



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

Public Notice

Public Notice No.
LRL-2012-00470-r9r

Open Date:
14 Dec 2012

Close Date:
14 Jan 2013

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Russell Retherford, CELRL-OP-FW
P.O. Box 489
Newburgh, Indiana 47629-0489

Phone: (812) 842-0260

rl.regulatorypubliccomment@usace.army.mil

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

APPLICANT: Armstrong Coal Company, Inc.
407 Brown Road
Madisonville, Kentucky 42431

LOCATION: The project is located in Lewis Creek, Nelson Creek, West Fork of Lewis Creek and their unnamed tributaries, and in wetlands adjacent to these tributaries located approximately 4.1 miles south of Centertown, Ohio County, Kentucky.

Latitude: 38°21'47.5" North
Longitude: 87°00'38.9" West
7.5 Minute Quads: Central City East, Paradise and Equality, Kentucky

PURPOSE: To relocate wetlands and streams to facilitate the removal of subsurface coal and construction of attendant features.

DESCRIPTION OF WORK: The proposed project would result in discharges of fill and/or dredged material into "waters of the United States" on a majority of a 1,141.8-acre area, which is also being reviewed as the Armstrong Coal Company, Lewis Creek West Mining Complex by the Kentucky Division of Mine Permits (KDMP) ID No. 892-0115. The proposed project would fill 0.375 acre of open water, 16.260 acres of forested wetland (PFO), 0.379 acre of scrub-shrub wetland (PSS), 0.518 acre of emergent wetland (PEM), 22,045 linear feet of intermittent streams and 47,752 linear feet of ephemeral streams. Also 200 linear feet of a perennial stream would be temporally impacted by the installation of a bridge crossing which would be removed and the stream restored after mining. Once surface mining operations would be completed, the area would be regraded to approximate original contours, covered with soil material and revegetated to the approved KDMP post-mining land use.

AVOIDANCE MINIMAZATION AND MITIGATION MEASURES: The applicant's preferred alternative, has taken into consideration various mining methods to maximize the opportunities for avoidance and minimization measures. Through this evaluation, the applicant has resized and restructured the proposed project's footprint to avoid impacts to adjacent potential jurisdictional waters along the southern and eastern boundaries, in which Armstrong Coal Company has surface and mineral rights to economically recoverable coal reserves. These "waters of the

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United States" consist of approximately 10.637 acres of wetlands; the streams consist of approximately 544 feet of intermittent and approximately 1,630 feet of ephemeral.

The applicant has proposed to mitigate for the unavoidable impacts to wetlands by restoring a total of 34.3 acres of palustrine forested wetlands on-site. The wetlands would obtain hydrology from precipitation and overbank flow from the restoration of INT-1 and backwater flooding from the Green River. The wetlands would be planted with a variety of hard mast producing hardwood tree species as well as an herbaceous mix.

The applicant has proposed to mitigate the unavoidable impacts to streams by the establishment of 25,796 linear feet of ephemeral and 21,306 linear feet of intermittent streams on-site following the mining and reclamation process. The impacted streams were assessed utilizing the Environmental Protection Agency's (EPA) Rapid Bioassessment Protocol for Use in Wadable Streams and Rivers (RBP) (1999). The streams would be replaced with Rosgen B, C and E type streams that would score in the suboptimal range utilizing the RBP method as in the pre-impact assessment. All created streams would replace the primary functions of the impacted streams. These functions include aquatic habitat and movement, water conveyance, sediment transport, water sources for terrestrial animals, and supporting the food web by organic material contribution. The Rosgen B type streams would contain step pool structures and would be utilized in areas of higher slopes in the upper headwater areas of the mitigation. Lower gradient areas of the mitigation would be constructed as Rosgen E and C type streams which would include J-hooks, pools, log habitat structures and cross vane structures to stabilize the channels, lower velocities and create varied habitats in the form of riffles, runs, and pools. A minimum 100-foot riparian corridor of hard mast producing trees would be planted along intermittent created streams and a minimum 50-foot riparian corridor of hard mast producing trees would be planted along ephemeral created streams.

