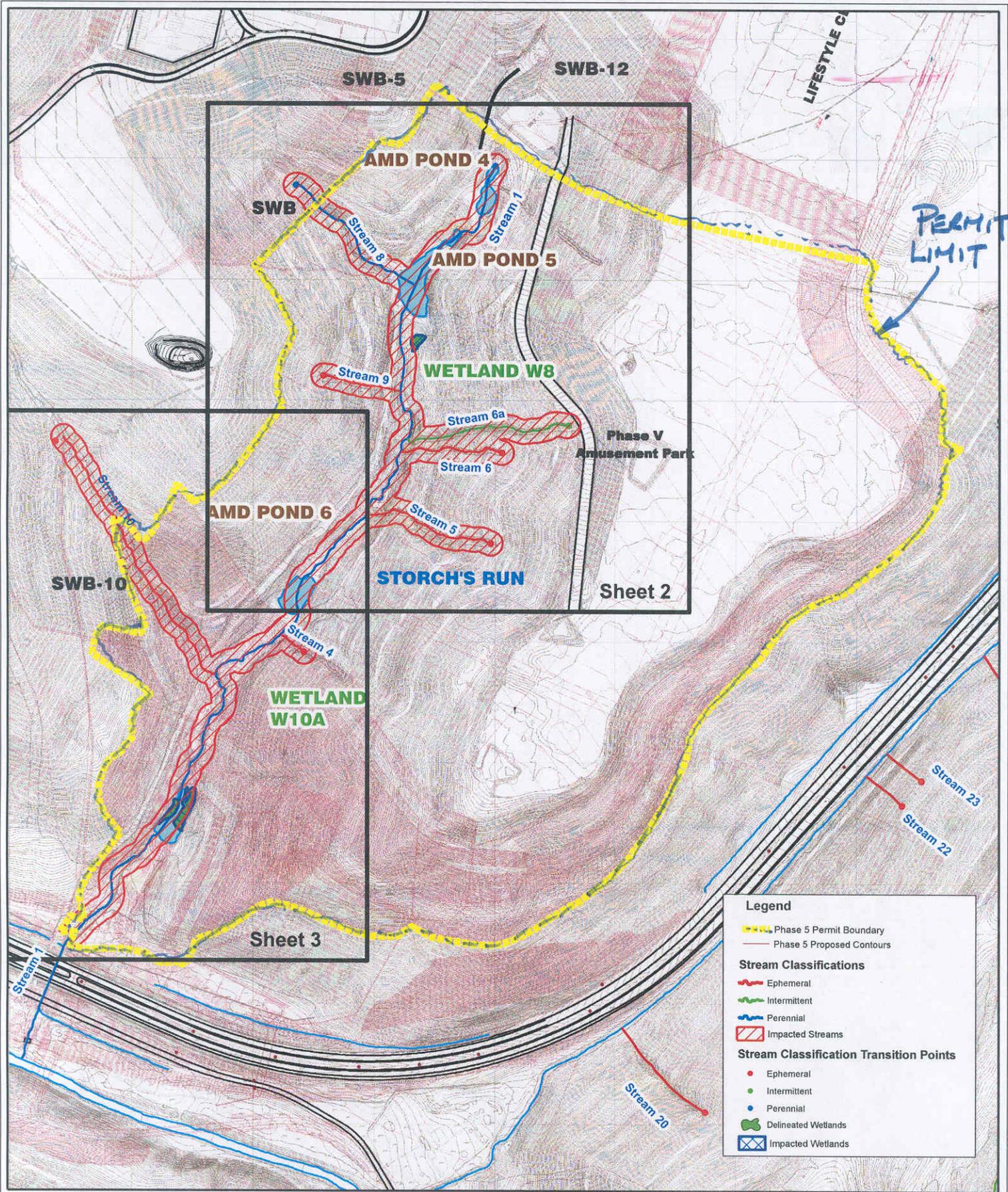


Wallace & Pancher, Inc.
 1085 S. Hermitage Rd.
 Hermitage, PA 16148
 Phone: (724) 981-0155

