



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

# Public Notice

Public Notice No.  
LRL-2015-552-pjl

Open Date:  
15 Mar 2016

Close Date:  
5 Apr 2016

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

Phone: 502-315-6693

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

APPLICANT: R. C. Durr Foundation, Incorporated  
541 Buttermilk Pike, Suite 544  
Covington, Kentucky 41017-5710

AGENT: Otte Enterprises  
505 Stevenson Road  
Erlanger, Kentucky 41018

LOCATION: Unnamed tributaries of the Ohio River, left bank  
near Mile 481, contained within a parcel located  
at 6409 River Road in Boone County, Kentucky.

Latitude: 39.08367 N  
Longitude: -84.67456 W  
7.5 Minute Quad: KY-Burlington

PURPOSE: To construct an industrial development on a  
44-acre tract of undeveloped land.

Existing Conditions: The proposed project site consists of an east-to-west oriented ridge top and wooded hillsides that slope to the north, west, and south toward intermittent streams to the south and west. Onsite high elevation is approximately 854 feet (ft.) above Mean Sea Level (MSL) on the ridge top along the eastern property line. The low elevation is approximately 630 ft. above MSL, in the northeast corner where the property extends over the northern hillside and down into the Ohio River floodplain. The maximum elevation change on the property is approximately 224 ft.

DESCRIPTION OF WORK: The proposed development would involve construction of one 500,000 square foot building with associated roadways and parking areas, and a stormwater management system, including one detention basin. Due to the high topographical relief, the property would require grading work necessary to prepare the site for development. The parcel is forested, and contains fifteen ephemeral streams totaling 2,790 linear feet (lft), five intermittent

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streams totaling 2,700 lft, and one wetland approximately 0.12 acre in size. The proposed development would result in the loss of 2,300 lft of fourteen ephemeral streams, 1,025 lft of five intermittent streams, and approximately 0.12 acre of one wetland. Total combined impacts for the project would amount to approximately 0.235 acre of aquatic resources.

**AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES:** The applicant proposes to mitigate for the loss of 2,300 lft (0.06 acre) of ephemeral streams through construction of a total combined length of 3,610 lft of grassy swales and riprap-lined drainage swales as part of the development's stormwater management system. As mitigation for the loss of 1,025 lft of intermittent streams and 0.117 acre of wetland impacts, the applicant proposes to pay fees and/or buy credit 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.

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 consulted and it has been determined that there are no historic properties currently listed on the Register that would be directly affected by the proposed work. However, an archaeological site exists within the project boundaries that would be directly affected by the proposed project, and which may be potentially eligible for listing on the National Register. Prior to taking final action on this application, this office will establish the

location of potential register-eligible sites relative to the proposed worksite. 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, prehistoric, 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

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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 Ms. Pam Loeffler, CELRL-OPF-S at the address noted above and should refer to the Public Notice Number LRL-2015-552-pjl.

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-2015-552-pjl.

Example:

Subject: LRL-2015-552-pjl

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.



