

Duke Energy Ohio
Case No. 19-1471-EL-BLN
Staff SECOND Set of Data Requests
Date Received: October 25, 2019
STAFF-DR-02-005

REQUEST:

ODNR lists the Lark Sparrow, a state endangered bird, and the American Bittern, a state endangered bird, as listed species that may be impacted by the project if their habitat is present. If the species' habitat is present, ODNR recommends construction should be avoided in their habitat during each species' nesting periods.

Has Duke completed assessments on whether suitable habitat for the Lark Sparrow and the American Bittern is present in the project area? Please provide a copy of the completed assessment.

RESPONSE:

An endangered species habitat report is attached and states that the Elmwood Place I-75 Widening Transmission Improvement Project Area was located within a highly developed urban area that does not support the lark sparrow or American bittern habitat.

Please see STAFF-DR-02-005 Attachment 1.

PERSON RESPONSIBLE: Cori Jansing



10/28/2019

Cardno

The Ohio Power Siting Board
180 E Broad Street
Columbus, OH 43215

3901 Industrial Blvd.
Indianapolis, Indiana 46254
USA

Phone 317 388 1982
Fax 317 388 1986
www.cardno.com

**Subject: Endangered Species Habitat Assessment: Lark Sparrow (*Chondestes grammacus*) and the American Bittern (*Botaurus lentiginosus*)
Elmwood Place I-75 Widening Transmission Improvement Project
Village of Elmwood Place, Hamilton County, Ohio**

To Whom It May Concern:

The following summarizes the findings from our Endangered Species Habitat Assessment of the Elmwood Place I-75 Widening Transmission Improvement Project Area. The Project Area consists of approximately 1.2 miles (14 Ac) of existing 138-kilovolt (kV) transmission line between the existing Elmwood Substation at Structure P15-559 and Structure HMO-17769 within existing Duke Energy Ohio easements and road right-of-way (ROW) located in the Village of Elmwood Place, Hamilton County, Ohio.

Methods and Summary

Cardno performed a site assessment was conducted on April 12, 2019 to identify any potential Ohio Department of Natural Resources (ODNR) State Endangered Lark Sparrow (*Chondestes grammacus*) and the American Bittern (*Botaurus lentiginosus*) habitat within the proposed Elmwood Place I-75 Widening Transmission Improvement Project Area. The Study Area consisted of three habitats: urban turf/impervious surfaces, scrub-shrub, and secondary growth forest. No wetlands, streams, or ponds were identified within the proposed Project Area.

Urban Turf/Impervious Surfaces

Urban turf vegetation assemblage dominated the Study Area. Dominant species in this habitat type consisted red fescue (*Festuca rubra*), tall fescue (*Festuca arundinaceus*), dandelion (*Taraxacum officinale*), white clover (*Trifolium repens*), and broadleaf plantain (*Plantago major*).

Scrub/Shrub

Scrub/shrub vegetation assemblage was located within the Study Area. Dominant shrub species in this habitat type consisted of dense Amur honeysuckle (*Lonicera maackii*) and Callery pear (*Pyrus calleryana*). Non-dominant species included sugar maple (*Acer saccharum*), red oak (*Quercus rubra*), and staghorn sumac (*Rhus typhina*).



Secondary Growth Forest

Secondary Growth vegetation assemblage was located intermittently between the existing Duke Energy ROW and I-75. Dominant canopy species consisted of sugar maple (*Acer saccharum*), black locust (*Robinia pseudoacacia*), hackberry (*Celtis occidentalis*), Bradford pear (*Pyrus calleryana*), box elder (*Acer negundo*), eastern red cedar (*Juniperus virginiana*), and tree of heaven (*Ailanthus altissima*). Understory vegetation present in this habitat type consisted of dense Amur honeysuckle (*Lonicera maackii*), redbud (*Cercis canadensis*), staghorn sumac (*Rhus typhina*), wormwood (*Artemisia absinthium*), Japanese honeysuckle (*Lonicera japonica*), and grapevine (*Vitis riparia*).

Lark Sparrow (*Chondestes grammacus*)

The state endangered lark sparrow nests in grassland habitats with scattered shrub layers, disturbed open areas, as well as patches of bare soil. In the Oak Openings area west of Toledo, lark sparrows occupy open grass and shrubby fields along sandy beach ridges. The Elmwood Place I-75 Widening Transmission Improvement Project Area was located within a highly developed urban area that does not support the lark sparrow habitat.

American Bittern (*Botaurus lentiginosus*)

The state endangered American bittern prefers large undisturbed wetlands that have scattered small pools amongst the dense vegetation. They occasionally occupy bogs, large wet meadows, and dense, shrubby swamps. No wetlands, bogs, or wet meadows were identified within the proposed Project Area. The Elmwood Place I-75 Widening Transmission Improvement Project Area was dominated by highly developed urban area that does not support the American bittern habitat.

Conclusion

Based on Cardno's site assessment and review of available resources, there is no available Lark Sparrow (*Chondestes grammacus*) or American Bittern (*Botaurus lentiginosus*) habitat within the proposed Elmwood Place I-75 Widening Transmission Improvement Project Area. No other rare, threatened, or endangered species or high quality natural communities or significant natural habitat areas were observed.

Thank you for this opportunity to provide Rare, Threatened, and Endangered Species consultation in support of this Project. Please contact me if you have any comments or questions regarding these findings or recommendations.

Sincerely,

A handwritten signature in blue ink that reads "Cori Jansing".

