

# **U.S. Army Corps of Engineers Regulatory Program**



**Tina Stonemetz, Biologist (M&E)**

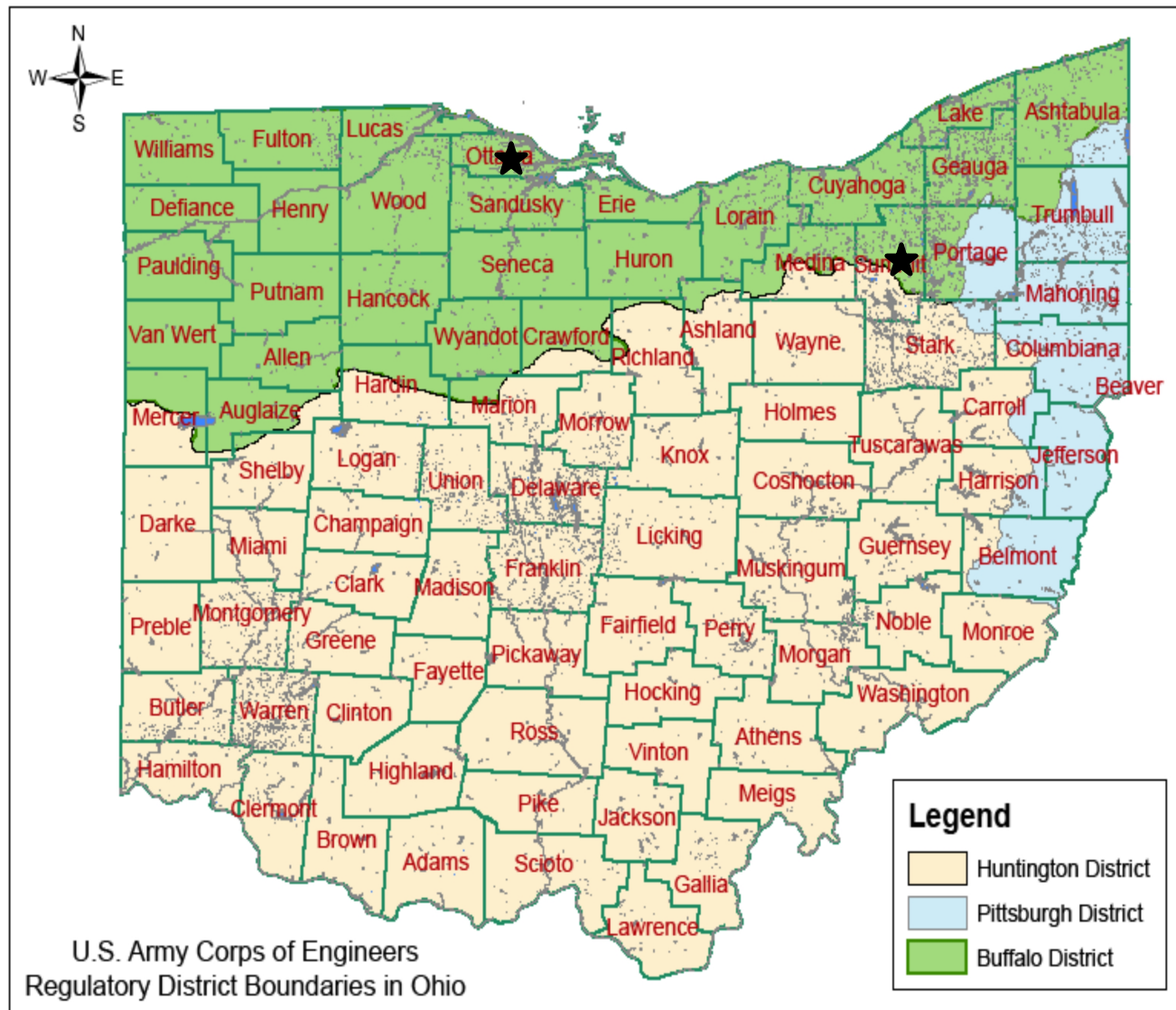
**Shawn Blohm, Biologist (AE)**

**Buffalo District**

**Ohio Section**

**[http://www.lrb.usace.army.mil/Missions/  
Regulatory.aspx](http://www.lrb.usace.army.mil/Missions/Regulatory.aspx)**



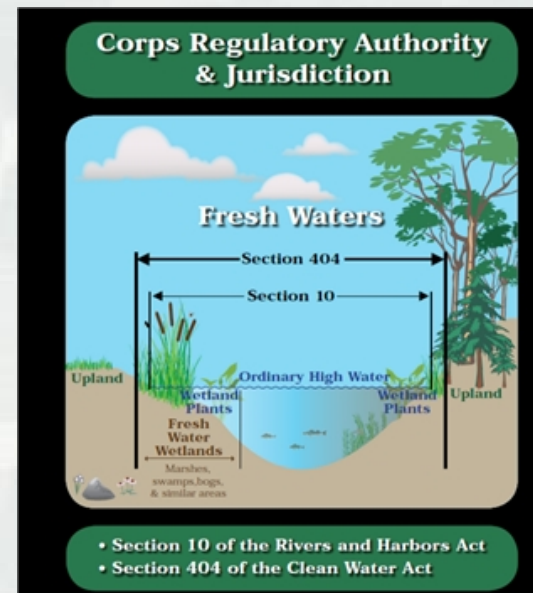


★ Buffalo District Field Office Locations:  
Oak Harbor (Ottawa County), Stow (Summit County)



# Jurisdiction

- Navigable Waters (Section 10)
  - ▶ Each District has a list
- Waters of the US (Section 404)
  - ▶ Jurisdiction extends to the ordinary high water mark for:
    - Section 10 waters
    - Relatively Permanent Waters
      - ▷ Lakes
      - ▷ Streams (Perennial, Seasonally Intermittent)
  - ▶ Adjacent Wetlands
  - ▶ Others require a case-specific determination
    - Streams (Intermittent, Ephemeral)





