



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): August 13, 2021

ORM Number: LRL-2021-00581

Associated JDs: N/A

Review Area Location¹:

State/Territory: KY City: County/Parish/Borough: Shelby County

Center Coordinates of Review Area: Latitude 38.205267 Longitude -85.289105

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Str-2-B	271 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Str-2-B flows in and through wetland 2. Intermittent flow of water was observed in this stream at the time of the site visit including the presence of amphibians, fish, and crayfish.
Str-4-A	403 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Str-4-A is an intermittent tributary located just off-site to the south of the property near the southwest corner and connects wetland 3 with intermittent and perennial stream flow.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
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¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where independent upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD form.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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N/A	N/A	N/A	N/A
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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 2	0.16 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 2 abuts Intermittent Stream Str-2-B, which is an (a)(2) water.
Wetland 3	1.06 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 3 abuts Intermittent Stream Str-4-A, which is an (a)(2) water.
Wetland 4	0.32 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 4 is connected off-site via intermittent flow to other (a)(1) – (a)(4) waters, including perennial flow in the headwaters of a major tributary to Bullskin Creek.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Str-1-A	1236.5 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Str-1-A flows generally north to north, along the eastern property boundary adjacent to a railroad spur. The tributary only contains surface flow or pooling in direct response to precipitation. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule.
Str-2-A	673.5 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Str-2-A is a braided ephemeral tributary being fed by upslope surface water runoff. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule.
Str-3-A	297 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Str-3-A is an ephemeral tributary that drains into wetland 2. Hydrology was not observed during a site visit conducted by the agent. The identified ephemeral channel is a (b)(3) water and is therefore excluded from the rule.
Wetland 1	0.38 acres	(b)(1) Non-adjacent wetland	Wetland 1 is an isolated feature that overflows into ephemeral tributary Str-1-A during peak precipitation events. The wetland does not meet the definition of adjacent wetlands per 33 CFR 328.3 (c)(1)(i)(ii)(iii) or (iv), and is therefore, excluded per 33 CFR 328.3 (b)(1) as a non-adjacent wetland.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: *Request for Approved Jurisdictional Determination Shelbyville, KY (June 18, 2021).*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps:

Photographs: *(aerial and other) Site photographs, submitted by agent, Appendix A Site*

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photos, (June 2021).

- Corps Site visit(s) conducted on: *N/A*
- Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Submitted by agent, Appendix B Figures/Maps, maps dated June 3, 2021).*
- USFWS NWI maps: *Submitted by agent, Appendix B Figures/Maps, maps dated May 19, 2021).*
- USGS topographic maps: *1:24K Quad Name - Simpsonville.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Regulatory viewer with NHD, 3DEP Elevation contours, and DEM.
State/Local/Tribal Sources	N/A.
Other Sources	Google Earth Pro (2017, 2021) with NHD and Google maps with terrain overlay.

- B. Typical year assessment(s):** Typical year assessment was conducted utilizing desktop tools identified above and the submitted request for jurisdictional determination with supporting documentation. Based on the aforementioned supporting documentation, the conditions as described in Part II: Findings under Section C Clean Water Act Section 404 and Section D Excluded Waters or Features were determined to be typical.
- C. Additional comments to support AJD:** Descriptions of identified aquatic resources were consistent with findings based on desktop tools and submitted supporting documentation identified in section (3)(A) of this document.

