

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII

901 North 5<sup>TH</sup> Street

KANSAS CITY, KANSAS 66101

07 MAY 29 AM 10: 54  
ENVIRONMENTAL PROTECTION  
AGENCY-REGION VII  
REGIONAL HEARING CLERK

IN THE MATTER OF: )  
)  
) Docket No. CWA 07-2007-0047  
)  
MONTE CANNON )  
Cannon Builders, Inc., )  
)  
Respondent ) FINDINGS OF VIOLATION,  
) ORDER FOR COMPLIANCE  
)  
)  
Proceedings under Section 309(a)(3) of the )  
Clean Water Act, 33 U.S.C. § 1319(a)(3) )  
)  
\_\_\_\_\_ )

Preliminary Statement

1. The following Findings of Violation are made and Order for Compliance ("Order") is issued pursuant to the authority of Section 309(a)(3) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a)(3). The authority to take action under Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), is vested in the Administrator of the U.S. Environmental Protection Agency ("EPA"). The Administrator has delegated this authority to the Regional Administrator, EPA Region 7, who in turn has delegated it to the Director of the Water, Wetlands and Pesticides Division of EPA Region 7.

2. The Respondent in this case is Mr. Monte Cannon, doing business as Cannon Builders, Inc. ("Cannon"). Cannon Builders, Inc. is a construction company, incorporated in the State of Missouri with offices located at 193 North Lincoln Drive, Troy, Missouri 63379. Mr. Cannon owns approximately 6.75 acres of property around a stream/wetland/lake complex locally known as Trojan Lake located in U.S. Survey 379, Township 49 North, Range 1 West, Troy, Lincoln County, Missouri.

Statutory and Regulatory Framework

3. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants except in compliance with, *inter alia*, Section 404 of the CWA, 33 U.S.C. § 1344.

4. The CWA prohibits the discharge of "pollutants" from a "point source" into a "navigable water" of the United States, as these terms are defined by Section 502 of the CWA, 33 U.S.C. § 1362.

5. Section 404 of the CWA, 33 U.S.C. § 1344, specifically requires a person to obtain a permit from the Secretary of the Army acting through the Chief of Engineers, commonly referred to as the United States Army Corps of Engineers (hereinafter "Corps"), for any discharge of "dredged or fill material" into the "navigable waters" of the United States.

6. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines "navigable waters," in part, as the "waters of the United States," which are defined at 40 C.F.R. § 232.2 and 33 C.F.R. Part 328, and which include "wetlands."

7. "Wetlands" are defined at 40 C.F.R. § 232.2 as those areas that are inundated or saturated by surface or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

8. Section 309(a) of the CWA, 33 U.S.C. § 1319(a), authorizes the issuance of an order against any person who violates Section 301 of the CWA, 33 U.S.C. § 1311, requiring such person to comply.

#### Factual Background

9. Respondent Cannon is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

10. At all times relevant to this action, Respondent Cannon owned, operated or otherwise controlled approximately 6.75 acres of property located in U.S. Survey 379, Township 49 North, Range 1 West, in Lincoln County, Missouri. The property is located along Buchanan Creek, adjacent to Trojan Lake and includes wetland areas.

11. On August 1, 2001, the Corps issued a Cease and Desist Order to Mr. Paul Hunt, the owner of the property at that time, advising him to perform no further work at property located in Troy, Lincoln County, Missouri in and around the stream/wetland/lake complex locally known as "Trojan Lake". The Cease and Desist Order was issued due to unpermitted filling activities conducted by Mr. Hunt.

12. In 2001 and 2003, Respondent Cannon purchased 6.75 acres of property from Mr. Paul Hunt in the area of the stream/wetland/lake complex along Buchanan Creek and adjacent to Trojan Lake in Troy, Lincoln County, Missouri. The property which Respondent Cannon purchased was included in the Cease and Desist Order issued by the Corps. Respondent Cannon, was not given notice of the Cease and Desist Order issued by the Corps.