Cori Jansing, PWS

Project Scientist

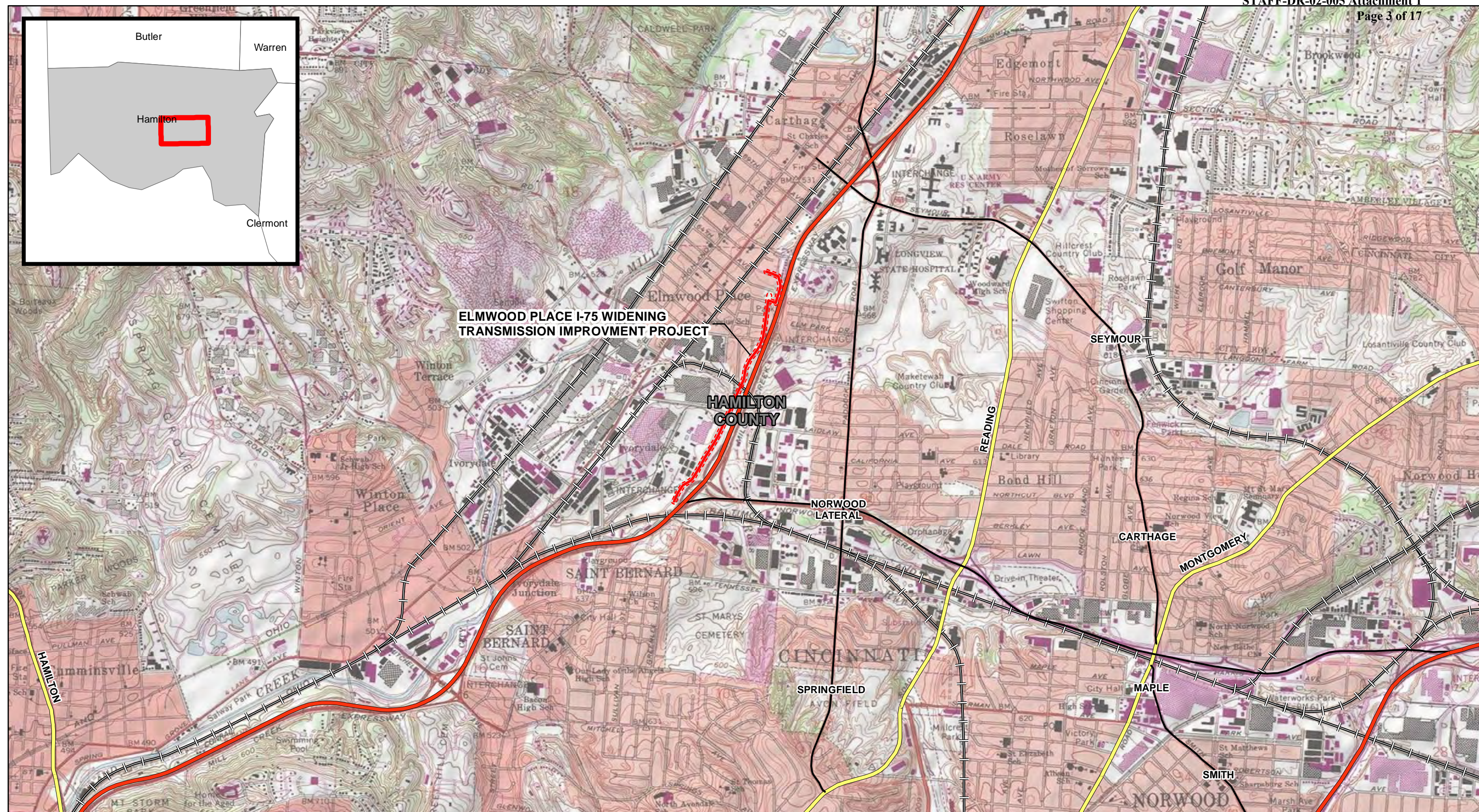
for Cardno

513-833-6392

Email: Cori.Jansing@cardno.com

Attachments: Figures, Photolog, ODNR Coordination, USFWS Coordination

File: J156720M92



PROJECT LOCATION



HAMILTON COUNTY, OHIO

REFERENCE: USGS 7.5' TOPOGRAPHIC QUADRANGLE:
CINCINNATI EAST, OHIO. OBTAINED VIA ESRI USA TOPO,
NATIONAL GEOGRAPHIC TOPO, AND USGS,
ACCESSED 01/2017.



Element	Relative Abundance (approx.)
Fe	2,000






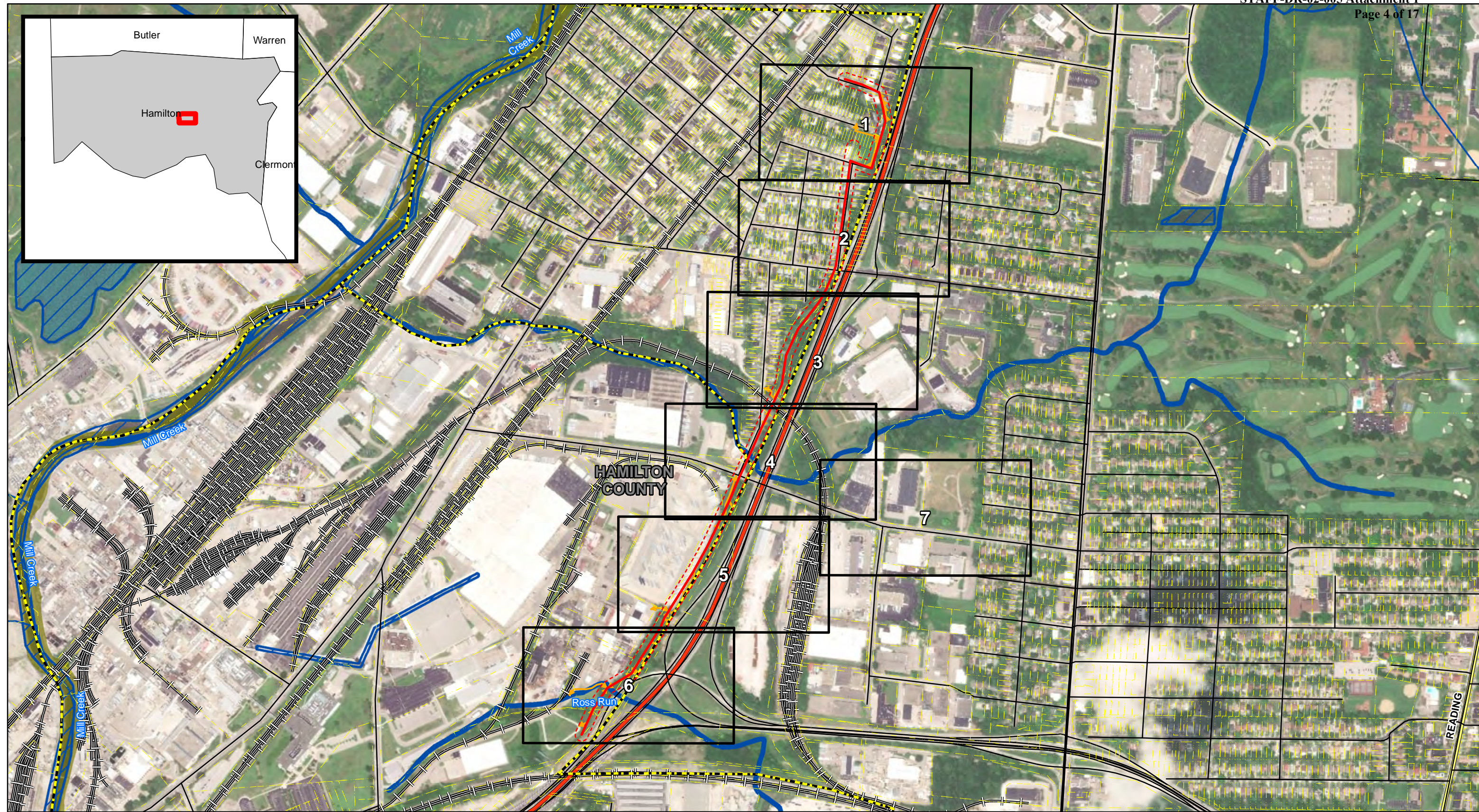
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|-------------------------------------------------------------------------------------|--------------------|---------------------------------------------------------------------------------------|---------------|---------------------------------------------------------------------------------------|-----------------|
|  | Existing Facility |  | Interstate |  | County Boundary |
|  | Project Centerline |  | State Highway | | |
|  | 100-ft Corridor |  | US Highway | | |
|  | Municipal Boundary |  | Railroad | | |



FIGURE 1
ENDANGERED SPECIES HABITAT ASSESSMENT
ELMWOOD PLACE I-75 WIDENING TRANSMISSION
IMPROVEMENT PROJECT
DUKE ENERGY OHIO
PROJECT VICINITY MAP

