



**US Army Corps  
of Engineers**  
Huntington District

# Public Notice

In reply refer to:	Issuance Date:
<b>Public Notice No. 200400667</b>	July 20, 2004
Stream:	Expiration Date:
UT Dennison Fork	August 19, 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:** Buffalo Mining Company  
83 Adena Drive  
Mt. Carbon, West Virginia 25139

**LOCATION:** The proposed project is located in unnamed tributaries of Dennison Fork and Laurel Fork, Upper Road Branch and Meredith Branch, near Lorado, in Boone and Logan Counties, West Virginia as depicted on the attached **Drawing 1 of 1**.

**DESCRIPTION OF THE PROPOSED WORK:** The applicant proposes to place fill material into waters of the U.S. in conjunction with the construction of six permanent valley fills, one permanent road fill and five temporary sediment ponds associated with the Toney Fork Surface Mine No. 2. The construction of the proposed valley fills (No. 1, 2A, 2B, 3, 4A and 4B) and road fill would result in the discharge of fill material into approximately 9,878 linear feet or 1.384 acres of waters of the U.S. Of this total, 5,233 linear feet (0.974 acre) is intermittent stream impacts and 4,645 linear feet (0.41 acre) is ephemeral stream impacts. Further, approximately 3,200 linear feet or 0.661 acre of intermittent stream channels and 153 linear feet (0.017 acre) of ephemeral stream channels would be temporarily impacted by the construction of the proposed sediment ponds. In total, approximately 13,231 linear feet or 2.062 acres of waters of the U.S. would be impacted by the proposed project. **Table A** of this public notice details the proposed mining activities and corresponding information with respect to the proposed impact locations and stream loss (linear feet and acres). All of the proposed valley fills would drain watersheds of less than 250 acres and range from 68.08 acres to 209.7 acres as detailed on the **Table B** of this public notice.

The West Virginia Department of Environmental Protection (WVDEP) approved the applicant's Surface Mining Permit application (S-5033-95 and its associated Incidental Boundary Revision 1 and Amendment 1) pursuant to the Surface Mining Control and Reclamation Act of 1977 and the applicant's National Pollutant Discharge Elimination System Water Pollution Control permit (WV1016750).

The applicant's proposed operation would affect 1,114.1 acres of surface area to facilitate the recovery of approximately 12.5 million tons of coal available in thirteen splits of Coalburg, Stockton, Clarion and 5-Block coal seam horizons. Mineral extraction would be accomplished utilizing mountaintop mining techniques. The proposed operation would generate nearly 206 million cubic yards of overburden (including the swell factor) of which roughly 149 million cubic yards would be placed on the mined areas as backfill. The remaining approximate 57 million cubic yards of excess overburden would be placed in the proposed valley fills as detailed on the **Table C** of this public notice.

The proposed Toney Fork Surface Mine No. 2 would utilize mountaintop surface mining methods. Access to the site would be located on the eastern side using Haulroad 1. Mining would progress generally in an east to west direction. The proposed project would be accomplished in seven general phases over a period of six years. A discussion of each phase follows:

**Phase One:** Initially, Sediment Pond 1 and Haulroad 1, from the Road Fill to the Coalburg seam outcrop, would be constructed and certified. Access to Sediment Pond 1 would be provided by an existing bonded road (Permit No. U-196-83). Upon completion of Pond 1, preparations for the construction of Valley Fill 1 would begin. The area of the fill, as well as the area to be mined in Phase I, would be cleared and the trees removed. Contour cuts would begin at the head of Valley Fill 1 and advance to the north and to the west utilizing blast casting and dozing into the fill area. All overburden material that is loaded and hauled from these initial cuts would be trucked to Valley Fill 1 and dumped from a level below the lowest seam mined to start the advancing toe. The material would be dumped from an elevation that assures good underdrain separation. Mining would advance in a west to east direction in parallel panels approximately 150' wide with excess material placed in Valley Fill 1. After mining the first panel, reclamation would begin by backstacking on previously mined panels. Mining would commence on the western side of Valley Fill 1 in parallel panels simultaneously with the eastern mining in a similar process. Sediment Pond would be constructed and certified prior to activating Valley Fill 2A. Excess overburden from the contour cuts located near the head of Valley Fill 2A would be placed in Valley Fill 2A. The ridge between Valley Fill 1 and 2A would be mined with excess spoil placed in both fills. Although no final reclamation would occur during Phase I, general regrade configuration would occur. A total of 245.97 acres would be disturbed/unreclaimed during this phase. This represents 22% of the total permit area.

