



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590
MAR 22 2018

REPLY TO THE ATTENTION OF
WW-16J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Penni S. Livingston
Livingston Law Firm
690 Pleasant Ridge Rd.
Fairview Heights, Illinois 62208

Re: In the Matter of Bi-State Group, LLC and Larry Sinn
Case Docket No. CWA-05-2018-0006

Dear Ms. Livingston:

The enclosed Administrative Order on Consent (Order) is issued by the U.S. Environmental Protection Agency to your clients Bi-State Group, LLC and Larry Sinn pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a). The Order cites violations of Section 301 of the CWA, 33 U.S.C. § 1311, and outlines corrective actions that must be undertaken to resolve the violations.

Compliance with this Order is required within 30 days of the effective date of this Order or the timeframes outlined in the Order, whichever is sooner. This Order is effective immediately upon issuance. Failure to comply with this Order may subject your clients to further enforcement action.

Please direct questions concerning this matter to Mr. Yone Yu at (312) 886-2260. Legal questions can be directed to Ms. Sarah Stillman at (312) 886-3611.

Sincerely,

A handwritten signature in black ink that reads "Peter Swenson".

Peter Swenson, Chief
Watersheds & Wetlands Branch

Enclosure

cc: Bi-State Group, LLC
1 Twin Lake Drive
East Saint Louis, IL 62203-1140

Larry Sinn
1 Twin Lake Drive
East Saint Louis, IL 62203-1140

Danny D. McClendon, Chief
Regulatory Branch
U.S. Army Corps of Engineers, St. Louis District
1222 Spruce Street
St. Louis, MO 63103-2833

Chris Cahnovsky
Illinois Environmental Protection Agency
Bureau of Land - Field Operations Section
2009 Mall Street
Collinsville, Illinois 62234

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5



IN THE MATTER OF:

**Bi-State Group, LLC and
Larry Sinn**

East St. Louis, IL

Respondents.

DOCKET NO. CWA-05-2018-0006

**ADMINISTRATIVE ORDER ON
CONSENT UNDER SECTION 309(a) OF
THE CLEAN WATER ACT,
33 U.S.C. § 1319(a)**

I. INTRODUCTION

1. The U.S. Environmental Protection Agency ("EPA") makes the findings of fact set forth below (Section IV) and is issuing this Administrative Order on Consent ("Order") to Bi-State Group, LLC and Larry Sinn, owner of Bi-State Group, LLC ("Respondents") under the authority of Section 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated the authority to issue such orders to the Regional Administrator of EPA Region 5, who has redelegate this authority to the Director of the Water Division, of EPA Region 5.
2. This Order is mutually entered into by EPA and Respondents.
3. By entering into this Order, Respondents: (1) consent to EPA's authority to issue and enforce this Order; (2) neither admit nor deny the factual allegations set forth in this Order; (3) agree to undertake all actions required by the terms and conditions of this Order; (4) consent to be bound by the requirements set forth herein; and (5) agree not to contest the authority of EPA to issue or enforce this Order or the validity of any terms or conditions in this Order.
4. For the purposes of this Order only, Respondents waive any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this Order, including, but not

limited to, any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06.

II. STATUTORY AUTHORITY

5. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, *inter alia*, in compliance with a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344.
6. Section 404(a) of the CWA, 33 U.S.C. § 1344(a), provides that the United States Army Corps of Engineers may issue permits for the discharge of dredged or fill material into the navigable waters at specified disposal sites.
7. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that whenever EPA finds that any person is in violation of any condition or limitation that implements, *inter alia*, Section 301 of the CWA, 33 U.S.C. § 1311, EPA shall issue an order requiring such person to comply with this Section of the CWA.

III. DEFINITIONS

8. Section 502(5) of the CWA, 33 U.S.C. § 1362(5), defines the term "person" as "an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body."
9. Section 502(12)(A) of the CWA, 33 U.S.C. § 1362(12)(A), defines the term "discharge of pollutants" as "any addition of any pollutant to navigable waters from any point source"
10. Section 502(6) of the CWA, 33 U.S.C. § 1362(6), defines the term "pollutant" as "solid waste, . . . biological materials, . . . rock, sand, cellar dirt, . . . and agricultural waste discharged into water."

11. Section 502(14) of the CWA, 33 U.S.C. § 1362(14), defines the term "point source" as "any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or other vessel or floating craft, from which pollutants are or may be discharged."
12. Section 502(7) of the CWA, 33 U.S.C. § 1362(7), defines the term "navigable waters" as "the waters of the United States"
13. The term "waters of the United States" is defined as:
- (1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
 - (2) All interstate waters including interstate wetlands;
 - (3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:
 - (i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
 - (ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (iii) Which are used or could be used for industrial purposes by industries in interstate commerce;
 - (4) All impoundments of waters otherwise defined as waters of the United States under this definition;
 - (5) Tributaries of waters identified in paragraphs [(1) through (4) above];
 - (6) The territorial sea;
 - (7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs [(1) through (6) above] 40 C.F.R. § 230.3(s).¹

14. The term "wetlands" is defined as "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated

¹ Citations to 40 C.F.R. § 230.3 in this Order are to the regulations effective through August 27, 2015. *See In re E.P.A.*, 803 F.3d 804 (6th Cir. 2015) (issuing a temporary nationwide stay of EPA and United States Army Corps of Engineers final rule defining the scope of waters protected under the CWA effective on August 28, 2015).

soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.” 40 C.F.R. § 230.3(t).

15. The term “Order” means this document, all attachments hereto, including the Wetland Restoration Plan (“Plan”) that was submitted to and approved by EPA, and all subsequent modifications thereto.

IV. FINDINGS OF FACT AND LAW

16. At all times relevant to this Order, Bi-State Group, LLC owned parcels located in the Northwest ¼ of Section 22, Township 2 North, Range 9 West, East Saint Louis, St. Clair County, Illinois. The City of East St. Louis and Bi-State Truck Repair, Inc. own parcels adjacent to Bi-State Group, LLC’s property (the Adjacent Parcels). The Adjacent Parcels were also affected by the activities described in paragraph 17, below. The Site consists of Bi-State Group, LLC’s property and the Adjacent Parcels. See Figure 1 for a map of the Site.

