

# Public Notice

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

Public Notice No.  
LRL-2013-680-mdh

Open Date:  
6 Mar 2014

Close Date:  
7 Apr 2014

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
ATTN: Mr. Michael Hasty, CELRL-OP-FS, 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: Ark Encounter, LLC  
P.O. Box 417  
Hebron, Kentucky 41048

AGENT: Otte Enterprises  
505 Stevenson Road  
Erlanger, Kentucky 41048

LOCATION: Intermittent and ephemeral stream channels  
located within a 795-acre parcel west of the City  
of Williamstown, in Grant County, Kentucky.

Latitude: 38°-37'-31" (N)  
Longitude: 84°-35'-31" (W)  
7.5 Minute Quad: WILLIAMSTOWN & MASON, KENTUCKY

PURPOSE: To construct a commercial theme park.

DESCRIPTION OF WORK: Ark Encounter, LLC, proposes to develop a commercial theme park on a 795-acre parcel located west of the City of Williamstown in Grant County, Kentucky. The park would consist of a large parking facility located on the eastern portion of the property, connected to an entry pavilion and a replica of Noah's Ark on the western portion of the property. Roadways and attendant features, including sanitary sewer lines, would also be constructed under the proposal (see Figures 1-4).

To facilitate construction of the park, the applicant proposes to impact 840 linear feet of two (2) intermittent stream channels and 6,871 linear feet of seventeen (17) ephemeral stream channels.

Specifically, itemized jurisdictional water impacts along with their EPA Rapid Bioassessment Protocol (RBP) Classifications are listed in Tables 1 & 2 below:

**Table 1 (Intermittent Stream Impacts):**

ID #	Water Type	RBP Score	Impacts (linear feet)
A-1	Intermittent Stream Channel (Unnamed tributary of Clarks Creek)	Poor	725 lf
A-6	Intermittent Stream Channel (Unnamed tributary of Clarks Creek)	Poor	115 lf
<b>Intermittent Stream Impact Total:</b>			<b>840 lf</b>

**Table 2 (Ephemeral Stream Impacts):**

<b>ID #</b>	<b>Water Type</b>	<b>RBP Score</b>	<b>Impacts (linear feet)</b>
A-1	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	402 lf
A-1-A	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	359 lf
A-3	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	580 lf
A-6	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	108 lf
A-6-A	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	220 lf
A-7-A	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	459 lf
A-9	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	322 lf
A-10	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	483 lf
A-11-A	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	375 lf
A-11-B-1	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	131 lf
A-11-B-2	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	423 lf
A-11-C	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	545 lf
B	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	683 lf
B-1	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	817 lf
B-2	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	350 lf
C-3	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	175 lf
C-4	Ephemeral Stream Channel (Unnamed tributary of Clarks Creek)	Poor	439 lf
<b>Ephemeral Stream Impact Total:</b>			<b>6,871 lf</b>

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: Through avoidance and minimization measures, the applicant was able to reduce its footprint to 115 acres within the 795-acre parcel. This was accomplished through measures to locate facilities along the ridge tops. Further, no impacts to perennial stream channels are proposed. However, the applicant stated that due to the rolling topography of the land and widespread dispersal of stream channels, avoidance of impacts to all waters was not feasible.

As mitigation for the unavoidable impacts to stream channels, the applicant proposes to provide 1,950 linear feet (or 0.10 of the proposed impacts to ephemeral stream channels) through the creation of an on-site post construction stormwater management system.

For the remaining required mitigation for ephemeral and intermittent stream impacts, the applicant proposes to pay an in-lieu fee to the Northern Kentucky Stream and Wetland Restoration Program. Monies paid to this fund are used to undertake stream and wetland restoration projects in the vicinity of the proposed impacts.

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

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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.

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 § 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

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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.aspx>. All comments regarding this proposal should be addressed to Mr. Michael Hasty, CELRL-OP-FS at the address noted above and should refer to the Public Notice Number LRL-2013-680-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-2013-680-mdh.