**Phase Two):** Excess overburden would continue to be placed in Valley Fill 2A during Phase II. Material would be hauled back to the area mined in Phase I to achieve the final reclamation configuration. Final reclamation of Valley Fill 1 would be completed and seeded. Mining would generally advance from north to south to remove the two narrow ridges. As mining heads westerly, an access road would be constructed to the location of Sediment Pond 3. Sediment Pond 3 would then be constructed and certified. The area of Valley Fill 3 would be cleared prior to placing excess overburden in the fill. Reclamation would be completed on 201.16 acres located on the eastern side of the site. A total of 207.87 acres would be mined during this phase and 219.19 acres or 20% of the total permit area would remain disturbed/unreclaimed.

**Phase Three:** During Phase III, Valley Fills 2B and 3 would be utilized for excess spoil disposal as mining occurs on the areas adjacent to each fill. The point located south of Valley Fill 3 would be mined first with excess material placed in Fill 3. Overburden would be hauled back to the east to finalize the regrade configuration. Mining would advance in a northerly direction on the ridge between Valley Fills 2B and 3 with excess spoil being split between both fills. Mining would turn westerly on the ridge located south of Valley Fill 2B with excess material placed in both Valley Fills 2B and Valley Fill 3. Mining in Phase III would be completed on the point located north of Valley Fill 2B. A total of 257.48 acres would be mined this phase. Reclamation would be completed to the east on 234.93 acres. The total area disturbed/unreclaimed during this mining phase would be 232.35 acres, which represents 21% of the total permit.

**Phase Four:** During Phase IV, a total of 184.75 acres would be mined as mining advances in a westerly direction. Prior to activating Valley Fill 4B, Sediment Pond 4 would be constructed and certified and the area of the fill would be cleared of all trees. Overburden would be hauled easterly to allow for final reclamation of 132.45 acres. Final reclamation of Valley Fill 3 would be completed during this phase. The long southwestern point would be mined with material hauled easterly. The ridge located south of Valley Fill 4B would be mined with excess spoil placed in Fill 4B. A total of 259.92 acres would remain disturbed/unreclaimed at the end of Phase IV, which represents 23% of the total permit area.

**Phase Five:** Mining would be completed during Phase V as 161.81 acres would be mined. Valley Fill 4A would be activated as mining advances in a northerly direction. The ridge between Valley Fills 4A and 4B would be removed and the ridge located north of Valley Fill 4A would be mined. Reclamation would occur on the long southwestern point and Valley Fill 2B would be completed and reclaimed. A total of 195.36 acres would be reclaimed during Phase V with 214.75 acres remaining as disturbed/unreclaimed. This represents 19% of the total permit as unreclaimed.

**Phase Six:** A total of 214.75 acres would be reclaimed during this phase as the operation is completed. There would be 135.45 acres of ancillary area remaining to access sediment cells and ponds for maintenance and cleaning.

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 valley fills and associated sediment ponds 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 7 of 7** (attached) depicts the geographic relationship between the proposed impact site(s) and the proposed mitigation site(s). To compensate for permanent impacts to waters of the U.S., the applicant proposes to enhance several stream segments located within the Spruce Fork and Buffalo Creek watersheds as detailed in the table below.

Proposed Mitigation Stream Reach	Linear Feet of Enhancement
Meredith Branch	1,820
Toney Fork	3,100
Dennison Fork	8,450
Right Fork of Dennison Fork	1,190
Upper Road Branch	3,280
Left Fork of Laurel Fork	2,535
<b>TOTAL MITIGATION CREDITS:</b>	<b>20,375 linear feet</b>

A functional assessment of each mitigation stream reach was determined to identify deficient stream morphological features for purposes of stream enhancement to be used as stream mitigation. At each mitigation site, benthic macroinvertebrate, physical and chemical water chemistry, habitat, riparian, and stream morphology parameters were collected and shall serve as data monitoring points for both the pre- and post-mining impacts.

The applicant's mitigation work plan involves the measurement of all pre-mining data at both the impacted and mitigation sites. The primary attributes measured for stream enhancement projects included bank stability, riparian quality, substrate composition, elevation and slope, quantity of in-stream structures, and in-stream habitat types. These detailed and quantitative measurements shall provide the background data to allow for the impacted stream reaches to be restored, reconstructed, and mitigated after mining operations have concluded. The proposed enhancement efforts would be accomplished in seven phases as described below.

