

# Public Notice

Applicant:  
**DUCKS UNLIMITED, INC.**  
**(HWY 26 Site)**

Published: 04/15/2016  
Expires: 05/16/2016

U.S. Army Corps  
of Engineers  
Buffalo District  
CELRB-TD-R

Application No: **2010-00673**  
Section: NY

All written comments should reference the above Application No. and be addressed to:  
Buffalo District U.S. Army Corps of Engineers  
Orwell Regulatory Field Office (Attn: Mark Gronceski)  
33 Grand Valley Avenue  
Orwell, Ohio 44076

**INTERESTED PARTIES ARE HEREBY NOTIFIED THAT DUCKS UNLIMITED, INC. HAS PROPOSED A MITIGATION SITE, KNOWN AS THE "HWY 26 SITE", TO BE INCORPORATED INTO THEIR IN-LIEU FEE MITIGATION PROGRAM (ILFP). A DRAFT MITIGATION PLAN HAS BEEN RECEIVED FOR THIS SITE PURSUANT TO 33 CFR 332 AND 40 CFR 230. THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE ESTABLISHMENT OF THE PROPOSED MITIGATION SITE AND THE DRAFT MITIGATION PLAN. THERE IS NOT AT PRESENT AN APPLICATION FOR WORK IN WATERS OF THE UNITED STATES AT THIS SITE HOWEVER AUTHORIZATION UNDER SECTION 404 OF THE CLEAN WATER ACT WOULD BE REQUIRED FOR CONSTRUCTION OF THE SITE. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT THIS MITIGATION SITE WILL BE APPROVED.**

APPLICANT: Ducks Unlimited, Inc., 1220 Eisenhower Place, Ann Arbor, Michigan 48108

LOCATION: The proposed ILFP (in-lieu fee mitigation program) wetland mitigation site (the "HWY 26 site") is located near the intersection of State Highway 26 and Croniezer Road at Latitude 43.530816 and Longitude -75.468854 in the Town of Constableville in Lewis County, New York, within Ducks Unlimited's "Black River" ILFP Service Area.

BACKGROUND: Under Section 404 of the Clean Water Act (CWA), applicants for the Department of the Army permits to discharge dredged or fill material into waters of the United States, including wetlands, are often required to mitigate for permitted wetland losses by creating, restoring, enhancing, or in exceptional circumstances, preserving wetlands or streams. One method of fulfilling this obligation can be to purchase advanced credits from an approved ILFP. The establishment and use of an ILFP mitigation site must be in accordance with the ILFP instrument signed by the Interagency Review Team (IRT). The IRT is comprised of the U.S. Army Corp of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the New York State Department of Environmental Conservation. The Ducks Unlimited ILFP was approved in September of 2012 and is authorized to provide wetland mitigation via sale of advanced credits in ten service areas, including the Black River

Service Area (Hydrologic Unit Area 04150101). The proposed mitigation site would be used to fulfill mitigation obligations assumed by Ducks Unlimited through sale of advanced credits in that service area, which includes portions of both the Corps of Engineers Buffalo and New York Districts. To date a total of 3.42 advance credits have been sold to offset 3.07 acres of wetland impacts within the Black River Service Area.

**PROJECT DESCRIPTION:** The proposed mitigation site is 79.5 acres in size. The objective of the mitigation activity will be to re-establish 32.2 acres of hardwood swamp, 2.3 acres of scrub-shrub wetland, and 6.3 acres of emergent wetlands. The sponsor also proposes to preserve 7.3 acres of scrub-shrub wetland and re-establish 6.1 acres of forested upland buffer and 2.5 acres of grassland upland buffer. Activities will include shallow excavations, construction of several low level berms, vegetative planting and seeding, and the breaking of existing drainage tiles. These improvements are proposed by Ducks Unlimited to generate 38.72 credits to be used first to offset sold advanced credits within the service area with additional credits available for direct sale as mitigation for future permitted wetland impacts.

A more detailed description of the site and proposed work is found in the "HWY 26 Mitigation Plan" on the Buffalo District's website along with this Public Notice:

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

The plan includes proposed performance goals and a credit release schedule as well as other required mitigation plan elements. All portions of the plan are subject to review and approval by the IRT and Corps of Engineers.

