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May 26, 2023

Via Electronic Filing

Ms. Tanowa Troupe
Administration/Docketing
Ohio Power Siting Board
180 East Broad Street, 11th Floor
Columbus, Ohio 43215-3793

**Re: Clean Energy Future–Trumbull, LLC,
Case No. 22-697-EL-BLN**

Dear Ms. Troupe:

On August 9, 2022, the Ohio Power Siting Board (“OPSB”) Staff issued a Report of Investigation approving the Letter of Notification, which was automatically approved on August 16, 2022.

In early March 2023, CEF-T informed OPSB Staff of construction activities in areas not approved by OPSB through the LON Certificate. Attached is supplemental information relating to this event.

If you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dylan Borchers".

Dylan F. Borchers

Attachment

Cc: Ashton Holderbaum (w/Attachment)

**Trumbull Energy Center Electrical Interconnection
Supplemental Information to the Letter of Notification**

(Case No. 22-697-EL-BLN)

As requested following the site visit held on May 9, 2023 with Clean Energy Future-Trumbull, LLC (CEF-T) and supporting representatives, the Ohio Power Siting Board (OPSB), the U.S. Army Corps of Engineers (USACE), and the Ohio Environmental Protection Agency (Ohio EPA), this narrative provides information regarding activities not currently approved under the existing Letter of Notification (LON), Case No. 22-697-EL-BLN. Information regarding the rationale for such activities, requested changes to the approved layout, and response actions are also addressed, along with a discussion of how to avoid such issues in the future.

This narrative addresses activities south of Mud Creek, as well as the electrical collector yard (located north of Mud Creek) and the electrical right-of-way (ROW) and structures extending from the collector yard (which occur both north and south of Mud Creek). These activities were all encompassed in the LON. The EPC/general contractor for these elements is M.J. Electric, LLC/Realtime Utilities Engineers (MJE).

Activities Not Yet Approved, and Planned Response Actions

A pre-construction meeting was held with the OPSB in February 2023, with a planned construction start date of February 13, 2023. One goal of the pre-construction conference was so MJE could be prepared to complete the necessary tree clearing within the appropriate winter season to avoid impacts to listed bat habitats. Drawings submitted at that pre-construction conference appeared to match those included in the LON.

Activities Not Yet Approved

As outlined in the PowerPoint presentation shared with OPSB staff on March 16, 2023 (Attachment A), CEF-T noted that the boundaries of the site clearing did not appear to match the authorized area in the LON following a review of MJE's regular reports on February 22, 2023. A more detailed investigation was initiated to confirm what had occurred. This involved a mapping review on February 23, 2023 and a stop work notice being sent to MJE on February 24, 2023. An initial field inspection occurred on February 27, 2023, followed by a drone survey and a visit to the property by an erosion and sediment control specialist on March 8, 2023. Proactive agency outreach occurred in early March 2023 to the OPSB, USACE, Ohio EPA, the United States Fish and Wildlife Service (USFWS), and Ohio Department of Natural Resources (ODNR). In addition to clearing more trees than authorized under the LON, the clearing and grubbing activities encroached into delineated wetland areas further than was authorized.

CEF-T confirmed during field inspections that the site was relatively well stabilized, although additional stabilization measures were implemented, including placing pin flags and filter socks

around the location where unauthorized wetland encroachment had occurred. Consultation with the USACE confirmed that the previously delineated wetland boundaries were an appropriate basis for determining the amount of unauthorized encroachment.

While the clearing work to accommodate the collector yard, and the transmission line corridor, and pole locations north of Mud Creek generally approximated, or was less than authorized, the portion of the transmission line corridor to the south, the switchyard area, and the two access roadways involved additional encroachments. As documented in a memorandum dated March 24, 2023 (Attachment B), CEF-T determined that 4.78 acres of tree clearing occurred beyond that which was authorized by the OPSB as part of the existing LON. Because approximately 1.38 acres of planned tree clearing was not completed north of Mud Creek, a total of approximately 3.4 acres of tree clearing occurred that had not been anticipated under the existing LON.

All tree clearing work was confirmed to have been conducted within the October 1 to March 1 tree clearing window established for the protection of listed bats that have the potential to be present within the state of Ohio. CEF-T representatives contacted ODNR and USFWS regarding on-site tree clearing activities. No specific response from ODNR has been received as of this update. USFWS replied to CEF-T representatives and noted that the tree clearing occurred within the appropriate window, which satisfies the USFWS' requirements.

Reasons for Additional Tree Clearing

The basis for MJE increasing the area of disturbance was based on MJE's understanding of First Energy's (the final owner of the switchyard) standard request of a 100' clearing around the switchyard area. MJE also cleared area in excess of the authorized amounts for the access roadways to facilitate storm water management and construction of the roadways, which were not identified during the permitting phase. These decisions were made unilaterally by MJE in light of the urgency associated with meeting the known tree clearing window. In addition, as CEF-T transitioned into the construction phase, key development individuals were not brought back onto the Project team until late December 2022, which resulted in communication challenges and limited oversight of MJE. With a full-time owner's representative on-site now, CEF-T has remedied the communication and oversight issues that contributed to the additional tree clearing activities not authorized under the existing LON.

The basis for MJE increasing the area of disturbance was based on MJE's understanding of First Energy's (the final owner of the switchyard) standard request of a 100-foot clearing around the switchyard. MJE also cleared area in excess of the authorized amounts for the access roadways to facilitate stormwater management and construction of the roadways, which were not identified during in the permitting phase. More detail is provided below.

- Southern portion of ROW – The majority of the ROW clearing was completed as generally planned, with a slightly greater width of clearing in the segment extending directly to the switchyard area that encroached on forested wetland (0.014 acres). This appears to have been an implementation error by MJE.