# Waters of the United States



Rivers, streams, canals,  
and some ditches,  
impounded waters



# Waters of the United States

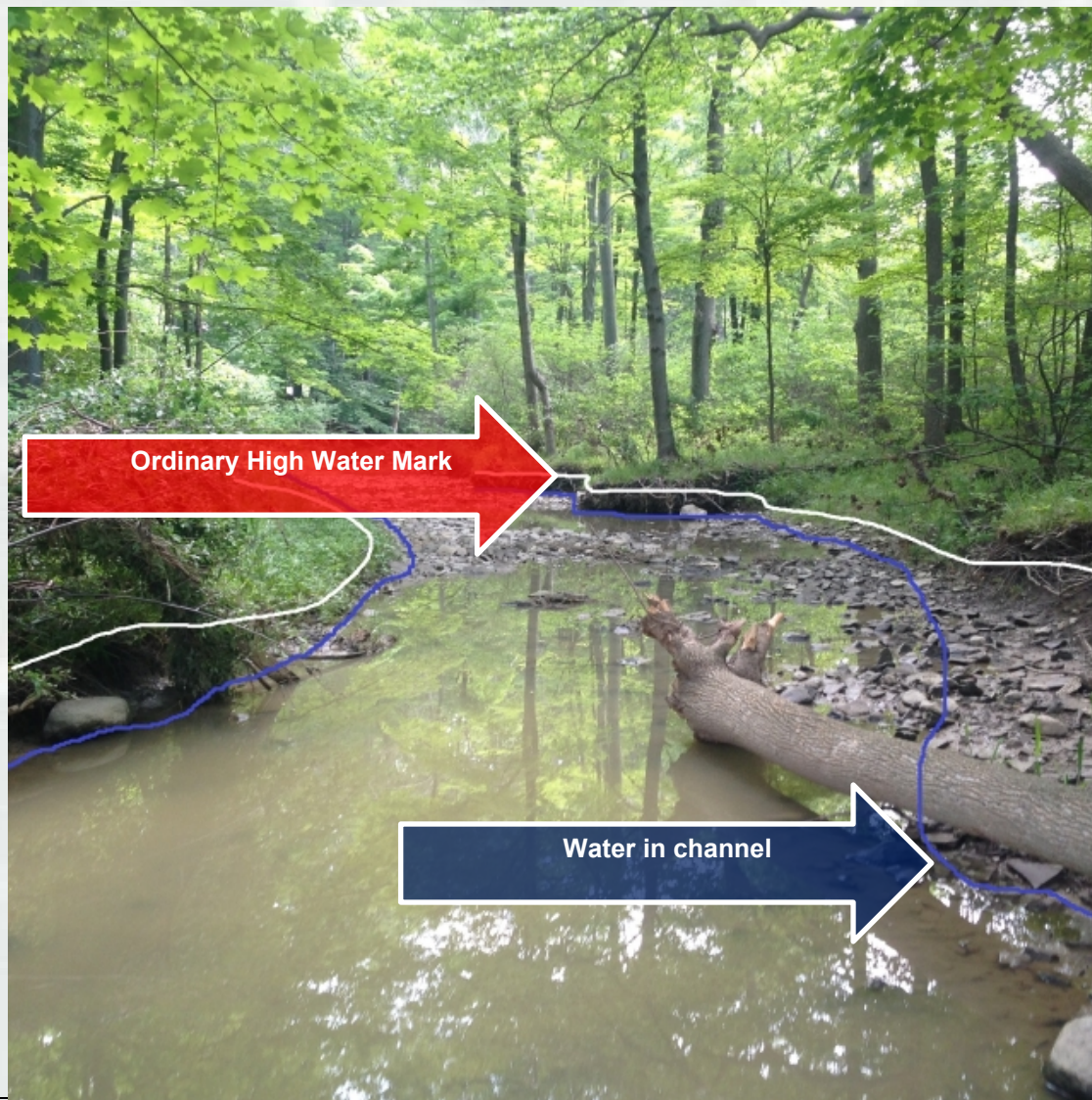


lakes,  
wetlands, and  
some ponds



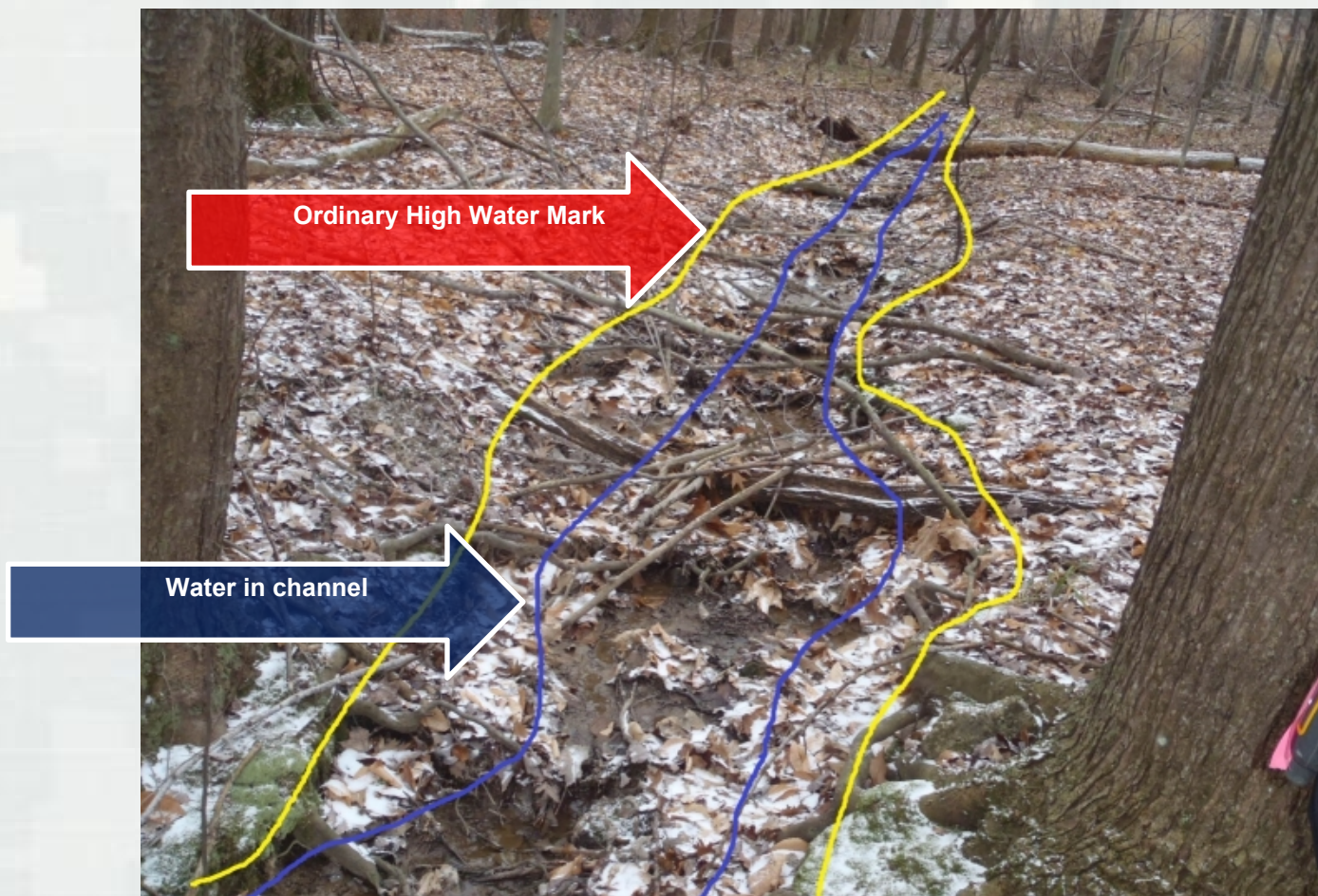


# Examples of Ordinary High Water Mark Perennial Stream





# Examples of Ordinary High Water Mark Ephemeral Stream



# What Requires a Permit?

- Regulated Activities:
  - ▶ Activities which involve a discharge of dredged or fill material into a water of the United States (Sec. 404, Clean Water Act).
    - Placement of fill below the Ordinary High Water Mark (OHWM) of the stream
  - ▶ Any structure or work that takes place in, under, or over a navigable water, or wetlands adjacent to navigable waters (Sec. 10, Rivers and Harbors Act).





# Types of Permits

- **Standard Individual Permit**
- **Letters of Permission**
- **General Permits**
  - Nationwide Permits (NWP)  
Effective Date: March 19, 2017 (54-NWP's)
    - Type of General Permit which authorizes activities on a nationwide basis unless specifically limited.  
(33CFR 330.2 Definitions)



# Nationwide Permits

- Specific conditions
  - ▶ ex. NWP 13 - Limits of bank stabilization
- General conditions
- Regional Conditions
- Special Conditions
- 401 certification
  - ▶ Individual 401 may be required



