

**US Army Corps
of Engineers**

Louisville District ®

Public Notice

Public Notice No.
LRL-2020-709-tmb

Open Date:
21 Dec 2020

Closing Date:
20 Jan 2021

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Ms. Tre M. Barron, CELRL-RDS
6855 State Road 66
Newburgh, Indiana 47630

Phone: 812-853-9713

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA).

APPLICANT: Mr. Evan Beck
Drake Holdings, LLC
4763 Rosebud Land
Newburgh, IN 47630

AGENT: Wetland Services, Inc.
Mr. Rick Liggett
3880 Trigg Turner Road
Corydon, KY 42406

LOCATION: Unnamed tributaries and wetlands to Patoka River
Pike County, Indiana

Latitude: 38.38833
Longitude: -87.33991
7.5 Minute Quad: Petersburg, Indiana

PURPOSE: To construct and operate a seasonal impoundment for migratory birds and wetland wildlife.

DESCRIPTION OF WORK: The applicant proposes to discharge 350 cubic yards of dredged material into 0.09 acres of palustrine scrub shrub wetlands to construct a linear compacted embankment. In addition, an in-line water control structure would be installed in an intermittent stream to seasonally control the water surface elevation creating a seasonal impoundment for migratory birds and wetland wildlife. A rock stream crossing with a culvert running through it exists and would be removed. A low water crossing would be installed also serving as a rock riffle to control grade as well as provide habitat for aquatic fauna.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES:

Impacts to jurisdictional waters have been avoided and minimized to the greatest extent possible, while still meeting the purpose and need for the project. The location of the embankment site was selected because it was the narrowest area with the least amount of impacts to the wetlands.

Mitigation would be required to compensate for the proposed permanent direct impacts to 0.09 acres of palustrine scrub shrub wetlands by purchasing 0.09 palustrine forested wetland credits from the Flat Creek Mitigation Bank. For the proposed secondary seasonal impoundment impacts of 1,300 linear feet of intermittent stream a 100' riparian buffer would be planted along approximately 800 linear feet of the intermittent stream beginning from W Co Road 200 S to the existing wood line. The buffer would extend 50' from the top of both sides of the stream. It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice may constitute the application for the 401 certification. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, Section 401 WQC Program, 100 N. Senate Avenue Room N1255, Indianapolis, Indiana 46204. The applicant is responsible for obtaining the certification from IDEM.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on information by the applicant, and a review of the Information for Planning and Consultation (IPAC) website, <https://ecos.fws.gov/ipac/>, the following federally-listed species are known to or believed to occur in the area to be affected (directly or indirectly) by the proposed action:

List of Species

Indiana bat (*Myotis sodalis*)
Northern Long-eared bat (*Myotis septentrionalis*)
Fanshell pearly mussel (*Cyprogenia stegaria*)
Fat pocketbook (*Potamilus capax*)

The Endangered Species Act (ESA, 87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) requires federal agencies to consult with the U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7(a) 2 of the ESA on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered, or any designated critical habitat. A copy of this notice is being furnished to the USFWS for their review. Per this notification, we request comments from the USFWS concerning potential impact to threatened and/or endangered species. There may be affects to the listed bat species due to tree clearing activities, but we will consult with USFWS further during the evaluation process. After receipt of comments, the USACE will evaluate the potential impacts to proposed and/or listed species and their designated critical habitat and initiate consultation with USFWS, if required.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined and it has been determined that there are no historic properties on this site currently listed on the Register. Prior to taking final action on this application, this office will evaluate any potentially eligible historic properties relative to the proposed worksite. The applicant has secured the services of a professional archaeologist to complete a Phase I Survey of the impact site to determine if there are any unknown sites that would be potentially eligible for inclusion on the National Register. Any impacts on such properties will be evaluated and considered in making the final decision. With respect to other sites not currently listed on the Register, 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-Columbian, 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).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

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. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. 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.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory/Public-Notices/>. All comments regarding this proposal should be addressed to Tre M. Barron, CELRL-RDS at the address noted above and should refer to the Public Notice Number No. LRL-2020-709-tmb.