- Switchyard – Between the pre-construction conference and the implementation of the clearing, drawings were developed by MJE that incorporated 100 feet of additional tree clearing around the switchyard area, consistent with known First Energy practices, and several stormwater management features. This should have been reviewed with CEF-T (as the owner), which would have identified the need for additional permitting modifications and/or adjustment of the design. Unfortunately, this did not occur. A total of 0.330 acres of impact occurred, with a single wetland impacted to the north, and several portions of wetland (including wetland fingers) to the south.
- CEF-T access road (western) – The LON incorporated a 35-foot width for access roads. MJE's clearing contractor assumed that further room for grading and stormwater features were necessary; therefore, they cleared a wider swath (including a bump-out close to Hallock Young Road, presumably intended as construction workspace). Most of this did not encroach on forested wetlands; however, it did represent additional tree clearing. A total of 0.0006 acres of forested wetland encroachment occurred as the access road turned toward the ROW area.
- Utility access road (eastern) – The LON incorporated a 35-foot width for access roads. MJE's clearing contractor cleared a wider swath, including a quite expansive area near Hallock Young Road (presumably for parking and equipment laydown at the entrance) and to accommodate what was imagined would be necessary for stormwater management. Unfortunately, this cause encroachment into forested wetlands of 0.027 acres, in addition to the excess tree clearing.

Wetland Impacts and Restoration Plans

The USACE confirmation of coverage under NWP 39 (LRP 2017-1705) was most recently reissued on March 4, 2022. Table 1 below provides information regarding the authorized activities provided for in the existing LON, the actual encroachment that occurred in association with the excess tree clearing, and the plans for restoration.

Table 1. Wetland Encroachment Summary (acres)

Area of Impact	Authorized Fill	Authorized Conversion	Wetland Encroachment	Restoration Planned	Total Impact Following Restoration
Transmission ROW	0	0.5	0.34	0	0.34 ^a
Substation	0.002	0	0.33	0.317	0.013
Western Access Road	0.002	0	0.0006	0.0006	0
Eastern Access Road			0.027	0.021	0.006
^a Conversion of forested to non-forested wetland previously authorized and for which mitigation was provided.					

In addition to the encroachment outlined above, construction of the electrical pole positioned between the wastewater pond and wetland will require temporary use of construction mats in order to facilitate construction. This work is expected to be limited in duration, with final seeding of the ROW occurring following completion of this work.

Additional information about restoration plans in each of the four areas is provided below:

- Southern portion of ROW – The 0.014-acre area that inadvertently encroached onto the south will be restored; otherwise, the conversion reflects the prior authorization, and no material change is required in this area.
- Switchyard – Although First Energy generally requires that no trees be located within 100 feet of its electrical equipment, there is no plan for grading or other encroachment into areas outside of the switchyard area itself. In addition, the need for stormwater management features was revisited to allow for the use of a single retention basin area located upland of the area already cleared. This, therefore, allows the restoration of the majority of the forested wetlands encroached upon as non-forested wetland.
- CEF-T access road (western) – Restoration of this small encroachment will occur.
- Utility access road (eastern) – The elimination of an additional stormwater basin in this area allowed for restoration of much of the cleared area in this location.

Additional mitigation is anticipated to be required, which will be addressed as a part of CEF-T's ongoing work with the USACE as part of its review.

Measures to Maintain Ongoing Consistency

The early misstep involving tree clearing in areas not covered under the existing LON has a silver lining. First, it has the beneficial effect of making the EPC contractor even more fully aware of the array of its obligations and the scope of its work. Second, it made CEF-T fully aware of the need to more closely coordinate/communicate with, and oversee design and construction activities of, its contractors.

As noted above, Steve Remillard (actively involved in development of the Project) was brought back on the team in late December 2022, and Lynn Gresock (lead environmental consultant who has supported the Project for many years) was contracted shortly thereafter. Their knowledge of the obligations and Project background will be used to benefit the Project. In addition, a new on-site owner's representative now lives in the area of the Project, and is located at the Project site to directly oversee Project activities, and will work with Mr. Remillard and Ms. Gresock as resources to understand the context and background of various obligations.

CEF-T is in the process of preparing an updated LON application reflecting these changes for Board review to authorize the changes.