**Phase I.** Before beginning any improvements on the mitigation sites, the entire mitigation areas would be cleared of any debris and garbage. The heavy amount of garbage and debris located within the stream corridors would be removed in an effort to provide the streams more aesthetic value, and allow for larger bank vegetation protection zones.

**Phase II.** The pond near the mouth of Meredith Branch would be removed and the affected stream channel reconstructed. Stream dimensions, substrate compositions and habitat would be consistent with the sampling station sampled upstream on Meredith Branch. After construction of the channels, substrate compositions would replicate those percentages observed during pre-mining conditions. In order to improve upon pre-mining conditions, additional boulders would be added to the channels to create scoring pools for additional habitat and cover for in-stream fauna. Boulders and additional structures, such as Large Woody Debris (LWD) would be properly placed to sustain proper pool to riffle ratios. A pool is an area of deeper, slower water and a riffle is an area of shallower, swifter water. Both are important to aquatic life as pools provide cover, shelter, and resting areas, and riffles aerate the water and are the areas where the largest diversity of taxa occur. Pools and riffles generally occur at a distance of 5 to 7 times the width of a stream. An equal amount of both habitats at a 1:1 ratio is considered optimum for fish. Additionally, bank placed structures, such as root-wads or "green" gabions would also be placed on the streambanks to provide bank stability, available habitat and cover, and a necessary source of detritus and essential nutrients.

After the substrate and in-stream structures have been placed in the reconstructed channel, a 50-foot riparian zone (25-ft each stream side) would be reestablished to provide an additional food base and nutrient input into the stream. The riparian buffer zone would consist of randomly planted trees. The native tree plantings would consist of a minimum of 70% woody tree stems, planted irregularly along the corridor, and no more than 25% of the trees would be soft mast producers, which would be planted between the woody tree stems. The riparian zone would consist of a density of at least 30 to 100 trees and 20 to 50 shrubs per acre. The initial plant-to-plant densities for trees and shrubs would depend on their potential height at 20 years. The riparian zone would be re-vegetated to ensure succession of 80% of the planted native species. To allow for natural regeneration from the planted trees, chicken wire or silt fences shall be placed around the areas to provide protection from surrounding wildlife and precipitation events.

**Phase III.** Before installing the bank stabilization structures, the area would be cleared of debris, excavated and re-graded. Structures, such as vegetated rip-rap, gabions, or logs would then be installed. The structures would be installed at a depth which is unlikely to be undercut (at least 2 ft) below the channel bottom. By excavating the back of the streambank slightly deeper than the front, additional stability would be available. Placing medium to large sized boulders along the bottom of these structures is expected to aid with any future undercutting or erosion problems.

Structures, such as LWD or root-wads, would be stacked in crossing layers with the larger base ends at the stream side and upstream side. Root-wads are normally placed along the main stream bed. The structures would then be anchored with two cables crossing from opposite corners or anchored by punching iron rods through the stream bed. Large boulders would be placed near eroded streambanks, thereby adding bank stability, along with creating necessary scouring pools for fisheries resources and acquiring proper pool to riffle ratios.

**Phase IV.** After installing the bank structures, the area would be cleaned properly, and if necessary; trees would be planted to provide additional canopy cover. Trees would be planted during the spring or fall to ensure for proper root growth and allow time to establish proper feeder roots prior to the growing season.

**Phase V.** At some of the mitigation sites, there are culvert pipes extending from the streambanks into the stream. The culverts would be cut closer to the bank and “camouflage” would be provided by planting riparian vegetation around them. Vegetative types would include species that need moisture and sunlight.

**Phase VI.** In areas where culverts are generating high flow, energy dissipators would be placed on the stream banks to produce lower flows and to filtrate metals.

**Phase VII.** In several areas along some of the mitigation stream reaches, fisheries habitats were found to be lacking. In these areas, boulders, LWD or rootwad structures would be installed to create scouring pools for fisheries resources, along with stabilizing streambanks.

To compensate for the temporary impacts (areas affected by proposed sediment pond and associated sediment transport channel), the reconstruction of the original stream channels would begin once the ponds are removed, which is a minimum of two years after final seeding of the mined area. The stream channels would consist of two channels, a primary channel and a secondary channel. The primary channel and secondary channels would be constructed according to pre-mining data dimensions of bankfull and floodprone measurements, in conjunction, having similar geomorphological characteristics (i.e. depth, width, sinuosity, slope).

