Public Notice

US Army Corps of Engineers
Louisville District ®

Public Notice No.	Date:	Closing Date:
LRL-2018-00075	9 Nov 2018	10 Dec 2018

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Sam Werner, CELRL-RD-E
6855 State Road 66
Newburgh, Indiana 47630
lrl.regulatorypubliccomment@usace.army.mil Phone: 812-842-2768

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: Mulzer Crushed Stone, Inc.
534 Mozart Street
Tell City, Indiana 47586

LOCATION: Adjacent wetlands and unnamed tributaries of Black River, near New Harmony, Posey County, Indiana

Latitude: 38.194310° North
Longitude: -87.906324° West

PURPOSE: To relocate streams and wetlands to facilitate the removal of lime rock material.

DESCRIPTION OF WORK: The Griffin Sand Pit is an existing sand and gravel mine facility that has been in operation since 1987. The existing pit has been operating without DA authorization and was recently made aware that work that had previously been undertaken at the site may have been conducted without this proper permits. The operator voluntarily came forward to pursue any after-the-fact authorization as well as to obtain authorization to continue to expand and operate the mining pit into the future.

No impacts to jurisdictional waters occurred between 2012 and the present time. Therefore, under this notice, the applicant is seeking authorization to expand the existing operation into approximately 133.7 acres of areas not previously impacted. If approved, the expansion would result in the mining through of 2677 linear feet of ephemeral streams, 1.38 acres of palustrine forested (PFO) wetlands and 2.98 acres of palustrine scrub-shrub (PSS) wetlands.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The applicant has examined alternatives and determined that considering the existing operations and support provided in the existing facility, as well as the quality of the reserves in the proposed expansion area, the above project description would be the preferred alternative.

MITIGATION: The applicant is proposing both in-kind and out-of-kind mitigation. The applicant is proposing to restore 10.44 acres of PFO wetlands for both stream and wetland impacts at an offsite location, located near Mount Vernon, Posey County, Indiana. The wetland would be planted and managed for hard mast species.

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)*
Sheepnose Mussel *(Plethobasus cyphyus)*
Least Tern *(Sterna antillarum)*
Fanshell (*Cyprogenia stegaria)*
Fat Pocketbook (*Potamilus capax*)
Sheepnose Mussel *(Plethobasus cyphyus)*
Short's Bladderpod *(Physaria globosa)*

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. 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 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.

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 Sam Werner, CELRL-RD-E at the address noted above and should refer to the Public Notice Number No. LRL-2018-00075-SEW.

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-2018-00075-SEW.

