



**U S Army Corps  
of Engineers**  
Huntington District

# Public Notice

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In reply refer to Public Notice No.

200200255

Issuance Date:

February 22, 2005

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Stream: DONALDSON BRANCH

Closing Date:

March 24, 2005

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Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-F Public Notice No. (*reference above*)

502 Eighth Street

Huntington, West Virginia 25701-2070

Phone: (304) 399-5210

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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:** Hampden Coal Company  
Post Office Box 1398  
Gilbert, WV 25621

**LOCATION:** The project is located within Donaldson Branch at the Donaldson Branch Coal Preparation Plant near Hampden, Mingo County, West Virginia.

**DESCRIPTION OF PROPOSED WORK:** The applicant has requested after-the-fact authorization for the placement of fill material into 80' of Donaldson Branch in conjunction with the construction of Pond 3, a freshwater pond, at their existing coal preparation facility. The applicant has also requested authorization for the construction of Pond No 1A, which would be used to provide sediment control for their existing coal refuse impoundment.

The applicant has placed approximately 16.2 cubic yards of fill material into 80' of Donaldson Branch in conjunction with the construction of Pond 3. Approximately 270' of stream channel has been impounded as a result of the dam construction. The purpose of the freshwater pond is to provide make-up water for the Donaldson Branch Coal Preparation Plant. The pond is proposed as a temporary structure and will be removed upon completion of surface coal mining and reclamation activities at the site. The West Virginia Department of Environmental Protection approved 0-5013-88 Rev. 9 on January 29, 2002 and issued the required NPDES permit (WV1004760 Mod. 14) on August 8, 2001.

The applicant proposes to place approximately 16.5 cubic yards of fill material into 140' of Donaldson Branch in conjunction with the construction of Pond 1A. Approximately 300' of stream channel would be impounded as a result of dam construction. The purpose of the pond is to provide additional sediment control and act as a secondary finishing pond for the existing refuse impoundment located upstream of the proposed pond. The pond is proposed as a temporary structure and will be removed upon completion of surface coal mining and reclamation activities at the site. The applicant has indicated they have applied for an Incidental Boundary Revision (0-5013-88 IBR No. 8) of their existing mining permit and modification of their existing NPDES permit (WV1004760 Mod. 16).

**MITIGATION PLAN:** To compensate for temporary impacts to approximately 780' of Donaldson Branch, the applicant proposes to restore each stream channel to its pre-mining conditions. The applicant proposes to restore the stream channels to a Type B category stream, which would incorporate step/pool sequences and low bank heights. Sinuosity would be limited by the valley bottom width. A riparian buffer zone would be established along each stream bank and would include tulip polar, American Beech, Sycamore, and Locusts. Native grass species would also be established within the riparian corridor. The riparian corridor would extend approximately 60' from each bank. All restored stream channels will be monitored for a five year period.

As previously described, a portion of the work was completed without prior authorization. As required by the rules and regulations governing the Department of the Army permit program, it was determined that since this work does not present an immediate threat to life or property, an After-the-

Fact application would be accepted and processed. All investigations and legal proceedings will be suspended pending the outcome of the permit review process. This application will be evaluated on its own merits and no consideration will be given to the applicant's unauthorized work activities or prior expenditures.

Plans of the proposed work are attached to this notice.

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 AND THREATENED SPECIES:** The project is located within the known or historic range of the Indiana bat, a federally listed endangered species. 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 COMMENTS:** 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 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.