13. At various times in the spring of 2005, Respondent Cannon and/or persons acting on its behalf, discharged dredged or fill material including dirt, spoil, rock and sand, into portions of the stream/wetland/lake complex along Buchanan Creek and adjacent to Trojan Lake in Troy, Lincoln County, Missouri. The Respondent placed dredged or fill material in and around the

wetland areas while trying to construct homes on lots adjacent to the property. These actions impacted approximately 0.49 acres of wetlands.

14. Mr. Raju Kakarlapudi with EPA, Region 7, and Mr. Ward Lenz with the Corps conducted an on-site inspection on August 22, 2006 which documented the discharges of fill material described in Paragraph 13.

15. The discharge and disposal of dredged and/or fill material within the wetlands has altered the natural drainage pattern and hydrology of the area, resulting in changes to the wetland characteristics of approximately 0.49 acres of wetlands at the property.

16. The areas of the discharge and disposal of fill and/or dredged material and the area of filling along Buchanan Creek by the Respondent is characterized as "wetlands," as defined at 40 C.F.R. § 232.2.

17. The dredged and/or fill materials discharged by Respondent Cannon into the wetlands and Buchanan Creek includes spoil, rock, sand and dirt and are "pollutants" within the meaning of Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

18. The earth moving equipment referenced in Paragraph 13 above, constitutes a "point source" within the meaning of Section 502(14) of the CWA, 33 U.S.C. § 1362(14).

19. The discharge of the dredged and/or fill material into the wetlands and tributary at the property, described in Paragraph 13 above, constitutes the "discharge of a pollutant" within the meaning of Section 501(12) of the CWA, 33 U.S.C. § 1362(12).

20. Buchanan Creek which flows into the Cuivre River, which flows into the Mississippi River, and the wetlands adjacent to Buchanan Creek and Trojan Lake are "waters of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7), 40 C.F.R. § 232.2 and 33 C.F.R. Part 328.

21. Respondent Cannon's discharge of pollutants from a point source into waters of the United States was performed without a permit issued pursuant to 404 of the CWA, 33 U.S.C. § 1344, and therefore these discharges violated Section 301 of the CWA, 33 U.S.C. § 1311.

#### **A. FINDINGS OF VIOLATION**

22. The facts stated in paragraphs 9 through 21 above are herein incorporated.

23. Respondent Cannon did not obtain a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, to perform the work described herein, nor was the Respondent performing the work described herein under any prior permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344.

24. Respondent's discharge and disposal of pollutants from a point source into waters of the United States, as described above, occurred without a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, and, therefore, these discharges and disposals violated Section 301 of the CWA, 33 U.S.C. § 1311.

### **B. ORDER FOR COMPLIANCE**

Based on the Findings of Fact and Findings of Violation set forth above and, pursuant to the authority of Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), Respondent is hereby ORDERED as follows:

25. Respondent Cannon will assure performance of the mitigation/restoration work required by him as outlined in the attached mitigation plan and will submit to EPA all documents and permits required by the mitigation bank to sell mitigation credits.

26. In the event Respondent fails to comply with the terms of the Order, pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, EPA may seek judicial enforcement of the terms of the Order against the Respondent and/or seek additional penalties against the Respondent for such noncompliance with the terms of the Order.

27. The work required by Respondent Cannon outlined in the attached mitigation plan shall be completed within 12 months from the effective date of this order.

28. All documents required to be submitted to EPA by this Order, or by the approved Mitigation Plan shall be submitted by mail to the following individuals:

Raju Kakarlapudi  
Water, Wetlands, and Pesticides Division  
U.S. Environmental Protection Agency, Region 7  
901 North Fifth Street  
Kansas City, Kansas 66101

And

Steven L. Sanders  
Assistant Regional Counsel  
United States Environmental Protection Agency, Region 7  
901 North Fifth Street  
Kansas City, Kansas 66101.