INDIVIDUAL 404/401 CERTIFICATION APPLICATION	
FIGURE:	SITE LOCATION MAP
SITE:	THE HIGHLANDS WILD ESCAPES AMUSEMENT PARK - PHASE V TRIADDELPHIA, OHIO COUNTY, WEST VIRGINIA
CLIENT:	OHIO COUNTY DEVELOPMENT AUTHORITY

N ↑
PROJECT No.: -
SCALE: 1"=2000'
DATE: AUGUST 29, 2007

*need
9/19/07
for*



Legend

- Phase 5 Permit Boundary (Yellow dashed line)
- Phase 5 Proposed Contours (Thin black line)

Stream Classifications

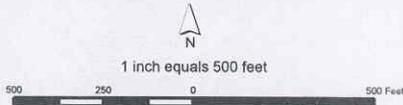
- Ephemeral (Red wavy line)
- Intermittent (Green wavy line)
- Perennial (Blue wavy line)
- Impacted Streams (Red hatched area)

Stream Classification Transition Points

- Ephemeral (Red dot)
- Intermittent (Green dot)
- Perennial (Blue dot)
- Delineated Wetlands (Green hatched area)
- Impacted Wetlands (Blue hatched area)

The Highlands - Phase 5 Development
 Wild Escapes Amusement Park
 Triadelphia, Ohio County, West Virginia
 Sheet 1 Project Overview Map

Prepared for:
 Ohio County Commission
 Ohio County Development Authority
 1500 Chapline Street, Room 215
 Wheeling, WV 26003