After construction of the channels, substrate compositions would replicate those percentages observed during pre-mining conditions. In order to improve upon pre-mining conditions, additional boulders would be added to the channels to create scoring pools for additional habitat and cover for instream fauna. Boulders and additional structures, such as LWD would be properly placed to sustain proper pool to riffle ratios.

After the substrate and in-stream structures have been placed in the constructed channels, a 50-ft riparian zone (25-ft each stream side) would be reestablished to provide additional food base and nutrient input into the stream. The riparian buffer zone would consist of randomly planted trees. The native tree plantings would consist of a minimum of 70% woody tree stems, planted irregularly along the corridor, and no more than 25% of the trees would be soft mast producers, which would be planted between the woody tree stems. The riparian zone would consist of a density of at least 30 to 100 trees and 20 to 50 shrubs per acre. The initial plant-to-plant densities for trees and shrubs would depend on their potential height at 20 years. The riparian zone would be re-vegetated to ensure succession of 80% of the planted native species. To allow for natural regeneration from the planted trees, chicken wire or silt fences shall be placed around the areas to provide protection from surrounding wildlife and precipitation events.

**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

(W)

**Table A**  
**Buffalo Mining Company**  
**Toney Fork Surface Mine No. 2**  
**Proposed Mining Activities**

PROPOSED MINING ACTIVITY	STREAM LOCATION	PERMANENT IMPACT (LINEAR FEET/ACRES)		TEMPORARY IMPACT (LINEAR FEET/ACRES)	
		INTERMITTENT	EPHEMERAL	INTERMITTENT	EPHEMERAL
Valley Fill 1	Unnamed Tributary Dennison Fork	487/0.16 acre	17097/0.189 acre		
Sediment Pond 1	Unnamed Tributary Dennison Fork			5927/0.101 acre	
Valley Fill 2B	Unnamed Tributary Dennison Fork	10207/0.178 acre	3087/0.031 acre		
Sediment Pond 2	Unnamed Tributary Dennison Fork			6357/0.194 acre	
Valley Fill 2A	Unnamed Tributary Dennison Fork	12507/0.204 acre	1327/0.014 acre		
Valley Fill 2A	Unnamed Tributary Dennison Fork	2537/0.026 acre	2727/0.012 acre		
Sediment Pond 2	Unnamed Tributary Dennison Fork			2187/0.052 acre	
Valley Fill 3	Upper Road Branch	1144/0.078 acre	10137/0.052 acre		
Valley Fill 3	Upper Road Branch		2117/0.011 acre		
Valley Fill 3	Upper Road Branch		2007/0.029 acre		
Valley Fill 3	Upper Road Branch		2907/0.015 acre		
Sediment Pond 3	Upper Road Branch			8097/0.106 acre	
Valley Fill 4A	Unnamed Tributary Laurel Fork	5187/0.106 acre	2667/0.026 acre		
Sediment Pond 4	Unnamed Tributary Laurel Fork			5637/0.034 acre	1537/0.017 acre
Valley Fill 4B	Unnamed Tributary Laurel Fork		2447/0.031 acre		
Sediment Pond 4	Unnamed Tributary Laurel Fork			2037/0.037 acre	
Road Fill	Mercedith Branch	10007/0.222 acre		2007/0.137 acre	
Road Fill Pond	Mercedith Branch	52337/0.974 acre	46457/0.41 acre	32207/0.661 acre	1537/0.017 acre

**Table B**  
**Buffalo Mining Company**  
**Toney Fork Surface Mine No. 2**  
**Watershed Acreages for Proposed Valley Fills**

<b>PROPOSED VALLEY FILL</b>	<b>WATERSHED ACREAGE (ACRES)</b>
Valley Fill 1	121.61 acres
Valley Fill 2B	153.14 acres
Valley Fill 2A	138.27 acres
Valley Fill 3	209.7 acres
Valley Fill 4A	92.09 acres
Valley Fill 4B	68.08 acres

