



**US Army Corps  
of Engineers**  
Huntington District

# Public Notice

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In reply refer to:	Issuance Date:
<b>Public Notice No.</b> 200301319	August 25, 2004
<b>Stream:</b>	Expiration Date:
Packs Branch	September 24, 2004

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Address comments to: US Army Corps of Engineers, Huntington District  
602 Eighth Street  
**ATTN: CELBHE**  
Huntington, West Virginia 25701-2070

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**PUBLIC NOTICE:** The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

**REGULATORY PROGRAM:** Since its early history, the U.S. Army Corps of Engineers (Corps) has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the Corps Regulatory Program.

**SECTION 10:** The Corps is directed by Congress under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) to regulate all work or structures in or affecting the course, condition or capacity of navigable waters of the United States (U.S.). The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

**SECTION 404:** The Corps is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the discharge of dredged and fill material into all waters of the United States, including wetlands. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

**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:** Pioneer Fuel Corporation  
400 Patterson Lane  
Charleston, West Virginia 25311

**LOCATION:** The proposed project is located in wetlands adjacent to Packs Branch, approximately 0.5 miles southeast of Pax in the Plateau District of Fayette County, West Virginia.

**DESCRIPTION OF THE PROPOSED WORK:** The applicant proposes to place fill material into waters of the United States in conjunction with the construction of the Pax rail coal load-out facility. Approximately 55 linear feet of Packs Branch would be impacted by the placement of a culverted crossing. Approximately 4,404 cubic yards of soil, subsoil and rock would be placed into approximately 1.82 acres of palustrine wetland for the required coal stockpile storage, rail car storage and drainage controls. The contributing watershed for the project area totals 3, 941.14 acres.

The proposal would involve the excavation and regrading of an abandoned railroad bed, which would be facilitated by diversion ditches, sediment sump and pond. The proposal is a coal load-out facility that would stockpile and ship raw surface mine coal from affiliated mining operations. Approximately 2.4 million tons of the Peerless, No. 2 Gas Rider, No. 2 Gas, Alma, Upper Powellton, Powellton Rider, Powellton, Lower Powellton, Little Powellton and Eagle coal seams would be stockpiled and shipped from this site on an annual basis. The proposed operation would generate approximately 178,012 cubic yards (CY) of material, all of which would be utilized to create a level surface for the coal load-out facility, three railroad tracks, sediment control structures, access roads, and stockpile areas. The type of material placed on-site would consist of rock and soil overburden that is excavated during the cut and fill site preparation operation. Approximately 22.64 acres of land would be disturbed, including 0.64 acres of mineral removal area, 20.55 acres of disturbed area and 1.45 acres of drainage control structures.

The applicant's materials-handling plan has been designed to mitigate the potential for acid mine drainage (AMD) generation on-site. In the applicant's SMA, the overburden material has been characterized by acid-base accounting analyses for corehole PLO-1-03, which is located within the permit boundaries. The Hughes Ferry coal seam was found at approximately 1,695 mean sea level (*msl*). This 0.85 feet (10.2 inches) of coal is incidental to the construction of the coal load-out facility. This coal exhibits a high sulfur content of 2.22 percent total and 0.99 percent pyritic and, therefore, would be removed from the site. This seam represents an insignificant amount of material in comparison to the overall overburden to be removed. The coal is 604 CY out of 178,012 total CY to be excavated. The removal of the Hughes Ferry is incidental to the construction of the load-out facility and by removing the coal from the site, the potential for acid mine drainage is greatly reduced. There exists three other narrow bands of material that exhibit potentially toxic tendencies; however, by blending with the remaining material, the neutralization potential (*NP*) far outweighs the potential acidity (*PA*). This can be demonstrated by utilizing the Ziemkiewicz formula. The NP to PA ratio is 4.12:0.85. In summary, potentially toxic/acid producing materials and all zones of toxic/acid producing material found in the overburden would be blended with non-acid producing materials during the construction process and placed in the pad. Based on the overburden analyses, the blended materials would have a net excess of CaCO<sub>3</sub> and are not expected to cause any adverse environmental impact. General excavation and regrading operations are not expected to encounter any mine openings, exploration holes, auger holes, boreholes, or abandoned wells during construction of this load-out facility.

