



DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

January 31, 2007

REPLY TO

ATTENTION OF:

Operations and Readiness Division
Regulatory Branch
199800436-3 (Section 10: Coal River)

To Whom It May Concern:

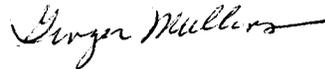
Reference is made to Public Notice Number 199800436-3, issued by the U.S. Army Corps of Engineers-Huntington District (USACE) on October 12, 2005, advertising a proposal by Mingo Logan Coal Company to discharge dredged and/or fill material into approximately 8.11 acres of waters of the U.S., including 0.12 acre of emergent wetland, 10,630 linear feet (1.83 acres) of ephemeral stream channels, and 28,698 linear feet (6.126 acres) of intermittent stream channels, and 165 linear feet (0.034 acre) of perennial stream channel, in conjunction with the construction, operation, and reclamation of the Spruce No. 1 Mine [Surface Mining Control and Reclamation Act (SMCRA) Permit S-5013-97, Incidental Boundary Revision 2]. The mine site is located approximately two miles northeast of Blair, in Logan County, West Virginia. Previously, on February 4, 2000, the USACE published a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Spruce No. 1 Mine in the *Federal Register*. The proposed project, as advertised in the aforementioned public notice, represents a substantial reduction in the scope and scale from the original project described in the NOI. Specifically, the applicant's preferred alternative represents a 13,809-linear foot (3.89-acre) reduction in adverse impacts to waters of the U.S. and an 835-acre reduction in surface acres of forestland disturbed, as compared to the original project. On March 31, 2006, the USACE published a Notice of Availability (NOA) of the Draft EIS in the *Federal Register*. The USACE held the formal public hearing on May 1, 2006, to solicit comments on the Draft EIS. On September 22, 2006, the USACE published a NOA of the Final EIS in the *Federal Register*.

Evaluation of the Department of the Army (DA) application has been completed. Information obtained during the various comment periods has been reviewed and addressed. The permit program includes a public interest review based on many factors. The decision to issue or deny a permit is based on all concerns presented and the willingness of the applicant to perform the work in an acceptable manner.

The District Engineer has reviewed and evaluated, in light of the overall public interest, the documents and factors concerning this DA permit application, as well as the stated views of other interested agencies and the concerned public in accordance with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the NEPA (40 CFR 1500-1508) and the USACE Environmental Quality: Procedures for Implementing the NEPA (33 CFR 230 and 325). In doing so, the District Engineer considered the possible consequences of this proposed work in accordance with regulations published in 33 CFR Part 320 to 330 and 40 CFR 230, and in particular those public interest factors set forth in 33 CFR 320.4 and analyzed in the EIS.

It has been determined that the anticipated benefits outweigh all reasonably foreseeable detriments and that authorization for this project would not be contrary to the public interest. Therefore, a DA permit for the project has been issued subject to special conditions to minimize the adverse effects of the project on the public and the environment. If you have any questions concerning this DA permit, please contact me at 304-399-5710. Thank you for your input to our regulatory program.

Sincerely,

A handwritten signature in cursive script that reads "Ginger Mullins".

Ginger Mullins, Chief
Regulatory Branch