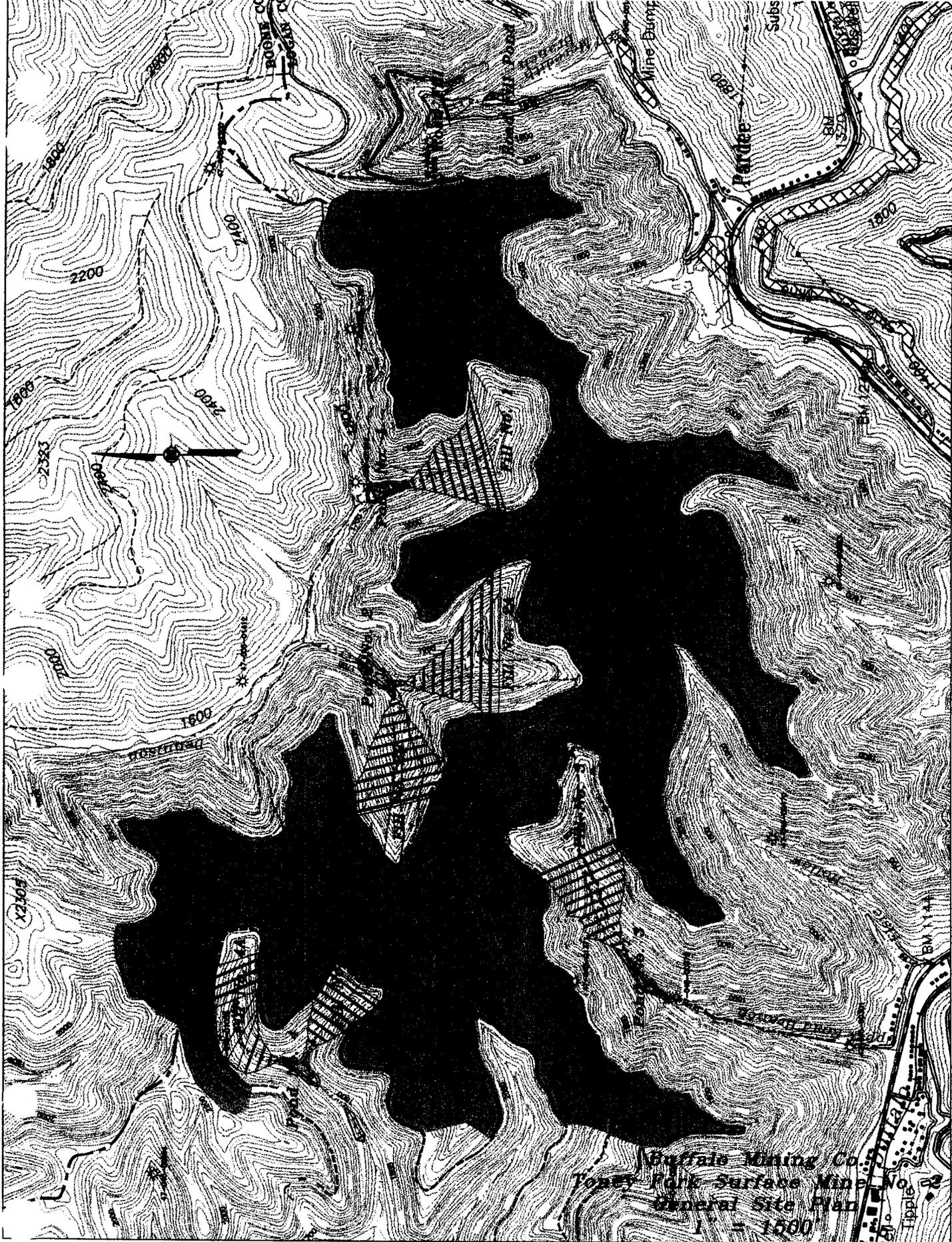
**Table C**  
**Buffalo Mining Company**  
**Toney Fork Surface Mine No. 2**  
**Total Fill Volume/Valley Fill Disposal Site**