A hard copy of the mitigation plan is also available for viewing at the district's main office in Buffalo (Contact Steve Metivier at 716-879-4314 to schedule an appointment) or at the regulatory field office in Auburn (Contact June Lathrop at 315-255-8090 to schedule an appointment). A copy is also available for viewing at the Upstate Regulatory Field office of the New York District in Watervliet (Contact George Casey at 518-266-6361 to schedule an appointment).

Comments or questions pertaining to the work described in this notice should reference the Application Number and be directed to the attention of Mark Gronceski, who can be contacted at the above address, by calling (440) 437-5847, or by email at [Mark.E.Gronceski@usace.army.mil](mailto:Mark.E.Gronceski@usace.army.mil). A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

The project permit area has been reviewed by the New York State Office of Parks, Recreation and Historic Preservation and that Office has recommended that a Phase 1 archeological survey be conducted (see Appendix C of the draft mitigation plan). All currently available historic resource information pertaining to this proposed project if any has been provided to the NYSOPRHP. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that information to the NYSOPRHP for their review.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers will consult at the appropriate time with the USFWS to evaluate any potential impacts to: Northern long-eared bat (*Myotis septentrionalis*) and to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat. This action does not authorize any impacts to waters of the United States, therefore consultation will occur if the site is to be authorized and a NWP 27 is processed to authorize site work. This notice requests early input from USFWS concerning potential impacts to these species and recommendations for minimization of impacts.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments in writing, so they are received no later than 4:30pm on the expiration date of this notice.

Comments submitted in response to this notice will be fully considered during the public interest review for this proposal. All written comments will be made part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record or portions thereof may also be posted on a Corps internet website. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

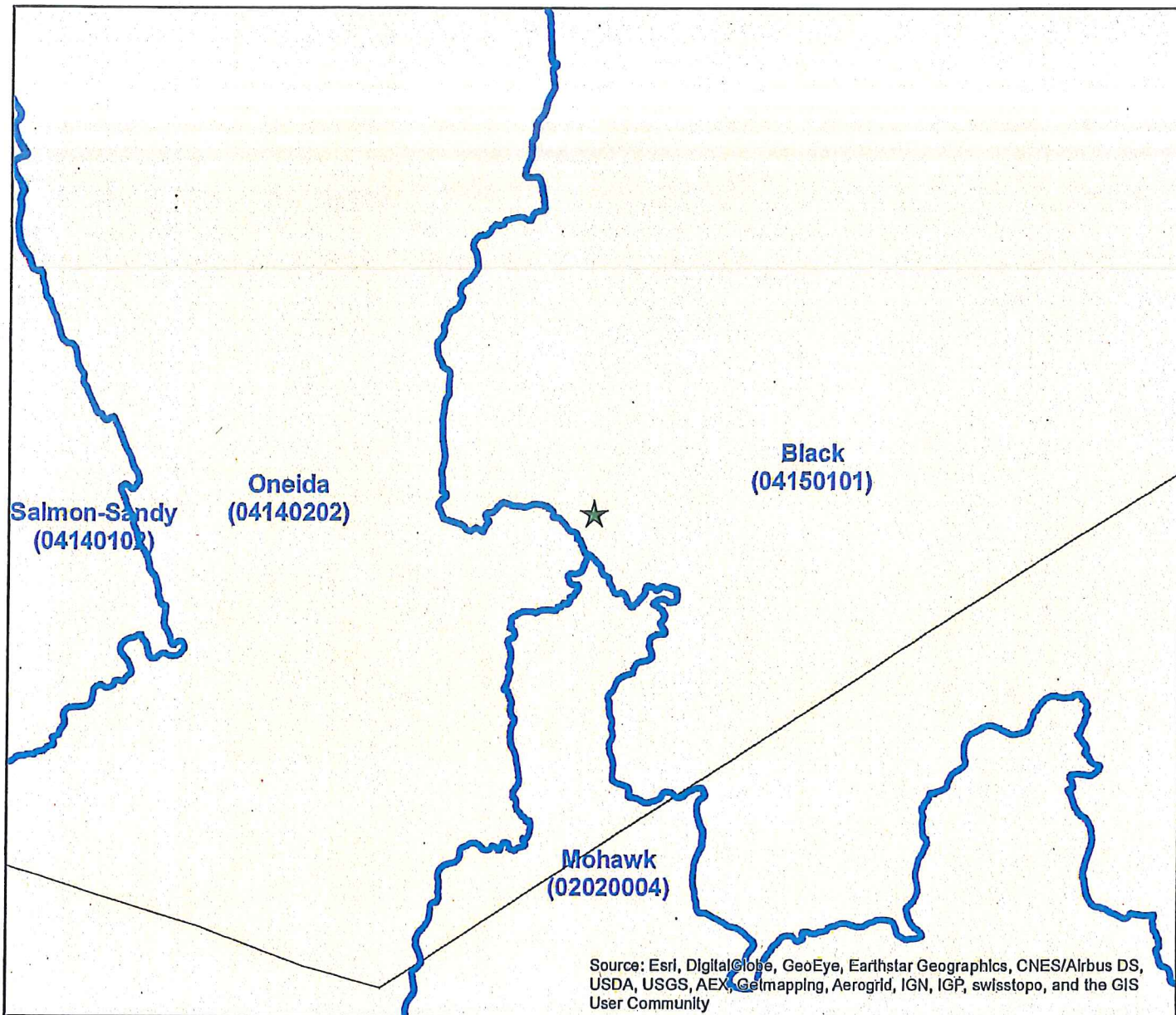
The decision to approve or deny this mitigation site proposal will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonable 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 including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion, and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership, and in general, the needs and welfare of the people.