**ATTACHMENT A
OVERVIEW PRESENTATION**

Trumbull Energy Center

Tree Clearing Discussion

Electrical Letter of Notification and Generating Facility Application

March 16, 2023

Overview

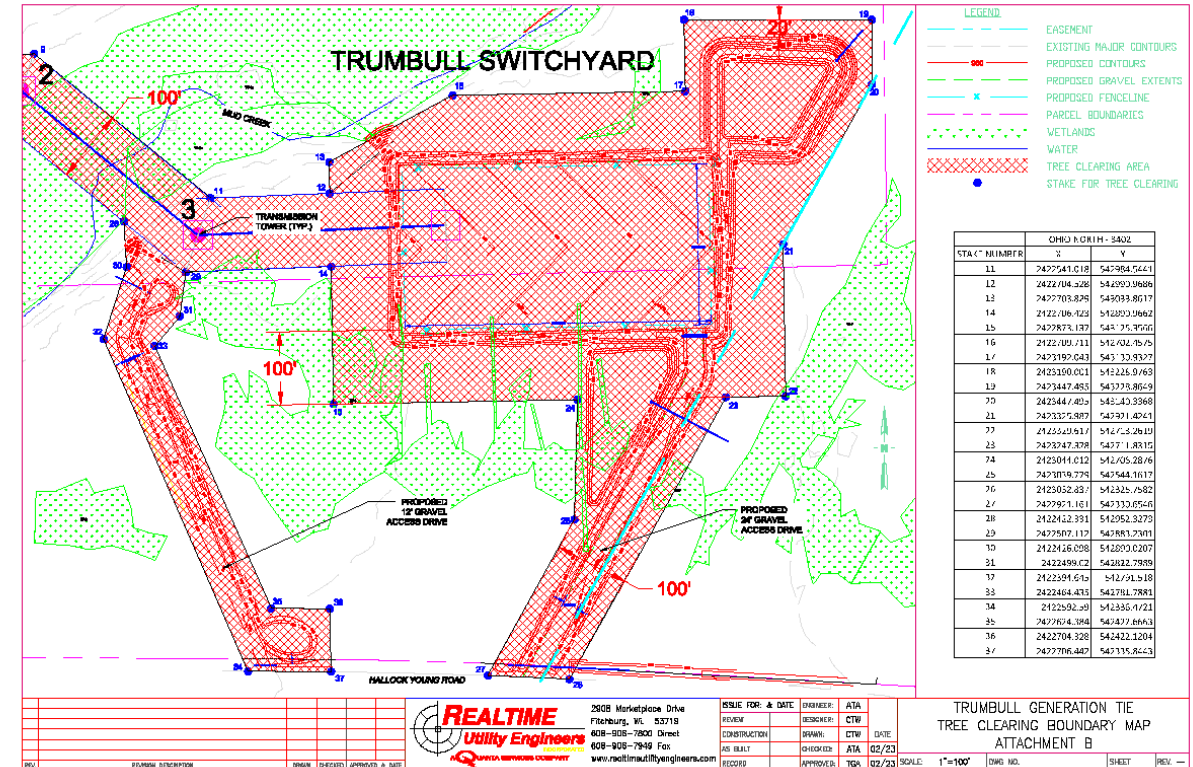
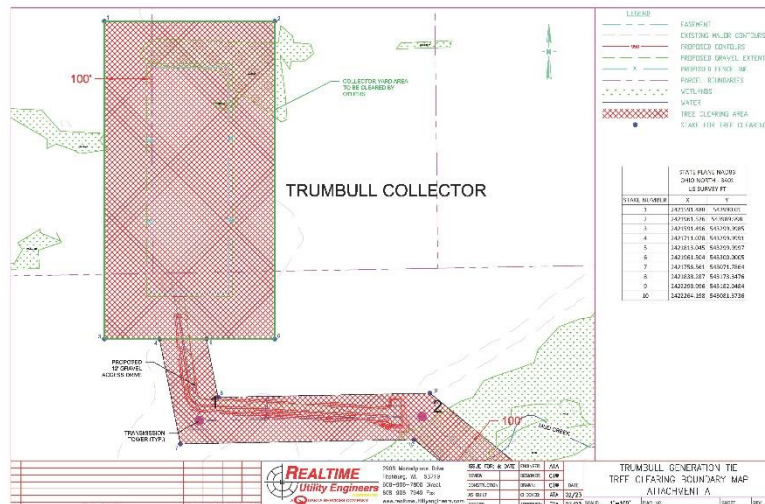
- Project financial close occurred November 4, 2022
- Gemma initiated pre-construction meetings and activities for the generating facility in November 2022, with a second in December 2022
 - Work had been ongoing to identify additional work space requirements
 - Amendment reflecting additional areas, including tree clearing, filed December 2022
- MJ Electric initiated its pre-construction meeting and activities for the electrical interconnection components in January 2023
- Steve Remillard rejoined the team to represent CEF-T in late December

Overview (continued)

- Following a review of regular MJ Electric reporting, CEF-T noted potential discrepancies in the tree clearing area
- Team review was immediately initiated at that time to determine whether activities were within the authorized parameters
- In verifying the actions taken by MJ Electric, CEF-T noted premature clearing of additional work space by Gemma
- Additional investigation by CEF-T is necessary to fully determine impact details and next steps
- This discussion provides an overview of agency notifications and team actions to date, as well as anticipated next steps, in order to request OPSB feedback for ongoing activities

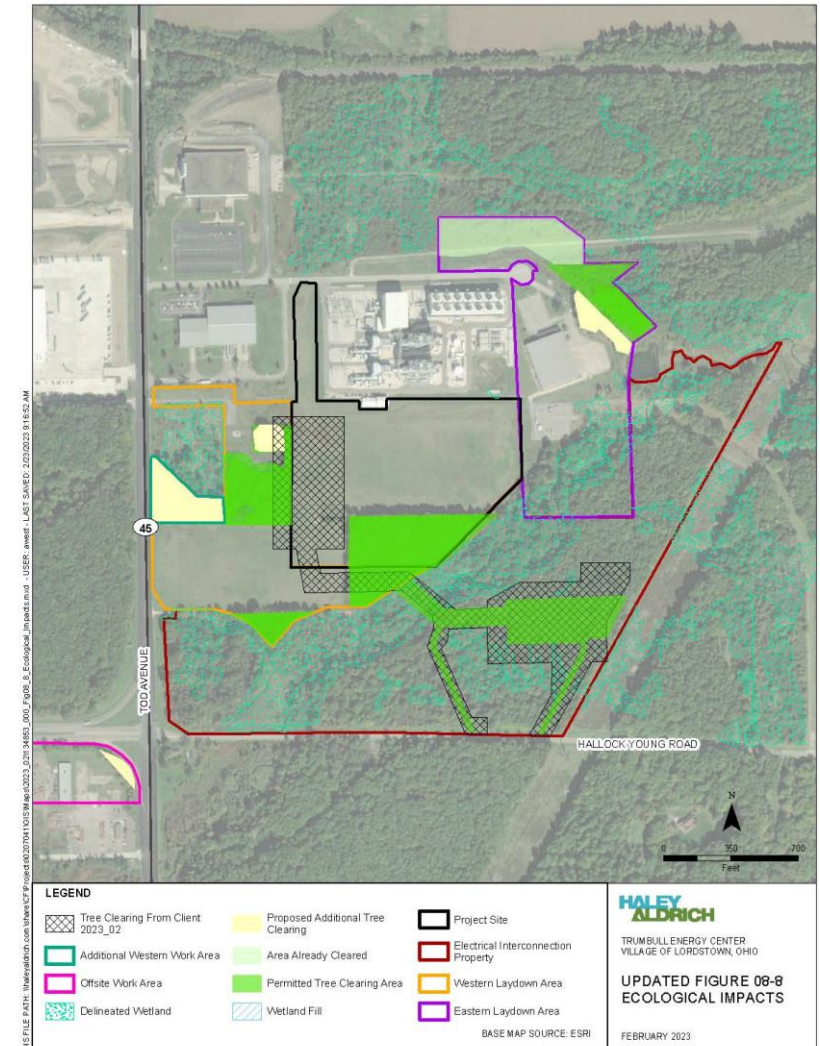
Issue Identification

- On 2/22/2023 MJ Electric provided maps by Realtime Utility Engineers of the implemented tree clearing as part of routine reporting
- CEF-T noted the boundaries of the work did not appear to match that of authorized area, and asked the contractor MJ Electric to forward information to Haley & Aldrich