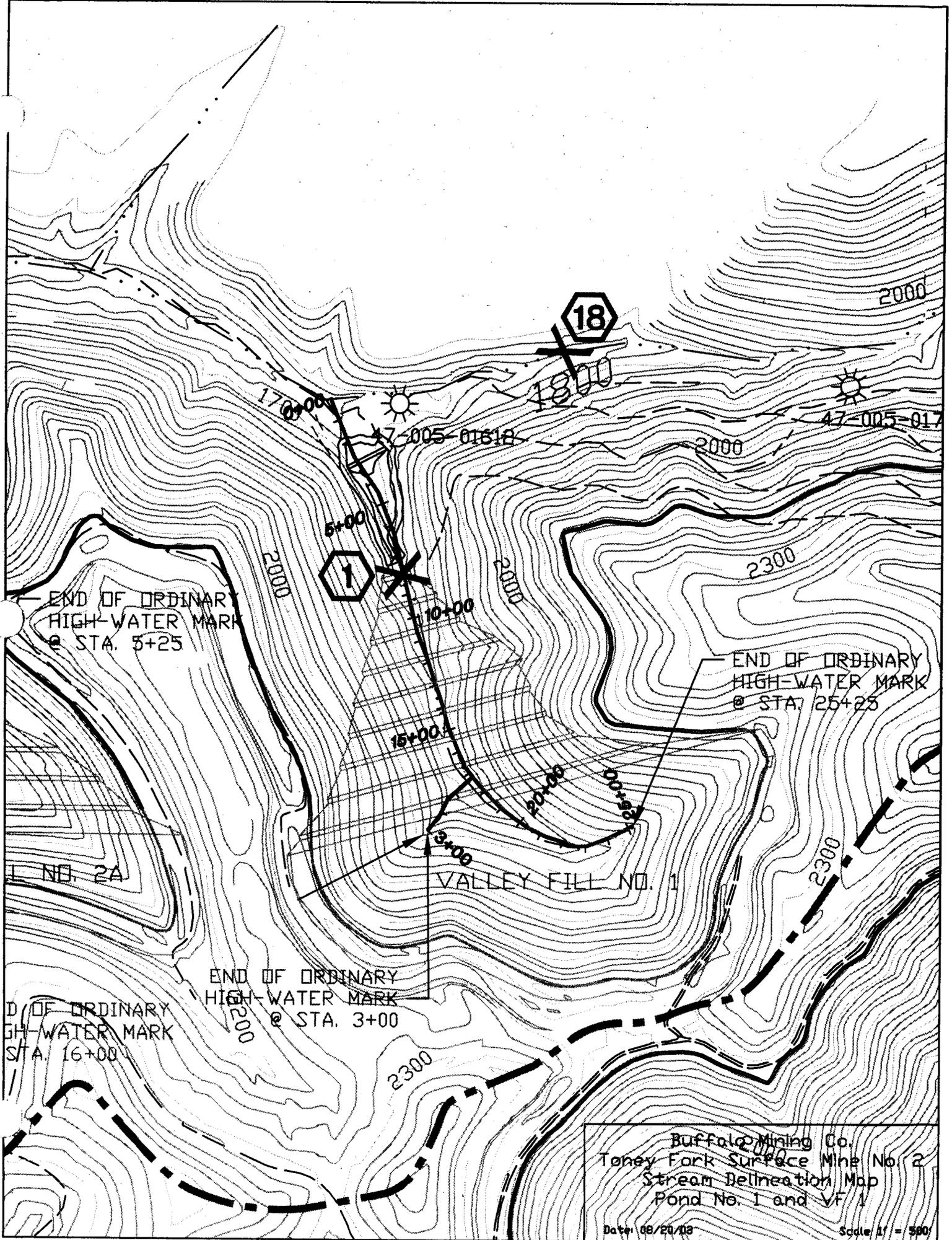
<b>Disposal Site</b>	<b>Fill Volume Million Cubic Yards</b>
Valley Fill 1	10.7
Valley Fill 2A	10.9
Valley Fill 2B	11.3
Valley Fill 3	10.4
Valley Fill 4A	7.2
Valley Fill 4B	6.2
Road Fill	0.3
<b>Total</b>	<b>57</b>



Name: LORADO  
 Date: 5/5/2004  
 Scale: 1 inch equals 4000 feet

Location: 037° 49' 24.3" N 081° 42' 37.2" W  
 Caption: Blue Arrows = Impact Sites →  
 Red Arrows = Mitigation Sites →





Buffalo Mining Co.  
 Toney Fork Surface Mine No. 2  
 Stream Delineation Map  
 Pond No. 1 and VF 1  
 Date: 08/29/09  
 Scale: 1" = 500'

