



**US Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to:

Issuance Date:

Public Notice No. 200400637

August 24, 2004

Stream:

Expiration Date:

Left Fork of Kelly's Cr. September 23, 2004

Address comments to:

US Army Corps of Engineers, Huntington District

602 Eighth Street

ATTN: CELRHF

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: Kanawha Energy Company
Post Office Box 11174
Charleston, WV 25339

LOCATION: The proposed project is located in Left Fork of Kelly's Creek and an unnamed tributary of Left Fork, near Mammoth, in Kanawha County, West Virginia as depicted in the attached **Drawing 1** titled "Proposal and Drainage Map."

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place fill material into approximately 680 linear feet of Left Fork of Kellys Creek and an unnamed tributary of Left Fork of Kellys Creek to construct a mine face up and operation area.

The applicant proposes to temporarily enclose 200 linear feet (0.75 acre) of Left Fork Kellys Creek utilizing an 8' high x 22' wide concrete box culvert. Approximately 25 cubic yards of fill material would be placed within the Corps' regulatory jurisdiction. Left Fork Kellys Creek is a perennial stream. The enclosure would provide for stream protection and for ancillary facilities for operation of the deep mine.

Additionally, the applicant proposes to temporarily divert 480 linear feet (0.125 acre) of an unnamed tributary of Left Fork Kellys Creek, an intermittent stream, to provide for a raw coal stockpile area. Approximately 380 cubic yards of fill material would be placed within the Corps' regulatory jurisdiction.

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 680 linear feet or 0.875 acre of waters of the U.S. would be impacted by the discharge of dredged or fill material associated with the proposed project.

The West Virginia Department of Environmental Protection (WVDEP) has approved the applicant's Surface Mining Permit application (U-3020-99) pursuant to the Surface Mining Control and Reclamation Act of 1977.

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 temporary impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers. The applicant proposes to enhance and restore the stream channel and substrate as similarly as practical to the original channel. Natural stream design techniques such as boulder structures, log structures, and/or cover structures would be incorporated into design of the mitigation channels as appropriate. Additionally, the restored stream channels would be enhanced in section to include a “bankfull” type of flow design. A 100- foot vegetated buffer zone, offset from the stream banks, would be established along the restored stream channels and would be planted with native grass and tree species to match pre-mining conditions.

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 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 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, 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 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 Ms. LuAnne Conley of the South Regulatory Section at 304-399-5710.