Initial Field Review

- A Haley & Aldrich professional mobilized to the site to confirm the extent of work on 2/27/23, making observations and taking photographs
- Findings included:
 - MJ Electric collector line clearing appeared to encroach on a future work space reflected in the pending Amendment, but otherwise appeared comparable to proposed activities
 - Clearing and grubbing for the substation was materially greater than authorized, including in closer proximity to Mud Creek
 - Clearing and grubbing for the access roads to the substation was materially greater than authorized
 - A SWPPP had been prepared and E&S measures were in place, but it was not clear whether they were sufficient
 - The contractor-provided boundaries of clearing did not appear to be accurate
 - Observations on the Gemma portion of the site confirmed that locations of clearing reflected in the Amendment had been prematurely implemented



Initial Assessment and Notifications

- It was evident that best available information was not sufficient to confirm impact levels
 - Approximately +5 acres of tree clearing (plus implementation of accounted-for acreage not yet authorized by OPSB)
 - Approximately 0.8 acres of forested wetland cleared – and the project had accounted for very little fill south of Mud Creek in its NWP authorization and mitigation
- Additional fact-finding was determined to be necessary and guidance from agencies was sought and received
- Initial agency notification was undertaken from 3/2/23 to 3/10/23
 - OPSB
 - USACE
 - Ohio EPA
 - USFWS
 - ODNR

USACE/Ohio EPA Feedback

- Understood that more data gathering was underway, and requested a more complete understanding of which areas could be restored versus considered as fill
 - Coordination to first accurately understand the impact areas and then affirm contractor needs is underway
- Agreed with the following actions:
 - Mobilize a team to assess and add E&S measures, as appropriate
 - Conduct an aerial survey to confirm the specific extent and location of clearing
- Identified that the approach to the unauthorized actions would depend on the above information, and looked forward to hearing more
- Affirmed that having had the clearing completed in the winter bat season was at least one positive aspect
- Likely would schedule a site visit, pending additional information

Next-Step Field Activities

- CEF-T evaluated drone footage flown and provided on 3/8/23, determining that it did not provide adequate georeferencing or clarity of mapping
- Contracted with EnviroScience to implement a number of activities:
 - Pin-flagging of disturbed wetlands completed 3/14/23
 - Drone survey was attempted 3/8; next good-weather date anticipated was 3/15 to get useful images; this was completed on 3/15
 - E&S Professional visit to MJ Electric area to evaluate existing controls and future needs; initial visit on 3/8
- E&S was determined to be adequate, although in need of some enhancing
 - Once wetland flagging is complete, seeding of disturbed soils will be accomplished (wetlands would not be seeded per Ohio standards, unless otherwise directed)
 - Limited areas require silt fence to be better secured
 - Integra is on stand-by to mobilize to complete the directed activities following the flagging effort
 - EnviroScience will provide oversight and/or confirmation that controls are adequately implemented

Next-Step Analysis and Reporting Activities

- Calculate clearing and wetland encroachment on basis of drone survey and confirmatory boundary flagging
- Determine, with MJ Electric, how much of the additional wetland encroachment can be restored and, thus, not considered wetland fill
- Communicate information to USACE, OPSB, Ohio EPA, USFWS, and ODNR to determine next steps

**ATTACHMENT B
STATUS MEMORANDUM**

MEMORANDUM

24 March 2023
File No. 0207041

TO: Clean Energy Future – Trumbull, LLC
Steve Remillard

cc: Ohio Power Siting Board
Michael Williams, Executive Director

United States Army Corps of Engineers
Abby Uhler, Regulatory Division

FROM: Haley & Aldrich, Inc.
Lynn Gresock, Principal Consultant

SUBJECT: Trumbull Energy Center – Additional Information Regarding Tree Clearing and Associated Activities

This memorandum provides additional information regarding tree-clearing activities associated with Trumbull Energy Center (the Project, or TEC) as a follow-up to preliminary information previously shared. Note that no further tree-clearing activities are occurring (stop-work notices for such activities were issued by Clean Energy Future - Trumbull, LLC (CEF-T) to the contractors early on 24 February 2023). Following review of this information, we expect that agency site visits and other activities could further refine information and recommended actions.

Stabilization Activities

As noted in our prior communications, pin flags were placed around the wetlands located south of Mud Creek on 14 March 2023 and 15 March 2023. A review of existing erosion and sedimentation controls and potential enhancements was identified as needed during a field reconnaissance on 27 February 2023, and occurred on 8 March 2023. No threat to the environment was noted and no work appears to have occurred below the ordinary high water mark of Mud Creek; however, recommendations for installing additional controls and adjusting housekeeping for controls were made for the area south of Mud Creek. Coordination is ongoing to confirm that silt fencing is adequately installed and functioning in all locations, incorporate filter socks around the pin-flagged wetland areas, and initiate stabilization and seeding inside the silt fencing in non-wetland areas. Observations will continue in this area to identify further issues that may warrant additional controls.