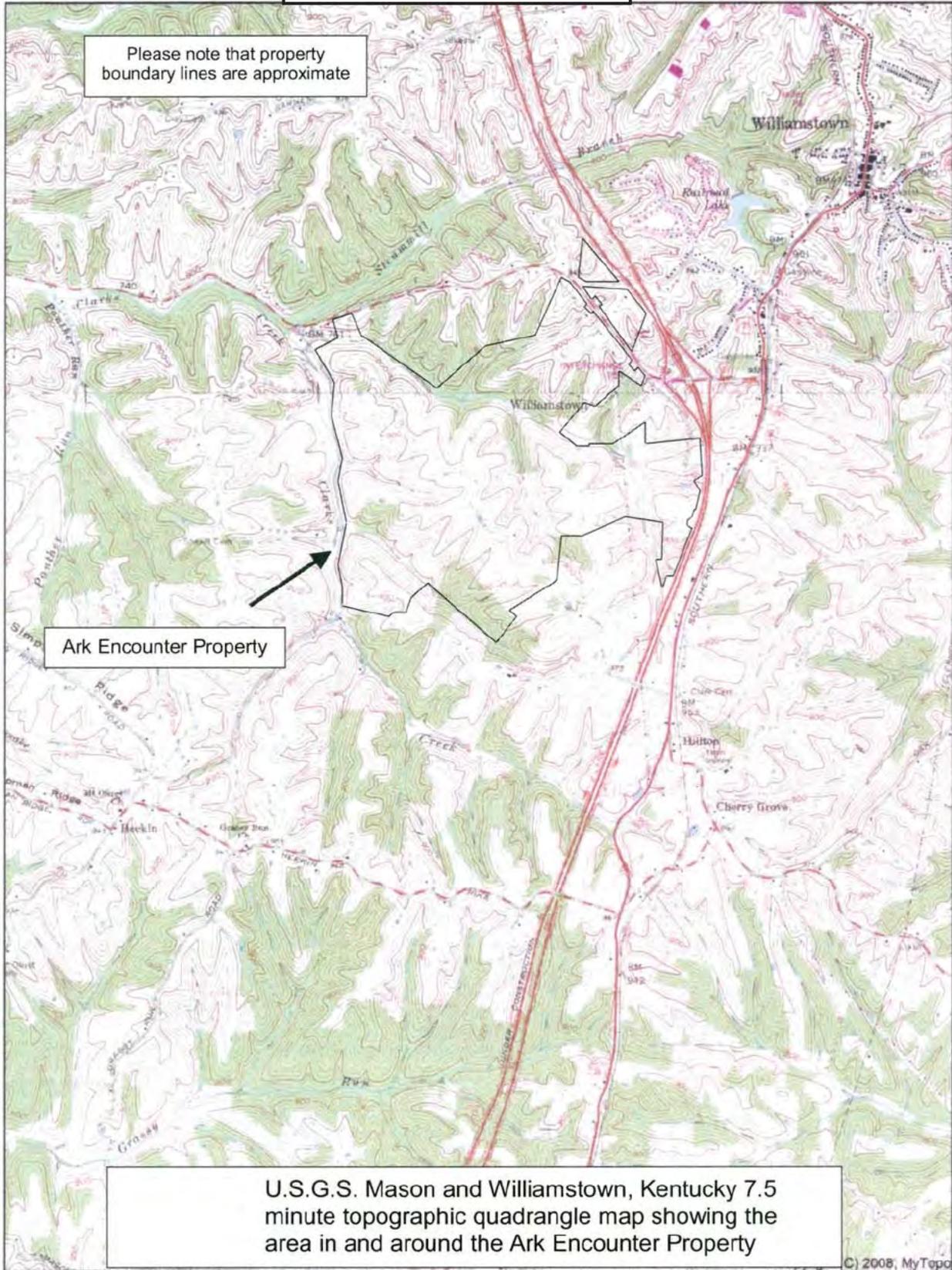
Example: LRL-2013-680-mdh (subject)

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).