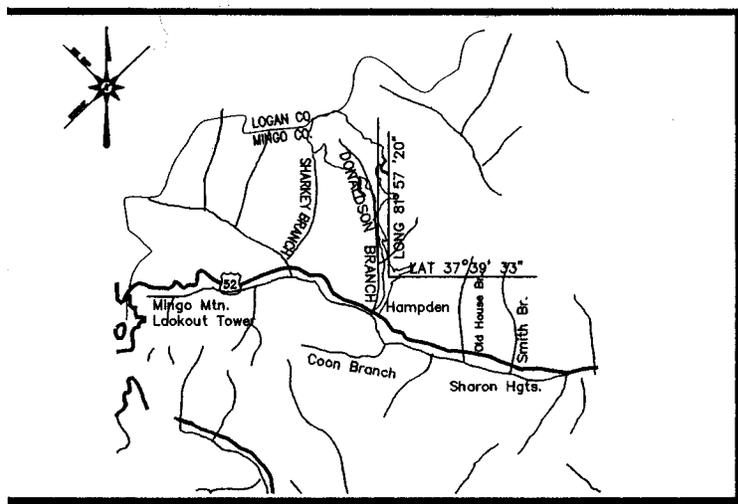
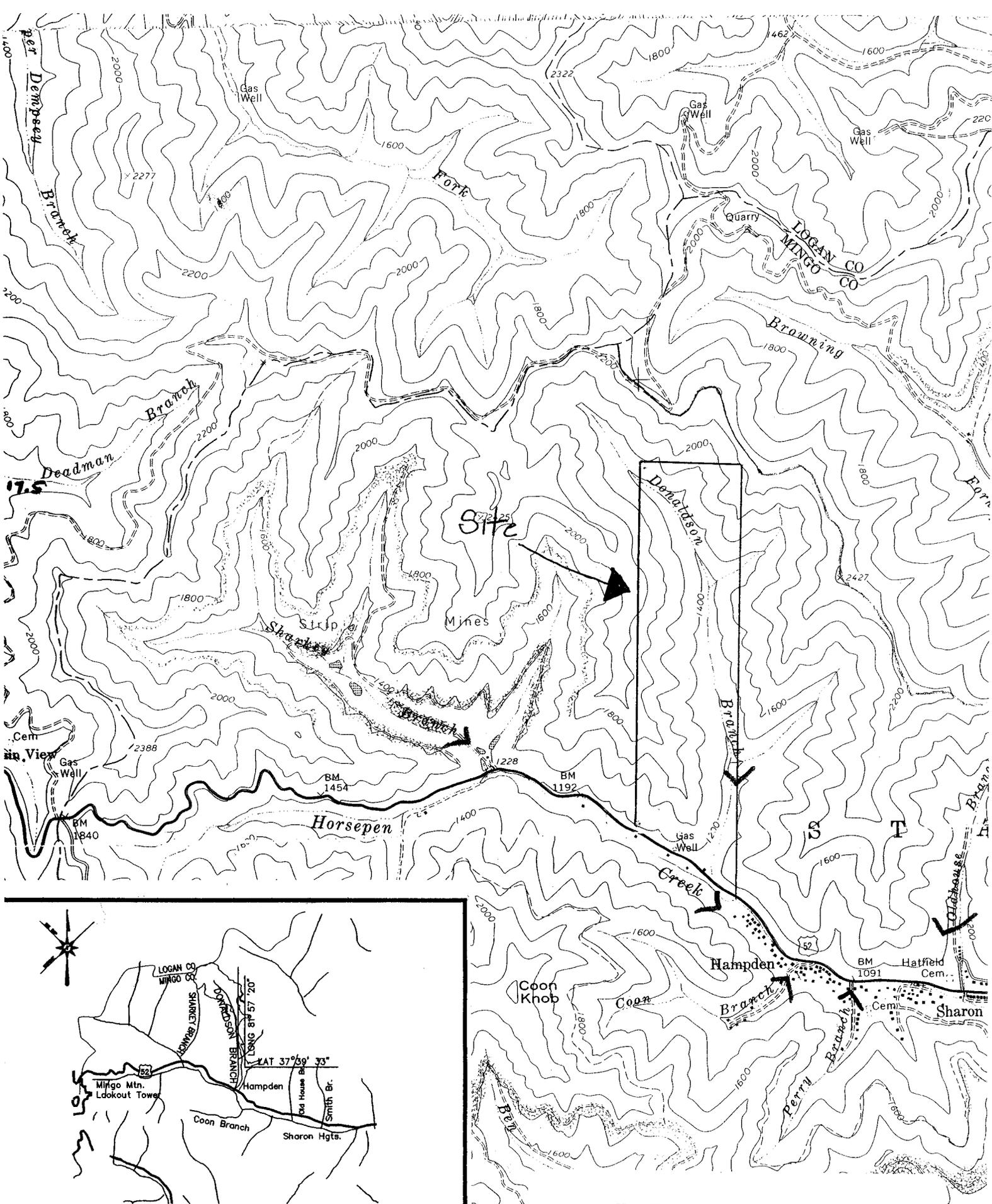
The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine 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 contact Kimberly Courts-Brown at (304) 399-5210.