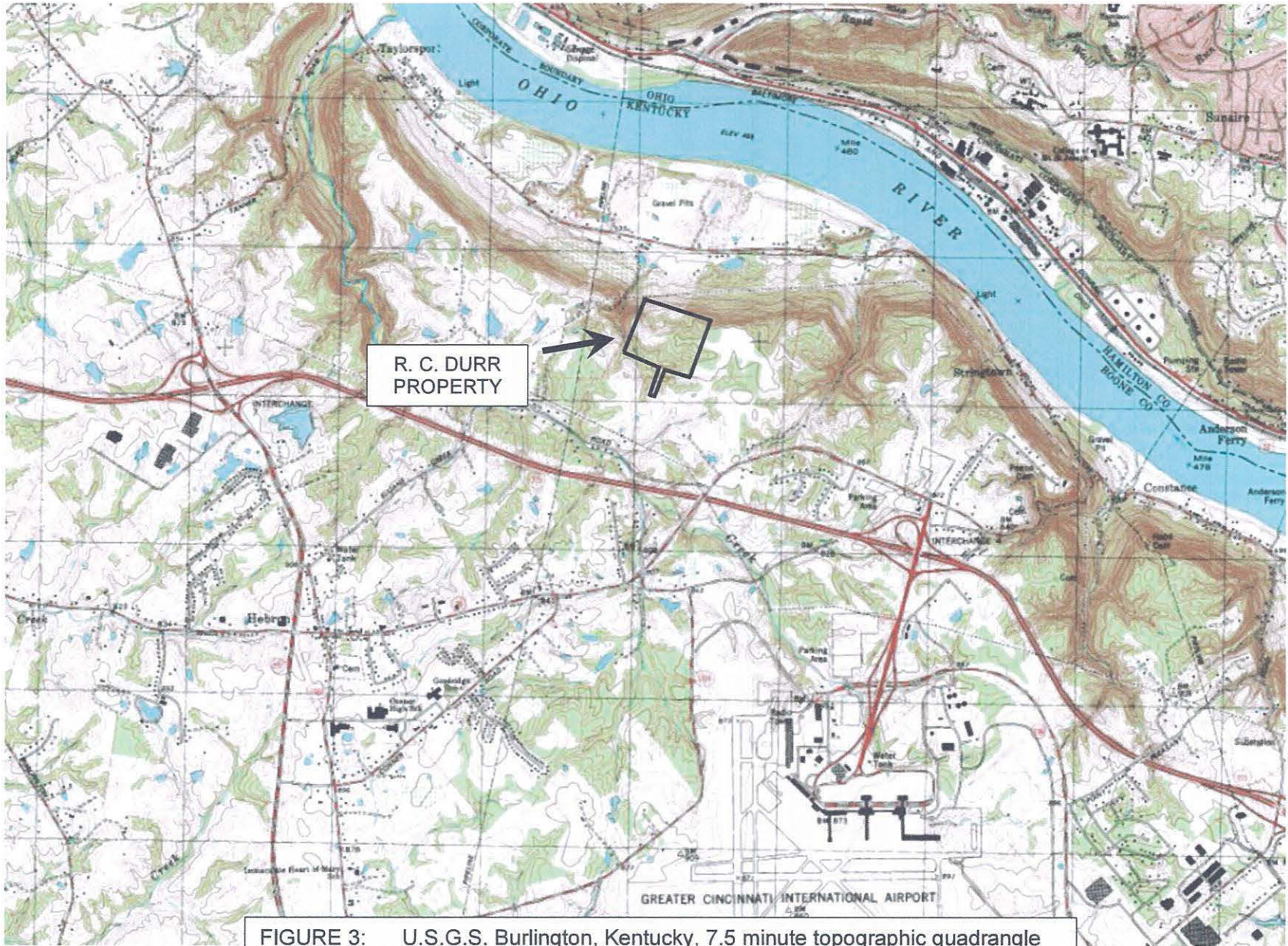


FIGURE 3: U.S.G.S. Burlington, Kentucky, 7.5 minute topographic quadrangle map, showing the location of the R. C. Durr Property