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, by this notice, hereby applies for State certification from KDMP.

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.

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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 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, 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 - 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. 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

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are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/orf/listnotices.asp>. All comments regarding this proposal should be addressed to Russell Retherford, CELRL-OP-FW at the address noted above and should refer to the Public Notice Number LRL-2010-523-r9r.

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-2012-470-r9r.

Example:

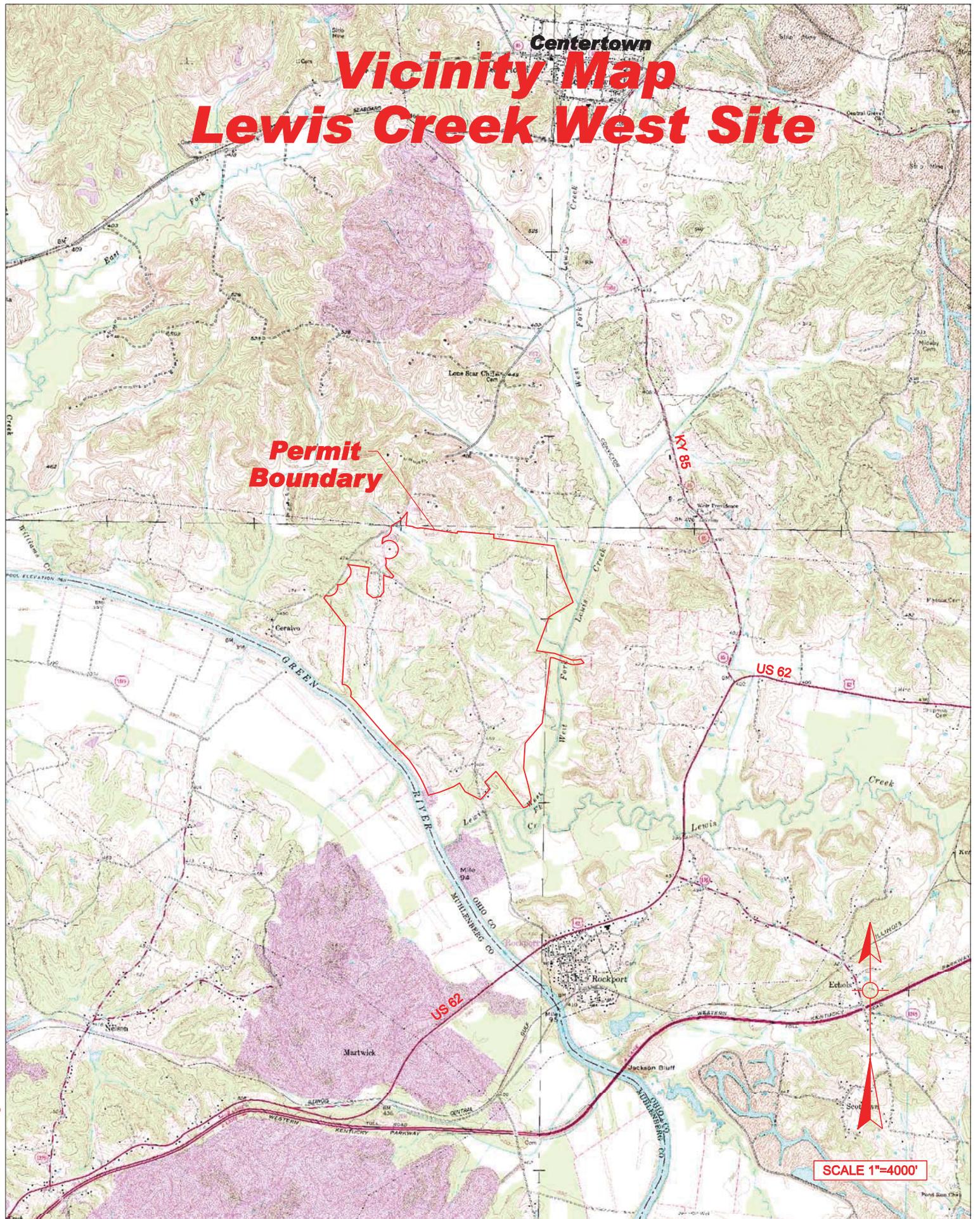
Subject: LRL-2012-470-r9r

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.