If you desire to submit your comments by email, you must comply with the following:

- a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2020-709-tmb.

Example:

Subject: LRL-2020-709-tmb

- b) Provide your physical mailing address and telephone number.
- c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil
- d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.

Location Map

Drake Holdings, LLC

N

1 inch = 2,000 feet

0 500 1,000 2,000 3,000 4,000 Feet

Date: 10AUG20

USGS: Petersburg Quad

File: Z:\ArcMap\Project\Evan_Beck\Drakes\Drakes_East_Location_Map_10AUG20_KM

Map Prepared By: KM
Wetland Services, Inc
1015 Amiet Rd.
Henderson, KY 42420

Wetland Services

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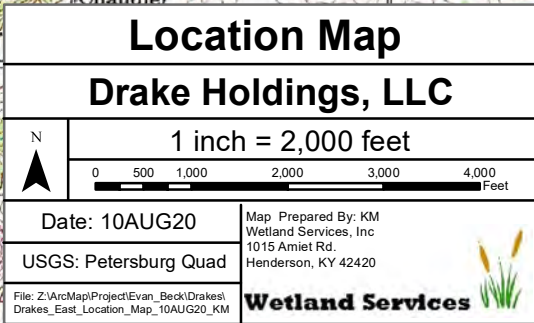
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Wetland Services



Legend

Project Boundary

The map shows a topographic area with contour lines and elevation markers (440, 450, 460, 470, 480, 490, 500, 510, 520, 530, 540, 550, 560, 570, 580, 590, 600, 610, 620, 630, 640, 650, 660, 670, 680, 690, 700, 710, 720, 730, 740, 750, 760, 770, 780, 790, 800, 810, 820, 830, 840, 850, 860, 870, 880, 890, 900, 910, 920, 930, 940, 950, 960, 970, 980, 990, 1000). A red rectangle highlights the project boundary area.