Ginger Mullins, Chief  
Regulatory Branch

(WV)

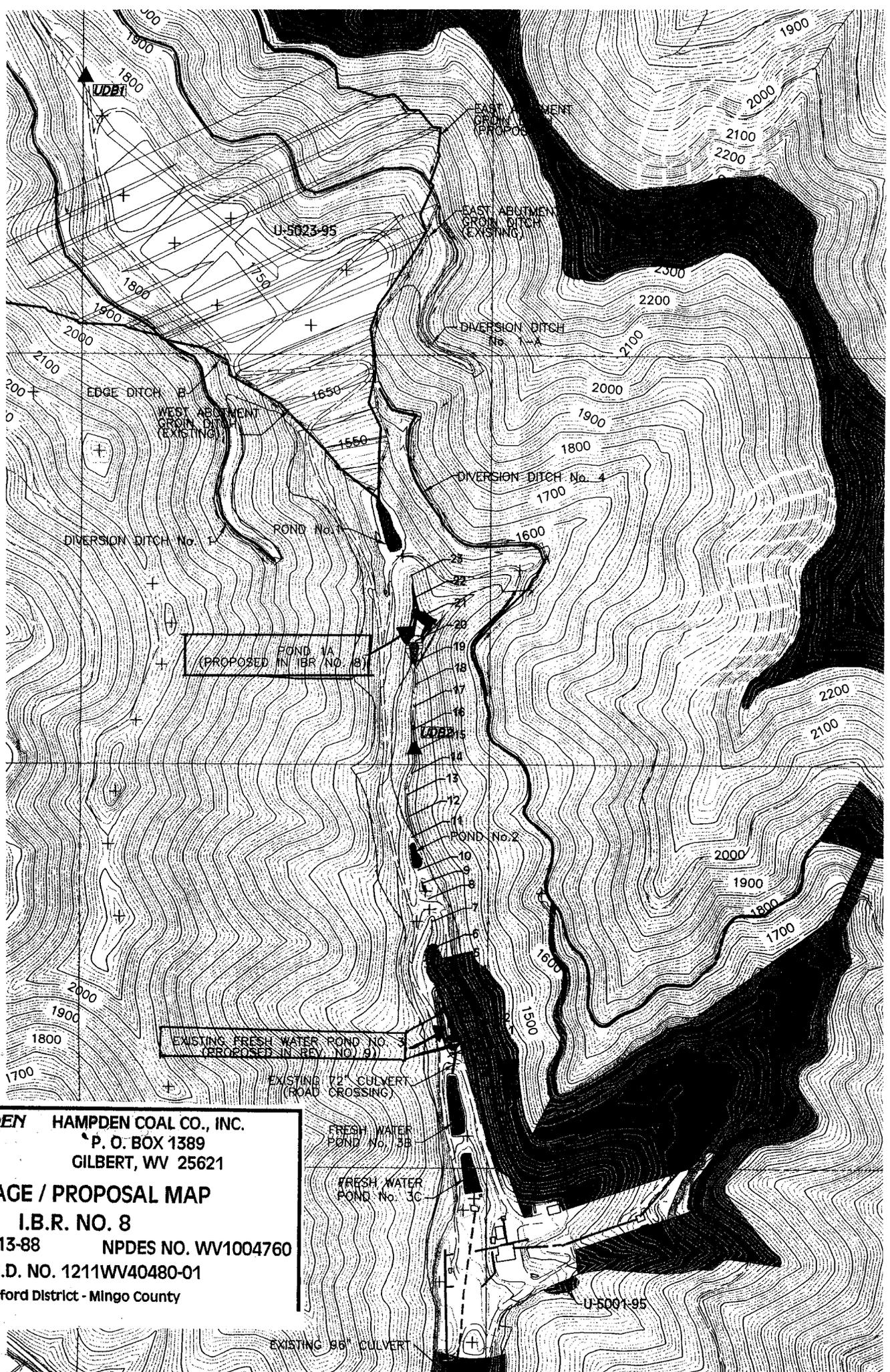


**LOCATION MAP**

TAKEN FROM MINGO COUNTY, WV HIGHWAY MAP  
 LOCATED ON MAN U.S.G.S. QUADRANGLE  
 LAT. 37° 39' 33" LONG. 81° 57' 20"  
 SCALE: 1" = 1 MILE

HAMPDEN COAL COMPANY  