29. The Respondent shall also provide a copy of the final Mitigation Plan and the Conservation Easement to Mr. G. Ward Lenz, Regulatory Project Manager, U.S. Army Corps of Engineers and Mr. Kevin Mohammadi with the Missouri Department of Natural Resources at the following address:

Ward Lenz  
Regulatory Project Manager  
Department of the Army  
St. Louis District, Corps of Engineers  
1222 Spruce Street  
St. Louis, Missouri 63103-2833

Mr. Kevin Mohammadi, Chief  
Enforcement Section  
Water Pollution Control Program  
Missouri Dept. of Natural Resources  
P.O. Box 176  
Jefferson City, Missouri 65102

### General Provisions

#### **Effect of Compliance with the terms of this Order**

30. This Order shall not constitute a permit under the CWA. Compliance with the terms of this Order shall not relieve Respondent of his responsibility to obtain any required local, state and/or federal permits. Specifically, Respondent shall consult with the United States Army Corp of Engineers, and shall obtain all permits that the Corps determines are necessary to address the discharges and/or to implement the approved Mitigation Plan.

31. This Order does not constitute a waiver or a modification of any requirements of the Clean Water Act, 33 U.S.C. § 1251 et seq., all of which remain in full force and effect. The EPA retains the right to seek any and all remedies available under Sections 309 of the Act, 33 U.S.C. § 1319, for any violation cited in this Order. Issuance of this Order shall not be deemed an election by EPA to forgo any civil or criminal action to seek penalties, fines, or other appropriate relief under the Act for any violation whatsoever.

#### **Access and Requests for Information**

32. Nothing in this Order shall limit EPA's right to obtain access to, and/or to inspect property operated by Respondent and/or to request additional information from Respondent, pursuant to the authority of Section 308 of the CWA, 33 U.S.C. § 1318 and/or any other authority.

#### **Severability**

33. If any provision or authority of this Order, or the application of this Order to Respondent, is held by federal judicial authority to be invalid, the application to Respondent of the remainder of this Order shall remain in full force and effect and shall not be affected by such a holding.

### Parties Bound

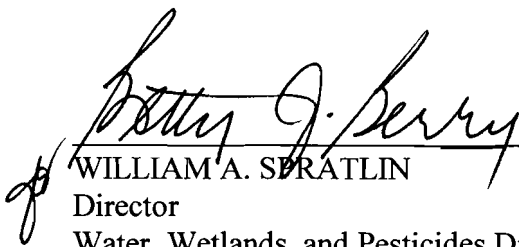
34. This Order shall apply to and be binding upon the Respondent, his agents, successors and assigns. Respondent shall ensure that any directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for him with respect to matters included herein comply with the terms of this Order.

### Effective Date

35. The terms of this Order shall be effective and enforceable against Respondent upon the date of his receipt of an executed copy of the Order.

### Termination

36. This Order shall remain in effect until a written notice of termination is issued by an authorized representative of the U.S. Environmental Protection Agency. Such notice shall not be given until all of the requirements of this Order have been met.

  
WILLIAM A. STRATLIN

Director  
Water, Wetlands, and Pesticides Division  
U.S. Environmental Protection Agency - Region VII

05/23/07  
DATE

  
STEVEN L. SANDERS

Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency - Region VII



**SCI ENGINEERING, INC.**

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**Revised Mitigation Plan (Second Revision)**

**TROJAN LAKE  
TROY, MISSOURI**

**April 2007**

**Prepared for:  
CANNON BUILDERS, INC.**

**SCI No. 2005-2264.31**



## SCI ENGINEERING, INC.

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*CONSULTANTS IN DEVELOPMENT,  
DESIGN, AND CONSTRUCTION*

*GEOTECHNICAL  
ENVIRONMENTAL  
CULTURAL RESOURCES  
NATURAL RESOURCES  
CONSTRUCTION SERVICES*

April 17, 2007

Mr. Steven Sanders  
United States Environmental Protection Agency  
901 North Fifth Street  
Kansas City, Kansas 66101

Re: Revised Mitigation Plan (Second Revision)  
Trojan Lake  
Troy, Missouri  
SCI No. 2005-2264.31

Dear Mr. Sanders:

SCI Engineering, Inc. (SCI) has provided a revised mitigation plan (second revision) outlining proposed mitigation efforts of Cannon Builders, Inc. (Cannon) and Mr. Paul Hunt. These mitigation efforts are being proposed to compensate for unauthorized fill activities, conducted by Cannon and Mr. Paul Hunt to on-site emergent wetlands at the location of the old Trojan Lake. Per a March 30, 2007 discussion between Mr. Monte Cannon and the United States Environmental Protection Agency (USEPA), appropriate mitigation for Cannon Builders can be in the form of mitigation credits purchased from a wetlands mitigation bank. SCI has identified that 2 acres of wetland credits can be purchased from the Westwinds Mitigation Bank (Westwinds). Westwinds has been confirmed to be an appropriate bank by Mr. Ward Lenz of the United States Army Corps of Engineers. Any on-site mitigation, previously proposed by Cannon, has been removed from the mitigation plan. Therefore, Cannon will no longer provide 0.68 acres of created wetlands at the Trojan Lake site. On behalf of Mr. Paul Hunt, SCI has identified that approximately 1.37 acres of wetlands is available to be restored by Mr. Hunt and approximately 23.17 acres of existing wetlands and riparian habitat can be preserved and deed restricted within Lincoln County.

Overall, the mitigation plan offers a total of 24.54 acres of on-site aquatic habitat and riparian corridor to be created and available for deed restrict with Lincoln County by Mr. Paul Hunt. SCI anticipates the following mitigation plan will satisfactorily answer all relevant issues raised by USEPA, and that it will aid in making a favorable decision on the proposed mitigation project, as well as finalizing requirements associated with the Clean Water Act violation.

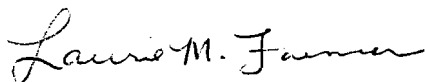
ST. CHARLES, MISSOURI  
FAIRVIEW HEIGHTS, ILLINOIS  
ST. LOUIS, MISSOURI  
UNION, MISSOURI



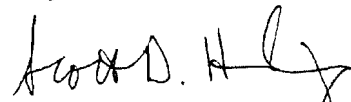
Please call if you have any questions or need additional information.

Respectfully,

**SCI ENGINEERING, INC.**



Laurie M. Farmer, PWS  
Project Scientist



Scott D. Harding, CPSS/SE  
Vice President

LMF/SDH/jlj

C: Mr. Raju Karkarlepudi, United States Environmental Protection Agency  
Mr. Steven Sanders, United States Environmental Protection Agency  
Mr. Ward Lenz, United States Army Corps of Engineers  
Mr. Monte Cannon; Cannon Builders

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**Figure 1 – *Mitigation Plan***

## **Revised Mitigation Plan (Second Revision)**

### **TROJAN LAKE TROY, MISSOURI**

#### **1.0 INTRODUCTION**

On behalf of Cannon Builders, Inc. (Cannon), SCI Engineering, Inc. (SCI) has revised the formal mitigation plan to offset unauthorized fill impacts to emergent wetlands. The unauthorized activities were performed separately by Cannon and Mr. Paul Hunt, and considered by the United States Environmental Protection Agency (USEPA) and the United States Army Corps of Engineers (CE) as a violation of Section 404 of the Clean Water Act (CWA). Per a discussion between Mr. Monte Cannon and Mr. Steven Sanders on March 30, 2007, Cannon is proposing to now provide mitigation through mitigation credit purchase at the Westwinds Mitigation Bank (Westwinds). Any previously proposed mitigation for Cannon at the Trojan Lake site has been retracted from this mitigation plan. Therefore, the 0.68-acre created wetland has been removed from the mitigation plan. However, this area continues to be proposed as deed restricted.

Mr. Hunt will restore approximately 1.37 acres of emergent wetland habitat and preserve approximately 23.17 acres of existing riparian habitat. An approximate 24.54-acre deed restriction will encompass the created, restored, and existing wetlands, as well as adjacent non-wetland habitats.