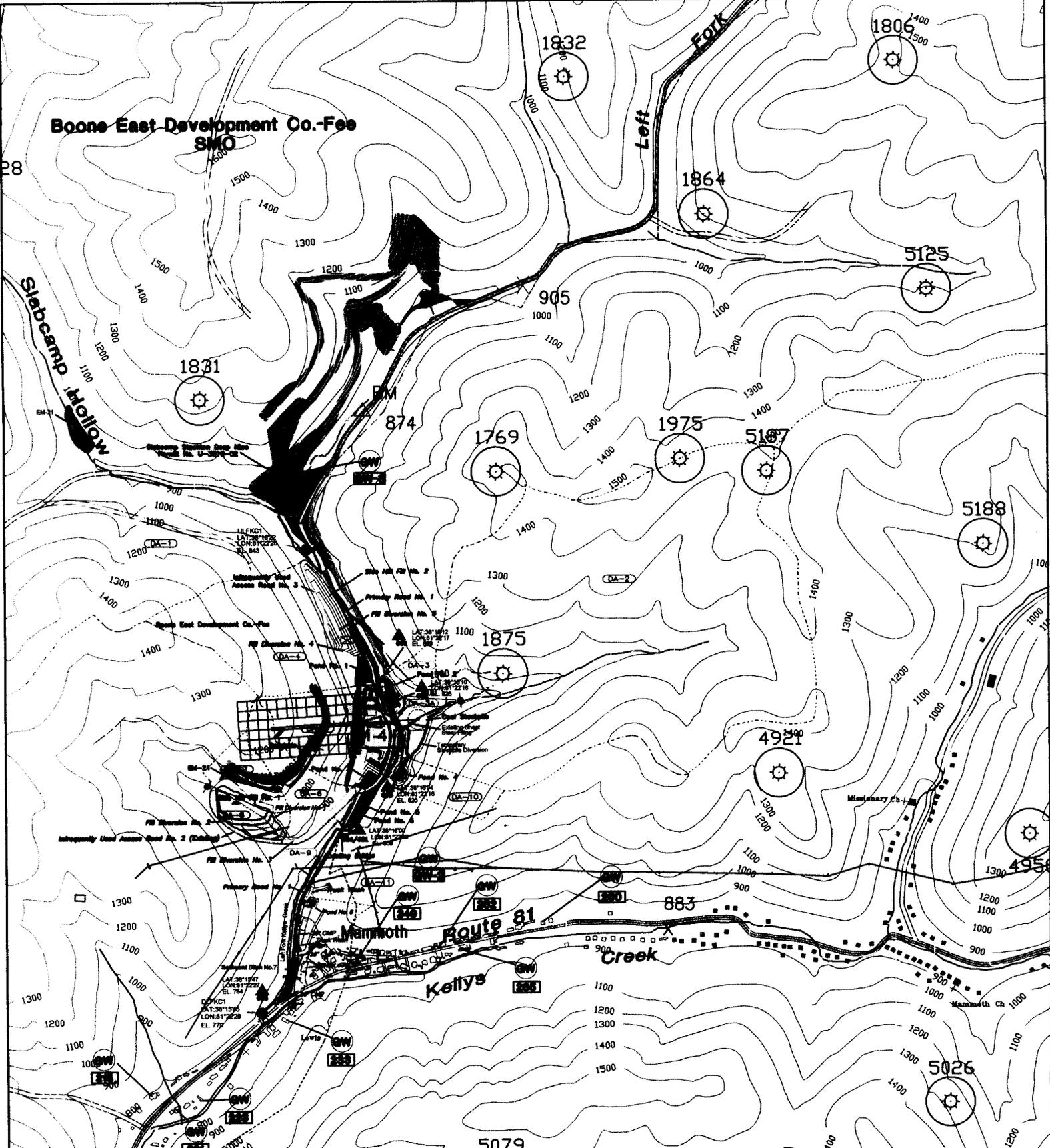

Ginger Mullins
Regulatory Branch

(W)

Table A

**Kanawha Energy Company
Mammoth 2 Gas Deep Mine - 200400637
WVDEP Permit No. U-3020-99**

Mining Activities	Location	Extent of TEMPORARY Impacts (Linear Feet)			Acres of Impact	Drainage Area (Acres)
		Perennial	Intermittent	Ephemeral		
Stream Enclosure	Left Fork of Kellys Creek	200	•	•	0.75	2497.0
Stream Diversion	U/T Left Fork	•	480	•	0.125	147.0
TOTAL		680			0.875	



Drawing Date: 07/18/04	Drawn By: G. Grubbs
Computer No.: 02375	Topo Contour Interval: 20'
Scale: 1" = 2000'	Sheet No.: 1 of 1