 DONALDSON BR. COAL PREP PLANT  
 MINGO CO. WV

FEET



**HAMPDEN COAL CO., INC.**  
 P. O. BOX 1389  
 GILBERT, WV 25621

**DRAINAGE / PROPOSAL MAP**

**I.B.R. NO. 8**

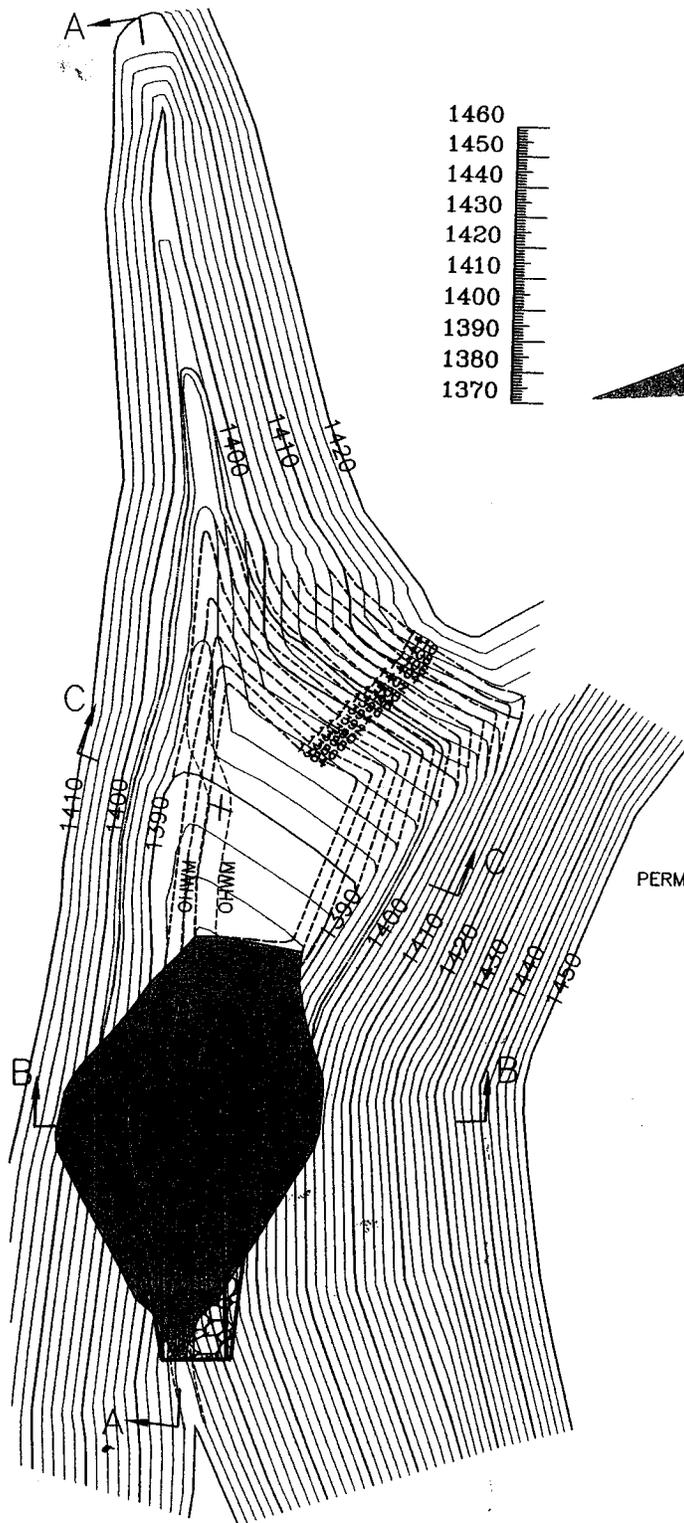
PERMIT NO. 0-5013-88 NPDES NO. WV1004760