#### **2.0 REVISED MITIGATION PLAN (Second Revision)**

In our previous reports, SCI has identified that 0.49 acres of wetland impact are the responsibility of Cannon. The USEPA has indicated that a target mitigation ratio for these impacts is approximately 4 acres of mitigation to one acre of impact. They have also recently stated on March 30, 2007, that the credit purchase from an appropriate mitigation bank will be a suitable way to compensate for the impacts. Applying the 4:1 target ratio, SCI has determined that 2.0 acres of credit purchase is appropriate for wetland impacts. As confirmed by the CE, the site of impacts falls within the Westwinds service area. Therefore, Cannon proposes to purchase 2.0 acres of wetland credits from Westwinds. Furthermore, Cannon retracts any previously proposed on-site mitigation at the Trojan Lake site.

SCI has estimated that approximately 3.6 acres of wetland impact are likely the responsibility of Mr. Hunt. We have identified that approximately 1.37 acres of on-site wetlands can be restored (Restored Wetlands A and B), and this portion of the mitigation plan has been designated as Mr. Hunt's obligation.

In addition to the restoration activities, a deed restriction will encompass the remaining 23.17 acres of the property to satisfy the requirements of the USEPA, which is also Mr. Hunt's obligation. Table 2.1 includes a list of the proposed mitigation areas to be placed under a Declaration of Covenants and Restrictions.

**Table 2.1 – Proposed Mitigation Areas for Mr. Paul Hunt**

| <b>Mitigation Proposed</b> | <b>Habitat Type</b>     | <b>Acreage</b> |
|----------------------------|-------------------------|----------------|
| Restored Wetland A         | Emergent                | 0.96           |
| Restored Wetland B         | Forested with Emergent  | 0.41           |
| Preserved Areas            | Wetland and Non-Wetland | 23.17          |
| <b>Total</b>               | ---                     | <b>24.54</b>   |

The extent of excavation recommended for all restored wetlands is based on estimation of the existing elevation of the landscape and the depth to the seasonal high water table. The depth of proposed excavation consists of variable depths. Due to lack of on-site topographic information, the amount of cut has been estimated based on visual observations to depth of groundwater influence. The depth should be similar to elevations observed within adjacent wetlands. Restored and created wetlands should be graded to contain a rolling or undulating finished grade that varies from 6 to 18 inches overall.

Restored Wetland A is a 0.96-acre area located in between the location of the old dam and existing wetlands. SCI estimates that areas within the proposed Restored Wetland A, will require approximately 36 to 60 inches of excavation to remove fill material and to intercept the seasonal high water table. Restored Wetland B is approximately 0.41 acres in size, and currently exists as a large fill area located within the limits of the old lake. On the north side of the existing fill, pooling water exists, containing water depths measuring approximately 2 to 4 feet deep. It is anticipated that excavation to approximately 1 foot above the normal pool of the adjacent pool should create wetland hydrology without draining the adjacent pool. Restored Wetland B should have approximately 72 inches (approximately 4,000 cubic yards) of fill material removed to reach the depths of the seasonal high water table.

**2.1 Vegetation**

Hydrophytic vegetation is defined as species that are best suited or specially adapted to life under moist or saturated soil conditions that result in a substrate that is at least periodically deficient in oxygen. Hydrophytic species are characterized as having an indicator status of facultative or wetter (OBL, FACW, or FAC, excluding FAC-). Upon establishment, the vegetation growing in the restored emergent wetlands should be composed of more than 50 percent hydrophytic species. The relative cover of hydrophytic species within the wetlands should total at least 75 percent. Relative cover should be interpreted as the cover of all hydrophytic species as a percent of the total plant cover. Mr. Hunt should attempt to restore the wetlands in order to maintain emergent hydrophytic coverage and composition.

Seeding with a nurse crop and mulching shall be performed throughout all areas of excavation. The nurse crop mix used shall be composed of quick growing, annual species such as oats or annual rye grass. The nurse crop will reduce the potential for erosion and sedimentation on the site. It is likely that the newly graded areas will slowly vegetate with herbaceous cover. To minimize the encroachment of cattails and reed canary grass and promote wetland herbaceous cover, the areas of excavation will be seeded. A seed mix containing species suited for mesic to saturated soil conditions is recommended for all areas of excavation. Listed in Table 3.2 are species that are suited to wetland conditions, and may be included within the seed mix. Fall or spring seeding should result in the highest probability for successful wetland plant establishment.