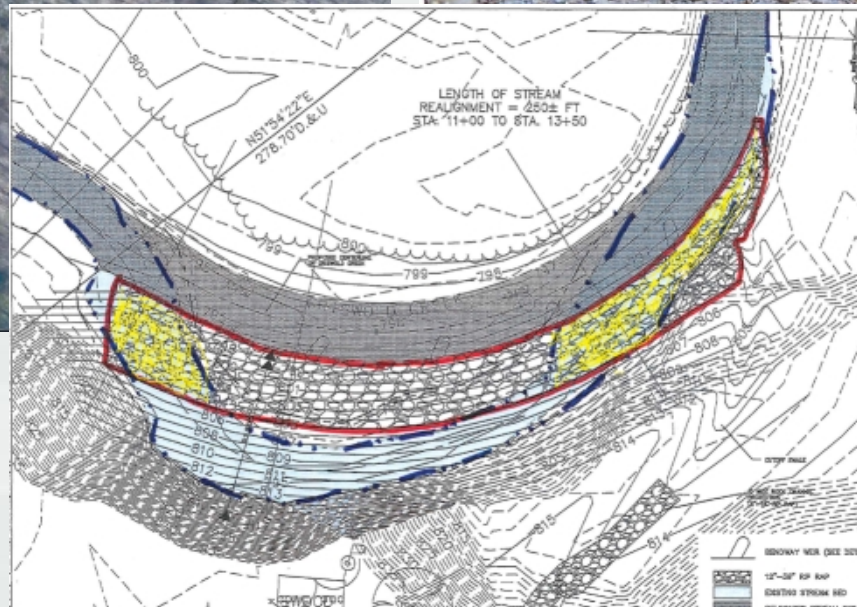
# **Nationwide Permits (NWP)**

- ▶ Maintenance (NWP 3)
- ▶ Bank Stabilization (NWP 13)
- ▶ Repair of Uplands Damaged by Discrete Events (NWP 45)
- ▶ Residential Developments (NWP 29)
- ▶ Commercial Developments (NWP 39)