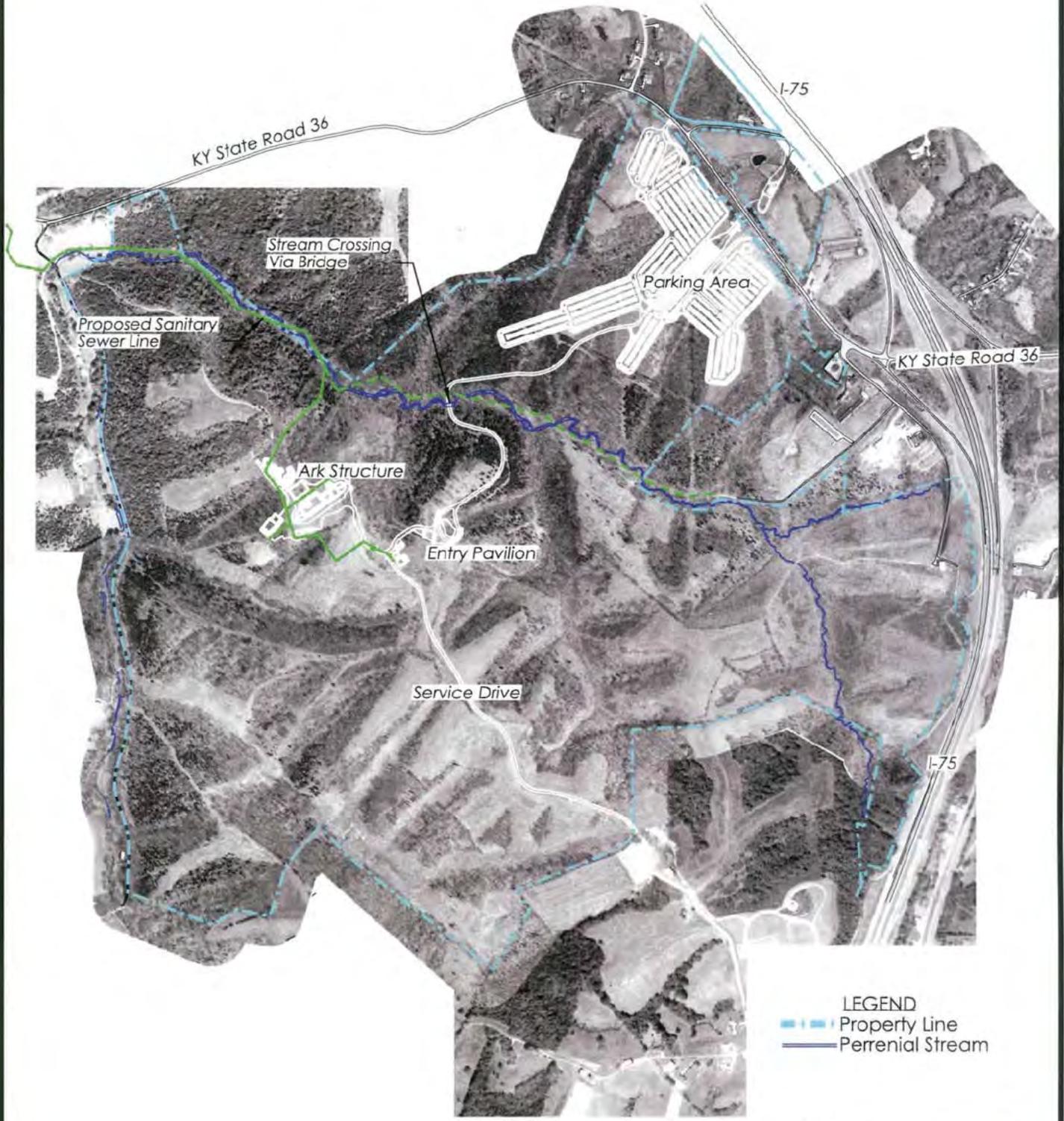
d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.

**Figure 1**  
**LRL-2013-680-mdh**  
**Ark Encounter Proposal**



0 1 2  
MILES

**Figure 2**  
**LRL-2013-680-mdh**  
**Ark Encounter Proposal**



**LEGEND**  
 - - - - Property Line  
 ——— Perennial Stream



EXHIBIT TITLE Proposed Dev. Entire Site	  <i>Otte Enterprises</i>
EXHIBIT NO. 7	
PROJECT NUMBER 13014.04	

NEW ATTRACTION FOR:  
**THE ARK ENCOUNTER**  
 THE ARK ENCOUNTER, CROSSWATER CANYON, LLC  
 WILLIAMSTOWN, KY  
 DATE: JUNE, 2013  
PRELIMINARY - NOT FOR CONSTRUCTION

