



**US Army Corps  
of Engineers**  
Huntington District

# Public Notice

In reply refer to:	Issuance Date:
<b>Public Notice No.</b> 200400658	May 28, 2004
<b>Stream:</b>	Expiration Date:
Curtis Branch	June 27, 2004
<b>Address comments to:</b>	US Army Corps of Engineers, Huntington District 602 Eighth Street <b>ATTN: CELRHF</b> Huntington, West Virginia 25701-2070

## PUBLIC NOTICE

**TO WHOM IT MAY CONCERN:** The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

**APPLICANT:** Hollow Mountain Resources, Inc.  
8303 Orby Cantrell Highway  
Wise, VA 24293

**LOCATION:** The proposed project is located in Curtis Branch, Brier Branch and unnamed tributaries of Brier Branch and Roundbottom Creek, between the communities of Ashford and Bradley, in Boone County, West Virginia as depicted on the attached **Figure 1**. Proposed Valley Fill 1 would be constructed in the headwaters of Brier Branch. Proposed Valley Fills 2, 4 and 5 would be constructed in unnamed tributaries of Brier Branch. Proposed Valley Fill 3 would be constructed in the headwaters of an unnamed tributary of Roundbottom Creek. The proposed haul road fill would be constructed in the headwaters of Curtis Branch. All stream channels proposed to be impacted are part of a surface tributary system of the Big Coal River, a navigable water of the United States (U.S.).

**DESCRIPTION OF THE PROPOSED WORK:** The applicant proposes to place dredged or fill material into 17,956 linear feet of jurisdictional streams in conjunction with the Boone North No.2 Surface Mine. The proposal would involve the construction of five valley fills, one road fill, and four sediment ponds. The construction of the proposed valley fills and road fill would result in the permanent discharge of fill material into approximately 15,331 linear feet (0.760 acre) of jurisdictional streams. Of this total, approximately 10,230 linear feet (0.579 acre) consist of intermittent stream channels while 5,101 linear feet (0.186 acre) consist of ephemeral stream channels. Each proposed valley fill would affect a watershed of less than 250 acres, ranging from 33 acres to 203 acres. The Road Fill would affect a watershed of less than 150 acres. **Table A** (attached) details the contributing drainage areas to be affected by the proposed valley fills and road fill. The construction of the proposed sediment ponds would result in the temporary placement of dredged or fill material into 2,475 linear feet of jurisdictional stream channels. This proposed activity would temporarily impact approximately 2,075 linear feet of intermittent stream channels and 400 linear feet of ephemeral stream channels. **Table B** (attached) details the individual stream impacts and corresponding information. **Figures 2 through 6** (attached) depict the locations of the proposed mining activities in waters of the U.S.

Approximately 9,494,046 cubic yards of unspecified, non-toxic, durable material would be discharged within the proposed valley fill sites. **Table C** (attached) summarizes the proposed discharges and associated volumes.

The West Virginia Department of Environmental Protection (WVDEP) is currently evaluating the applicant's Surface Mining Permit No. SMA S-5008-03 and WVNPDES Permit No. WV1020927 applications pursuant to the Surface Mining Controls and Reclamation Act and Section 402 of the CWA respectively. The anticipated life of the project is approximately 60 months.

Activities on the Boone North No. 2 Surface Mine would be accomplished in five phases. A discussion of each phase is below.

**Phase 1 (15.68 Acres):** During Phase 1, operations shall progress up the existing roads and old disturbed areas in Curtis Branch. This area is for office, parking lots, supply and equipment assembly area. This area would have excess spoil placed over it covering old mine material. As operations progress in Area 1, the temporary sediment control shall be provided first as to direct water to Pond 8. As operations progress to the East, Diversion Ditch (DD) PD8B would be constructed to direct water to Pond 8.

**Phase 2 (197.08 Acres):** During Phase 2, mining shall progress to the north side of Curtis Branch. Temporary sediment control shall be provided to direct water to Pond 8 as needed in the areas of mining before disturbance in that area. During Phase 2, operations shall continue in Phase 1. Reclamation would commence in Phase 1 on out slopes and drainage structures. Areas of pre-law highwalls shall be mined through. Most existing highwalls are 25 to 35 feet in height. First mining would progress in the No. 2 Gas and Powellton coal seams and then in the Lower Cedar Grove seam. The first strip cut would be on the Powellton seam. Mine spoil from Phase 2 and other spoils would be distributed on existing benches, old refuse areas, Side Hill Fill 1 and Road Fill No. 1. As mining progresses in Phase 2, temporary sediment control would be provided as to direct water to Ponds 8 and 6. As mining progresses to the northwest and southeast, sediment ditches would be constructed. The main haul roads would be constructed and/ or upgraded in Phase 2. Infrequently Used Access Roads (IUAR) 8 and 8a would be used to obtain water for dust control on roads. Primary Road 1A would be constructed in this phase. A cut through would be conducted in the head of Curtis Branch into Brier Branch for accessing Phase 3 of the operation.

**Phase 3 (218.2 Acres):** During Phase 3, mining would progress to the east end of Brier Branch and Roundbottom Creek. Sediment Ponds 1 and 3 would be constructed prior to any disturbance. Temporary sediment control would be provided to direct water to Sediment Ponds 1 and 3 as needed in the areas of mining before disturbance in that area. Operations would continue in Phase 1 and 2. Reclamation would commence in Phase 2 on out slopes and drainage structures. Areas of pre-law highwalls would be reclaimed. The first strip cut would be on the No. 2 Gas, Powellton and Cedar Grove coal seams in or near Valley Fills 1 and 3. Mine spoil from Phase 3 and other spoils would be distributed in Road Fill 1. As mining progresses in Phase 3, temporary sediment control would be provided as to direct water to Ponds 1 and 3. As mining progresses to the south, sediment ditches would be constructed. IUAR 1, 2, 3 and 4 would be used to construct Sediment Ponds 1 and 3, and to obtain water for dust control on roads. Primary Roads 1A and 2 would be constructed in this phase to the south in Roundbottom Creek and west in Brier Branch for accessing Phase 4 of the operation.

**Phase 4 (196.74 Acres):** During Phase 4, mining would progress to the east end of Brier Branch and Roundbottom Creek. Sediment Ponds 2 and 4 would be constructed prior to any disturbance. Temporary sediment control would be provided to direct water to Sediment Ponds 2 and 4 as needed in the areas of mining before disturbance in that area. Operations would continue in Phase 1, 2 and 3. Reclamation would continue in Phases 2 and 3 on out slopes and drainage structures. Strip and Auger cuts would be conducted on all seams (No. 2 Gas, Powellton, Cedar Grove and Cedar Grove Seam seams in areas 2, 3 and 4). Excess spoil from Phase 4 would be distributed in Valley Fills 1, 2, 3 and 4. As mining progresses in Phase 4, temporary sediment control would be provided as to direct water to Sediment Ditches and Sediment Ponds 2 and 4. As mining progresses to the west, sediment ditches would be constructed. IUAR 2 and 4 would be used to construct Sediment Ponds 2 and 4 and to obtain water for dust control on roads. Primary Road 2 would be completed in this phase on the north side of Roundbottom Creek on the northwest part of Phase 4 of the operation accessing Phase 5.

**Phase 5 (220.12 Acres):** During Phase 5, mining would progress north and south along the Coal River drainage. Temporary sediment control would be constructed prior to any disturbance. Drainage control would be provided to direct water to Sediment Ponds 5 and 7 as needed in the areas of mining before disturbance in that area. Operations would continue in Phase 1, 2, 3 and 4. Reclamation would continue in Phase 2, 3 and 4 on out slopes and drainage structures. Strip and Auger cuts would be conducted on all seams, (No. 2 Gas, Powellton, Cedar Grove and Hernshaw and Chilton Seam seams in areas 2, 3 and 4). Excess spoil from Phase 4 would be distributed Valley Fill 1, 2, 4 and 5 and Side Hill Fill 2. As mining progresses in Phase 5, temporary sediment control would be provided as to direct water to sediment ditches and Sediment Ponds 5 and 7. As mining progresses to the north and south, sediment ditches would be constructed. IUAR 7A and 7B would be used to construct Sediment Pond 7 and to obtain water for dust control on roads.

**MITIGATION PLAN:** The applicant has submitted a conceptual mitigation plan to compensate for permanent and temporary impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers.

To compensate for permanent impacts to jurisdictional streams, the applicant proposes to enhance approximately 17,956 feet (4.8 acres) of existing stream channel in the Bull Creek watershed. Bull Creek is located approximately 3 miles north of the proposed mining area and is also a tributary of the Big Coal River (**Figure 7**). The goal of the applicant's mitigation plan is to practicably offset losses of aquatic resources resulting from authorized activities. Through enhancement of selected portions of perennial stream channel on Bull Creek, the applicant intends to improve and restore stream channel habitat to support an improved functional capacity of the mitigated area.

The habitat enhancement of Bull Creek plan consists of the removal of debris in and around the stream, the installation of rock and wood structures for stabilization of the stream banks and habitat enhancement, and re-vegetation for areas that may be disturbed during the construction activities.

The project would proceed in phases in order to minimize temporal losses of local aquatic resources. Phases 1, 2, 3, 4 and 5 of mitigation work plan would include enhancing existing stream habitat on Bull Creek. These phases would proceed in three individual phases (Phases A, B and C). Proposed Valley Fills 1, 2, 3, 4 and 5 and the haul road fill would be constructed during mitigation phases; however, fills would be constructed after mitigation is initiated in the corresponding phase. **Table D** (attached) summarizes the proposed mitigation work to take place in Phases 1, 2, 3, 4 and 5.

**Phase 1:** Phase 1 of the mitigation plan would include stream habitat enhancement of approximately 1,670 feet of the main channel of Bull Creek from stations 0+00 to 16+70. Mitigation in this phase would be initiated prior to filling of jurisdictional waters. After enhancement is initiated on Bull Creek, jurisdictional waters to be filled in this phase would include 1,670 feet of stream channel on Curtis Branch for the proposed haul road fill. The balance at the end of Phase 1 would be zero.

**Phase 2:** Phase 2 of the mitigation plan would include stream habitat enhancement of approximately 5,900 feet of the main channel of Bull Creek from stations 16+70 to 75+70. Mitigation in this phase would be initiated after Phase 1 and prior to filling of jurisdictional waters. After enhancement is initiated on Bull Creek, jurisdictional waters to be filled in this phase would include 5,900 feet of stream channel on Brier Branch for proposed Valley Fill 1. The balance at the end of Phase 2 would be zero.

**Phase 3:** Phase 3 of the mitigation plan would include stream habitat enhancement of approximately 5,056 feet of the main channel of Bull Creek from stations 75+70 to 126+26. Mitigation in this phase would be initiated after Phase 2 and prior to filling of jurisdictional waters. After enhancement is initiated on Bull Creek, jurisdictional waters to be filled in this phase would include 5,056 feet of stream channel on the first left tributary of Roundbottom Creek for proposed Valley Fill 3. The balance at the end of Phase 3 would be zero.

**Phase 4:** Phase 4 of the mitigation plan would include stream habitat enhancement of approximately 3,230 feet of the main channel of Bull Creek from stations 126+26 to 158+56. Mitigation in this phase would be initiated after Phase 3 and prior to filling of jurisdictional waters. After enhancement is initiated on Bull Creek, jurisdictional waters to be filled in this phase would include 3,230 feet of stream channel on Brier Branch for proposed Valley Fills 2 and 4. Impacts during Phase 4 would also include mining through 130 feet of jurisdictional waters on the second right tributary of Brier Branch. The balance at the end of Phase 4 would be zero. A map depicting the work to take place during Phase 4 of the mitigation plan can be found in Appendices J and K.

**Phase 5:** Phase 5 of the mitigation plan would include stream habitat enhancement of approximately 2,100 feet of the main channel of Bull Creek from stations 158+56 to 179+56. Mitigation in this phase would be initiated after Phase 4 and prior to filling of jurisdictional waters. After enhancement is initiated on Bull Creek, jurisdictional waters to be filled in this phase would include 2,100 feet of stream channel on Brier Branch for proposed Valley Fill 5. The balance at the end of Phase 5 would be zero.

Phases of mitigation would be initiated prior to filling of jurisdictional waters as detailed on the attached **Table D**. Because Phases 1, 2, 3, 4 and 5 include stream enhancement on Bull Creek, these will be discussed together. Phase 1, 2, 3, 4 and 5 combined would include approximately 17,956 feet of perennial stream enhancement on the main channel of Bull Creek. Each mitigation phase would be accomplished in individual phases (Phase A, B, and C). Channel modification of Bull Creek would generally follow criteria and guidelines set forth by the Natural Resources Conservation Service (NRCS). The segment of Bull Creek included in this portion of the mitigation plan is shown on the attached **Figure 8**.

Debris in Bull Creek consists of discarded household appliances and typical industrial refuse. These items would be removed during Phase A from the streambed in order to improve fish and benthic macroinvertebrate habitat and maintain the continuity of the stream.

During Phase B rock and wood structures would be installed in Bull Creek. Installation of structures is based on stream conditions observed in January 2004. Stream conditions may be altered when installation of structures begins and, as a result, structures may be omitted or added based on stream conditions at that time.

Phase C of the mitigation plan would include the re-establishment of vegetation along the portions of Bull Creek disturbed by the removal of debris or the installation of rock and wood structures. Vegetation re-establishment along selected segments Bull Creek would generally follow criteria and guidelines set forth by the NRCS.

The source of water for the mitigated area would be the existing watershed on Bull Creek. The source water would flow contiguously through the mitigated areas and discharge into the Big Coal River. Efforts would be made to control exotic invasive vegetation within the mitigated areas. These efforts would include clearing of the exotic plants; however, herbicides would not be used. Erosion control measures would include the installation of rock and wood structures on selected segments of Bull Creek. These structures would be installed in an effort to stabilize existing erosion problems in the mitigated area. Temporary sediment control measures such as hay bales and silt fences would also be utilized during mitigation implementation to control sediment loading of Bull Creek. The profile and overall dimension of Bull Creek are not proposed to be altered as part of this mitigation plan. Only the pattern at selected stations is proposed to be altered by the installation of rock and wood structures.

To compensate for temporary impacts to jurisdictional streams, the applicant proposes to perform stream channel restoration in the temporarily disturbed segments of the sediment pond areas and associated drainage corridors and access haul road and the mined through areas upon reclamation of the site. Approximately 2,625 linear feet of affected stream channels would be restored to their pre-mining conditions. Rosgen natural stream techniques would be used in the design of the restoration sites. A 50-foot vegetated riparian zone would be established along the restoration sites.

**WATER QUALITY CERTIFICATION:** A Section 401 Water Quality Certification is required for the project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

**HISTORIC AND CULTURAL RESOURCES:** The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the State Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.

**ENDANGERED/THREATENED SPECIES REVIEW:** The Huntington District has consulted the most recently available information and has determined the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habit of such species, which has been determined to be critical. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act (ESA) of 1972 (as amended). The applicant submitted with its Department of the Army permit application a mist net survey titled "Mist Net Bat Survey, Hollow Mountain

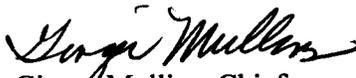
Resources-Boone North No. 2 Surface Mine.” Seven mist net sites were selected and surveyed during August 13, 14 and 15, 2003. As a result of the survey, no endangered or threatened bat species were captured. In addition, the proposed project area was surveyed for old, open abandoned mine portals and none were found. The Huntington District has determined the proposed project will have no effect on endangered or threatened species or their critical habitat. Therefore, Section 7 obligations under ESA are fulfilled.

**PUBLIC INTEREST REVIEW AND COMMENT:** Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit 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 benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers 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 of Engineers to determine whether to issue, modify, condition or deny a permit 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 need for a public hearing and to determine the overall public interest of the propose activity.

If you have any questions concerning this public notice, please call Mrs. Teresa Spagna of the South Regulatory Section at 304-399-5710.

  
Ginger Mullins, Chief  
Regulatory Branch

(W)

**Table A**  
**Boone North No. 2 Surface Mine**  
**Proposed Affected Drainage Areas**

<b>Structure Identification</b>	<b>Contributing Drainage Area (acres measured above the toe of the proposed fill)</b>
Valley Fill 1	202.67
Valley Fill 2	45.39
Valley Fill 3	127.77
Valley Fill 4	49.08
Valley Fill 5	33.20
Haul road fill	148.50

**Table B**  
**Boone North No. 2 Surface Mine**  
**Proposed Mining Activities and Corresponding Stream Impacts**

Associated Impact Area	Temporary Impacts		Secondary Impacts		Permanent Impacts	
	Ephemeral (ft/ac)	Intermittent (ft/ac)	Ephemeral (ft/ac)	Intermittent (ft/ac)	Ephemeral (ft/ac)	Intermittent (ft/ac)
Valley Fill 1	-	675 / 0.049	-	-	1,850 / 0.054	3,375 / 0.154
Valley Fill 2	400 / 0.006	-	150 / 0.002	-	1,350 / 0.077	-
Valley Fill 3	-	900 / 0.065	-	-	631 / 0.019	3,525 / 0.191
Valley Fill 4	-	-	-	-	200 / 0.006	1,000 / 0.064
Valley Fill 5	-	500 / 0.033	-	-	1,000 / 0.025	600 / 0.036
Haul road fill	-	-	-	-	70 / 0.005	1,600 / 0.126
Mining through	-	-	-	-	-	130 / 0.005
<b>Total</b>	<b>400 / 0.006</b>	<b>2,075 / 0.147</b>	<b>150 / 0.002</b>	<b>0 / 0</b>	<b>5,101 / 0.186</b>	<b>10,230 / 0.579</b>

**Table C**  
**Boone North No. 2 Surface Mine**  
**Volume of Fill Material to be Discharged in Each Proposed Valley Fill**

<b>Proposed Discharge</b>	<b>Volume of Fill (Million Cubic Yards)</b>
Valley Fill 1	1,238,515
Valley Fill 2	1,760,009
Valley Fill 3	2,584,241
Valley Fill 4	248,418
Valley Fill 5	265,848
Haul road fill	3,397,015

**Table D**  
**Boone North No. 2 Surface Mine**  
**Proposed Mitigation Phases and Corresponding Credits and Debits**

Phase	Credit	Debit	Balance
<b>Phase 1</b>			
Initiation of enhancement on Bull Creek (0+00 to 16+70)	1,670	0	1,670
Construction of haul road fill on Curtis Branch	0	1,670	0
<b>Balance at end of Phase 1</b>			<b>0</b>
<b>Phase 2</b>			
Initiation of enhancement on Bull Creek (16+70 to 75+70)	5,900	0	5,900
Construction of Valley Fill 1 on Brier Branch	0	5,900	0
<b>Balance at end of Phase 2</b>			<b>0</b>
<b>Phase 3</b>			
Initiation of enhancement on Bull Creek (75+70 to 126+26)	5,056	0	5,056
Construction of Valley Fill 3 on Roundbottom Creek	0	5,056	0
<b>Balance at end of Phase 3</b>			<b>0</b>
<b>Phase 4</b>			
Initiation of enhancement on Bull Creek (126+26 to 158+56)	3,230	0	3,230
Mining through jurisdictional waters on Brier Branch		130	3,100
Construction of Valley Fill 4 on Brier Branch	0	1,200	1,900
Construction of Valley Fill 2 on Brier Branch	0	1,900	0
<b>Balance at end of Phase 4</b>			<b>0</b>
<b>Phase 5</b>			
Initiation of enhancement on Bull Creek (158+56 to 179+56)	2,100	0	2,100
Construction of Valley Fill 2 on Brier Branch	0	2,100	0
<b>Balance at end of Phase 5</b>			<b>0</b>



Figure 1

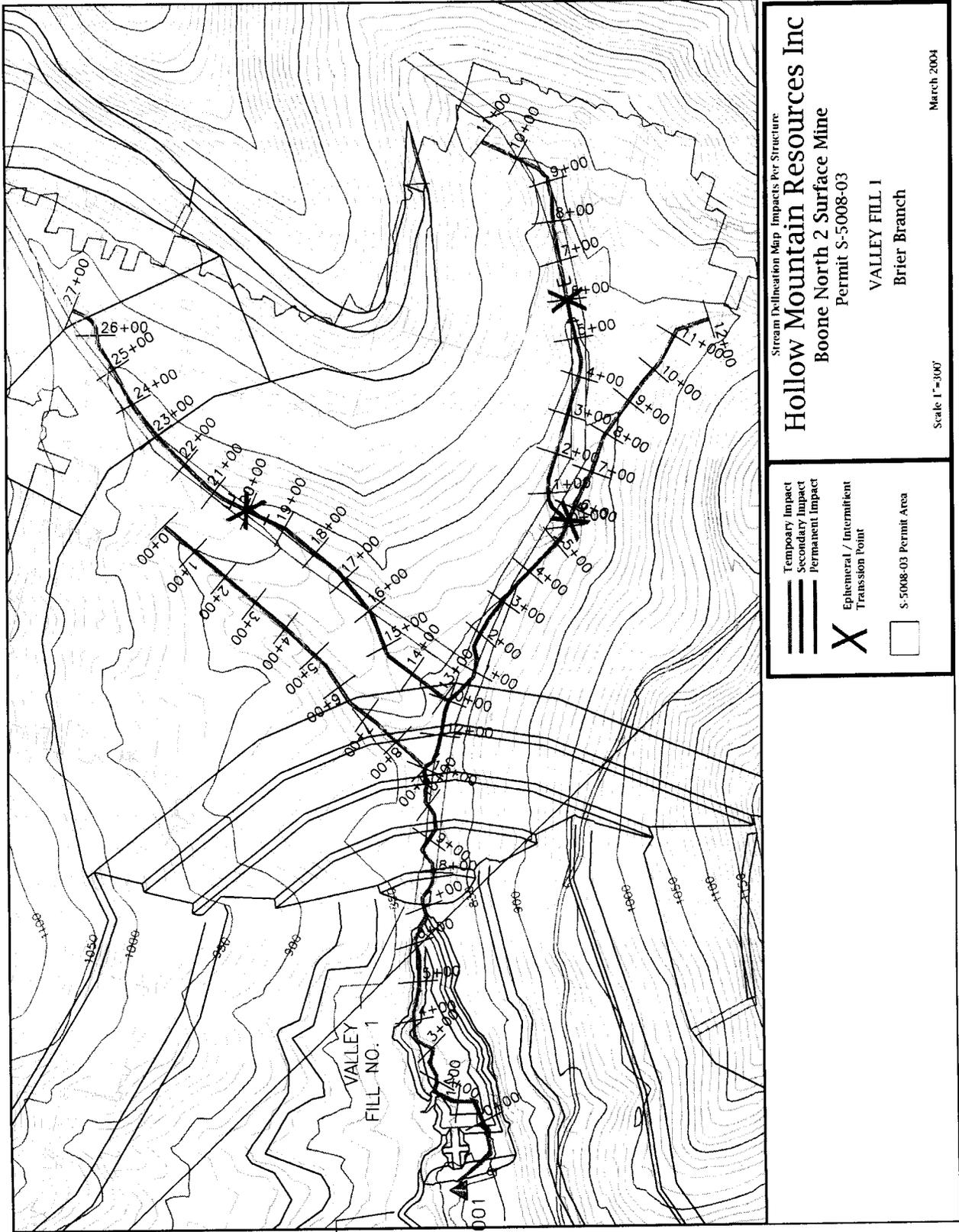
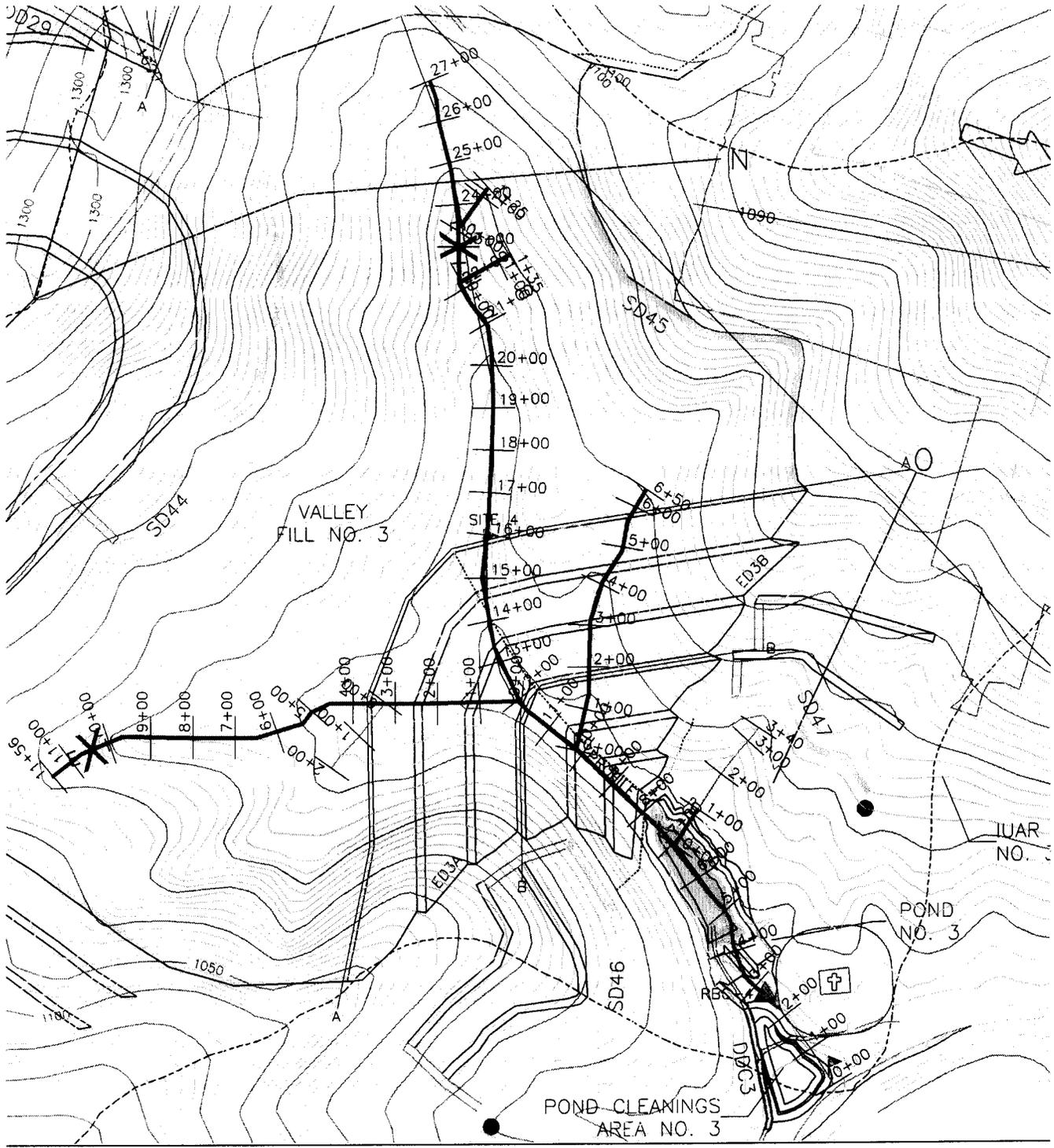


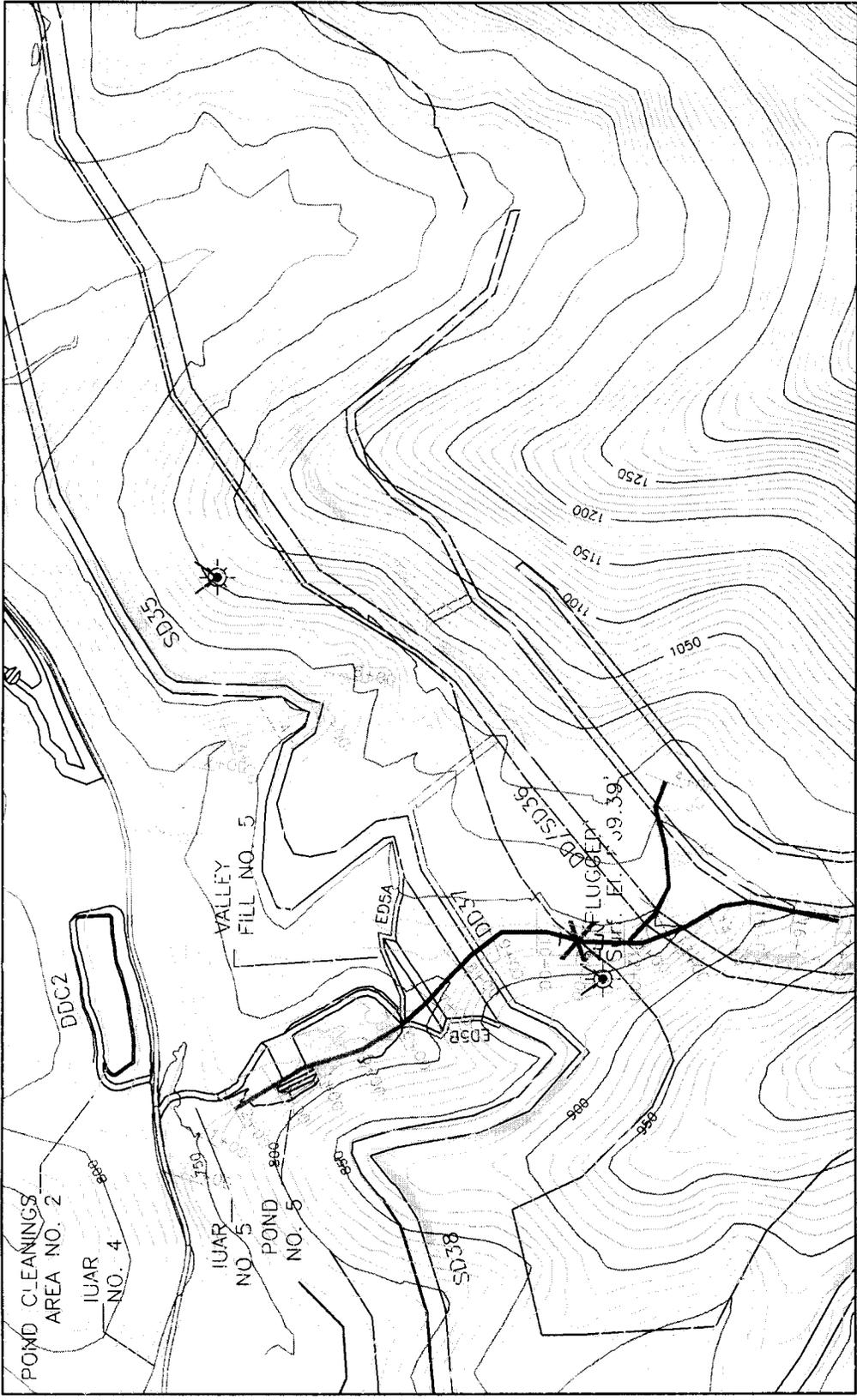
Figure 2



 Temporary Impact	<p>Stream Delineation Map - Impacts Per Structure</p> <p><b>Hollow Mountain Resources Inc</b></p> <p>Boone North 2 Surface Mine</p> <p>Permit S-5008-03</p> <p>VALLEY FILL 3</p> <p>Round Bottom Creek</p> <p>Scale 1"=300'</p> <p>March 2004</p>
 Secondary Impact	
 Permanent Impact	
 Ephemeral / Intermittent Transition Point	
 S-5008-03 Permit Area	

Figure 3





Stream Delineation Map Impacts Per Structure  
**Hollow Mountain Resources Inc**  
 Boone North 2 Surface Mine  
 Permit S-5008-03

VALLEY FILL 5  
 Brier Branch

Scale: 1"=300'  
 March 2004

<ul style="list-style-type: none"> <li>Temporary Impact</li> <li>Secondary Impact</li> <li>Permanent Impact</li> <li>Ephemeral / Intermittent Transition Point</li> </ul>	<ul style="list-style-type: none"> <li>S-5008-03 Permit Area</li> </ul>
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**Figure 5**

leaf 8

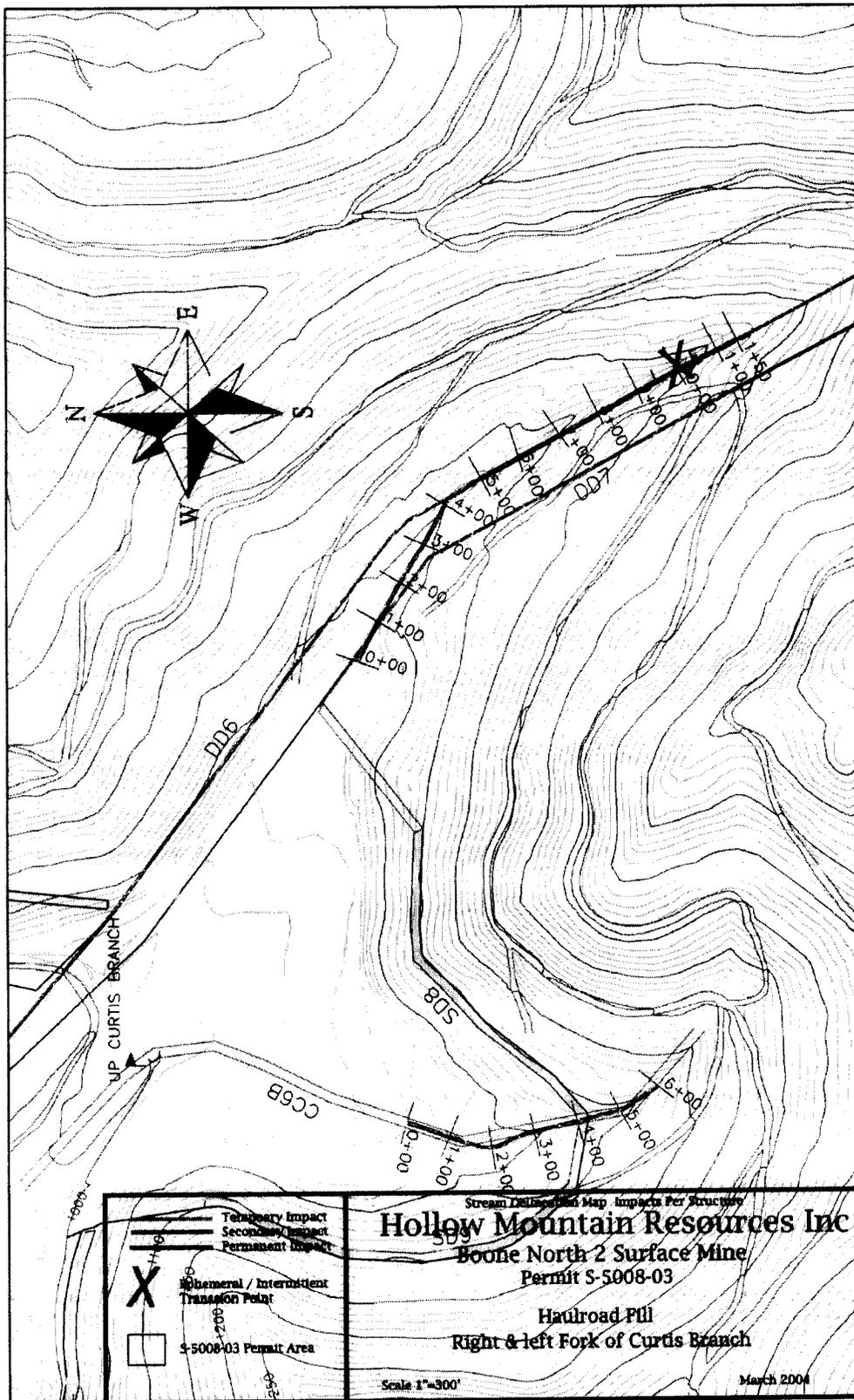
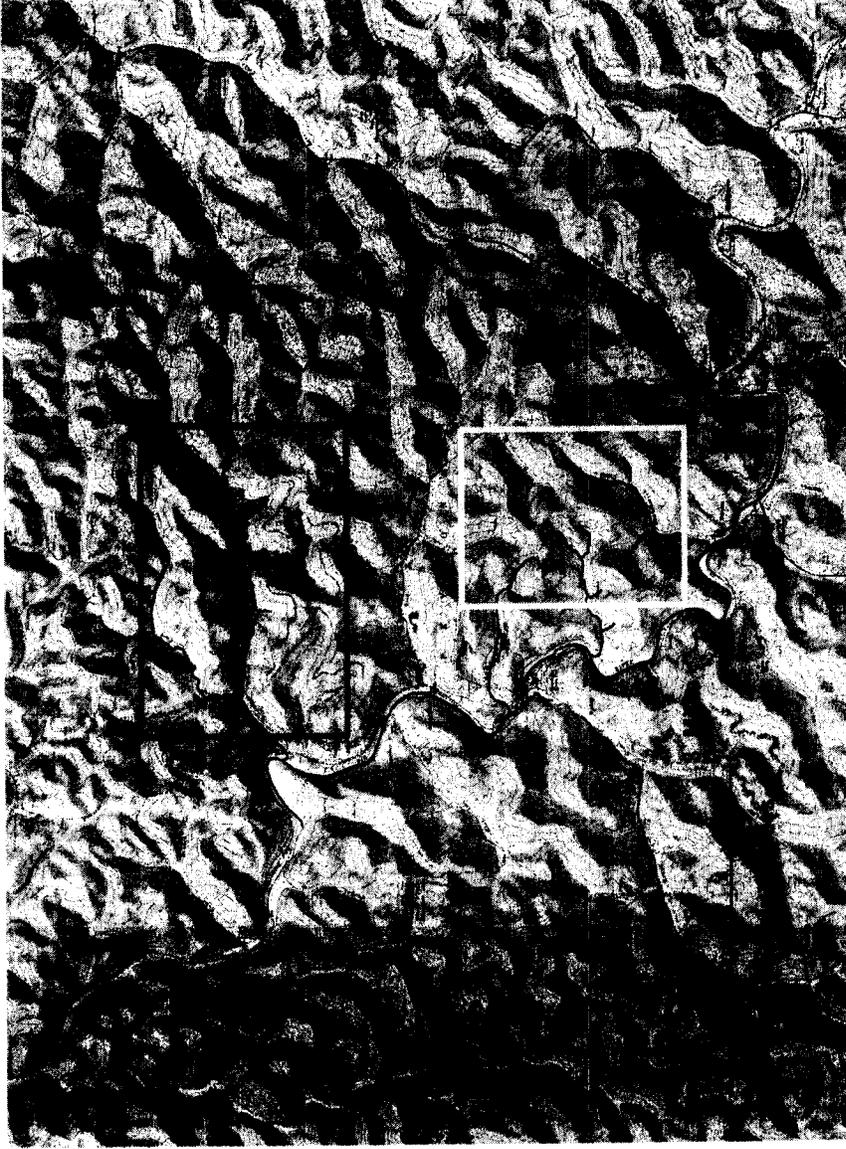


Figure 6



**Figure 7**

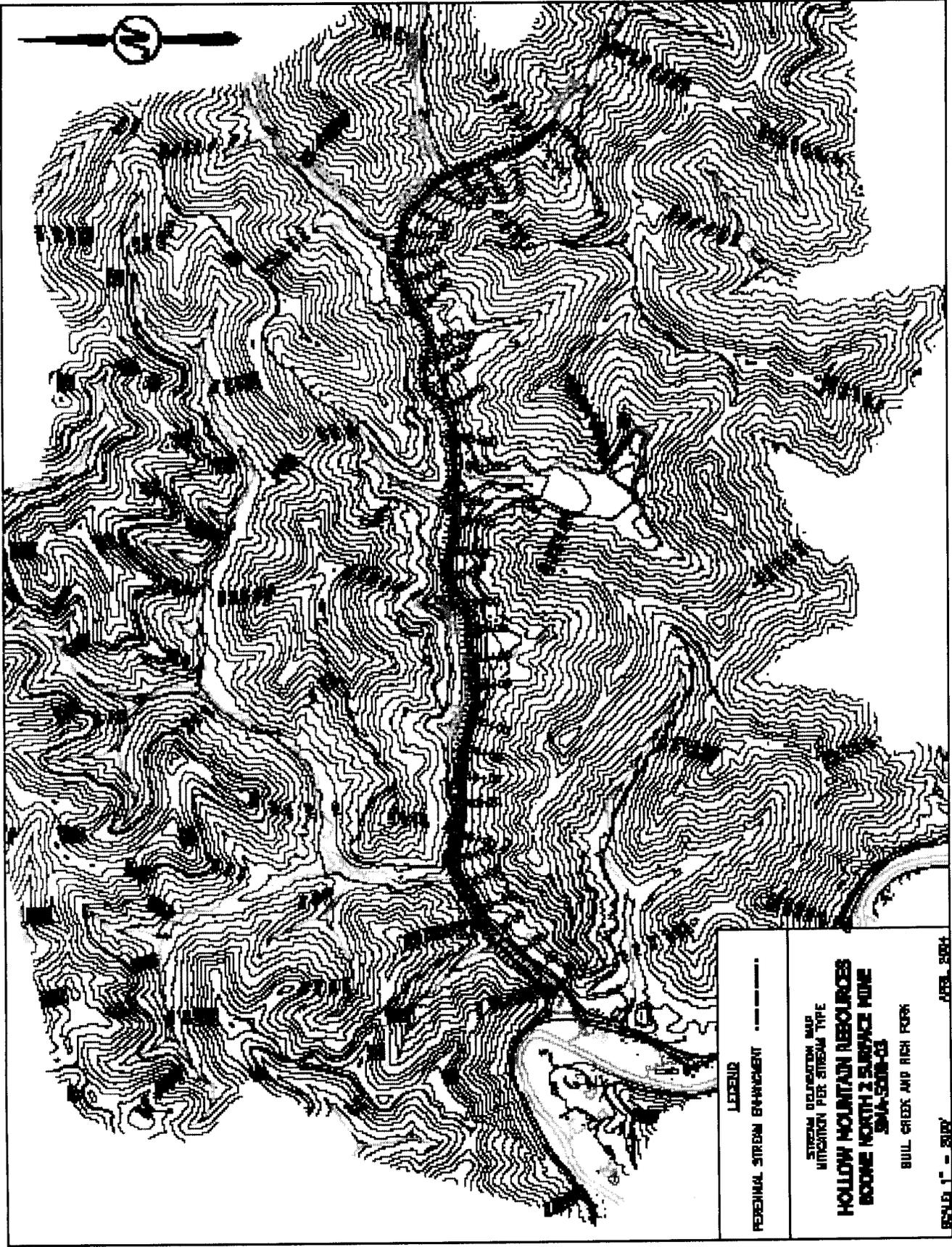


Figure 8