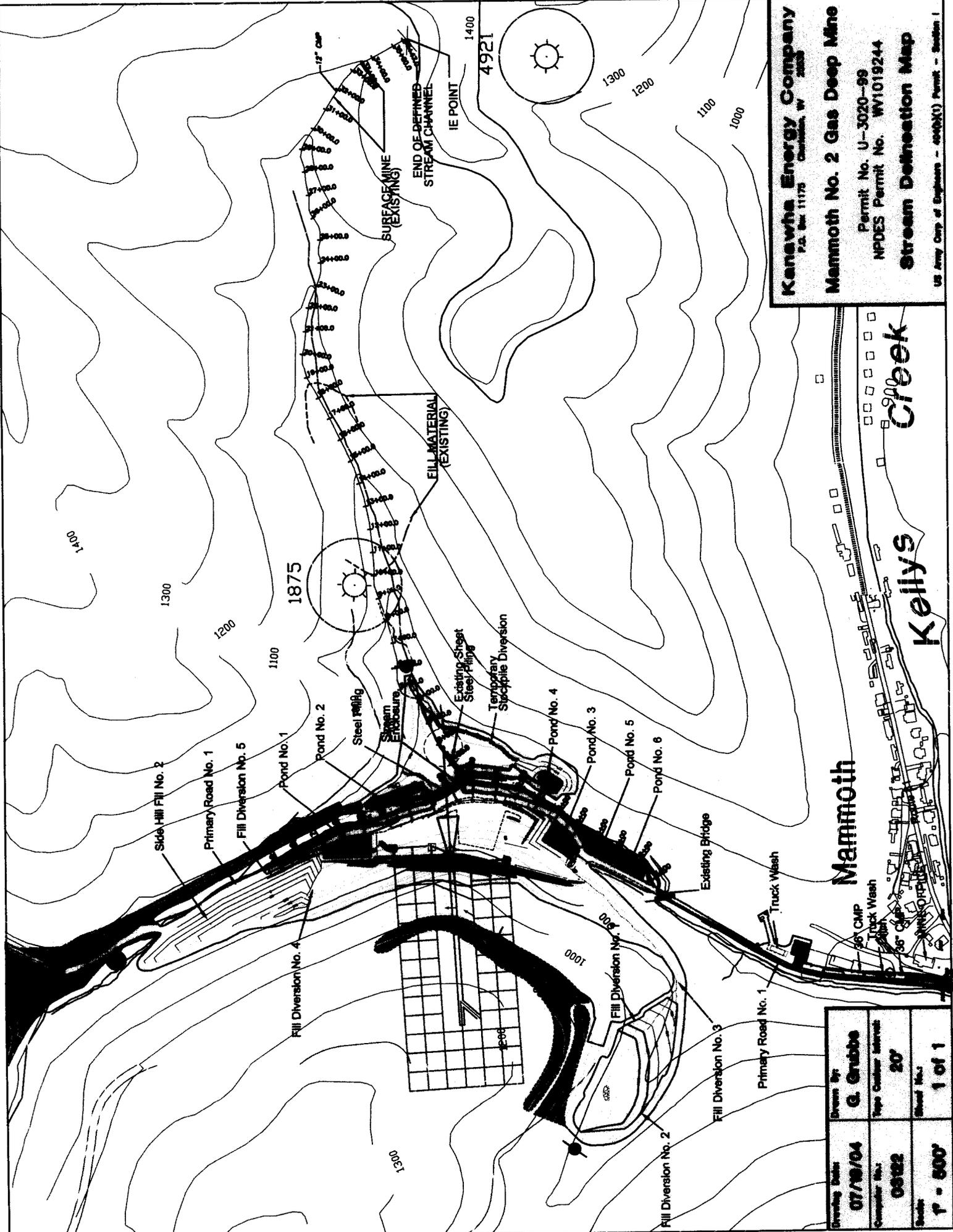
Kanawha Energy Company
P.O. Box 11175 Charleston, WV 25328

