

Public Notice

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

Public Notice No.
LRL-2022-00233

Open Date:
26 August 2022

Closing Date:
26 September 2022

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Todd E. Hagman, CELRL-RDE, Rm 183
P.O. Box 28
Louisville, Kentucky 40201-0059

Phone: 502-315-6683

This notice announces a proposal to develop a mitigation bank, submitted in accordance with the “Compensatory Mitigation for Losses of Aquatic Resources” (Mitigation Rule) (CFR Vol. 73 No. 70, p 19670-19705 (33 U.S.C. 401 et seq.; 33 U.S.C. 1344; and Pub. L. 108-136), as published in the federal register on April 10, 2008:

APPLICANT: Waypoint, LLC
P.O. Box 54587
Lexington, KY 40555

AGENT: Waypoint, LLC
P.O. Box 54587
Lexington, KY 40555

LOCATION: Steeles Branch and unnamed tributaries of Steeles Branch of the Kentucky River. The 117-acre property is located west of KY 127 and north of Shadrick Ferry Road, approximately 6 miles north of Frankfort, Kentucky.

Latitude: 38.27579°
Longitude: -84.85252°
7.5 Minute Quad: Switzer, Kentucky

PURPOSE: To develop a mitigation banking instrument that would operate within the Commonwealth of Kentucky, providing stream mitigation credits

DESCRIPTION OF WORK: The sponsor is proposing to establish a stream mitigation bank, Steeles Branch Mitigation Bank, on a 117-acre site located within the Steeles Branch watershed, a tributary of the Kentucky River. The sponsor proposes preservation and enhancement of streams and stream riparian corridors along 4496.5 linear feet of Steeles Branch; 1,475.2 linear feet of intermittent streams; and 2,093.3 linear feet of ephemeral streams in the upper watersheds of Steeles Branch.

The sponsor proposes that the mitigation credits generated in Adjusted Mitigation Units (AMUs)

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includes 2,091 AMUs for perennial stream enhancement and 785 AMUs for stream riparian enhancement consisting of invasive species removal along ephemeral, intermittent, and perennial streams. In all, once the bank has been deemed successful, the sponsor proposes that 2,876 stream credits would be generated. These credits are proposed to be commercially available to the general public to provide compensatory mitigation for impacts authorized by other Department of the Army permits.

The sponsor proposes that the Steeles Branch Mitigation Bank provides available compensatory mitigation for projects located in the Kentucky Resource-based Predefined Service Area 7, which is delineated in Public Notice LRL-2018-01040. Service Area 7 is composed of all or portions of the following 24 counties: Anderson, Bath, Bourbon, Boyle, Casey, Clark, Estill, Fayette, Franklin, Garrard, Harrison, Jessamine, Lincoln, Madison, Marion, Mercer, Montgomery, Nelson, Nicholas, Powell, Rockcastle, Scott, Washington and Woodford. The sponsor has identified itself as the potential long-term management steward for the site, consistent with the proposed restoration and preservation proposal. The sites would be protected in perpetuity by a conservation easement recorded with the property deed.

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 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 or believed to occur in the area to be affected (directly or indirectly) by the proposed action.

<u>Common Name</u>	<u>Scientific Name</u>
Indiana Bat	<i>Myotis sodalis</i>
Northern Long-eared Bat	<i>Myotis septentrionalis</i>
Gray Bat	<i>Myotis grisescens</i>
Braun's Rock-creep	<i>Arabis perstellata</i>

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.

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The National Register of Historic Places is currently being examined to determine if there are any 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 sponsor 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 Todd E. Hagman, CELRL-RDE at the address noted above and should refer to the Public Notice Number LRL-2022-00233-teh.

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-2022-00233-teh.

Example:

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Subject: LRL-2022-00233-teh

- 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 10 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.