**Table 2.2 – Herbaceous Wetland Species**

| Common Name          | Scientific Name               | Indicator Status |
|----------------------|-------------------------------|------------------|
| Sweet Flag           | <i>Acorus calamus</i>         | OBL              |
| Swamp Milkweed       | <i>Asclepias incarnata</i>    | OBL              |
| Panicled Aster       | <i>Aster simplex</i>          | FACW             |
| Tickseed – Sunflower | <i>Bidens coronata</i>        | OBL              |
| Sweet Joe Pye Weed   | <i>Eupatorium purpureus</i>   | FAC              |
| Northern Bedstraw    | <i>Galium boreale</i>         | FAC              |
| White Avens          | <i>Geum canadense</i>         | FAC              |
| Sneezeweed           | <i>Helenium autumnale</i>     | FACW+            |
| Spotted Touch-Me-Not | <i>Impatiens capensis</i>     | FACW             |
| Blue Flag Iris       | <i>Iris virginica shrevei</i> | OBL              |
| Great Blue Lobelia   | <i>Lobelia siphilitica</i>    | FACW+            |

| Common Name          | Scientific Name                | Indicator Status |
|----------------------|--------------------------------|------------------|
| Bunch Flower         | <i>Melanthium virginicum</i>   | FACW+            |
| Monkey Flower        | <i>Mimulus ringens</i>         | OBL              |
| Ditch Stonecrop      | <i>Penthorum sedoides</i>      | OBL              |
| Bristly Buttercup    | <i>Ranunculus hispidus</i>     | FAC              |
| Curly Dock           | <i>Rumex crispus</i>           | FAC+             |
| Slender Wheat Grass  | <i>Agropyron trachycauluna</i> | FAC              |
| Bearded Beggar Ticks | <i>Bidens gristosa</i>         | FACW             |
| Fringed Sedge        | <i>Carex crinita</i>           | OBL              |
| Fox Sedge            | <i>Carex vulpinoidea</i>       | OBL              |
| Virginia Wild Rye    | <i>Elymus virginicus</i>       | FACW-            |
| Fowl Manna Grass     | <i>Glyceria striata</i>        | OBL              |
| Rice Cut Grass       | <i>Leersia oryzoides</i>       | OBL              |
| Dark-green Bulrush   | <i>Scripus atrovirens</i>      | OBL              |
| Cord Grass           | <i>Spartina pectinata</i>      | FACW+            |
| Bur-Reed Sedge       | <i>Carex sparganoides</i>      | FAC              |
| Wool Grass           | <i>Scirpus cyperinus</i>       | OBL              |
| Softstem Bulrush     | <i>Scirpus validus</i>         | OBL              |

### 3.0 SITE CONSERVATION

A total of 24.54 acres of restored and preserved wetlands, as well as upland areas are available to be protected in perpetuity under a Declaration of Covenants and Restrictions. The entire 24.54-acre mitigation area is suggested to be posted with clearly marked signs around the outside boundary. Typically, with deed restrictions there shall be no removal or destruction of trees or plants, mowing, filling, draining, plowing, mining, removal of topsoil, sand, rock, gravel, minerals, or other materials within the subject site, except as necessary for completion of the mitigation plan. The deed restriction will be recorded with the Lincoln County Recorder of Deeds to protect the area from future development and disturbance. A copy of the recorded Declaration of Covenants and Restrictions, including the date, book, and page number of the recording with Lincoln County should be provided to the USEPA and the CE, all of which the above (including signage) is Mr. Hunt's responsibility. The Declaration of Covenants and Restrictions for the project site will preserve the area for aquatic habitat and wildlife purposes.

#### **4.0 MAINTENANCE AND MONITORING**

The 1.37 acres of restored wetlands and 23.17 acres of preserved wetlands will be monitored by Mr. Hunt for a period of five years with the desired goal of meeting the standards of regulated wetlands (i.e., the establishment of wetland hydrology, wetland soils characteristics, and wetland vegetation) established within the CE's 1987 Wetland Delineation Manual (CE Manual).