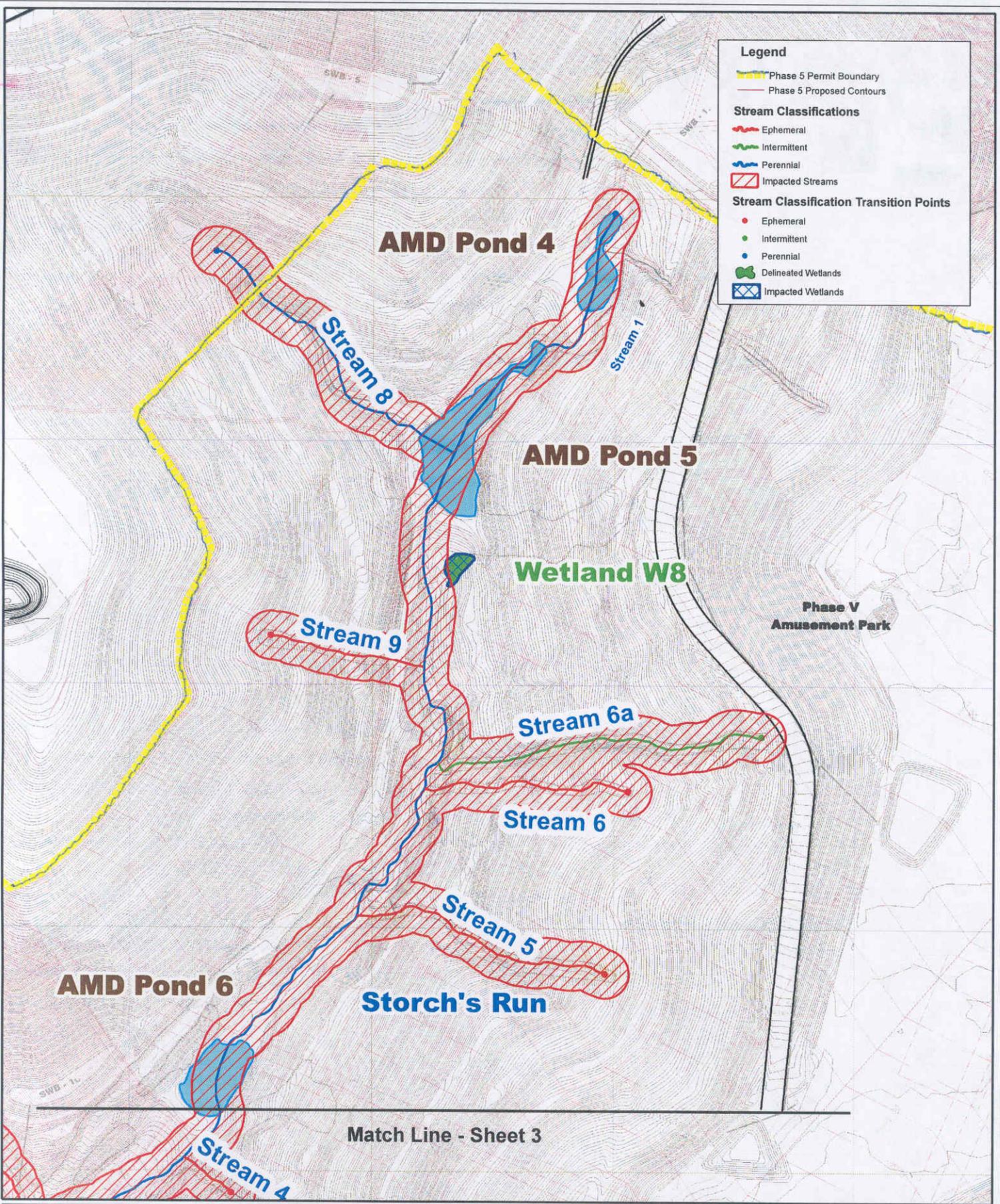


WALLACE & PANCHER INC.
 1085 S. HERMITAGE RD.
 HERMITAGE, PA 16148
 PHONE: (724) 981-0155



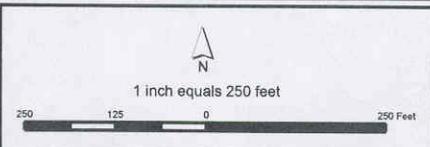
*Reid
 9/5/02
 jr*

SHEET 2 OF 10

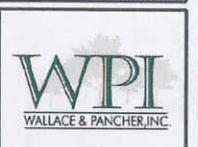


The Highlands - Phase 5 Development
 Wild Escapes Amusement Park
 Triadelphia, Ohio County, West Virginia
 Sheet 2
 Date: August 28, 2007

Prepared for:
 Ohio County Commission
 Ohio County Development Authority
 1500 Chapline Street, Room 215
 Wheeling, WV 26003