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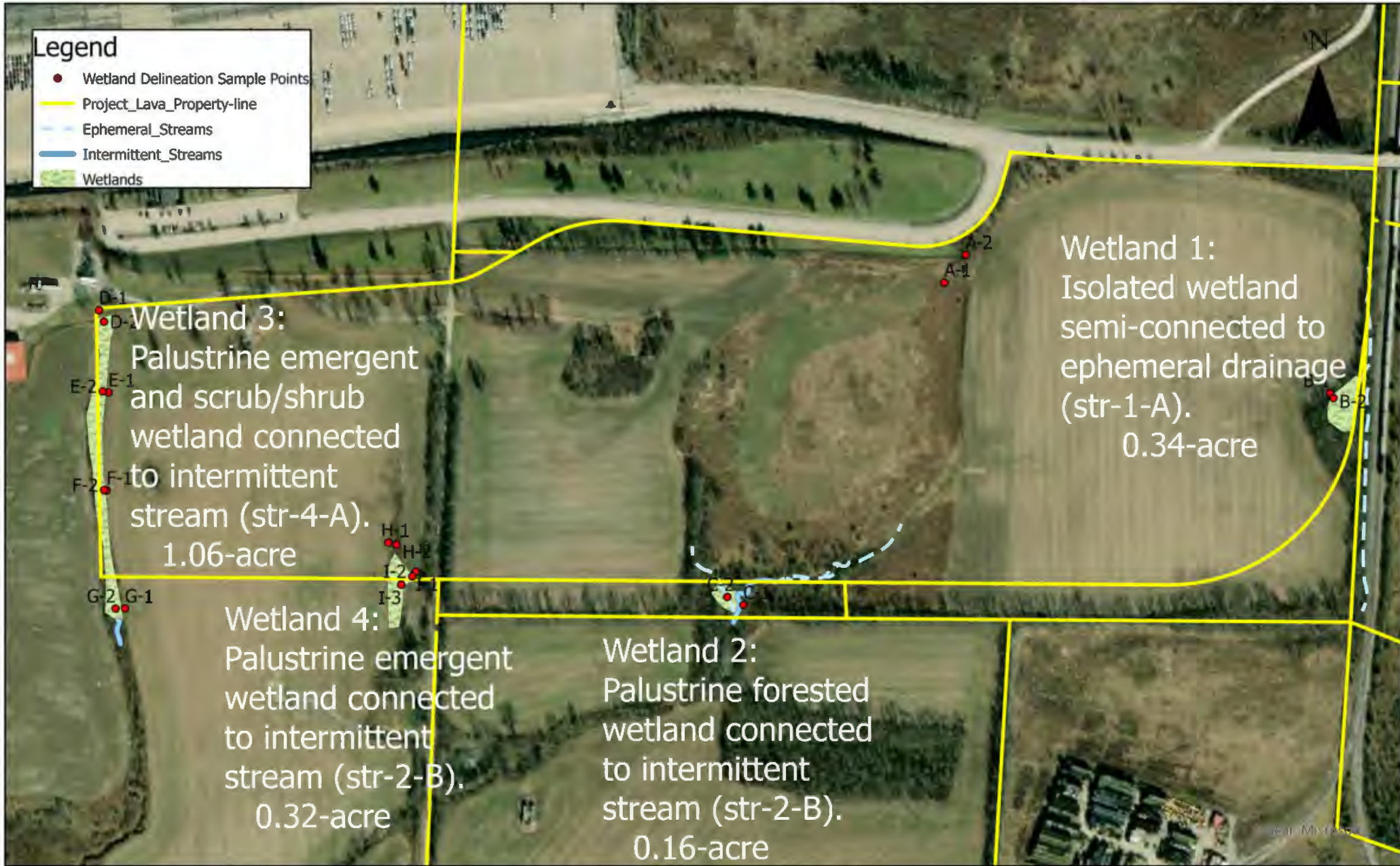


Fig 3. Wetlands, other WOTUS & Non-Regulated Waters

Project Lava
Shelbyville, Kentucky

Unaka PN: 21-014-01





Pond overflows during storm events into an ephemeral stream here at sample point Str-1-A-01.

Pond connect
Str-1-A-0

B-1
B-2

Wetland 1: 0.34-acre isolated ponded wetland semi-connected (only after storm events) to an ephemeral drainage (str-1-A) running south along a railroad.

Legend

- Wetland Delineation Sample Points
- WOTUS Sample Points
- Project_Lava_Property-line
- Ephemeral_Streams
- Intermittent_Streams
- Wetlands

