



**US Army Corps
of Engineers**
Huntington District

Public Notice

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| In reply refer to: | Issuance Date: |
| Public Notice No. 200400287 | August 25, 2004 |
| Stream: | Expiration Date: |
| UT Mud Creek | September 24, 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 Kentucky Division of Water to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Bizzack Incorporated
2265 Executive Drive
Lexington, Kentucky 40505

LOCATION: The proposed project is located in tributaries of Tackett Branch and Parsons Branch, and unnamed tributaries of Mud Creek, near Harold, Floyd County, Kentucky.

DESCRIPTION: The applicant proposes to place earthen material in waters of the U.S. at various sites in conjunction with the Kentucky Transportation Cabinet's construction of a new road section between the towns of Harold and Minnie, on the properties of and in cooperation with the landowners. The 12 individual fills are needed for placement of excess spoil material generated by excavation of proposed highway cuts. Approximately 12,047 linear feet of stream would be filled (including 1,000 feet of perennial and 9,197 feet of intermittent streams) and relocated along the perimeter of each fill area. The relocated stream channels would total 11,638 linear feet. No sediment control ponds are proposed below the fill areas.

MITIGATION PLAN: To compensate for stream impacts, the applicant has submitted a conceptual mitigation plan proposing to incorporate natural stream designs in the relocated stream channels. Riffle and pool features are proposed to be constructed in all relocated channels. Low gradient sections would also include a series of boulders, J-Hooks, and cross vanes. Vegetation will be established along each relocated channel. The applicant has assessed the streams to be impacted, as per the Eastern Kentucky Stream Assessment Protocol and believes the proposed mitigation work will result in a net gain of habitat integrity scores.

Plans for the proposed work are attached to this notice.

The Section 404(b)(1) Guidelines state for non-water dependant activities, practicable alternatives that do not involve wetlands are presumed to be available unless clearly demonstrated otherwise. The applicant is required to provide an alternative analysis that must overcome the presumption prior to receiving authorization for the placement of fill material.

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 Kentucky Division of Water.

HISTORIC & 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 areas 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.

THREATENED & ENDANGERED SPECIES: 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: Any person who has an interest which 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 by the activity and the manner in which the interest may be adversely affected by this 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 which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among 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.

COMMENTS: 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.

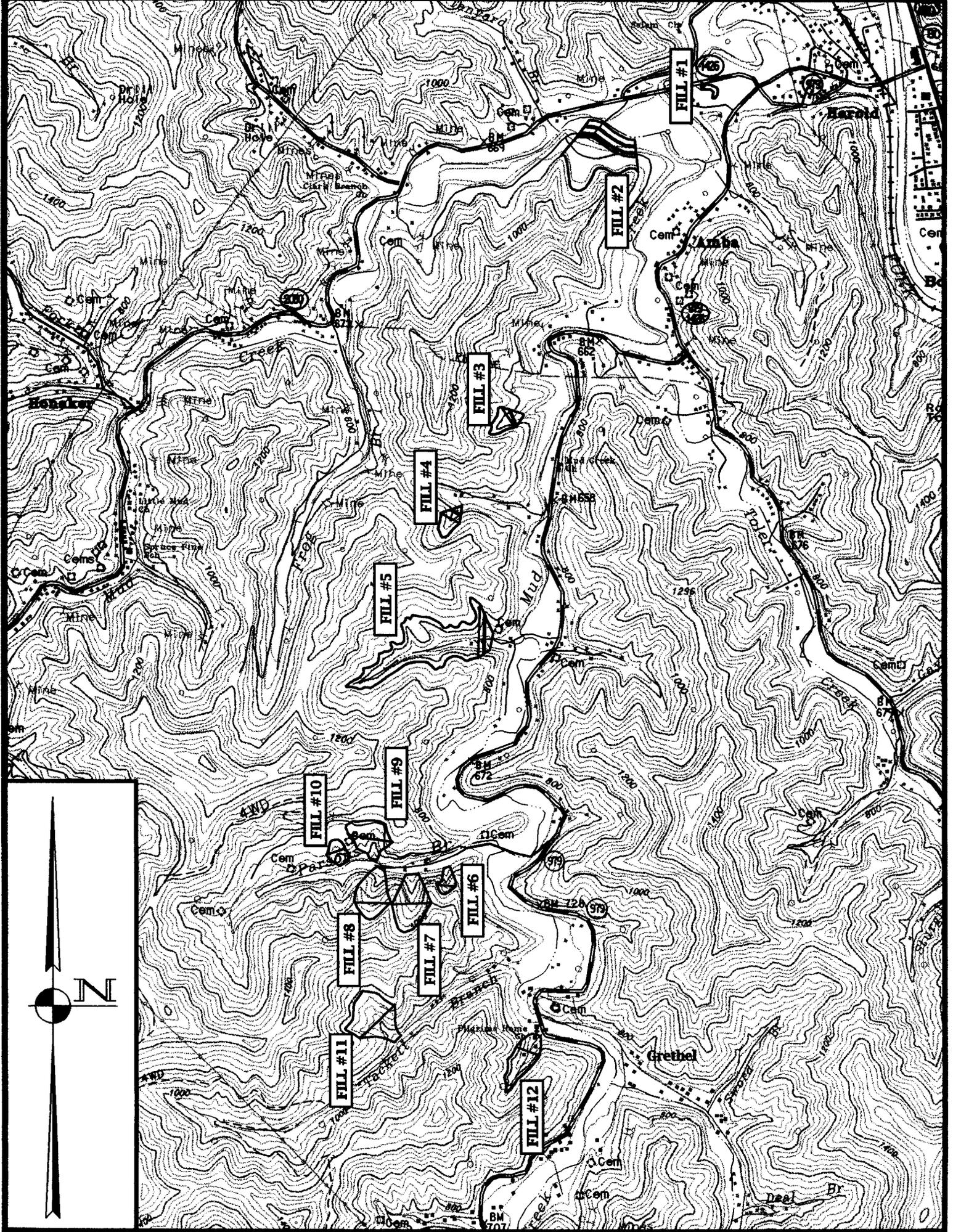
Persons wishing to submit comments, objections or requests for public hearings concerning the Corps of Engineers permit should write:

U.S. Army Corps of Engineers
ATTN: CELRH-OR-F Public Notice No. 200400287
502 Eighth Street
Huntington, West Virginia 25701-2070

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


Ginger Mullins, Chief
Regulatory Branch

(W)



**Minnie To Harold Road Connector
Existing Stream Summary**

ATTACHMENT A

| Stream Name | Stream Segment | Stream Length | Existing RBP Score | Specific Conductivity | Existing EII | Stream Type | Existing EIU |
|-------------------------------|-----------------------|----------------------|---------------------------|------------------------------|---------------------|--------------------|---------------------|
| Unnamed trib of Big Branch Cr | 1 | 200 | 75 | 1430 | 0.10 | Ephemeral | 20 |
| Unnamed trib of Big Branch Cr | 2 (Reach 1) | 200 | 68 | 858 | 0.10 | Intermittent | 20 |
| Unnamed trib of Big Branch Cr | 2 (Reach 2) | 150 | 99 | 889 | 0.10 | Intermittent | 15 |
| Unnamed trib of Mud Creek | 3 (Reach 1) | 447 | 58 | 119 | 0.55 | Intermittent | 246 |
| Unnamed trib of Mud Creek | 3 (Reach 2) | 200 | 140 | 94 | 0.75 | Ephemeral | 150 |
| Unnamed trib of Mud Creek | 4 | 500 | 130 | 196 | 0.63 | Intermittent | 315 |
| Unnamed trib of Mud Creek | 5 (Reach 1) | 1000 | 57 | 1015 | 0.10 | Perennial | 100 |
| Unnamed trib of Mud Creek | 5 (Reach 2) | 700 | 43 | 1015 | 0.10 | Intermittent | 70 |
| Unnamed trib of Mud Creek | 5A | 1300 | 133 | 534 | 0.27 | Intermittent | 351 |
| Unnamed trib of Mud Creek | 5B | 800 | 73 | 1316 | 0.10 | Intermittent | 80 |
| Unnamed trib of Parsons Br. | 6 | 650 | 127 | 530 | 0.24 | Ephemeral | 156 |
| Unnamed trib of Parsons Br. | 7 | 500 | 118 | 430 | 0.27 | Intermittent | 135 |
| Unnamed trib of Parsons Br. | 8 (Reach 1) | 250 | 99 | 526 | 0.10 | Intermittent | 25 |
| Unnamed trib of Parsons Br. | 8 (Reach 2) | 450 | 108 | 549 | 0.14 | Intermittent | 63 |
| Unnamed trib of Parsons Br. | 9 (Reach 1) | 200 | 82 | 1012 | 0.10 | Intermittent | 20 |
| Unnamed trib of Parsons Br. | 9 (Reach 2) | 200 | 78 | 1050 | 0.10 | Intermittent | 20 |
| Unnamed trib of Parsons Br. | 9 (Reach 3) | 400 | 123 | 1065 | 0.22 | Intermittent | 88 |
| Unnamed trib of Parsons Br. | 10 | 300 | 110 | 385 | 0.28 | Intermittent | 84 |
| Unnamed trib of Tackett Br. | 11 (Reach 1) | 400 | 113 | 640 | 0.17 | Intermittent | 68 |
| Unnamed trib of Tackett Br. | 11 (Reach 2) | 500 | 91 | 630 | 0.10 | Intermittent | 50 |
| Unnamed trib of Tackett Br. | 11A | 500 | 86 | 485 | 0.12 | Intermittent | 60 |
| Unnamed trib of Tackett Br. | 11B (Reach 1) | 400 | 100 | 740 | 0.10 | Intermittent | 40 |
| Unnamed trib of Tackett Br. | 11B (Reach 2) | 300 | 67 | 256 | 0.40 | Ephemeral | 120 |
| Unnamed trib of Mud Creek | 12 (Reach 1) | 1000 | 75 | 238 | 0.42 | Intermittent | 420 |
| Unnamed trib of Mud Creek | 12 (Reach 2) | 500 | 107 | 370 | 0.28 | Ephemeral | 140 |
| Total Existing EIU's = | | | | | | | 2856 |