WALLACE & PANCHER INC.
 1085 S. HERMITAGE RD.
 HERMITAGE, PA 16148
 PHONE: (724) 981-0155



SHEET 3 OF 10

Rec'd
 9/5/07
 J

Legend

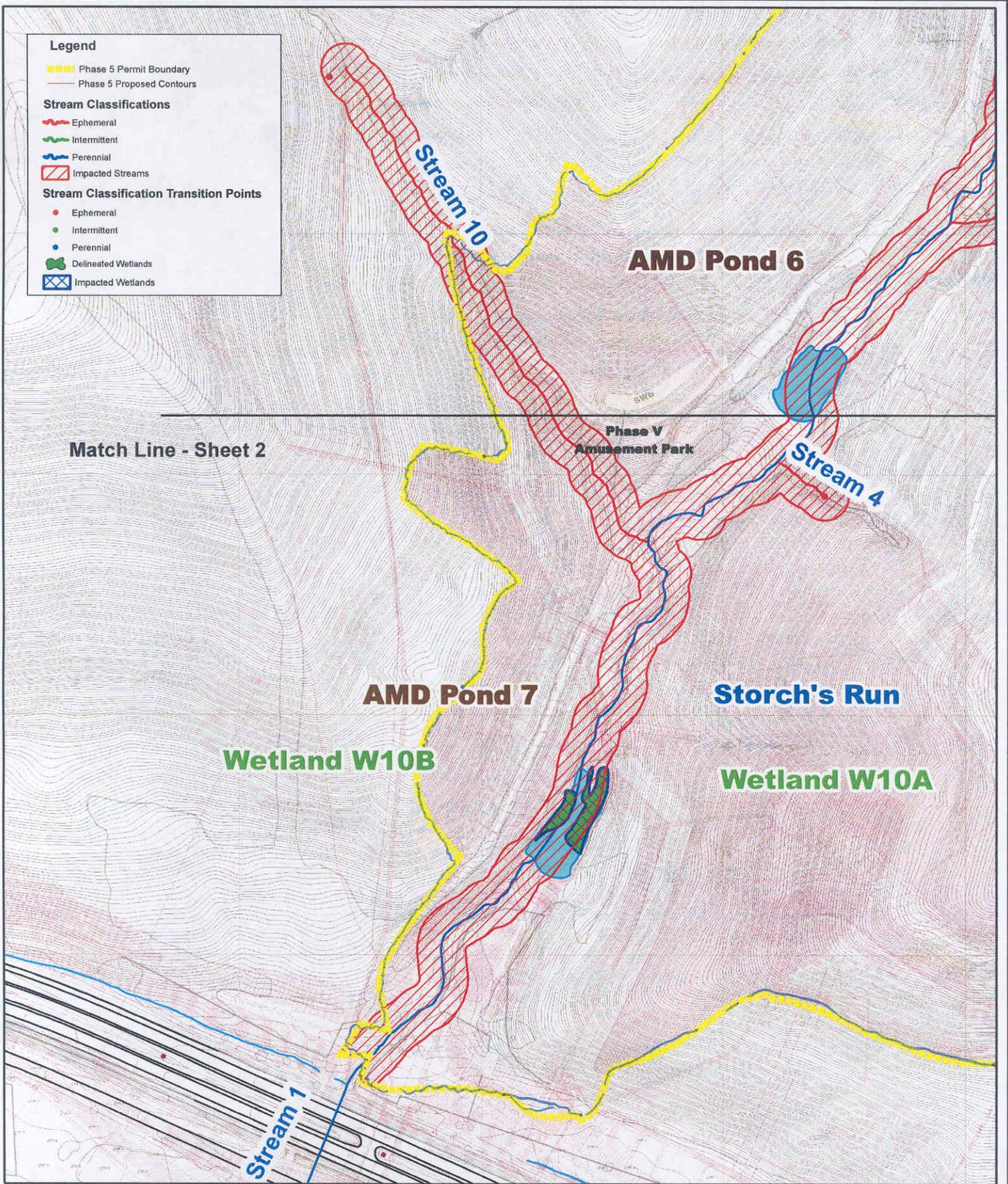
- Phase 5 Permit Boundary
- Phase 5 Proposed Contours

Stream Classifications

- Ephemeral
- Intermittent
- Perennial
- Impacted Streams

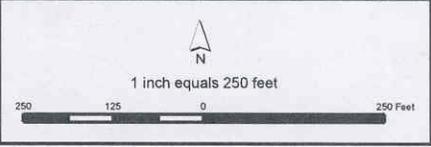
Stream Classification Transition Points

- Ephemeral
- Intermittent
- Perennial
- Delineated Wetlands
- Impacted Wetlands

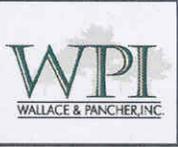


The Highlands - Phase 5 Development
 Wild Escapes Amusement Park
 Triadelphia, Ohio County, West Virginia
 Sheet 3
 Date: August 28, 2007

Prepared for:
 Ohio County Commission
 Ohio County Development Authority
 1500 Chapline Street, Room 215
 Wheeling, WV 26003