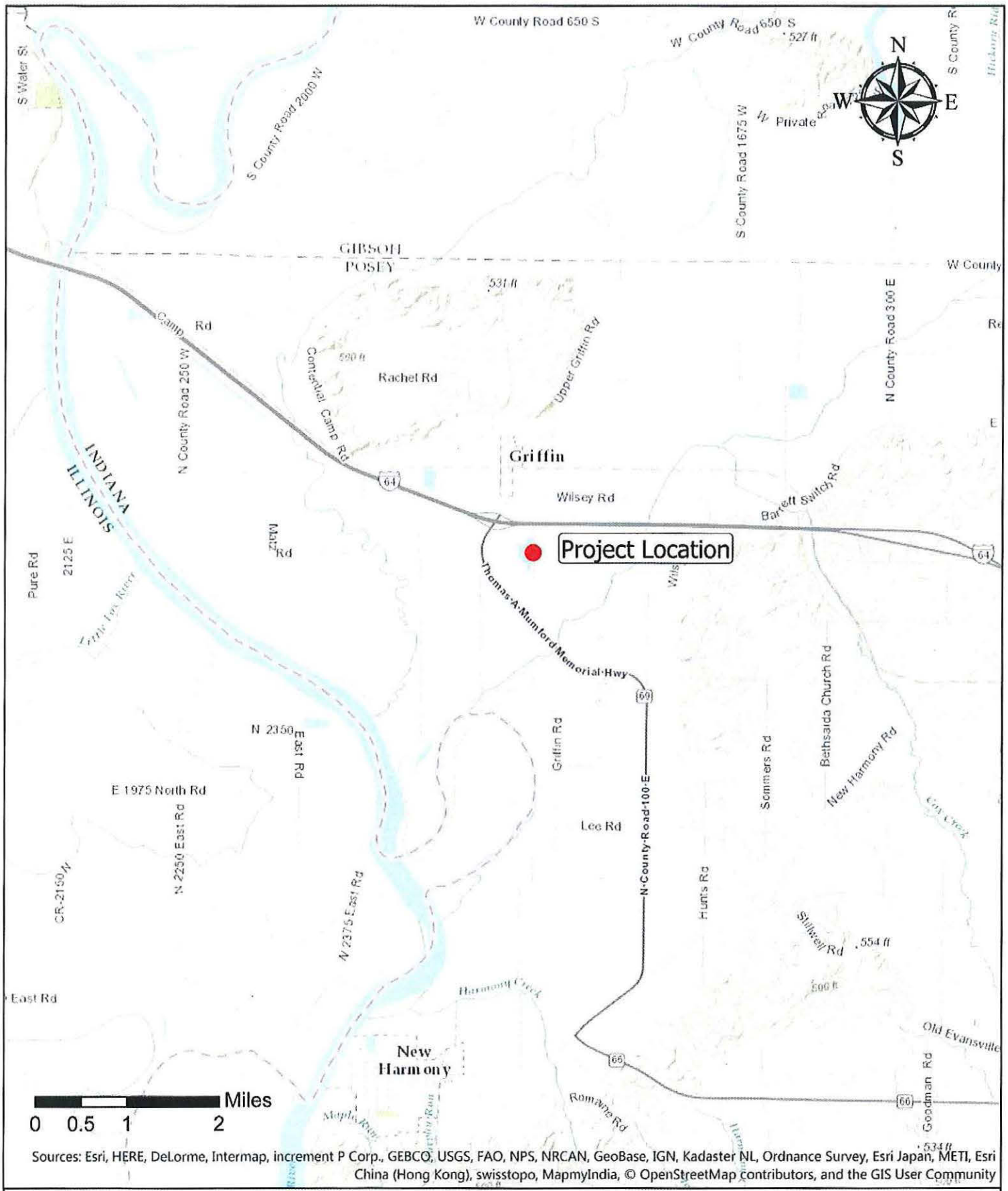
Example:

Subject: LRL-2018-00075-SEW

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.



Prepared By:

BASIN FIELD SERVICES INC.
5625 Pearl Dr, Suite F, Box 376
Evansville, IN 47712

Site Location Map

Griffin Sand Pit

Mulzer Crushed Stone Inc.