Impact Assessment Activities

AERIAL MAPPING

A drone survey was completed on 15 March 2023. Images of two segments of the property will be provided via a share file site due to the file size. “TEC Lordstown Upper” shows some of the temporary work area north and east of Lordstown Energy Center (LEC), and “TEC Lordstown Lower” shows the balance of the TEC Project area, both north and south of Mud Creek. Figure 1 provides a georeferenced image of the drone survey area.

These images were used to provide best available information in terms of activities associated with tree clearing and wetland encroachment.

TREE-CLEARING ACTIVITIES

Figure 2 illustrates the areas of tree clearing that have been undertaken within the TEC site work areas. Rather than simply using the visible location of staked silt fencing to indicate clearing areas, TEC’s assessment of the extent of clearing relied upon two additional sources of information: 1) comparison to a 2021 aerial photograph of the same area; and 2) scrutiny of drone footage to identify areas where clearing appeared to have been implemented outside of the silt fencing. Based on field observations, it appeared that some minimal clearing outside of the silt fencing was done by hand, and that clearing within the transmission line right-of way (ROW) used construction mats for moving within the forested wetland area.

Figure 3 compares the actual tree clearing conducted with the planned clearing areas. A comparison of tree-clearing impacts for the area north of Mud Creek is outlined in Table 1.

Table 1. Comparison of Planned Tree Clearing to Actual Tree Clearing North of Mud Creek

Area	Planned Clearing (acres)	Actual Clearing (acres)	Difference (acres)
A – Temporary workspace east of LEC	2.89	2.35	-0.54
B – Temporary workspace east of TEC	5.01	4.95	-0.06
C – Small triangular area within southern temporary workspace	0.69	0.19	-0.50
D – Larger triangular area within southern temporary workspace	4.74	4.51	-0.23
E – Transmission line ROW north of Mud Creek	0.48	0.41	-0.07
Total	13.81	12.41	-1.40

As indicated, while some of the clearing occurred sooner than had been intended, the total acreage of tree clearing to the north of Mud Creek is less than was estimated prior to implementation.

In the area south of Mud Creek, a total clearing amount of 4.54 acres was planned, and 9.32 acres of clearing was implemented. In this portion of the site, therefore, an excess of 4.78 acres of tree clearing occurred. If offset by the -1.40 acres not cleared (but planned) to the north, this would total approximately 3.4 acres of clearing that was completed but had not been anticipated. As you know, all clearing was completed within the winter period (1 October – 31 March) for which impact to listed bats would not occur.

WETLAND ENCROACHMENT

The location of tree clearing was evaluated for its implication to potential encroachment on wetlands as well.

TEC is operating under a Nationwide Permit coverage (LRP 2017-1705) that authorized the permanent impact of 0.4 acres of wetlands, and the permanent conversion of 0.5 acres of forested wetland to emergent wetland, as reflected in the second column of Tables 2 and 3.

Figure 4 and Table 2 outline the wetland encroachment reflected north of Mud Creek.

Table 2. Wetland Encroachment Status North of Mud Creek

Area	Authorized Impacts (acres)	Implemented Impacts (acres)	Status
B - Eastern Laydown Area	0.34 (fill)	0.34 (fill)	Complete
B - Eastern Laydown Area - Additional Encroachment	--	0.028 (clearing and grubbing)	Unauthorized; restoration planned
D - Wastewater Discharge Pond	0.01 (fill) <u>0.002 (temporary)</u> total = 0.012	0.03	0.018 acre greater than authorized; comparisons to design plans ongoing
D - Wastewater Aeration Channel	0.05 (fill)	--	Pending and subject to confirmation
E - Transmission ROW	0.5 (conversion) ^a	0.37 ^b (conversion)	Complete

^a For the full Transmission ROW; ^b for the portion of the ROW north of Mud Creek.

As shown, the slight additional encroachment in the Eastern Laydown Area north of Mud Creek was done in error. The silt fencing demarcating the work area can be slightly adjusted to allow this area to restore to emergent wetland conditions. In the area of the wastewater discharge pond, final design plans are currently being compared to the permitted values to determine whether additional authorization would be necessary.

Figure 4 and Table 3 outlines the wetland encroachment south of Mud Creek.

Table 3. Wetland Encroachment Status South of Mud Creek

Area	Planned Encroachment (acres)	Implemented Encroachment (acres)
F - Transmission line ROW	0.5 (conversion) ^a	0.11 ^b (conversion)
G - Substation area	0.002	0.33
H - Eastern access road	0.002	0.03
I - Western access road		0.001

^a For the full Transmission ROW; ^b for the portion of the ROW south of Mud Creek.

As shown, the tree clearing associated with the transmission line ROW was encompassed by the existing Nationwide Permit authorization (0.5 acres authorized as compared to 0.48 acres identified as implemented). However, tree clearing and grubbing activities primarily within the substation area caused a greater encroachment into forested wetlands than was authorized (+0.36 acres). Tree clearing and grubbing was expanded in this area to account for new construction practices for clearing surrounding substations and access roads and not to construct any permanent structures or impermeable surface. Based on this, the relatively flat character of the area, and the onsite wetland conditions it is likely that wetlands that have been cleared will naturally revert back to wetland.

Figure 4 indicates (in pink) areas of unauthorized wetland encroachment that could be allowed to be restored to emergent wetland. However, consultation with the involved agencies is recommended to determine whether restoration of the form and function of the specific wetlands in their original locations is desired versus implementing a slight expansion of a larger wetland area within the footprint, as indicated by a dashed line area within Area G on Figure 4.