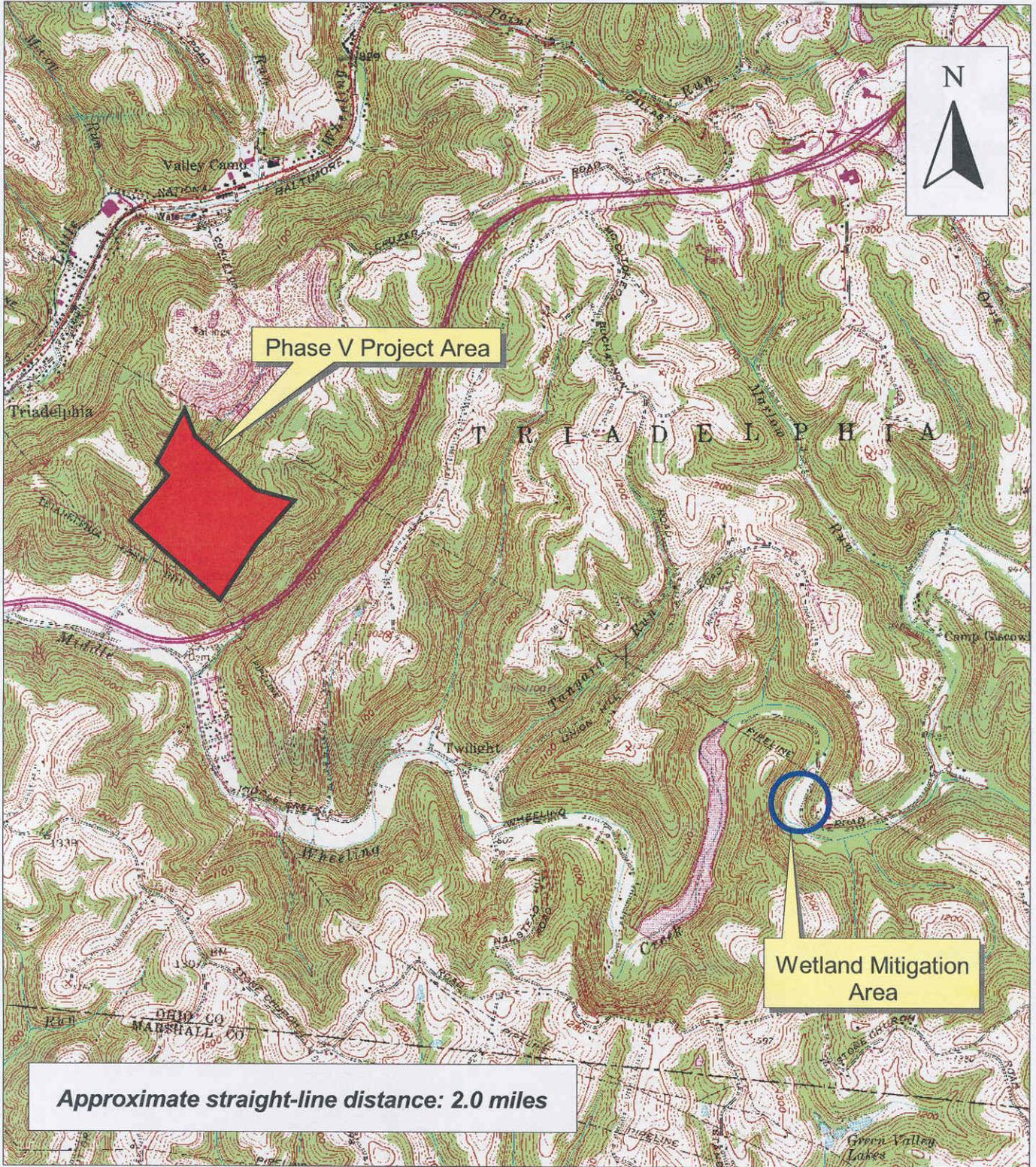


WALLACE & PANCHER INC.
 1085 S. HERMITAGE RD.
 HERMITAGE, PA 16148
 PHONE: (724) 981-0155

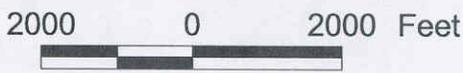


SHEET 4 OF 10

Rec'd
 9/15/07
 Jan



**The Highlands Development - Phase V
Ohio County, WV**



Wetland Mitigation Site Map

Source: USGS 7.5 minute Topoquads; Valley Grove & Wheeling, WV, quads.