The mitigation areas should show progressive improvements toward meeting the standards of the CE Manual within the five year timeframe. The data collected in each yearly study will be detailed in a formal report, including photographs and suggestions or plans to improve or repair any deficiencies that may exist. Data collected will include plant survivability, vegetative composition, soils characteristics and development, and wetland hydrology development. The annual report will be submitted to the CE and the USEPA. Any corrective measures are the responsibility of Mr. Hunt.

#### **4.1 Performance Criteria**

The following success measures will be monitored during the annual observation studies. If progressive improvement has been shown within the five year period, further monitoring will not be necessary. Herbaceous vegetation coverage will equal or exceed 75 percent of the ground surface coverage, and herbaceous species composition shall equal or exceed 15 species. Overall, hydrophytic species composition should meet or exceed 50 percent with the established wetland areas. These items will be counted and observed annually and reported within the monitoring reports.

Hydrologic and soil conditions will also be observed, and any deficiencies or problems identified. Hydrologic and soil conditions will be subject to the same parameters as established in the CE Manual. Evidence of achieving wetland soils and hydrology is based upon observable features. Hydrology is often measured through the presence of typical wetland hydrology, such as standing water, saturated soil, drift lines, and water-marks on adjacent trees. Soil colors will also indicate hydrologic conditions of the site. Mottling and low chroma matrix colors are indicators of a site with an active water regime. However, these characteristics develop at varying rates. Therefore, the use of soil colors will not be heavily relied upon when determining the establishment or success of the constructed wetlands.

Mitigation observation studies will be conducted annually, for a period of at least five years following final grading and planting of the mitigation sites. Wetland areas will be monitored and documentation shall be provided identifying whether the wetlands show progressive improvements toward the standards of regulated wetlands (i.e., wetland hydrology, wetland soil characteristics, and wetland vegetation) established within the CE Manual. If, after five years, the mitigation areas have met, or show progressive improvements toward meeting the standards of the CE Manual, observation will no longer be necessary. The observation reports as well as any corrective measures are the responsibility of Mr. Hunt.