DRAWN BY: DKT
CHECKED: CAJ

DATE: 8/1/2019
APPROVED: CAJ



PROJECT LOCATION

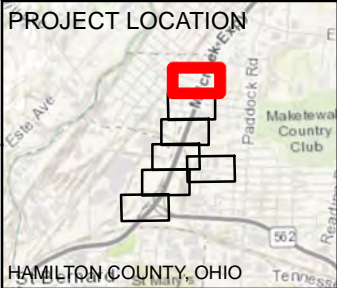
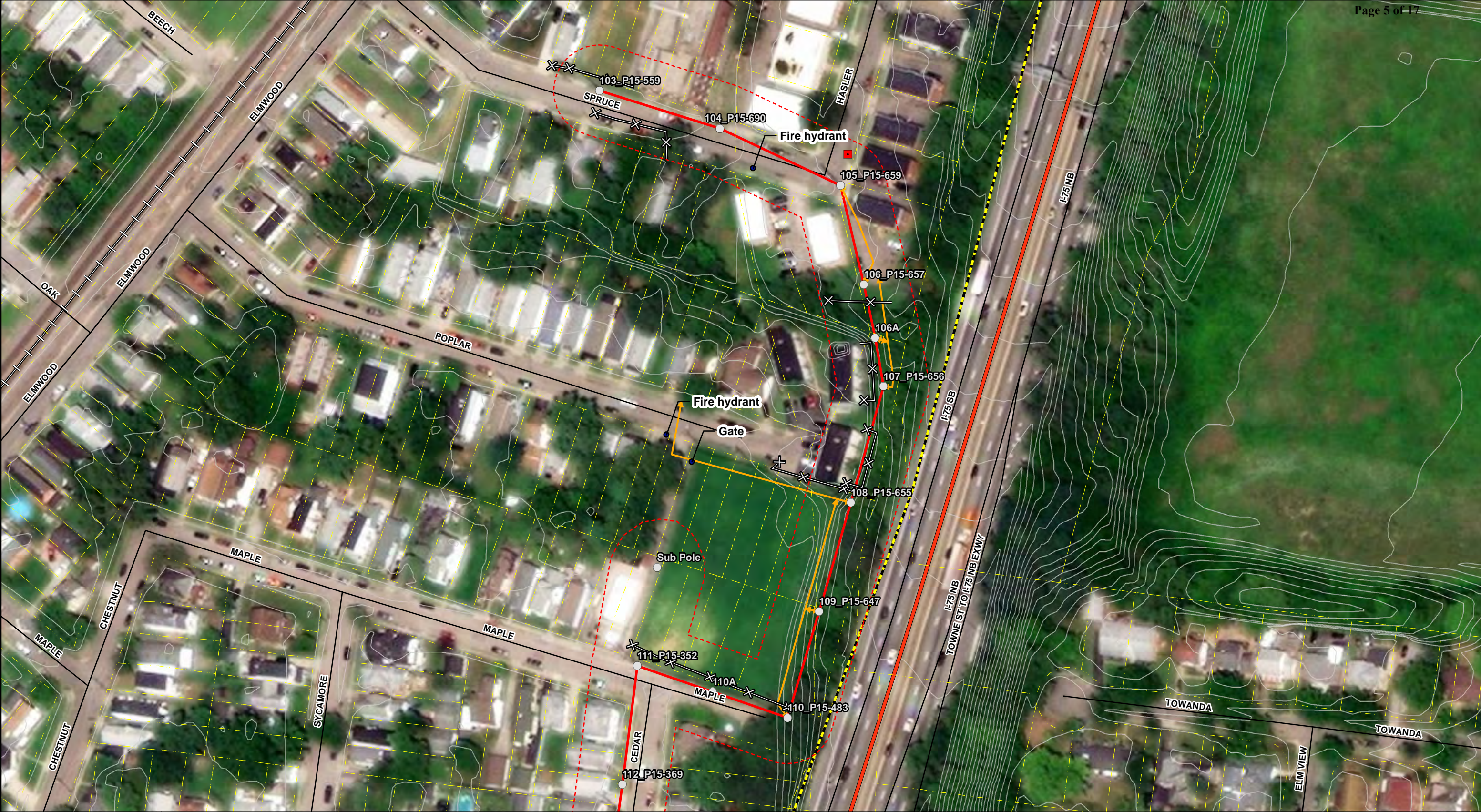
HAMILTON COUNTY, OHIO

REFERENCE:
USGS 7.5' TOPOGRAPHIC
QUADRANGLE: CINCINNATI EAST, OHIO.
OBTAINED VIA ESRI USA TOPO,
NATIONAL GEOGRAPHIC TOPO,
AND USGS, ACCESSED 10/2018

Sheet Index	Municipal Boundary	Interstate	NHD Flowline
Project Centerline	County Boundary	State Highway	100Yr Floodplain
100-ft Corridor	Alternate Access Route	US Highway	
Existing Facility	Potential Access	Railroad	
Parcels	Local Roads	NWI Wetland	



FIGURE 2
ENDANGERED SPECIES HABITAT ASSESSMENT
ELMWOOD PLACE I-75 WIDENING
TRANSMISSION IMPROVEMENT PROJECT
DUKE ENERGY OHIO
ENVIRONMENTAL ACCESS PLAN INDEX SHEET

DRAWN BY: CAD	DATE: 10/28/2019
CHECKED: CAJ	APPROVED: CAJ



REFERENCE:
USGS 7.5' TOPOGRAPHIC
QUADRANGLE: CINCINNATI EAST, OHIO.
OBTAINED VIA ESRI USA TOPO,
NATIONAL GEOGRAPHIC TOPO,
AND USGS, ACCESSED 10/2018

● Identified Features	■ Storm Water Inlet	— Interstate	— 1' Contour Line
- - - 100-ft Corridor	- - - Alternate Access Route	— State Highway	
■ Existing Facility	→ Potential Access	— US Highway	
● Existing Structure	▨ Municipal Boundary	— Railroad	
○ Proposed Structure	▨ Laydown Yard	▨ NWI Wetlands	
✂ Fence Line	— Project Centerline	— NHD Flowline	
▨ Parcels	— Local Roads	▨ 100Yr Floodplain	