Mammoth No. 2 Gas Deep Mine

Permit No. U-0020-09
NPSGS Permit No. WV020044

Proposal and Drainage Map

US Army Corp of Engineers - 404(b)(1) Permit - Section F



Kenawha Energy Company
 P.O. Box 11175 Charleston, W. VA 25303

Mammoth No. 2 Gas Deep Mine

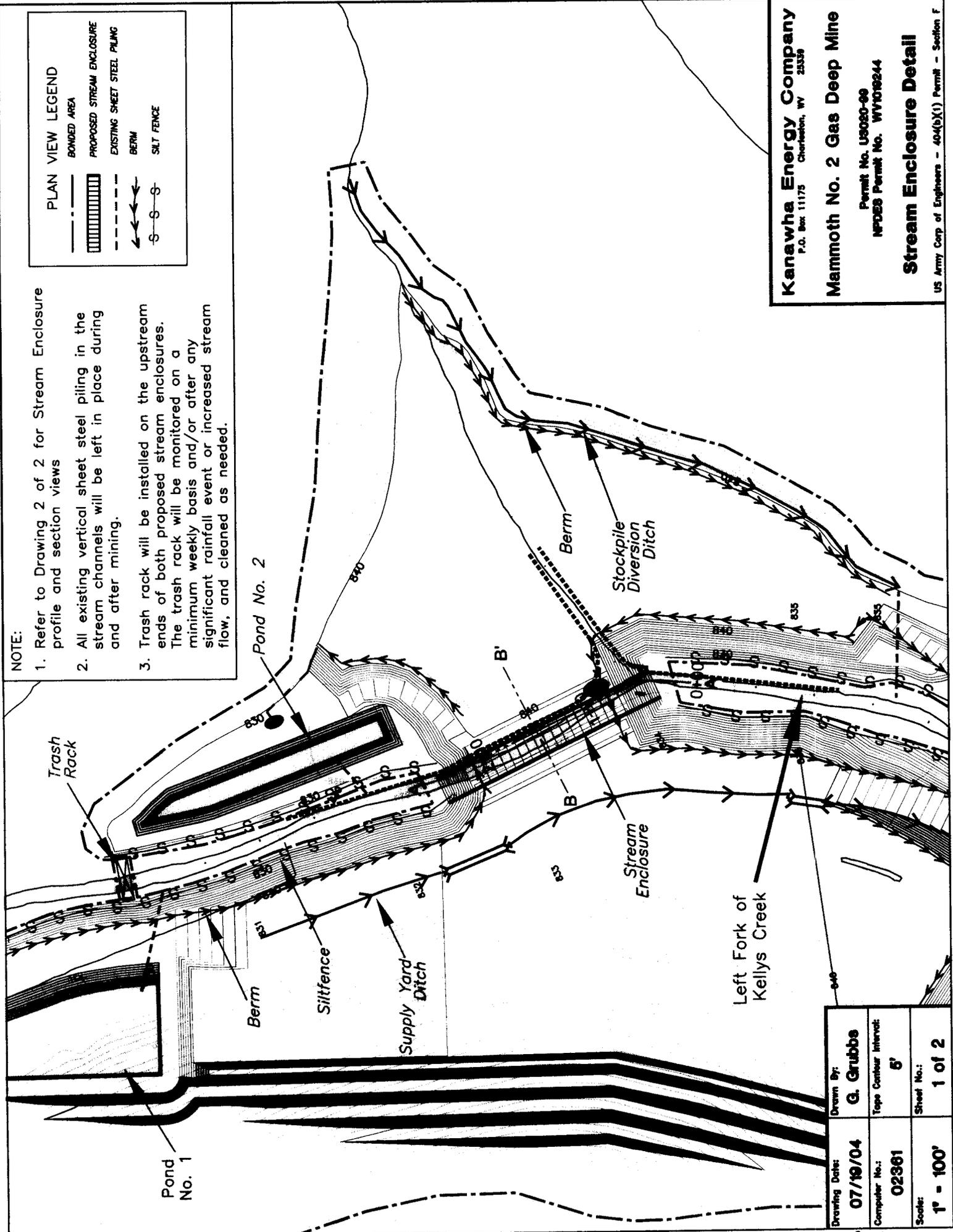
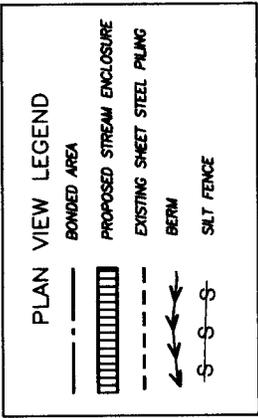
Permit No. U-3020-99
 NPDES Permit No. WV1019244

Stream Delineation Map

US Army Corp. of Engineers - 40402(K) Permit - Station 1

Drawing Date:	07/19/04	Drawn By:	G. Grubbs
Computer No.:	0002	Page Count:	20
Scale:	T - 500'	Sheet No.:	1 of 1

- NOTE:**
1. Refer to Drawing 2 of 2 for Stream Enclosure profile and section views
 2. All existing vertical sheet steel piling in the stream channels will be left in place during and after mining.
 3. Trash rack will be installed on the upstream ends of both proposed stream enclosures. The trash rack will be monitored on a minimum weekly basis and/or after any significant rainfall event or increased stream flow, and cleaned as needed.