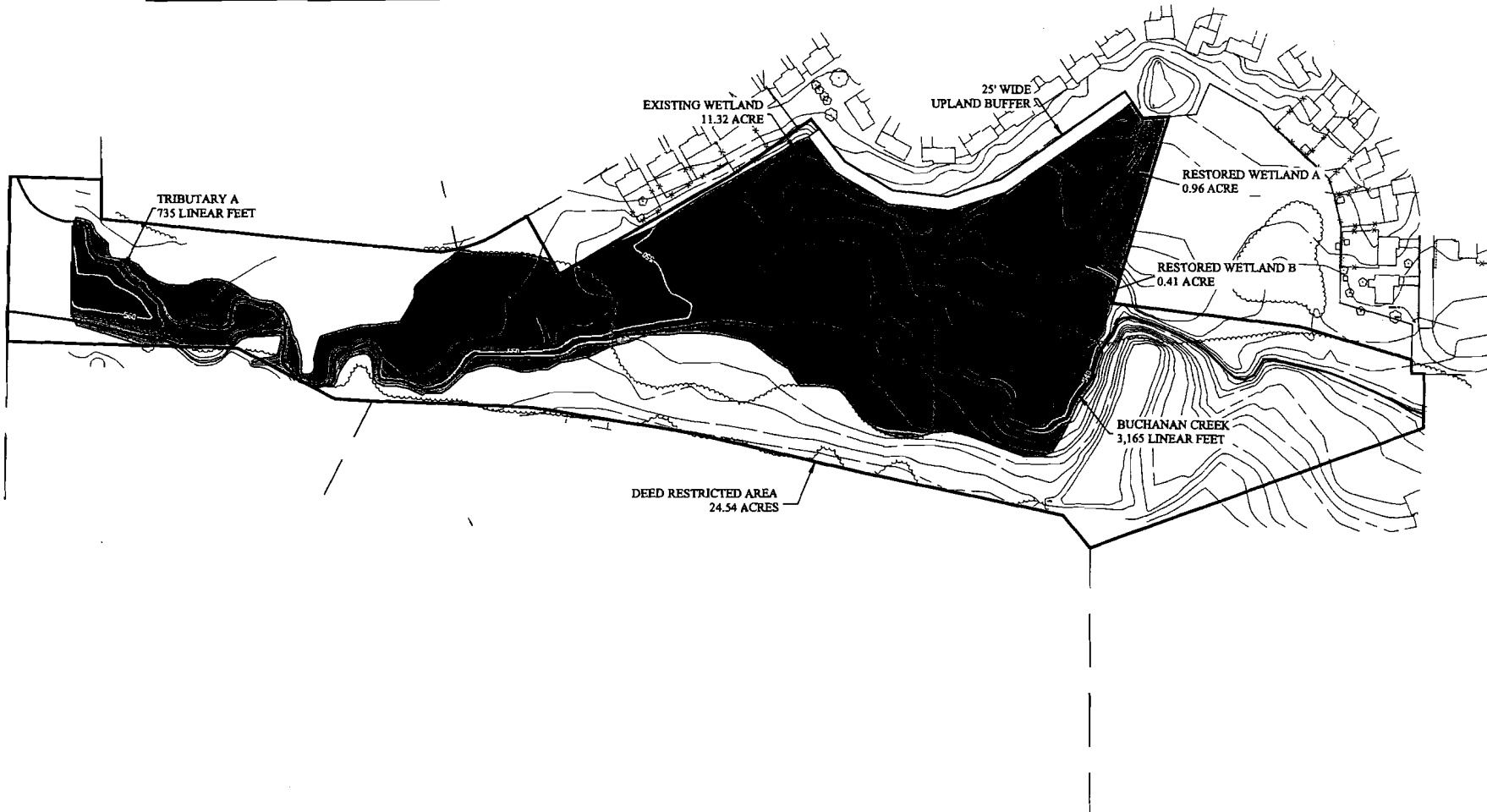
## **5.0 LIMITATIONS**

This report has been prepared for the exclusive use of Cannon and Mr. Hunt. SCI is not responsible for independent conclusions or recommendations made by others. The quantification of the proposed mitigation acreage was determined by SCI through aerial photographs available through Google Earth. SCI is not responsible for surveys, calculations, or plans that were prepared by others. Furthermore, written consent must be provided by SCI should anyone other than our clients and its lender (if applicable) wish to except, or rely on, the contents of this report. Additionally, SCI in no way guarantees the successful establishment of the aforementioned mitigation areas. The plan is based on practices commonly performed and accepted. Various unforeseen factors can lead to the failure of a mitigation area.



Proposed Mitigation Areas for Mr. Paul Hunt

| Mitigation Proposed | Habitat Type            | Acreage      |
|---------------------|-------------------------|--------------|
| Restored Wetland A  | Emergent                | 0.96         |
| Restored Wetland B  | Forested with Emergent  | 0.41         |
| Preserved Areas     | Wetland and Non-Wetland | 23.17        |
| <b>Total</b>        | ---                     | <b>24.54</b> |



General Notes/Legend

BASED ON UNDATED PLAN PROVIDED ELECTRONICALLY ON 10/06/07 FROM LEWIS & CLARK INC. DIMENSIONS AND LOCATIONS ARE APPROXIMATE. ACTUAL MAY VARY. SHALL NOT BE USED OUTSIDE THE CONTEXT OF THE REPORT FOR WHICH IT WAS GENERATED.

PROJECT NAME  
TROJAN LAKE  
TROY, MISSOURI  
MITIGATION PLAN



SCALE  
1" = 200'

JOB NUMBER  
2005-2264.31

DATE  
02/2007

DRAWN BY LAF  
CHECKED BY LME

FIGURE  
1

CERTIFICATE OF SERVICE

I certify that on the date noted below I mailed the foregoing Findings of Violation and Order for Compliance by certified mail, return receipt requested, to:

Mr. Monte Cannon  
Cannon Builders, Inc.  
P.O. Box 266  
193 North Lincoln Drive  
Troy, MO 63379

5/29/07

Date

Kathy Lovinson