The applicant's purpose for the proposed project includes utilization of an existing railroad that was abandoned in the late 1990s to stockpile and load coal in a safe, cost-effective and environmentally sound manner. The applicant indicated an estimated 8.0 million tons of surface-mined coal, currently under permit, for Kingston Resources and Pioneer Fuel would be more efficiently served by delivery utilizing the Norfolk Southern rail-line system.

The West Virginia Department of Environmental Protection (WVDEP) approved the applicant's Surface Mining Permit (SMA) application (O-3021-03) pursuant to the Surface Mining Control and Reclamation Act of 1977. Approximately 22.64 acres of land would be disturbed, including 0.64 acres of mineral removal area, 20.55 acres of disturbed area and 1.45 acres of drainage control structures.

The proposed project would be accomplished in two general phases over a period of 20 years. A discussion of each phase follows:

#### **Phase One**

- Initially, access to the site would be created by installing a series of 4-foot by 12-foot box culverts in Packs Branch.
- Upon completion of the installation of the stream crossing, excavation can begin on the site after a silt fence is installed on the area of the construction.
- A drill bench would be created and blasting would begin.
- Material would be placed in a controlled manner as shown on the Drainage/Proposal Map and Regrade Cross Sections found in Section X of the applicant's Surface Mine Application No. O-3021-03.
- The minimal amount of coal excavated would be hauled to an approved refuse facility for permanent disposal.
- The AEP transmission line located near Sump No. 1 would only be raised to allow for train traffic to pass under it while the Town of Pax water line would be relocated prior to construction.
- Once the pad elevation is established, the diversion ditches, sediment ditches and Pond No. 1 would be installed.
- The site would be seeded immediately as outlined in Attachment O-9 of the applicant's SMCRA permit application.
- The site would be reclaimed at the end of the life of the coal load-out.

#### **Phase Two**

- Reclamation of the site would be completed during this phase in accordance with the regrade plan view cross sections found in SMA No. O-3021-03.

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 impacts to waters of the United States. The applicant proposes to mitigate on-site through in-kind creation and preservation. Approximately 5.22 acres of emergent and scrub-shrub wetland would be created on site. In addition, the applicant proposes to preserve five areas containing existing wetlands, totaling 0.73 acre. These five wetland areas include two areas of emergent habitat totaling 0.12 acre, two areas of scrub-shrub habitat totaling 0.58 acre, and one area of forested habitat totaling 0.03 acre.

Upon removal of the culverts and associated fill, the impacted stream segment would be restored to the approximate pre-mining contours. Alternating riffle and pool complexes would be established by the placement of boulders, cobble and large woody debris. Appropriate bank protection measures, such as riprap and vegetation, would be employed in areas requiring erosion control.

**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.

This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. 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. 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.

**SOLICITATION OF 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. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. 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.

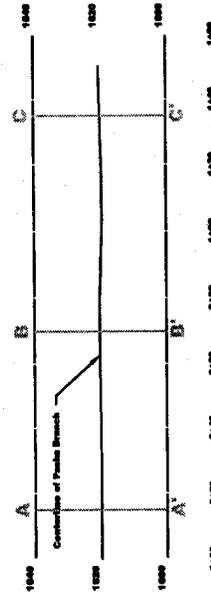
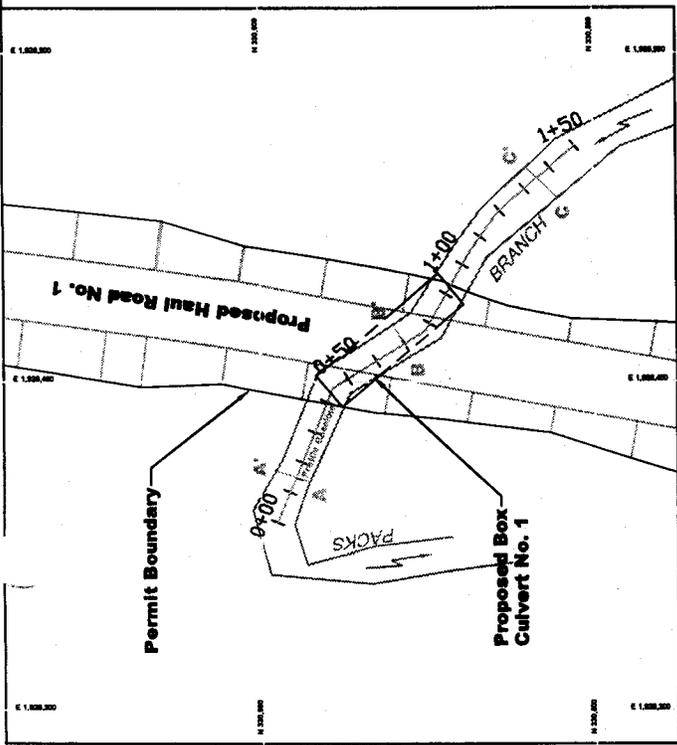
**CLOSE OF COMMENT PERIOD:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mrs. Lee Pittman, Project Manager, South Regulatory Section, CELRH-OR-FS, U. S. Army Corps of Engineers Huntington District, 502 Eighth Street, Huntington, West Virginia 25701-2070. Please note names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources.