MSHA I.D. NO. 1211WV40480-01

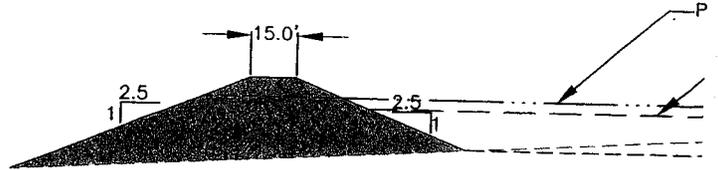
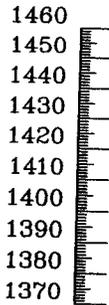
Stafford District - Mingo County

FRESH WATER POND No. 3B  
 FRESH WATER POND No. 3C

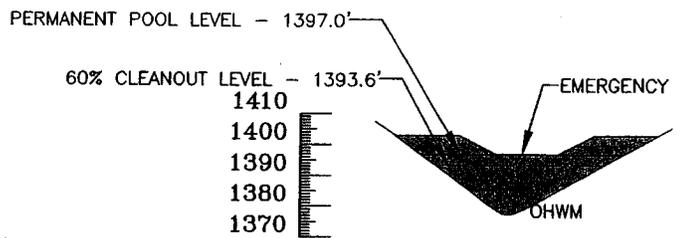
EXISTING 96" CULVERT



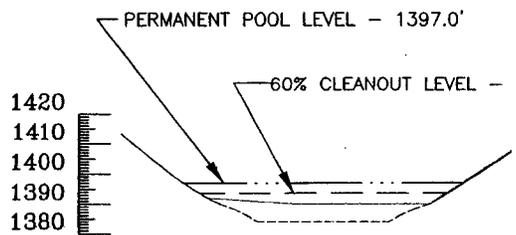
PLAN VIEW  
SCALE: 1"=40'



SECTION: A-A  
SCALE: 1"=40'

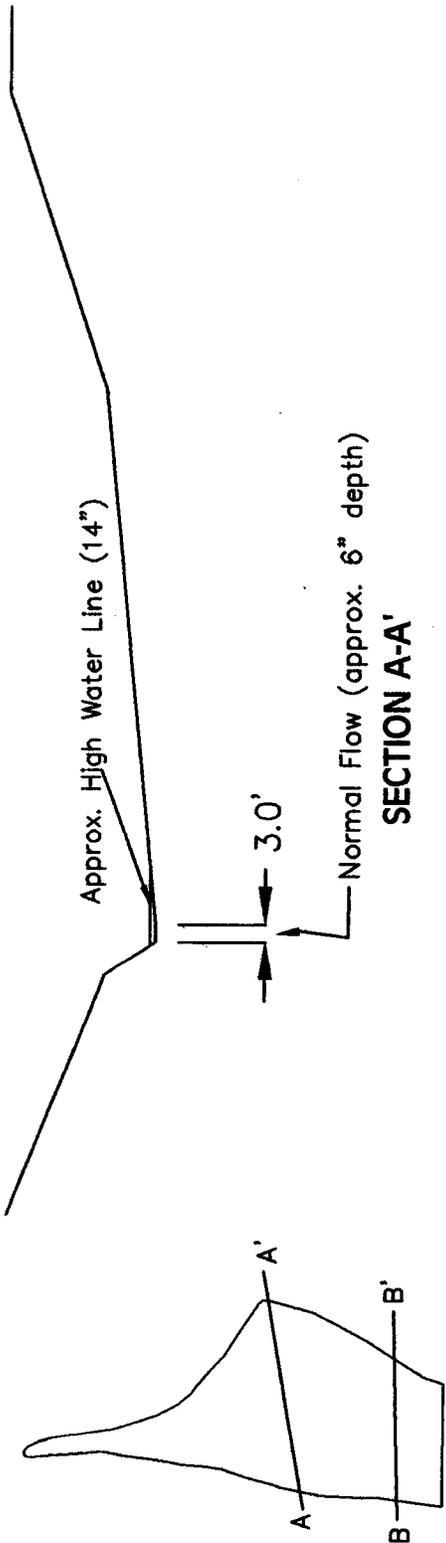


SECTION: B-B  
SCALE: 1"=40'