Attachments:

Figure 1 – TEC Aerial Map (2023)

Figure 2 – TEC Actual Tree Clearing

Figure 3 – TEC Actual Tree Clearing and Planned Tree Clearing Map

Figure 4 – TEC Wetland Encroachment Map

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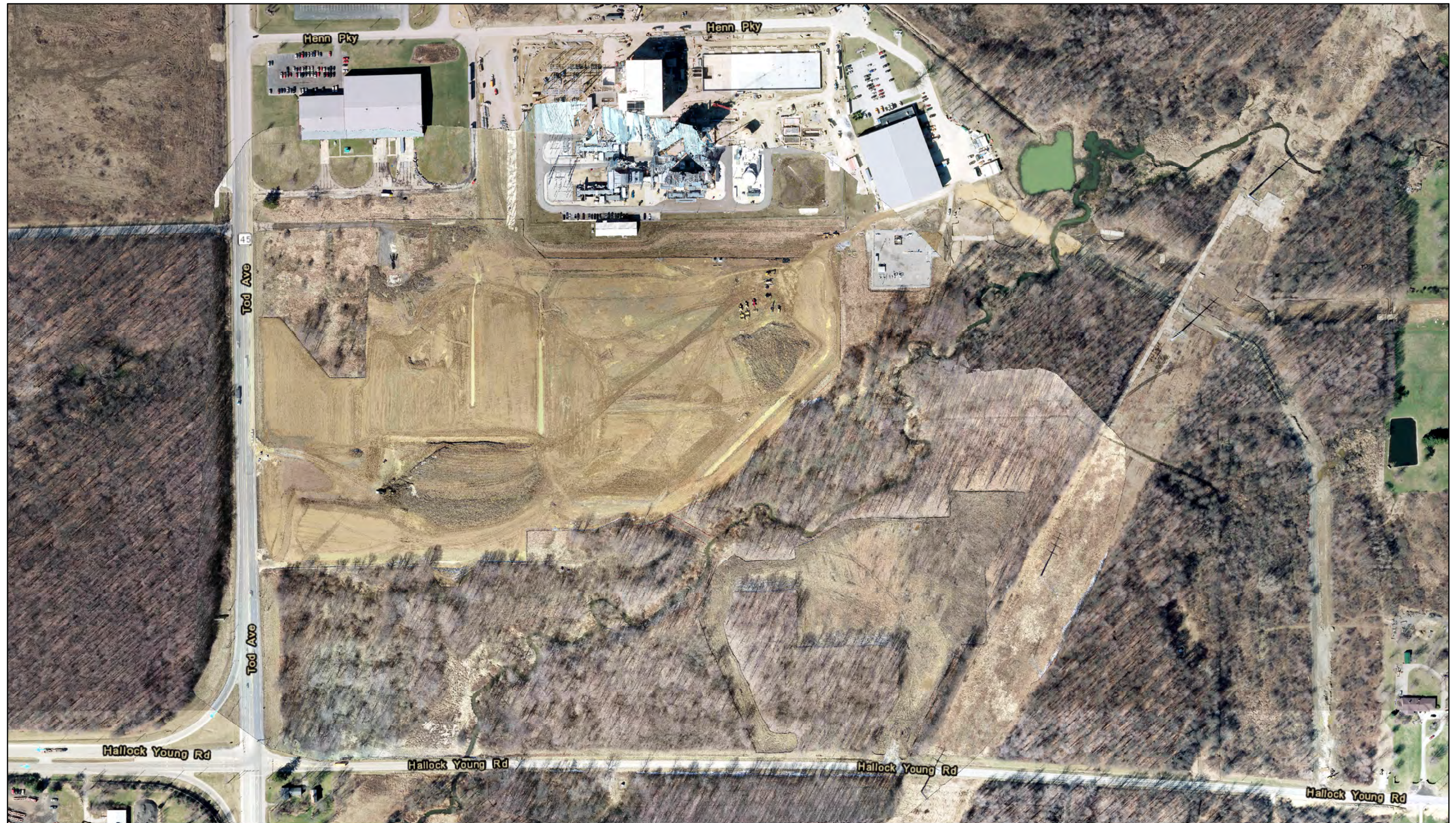
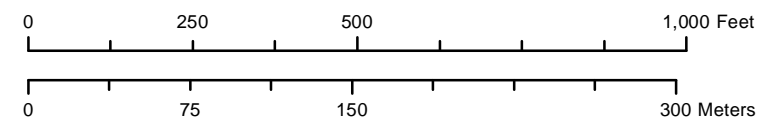


Figure 1.
TEC Aerial Map (2023).