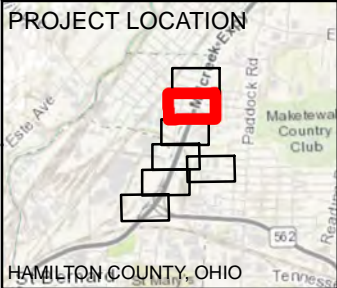
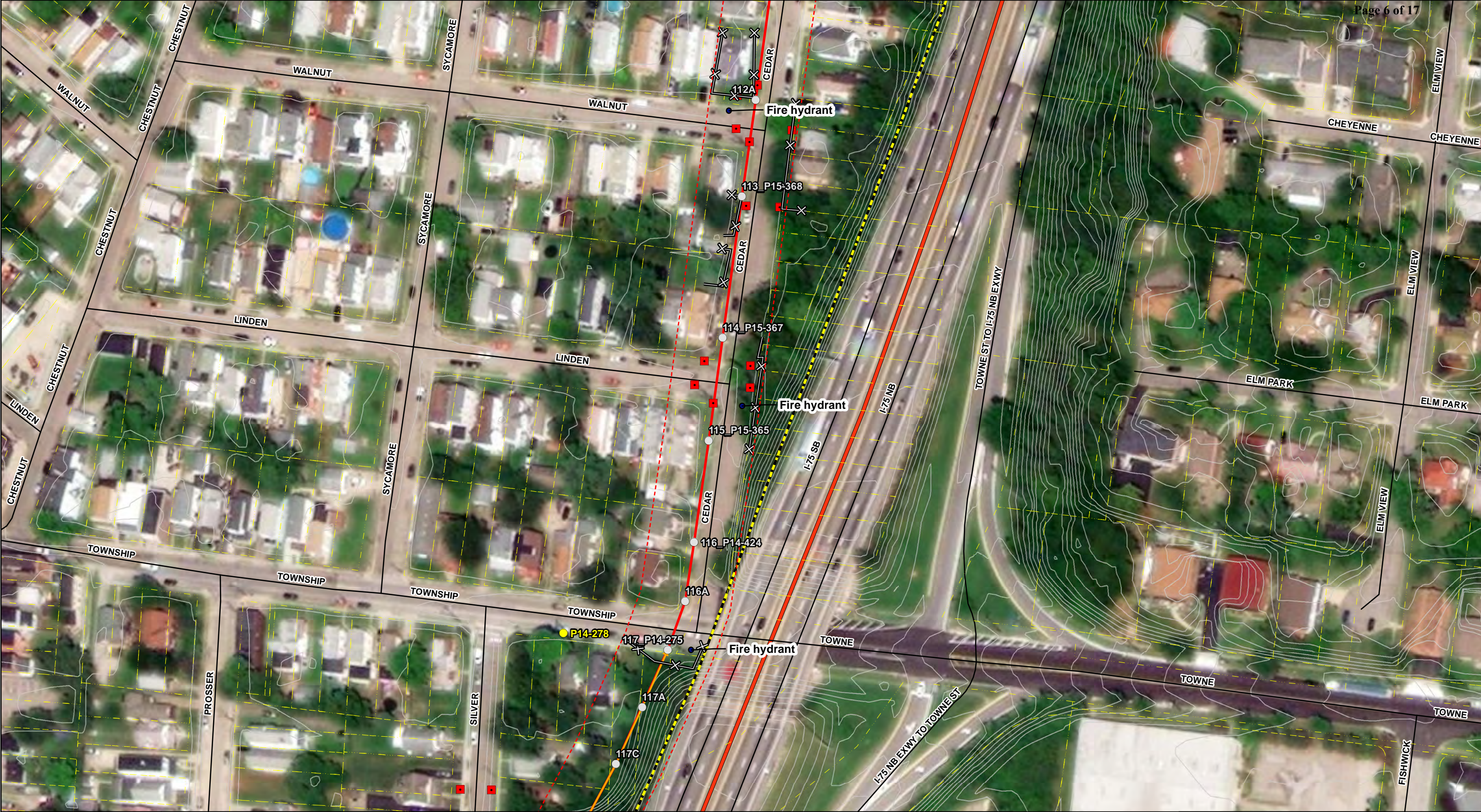


FIGURE 2.01
ENDANGERED SPECIES HABITAT ASSESSMENT
ELMWOOD PLACE I-75 WIDENING
TRANSMISSION IMPROVEMENT PROJECT
DUKE ENERGY OHIO
ENVIRONMENTAL ACCESS PLAN



DRAWN BY: DKT
CHECKED: DKT

DATE: 10/28/2019
APPROVED: MWW



REFERENCE:
USGS 7.5' TOPOGRAPHIC
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NATIONAL GEOGRAPHIC TOPO,
AND USGS, ACCESSED 10/2018

● Identified Features	■ Storm Water Inlet	— Interstate	— 1' Contour Line
--- 100-ft Corridor	--- Alternate Access Route	— State Highway	
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○ Proposed Structure	--- Laydown Yard	--- NWI Wetlands	
--- Fence Line	--- Project Centerline	--- NHD Flowline	
--- Parcels	--- Local Roads	--- 100Yr Floodplain	




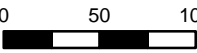
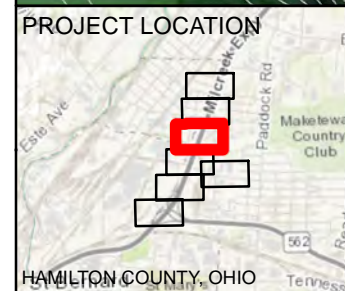
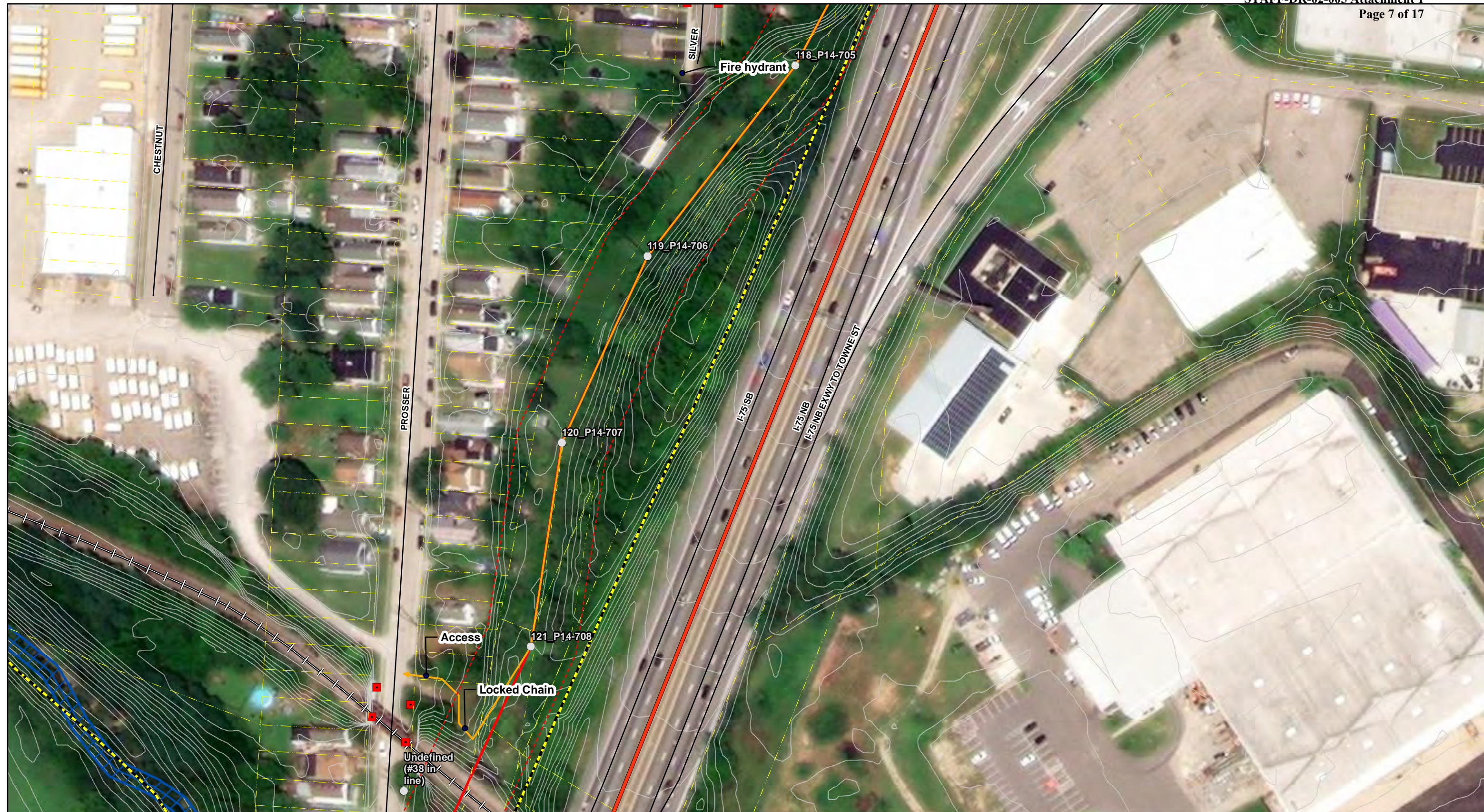