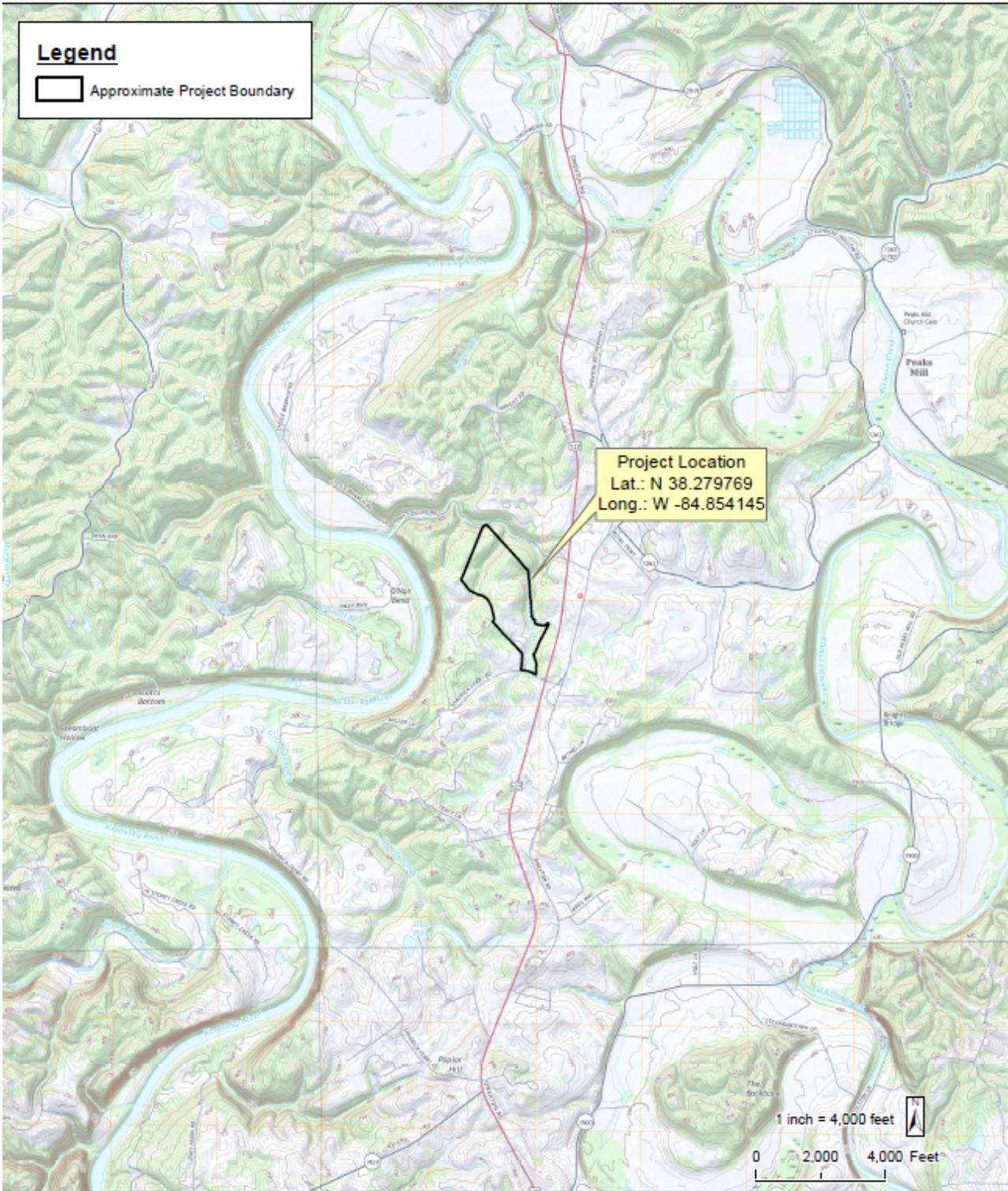


FIGURE 1. APPROXIMATE PROJECT BOUNDARY ON THE 2016 KY USGS TOPOGRAPHIC MAPS QUADRANGLES

PROJECT NAME: Steeles Branch Mitigation Bank
 PROJECT LOCATION: Franklin County, KY
 PRINT DATE: 02/24/2022
 USACE#: LRL-Pending
 WPT#: 2021-31
 DRAWN BY: BES/JRR



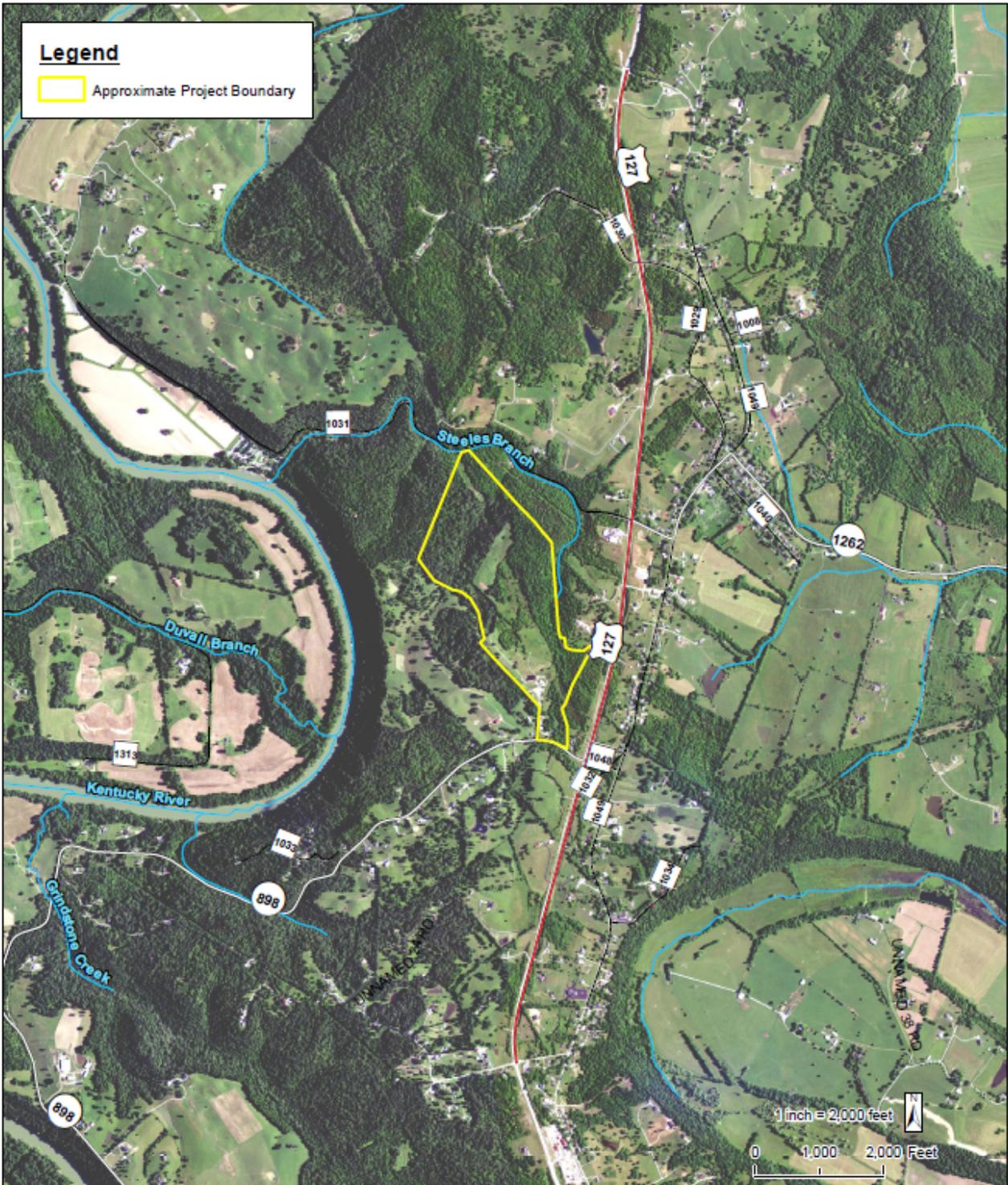


FIGURE 2. APPROXIMATE PROJECT BOUNDARY ON THE 2020 NATIONAL AGRICULTURE IMAGERY PROGRAM (NAIP) ORTHOIMAGERY

PROJECT NAME: Steeles Branch Mitigation Bank
PROJECT LOCATION: Franklin County, KY
PRINT DATE: 02/24/2022
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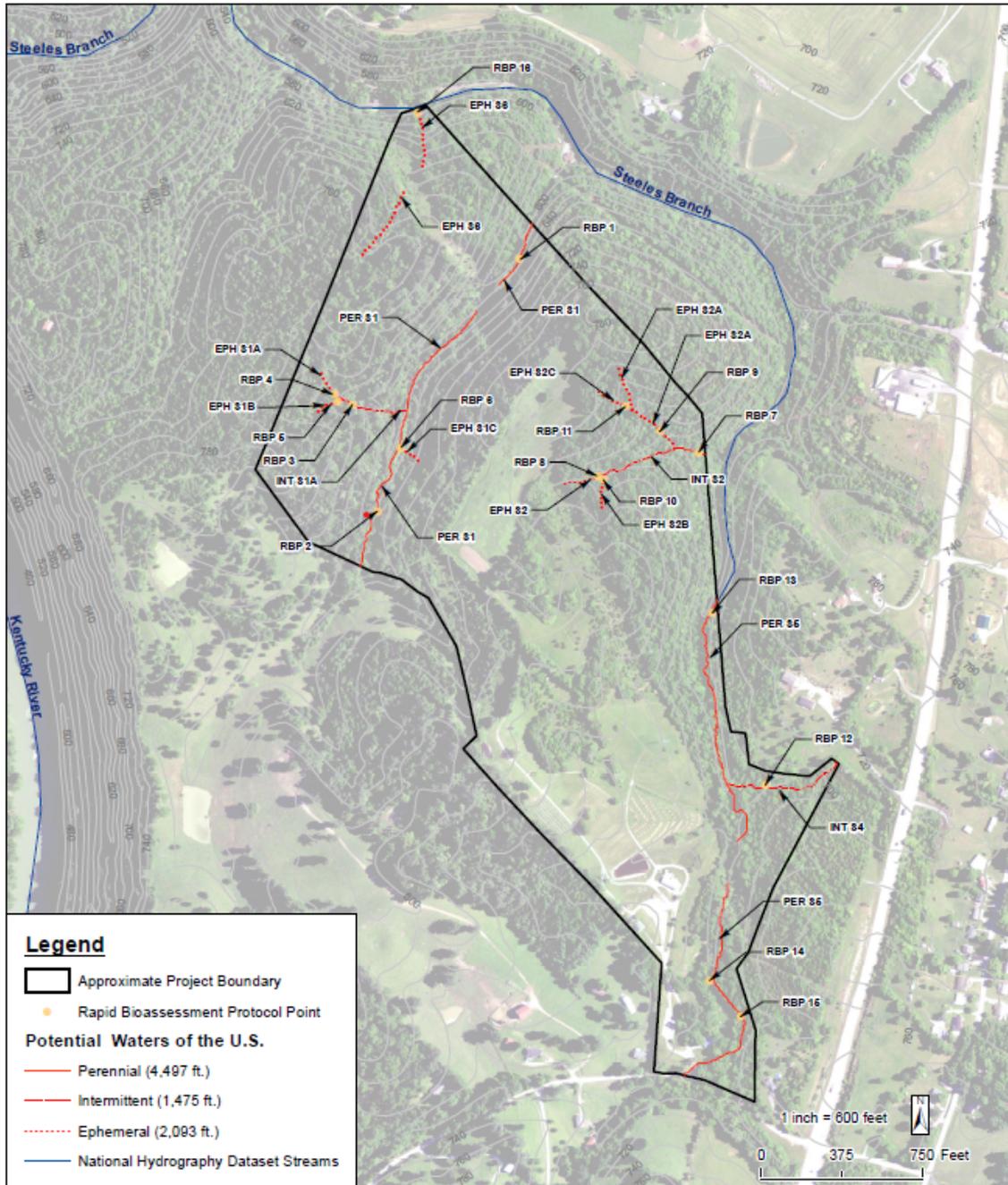


FIGURE 4. APPROXIMATE PROJECT BOUNDARY ON THE 2020 NATIONAL AGRICULTURE IMAGERY PROGRAM (NAIP) ORTHOIMAGERY WITH TAGGED VECTOR CONTOURS (TVC) BY KENTUCKY DIVISION OF GEOGRAPHIC INFORMATION

PROJECT NAME: Steele's Branch Mitigation Bank	 WAYPOINT
PROJECT LOCATION: Franklin County, KY	
PRINT DATE: 02/24/2022	
USACE#: LRL-Pending	
WPT#: 2021-31	
DRAWN BY: BES/JRR	

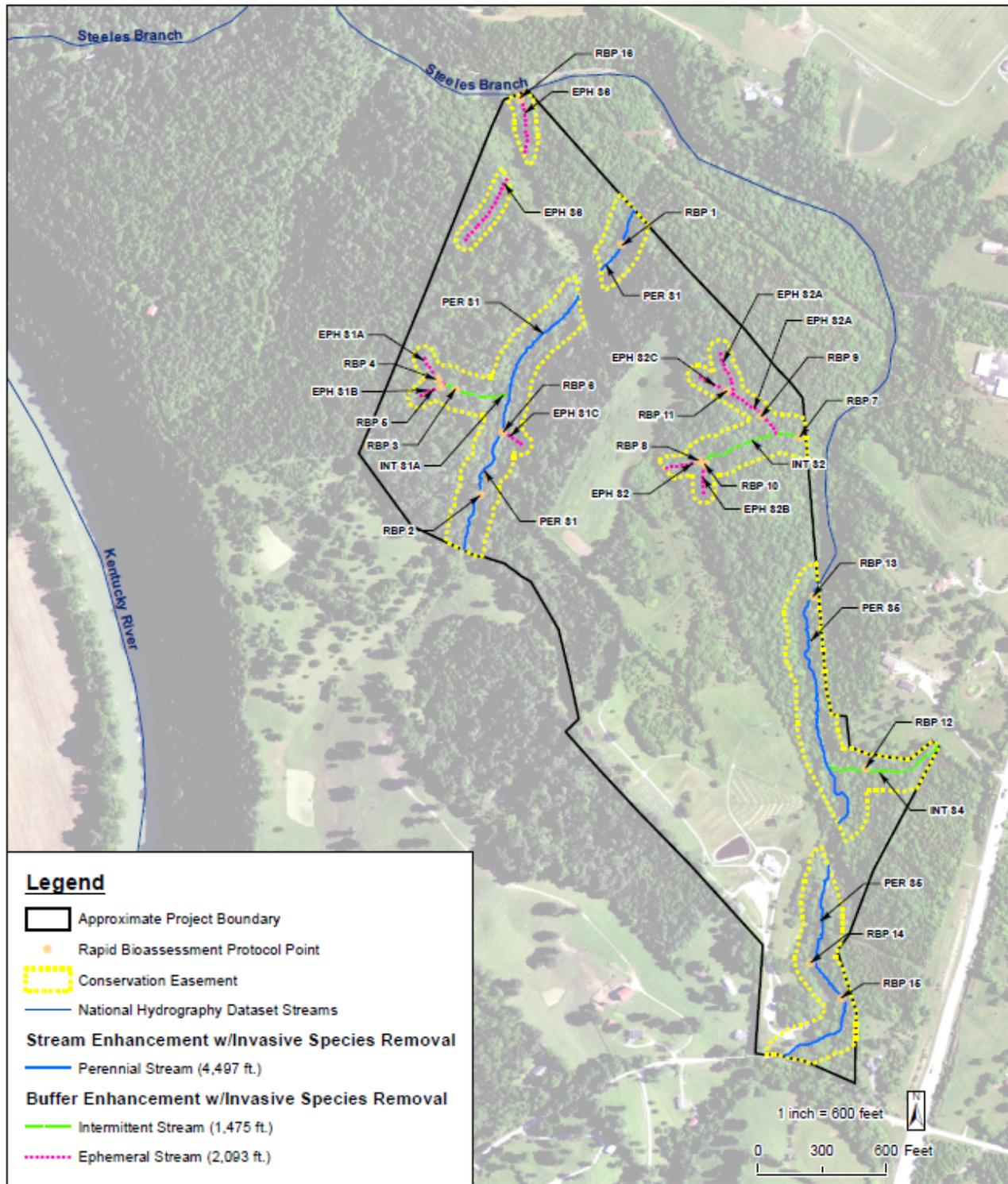


FIGURE 7. PROPOSED CONCEPTUAL MITIGATION PLAN MAP ON THE 2020 NATIONAL AGRICULTURE IMAGERY PROGRAM (NAIP) ORTHOIMAGERY WITH TAGGED VECTOR CONTOURS (TVC) BY KENTUCKY DIVISION OF GEOGRAPHIC INFORMATION

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