Vicinity Map Lewis Creek West Site



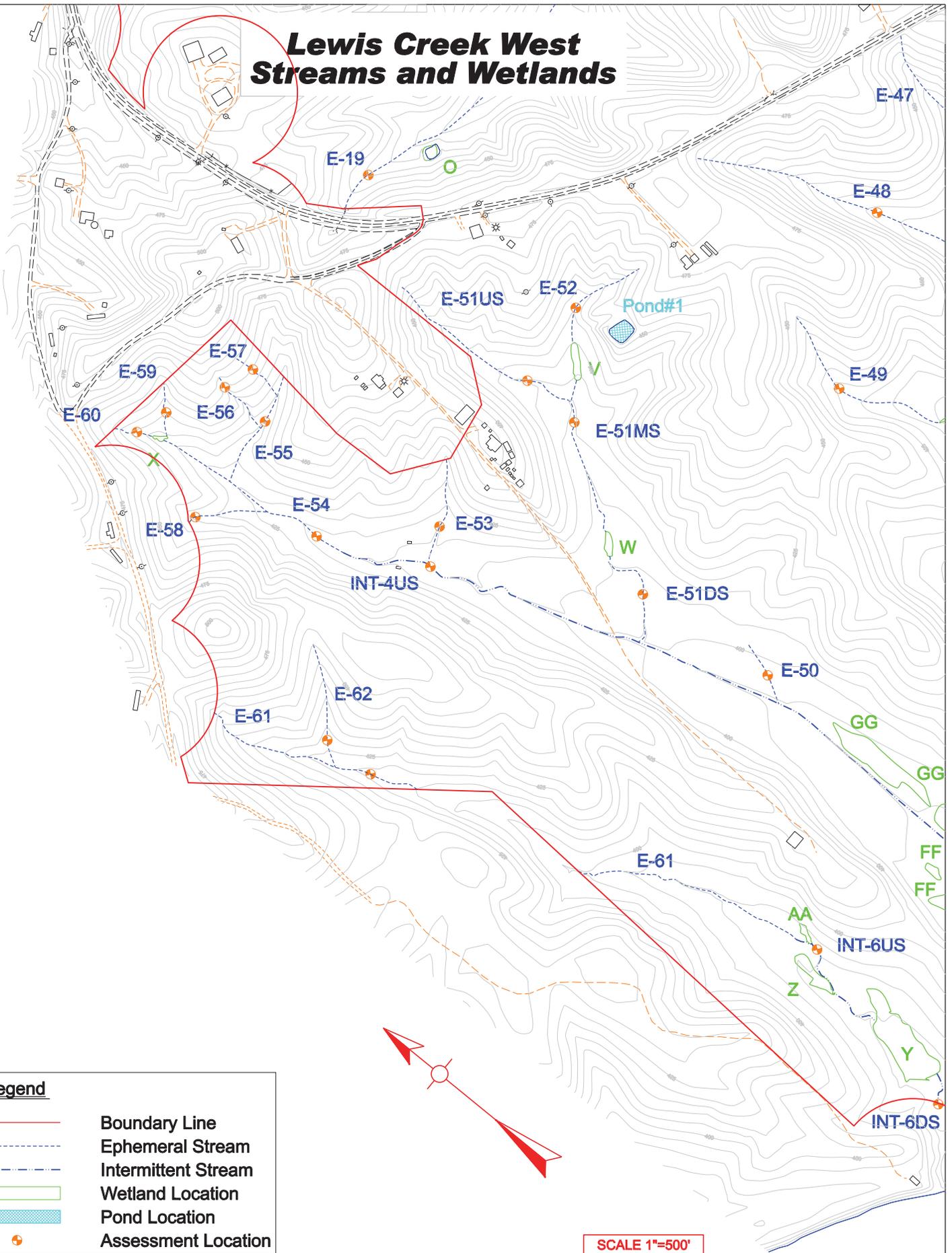
**Permit
Boundary**

SCALE 1"=4000'