**Figure 3**  
**LRL-2013-680-mdh**  
**Ark Encounter Proposal**

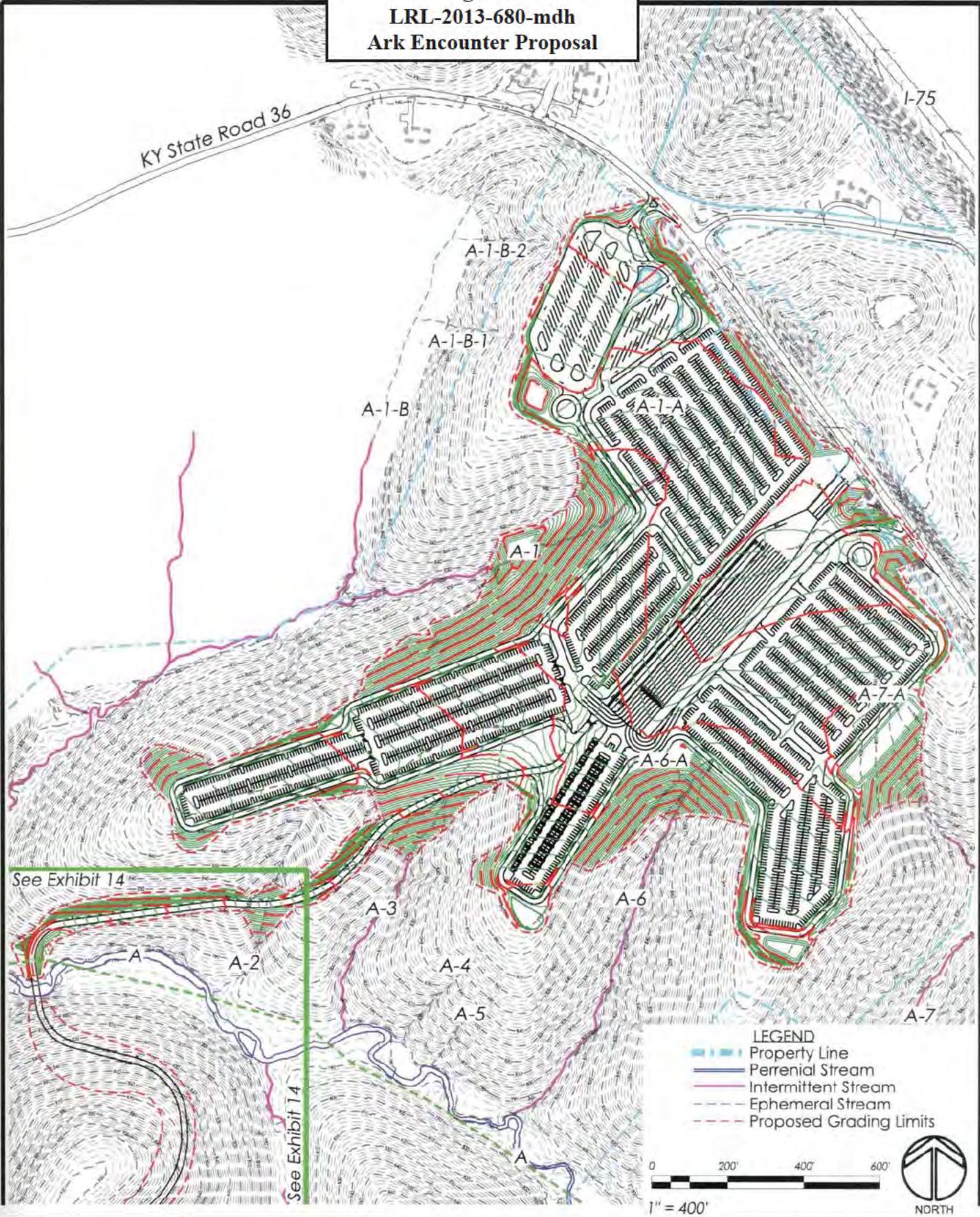


EXHIBIT TITLE  
 Proposed Dev.  
 Parking Area

EXHIBIT NO.  
 11

PROJECT NUMBER  
 13014.04



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**Figure 4**  
**LRL-2013-680-mdh**  
**Ark Encounter Proposal**