Dennison

☀ 47-005-01412

END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 27+00

VALLEY FILL NO. 2B

END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 5+25

☀ 47-005-01172  
END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 2+90

END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 2+90

VALLEY FILL NO. 2A

END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 16+00

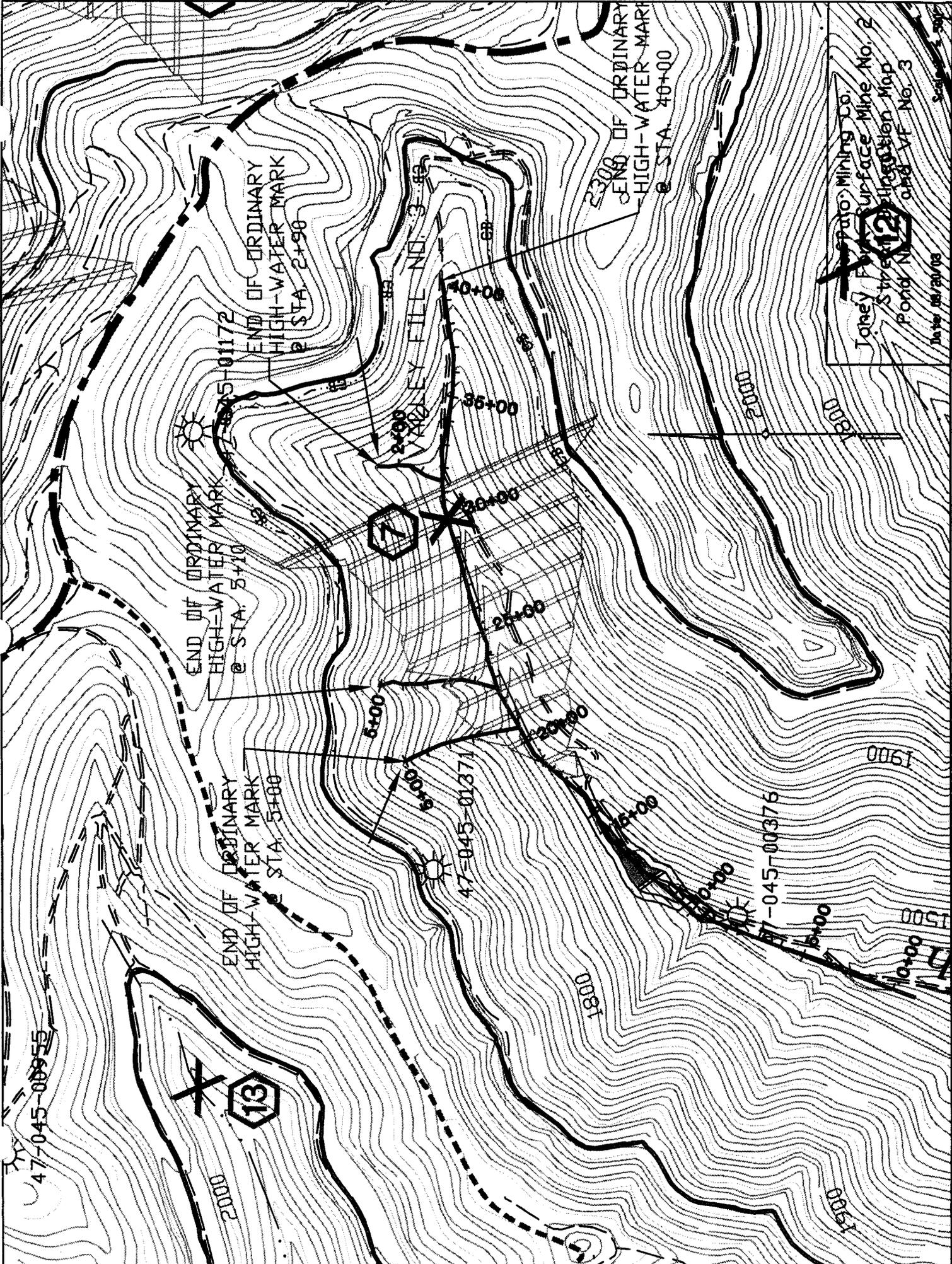
VALLEY FILL NO. 3

END OF  
HIGH-WATER MARK  
@ STA. 12+00

Buffalo Mining Co.  
Toney Fork Surface Mine No. 2  
Stream Delineation Map  
Pond No. 2, VF 2A and 2B

Date: 09/20/03

Scale 1" = 200'



47-045-00955

END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 5+10

END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 5+10

END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 2+90

END OF ORDINARY  
HIGH-WATER MARK  
@ STA. 40+00

VALLEY FILL NO. 3

TANEY POND  
TANEY POND SURFACE MINE No. 2  
SHELDON MINING MAP  
POND No. 3 and VF No. 3  
DATE 06/20/03