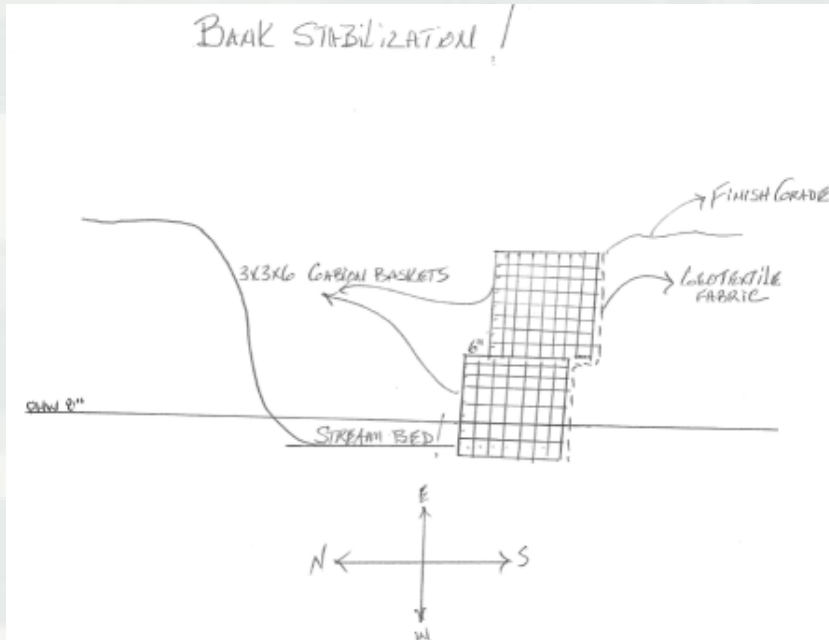


# NWP 13 Bank Stabilization



# NWP 13 Example 2

## Bank Stabilization



## Gabion Baskets

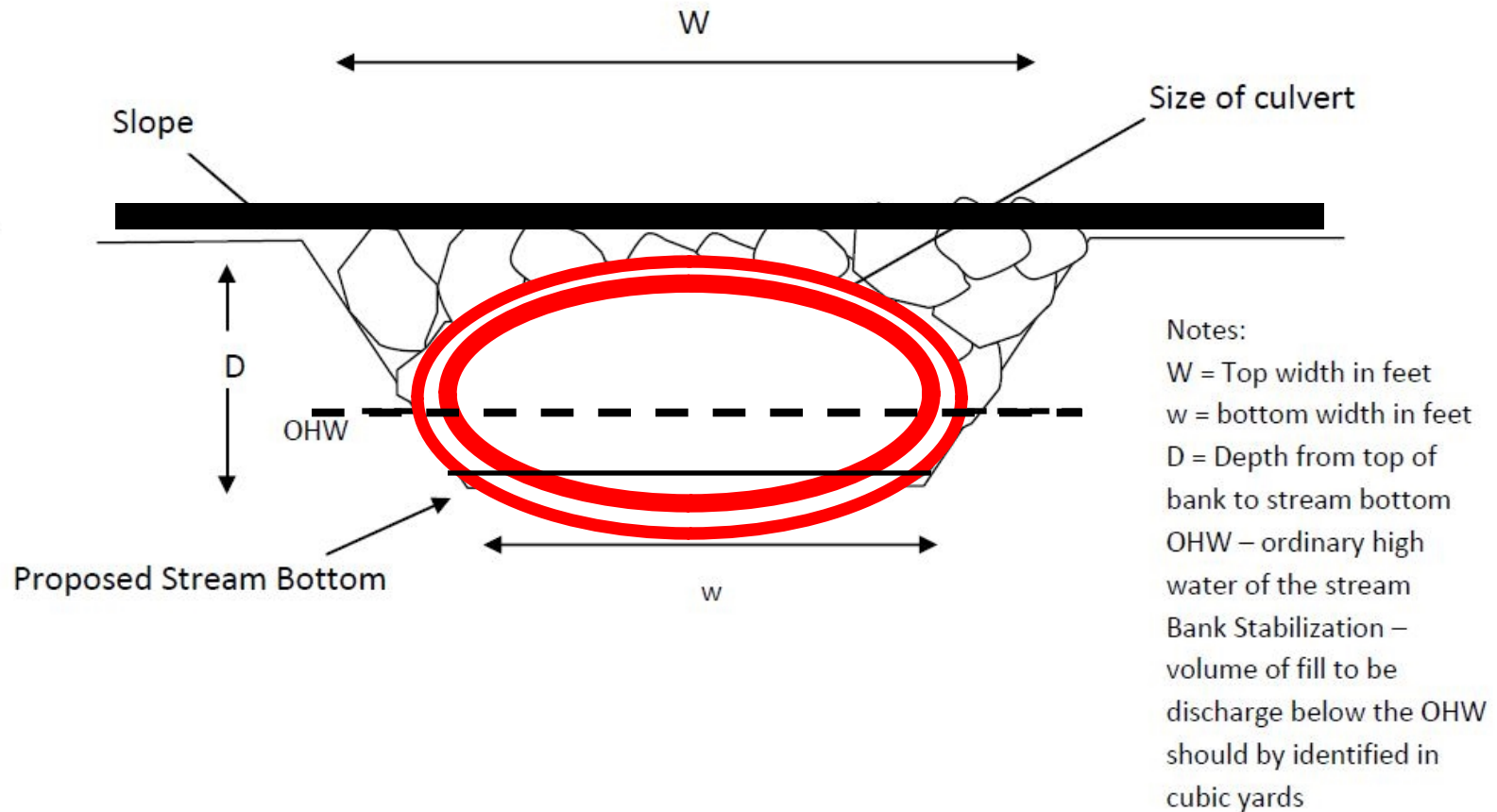




# NWP 29 Driveway Crossing Example

Provide dimension for all structures (length, width, height), water depth where appropriate, and north arrow

SAMPLE DRAWING







# Pre-Application Meetings to discuss your project are encouraged



- Gives applicant an opportunity to discuss project while in the developmental stage.