T.H.E. Engineers, Inc.	PROJECT: LEWIS CREEK WEST-JURISDICTIONAL WATERS DELINEATION	LRL-2012-470-r9r	UT'S OF WEST FORK AND LEWIS CREEK & GREEN RIVER	
	COUNTY: OHIO	STATE: KY	NEAR: CENTERTOWN	ITEM: VICINITY MAP
				EXHIBIT 1

DATE:

Lewis Creek West Streams and Wetlands



Legend	
	Boundary Line
	Ephemeral Stream
	Intermittent Stream
	Wetland Location
	Pond Location
	Assessment Location

SCALE 1"=500'

T.H.E. Engineers, Inc.	PROJECT: LEWIS CREEK WEST SITE - JURISDICTIONAL WATERS DELINEATION LRL-2012-470-r9r		UT's OF WEST FORK AND LEWIS CREEK & GREEN RIVER	
	COUNTY: OHIO	STATE: KY	NEAR: CENTERTOWN	ITEM: TOPO MAP
			EXHIBIT 3 (SHEET 1)	

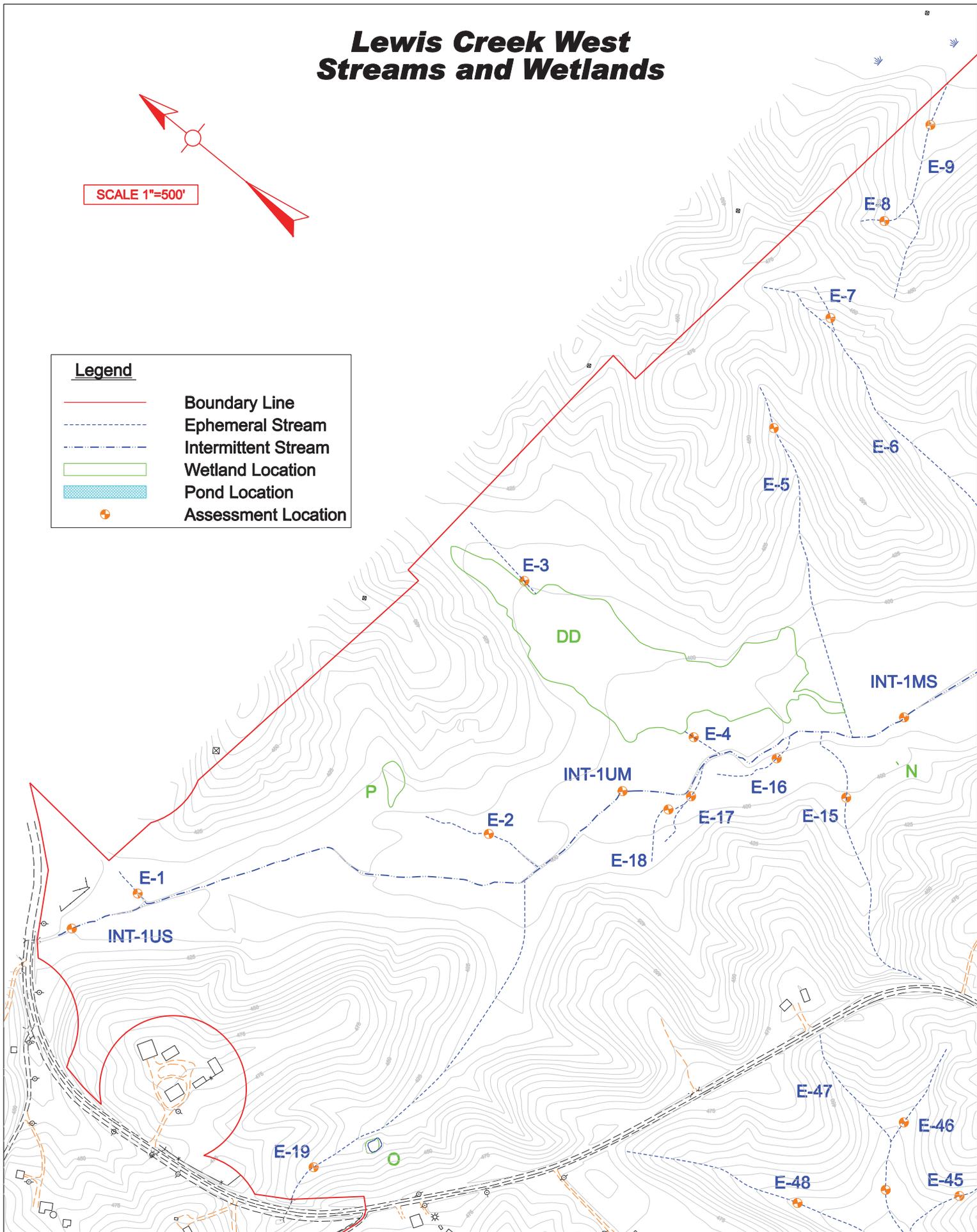
DATE:

Lewis Creek West Streams and Wetlands

SCALE 1"=500'

Legend

-  Boundary Line
-  Ephemeral Stream
-  Intermittent Stream
-  Wetland Location
-  Pond Location
-  Assessment Location



**T.H.E.
Engineers, Inc.**

PROJECT: LEWIS CREEK WEST SITE - JURISDICTIONAL WATERS DELINEATION LRL-2012-470-r9r

UT's of WEST FORK AND LEWIS CREEK & GREEN RIVER

COUNTY: OHIO

STATE: KY

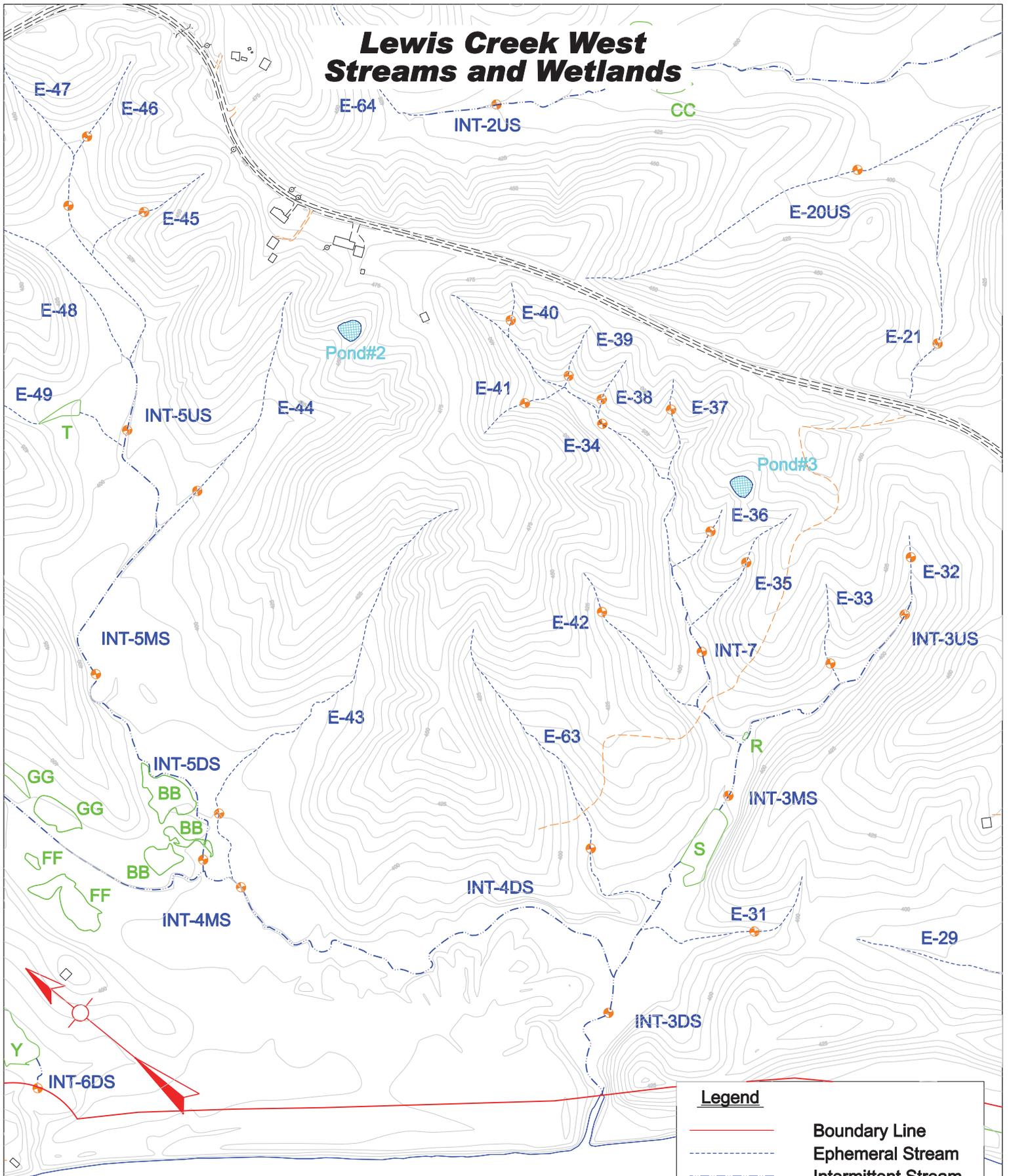
NEAR: CENTERTOWN

ITEM: TOPO MAP

EXHIBIT 4 (SHEET 2)

DATE:

Lewis Creek West Streams and Wetlands



SCALE 1"=500'

Legend

-  Boundary Line
-  Ephemeral Stream
-  Intermittent Stream
-  Wetland Location
-  Pond Location
-  Assessment Location

T.H.E. Engineers, Inc.	PROJECT: LEWIS CREEK WEST SITE - JURISDICTIONAL WATERS DELINEATION LRL-2012-470-r9r		UT's of WEST FORK AND LEWIS CREEK & GREEN RIVER	
	COUNTY: OHIO	STATE: KY	NEAR: CENTERTOWN	ITEM: TOPO MAP
				EXHIBIT 5 (SHEET 3)