FIGURE 2.02
ENDANGERED SPECIES HABITAT ASSESSMENT
ELMWOOD PLACE I-75 WIDENING
TRANSMISSION IMPROVEMENT PROJECT
DUKE ENERGY OHIO
ENVIRONMENTAL ACCESS PLAN



DRAWN BY: DKT
CHECKED: DKT

DATE: 10/28/2019
APPROVED: MWW



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OBTAINED VIA ESRI USA TOPO,
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● Identified Features	■ Storm Water Inlet	— Interstate	— 1' Contour Line
--- 100-ft Corridor	--- Alternate Access Route	— State Highway	
■ Existing Facility	→ Potential Access	— US Highway	
● Existing Structure	▨ Municipal Boundary	— Railroad	
○ Proposed Structure	▨ Laydown Yard	▨ NWI Wetlands	
✂ Fence Line	— Project Centerline	▨ NHD Flowline	
▨ Parcels	— Local Roads	▨ 100Yr Floodplain	

0 50 100 Feet


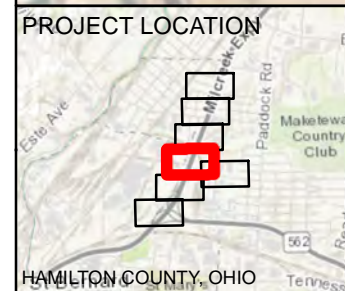
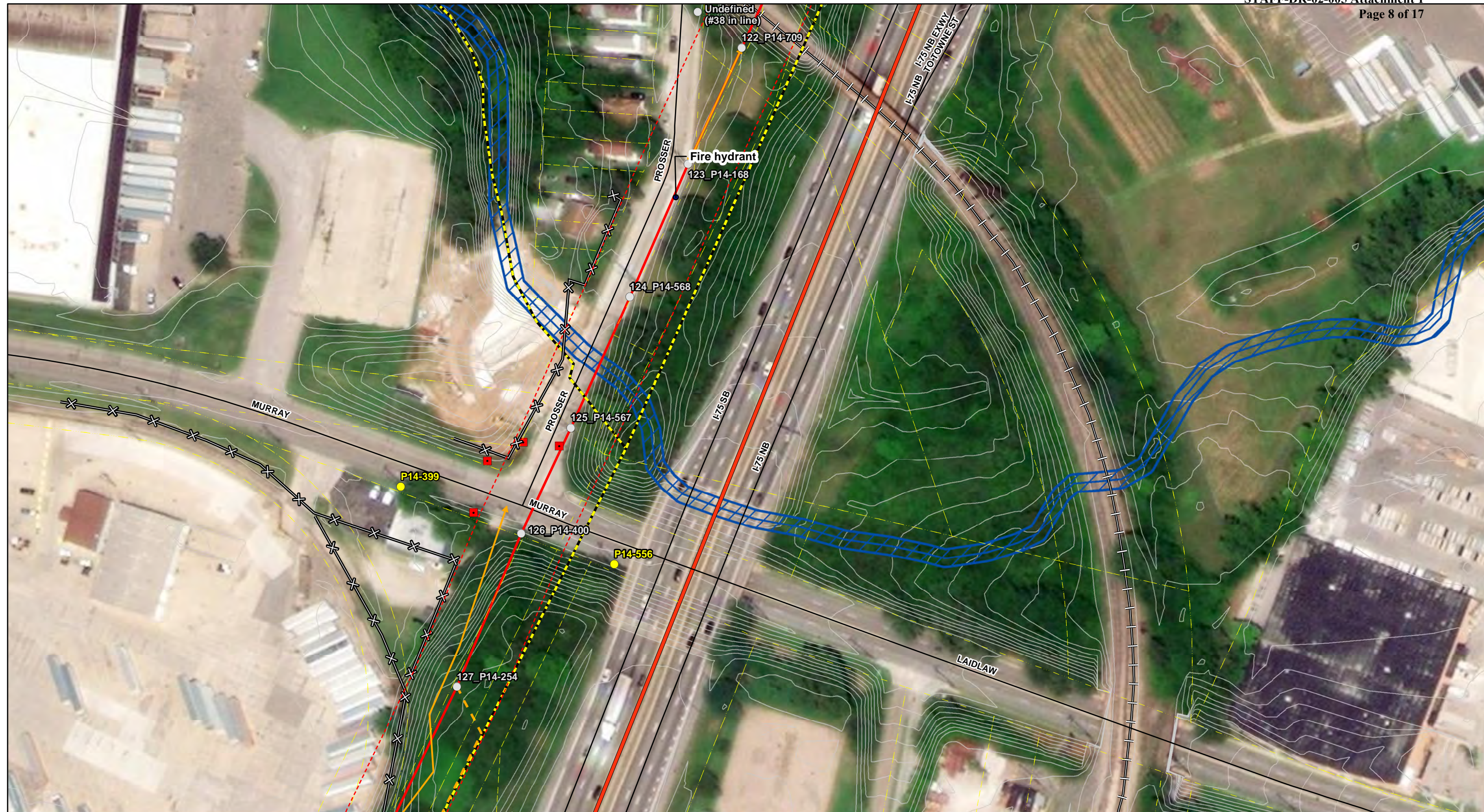


FIGURE 2.03
ENDANGERED SPECIES HABITAT ASSESSMENT
ELMWOOD PLACE I-75 WIDENING
TRANSMISSION IMPROVEMENT PROJECT
DUKE ENERGY OHIO
ENVIRONMENTAL ACCESS PLAN



DRAWN BY: DKT
CHECKED: DKT

DATE: 10/28/2019
APPROVED: MWW



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● Identified Features	■ Storm Water Inlet	— Interstate	— 1' Contour Line
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--- Fence Line	--- Project Centerline	--- NHD Flowline	
--- Parcels	--- Local Roads	--- 100Yr Floodplain	




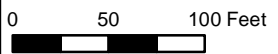
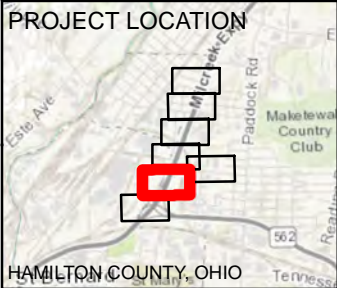


FIGURE 2.04
ENDANGERED SPECIES HABITAT ASSESSMENT
ELMWOOD PLACE I-75 WIDENING
TRANSMISSION IMPROVEMENT PROJECT
DUKE ENERGY OHIO
ENVIRONMENTAL ACCESS PLAN