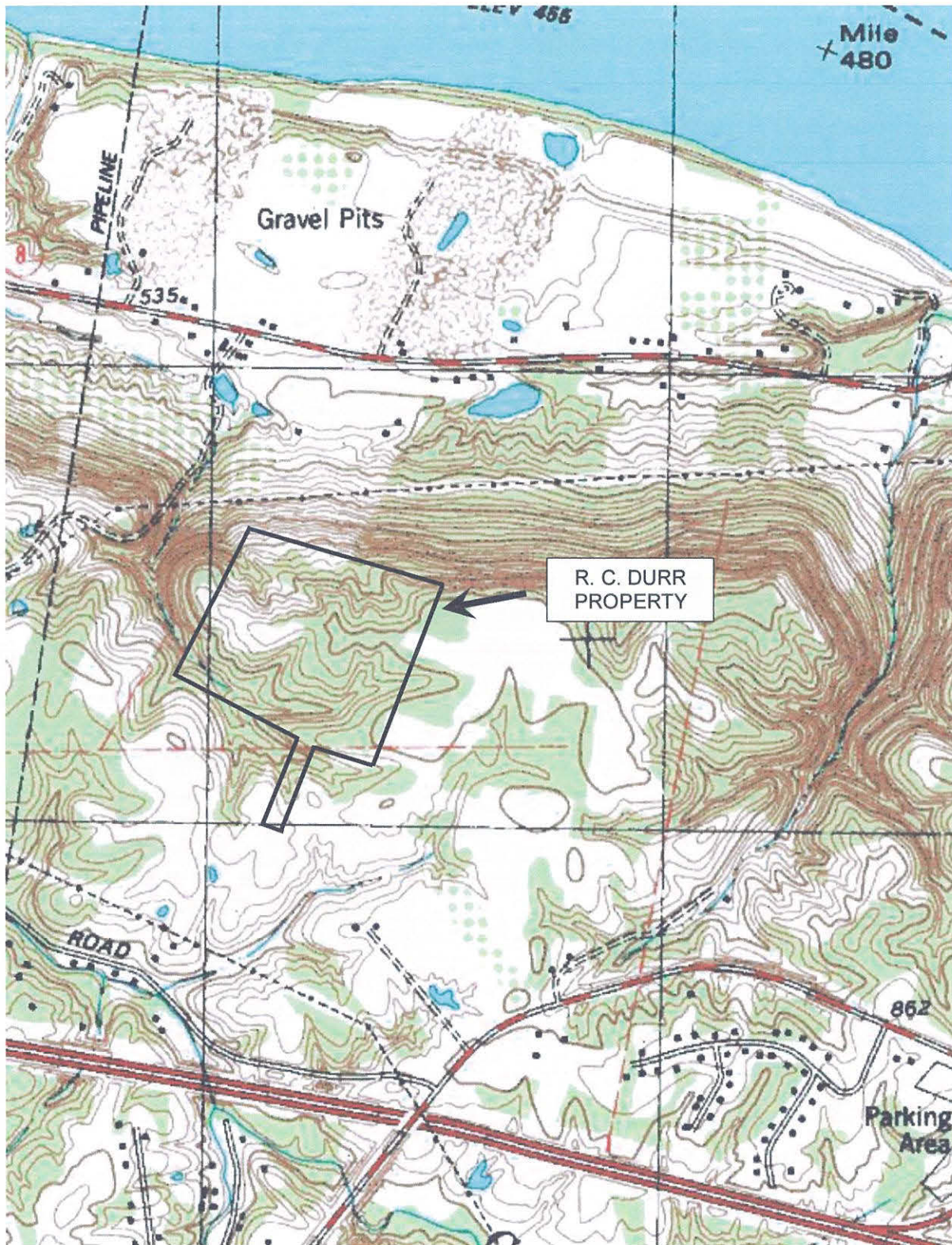


FIGURE 4: Enlarged U.S.G.S. Burlington, Kentucky, 7.5 minute topographic quadrangle map, showing the location of the R. C. Durr Property





FIGURE 6: Close-up 2014 aerial photograph showing the area immediately surrounding the R. C. Durr Property

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R C Durr Foundation Proposed Industrial Development -  
Boone County, Kentucky -  
Aerial Map - Sheet 3 of 6 -