Legend

Project Boundary

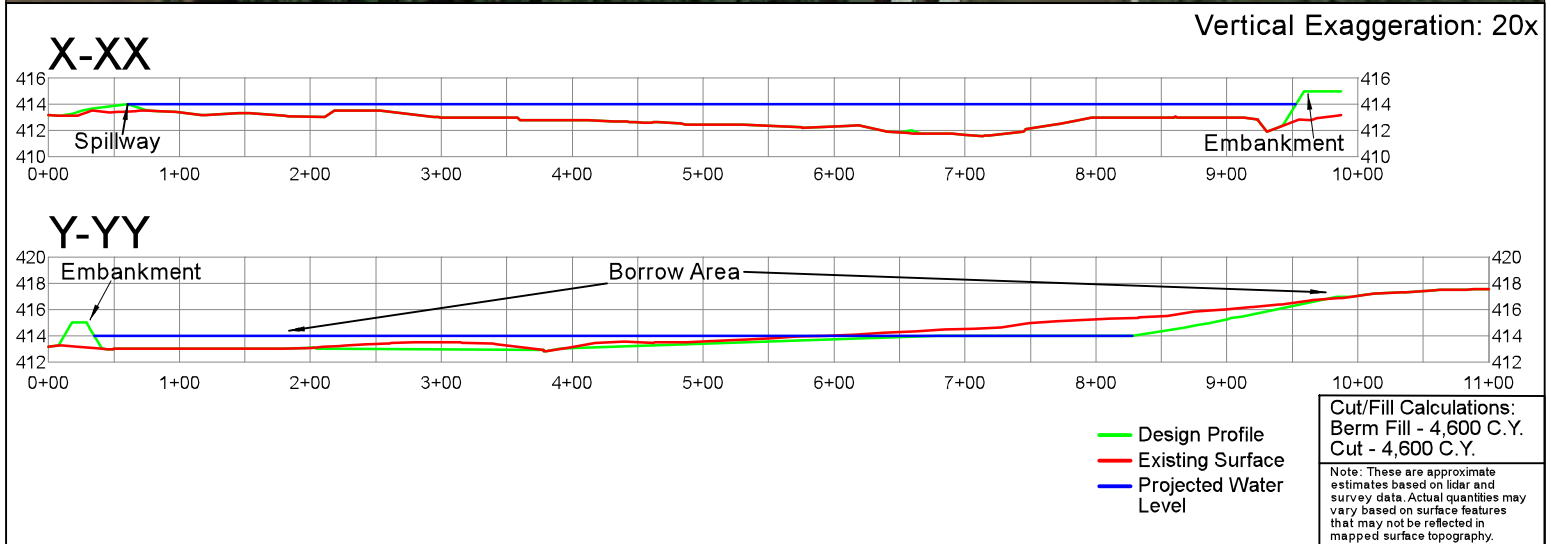
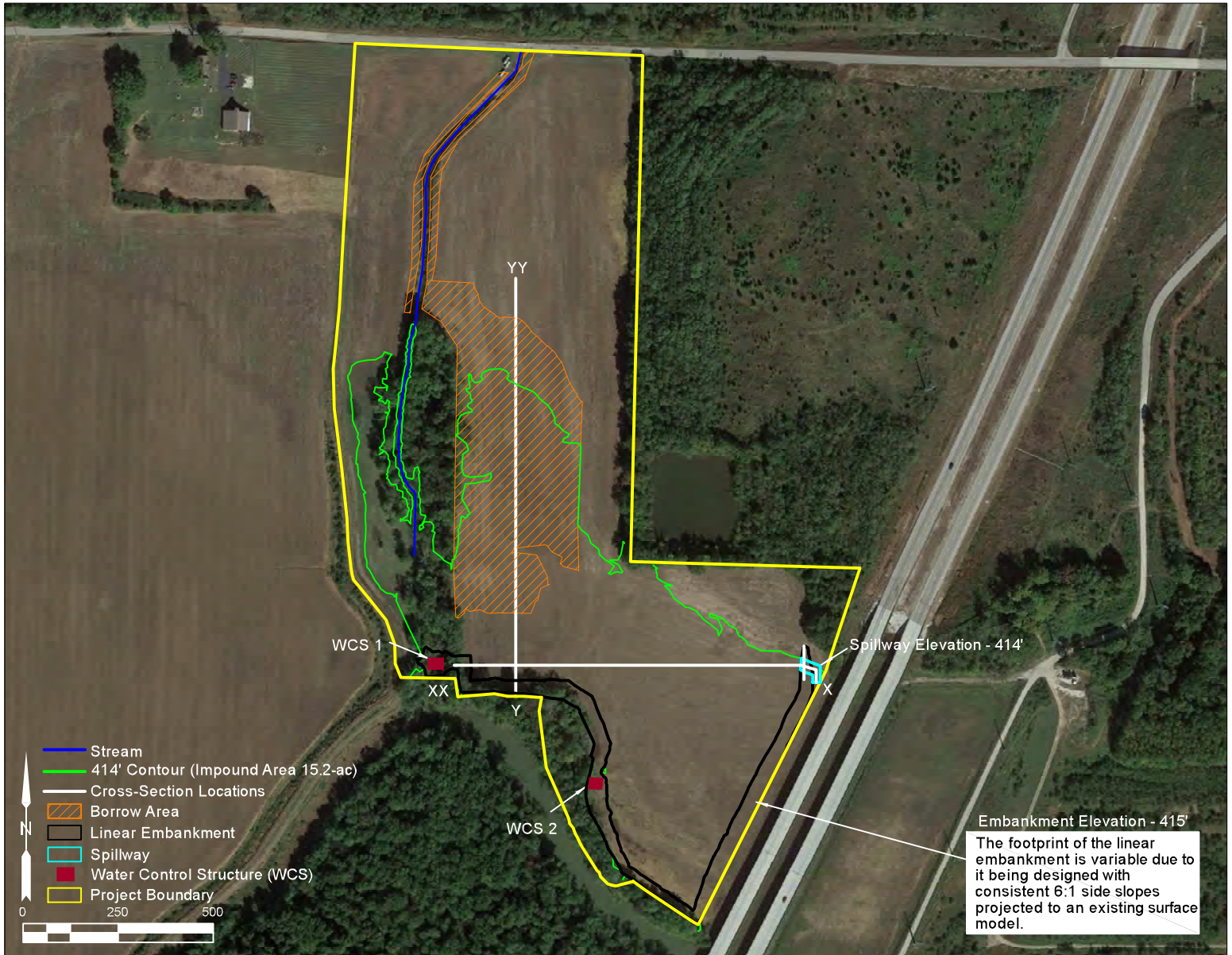
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Figure 1 of 5