- Helps to evaluate if your project is the LEDPA
- Timeliness of obtaining a permit



# Ohio EPA 401 Water Quality Certification for Nationwide Permit Eligibility

<http://wwwapp.epa.ohio.gov/gis/maps/401NWP.html>

Possibly Eligible

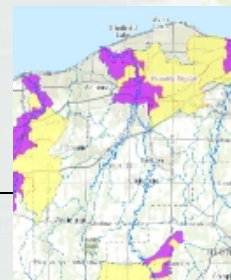
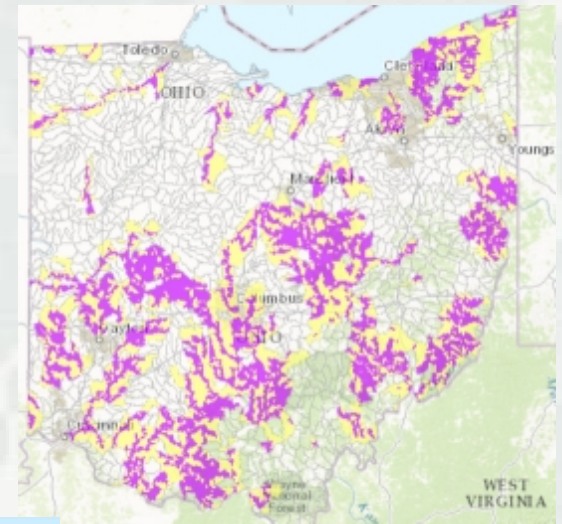
## **Category Definitions:**

### **Ineligible Areas (Shaded Purple):**

an individual 401 water quality certification is required.