The Corps 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 to determine whether to issue, modify, condition or deny authorization 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 overall public interest of the proposed activity.

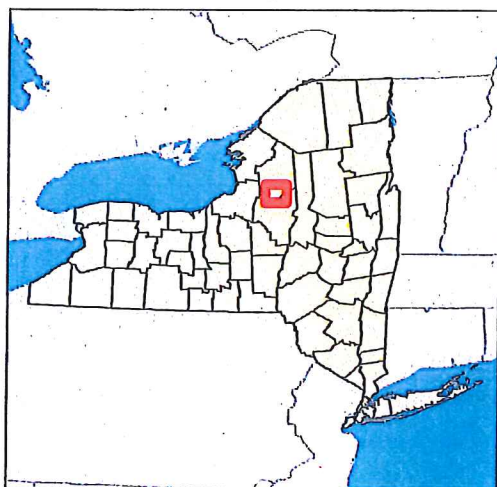
## **SIGNED**

Diane Kozlowski  
Chief, Regulatory Branch

**NOTICE TO POSTMASTER:** It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.



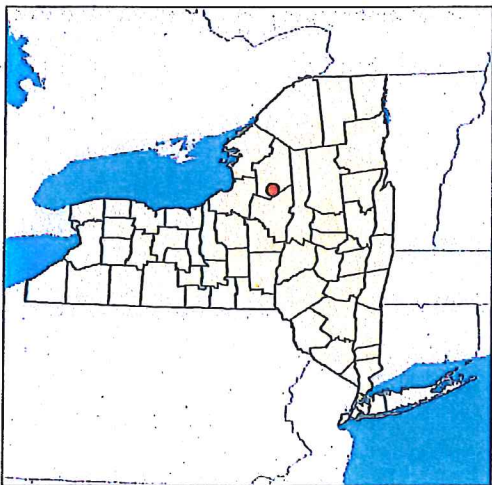
**Fig. 1: Highway 26 Watershed (HUC8)**



- ★ Property Location
- Watershed (HUC 8)

DUCKS UNLIMITED, INC.  
 D/A Processing No. 2010-00673  
 Lewis, New York Quad: Constableville  
 Sheet 1 of 3