**Drakes East
Wetland Design Plan ProX**

Drake Holdings, LLC

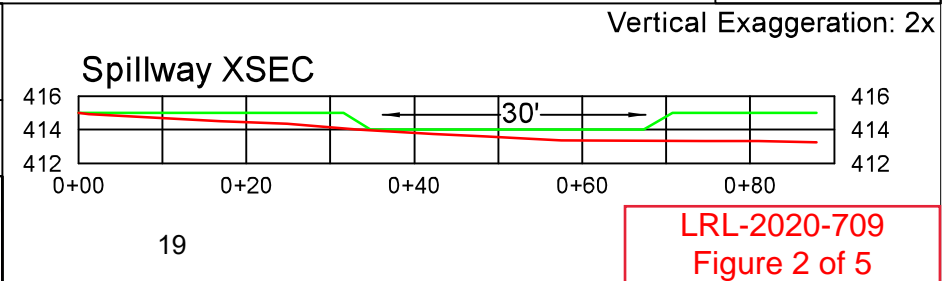
Aerial: GOOGLE 2019

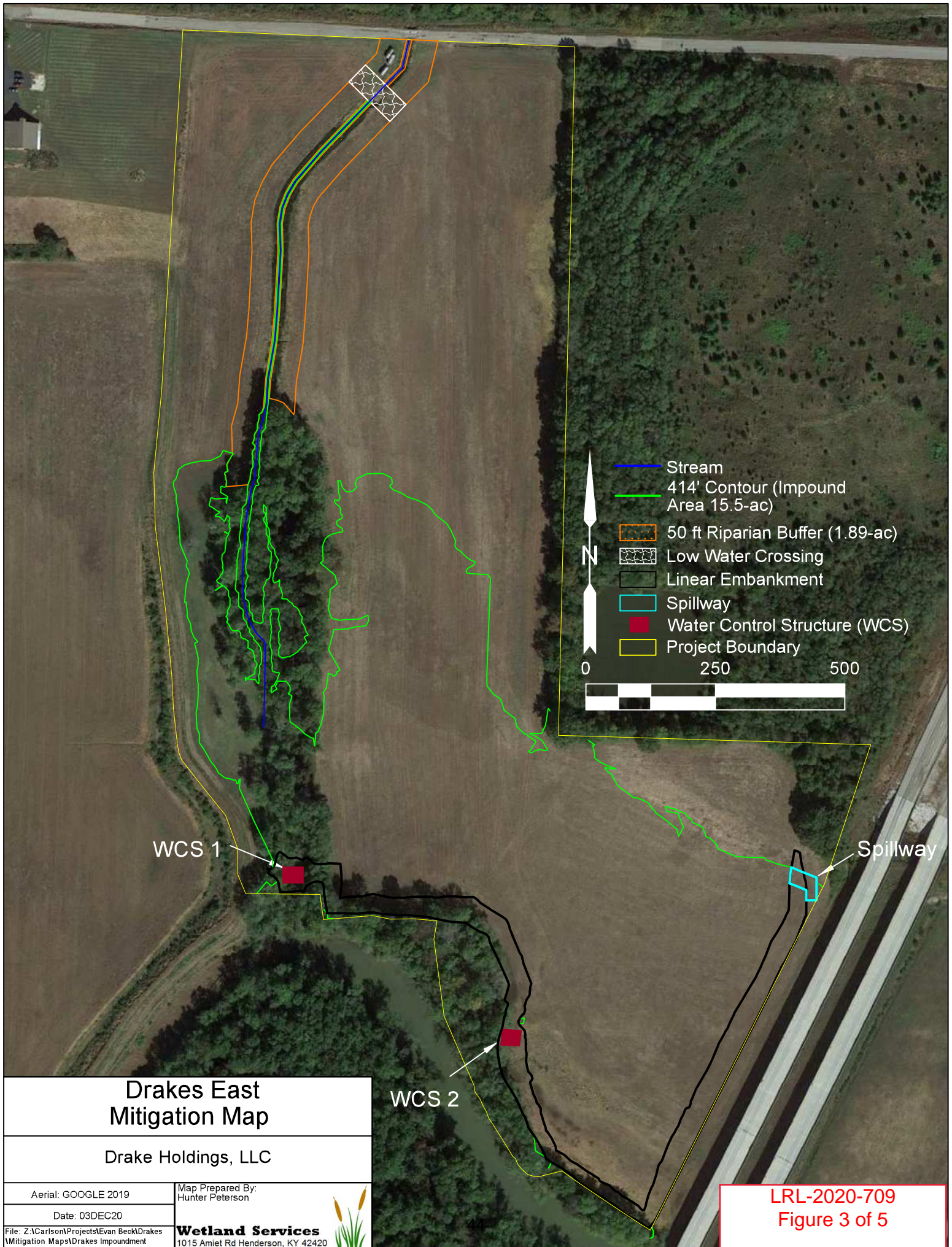
Date: 20OCT20

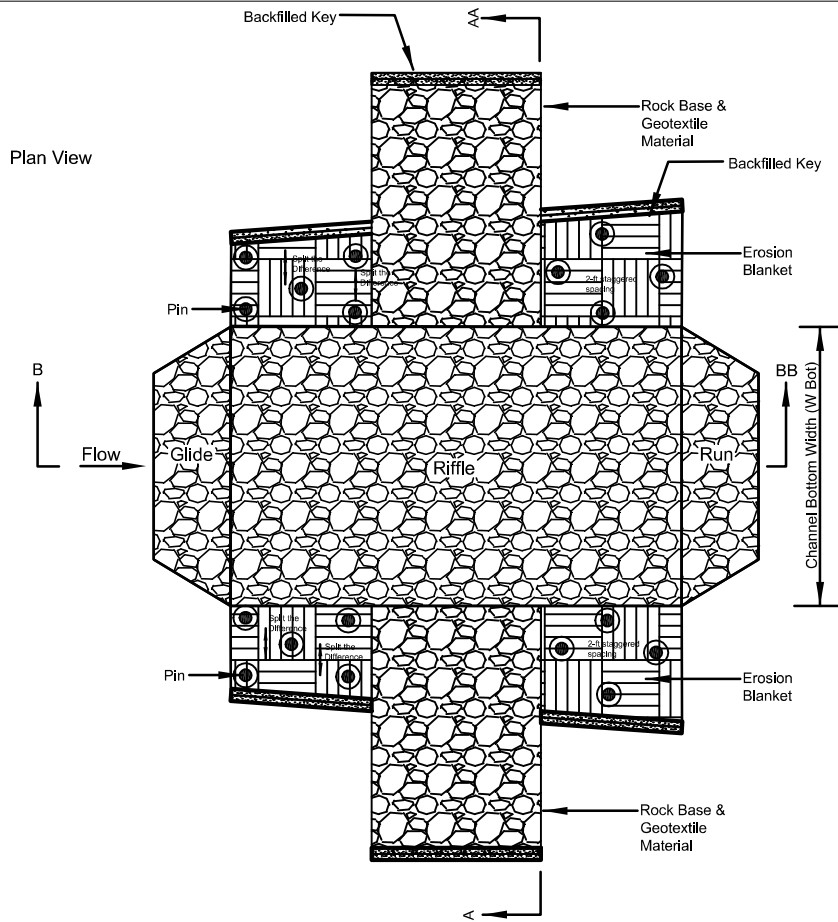
Map Prepared By:
Hunter Peterson

File: Z:\Carlson\Projects\Evan Beck\Drakes
Drakes Impoundment Design

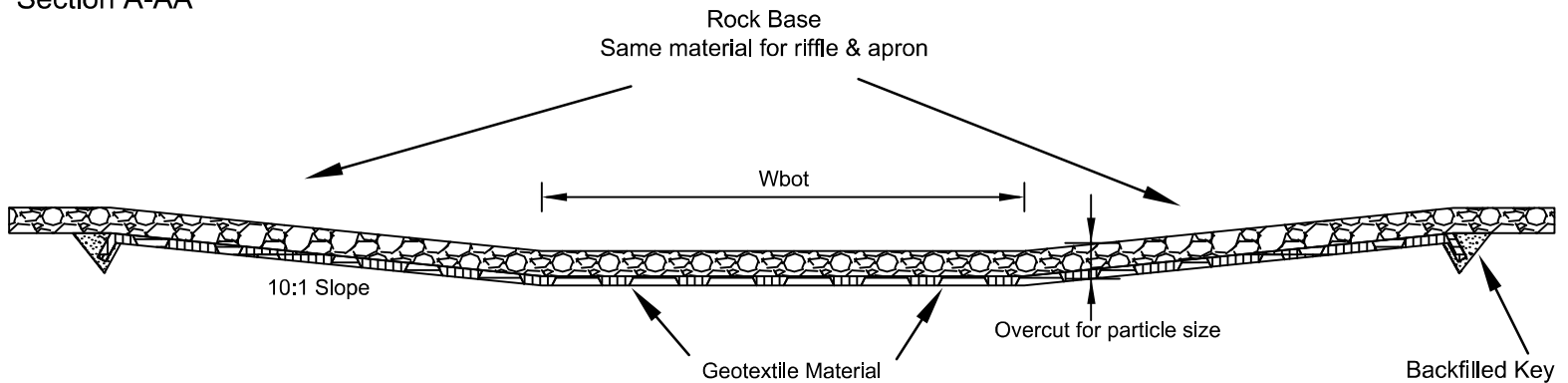
Wetland Services
1015 Amiet Rd Henderson, KY 42420





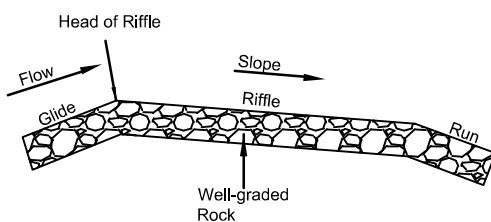


Section A-AA



- ◆ Blankets shall be installed on riffles & outside bends, no blanket on point bars.
- ◆ Blankets shall be installed loose & sagging so as to follow even the smallest ground contours.
- ◆ Blankets shall be keyed, covered & pinned as illustrated in plan & section view below.
- ◆ Blankets are ~7.5'W X ~100'L. It typically takes 140 pins/100 linear ft, + 6 at each seam.

Section B-BB



- ◆ A well-graded rock contains a wide range of sizes and has a good representation of various sizes.
- ◆ A well-graded mixture has a minimum of air spaces to trap and hold water.
- ◆ Do not dump through riffles or use any method that causes segregation of rock sizes.
- ◆ Overcut channel to accommodate designed particle size in riffle and obtain the final design elevation.
- ◆ Starting from glide, extend rock placement to the run section to prevent erosion around the toe of riffle due to back eddy action.
- ◆ Refer to stream profile drawing for riffle slope.