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

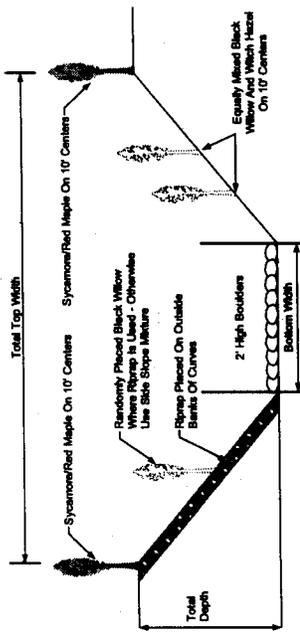
  
Ginger Mullins, Chief  
Regulatory Branch

(W)

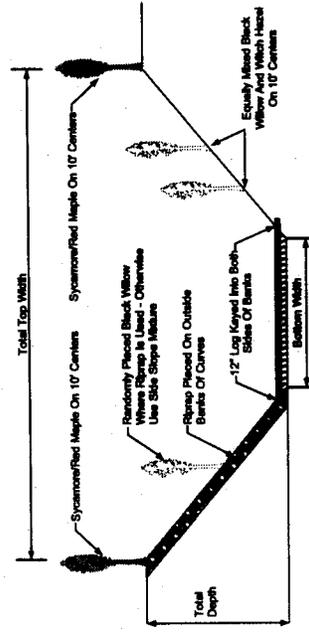




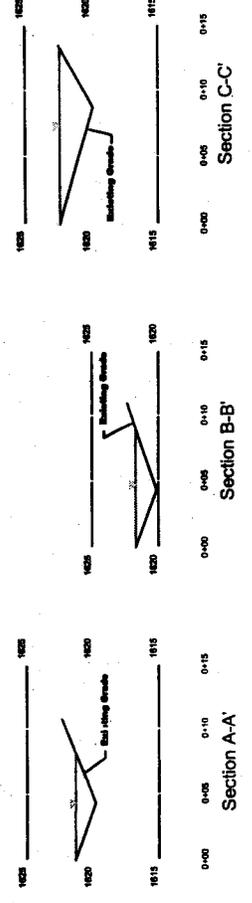
Profile Packs Branch



- Planting List**
1. Water's Edge - *Juncus (Juncus effusus)* - On 2' Centers - Equaling Approximately 11,000 Plants Per Acre
  2. Tree Mix - Side Slopes - On 10' Centers - Equaling 450 Plants Per Acre  
Equally Mixed Black Willow (*Salix nigra*) And Witch Hazel (*Hamamelis virginiana*)
  3. Top of Channel - Lined With Sycamore (*Platanus occidentalis*) And Red Maple (*Acer rubrum*) - On 10' Centers - Equaling 450 Plants Per Acre  
Fertilizer = 600 lbs./Acre/10-20-10



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I hereby certify that the information contained herein is true and correct to the best of my knowledge and belief, and that I am a duly Licensed Professional Engineer in the State of West Virginia.

Date: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 My commission expires: \_\_\_\_\_

Prepared By: **Marshall Miller and Associates**  
 1000 Industrial Avenue, S.W. Raleigh, North Carolina, N.C. - Charlotte, N.C. - Chicago, Ill. - Cincinnati, W. - Cleveland, W. - Columbus, W.

Proposed Pax Load-Out Facility  
 Stream Enhancement Plan View and Cross Sections  
 PLATEAU DISTRICT, FAYETTE COUNTY, WEST VIRGINIA  
 PAX GUARANTEE

Prepared For:  
**KINOSTON RESOURCES, INC.**  
 400 PATTERSON LANE  
 CHARLESTON, W. V. 25311

Scale: 1" = 20'