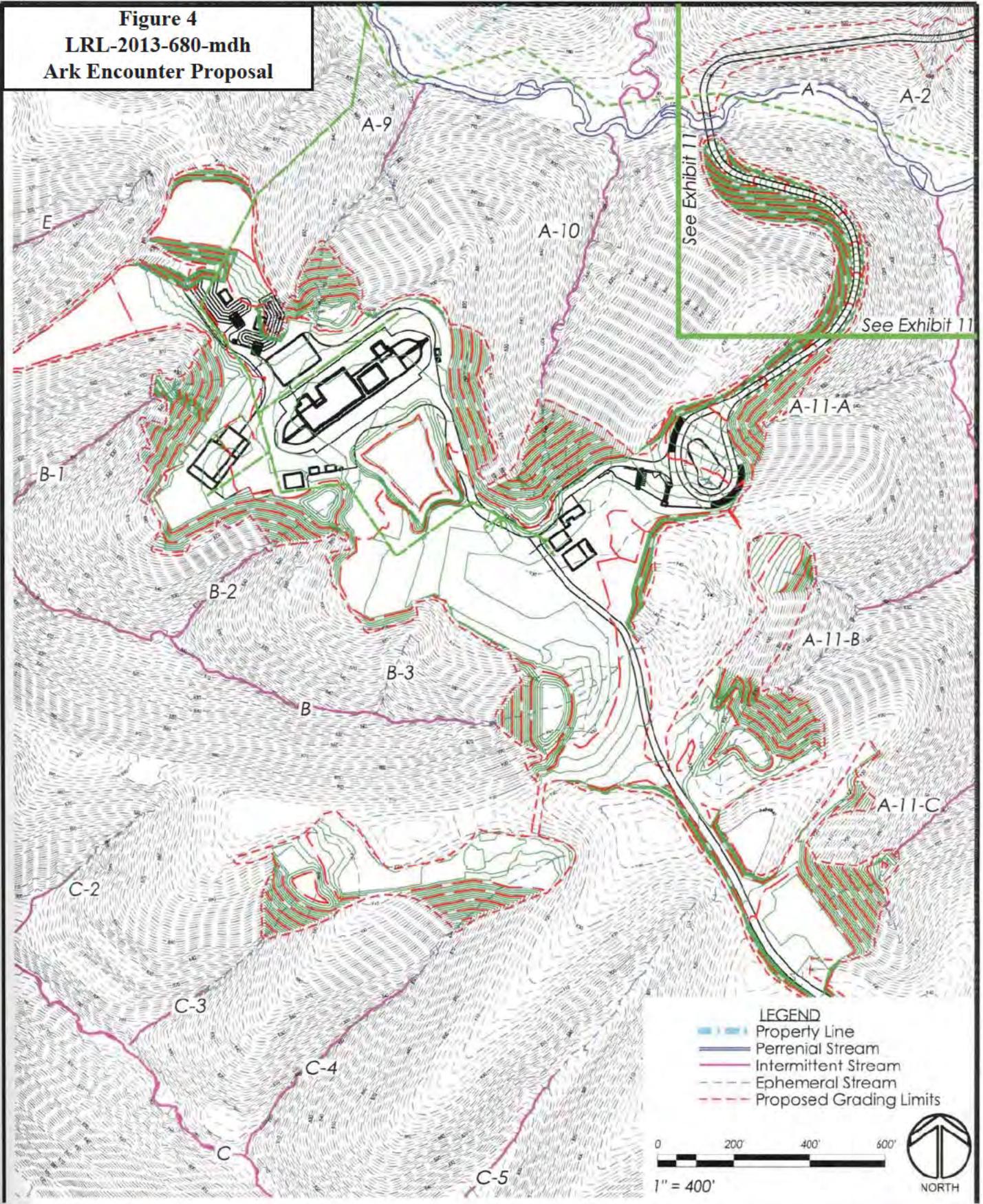


EXHIBIT TITLE  
**Proposed Dev.**  
**Ark Area**

EXHIBIT NO.  
**14**

PROJECT NUMBER  
**13014.04**



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