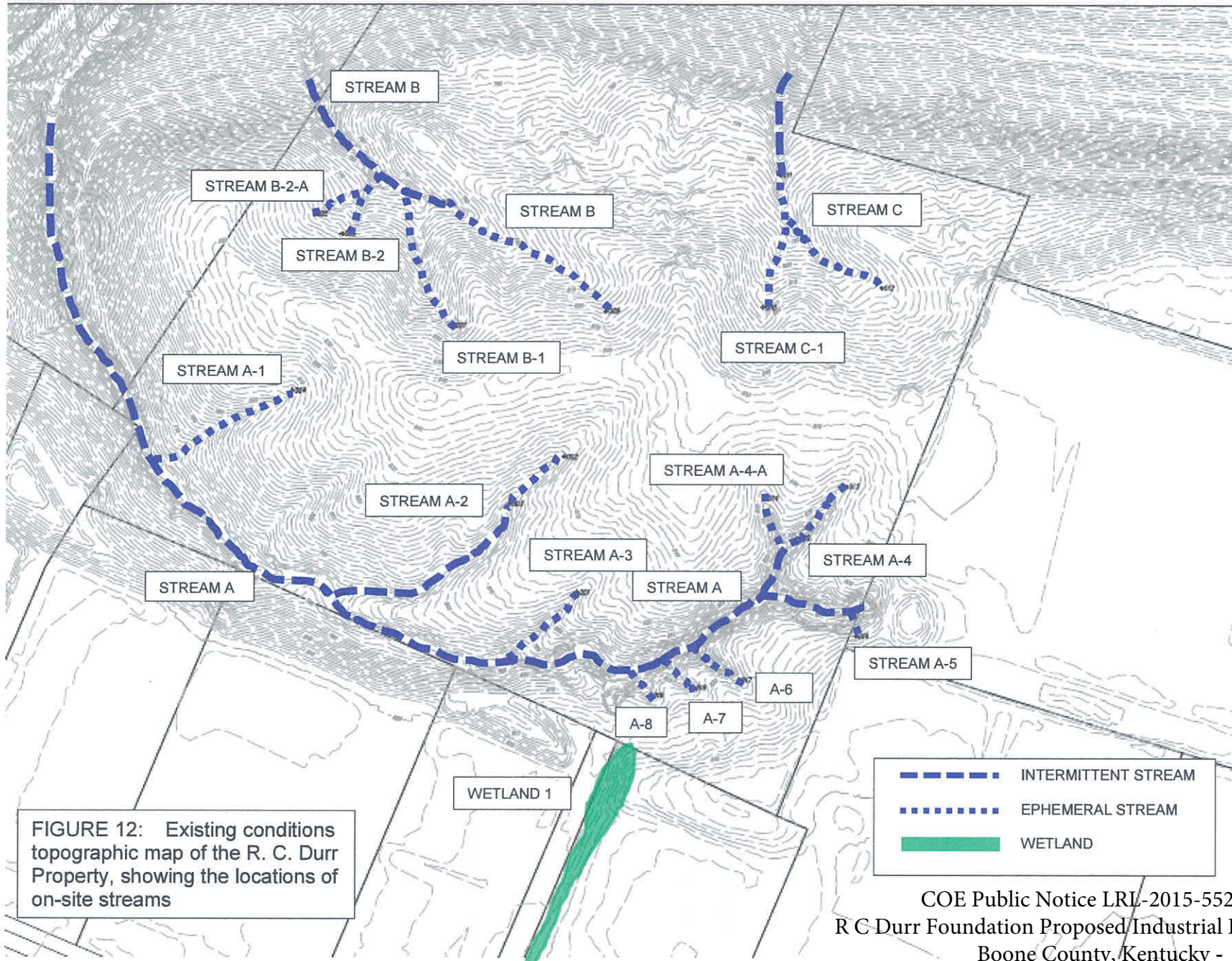
