



**US Army Corps  
of Engineers**  
Louisville District ®

# Public Notice

Public Notice No.  
LRL-2015-868-mdh

Open Date:  
13 Jun 2016

Close Date:  
13 Jul 2016

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
ATTN: Mr. Michael Hasty, CELRL-OPF-N, Rm 752  
P.O. Box 59  
Louisville, Kentucky 40201-0059

Phone: 502-315-6676

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

**APPLICANT:** Mr. Richard Knock  
Omaha Enterprises, LLC.  
10730 Omaha Trace  
Union, KY 41091

**AGENT:** Mr. Lee Otte  
Otte Enterprises  
505 Stevenson Road  
Erlanger, KY 41018

**LOCATION:** Streams, wetlands and an open water near the City  
of Walton in Kenton County, Kentucky.

Latitude: 38°-51'-46" (N)  
Longitude: 84°-35'-38" (W)  
7.5 Minute Quad: WALTON, KENTUCKY

**PURPOSE:** Commercial development.

**DESCRIPTION OF WORK:** The applicant proposes to develop a 280-acre parcel into a commercial development. Specifically, the development would include three (3) large scale structures (900,000 - 1,000,000 square feet capacity and three (3) small scale structures (100,000 - 110,000 square feet). Further, a connecting roadway infrastructure and stormwater management system are proposed (see *Figures 1-3*). To facilitate this new development, the applicant proposes to impact approximately 12,260 linear feet of thirty-three (33) stream channels, 1.17 acre of one (1) open water and 0.574 acre of four (4) wetlands (see *Tables 1 and 2* below for proposed impacts to "waters of the U.S.")

**Table 1: Proposed Open Water & Wetland Impacts**

Water ID	Type	Impact/Activity	Impacts	
			Length (ft)	Area (ac)
Wetland 2	Emergent	Sediment Basin	N/A	0.076
Wetland 3	Emergent	Fill/Parking lot	N/A	0.388
Wetland 4	Emergent	Fill/Sidewalk	N/A	0.085
Wetland 5	Emergent	Fill/	N/A	0.025
Open Water	Pond	Fill/	N/A	1.17
Total Proposed Wetland Impacts:				1.744

**Table 2: Proposed Stream Impacts**

Water ID	RBP Quality	Impact/Activity	Impacts	
			Length (lf)	Area (ac)
Intermittent (B)	Poor	Fill/Structure	300	0.017
Ephemeral (B)	Poor	Fill/Structure	500	0.023
Intermittent (C)	Poor	Fill/Structure	700	0.040
Intermittent (D)	Poor	Fill/Structure	300	0.017
Ephemeral (D)	Poor	Fill/Structure	250	0.005
Intermittent (E)	Poor	Fill/Structure	250	0.017
Ephemeral (E)	Poor	Fill/Structure	350	0.008
Ephemeral (E-1)	Poor	Fill/Structure	220	0.005
Ephemeral (F)	Poor	Fill/Structure	800	0.018
Ephemeral (G)	Poor	Fill/Structure	200	0.004
Ephemeral (H)	Poor	Fill/Structure	250	0.006
Ephemeral (I)	Poor	Fill/Structure	200	0.007
Intermittent (J)	Poor	Fill/Structure	320	0.020
Ephemeral (J)	Poor	Fill/Structure	550	0.013
Intermittent (K)	Poor	Fill/Structure	1,950	0.200
Ephemeral (K-1)	Poor	Fill/Structure	50	0.001
Ephemeral (K-2)	Poor	Fill/Structure	100	0.002
Ephemeral (K-3)	Poor	Fill/Structure	300	0.007
Intermittent (K-4)	Poor	Fill/Structure	660	0.045
Ephemeral (K-4)	Poor	Fill/Structure	50	0.0017
Ephemeral (K-5)	Poor	Fill/Structure	250	0.011
Ephemeral (K-6)	Poor	Fill/Structure	300	0.010
Ephemeral (K-7)	Poor	Fill/Structure	140	0.003
Intermittent (L)	Poor	Fill/Structure	1,250	0.100
Ephemeral (L)	Poor	Fill/Structure	220	0.007
Ephemeral (L-1)	Poor	Fill/Structure	400	0.014
Ephemeral (L-2)	Poor	Fill/Structure	250	0.006
Ephemeral (L-3)	Poor	Fill/Structure	100	0.002
Ephemeral (M)	Poor	Fill/Structure	400	0.023
Intermittent (O)	Poor	Fill/Structure	150	0.012
Ephemeral (O)	Poor	Fill/Structure	100	0.004
Ephemeral (O-1)	Poor	Fill/Structure	300	0.010
Ephemeral (O-2)	Poor	Fill/Structure	100	0.023
<b>Total Proposed Stream Impacts:</b>			<b>12,260</b>	<b>0.6817</b>