Maxar

Unaka

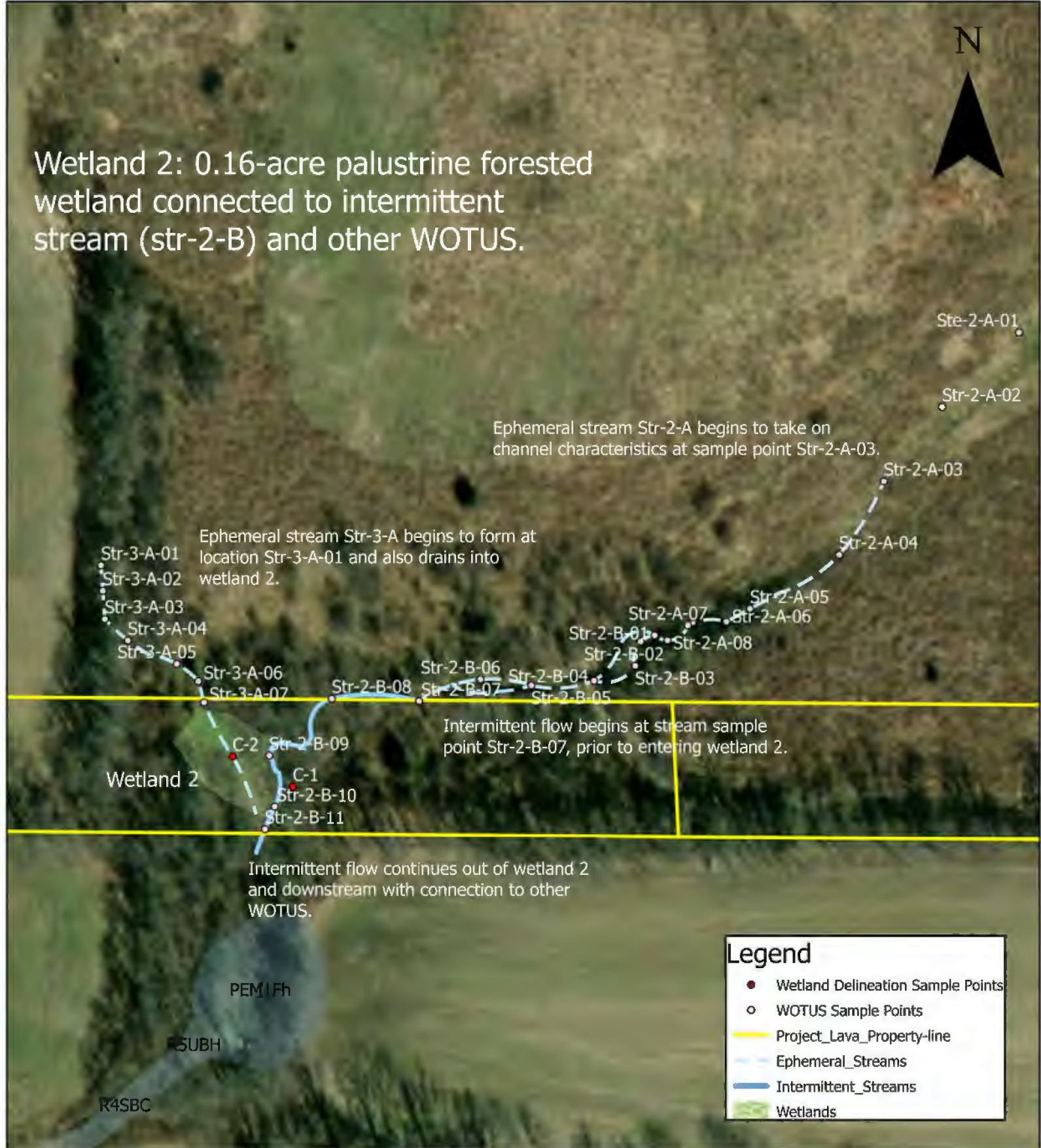
Environmental, LLC

Fig 4a. Wetland 1
Project Lava
Shelbyville, Kentucky

Unaka PN: 21-014-01



Wetland 2: 0.16-acre palustrine forested wetland connected to intermittent stream (str-2-B) and other WOTUS.



Legend

- Wetland Delineation Sample Points
- WOTUS Sample Points
- Project_Lava_Property-line
- Ephemeral_Streams
- Intermittent_Streams
- Wetlands