USGS New Harmony, IN Quad Map

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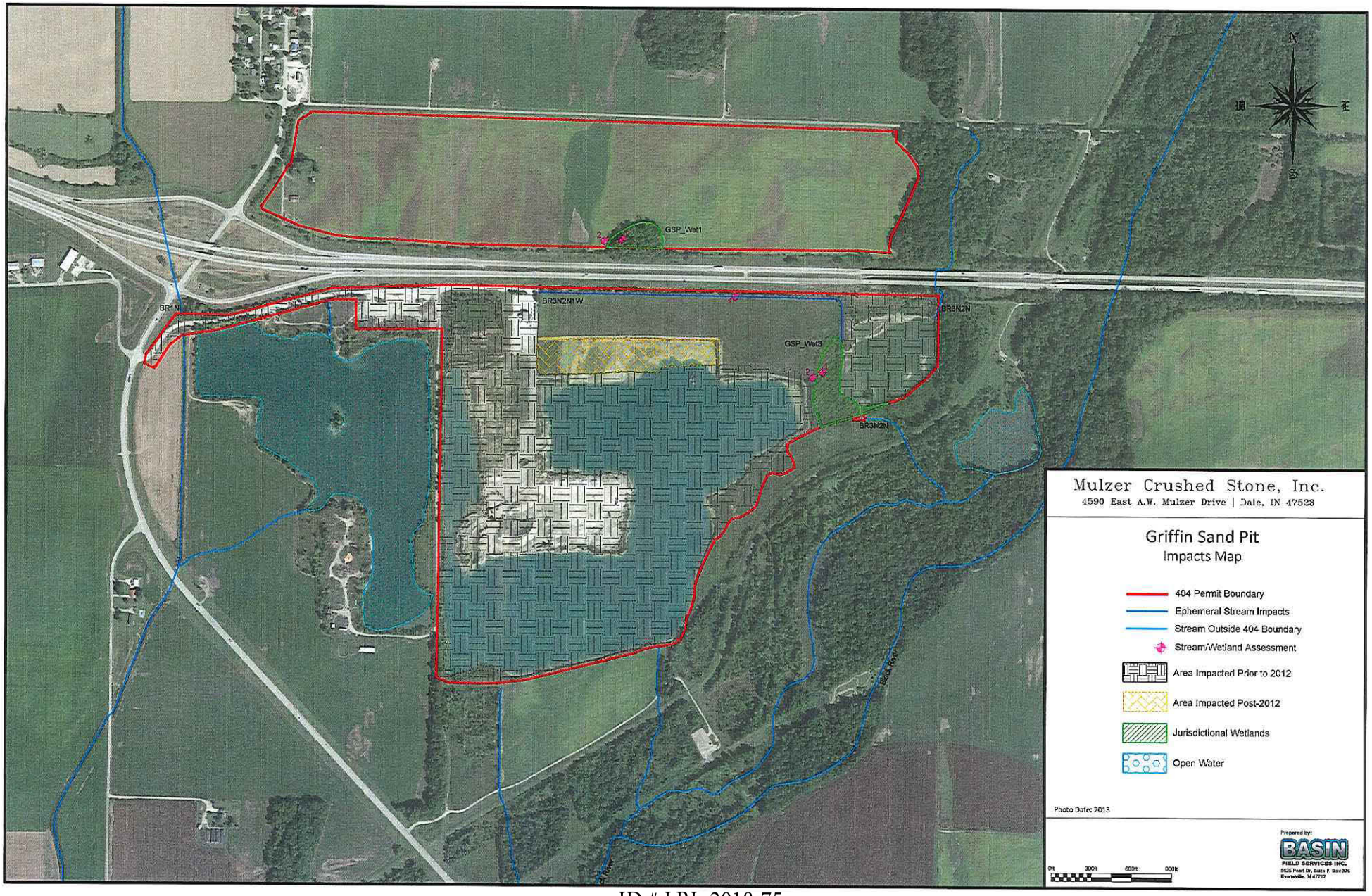