Kanawha Energy Company
 P.O. Box 11175 Charleston, WV 25339

Mammoth No. 2 Gas Deep Mine

Permit No. US020-00
 NPDES Permit No. WV1019244

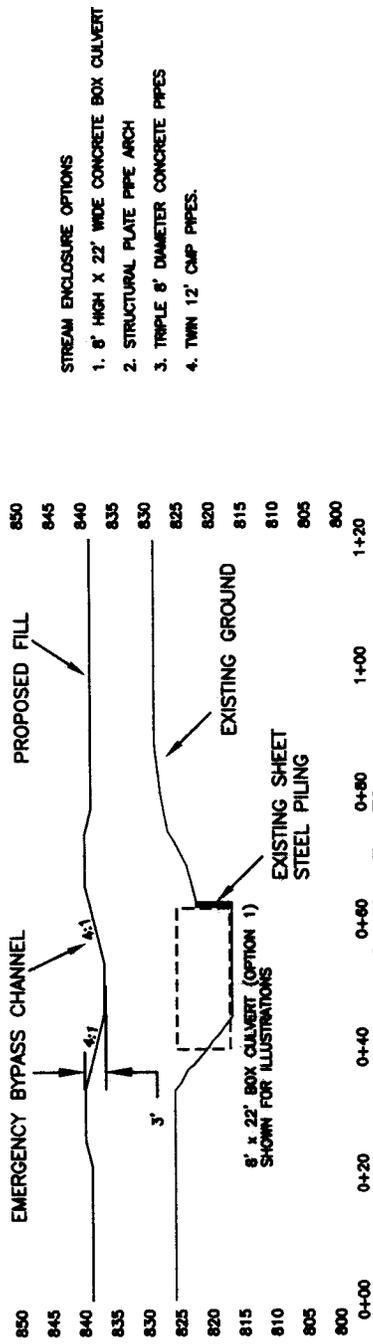
Stream Enclosure Detail

US Army Corp of Engineers - 404(b)(1) Permit - Section F

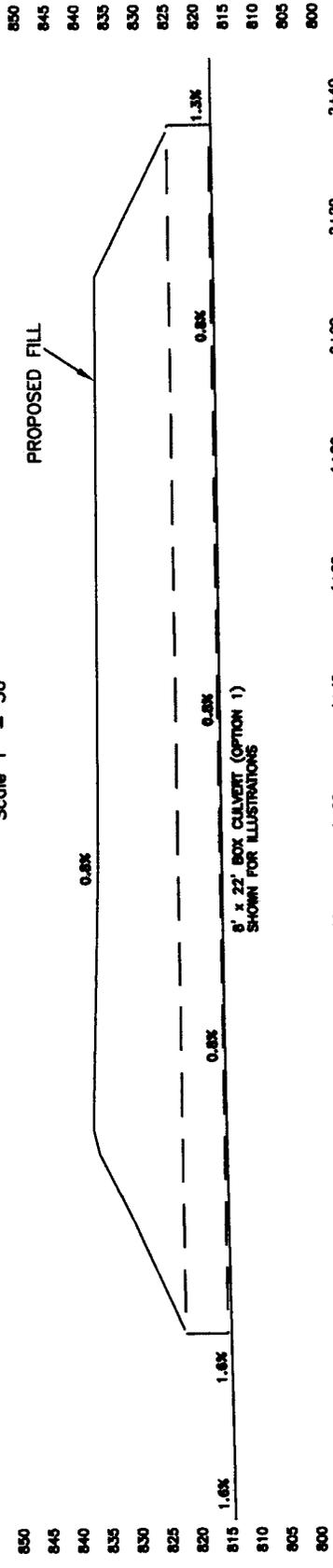
Drawing Date:	07/19/04	Drawn By:	G. Grubbs
Computer No.:	02361	Topo Contour Interval:	6'
Scale:	1" = 100'	Sheet No.:	1 of 2

PROFILE LEGEND

---	PROPOSED STREAM BEDROCK FILL
---	PROPOSED STREAM ENCLOSURE
---	EXISTING & PROPOSED STREAM BEDROCK



- STREAM ENCLOSURE OPTIONS
1. 8' HIGH X 22' WIDE CONCRETE BOX CULVERT
 2. STRUCTURAL PLATE PIPE ARCH
 3. TRIPLE 8' DIAMETER CONCRETE PIPES
 4. TWIN 12' CMP PIPES.



REFER TO SHEET 1 OF 2 FOR SECTION LOCATIONS

Drawing Date	07/18/04	Drawn By	G. Grubbs
Computer No.	02261	Top Contour Interval	N/A
Scale	1" = 30'	Sheet No.	2 of 2

Kanawha Energy Company
P.O. Box 11175 Charleston, WV 25308

Mammoth No. 2 Gas Deep Mine
Permit No. U0000-02
Special Permit No. WY000044

Stream Enclosure Detail
US Army Corp of Engineers - 4802(X) Permit - Section 7