These waters would be filled with approximately 23,711 cubic yards of clean earthen fill material (soil and bedrock).

**AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES:** The applicant took measures to avoid impacts to all on-site perennial streams and minimized impacts to Stream K through the redesign of the basins; therefore, through these measures, the applicant was able to reduce impacts to "waters of the U.S."

To mitigate for the remaining unavoidable stream impacts, the applicant proposes off-site permittee responsible mitigation at a 680-acre site owned by the applicant referred to as the "Falmouth Mitigation Property." Specifically, the proposal calls for the

preservation of 15,900 linear feet of ephemeral stream channels, 18,550 linear feet of intermittent stream channels and 3,150 linear feet of perennial stream channel. Further, buffer zones of 50' and 100' would be established for these preserved channels and protected in perpetuity through either a deed restriction, environmental covenant or a conservation easement (see *Figures 4-6*).

In addition, the applicant proposes a monitoring plan with performance standards, a maintenance plan, a long-term management plan, an adaptive management plan and financial assurances. Additional information on the details of the mitigation plan or the proposal in general may be obtained by request from this office.

With regard to the proposed impacts to wetlands, the applicant proposes to compensate for these impacts through the purchase of wetland credits from the Northern Kentucky Mitigation Bank.

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 until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant must apply for State certification from the Kentucky Energy and Environment Cabinet Division of Water (KDOW).

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 available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

The National Register of Historic Places has been examined, 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 archaeological, 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).

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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 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 C.F.R. 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

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<http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Mr. Michael Hasty, CELRL-OPF-N at the address noted above and should refer to the Public Notice Number LRL-2015-868-mdh.

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-2015-868-mdh.

Example: LRL-2015-868-mdh (subject)

b) Provide your physical mailing address and telephone number.

c) Send your email to: [lrl.regulatorypubliccomment@usace.army.mil](mailto:lrl.regulatorypubliccomment@usace.army.mil).