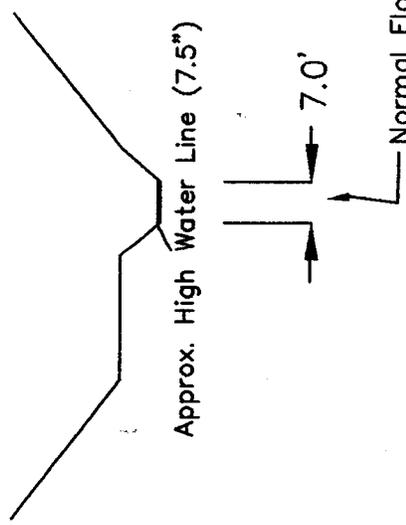


SECTION: C-C  
SCALE: 1"=40'

POND NO. 1A

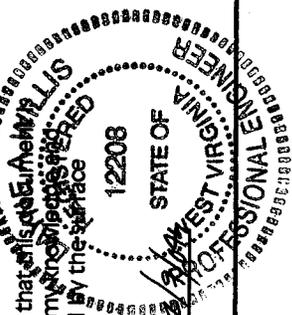


**SECTION A-A'**



**SECTION B-B'**  
(@ Embankment)

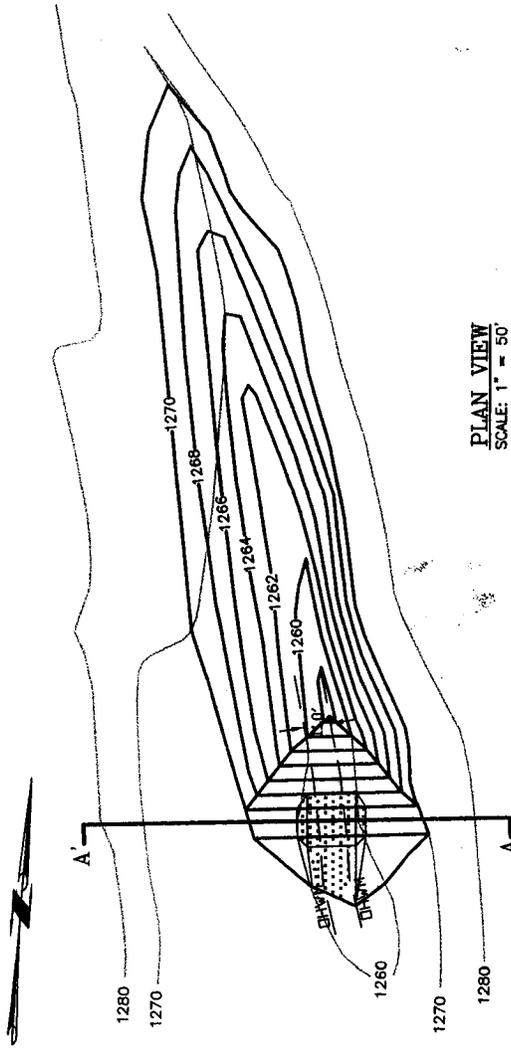
**SCALE: 1" = 3'**



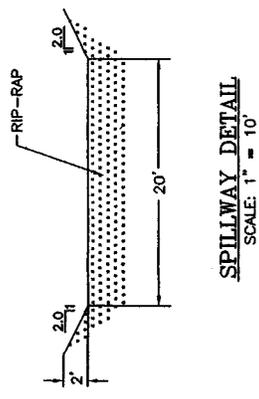
I, the undersigned, hereby certify that this plan is correct and shows, to the best of my knowledge and belief, all the information required by the surface mining laws of this state.