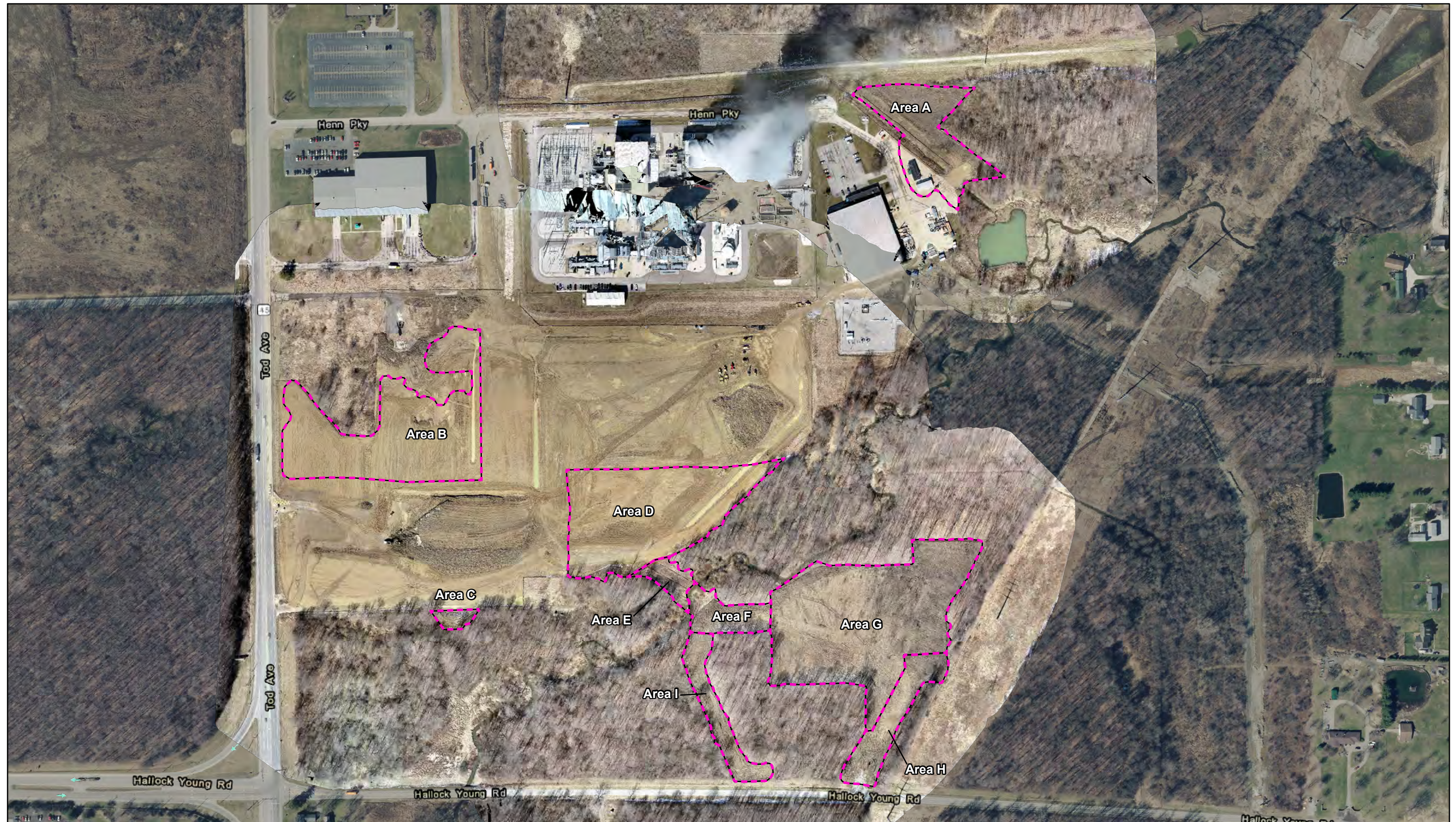
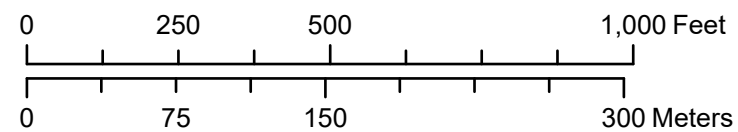


Figure 2.
TEC Actual Tree Clearing
(aerial from drone, March 2023).

 Actual Tree Clearing Limit



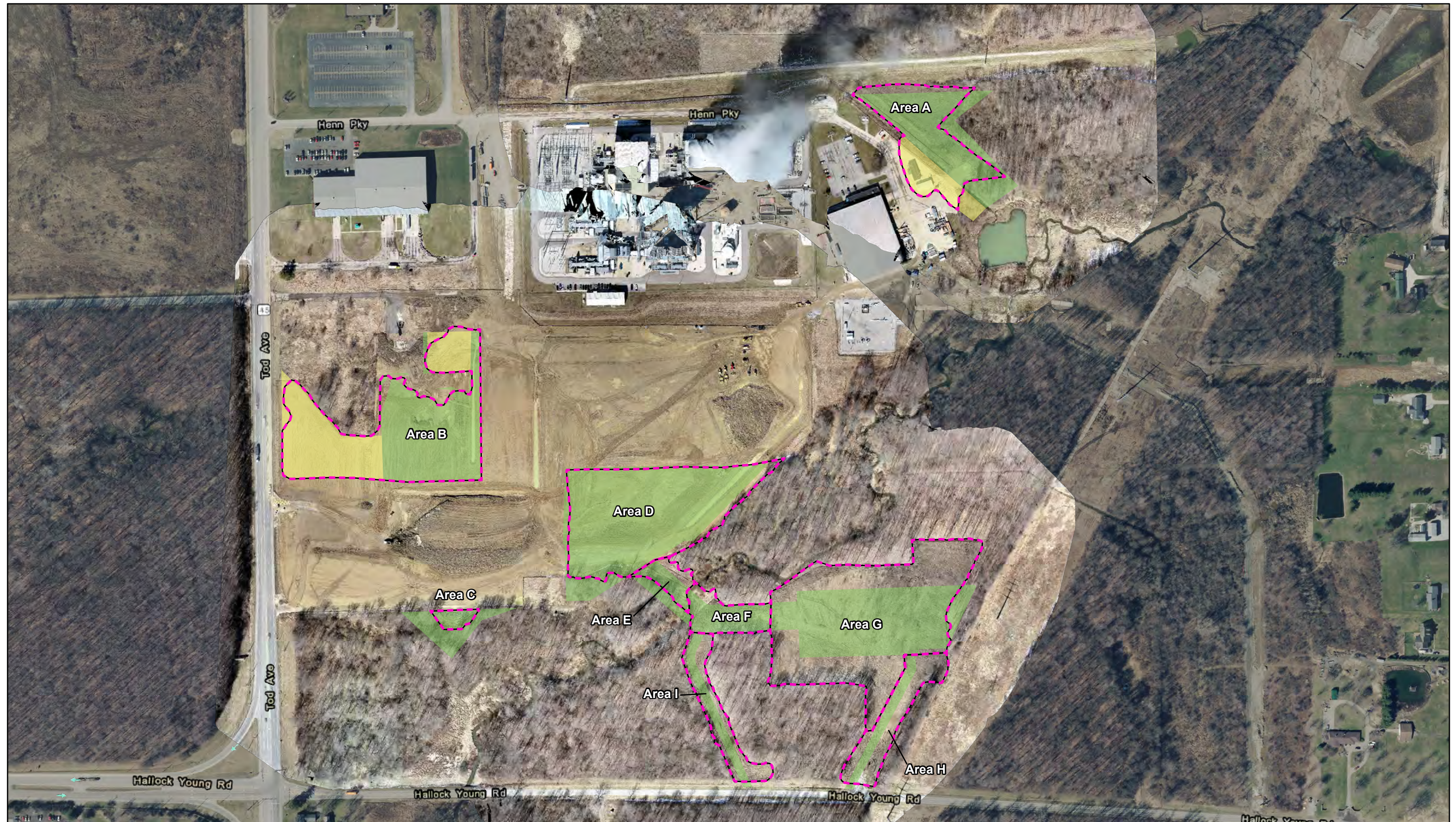
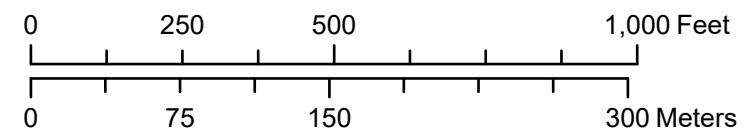