SHEET 6 OF 10

Reed
9/15/07
JC

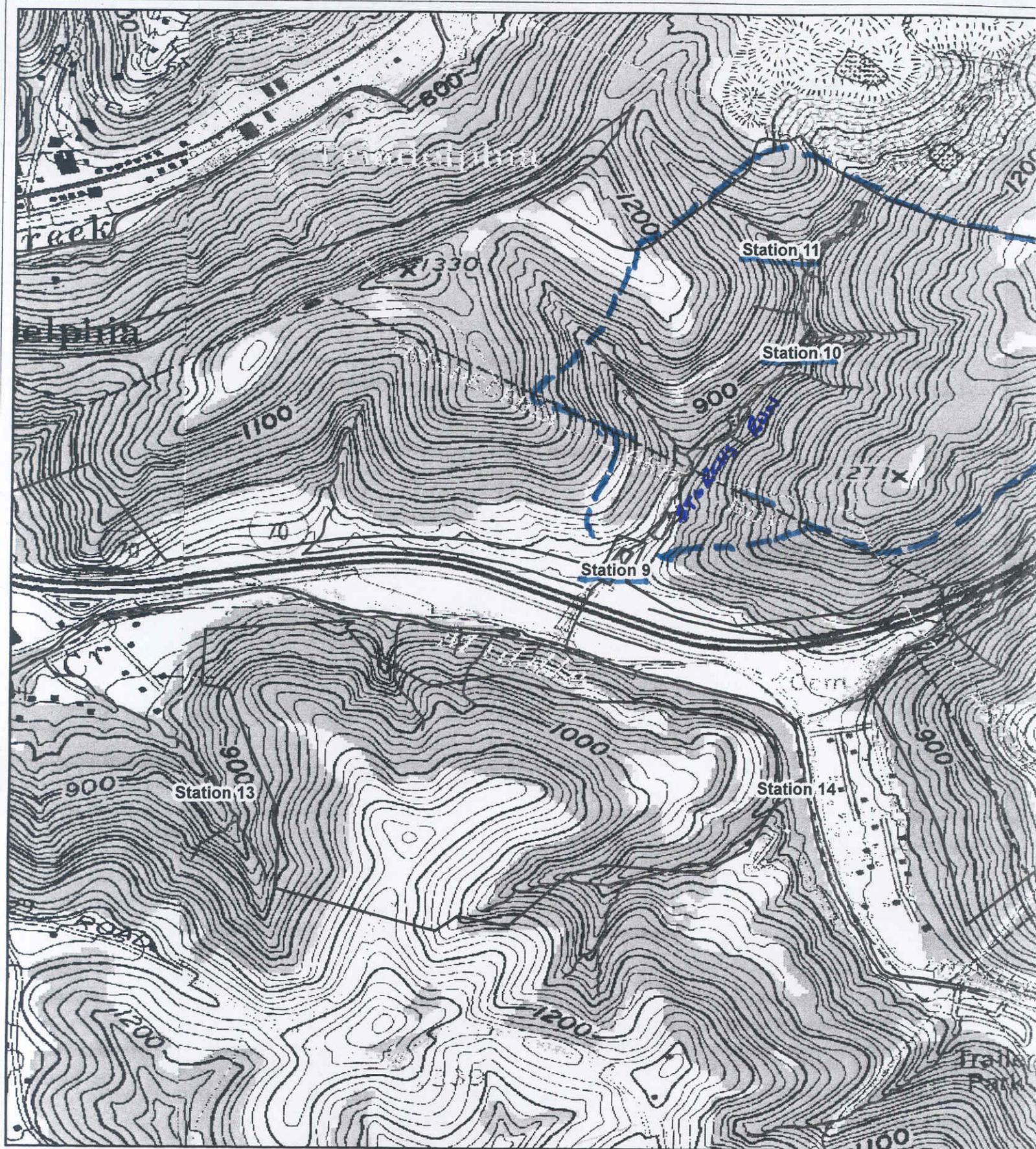


Figure 1.
The Highlands
Electrofishing Sampling Stations
August 8, 2007

Prepared for:
Ohio County Commission
Ohio County Development Authority
1500 Chapline Street, Room 215
Wheeling, WV 26003