*E. A. Harris*  
 Registered Professional Engineer

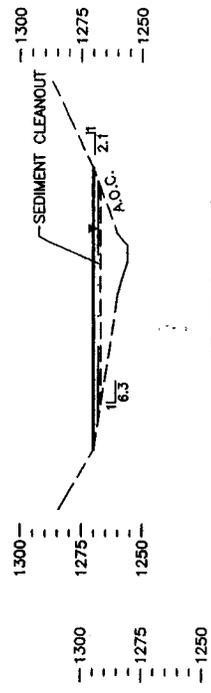
MCSI	MINING CONSULTING SERVICES, INC.
	KIMPER, KENTUCKY
CLIENT:	HAMPDEN COAL COMPANY
LOCATION:	DONALDSON BRANCH
FILE: stream 1'-sect	SCALE: NOTED
DATE: 05/20/91	APPLICATION NO: 0-5013-88
TITLE:	STREAM CROSS-SECTIONS, POND 1A



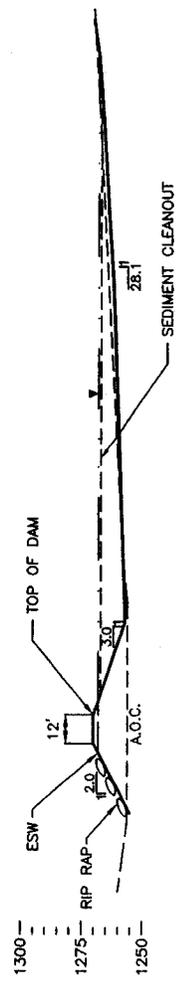
**PLAN VIEW**  
SCALE: 1" = 50'



**SPILLWAY DETAIL**  
SCALE: 1" = 10'



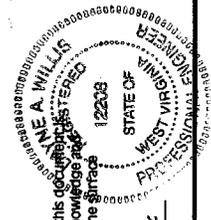
**SECTION A-A'**  
SCALE: 1" = 50'



**PROFILE**  
SCALE: 1" = 50'

TOP OF DAM	1270.0'
EMERGENCY SPILLWAY	1266.0'
BOTTOM OF EMBANKMENT	1255.0'
DOWNSTREAM	1257.0'
UPSTREAM	1257.0'
BOTTOM OF POND	1257.0'

LENGTH OF IMPACTED STREAM CHANNEL 79.4'  
 APPROX. WIDTH OF IMPACTED STREAM CHANNEL 2.6'  
 CUBIC YDS. MAT'L BELOW HIGH WATER MARK 16.2  
 TOTAL CUBIC YDS. FILL MAT'L DISCHARGED 400



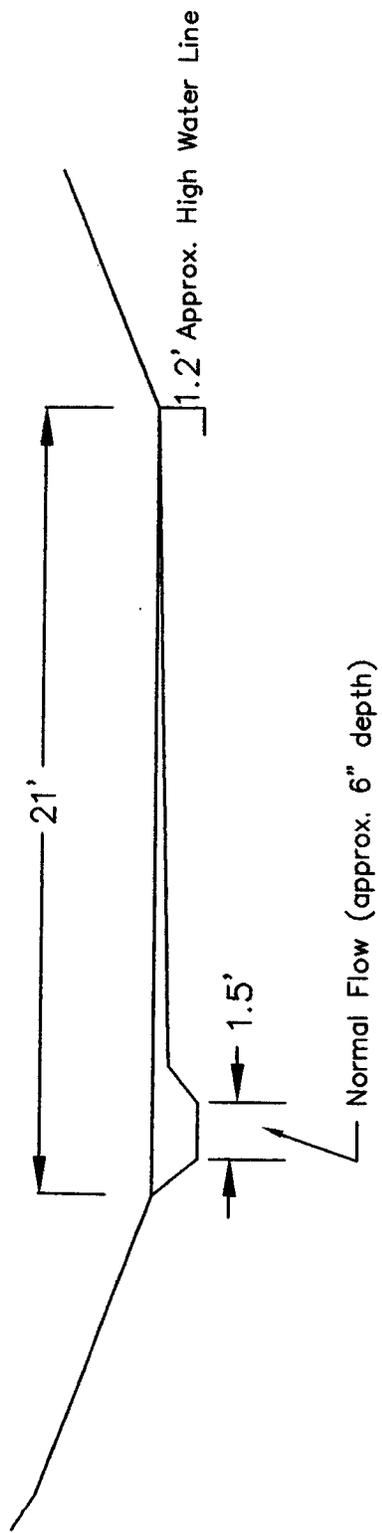
I, the undersigned, hereby certify that this document is correct and shows, to the best of my knowledge and belief, all the information required by the mining laws of this state.