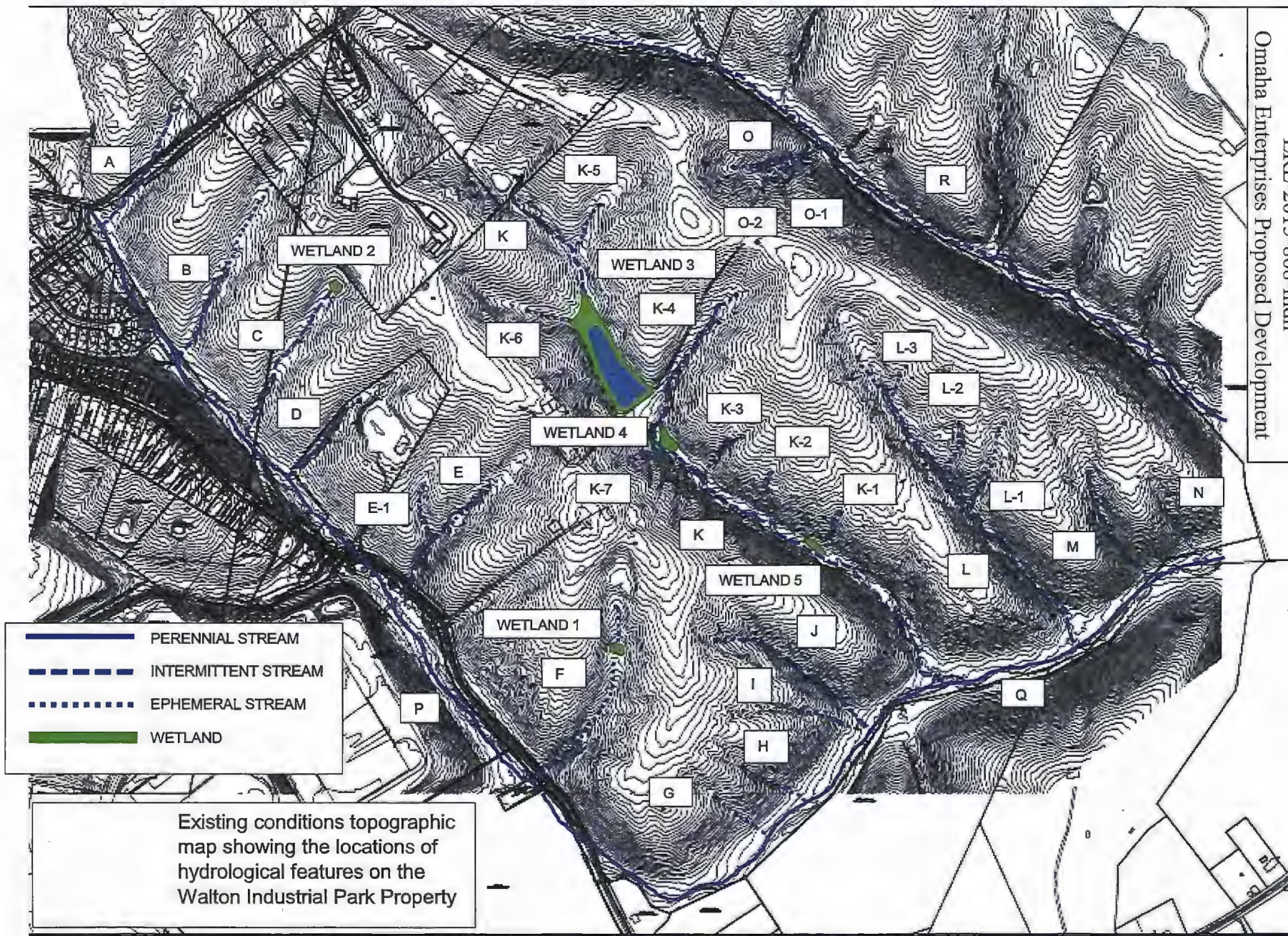
d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.