Fig 4b. Wetland 2
Project Lava
Shelbyville, Kentucky

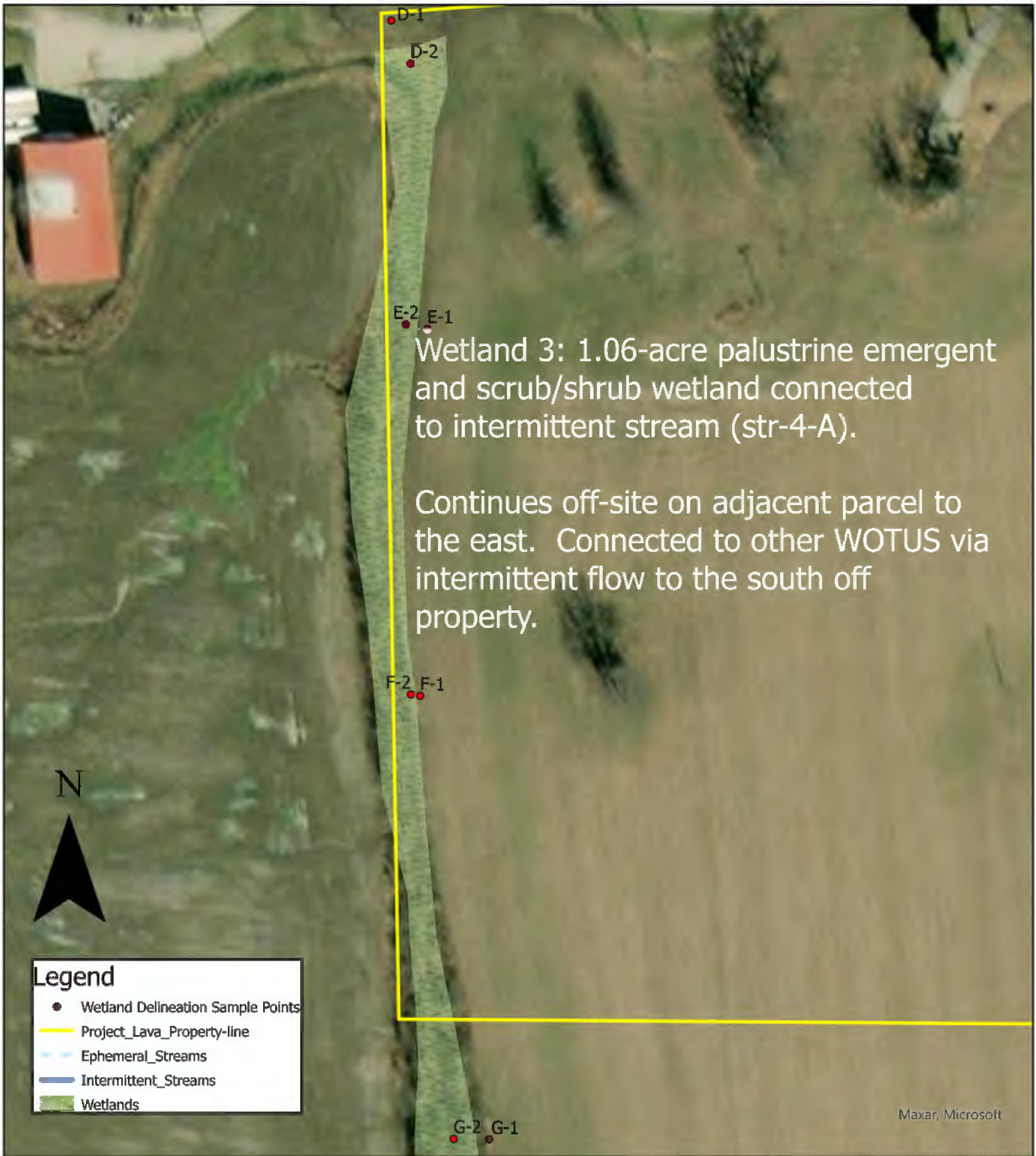


Fig 4c. Wetland 3
 Project Lava
 Shelbyville, Kentucky

Wetland 4: 0.32-acre Palustrine emergent wetland connected to intermittent stream (str-2-B).

Continues off-site on adjacent parcel to the south and connected to other WOTUS via intermittent flow to the south off property.



wetland 4 continues to the south (off-site)

wetland 4 morphs into intermittent stream characteristics off site to the south as it flows into intermittent stream (str-5-A-01) which drains into str-2-B.



Legend

- Wetland Delineation Sample Points
- ⊙ WOTUS Sample Points
- Project_Lava_Property-line
- Ephemeral_Streams
- Intermittent_Streams
- Wetlands

Microsoft



Fig 4d. Wetland 4
Project Lava
Shelbyville, Kentucky

Unaka PN: 21-014-01