*Alex A. Willis*  
 Registered Professional Engineer

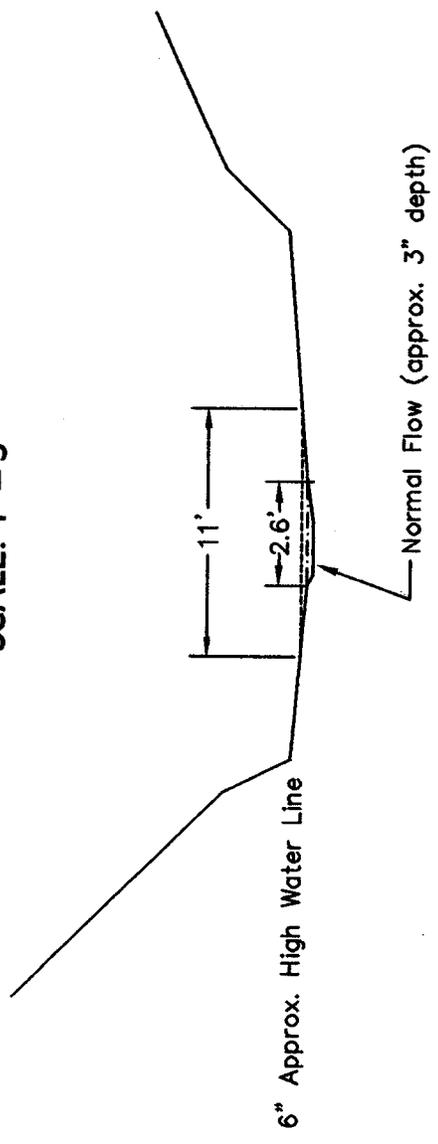
MUSEI MINING CONSULTING SERVICES, INC.  
 LEXINGTON, KENTUCKY

CLIENT: **HAMPDEN COAL COMPANY, INC.**  
 LOCATION: **DONALDSON BRANCH - HAMPDEN, WV**

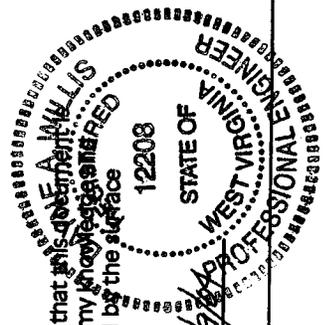
DATE: 02/15/01 SCALE: AS NOTED APPLICATION NO.: 0-5013-88 REV. 9  
 TITLE: **FRESHWATER POND NO. 3**



**SECTION B-B'**  
**SCALE: 1" = 5'**



**SECTION A-A'**  
 (@ Embankment)  
**SCALE: 1" = 5'**



I, the undersigned, hereby certify that this drawing is correct and shows, to the best of my knowledge and belief, all the information required by the mining laws of this state.

*E. A. Hillis*  
 Registered Professional Engineer

<input checked="" type="checkbox"/> LICENSE	MINING CONSULTING SERVICES, INC.		
<input checked="" type="checkbox"/>	KIMPER, KENTUCKY		
CLIENT:	HAMPDEN COAL COMPANY		
LOCATION:	DONALDSON BRANCH		
FILE: stream 2-foot	SCALE:	NOTED	APPLICATION NO.: 0-5013-88
DATE: 09/30/85	TITLE: STREAM CROSS-SECTIONS, POND 3		