SHEET 7 OF 10

Phase 5 Resource Impact Table

Stream Impacts

Stream Number	Stream Type	Total Length (Feet)	Impacted Length (Feet)
Stream 1	Perennial	4658.46	4080.66
Stream 4	Ephemeral	122.61	122.61
Stream 5	Ephemeral	559.01	559.01
Stream 6	Ephemeral	440.79	440.79
Stream 6A	Intermittent	708.76	708.76
Stream 8	Perennial	683.69	683.69
Stream 9	Ephemeral	327.01	327.01
Stream 10	Ephemeral	1218.62	1218.62
Total		8718.95	8141.15
Perennial		5342.15	4764.35
Intermittent		708.76	708.76
Ephemeral		2668.04	2668.04

Wetland Impacts

Wetland Number	Wetland Type	Total Acres	Impacted Acres
Wetland W8	90% PEM/ 10% PSS	0.05	0.05
Wetland W10A	65% Pem/ 35% POW	0.13	0.13
Wetland W10B	65% Pem/ 35% POW	0.05	0.05
Total		0.23	0.23

* All wetlands originally delineated by HDR

*Revised
9/5/07
JG*

only three sites yielding darters (*Percidae* spp.), indicating the presence of degradation sensitive species at this site. Trophic composition measures eliminate Station 1 as a high integrity stream due to the absence of upper trophic levels. Fish abundance and composition measures, primarily a high CPUE, indicate Station 1 as an intermediate quality stream with little stress imposed upon the resident fish assemblage.

5.2 Station 2

N/A – No fish collected

5.3 Station 4

N/A – No fish collected

5.4 Station 5

N/A – Dry sampling station

5.5 Station 9 *STORCH'S RUN*

Species composition and richness measures of Station 9 indicate a healthy fish assemblage. Station 9 was one of only three sites producing a favorable number of fish species showing adequate habitat and water quality to sustain multiple fish species. Station 9 was the only station to produce Sunfish (*Centrarchidae* spp.), indicating the presence of quality pool habitat at this station. In addition Station 9 was one of only three sites yielding darters (*Percidae* spp.), signifying the presence of degradation sensitive species at this site. Trophic composition measures eliminate Station 9 as a high integrity stream due to the absence of upper trophic levels. Fish abundance and composition measures, primarily a high CPUE, indicate Station 9 as an intermediate quality stream with little stress imposed upon the resident fish assemblage.

5.6 Station 10 *STORCH'S RUN*

Species composition and richness measures of Station 10 indicate a healthy fish assemblage. Station 10 was one of only three sites producing a favorable number of fish species showing adequate habitat and water quality to sustain multiple fish species. Trophic composition measures eliminate Station 10 as a high integrity stream due to the absence of upper trophic levels. Fish abundance and composition measures, primarily an intermediate CPUE, indicate Station 10 as a moderately low quality stream with little stress imposed upon the resident fish assemblage.

5.7 Station 11 *STORCH'S RUN*

N/A – No fish collected

5.8 Station 13

N/A – Dry sampling station

5.9 Station 14

Species composition and richness measures of Station 14 indicate a low quality fish assemblage. Station 14 produced only one of fish species indicating inadequate habitat and water quality to sustain multiple fish species. Trophic composition measures eliminate Station 14 as a high integrity stream due to the absence of upper trophic levels. Fish abundance and composition measures, primarily a low CPUE, indicate Station 14 as a low quality stream.

6.0 REFERENCES

United States Environmental Protection Agency (USEPA, 1999) .Chapter 8: Fish Protocols of EPA Rapid Bioassessment Protocol for Use in Streams and Wadeable Rivers: Periphyton, Benthic Macroinvertebrates, and Fish, Second Edition.

Trautman, M.B. 1981. The Fishes of Ohio. Ohio State University Press, Columbus, Ohio

Cooper, E.L. 1983. Fishes of Pennsylvania and the Northeastern United States. Pennsylvania State Press, University Park, Pennsylvania

Page, L.M. and B.M. Burr. 1991. A Field Guide to Freshwater Fishes North America and Mexico. Houghton Mifflin Company, Boston, Massachusetts.