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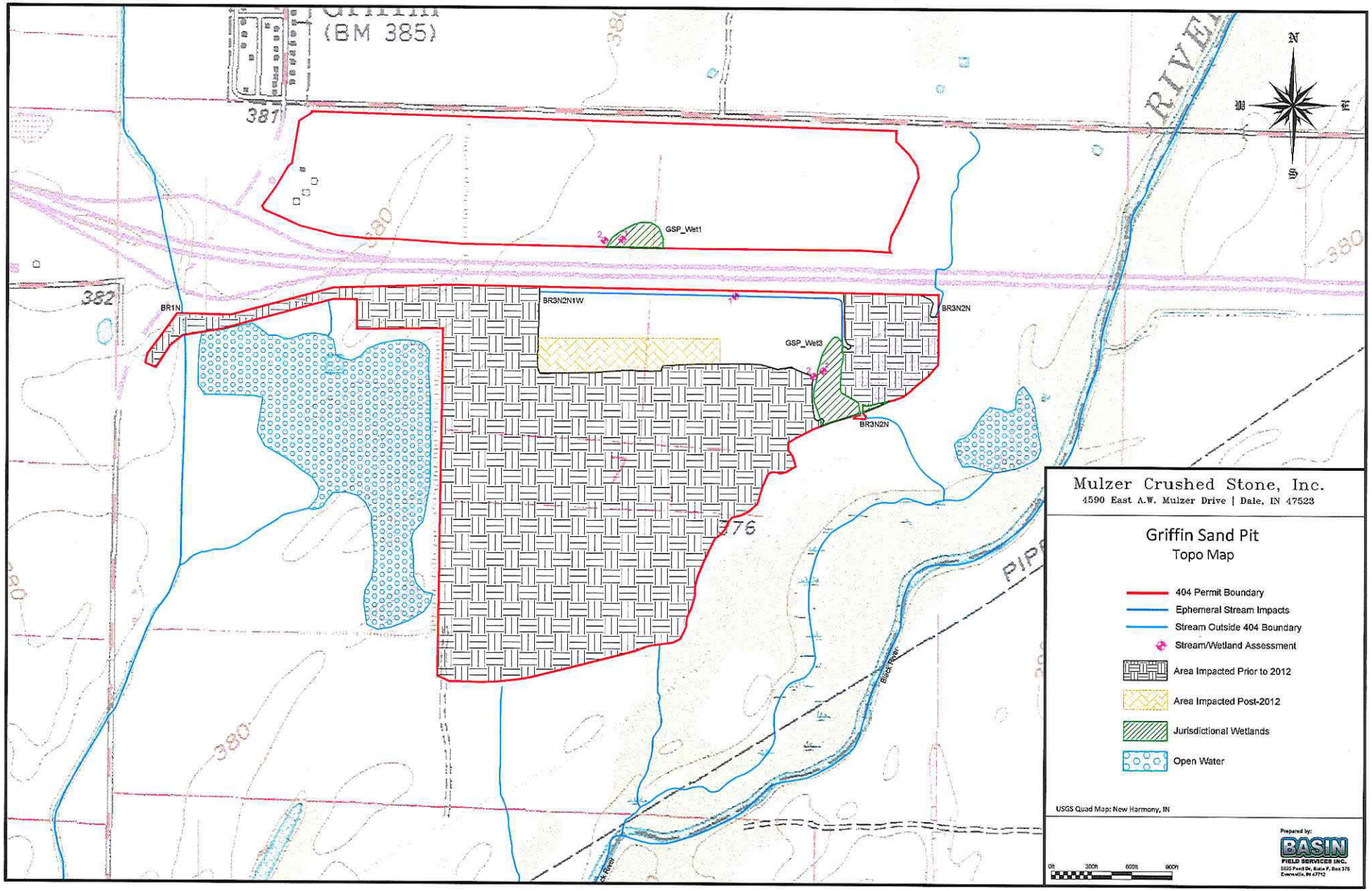
Mulzer Crushed Stone, Inc.
Impacts Map
Sheet 2 of 5