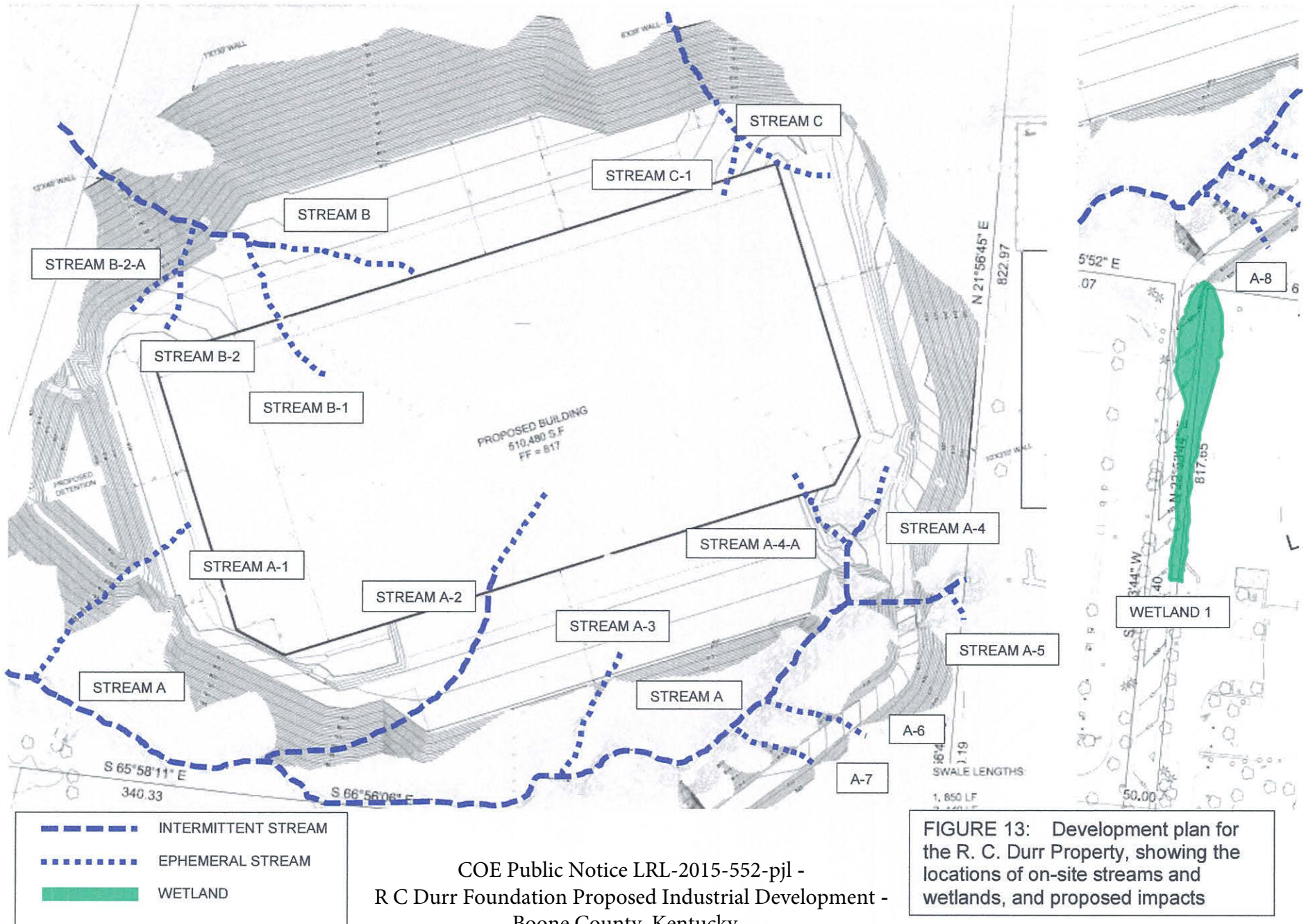