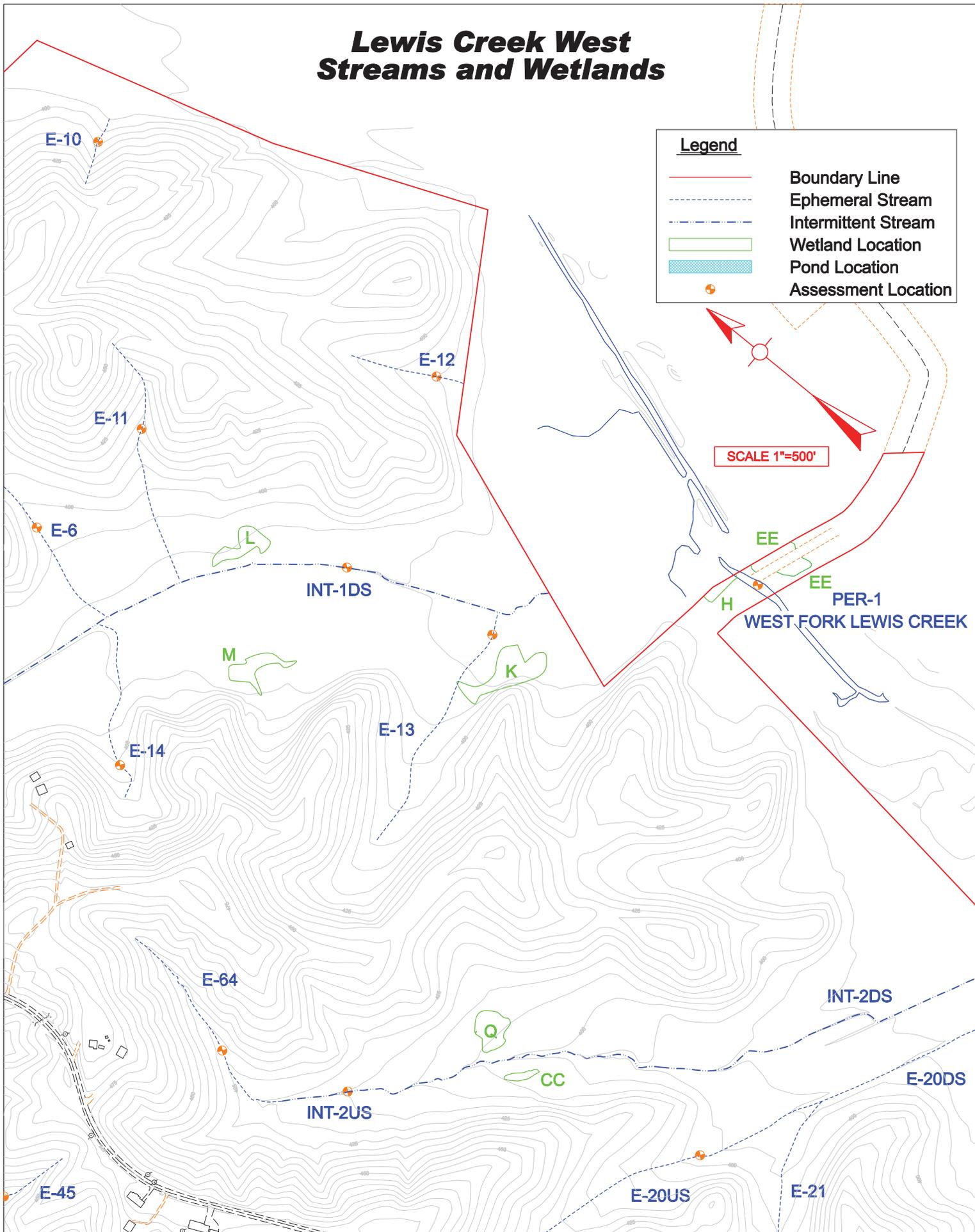
DATE:

Lewis Creek West Streams and Wetlands

Legend

-  Boundary Line
-  Ephemeral Stream
-  Intermittent Stream
-  Wetland Location
-  Pond Location
-  Assessment Location

SCALE 1"=500'



**T.H.E.
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PROJECT: LEWIS CREEK WEST SITE - JURISDICTIONAL WATERS DELINEATION LRL-2012-470-r9r