DRAWN BY: DKT
CHECKED: DKT

DATE: 10/28/2019
APPROVED: MWW



REFERENCE:
USGS 7.5' TOPOGRAPHIC
QUADRANGLE: CINCINNATI EAST, OHIO.
OBTAINED VIA ESRI USA TOPO,
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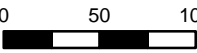
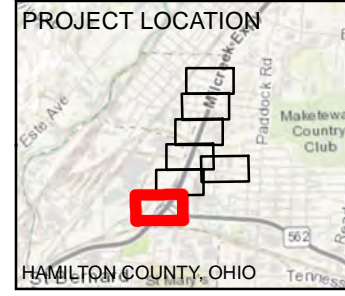
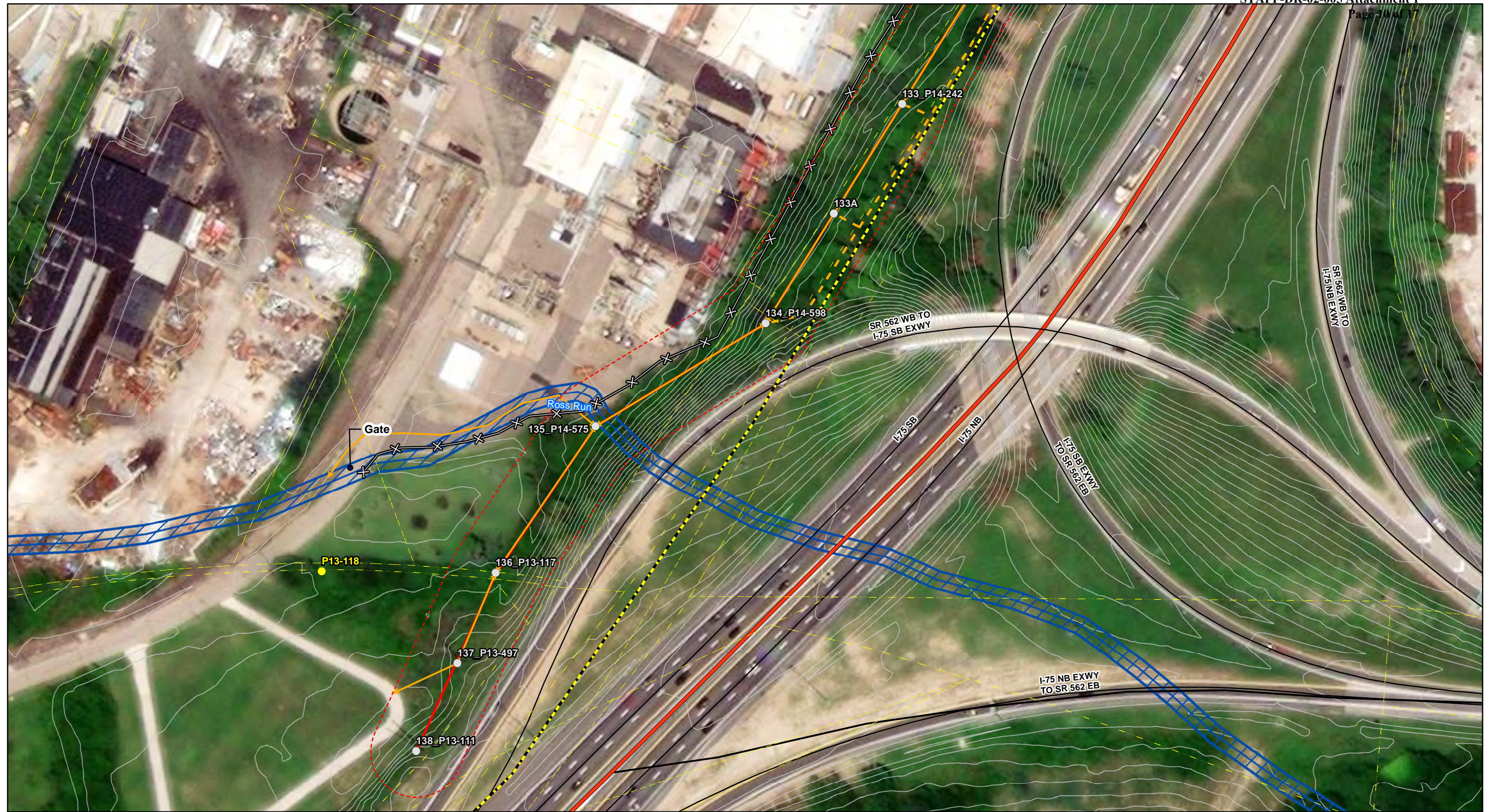


FIGURE 2.05
ENDANGERED SPECIES HABITAT ASSESSMENT
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TRANSMISSION IMPROVEMENT PROJECT
DUKE ENERGY OHIO
ENVIRONMENTAL ACCESS PLAN

DRAWN BY: DKT
CHECKED: DKT

DATE: 10/28/2019
APPROVED: MWW



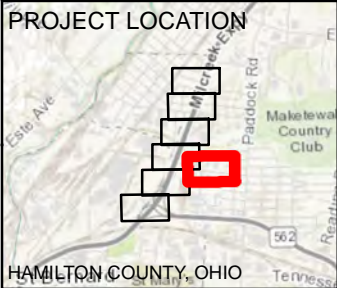
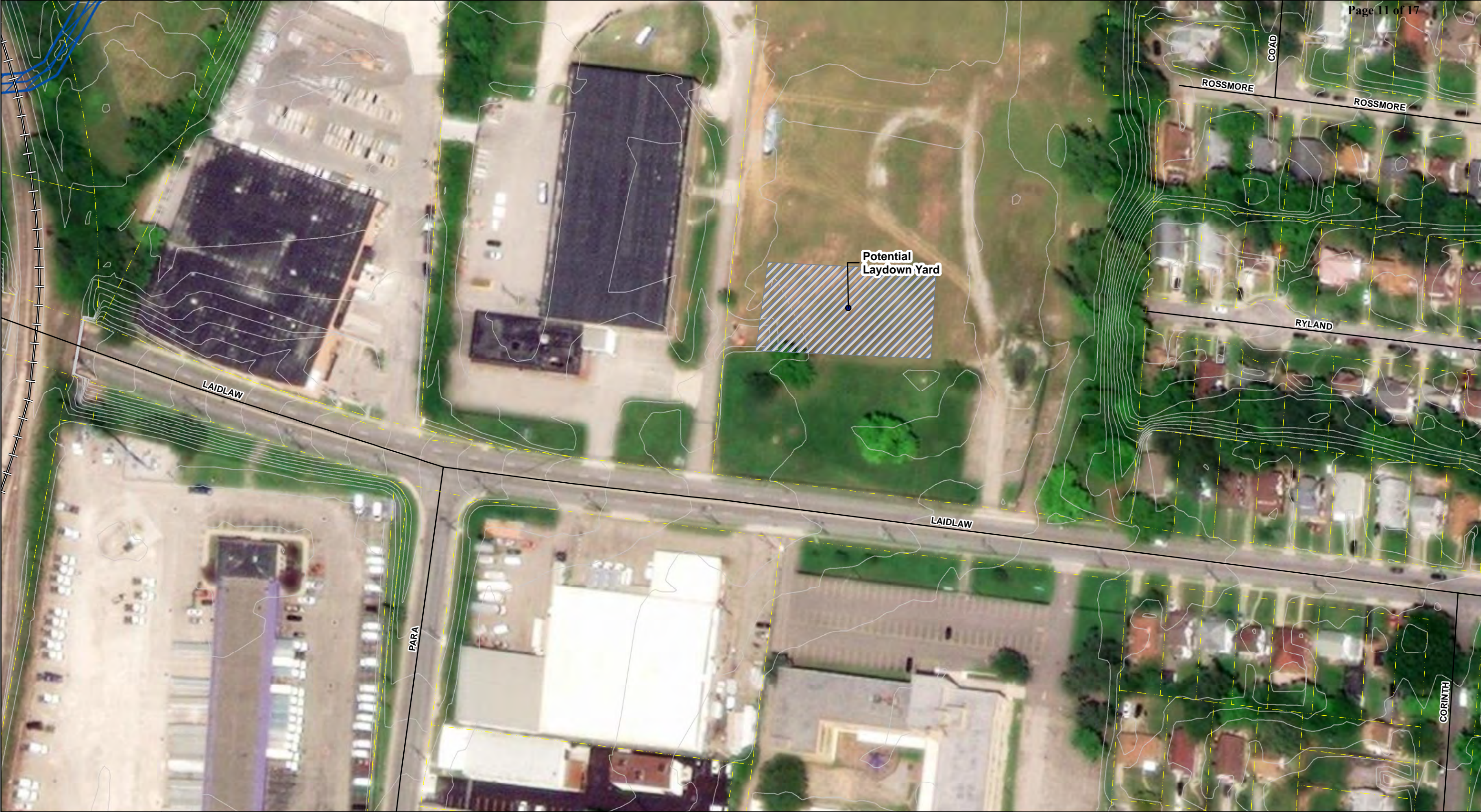
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OBTAINED VIA ESRI USA TOPO,
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FIGURE 2.06
ENDANGERED SPECIES HABITAT ASSESSMENT
ELMWOOD PLACE I-75 WIDENING
TRANSMISSION IMPROVEMENT PROJECT
DUKE ENERGY OHIO
ENVIRONMENTAL ACCESS PLAN