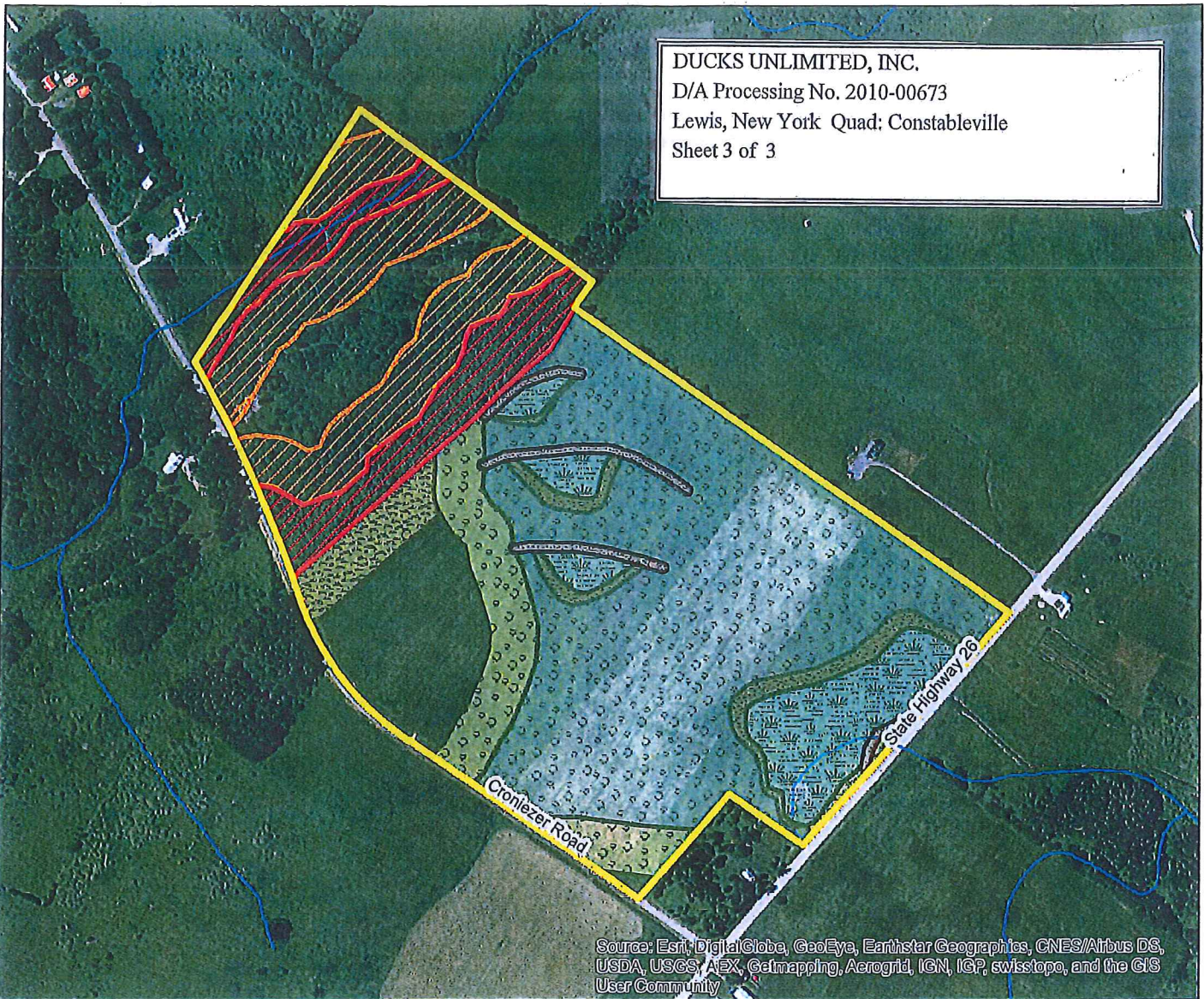


**Fig. 1: Highway 26  
Preliminary Delineated Wetlands**

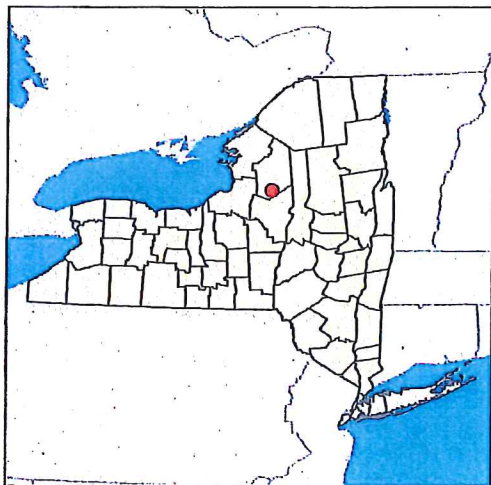
- Property Boundary (79.5 Acres)
- Delineated Wetlands (7.4 Acres)

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**Fig. 1: Highway 26 Concept Plan**



-  Property Boundary (79.5 Acres)
-  PFO Re-establishment (32.2 Acres)
-  PEM Re-establishment (6.3 Acres)
-  PSS Re-establishment (2.3 Acres)
-  PSS Preservation (7.3 Acres)
-  Low-Head Embankment (1.5 Acres)
-  Upland Forested Buffer Re-establishment (6.1 Acres)
-  Grassland Buffer Re-establishment (2.5 Acres)
-  Upland Buffer Preservation (10.9 Acres)