Figure 3.
TEC Actual Tree Clearing (2023) and
Planned Tree Clearing Map.

- Actual Tree Clearing Limit
- Authorized Tree Clearing
- Proposed Additional Tree Clearing



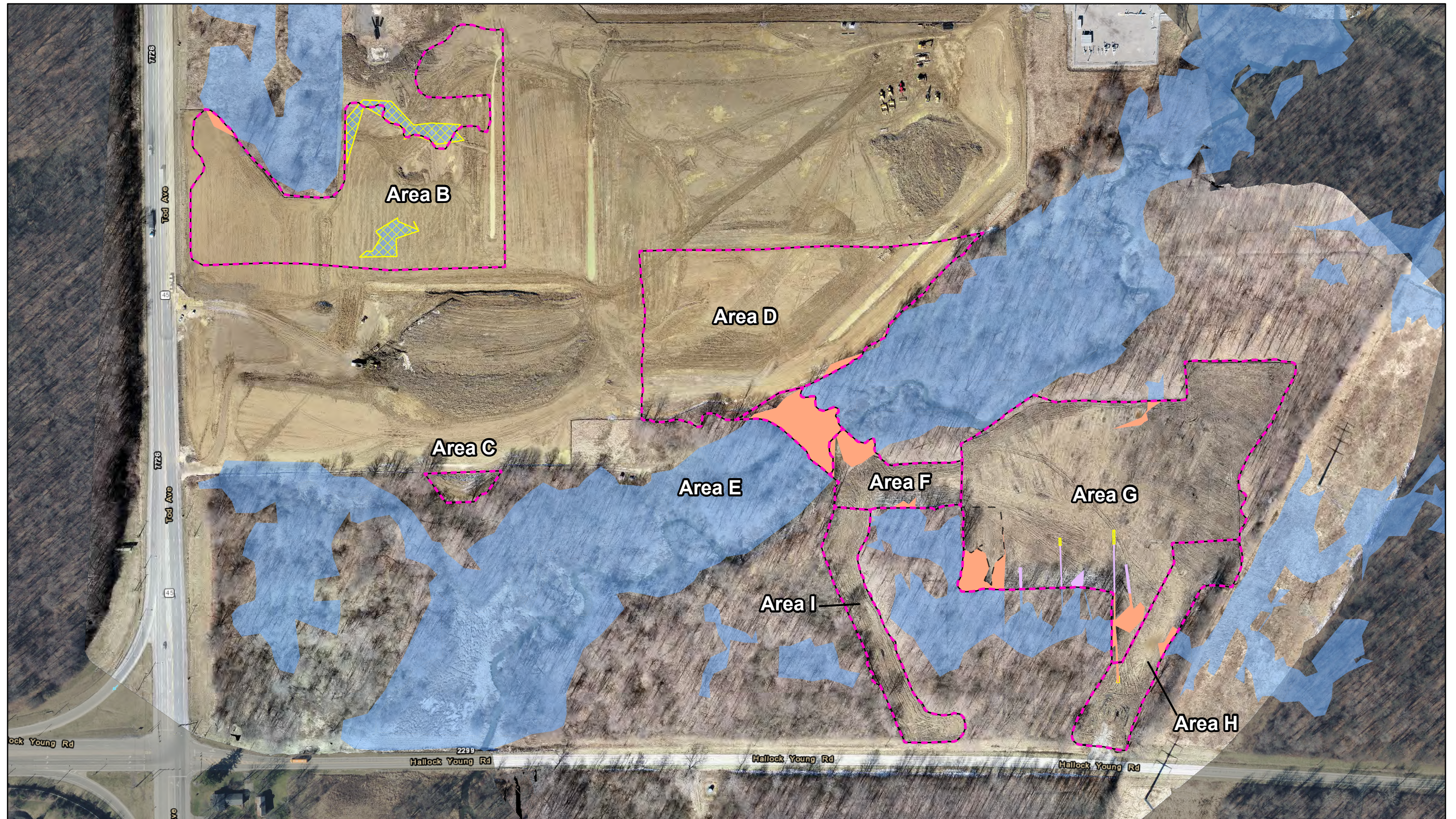
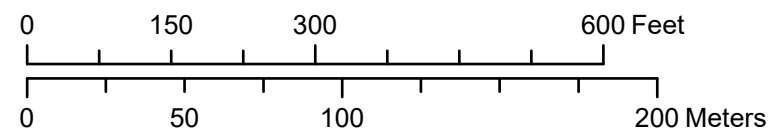


Figure 4.
TEC Wetland Encroachment Map.

- | | |
|------------------------------------------|-----------------------------------|
| Actual Tree Clearing Limit | Authorized Wetland Fill |
| Delineated Wetlands | Additional Proposed Wetland Fill |
| Cleared Wetlands - To Be Restored to PEM | Proposed Wetland Restoration Area |



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Case No(s). 22-0697-EL-BLN

Summary: Text Supplemental Information of Clean Energy Future-Trumbull, LLC
electronically filed by Teresa Orahood on behalf of Dylan F. Borchers.