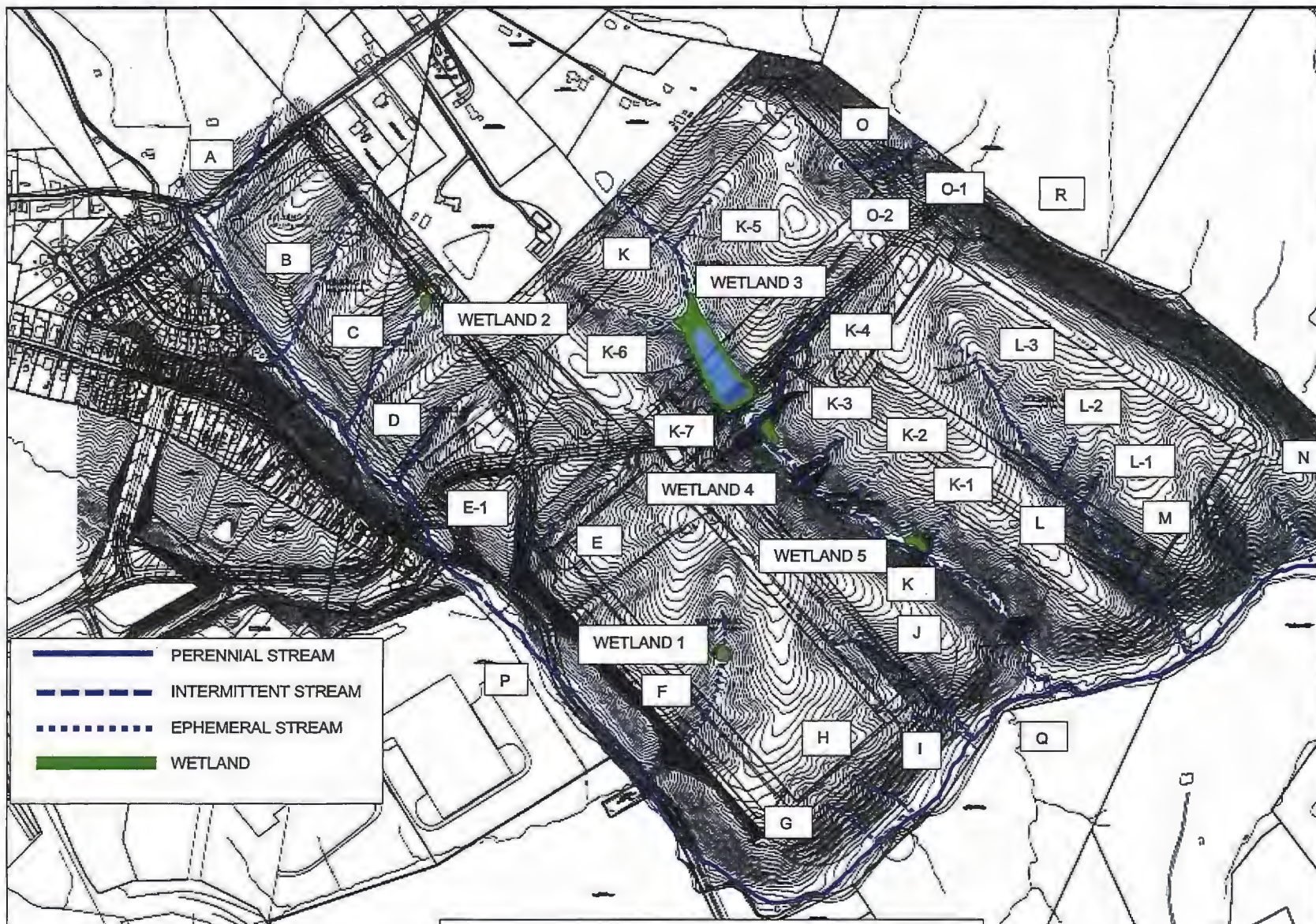


**Figure 2**  
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 Omaha Enterprises Proposed Development





**Figure 3**  
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Omaha Enterprises Proposed Development



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AMERICAN LEGISLATORS  
CITY OF OMAHA  
PLANNING  
DIVISION

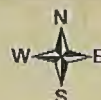
Development plan for the Walton  
Industrial Park Property, showing the  
impacted streams and wetlands





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**Figure 4**  
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**Proposed Off-Ste Mitigation**