**Possibly Eligible Areas (Shaded Yellow):** may require an individual water quality certification if the streams which are proposed to be impacted exhibit habitat features indicative of high quality waters, or if other Ohio general and special limitations and conditions for the nationwide permits are not met.

**Eligible Areas (No Shading):** may require an individual 401 water quality certification if Ohio general and special limitations and conditions for the nationwide permits are not met.





# Permit Compliance

- Compliance Review
  - ▶ Office Review
  - ▶ Field Review
- Outcomes
  - ▶ Permittee is in compliance
  - ▶ Permittee is in non-compliance

COMPLIANCE CERTIFICATION

Each permittee who receives a Nationwide Permit (NWP) verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any compensatory mitigation.

APPLICANT: XXXX XXXXXX XXXXXXXXXX	POINT OF CONTACT: XXXX XXXXXX XXXXXXXXXX	File No.: XXXX-XXXX File Closed: XX/XX/XXXX NWP No.: XX
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Upon completion of the activity authorized by this permit and any required compensatory mitigation sign this certification and return it to the address listed below within 30 days of project completion.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, revocation, and/or assessment of administrative penalties.

The permittee shall certify the completion of the authorized work and mitigation:

- The authorized work was done in accordance with the NWP authorization, including any general, regional, or activity specific conditions.
- The implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, this certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits.

APPLICANTS NAME \_\_\_\_\_ Date \_\_\_\_\_

Permittee Telephone Number: \_\_\_\_\_

Project location: XXXXXXXXXXXXXXXX

Project Description: XXXXXXXXXXXXXXXX

Authorized Impacts (Waters of the U.S. Impacted by Project): XX Acres/Linear Feet/Neither

Waterway and/or Project Setting: XXXXXXXXXXXXXXXX

Return completed form to:  
**Mr. David Lepout**  
Regulatory Branch  
U.S. Army Corps of Engineers  
1776 Niagara Street  
Buffalo, NY 14207



# Enforcement- Unauthorized Activities

Examples of Unauthorized fill placed below the Ordinary High Water Mark (OHWM) of a stream





# **Enforcement- Unauthorized Activities**

Examples of fill placed below the (OHWM) of a stream and removal of fill and restoration of bank using shrubs



**Before**



**After**





# Enforcement- Unauthorized Activities

- Three federal agencies involved:
  - ▶ Corps of Engineers – Typically the Lead Agency
    - MOA between USACE and USEPA
  - ▶ United States Environmental Protection Agency
    - Is the lead agency when:
      - Flagrant violator
      - Repeat violator
      - EPA requests lead agency status
  - ▶ Department of Justice
    - Consent agreements
    - Referral for court ordered restoration





# QUESTIONS



# District Contacts in Ohio

- **Huntington District**

502 8<sup>th</sup> Street  
Huntington, WV 25701  
(304) 399-5210

- **Buffalo District**

1776 Niagara Street  
Buffalo, New York 14207  
(716) 879-4330

- **Pittsburg District**

William S. Moorhead Federal Building  
1000 Liberty Avenue, Suite 2200  
Pittsburgh, PA 15222  
(412) 395-7170





# Websites

- USACE Regulatory Headquarters

<http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits.aspx>

- Buffalo District

<http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>

- Huntington District

<http://www.lrh.usace.army.mil/Missions/Regulatory.aspx>

- Pittsburg District

<http://www.lrp.usace.army.mil/or/or-f/permits.htm>



# Thank You