17. From May 2015 through March 2016, and at other times known to Respondents, using a backhoe, skid loader, John Deere crawler, and bulldozer, Respondents discharged woody debris and dredged and fill material into approximately 1.15 acres of wetland on the Site. These activities made the Site usable as a loading/unloading area for trailers and a parking lot.

18. Respondents are “persons” as defined in Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

19. The woody debris and dredged and fill material referenced in paragraph 17 are “pollutants” as defined in Section 502(6) of the CWA, 33 U.S.C. § 1362(6).

20. The discharge of woody debris and dredged and fill material into the wetlands described in paragraph 17 is a “discharge of pollutants” as defined in Section 502(12) of the CWA, 33 U.S.C. § 1362(12).

21. The backhoe, skid loader, John Deere crawler, and bulldozer referenced in paragraph 17 are "point sources" as defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
22. The wetlands on the Site are connected to Harding Ditch, which is a tributary to the Mississippi River, a traditional navigable water. The 1.15 acres of wetland that was filled as described in paragraph 17 above, the Harding Ditch, and the Mississippi River, are "waters of the United States" pursuant to 40 C.F.R. § 230.3(s) and "navigable waters" as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).
23. At no time during the activities described in paragraph 17 did the Respondents possess a permit issued pursuant to Section 404(a) of the CWA, 33 U.S.C. § 1341(a), authorizing the fill activities in the wetlands at the Site.
24. The Respondents are persons who discharged pollutants from point sources into waters of the United States, without a permit under Section 404(a) of the CWA, 33 U.S.C. § 1341(a). Accordingly, each instance in which Respondents discharged pollutants to waters of the United States is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).
25. Each day the Respondents' discharged pollutants remained in the waters of the United States constitutes an additional day of violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

V. ORDER ON CONSENT

26. Based on the foregoing findings and the authority vested in the undersigned Director, Water Division, it is hereby ordered and agreed to in accordance with Section 309(a) of the CWA, 33 U.S.C. § 1319(a), that Respondents comply with the following actions:
 - A. Respondents shall refrain from any activity at the Site which will result in further discharges of pollutants in the wetlands, except in compliance with a permit issued pursuant to Section 404 of the CWA, 33 U.S.C. § 1344, and any other applicable

provisions of the CWA, 33 U.S.C. § 1251 *et seq.*, and the EPA regulations promulgated under the CWA.

- B. Prior to commencing restoration activities on the Adjacent Parcels, Respondents obtained written consent from their current landowners, the City of East St. Louis and Bi-State Truck Repair, Inc., to conduct such work on the Site.
- C. Respondents submitted a Plan which includes a schedule, and EPA approved the Plan which is incorporated by reference into this Order (Attachment 1). This Plan is intended to restore the wetlands on the Site to their original grade, condition, and function as they existed before they were filled by Respondents' activities. Respondents' Plan is consistent with the applicable requirements of 33 C.F.R. § 332.4(c) and 40 C.F.R. § 230.94(c). The Plan describes how restoration activities on the Site will be conducted and prescribes performance standards, monitoring protocols, reporting protocols, and a schedule of Respondents' activities that will occur on the Site.
- D. Within 30 days of the effective date of this Order, Respondents shall commence restoration activities on the Site in accordance with the approved Plan.

VI. DOCUMENTATION AND SUBMISSIONS

- 27. Within 30 days of completion of the restoration activities at the Site, Respondents shall submit to EPA written certification that they completed restoration activities in accordance with the approved Plan. Such certification shall include as-built drawings, before and after photographs of restoration areas, a description of the restoration activities, a timeline of the activities, and identification of any problems encountered during implementation.
- 28. Respondents shall submit to EPA the annual Reports required by the Plan by the due dates contained within the Plan. These reports must summarize the year's monitoring visits, how

the Site is meeting performance standards specified in the Plan, and include supporting documentation and information, such as, but not limited to, photographs, figures, drawings, and surveys taken of the Site during the monitoring visits.

29. All reports, notifications, documentation, and submissions required by this Order shall be signed by a duly authorized representative of Respondent as specified by 40 C.F.R. §§ 122.22(b)(2) and (d) and shall include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

30. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order shall be submitted to the EPA Case Manager at:

Yone Yu
Watersheds and Wetlands Branch
U.S. Environmental Protection Agency (WW-16J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

31. Respondents may not withhold information based on a claim that it is confidential. However, pursuant to 40 C.F.R. Part 2, Subpart B, Respondents may assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order, as provided in 40 C.F.R. § 2.302(a)(2). The manner of asserting such claims is specified in 40 C.F.R. § 2.203(b). Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If Respondents do not assert a claim of business confidentiality when they submit

the information, EPA may make the information available to the public without further notice.

32. If Respondents find at any time after submitting information that any portion of that information is false or incorrect, the signatory must notify EPA immediately. Knowingly submitting false information to EPA in response to this Order may subject Respondents to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. §§ 1001 and 1341.
33. Submissions required by this Order shall be deemed submitted on the date postmarked when sent by U.S. mail.
34. Upon EPA approval, submissions by Respondents are incorporated and enforceable as part of this Order. In case of inconsistency between any submission by Respondents and this Order or any subsequent modification(s), this Order or its subsequent modification(s) shall control.
35. EPA may use any information submitted in accordance with this Order in support of an administrative, civil, or criminal action against the Respondents.
36. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

VII. GENERAL PROVISIONS

37. Respondents have had the opportunity to confer with and submit information to EPA concerning the validity and provisions of this Order.
38. The terms of this Order are binding on Respondents and their assignees and successors. Respondents must give notice of this Order to any successors in interest prior to transferring ownership, and must simultaneously inform EPA, at the address specified in paragraph 30, that Respondents have given the notice.

39. The undersigned signatory for each party has the authority to bind each respective party to the terms and conditions of this Order.
40. Failure to comply with this Order may subject Respondents to penalties up to the statutory maximum amount of \$53,484 per day for each violation pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19.
41. This Order does not affect Respondents' responsibility to comply with the CWA, and any other local, state, and federal laws and regulations.
42. This Order does not restrict EPA's authority to enforce any Section of the CWA.
43. EPA reserves all rights and remedies, legal and equitable, available to address any violations cited in this Order and any other violation(s) of the CWA, and to enforce this Order. Neither issuance of this Order by EPA nor compliance with its terms precludes further enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this Order, for any other violation(s) of the CWA committed by Respondents, or to enforce this Order.
44. Violation of the terms of this Order may result in further enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA. Specifically, EPA may assess civil administrative penalties of \$21,393 per day of violation, up to a maximum of \$267,415 under Section 309(g) of the CWA, 33 U.S.C. § 1319(g); or seek civil judicial penalties of \$53,484 per day of violation of the CWA under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), 40 C.F.R. Part 19. Furthermore, EPA may seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under Section 309(c) of the CWA, 33 U.S.C. § 1319(c).

VIII. EFFECTIVE DATE

45. This Order shall become effective upon signature by EPA below, and will remain in effect until Respondents have demonstrated compliance and EPA has notified Respondents pursuant to paragraphs 46 and 47.

IX. FINAL REPORT AND TERMINATION OF THIS ORDER

46. Within 30 days after Respondents conclude that they have complied with all requirements of this Order, Respondents must submit to the EPA Case Manager a written final report and certification of completion describing all actions taken to comply with all requirements of this Order.

47. After receipt and review of Respondents' final report and certification of completion submitted pursuant to paragraph 46, EPA will notify Respondents whether they have satisfied all requirements of this Order. If EPA concludes that Respondents have failed to satisfy the requirements of this Order, EPA may require further actions as set forth under this Order or it may pursue administrative or civil judicial actions in accordance with Section 309 of the CWA, 33 U.S.C. § 309. Respondents will take corrective action(s) prescribed by EPA and continue annual monitoring until the requirements of this Order are met.

In the Matter of:
Bi-State Group, LLC and Larry Sinn
Docket No: CWA-05-2018-0006

IT IS SO AGREED AND ORDERED:

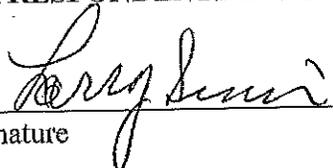
FOR THE COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:



Christopher Korleski
Director
Water Division
U.S. EPA Region 5

3/20/18
Date

FOR RESPONDENTS BI-STATE GROUP, LLC AND LARRY SINN:


Signature

2-7-18
Date

LARRY SINN
Name

OWNER
Title

Enclosures:
Figure 1
Attachment 1

Figure 1 (April 16, 2016 Aerial Photo)



WETLAND RESTORATION PLAN
ST. CLAIR COUNTY, ILLINOIS

PREPARED FOR:

BI STATE GROUP

Attn: Larry Sinn
#1 Twin Lake Drive
E. St. Louis, IL 62203
Ph. 618-409-0515

PREPARED BY:

API SURVEY LLC

P.O. Box 333
11145 N. Mockingbird Road, Suite A
Nashville, IL 62263
Ph. 618-478-9000

SUBMITTED TO:

U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard, WW-16J
Chicago, Illinois 60604-3590
Attn: Yone Yu (email: yu.yone@epa.gov)
Ph. 312-886-2260

July 31, 2017

Revised October 24, 2017

Revised December 6, 2017

Revised January 25, 2018

WETLAND RESTORATION PLAN ST. CLAIR COUNTY, ILLINOIS

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Attachments

Figure 1 – Location Map

Figure 2 - Palustrine Emergent Wetland Seed Mix

Figure 3 – Project Schedule

Exhibit A

Sheet 1 – Site Grading Plan

Sheet 2 – Tree Planting Plan

Sheet 3 – Site Cross Sections

Sheet 4 – Storm Water Pollution Prevention Plan

1. Background Information

1.1. Project Location

The project site is located at 820 Kingshighway, E. St. Louis, Illinois, 62203. The site is located on the east side of the highway and just south of the Metrolink Railroad. Latitude: 38-36-42; Longitude: 90-05-32.

1.2. Existing Conditions

The project site is adjacent to a container storage yard. The property was mostly wooded and had some wetlands located on it. The site had some areas with both forested wetland and some intermittently ponded areas during some rainfall events. A small part of the site was disturbed when tree clearing operations were being performed in July 2015 to develop the container storage yard site. The largest disturbance occurred in the Fall of 2015 when free fill dirt was available. The owner accepted the free dirt and it was placed in the wetland area to the south and spread out. 0.33 acres of intermittently ponded area was disturbed with the unauthorized fill dirt and 0.88 acres of forested wetland was disturbed by the unauthorized fill dirt and the tree clearing operations. The owner estimated that approximately 50 trees located in the forested wetland were disturbed by the unauthorized fill placement and the initial site clearing operations. The container storage yard has an aggregate surface and has several job office containers stored on the site. The south portion of the site where unauthorized fill was placed does not have any surface material on it. Some volunteer weeds are growing on the fill dirt but it has not been surfaced.

2. Construction Plan

2.1. Proposed Project

The project site forested wetland and ponded wetland areas shall be restored. The unauthorized fill dirt shall be removed from the wetlands and hauled via truck and placed on a site at 6202 Caseyville Road, Washington Park, IL 62204. This soil disposal site is located on the north side of Bunkum Road near the U-Pic-A-Part business. Bi State owns the soil disposal site property and they are currently performing earthwork activities at this site. Figure 1 included herein shows the locations of both the restoration site and the soil disposal site.

Only the unauthorized fill dirt and clean construction debris shall be hauled and placed at the authorized disposal site at 6202 Caseyville Road. The 6202 Caseyville Road site

must operate according to Section 3.160 of the [Illinois] Environmental Protection Act. No demolition debris will be permitted at that site. To the extent that anything other than clean construction debris and dirt are found during excavation, such waste debris shall be disposed of at a licensed landfill with receipt submitted to Illinois EPA. All tires uncovered during the excavation work shall be released to a registered tire hauler. Prior to excavation, the project owner shall contact Chris Cahnovsky at Illinois EPA (phone 618-346-5136) so he can observe excavation activities.

Once the unauthorized fill dirt is removed the site dirt shall be loosened using a ripper and disc. The compacted dirt shall be less than 85% standard proctor in order to support wetland plant life. The site shall be restored to the design contours indicated and native trees shall be planted to recreate habitat that was destroyed. Ninety Six (96) native RPM trees will be planted and they will consist of 15 Green Ash, 15 Swamp White Oak, 10 Shellbark Hickory, 30 Bald Cypress and 16 Sugar Maple. The entire restored wetland area will have Palustrine Emergent Wetland Seed Mix incorporated throughout. The contents of the Palustrine Emergent Wetland Seed Mix are included in Figure 2 of this Plan. The restoration plan drawings are included in Exhibit A and consist of 4 plan sheets. Sheet 1 is the Site Grading Plan, Sheet 2 is the Tree Planting Plan, Sheet 3 is the Site Cross Sections and Sheet 4 is the Storm Water Pollution Prevention Plan (SWPPP). A Notice Of Intent will be submitted to the Illinois EPA to obtain a Construction NPDES permit prior to excavating the unauthorized fill dirt. The SWPPP developed for this project will be followed during construction. The aggregate construction entrance consisting of 3" minus aggregate will be installed prior to any dirt being excavated and removed from the site. Tracking dirt off site will be avoided at all times. A temporary silt fence will be installed to keep dirt and loose sediment from washing into the adjacent wetland. 4,500 CY of dirt will be excavated and hauled to the soil disposal site where the dirt will be placed and graded to allow drainage. The soil disposal site will also have a temporary silt fence installed around the dirt disposal area to prevent sediment material from leaving the soil disposal site.

2.2. Project Schedule

The project schedule is included as Figure 3 at the end of this plan.

2.3. Seeding Specifications

2.3.1 Palustrine Emergent Wetland Seed Mix shall be incorporated throughout the restored wetland limits. The contents of the Palustrine Emergent Wetland Seed Mix

are included in Figure 2 at the end of this plan. A temporary cover crop consisting of common oat and wheat shall be incorporated with the Palustrine Emergent Wetland seed mix to stabilize the ground surface and prevent erosion. The sloped area located west of the restored wetland limits that was disturbed by construction operations shall be seeded with an IDOT approved grass seed mix. All seeding operations shall comply with Section 250 of the Standard Specifications for Road and Bridge Construction in Illinois.

2.3.2 The tree planting plan is shown on Sheet 2 of Exhibit A. Ninety Six (96) native RPM trees will be planted and they will consist of 15 Green Ash, 15 Swamp White Oak, 10 Shellbark Hickory, 30 Bald Cypress and 16 Sugar Maple.

3. Performance Standards

These are the criteria which the restoration will be evaluated for success or failure:

- 3.1. Restored areas must meet wetland criteria (soils, hydrology, and vegetation) as established in the 1987 Corps of Engineers Wetland Delineation Manual and the applicable Regional Supplement:
 - 3.1.1. Predominance of hydrophytic vegetation.
 - 3.1.2. Presence of hydric soils.
 - 3.1.3. Presence of wetland hydrology.
- 3.2. More than 50% of plant species are facultative (FAC) or wetter (FACW or OBL).
- 3.3. Less than 20% cumulative areal cover of invasive and/or non-native species including, but not limited to, reed canary grass, cattails, Canada thistle, bull thistle, smooth brome grass, giant ragweed, giant foxtail, common ragweed, quack grass, black locust, *Phragmites*, sweet clovers, and non-native honeysuckles and buckthorns. Control of invasive and/or non-native plant species will occur for at least 3 full growing seasons, and include mowing, burning, disking, mulching, biocontrol and/or herbicide treatments as necessary.
- 3.4. Tree plantings will be required to meet or exceed these yearly performance standards:

Year	Survival of RPM trees	Restoration Project based on 0.88 ac
1	98 trees/acre	86 trees
2	98 trees/acre	86 trees
3	87 trees/acre	77 trees
4	87 trees/acre	77 trees

5	76 trees/acre	67 trees
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3.5. By the end of the fifth growing season following construction, if performance standards are still not met, the landowner shall be required to take corrective actions and monitoring will continue at the direction of the EPA until performance standards are met or an alternative mitigation plan is approved by the EPA.

4. Monitoring Plan

4.1 The landowner shall periodically visit the site to monitor the progress and condition of the restored wetland. Site visits shall take place twice the first year following construction and at least once annually during the growing season, usually in the spring and sometimes in the fall, following construction for the duration of five years. Included in Figure 3 (Project Schedule) are the dates when the monitoring visits will occur for this project. If the monitoring visits reveal a failure or deficiency in meeting performance standards, the Bi State Group shall contact EPA by phone or mail to report such incidents and to coordinate any corrective actions. An annual monitoring report shall be prepared and submitted to the EPA following each growing season which describes the environmental conditions at the site and assesses the success or failure of restoration efforts to meet performance standards. The report shall include photographs, drawings/figures, wetland determination data sheets, vegetation surveys, and other information in support of the monitoring results. Following the end of the last year of monitoring, if monitoring data indicate all performance standards for the restoration area have been met, the project will be released from further monitoring by the EPA.

5. Adaptive Management

5.1 In the event that performance standards are not being met during the monitoring phase, the landowner will take corrective actions to attempt to correct the deficiency or mitigate its damage. Respondent will coordinate proposed adaptive management actions with EPA prior to implementation as outlined in the Monitoring Plan.

6. Reporting Requirements

6.1. An as-built report following initial construction and seeding will be required within 30 days

of completion. The as-built report will include engineering drawings similar to Exhibit A, which will show the restored wetland with finished grades and elevation, cross sections of the site, seeding and tree planting areas, and buffer areas. The report should describe what actually happened during restoration of the Site and explain any deviations from the Restoration Plan.

- 6.2. Annual monitoring reports will be due by December 31 of each year, for the just-completed growing season.
- 6.3. When there is a deficiency in meeting performance standards and adaptive management actions are necessary, contact EPA by phone or mail to report such incidents and to coordinate any corrective actions.

FIGURE 1 – SITE LOCATIONS

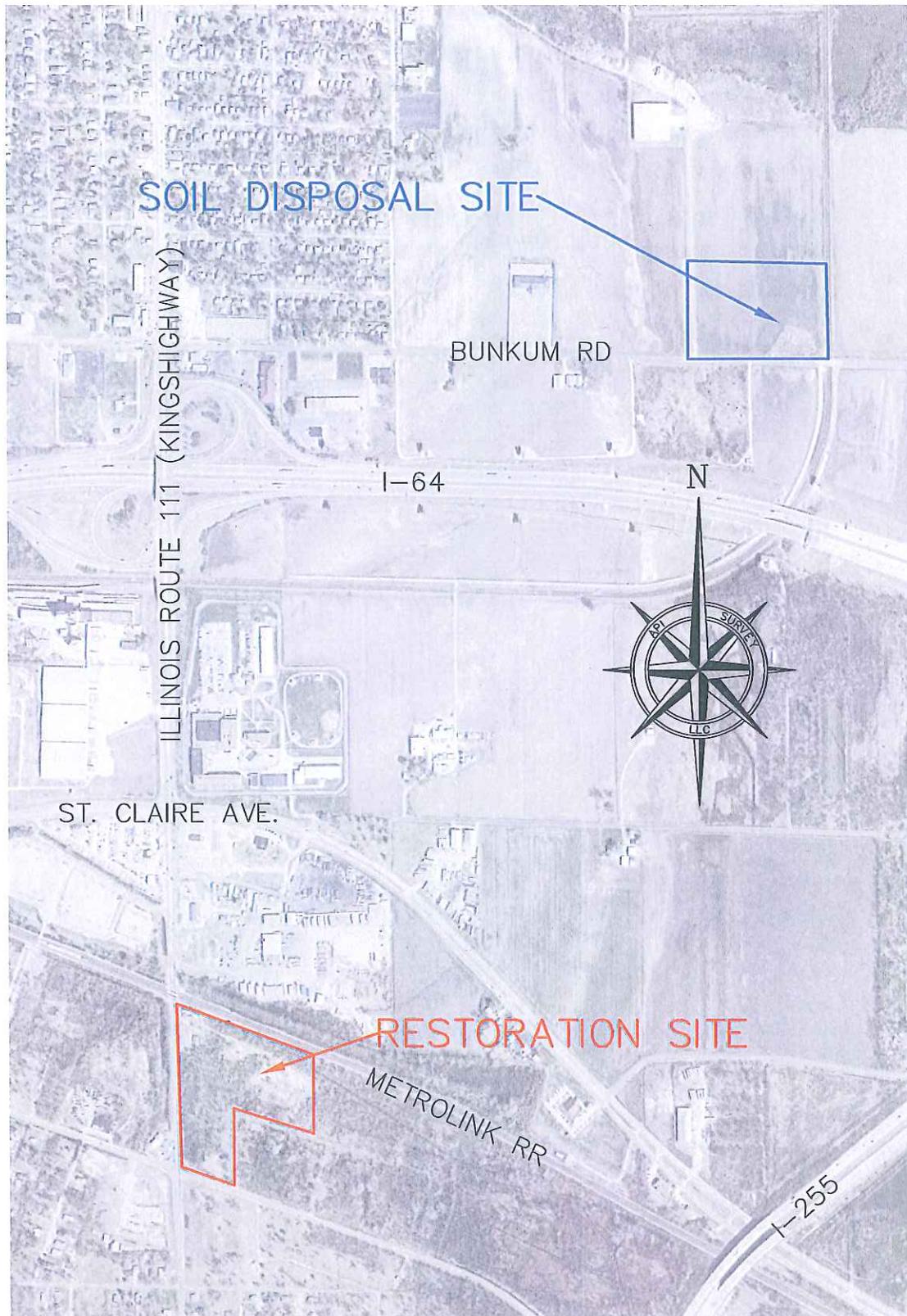


FIGURE 2

<u>Palustrine Emergent Wetland Seed Mix</u>		
Botanical Name	Common Name	Ounces/Acre
Permanent Grasses/Sedges:		
<i>Boblschoenus fluviatilis</i>	River Bulrush	0.5
<i>Carex comosa</i>	Bristly Sedge	1
<i>Carex cristatella</i>	Crested Oval Sedge	1
<i>Carex frankii</i>	Bristly Cattail Sedge	4
<i>Carex vulpinoidea</i>	Brown Fox Sedge	2
<i>Eleocharis palustris</i>	Great Spike Rush	0.5
<i>Elymus virginicus</i>	Virginia Wild Rye	16
<i>Glyceria striata</i>	Fowl Manna Grass	1
<i>Juncus effusus</i>	Common Rush	1
<i>Leersia oryzoides</i>	Rice Cut Grass	0.5
<i>Schoenoplectus americanus</i>	Chairmaker's Bulrush	1
<i>Schoenoplectus tabernaemontani</i>	Softstem Bulrush	1
<i>Scirpus atrovirens</i>	Dark Green Rush	1
<i>Scirpus cyperinus</i>	Wool Grass	1
	Total	31.5

FIGURE 3**BI STATE GROUP - WETLAND RESTORATION PROJECT SCHEDULE**

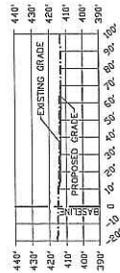
RESTORATION WORK	PROJECT TASK
January 2, 2018	Submit Notice of Intent to IEPA to obtain a Construction NPDES Permit.
February 15, 2018	Site mobilization and install SWPPP construction entrance and silt fence. Commence with excavation of the unauthorized fill dirt.
March 26, 2018	Confirmation survey to confirm grading as-built elevations and stake locations of all trees to be planted. Contractor to plant RPM trees.
April 9, 2018	Stabilize ground surface by installing Palustrine Emergent Wetland Seed Mix throughout wetland limits and install grass seed mix west of wetland limits on highway right of way.
May 15, 2018	After ground surface is sufficiently stabilized, remove silt fence and finalize all construction activities – perform final inspection. Correct any deficiencies noted and demobilize construction equipment.
	Within 30 days after construction has been completed, submit an As-Built Report to US EPA notifying them the project has been completed and the monitoring will commence.
June 15, 2018	Submit Notice of Termination to IEPA for construction NPDES permit - project closeout.
MONITORING	PROJECT TASK
November 1, 2018	Monitoring visit to confirm wetland seed mix has produced acceptable growth and that trees are living and survived the winter.
May 1, 2019	Annual monitoring visit to confirm wetland seed mix has produced acceptable growth and that trees are living and survived the winter. Prepare and submit annual report to US EPA.
May 1, 2020	Annual monitoring visit to confirm wetland seed mix has produced acceptable growth and that trees are living and survived the winter. Prepare and submit annual report to US EPA.
May 1, 2021	Annual monitoring visit to confirm wetland seed mix has produced acceptable growth and that trees are living and survived the winter. Prepare and submit annual report to US EPA.
May 1, 2022	Annual monitoring visit to confirm wetland seed mix has produced acceptable growth and that trees are living and survived the winter. Prepare and submit annual report to US EPA.
May 1, 2023	Annual monitoring visit to confirm wetland seed mix has produced acceptable growth and that trees are living and survived the winter. Prepare and submit annual report to US EPA.

EXHIBIT 'A'

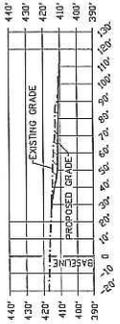
WETLANDS RESTORATION PLAN

TREELAND STATION	OFFSET	TREE TYPE	TREELAND STATION	OFFSET	TREE TYPE	TREELAND STATION	OFFSET	TREE TYPE
1	0+00.00	105	34	2+75	85	65	4+25	60
2	0+00.00	105	35	2+75	85	66	4+25	65
3	0+00.00	105	36	2+75	85	67	4+25	70
4	0+00.00	105	37	2+75	85	68	4+25	75
5	0+00.00	105	38	2+75	85	69	4+25	80
6	0+00.00	105	39	2+75	85	70	4+25	85
7	0+00.00	105	40	2+75	85	71	4+25	90
8	0+00.00	105	41	2+75	85	72	4+25	95
9	0+00.00	105	42	2+75	85	73	4+25	100
10	0+00.00	105	43	2+75	85	74	4+25	105
11	0+00.00	105	44	2+75	85	75	4+25	110
12	0+00.00	105	45	2+75	85	76	4+25	115
13	0+00.00	105	46	2+75	85	77	4+25	120
14	0+00.00	105	47	2+75	85	78	4+25	125
15	0+00.00	105	48	2+75	85	79	4+25	130
16	0+00.00	105	49	2+75	85	80	4+25	135
17	0+00.00	105	50	2+75	85	81	4+25	140
18	0+00.00	105	51	2+75	85	82	4+25	145
19	0+00.00	105	52	2+75	85	83	4+25	150
20	0+00.00	105	53	2+75	85	84	4+25	155
21	0+00.00	105	54	2+75	85	85	4+25	160
22	0+00.00	105	55	2+75	85	86	4+25	165
23	0+00.00	105	56	2+75	85	87	4+25	170
24	0+00.00	105	57	2+75	85	88	4+25	175
25	0+00.00	105	58	2+75	85	89	4+25	180
26	0+00.00	105	59	2+75	85	90	4+25	185
27	0+00.00	105	60	2+75	85	91	4+25	190
28	0+00.00	105	61	2+75	85	92	4+25	195
29	0+00.00	105	62	2+75	85	93	4+25	200
30	0+00.00	105	63	2+75	85	94	4+25	205
31	0+00.00	105	64	2+75	85	95	4+25	210
32	0+00.00	105	65	4+25	75	96	4+25	215
			66	4+25	65	97	4+25	220
			67	4+25	55	98	4+25	225
			68	4+25	45	99	4+25	230
			69	4+25	35	100	4+25	235
			70	4+25	25	101	4+25	240
			71	4+25	15	102	4+25	245
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			74	4+25	0	105	4+25	260
			75	4+25	0	106	4+25	265
			76	4+25	0	107	4+25	270
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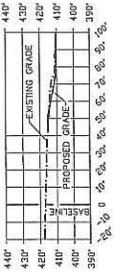
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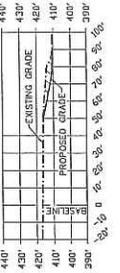
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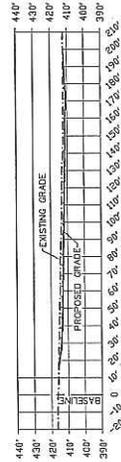
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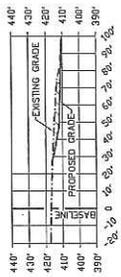
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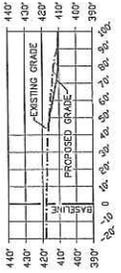
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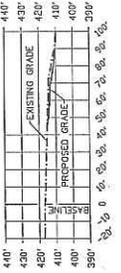
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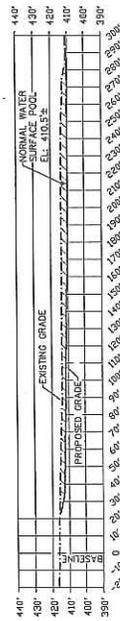
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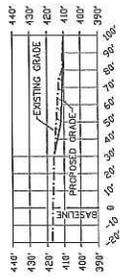
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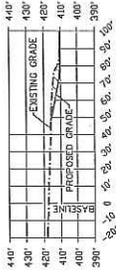
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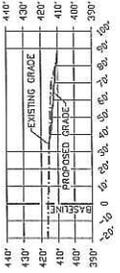
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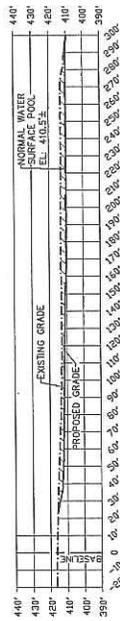
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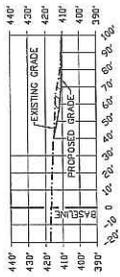
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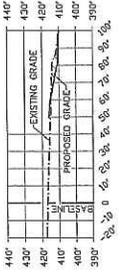
2+00



4+00



6+00



LEGEND
 - - - - - EXISTING GRADE
 - - - - - PROPOSED GRADE
 - - - - - NORMAL WATER SURFACE E. 403.5'
 - - - - - CUT VOLUME / FILL CUT REMOVAL

SITE CROSS SECTIONS
 SHEET 3 OF 4

API Survey LLC
 1748 Kensington Road
 Newburgh, Illinois 62450
 Fax: 618-478-3000
 Email: api@apisurvey.com
 API Design Firm License No. 001-000008
 State: ILL. REG. NO. 001-000008

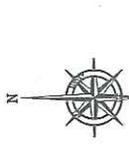
NOTE: 4,500 CY OF UNAUTHORIZED
 FILL MATERIAL TO BE REMOVED
 AND HAULED TO SOIL DISPOSAL
 SITE

2017-085

EXHIBIT 'A'

WETLANDS RESTORATION SWPPP

820 KINGSHIGHWAY
EAST ST. LOUIS, ILLINOIS 62203
PT. OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 2 NORTH,
RANGE 9 WEST OF THE THIRD PRINCIPAL MERIDIAN, ST. CLAIR COUNTY, ILLINOIS.

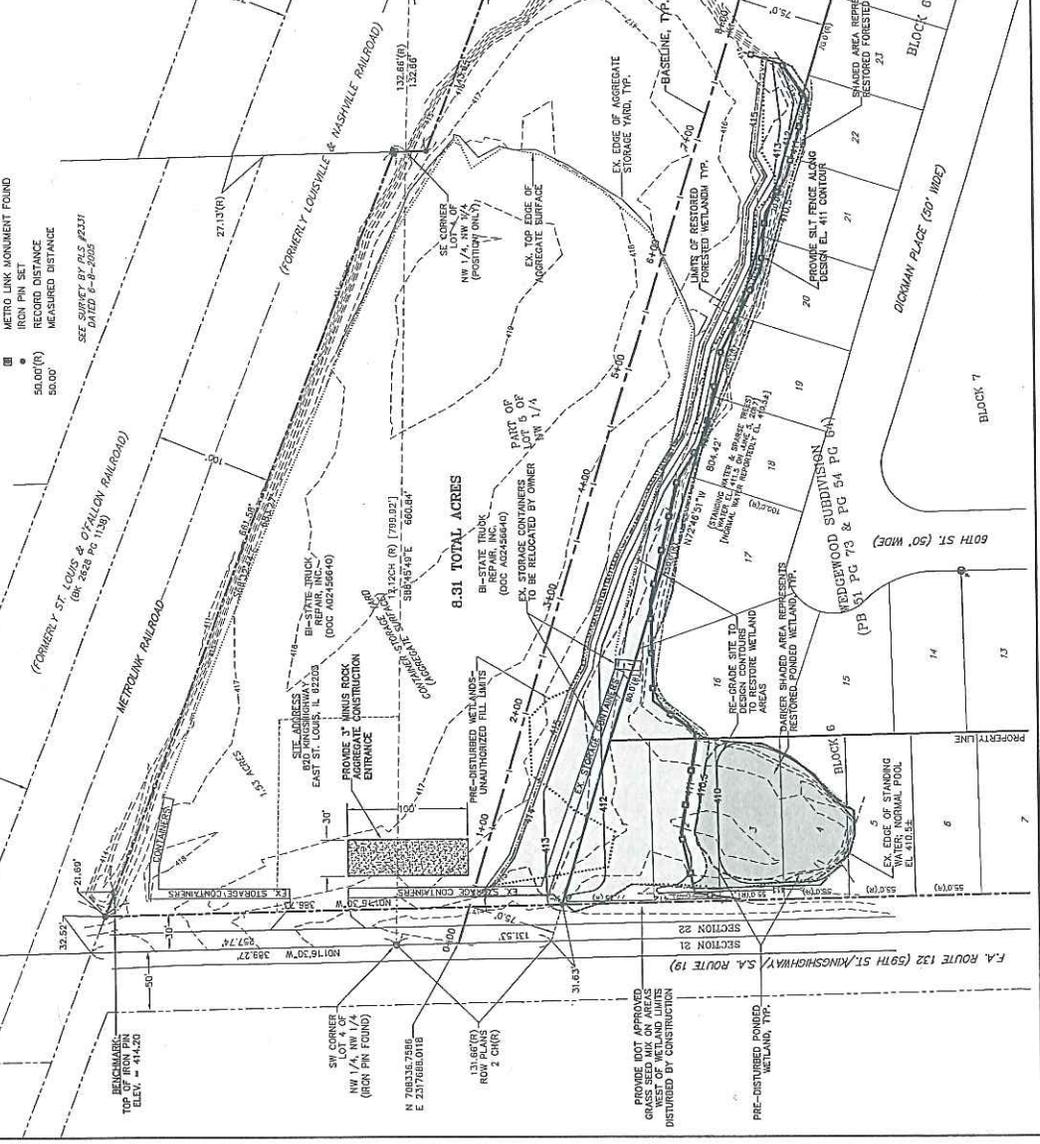


SCALE: 1" = 50'
SCALE IN FEET

BASIS OF BEARINGS
WEST ZONE GRID BEARINGS
NAD 83

- LEGEND**
- PROJECT BASELINE
 - EDGE OF PRE-DISTURBED WETLANDS/UNAUTHORIZED FILL LIMITS
 - EDGE OF PRE-DISTURBED PONDED WETLANDS/UNAUTHORIZED FILL
 - EXIST. GROUND PROPERTY LINE (1 FT. INTERVAL)
 - SITE PROPERTY BOUNDARY LINE
 - EXIST. TOP EDGE OF AGGREGATE SURFACE (1 FT. INTERVAL)
 - PROVIDE DESIGN CONTOUR ELEVATION (1 FT. INTERVAL)
 - PROVIDE RESTORED PONDED WETLAND
 - PROVIDE SALT BARRIER FENCE (DOT STD. 280001)
 - PIPE FOUND
 - METRO LINK MONUMENT FOUND
 - METRO LINK PIN SET
 - RECORD DISTANCE
 - MEASURED DISTANCE

- WETLANDS RESTORATION SUMMARY**
- AREA OF UNAUTHORIZED FILL / WETLANDS DISTURBED = 1.21 ACRES
 - WETLANDS TO BE RESTORED = 0.88 ACRES
 - AREA OF FILLED, PONDED WETLANDS = 0.33 ACRES
 - ESTIMATED TOTAL WETLANDS TO BE RESTORED = 50. TOTAL
 - TOTAL NEW TREES BEING PLANTED = 98 TOTAL



GENERAL NOTES:

1. EROSION AND SEDIMENT CONTROL SHALL BE PROVIDED IN ACCORDANCE WITH THE CONSTRUCTION MANUAL FOR PROJECTS OF THIS TYPE AND THE "ILLINOIS URBAN MANUAL" CONTROL MEASURES SHALL BE PROVIDED IN ACCORDANCE WITH THE "ILLINOIS URBAN MANUAL" CONTROL MEASURES SHALL BE CONSTRUCTED AT AREAS SHOWN AND DETAILED TO CONTROL RUNOFF FROM THE PROPERTY TO AN EXTENT THAT SEDIMENT IS RETAINED ON SITE.
2. SEDIMENT BASINS IN ACCORDANCE WITH DOT HIGHWAY STANDARD 280001-07 SHALL BE PROVIDED AS NEEDED. STRAW BALLS SHALL NOT BE USED FOR STORM WATER FACILITIES ON THIS PROJECT. REFERENCE THE "ILLINOIS URBAN MANUAL" FOR ALTERNATIVE METHODS.
3. TEMPORARY SILT FENCE SHALL BE INSTALLED AROUND SOIL STOCK PILES AND IN EXCAVATION AND EMBANKMENT AREAS UNTIL THE GRASS ROOT SYSTEM AND WETLANDS GROUND COVER SYSTEM HAVE BEEN ESTABLISHED.
4. CONTRACTOR SHALL CONSTRUCT/INSTALL THE CONTROL MEASURES SHOWN. AFTER THE CONTROL MEASURES ARE CONSTRUCTED AND IN PLACE, THE EXCAVATION ACTIVITIES CAN COMMENCE.
5. CONTRACTOR SHALL AVOID TRACKING DIRT AND MUD ONTO PAVED ROADS. AT ALL TIMES, CONTRACTOR SHALL MONITOR THE CONSTRUCTION ENTRANCE AND PAVED ROAD SURFACE TO ASSURE THAT DIRT AND MUD ARE NOT TRACKED OR TRANSPORTED ONTO SIDE ROADS AND OFF OF THE CONSTRUCTION SITE.
6. CONTRACTOR SHALL INSPECT ALL EROSION CONTROL FACILITIES ON A ROUTINE BASIS IN ACCORDANCE WITH THE CONSTRUCTION MANUAL. CONTRACTOR SHALL MAKE NECESSARY MODIFICATIONS, REPAIRS AND IMPROVEMENTS TO ASSURE EFFECTIVE PERFORMANCE OF THEIR INTENDED FUNCTION.
7. DISTURBED AREAS SHALL BE STABILIZED WITH PERMANENT MEASURES WITHIN 7 CALENDAR DAYS FOLLOWING THE END OF ACTIVE DISTURBANCE OR REDISTURBANCE CONSISTENT WITH THE FOLLOWING CRITERIA:
 - a. APPROPRIATE PERMANENT STABILIZATION MEASURES SHALL INCLUDE SEEDING, MULCHING, OR SOILING, WITH NON-VEGETATIVE MEASURES AS A LAST RESORT.
 - b. AREAS HAVING SLOPES GREATER THAN 3:1 SHALL BE STABILIZED WITH SOIL, MAT OR BASKET IN COMBINATION WITH SEEDING OR EQUIVALENT.
8. ALL CONSTRUCTED OR MODIFIED STORMWATER CONVEYANCE CHANNELS SHALL BE STABILIZED WITHIN 48 HOURS OF DISTURBANCE.
9. ALL TEMPORARY EROSION AND SEDIMENT CONTROL MEASURES SHALL BE DISPOSED IN A PROPER MANNER WITHIN 30 DAYS AFTER FINAL SITE STABILIZATION MEASURES. TRAPPED SEDIMENT AND OTHER DISTURBED SOILS RESULTING FROM THE MEASURES SHALL BE REMOVED AND THE AREA PERMANENTLY STABILIZED TO PREVENT FURTHER EROSION AND SEDIMENTATION.

SHEET 4
OF 4

SWPPP

API Survey LLC
1788 Kensington Road
Northbrook, Illinois 60062
Tel: 630-499-0001
Fax: 630-499-0001
Email: api@apisurvey.com
Website: www.apisurvey.com

Company: GSI, KS
License: ILL. 0018
Date Recd: 2017-085

In the matter of: Bi-State Group, LLC
East Saint Louis, Illinois

Larry Sinn
East Saint Louis, Illinois

Docket Number: CWA-05-2018-0006

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Administrative Order on Consent**, which was filed on [*March 22, 2018*], this day in the following manner to the addressees:

Copy by certified mail return-receipt requested:

Penni S. Livingston
Livingston Law Firm
690 Pleasant Ridge Rd.
Fairview Heights, Illinois 62208

Copy by e-mail to
Complainant:

Sarah Stillman
stillman.sarah@epa.gov

Yone Yu
yu.yone@epa.gov

Dated:

March 22, 2018

L Whitehead

LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7009 1680 0000 7662 7269