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Mulzer Crushed Stone, Inc.
Plan View Map
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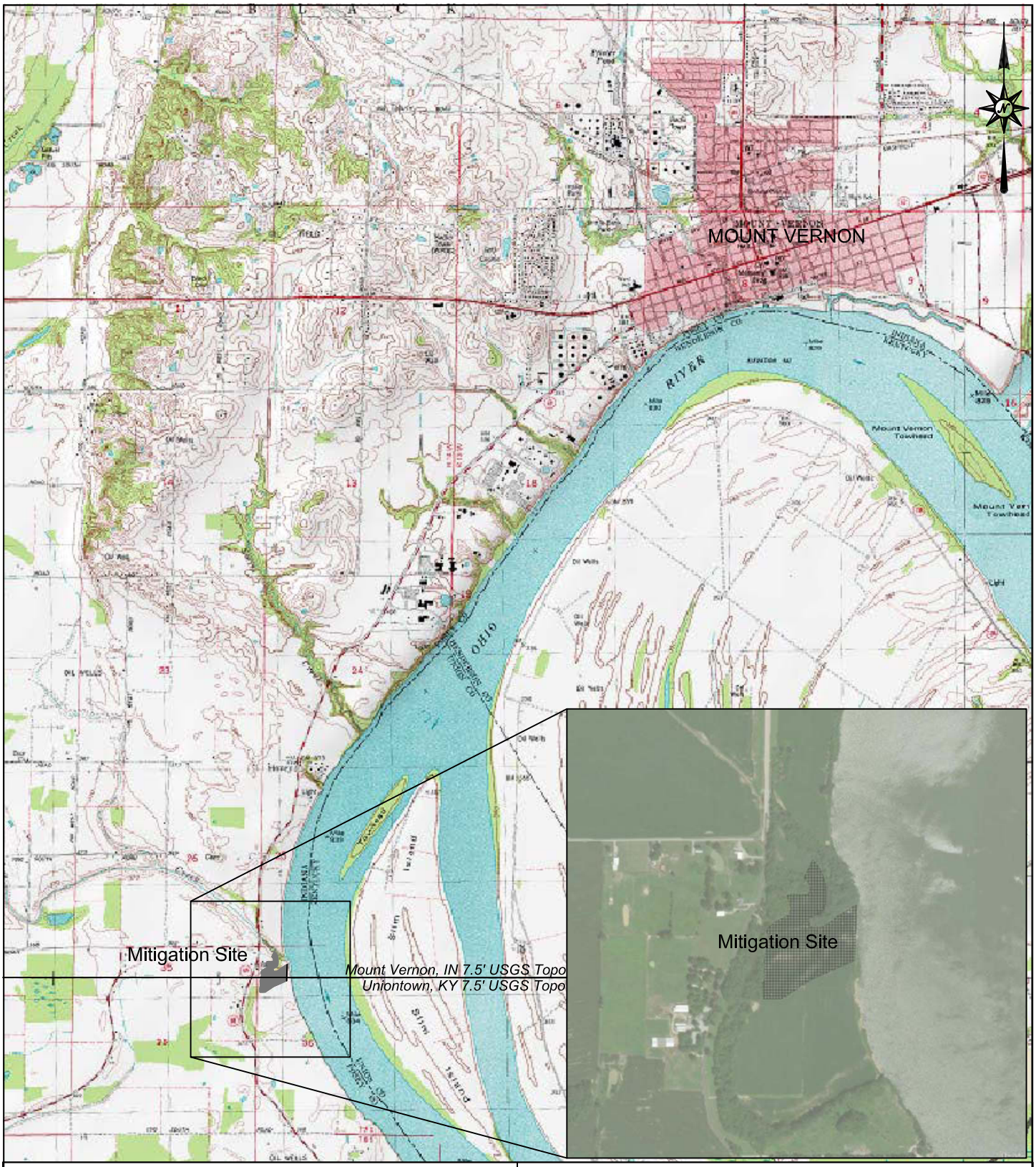