Low Water Crossing

Date: 07AUG15

Drawing Not To Scale

File: Z:\Resources\Streams Restoration\
In-Stream Structures\Low Water Crossing

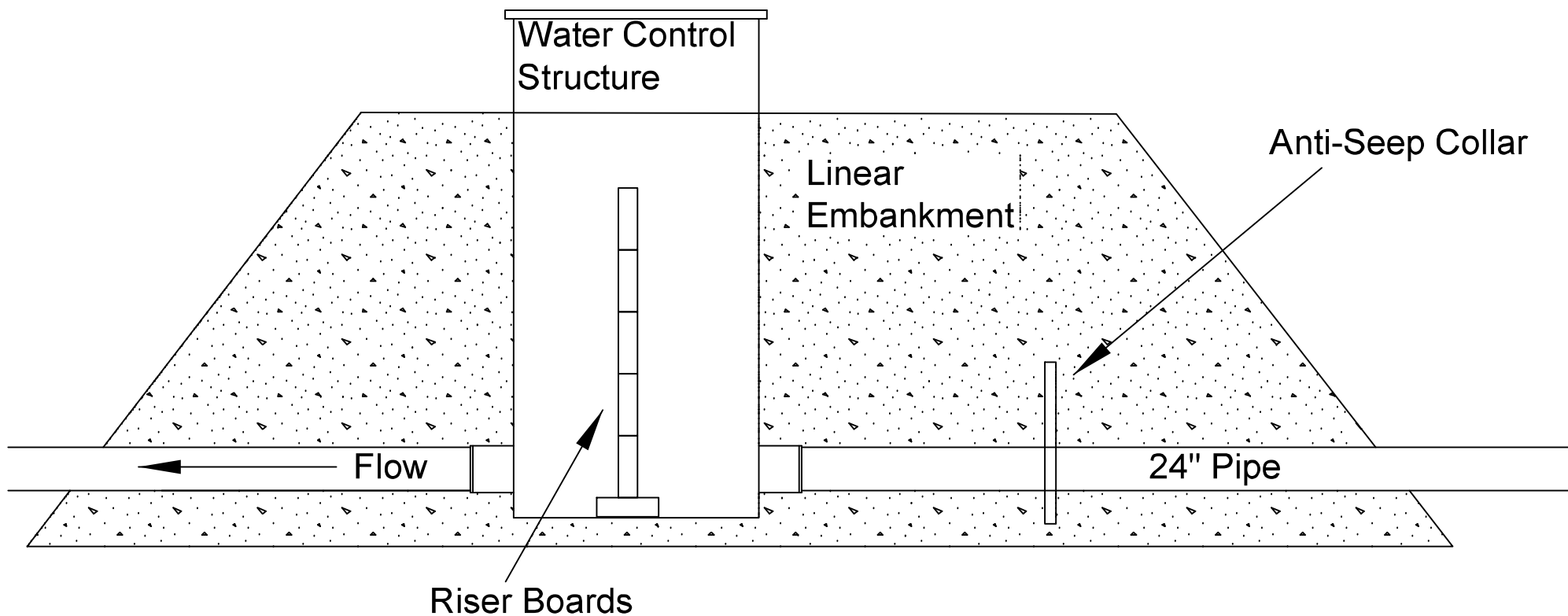
Map Prepared By:
Will Simmons

Wetland Services
1010 Amiet Rd Henderson, KY 42420




LRL-2020-709
Figure 4 of 5

Water Control Structure



LRL-2020-709
Figure 5 of 5

Water Control Structure		
Date: 20OCT20	Map Prepared By: Hunter Peterson	
Drawing Not To Scale	Wetland Services 1010 Amiet Rd Henderson, KY 42420 	
File: Z:\Carlson\Projects\In-stream Structures		