UT's of WEST FORK AND LEWIS CREEK & GREEN RIVER

COUNTY: OHIO

STATE: KY

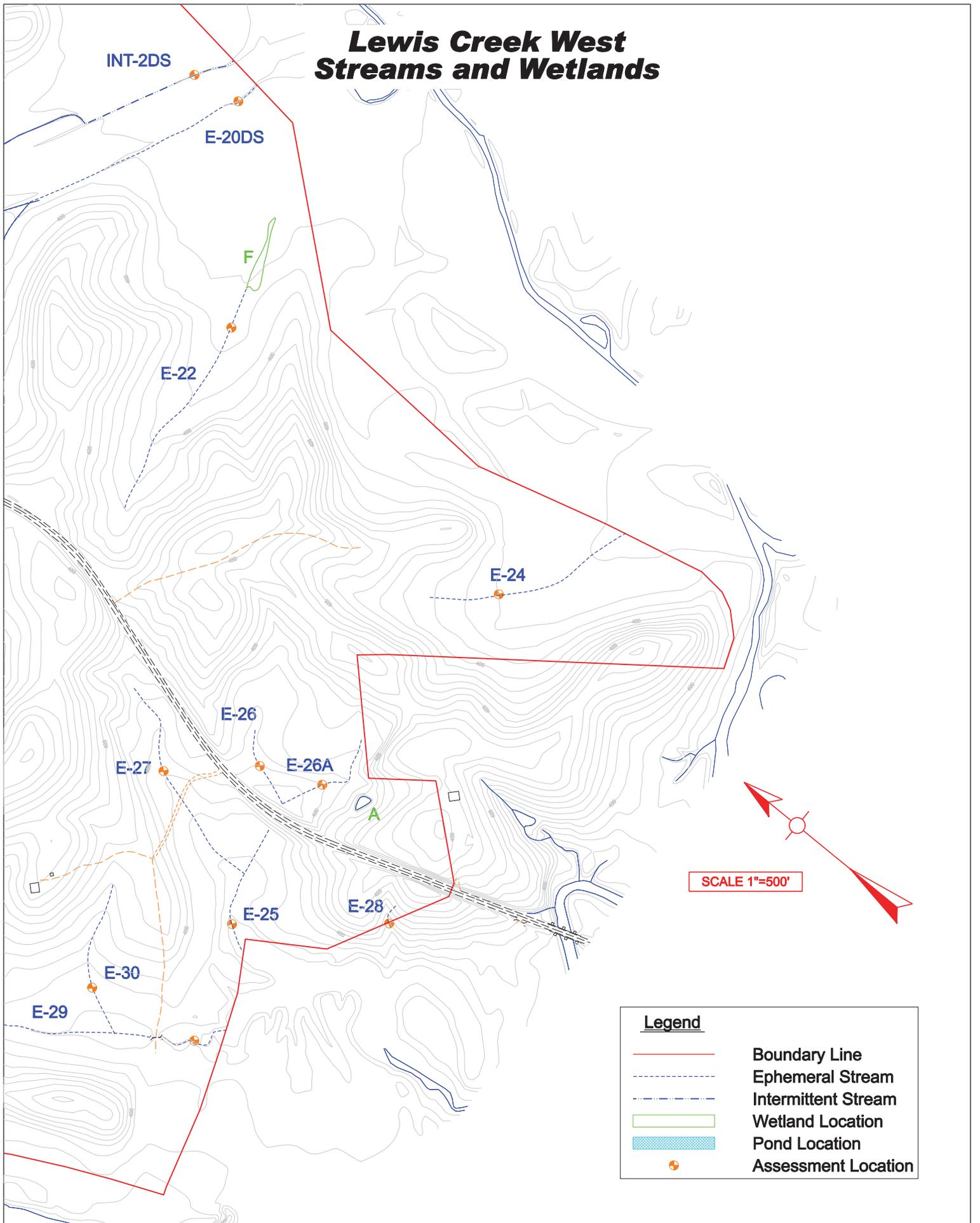
NEAR: CENTERTOWN

ITEM: TOPO MAP

EXHIBIT 6 (SHEET 4)

DATE:

Lewis Creek West Streams and Wetlands



SCALE 1"=500'

<u>Legend</u>	
	Boundary Line
	Ephemeral Stream
	Intermittent Stream
	Wetland Location
	Pond Location
	Assessment Location

T.H.E. Engineers, Inc.	PROJECT: LEWIS CREEK WEST SITE - JURISDICTIONAL WATERS DELINEATION LRL-2012-470-r9r	UT's OF WEST FORK AND LEWIS CREEK & GREEN RIVER		
	COUNTY: OHIO	STATE: KY	NEAR: CENTERTOWN	ITEM: TOPO MAP
				EXHIBIT 7 (SHEET 5)

DATE: