



**US Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to:	Issuance Date:
Public Notice No. 200300039	July 22, 2004
Stream:	Expiration Date:
South Fork of Tug Fork	August 23, 2004
Address comments to:	US Army Corps of Engineers, Huntington District 602 Eighth Street ATTN: CELRHE 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: Mid-Vol Leasing, Inc.
Post Office Box 196
Horsepen, Virginia 24619

LOCATION OF THE PROPOSED WORK: The proposed project is located in unnamed tributaries of South Fork and South Fork of Tug Fork, near Monson, in McDowell County, West Virginia as depicted on the attached **Drawing 1** titled "Location Map Exhibit No. 2."

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to construct one valley fill (No. 1), one side hill fill (No. 2), one sediment pond (No. 1) and a stream relocation and remove coal reserves underlying and adjacent to ephemeral streams that lie upstream of the proposed valley fill. Both proposed fills would be located in previously filled and impacted hollows. All of the streams or channels that would be affected by filling activities are either constructed drainage ditches running across the previously filled areas or are ephemeral stream segments that lie upstream of those previously filled areas. The proposed side hill fill and associated sediment pond referenced above would not impact jurisdictional waters of the U.S. as verified by the Huntington District on May 27, 2004. However, the other activities described above would impact jurisdictional ephemeral streams:

Valley Fill 1 is proposed to be constructed on top of an existing side hill fill located in the 2nd Unnamed Tributary of South Fork. This proposed valley fill would impact approximately 2,180 linear feet or 0.31 acre. All of this stream length is ephemeral and 880 feet of which is across existing filled areas. Approximately 163.7 cubic yards of fill material would be placed within the Corps' regulatory jurisdiction. Valley Fill 1 would affect a contributing watershed area of approximately 230.5 acres.

Side Hill Fill No 2 is proposed to be constructed on top of a previously filled area in Monson Hollow of South Fork. The 2nd U/T of South Fork has been determined to be ephemeral, while Monson Hollow has been determined to be non-jurisdictional. The headwater areas behind these fills in the 2nd and 4th Unnamed Tributary of South Fork are proposed to be "mined through" and backfilled. These headwater areas have been determined to be jurisdictional ephemeral segments as verified by the Huntington District on May 27, 2004.

The applicant also proposes to relocate a portion of State Route 161 in order to recover coal reserves lying adjacent to and beneath that roadway. The removal and relocation of the highway would result in the roadside ditch lying along S/R 161 being relocated back into the original stream channel location (that is, where it was located prior to construction of the road and filling by early mining activity). This roadside ditch has been determined to be jurisdictional ephemeral waters as verified by the Huntington District on May 27, 2004. This relocation, mining and subsequent backfilling would impact 1,650 feet (0.14 acre) of jurisdictional ephemeral stream. Total fill material expected to be placed within jurisdictional waters is 108.7 cubic yards. The original stream channel was previously filled by construction of the highway and/or filling by early mining activity. The applicant is proposing to recreate a stream channel across this previously filled area using natural stream design techniques as discussed below.

Table A details the proposed mining activities and corresponding proposed impact locations, stream loss (linear feet and acres) and affected drainage areas. In total, approximately 3830 linear feet or 0.45 acre of waters of the U.S. would be impacted by the discharge of fill material associated with the proposed project. Additionally, approximately 170 linear feet or 0.01 acre of waters of the U.S. would be indirectly impacted by the drainage corridor located between the toe of the Valley Fill 1 and the Sediment Pond 1.

Total acreage permitted under S-4015-00 is 110 acres, including 78 acres of mineral removal. The remaining acreage would be utilized for excess spoil disposal, drainage control, and operational / equipment parking area. The operation proposes to mine the Pocahontas No. 3, No. 4 and No. 5 coal seams. Mining methods to be employed include contour, point removal, auguring and/or highwall mining. Subsequent to mineral removal, the mine bench would be returned to Approximate Original Contour (AOC). Overburden material not used to achieve AOC is proposed to be deposited in excess spoil disposal areas.

The West Virginia Department of Environmental Protection (WVDEP) has approved the applicant's Surface Mining Permit application (S-4015-00) pursuant to the Surface Mining Control and Reclamation Act of 1977.

The proposed project would be accomplished in four general phases over a period of three years. A discussion of each phase is below.

Phase I: Under Phase I, Pond 1 would be constructed and certified. Concurrent mining would be conducted in the Pocahontas 3, Pocahontas 4 and Pocahontas 5 seams, beginning with the Pocahontas 3 seam. The diversion ditches in the areas would be constructed and certified. Mining would be conducted using contour and highwall mining (or auger) methods. Excess spoil generated during mining would be placed in Valley Fill 1 and Side Hill Fill 2. The Pocahontas seam innerburden would be placed in the backfill. There would be no final reclamation during this phase, although regrading would begin.

Phase II: Under this phase, continued concurrent mining would be on-going in the Pocahontas 3, Pocahontas 4 and Pocahontas 5 seams, along with progressive installation of temporary sediment control. Mining would be conducting using contour and highwall mining (or auger) methods. The

diversion ditches and permanent sediment ditches would be constructed and certified. Excess spoil generated during mining would be placed in Valley Fill 1 and Side Hill Fill 2. The Pocahontas seam inner-burden would be placed in the backfill. Reclamation of mined areas would occur during this phase.

Phase III: Under this phase, concurrent mining would continue in the Pocahontas 3, Pocahontas 4 and Pocahontas 5 seams, along with progressive installation of temporary sediment control. Mining would be conducted using contour and highwall mining (or auger) methods. The diversion ditches in the areas would be constructed and certified. Excess spoil generated during mining would be placed in Valley Fill 1 (covering an existing fill) and Side Hill Fill 2. The Pocahontas seam inner-burden would be placed in the backfill. Reclamation of mined areas would occur during this phase.

Phase IV: Under this phase, all regarding and final reclamation of the entire permit area would be completed.

According to the applicant, the purpose of the project is to construct valley fills to dispose of excess overburden spoil generated by surface mining operations into waters of the United States in order to achieve optimal recovery of available coal reserves within the project area and to provide the mandatory sediment control and access.

Plans for the proposed project are attached to this public notice.

MITIGATION PLAN: The applicant has submitted a compensatory mitigation plan (CMP) to compensate for permanent and temporary impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers. **Drawing 6 of 6** (attached) depicts the geographic relationship between the proposed impact site(s) and the proposed mitigation site(s).

To compensate for permanent and temporary impacts to waters of the U.S., the applicant proposes to mitigate on-site through in-kind establishment and restoration of aquatic resources. Subsequent to final site reclamation, surface drainage channels constructed on top of the fill areas (for sediment and drainage control during mining) would be made non-impounding and replaced with created ephemeral stream channels. These ephemeral channels would be designed/constructed using natural stream design techniques and would be left in place across the surface and face of the regraded valley fills. The proposed mitigation is expected to result in 5,915 linear feet of ephemeral stream channels that would connect and carry ephemeral flow downstream. Natural stream design techniques would be incorporated into design of the mitigation channels, as appropriate. A minimum of a 50 foot vegetated riparian buffer would be established along the mitigation channels.

Additionally, upon the completion of all mining and regrading, the mine site would be revegetated and reclaimed to its approved post-mining land use of Forestland. Subsequent to Phase I bond release, Pond 1 would be removed and any section of jurisdictional stream channel that was temporarily affected by pond construction and/or sediment transport would be restored to its approximate pre-mining condition.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this 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 (NRHP) 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.

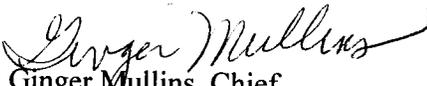
ENDANGERED/THREATENED SPECIES REVIEW: The Huntington District has consulted the most recently available information and has determined the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat 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 of 1972 (as amended).

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 addition, the evaluation of the impact of the activity on the public interest will include application of 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 proposed 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

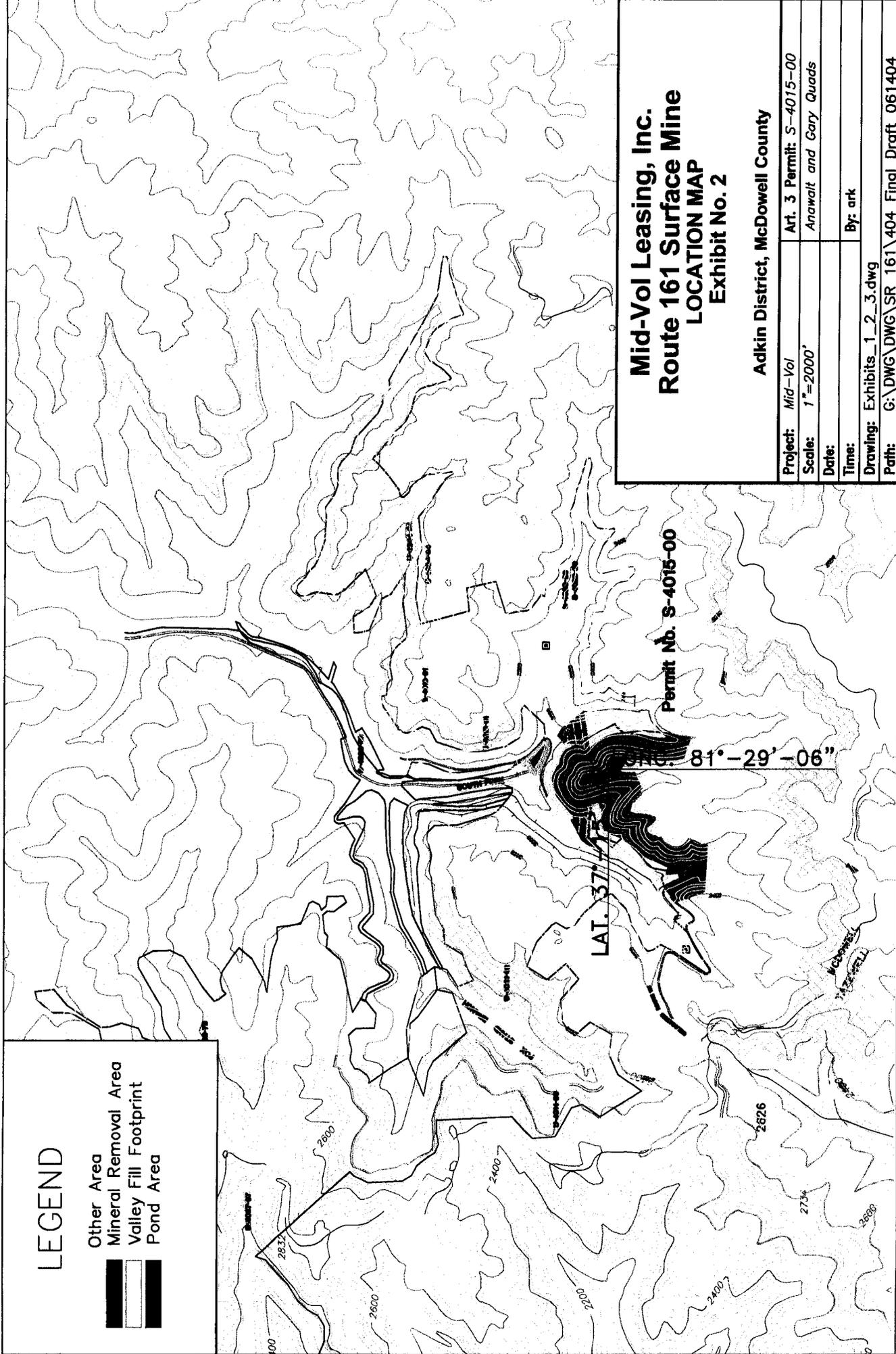
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Table A
Mid Vol Leasing, Inc.
Route 161 Surface Mine
Jurisdictional Waters Impact Summary

Permanent Stream Impacts (Direct)										
Structure / Stream Name	Description of Impact	Drainage Area Top Fill (Acres)	Per.	Int.	Previously Filled Ephemeral	Other Ephemeral	Total Stream Distance (ft.)	Avg. Stream Depth (ft.)	Volume Within OHW (yds ³)	Area Within OHW (Acres)
Valley Fill No. 1		230.8								
2nd U/T South Fork	Permanent Fill				880	780	1,660	0.41	145.2	0.21
2nd U/T South Fork	Mine Through / Restore				-	520	520	0.19	18.5	0.10
Side Hill Fill No. 2		239.0								
Monson Hollow	Permanent Fill				non-jurd.	-	0			
Monson Hollow	Mine Through				non-jurd.	-	0			
S/R 161 Road Ditch		151.6								
4th U/T South Fork	Permanent Fill				500	-	500	0.60	37.4	0.04
4th U/T South Fork	Mine Thru / Relocate				1,150	-	1,150	0.40	71.3	0.10
		N/A			2,630	1,300	3,930		272.4	0.45
Temporary Stream Impacts (Direct & Indirect)										
Structure / Stream Name	Description of Impact	Drainage Area Top Fill (Acres)	Per.	Int.	Previously Filled Ephemeral	Other Ephemeral	Total Stream Distance (ft.)	Avg. Stream Depth (ft.)	Volume Within OHW (yds ³)	Area Within OHW (Acres)
Pond No. 1		1137.5								
Monson Hollow	Pond Excavation				non-jurd.	-	0			
Monson Hollow	Sediment Transport				non-jurd.	-	0			
2nd U/T South Fork	Sediment Transport				170	-	170	0.43	10.2	0.01
		N/A	0	0	170	0	170		10.2	0.01

LEGEND

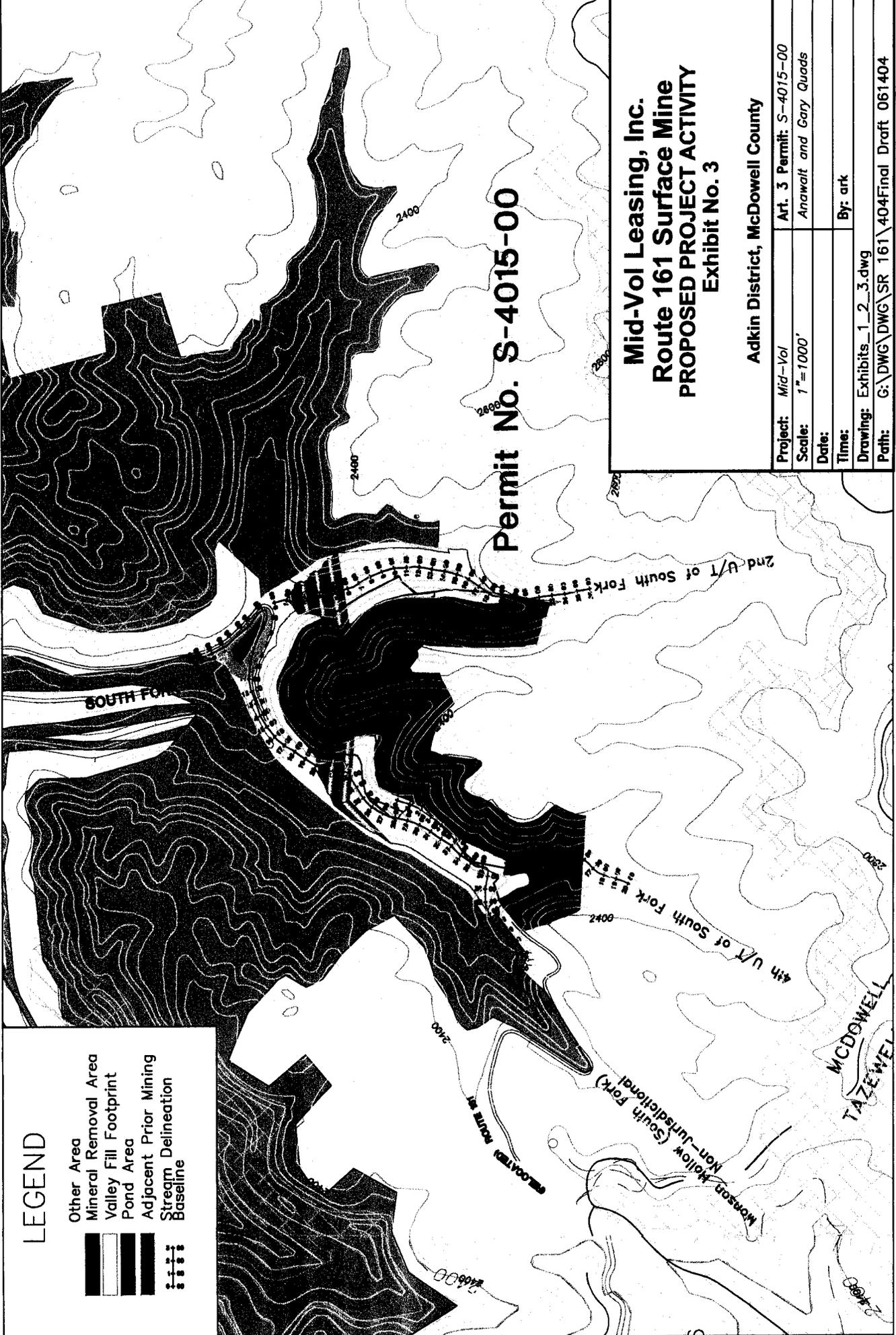
- Other Area
- Mineral Removal Area
- Valley Fill Footprint
- Pond Area



Mid-Vol Leasing, Inc. Route 161 Surface Mine LOCATION MAP Exhibit No. 2

Adkin District, McDowell County

Project:	Mid-Vol	Art. 3 Permit:	S-4015-00
Scale:	1" = 2000'	Anawait and Gary Quads	
Date:			
Time:		By:	ark
Drawing: Exhibits_1_2_3.dwg			
Path: G:\DWG\DWG\SR 161\404 Final Draft 061404			



Permit No. S-4015-00

**Mid-Vol Leasing, Inc.
Route 161 Surface Mine
PROPOSED PROJECT ACTIVITY
Exhibit No. 3**

Adkin District, McDowell County

Project:	Mid-Vol	Art. 3 Permit:	S-4015-00
Scale:	1"=1000'	Anawait and Gary Quads	
Date:			
Time:			
Drawing: Exhibits_1_2_3.dwg			
Path: G:\DWG\DWG\SR 161\404\Final Draft 061404			

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- Other Area
- Mineral Removal Area
- Valley Fill Footprint
- Pond Area
- Adjacent Prior Mining
- Stream Delineation
- Baseline

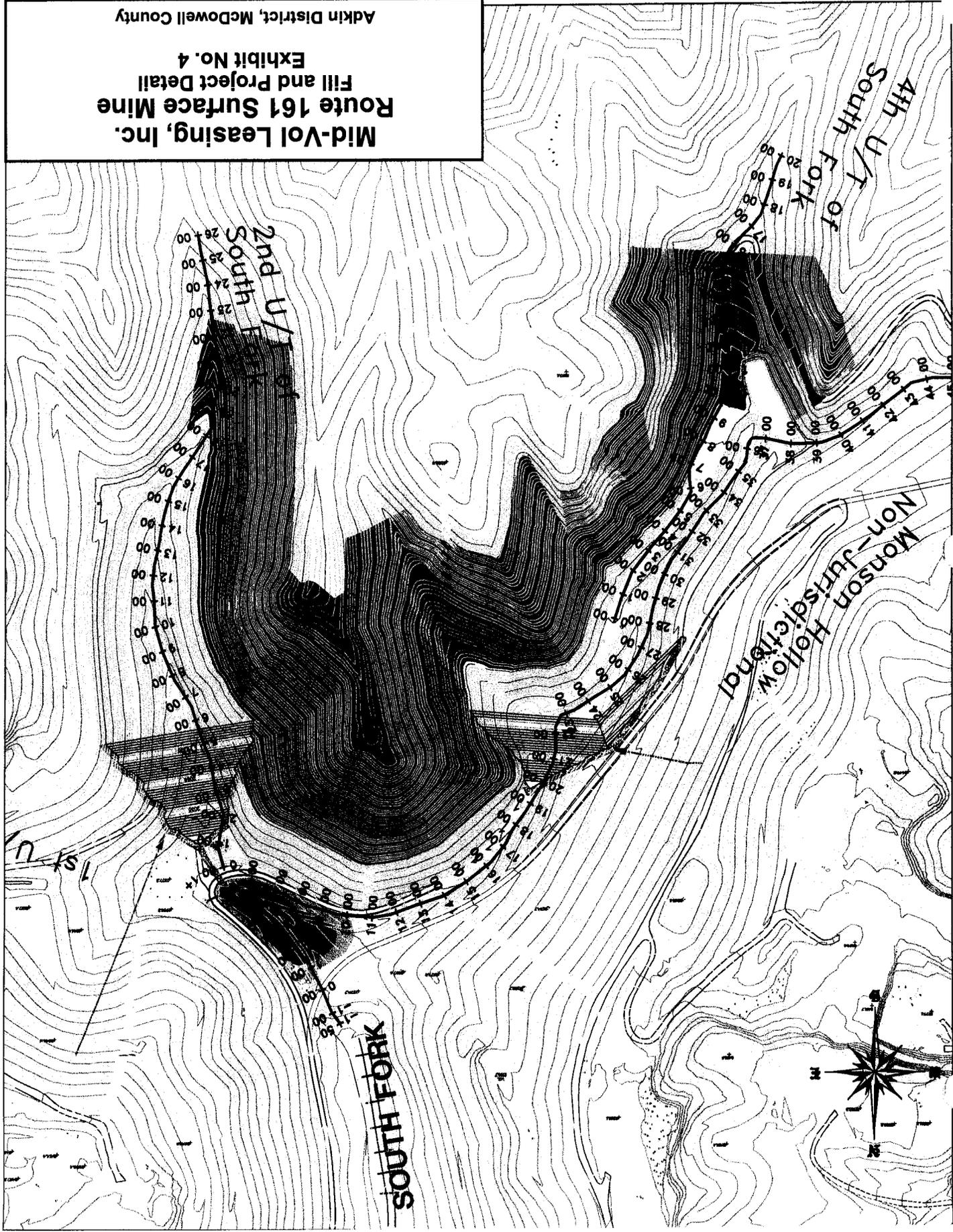
Mineral Removal Area
FM Areas

LEGEND

Project:	Mid-Voi	Art. 3 Permit: S-4015-00
Scale:	1"=500'	Anawit and Gary Quads
Date:		
Time:		By: ark
Drawing:	Exhibits_4-6-7-8	
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Mid-Voi Leasing, Inc.
Route 161 Surface Mine
Fill and Project Detail
Exhibit No. 4

Adkin District, McDowell County

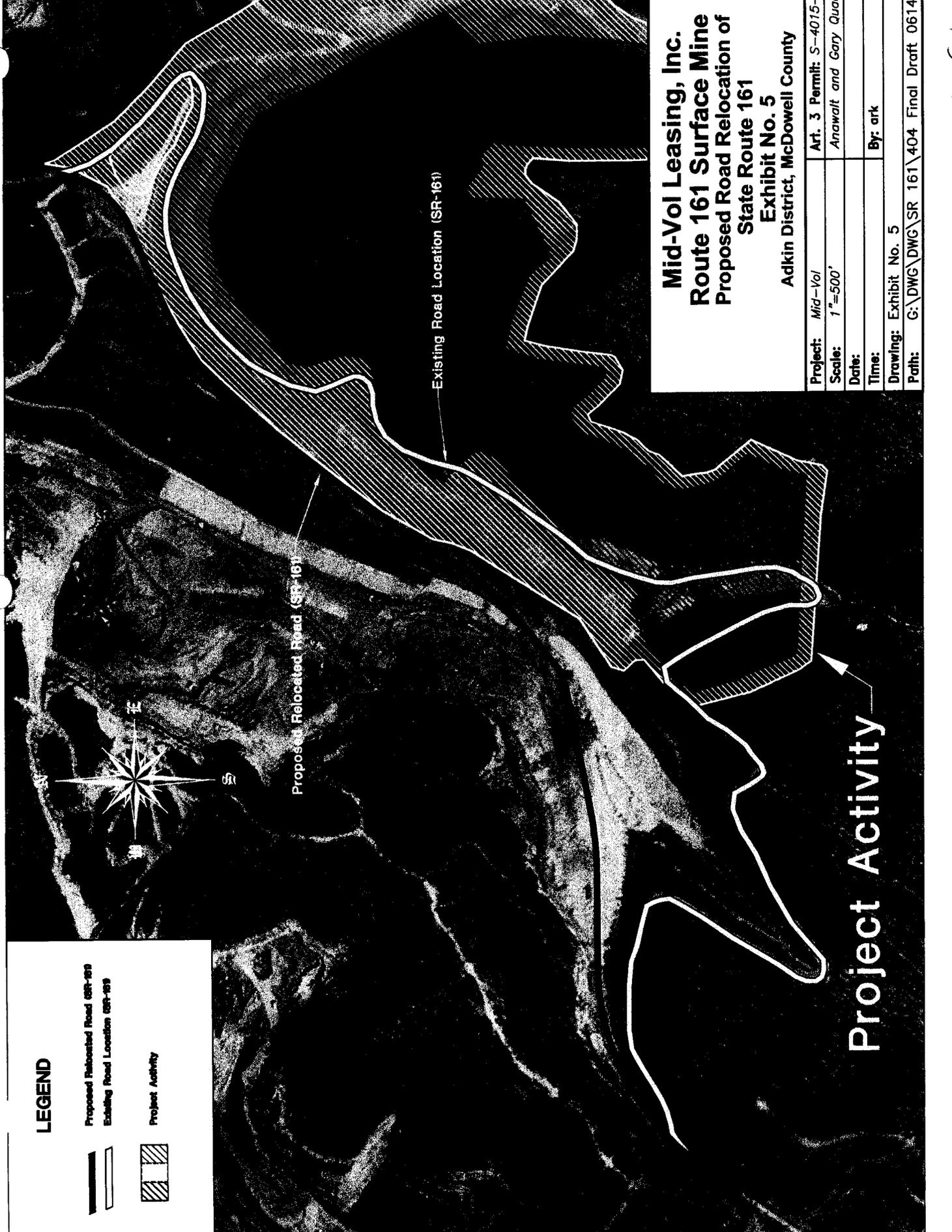
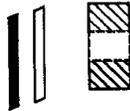


LEGEND

Proposed Relocated Road (SR-161)

Existing Road Location (SR-161)

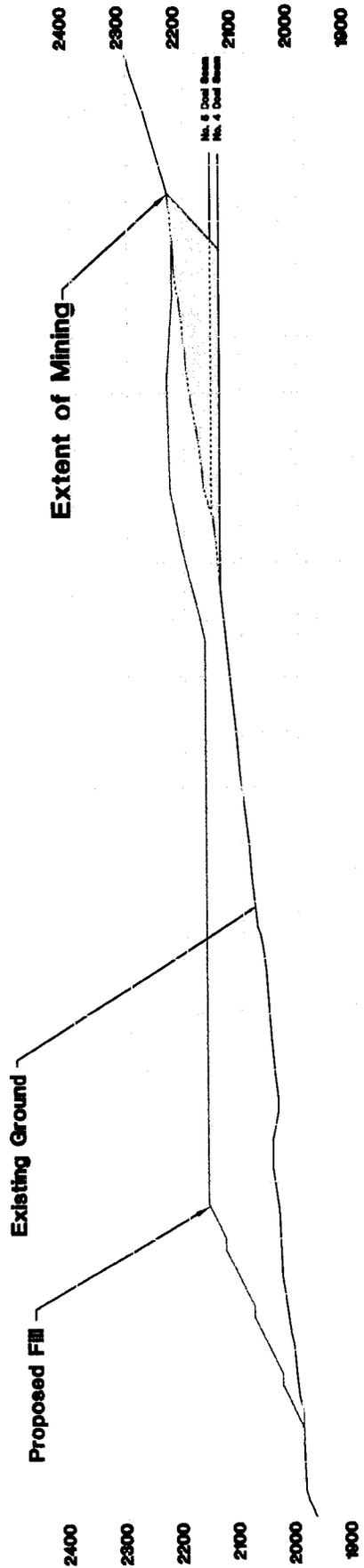
Project Activity



**Mid-Vol Leasing, Inc.
Route 161 Surface Mine
Proposed Road Relocation of
State Route 161
Exhibit No. 5
Adkin District, McDowell County**

Project:	Mid-Vol	Art. 3 Permit:	S-4015-00
Scale:	1"=500'	Anawait and Gary Quads	
Date:			
Time:		By:	ark
Drawing:	Exhibit No. 5		
Path:	G:\DWG\DWG\SR 161\404 Final Draft 061404		

Project Activity



Mid-Vol Leasing, Inc.
Route 161 Surface Mine
Profile Valley Fill No. 1
Exhibit No. 6

Adkin District, McDowell County

Project:	Mid-Vol	Art. 3 Permit:	S-4015-00
Scale:	1" = 300'	Await and Gary Quads	
Date:			
Time:		By: ark	
Drawing:	Exhibits_4_6_7_8		
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Profile
Valley Fill No. 1
2nd Unnamed Trib South Fork

NOTE: Entire length of 2nd Unnamed Trib determined to be Ephemeral

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LEGEND

- Constructed Diversion Ditch
- Constructed Sediment Ditch
- Constructed Rock Flume

Drainage Structure	Type Structure	Length	SubTotal
DD1	Diversion Ditch		
DD2	Diversion Ditch		
DD3	Diversion Ditch		
DD4	Diversion Ditch		
DD5	Diversion Ditch		
DD6	Diversion Ditch		
DD7	Diversion Ditch		
DD8	Diversion Ditch		
DD9	Diversion Ditch		
DD10	Diversion Ditch		
SD8	Sediment Ditch	248	248
F-2	Rock Flume	337	337
F-6	Rock Flume	697	697
Pond No. 1			667
Total			13296



Mid-Vol Leasing, Inc.
Route 161 Surface Mine
Compensatory Mitigation Plan
Map Showing During & Post Mining Drainage
Exhibit No. 12
Tributaries of South Fork of Tug Fork

Project: M64-161
 Art. 3 Permit: S-4015-00
 Scale: 1"=500'
 Author: and Gary Gaudin
 Date: Adlin District, McBowell County
 By: ark
 Time: Exhibits 11, 12, 13, 14
 Drawing: Exhibits 11, 12, 13, 14
 Path: G:\DWG\DWG\SR_161\404_Final_Draft_061404

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