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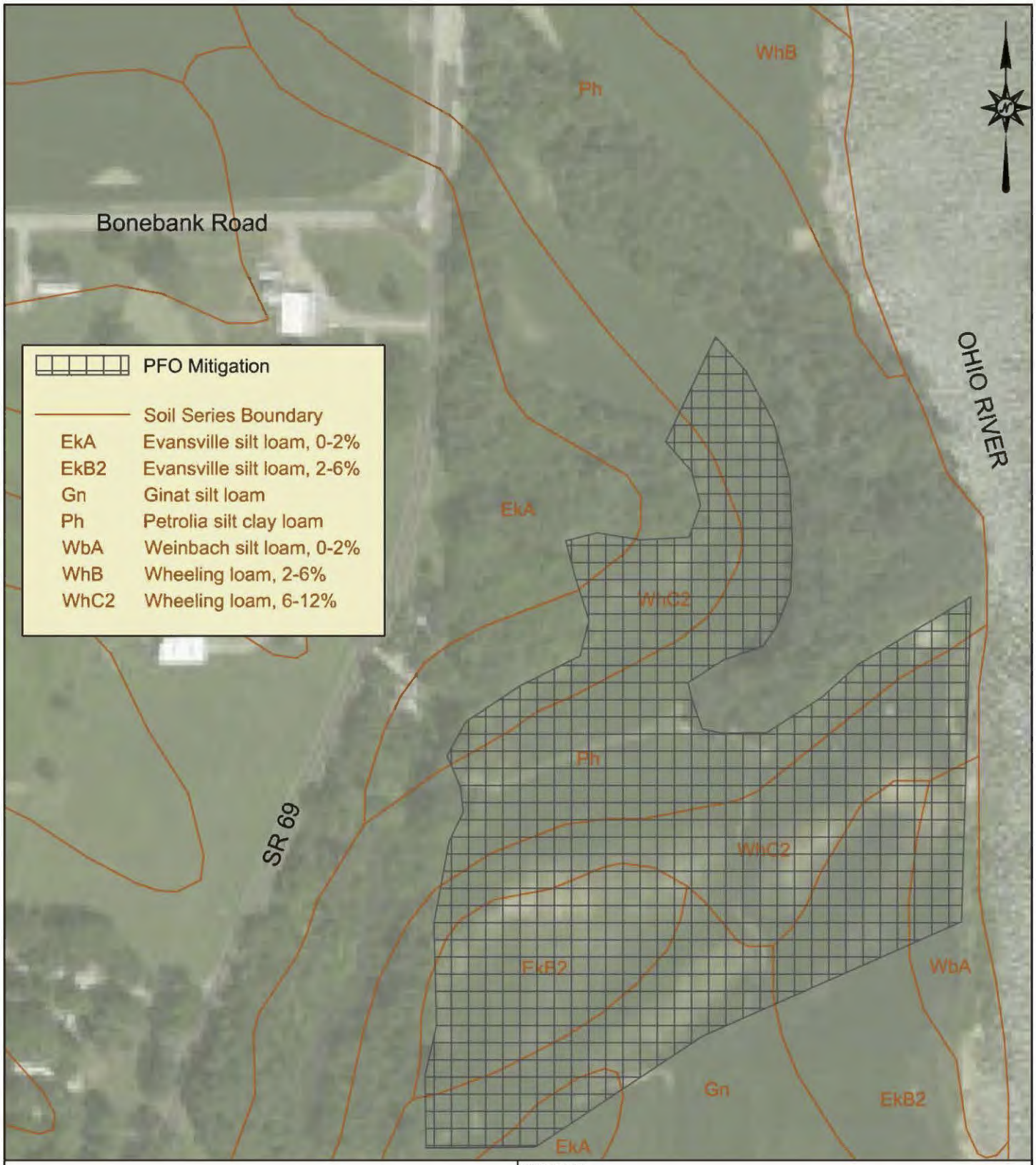
Mulzer Crushed Stone, Inc.
Mitigation Vicinity Map
Sheet 4 of 5

FIGURE: Mitigation Vicinity Map		
PROJECT NAME: Griffin	APPLICANT: Mulzer Crushed Stone Inc.	
ACE ID NO.: 2018-75	IDNR WQC NO.:	SCALE: Topo Only 1"=4000'



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Mulzer Crushed Stone, Inc.
Mitigation Vicinity Map
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FIGURE:		
Mitigation Plan Map		
PROJECT NAME: Griffin	APPLICANT: Mulzer Crushed Stone Inc.	
ACE ID NO.: 2018-75	IDNR WQC NO.:	SCALE: 1"=200'