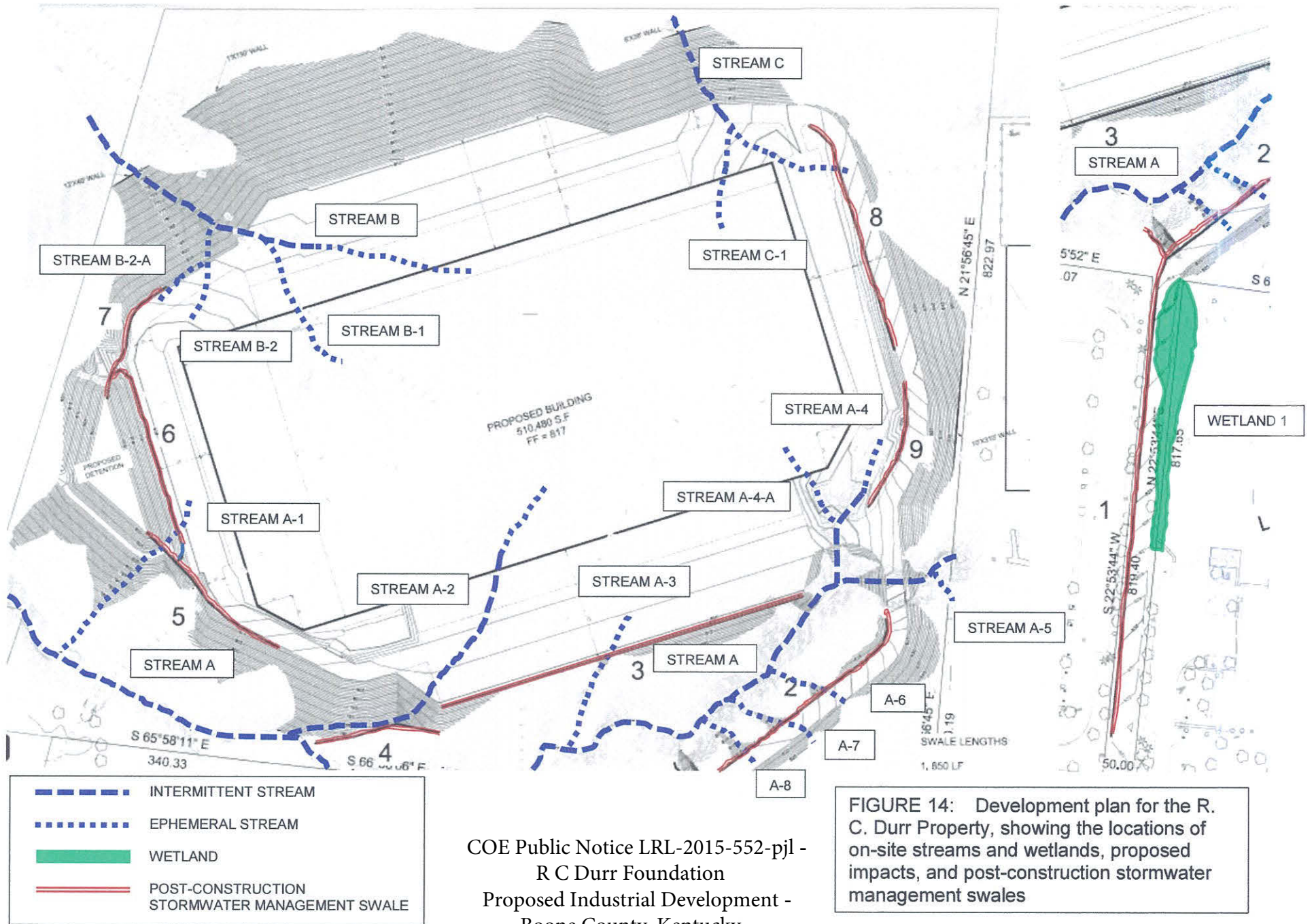
FIGURE 12: Existing conditions topographic map of the R. C. Durr Property, showing the locations of on-site streams





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 Development Plan- Sheet 5 of 6 -

FIGURE 13: Development plan for  
 the R. C. Durr Property, showing the  
 locations of on-site streams and  
 wetlands, and proposed impacts



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FIGURE 14: Development plan for the R. C. Durr Property, showing the locations of on-site streams and wetlands, proposed impacts, and post-construction stormwater management swales