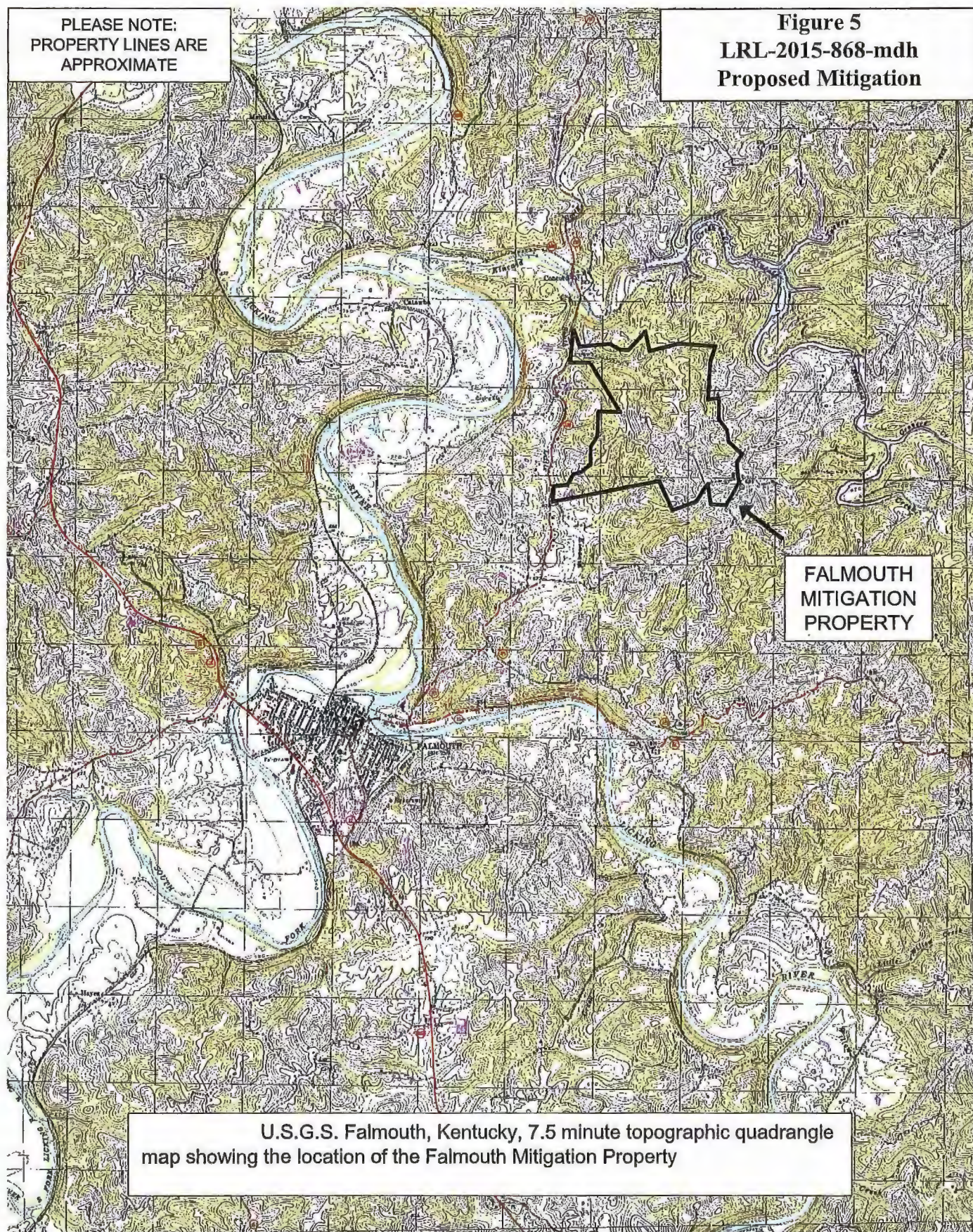


PLEASE NOTE:  
PROPERTY LINES ARE  
APPROXIMATE

**Figure 5**  
**LRL-2015-868-mdh**  
**Proposed Mitigation**

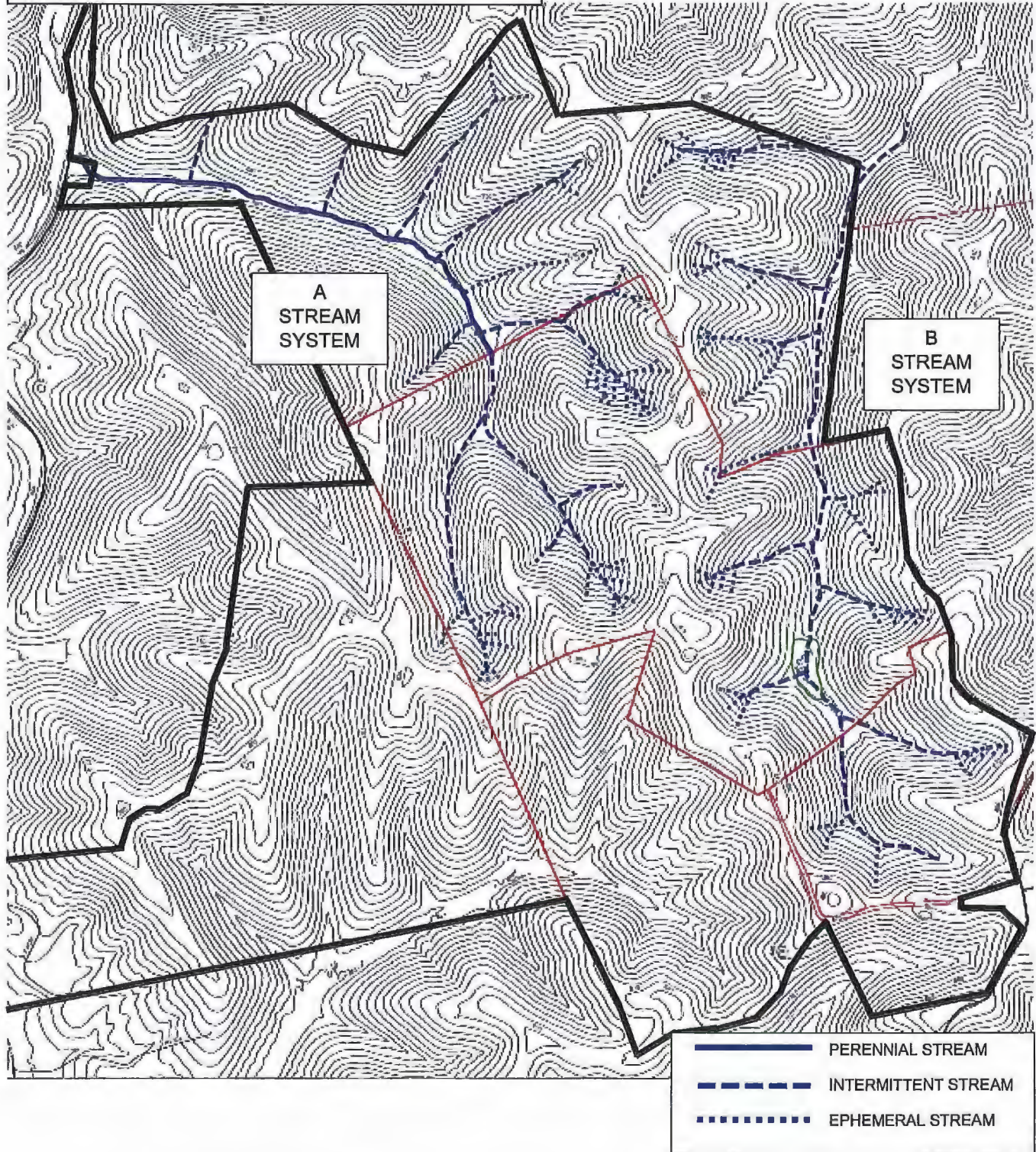
**FALMOUTH  
MITIGATION  
PROPERTY**

U.S.G.S. Falmouth, Kentucky, 7.5 minute topographic quadrangle  
map showing the location of the Falmouth Mitigation Property





**Figure 6**  
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**Location of Proposed Stream Preservation**  
**Falmouth Mitigation Property**



Existing conditions topographic map showing the streams located on the Falmouth Mitigation Property which will be used for mitigation (10 ft contours)