DRAWN BY: DKT
CHECKED: DKT

DATE: 10/28/2019
APPROVED: MWW



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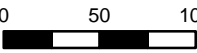


FIGURE 2.07
ENDANGERED SPECIES HABITAT ASSESSMENT
ELMWOOD PLACE I-75 WIDENING
TRANSMISSION IMPROVMENT PROJECT
DUKE ENERGY OHIO
ENVIRONMENTAL ACCESS PLAN

DRAWN BY: DKT

CHECKED: DKT

DATE: 10/28/2019

APPROVED: MWW



Photo 1. Overview of Elmwood Substation, View Facing North, 04/12/2019.



Photo 2. View of Study Area Along Cedar Avenue, View Looking North, 04/12/2019.



Photo 3. Overview of Study Area, View Looking South, 04/12/2019.



Photo 4. Overview of the Study Area, View Looking Northeast, 04/12/2019.



Ohio Department of Natural Resources

MIKE DeWINE, GOVERNOR

MARY MERTZ, DIRECTOR

Office of Real Estate
Paul R. Baldrige, Chief
2045 Morse Road – Bldg. E-2
Columbus, OH 43229
Phone: (614) 265-6649
Fax: (614) 267-4764

June 6, 2019

Cori Jansing
Cardno
11121 Canal Road
Cincinnati, Ohio 45241

Re: 19-403; Duke Energy F684 Road Improvement Project

Project: The proposed project involves the removal, replacement, and relocation of approximately 1.15-miles of existing transmission line.

Location: The proposed project is located in Cincinnati, Hamilton County, Ohio.

The Ohio Department of Natural Resources (ODNR) has completed a review of the above referenced project. These comments were generated by an inter-disciplinary review within the Department. These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the National Environmental Policy Act, the Coastal Zone Management Act, Ohio Revised Code and other applicable laws and regulations. These comments are also based on ODNR's experience as the state natural resource management agency and do not supersede or replace the regulatory authority of any local, state or federal agency nor relieve the applicant of the obligation to comply with any local, state or federal laws or regulations.

Natural Heritage Database: The Natural Heritage Database has the following records at or within a one-mile radius of the project area:

Oak maple forest plant community
Caldwell Park – City of Cincinnati Parks
Mill Creek Conservancy – Mill Creek Conservancy

The review was performed on the project area you specified in your request as well as an additional one-mile radius. Records searched date from 1980. This information is provided to inform you of features present within your project area and vicinity.

Please note that Ohio has not been completely surveyed and we rely on receiving information from many sources. Therefore, a lack of records for any particular area is not a statement that rare species or unique features are absent from that area. Although all types of plant communities have been surveyed, we only maintain records on the highest quality areas.

Fish and Wildlife: The Division of Wildlife (DOW) has the following comments.

The DOW recommends that impacts to streams, wetlands and other water resources be avoided and minimized to the fullest extent possible, and that best management practices be utilized to minimize erosion and sedimentation.

The project is within the range of the Indiana bat (*Myotis sodalis*), a state endangered and federally endangered species. The following species of trees have relatively high value as potential Indiana bat roost trees to include: shagbark hickory (*Carya ovata*), shellbark hickory (*Carya laciniosa*), bitternut hickory (*Carya cordiformis*), black ash (*Fraxinus nigra*), green ash (*Fraxinus pennsylvanica*), white ash (*Fraxinus americana*), shingle oak (*Quercus imbricaria*), northern red oak (*Quercus rubra*), slippery elm (*Ulmus rubra*), American elm (*Ulmus americana*), eastern cottonwood (*Populus deltoides*), silver maple (*Acer saccharinum*), sassafras (*Sassafras albidum*), post oak (*Quercus stellata*), and white oak (*Quercus alba*). Indiana bat roost trees consists of trees that include dead and dying trees with exfoliating bark, crevices, or cavities in upland areas or riparian corridors and living trees with exfoliating bark, cavities, or hollow areas formed from broken branches or tops. However, Indiana bats are also dependent on the forest structure surrounding roost trees. If suitable habitat occurs within the project area, the DOW recommends trees be conserved. If suitable habitat occurs within the project area and trees must be cut, the DOW recommends cutting occur between October 1 and March 31. If suitable trees must be cut during the summer months, the DOW recommends a net survey be conducted between June 1 and August 15, prior to any cutting. Net surveys should incorporate either nine net nights per square 0.5 kilometer of project area, or four net nights per kilometer for linear projects. If no tree removal is proposed, this project is not likely to impact this species.

The project is within the range of the sheepsnout (Plethobasus cyphus), a state endangered and federally endangered mussel, the fanshell (Cyprogenia stegaria), a state endangered and federally endangered mussel, the pink mucket (Lampsilis orbiculata), a state endangered and federally endangered mussel, the rayed bean (Villosa fabalis), a state endangered and federally endangered mussel, the snuffbox (Epioblasma triquetra), a state endangered and federally endangered mussel, the ebonyshell (Fusconaia ebena), a state endangered mussel, the long-solid (Fusconaia maculata maculata), a state endangered mussel, the butterfly (Ellipsaria lineolata), a state endangered mussel, the washboard (Megaloniaias nervosa), a state endangered mussel, the elephant-ear (Elliptio crassidens crassidens), a state endangered mussel, the Ohio pigtoe (Pleurobema cordatum), a state endangered mussel, the monkeyface (Quadrula metanevra), a state endangered mussel, the wartyback (Quadrula nodulata), a state endangered mussel, the black sandshell (Ligumia recta), a state threatened mussel, the fawnsfoot (Truncilla donaciformis), a state threatened mussel, and the threehorn wartyback (Obliquaria reflexa), a state threatened mussel. Due to the location, and that there is no in-water work proposed, this project is not likely to impact these species.

The project is within the range of the shortnose gar (Lepisosteus platostomus), a state endangered fish, the shoal chub (Macrhybopsis hyostoma), a state endangered fish, the shovelnose sturgeon (Scaphirhynchus platyrhynchus), a state endangered fish, the lake sturgeon (Acipenser fulvescens), a state endangered fish, the northern madtom (Noturus stigmosus), a state endangered fish, the bigeye shiner (Notropis boops) a state threatened fish, the mountain madtom (Noturus eleutherus), a state threatened fish, the river darter (Percina shumardi) a state threatened fish, the channel darter (Percina copelandi), a state threatened fish, the blue sucker (Cycleptus elongatus), a state threatened fish, and the paddlefish (Polyodon spathula) a state threatened fish. Due to the location, and that there is no in-water work proposed, this project is not likely to impact these species.

The project is within the range of the Kirtland's snake (*Clonophis kirtlandii*), a state threatened species. This secretive species prefers wet meadows and other wetlands. Due to the location, the type of habitat present at the project site and within the vicinity of the project area, and the type of work proposed, this project is not likely to impact this species.

The project is within the range of the cave salamander (*Eurycea lucifuga*), a state endangered species. Due to the location, the type of habitat present at the project site and within the vicinity of the project area, and the type of work proposed, this project is not likely to impact this species.

The project is within the range of the American bittern (*Botaurus lentiginosus*), a state endangered bird. Nesting bitterns prefer large undisturbed wetlands that have scattered small pools amongst dense vegetation. They occasionally occupy bogs, large wet meadows, and dense shrubby swamps. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 1 to July 31. If this type of habitat will not be impacted, this project is not likely to impact this species.

The project is within the range of the lark sparrow (*Chondestes grammacus*), a state endangered bird. This sparrow nests in grassland habitats with scattered shrub layers, disturbed open areas, as well as patches of bare soil. In the Oak Openings area west of Toledo, lark sparrows occupy open grass and shrubby fields along sandy beach ridges. These summer residents normally migrate out of Ohio shortly after their young fledge or leave the nest. If this type of habitat will be impacted, construction should be avoided in this habitat during the species' nesting period of May 1 to June 30. If this habitat will not be impacted, this project is not likely to impact this species.

Due to the potential of impacts to federally listed species, as well as to state listed species, we recommend that this project be coordinated with the U.S. Fish & Wildlife Service.

Water Resources: The Division of Water Resources has the following comment.

The local floodplain administrator should be contacted concerning the possible need for any floodplain permits or approvals for this project. Your local floodplain administrator contact information can be found at the website below.

http://water.ohiodnr.gov/portals/soilwater/pdf/floodplain/Floodplain%20Manager%20Community%20Contact%20List_8_16.pdf

ODNR appreciates the opportunity to provide these comments. Please contact Sarah Tebbe, Environmental Specialist, at (614) 265-6397 or Sarah.Tebbe@dnr.state.oh.us if you have questions about these comments or need additional information.

John Kessler
Environmental Services Administrator

Cori Jansing

From: susan_zimmermann@fws.gov on behalf of Ohio, FW3 <ohio@fws.gov>
Sent: Wednesday, May 8, 2019 3:19 PM
To: Cori Jansing
Cc: nathan.reardon@dnr.state.oh.us; kate.parsons@dnr.state.oh.us
Subject: Duke Energy F684 Road Upgrade for Transmission line, Cincinnati, Hamilton Co.



UNITED STATES DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service
Ecological Services Office
4625 Morse Road, Suite 104
Columbus, Ohio 43230
(614) 416-8993 / Fax (614) 416-8994



TAILS# 03E15000-2019-TA-1174

Dear Ms. Jansing,

We have received your recent correspondence requesting information about the subject proposal. There are no federal wilderness areas, wildlife refuges or designated critical habitat within the vicinity of the project area. The following comments and recommendations will assist you in fulfilling the requirements for consultation under section 7 of the Endangered Species Act of 1973, as amended (ESA).

The U.S. Fish and Wildlife Service (Service) recommends that proposed developments avoid and minimize water quality impacts and impacts to high quality fish and wildlife habitat (e.g., forests, streams, wetlands). Additionally, natural buffers around streams and wetlands should be preserved to enhance beneficial functions. If streams or wetlands will be impacted, the Corps of Engineers should be contacted to determine whether a Clean Water Act section 404 permit is required. Best management practices should be used to minimize erosion, especially on slopes. All disturbed areas should be mulched and revegetated with native plant species. Prevention of non-native, invasive plant establishment is critical in maintaining high quality habitats.

FEDERALLY LISTED SPECIES COMMENTS: All projects in the State of Ohio lie within the range of the federally endangered **Indiana bat** (*Myotis sodalis*) and the federally threatened **northern long-eared bat** (*Myotis septentrionalis*). In Ohio, presence of the Indiana bat and northern long-eared bat is assumed wherever suitable habitat occurs unless a presence/absence survey has been performed to document absence. Suitable summer habitat for Indiana bats and northern long-eared bats consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags ≥ 3 inches diameter at breast height (dbh) that have any exfoliating bark, cracks, crevices, hollows and/or cavities), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure. Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet (305 meters) of other forested/wooded habitat. Northern long-eared bats have also been observed roosting in human-made structures, such as buildings, barns, bridges, and bat houses; therefore, these structures should also be considered potential summer habitat. In the winter, Indiana bats and northern long-eared bats hibernate in caves and abandoned mines.

Should the proposed site contain trees ≥ 3 inches dbh, we recommend that trees be saved wherever possible. If any caves or abandoned mines may be disturbed, further coordination with this office is requested to determine if fall or spring portal surveys are warranted. If no caves or abandoned mines are present and trees ≥ 3 inches dbh cannot be avoided, we recommend that removal of any trees ≥ 3 inches dbh only occur between October 1 and March 31. Seasonal clearing is being recommended to avoid adverse effects to Indiana bats and northern long-eared bats. While incidental take of northern long-eared bats from most tree clearing is exempted by a 4(d) rule (see <http://www.fws.gov/midwest/endangered/mammals/nleb/index.html>), incidental take of Indiana bats is still prohibited without a project-specific exemption. Thus, seasonal clearing is recommended where Indiana bats are assumed present.

If implementation of this seasonal tree cutting recommendation is not possible, summer surveys may be conducted to document the presence or probable absence of Indiana bats within the project area during the summer. If a summer survey documents probable absence of Indiana bats, the 4(d) rule for the northern long-eared bat could be applied. Surveys must be conducted by an approved surveyor and be designed and conducted in coordination with the Endangered Species Coordinator for this office. Surveyors must have a valid federal permit. Please note that in Ohio summer mist net surveys may only be conducted between June 1 and August 15.

If there is a federal nexus for the project (e.g., federal funding provided, federal permits required to construct), no tree clearing should occur on any portion of the project area until consultation under section 7 of the ESA, between the Service and the federal action agency, is completed. We recommend that the federal action agency submit a determination of effects to this office, relative to the Indiana bat and northern long-eared bat, for our review and concurrence.

Due to the project type, size, and location, we do not anticipate adverse effects to any other federally endangered, threatened, proposed, or candidate species. Should the project design change, or during the term of this action, additional information on listed or proposed species or their critical habitat become available, or if new information reveals effects of the action that were not previously considered, consultation with the Service should be initiated to assess any potential impacts.

These comments have been prepared under the authority of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), the ESA, and are consistent with the intent of the National Environmental Policy Act of 1969 and the Service's Mitigation Policy. This letter provides technical assistance only and does not serve as a completed section 7 consultation document. We recommend that the project be coordinated with the Ohio Department of Natural Resources due to the potential for the project to affect state listed species and/or state lands. Contact John Kessler, Environmental Services Administrator, at (614) 265-6621 or at john.kessler@dnr.state.oh.us.

If you have questions, or if we can be of further assistance in this matter, please contact our office at (614) 416-8993 or ohio@fws.gov.

Sincerely,



Patrice M. Ashfield
Field Office Supervisor

cc: Nathan Reardon, ODNR-DOW
Kate Parsons, ODNR-DOW

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Summary: Correspondence Response to Staff Data Request 02-005 electronically filed by
Carys Cochern on behalf of Duke Energy