

Public Notice

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

In reply refer to Public Notice No. 200500824

Issuance Date:
August 10, 2005

Stream: Spring Branch

Closing Date:
September 9, 2005

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) 399-5710

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' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Snap Creek Mining, Inc.
Post Office Box 1210
Gilbert, West Virginia 25621

LOCATION: The proposed project site is depicted on the Man U.S. Geological Survey Quadrangle within the Spring Branch watershed, near Taplin, in the Triadelphia District of Logan County, West Virginia, as depicted on the attached Drawing 1 titled "Location Map." The proposed project would result in direct and indirect effects to an unnamed tributary of Spring Branch and the left fork of this unnamed tributary. The unnamed tributary of Spring Branch flows into Spring Branch. Spring Branch flows into Rockhouse Creek, which ultimately flows into the Guyandot River, a navigable (Section 10) water of the United States.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place dredged and fill material into approximately 5,030 linear feet (0.513 acre) of waters of the U.S. in conjunction with the construction, operation and reclamation of the Snap Creek No. 2 Surface Mine. The proposed operation would involve the construction of one valley fill (No. 5) and one associated sediment control structure (No. 5) and result in disturbances to 227.7 acres of land in order to recover 6.7 million tons of coal reserves from the Coalburg, Stockton and Clarion seams. Prior to the construction of Valley Fill 5, a sediment control structure would be constructed downstream of the proposed valley fill toe and would result temporary adverse effects to 1,450 linear feet (0.234 acre) of intermittent stream, an unnamed tributary of Spring Branch. The proposed mineral removal operations via mountaintop removal methods would generate nearly 902 million cubic yards of overburden material. Excess overburden material, in the amount of 14.5 million cubic yards, would be placed in the proposed Valley Fill 5. Construction of Valley Fill 5 would result in the discharge of 2,776.71 cubic yards of dredged and fill material into approximately 1,730 linear feet (0.158 acre) of intermittent streams and 1,850 linear feet (0.121 acre) of ephemeral streams for a total impact of approximately 3,580 linear feet (0.297 acre) of waters of the United States. Further, approximately 1,450 linear feet (0.234 acre) of intermittent streams would be temporarily impacted by the construction of the proposed sediment control structure. Adverse impacts associated with the proposed sediment pond construction would be temporary in nature. The applicant's Surface Mine Application (S-5006-04) is pending review with the West Virginia Department of Environmental Protection pursuant to the Surface Mining Control and Reclamation Act of 1977. The proposed project would be accomplished in two general phases over a period of eight years. Details regarding the phases can be found in Section N of the applicant's Surface Mining Application on file at the WVDEP.

According to the applicant, the purpose of the project is to recover bituminous coal reserves from from the Coalburg, Stockton and Clarion seams. Plans for the proposed Snap Creek No. 2 Surface are attached to this public notice.

ALTERNATIVE ANALYSIS: This project is not considered to be water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives are not available that would achieve the applicant's goal. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the applicant's goal.

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. To compensate for permanent impacts to waters of the U.S., the applicant proposes to restore and enhance 1,450 linear feet of Spring Branch downstream of the project site, establish 4,113 linear feet of ephemeral streams on-site, and enhance 750 linear feet of Rich Creek upstream of the proposed disturbance. Natural stream design techniques would be utilized

in the design of the mitigation streams. A 50-foot vegetated riparian zone would be established along each mitigation channel using native grasses, shrubs and trees. To further compensate, the stream segments temporarily impacted by sediment pond construction and associated drainage corridors would be restored to their pre-mining conditions. Restoration of the temporarily affected stream channels would include the re-establishment of bankfull and flood prone areas as well as a 50-foot vegetated riparian zone. A 5-Year monitoring and management plan has been developed by the applicant to provide assurances for mitigation success.

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 SHPO for their review. Additional comments concerning archeological sensitivity of a project area should be based upon collected data.

ENDANGERED/THREATENED SPECIES REVIEW: Two federally listed endangered species, the Indiana bat (*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) may occur within the proposed project area. The United States Fish and Wildlife Service, West Virginia Field Office (USFWS) has stated if a total of less than 17 acres of Indiana bat summer habitat would be removed as a result of a proposed project, tree removal can occur at any season of the year. However, if 17 acres or more would be disturbed, the USFWS has recommended one of two options to avoid incidental take of the Indiana bat. The proposed surface mine would result in disturbances to a total of nearly 228 acres. Therefore, the USACE has determined two options are available to the applicant to address potential adverse effects to the Indiana bat. The applicant may conduct a mist net survey from May 15 to August 15 using the mist net protocol outlined in the draft Indiana bat Recovery Plan. Another option is to presume Indiana bats are present and conduct all timber removal on the project area from November 15 to March 31. If this option is chosen, an analysis of the post-project Indiana bat summer habitat must be performed within a two-mile radius of the center point of the project area. If the USFWS determines the extent of disturbance is not significant to affect the Indiana bat, the project may proceed with seasonal restrictions. Conversely, if the USFWS determines the extent of disturbance is significant and would likely adversely affect the Indiana bat, a mist net survey can be conducted to determine if the Indiana bats are present. The applicant's proposed project area must also be surveyed to determine the presence of old abandoned mine portals and likelihood of such features to support summer or winter colonies of the endangered Virginia big-eared bat or provide hibernaculum for the Indiana bat. Upon receipt of the required surveys and/or analyses, a determination of effect will be made by the Huntington District concerning compliance with Section 7(c) of the Endangered Species Act of 1972 (as amended). 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).

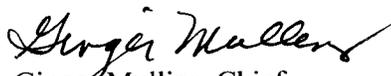
PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interests

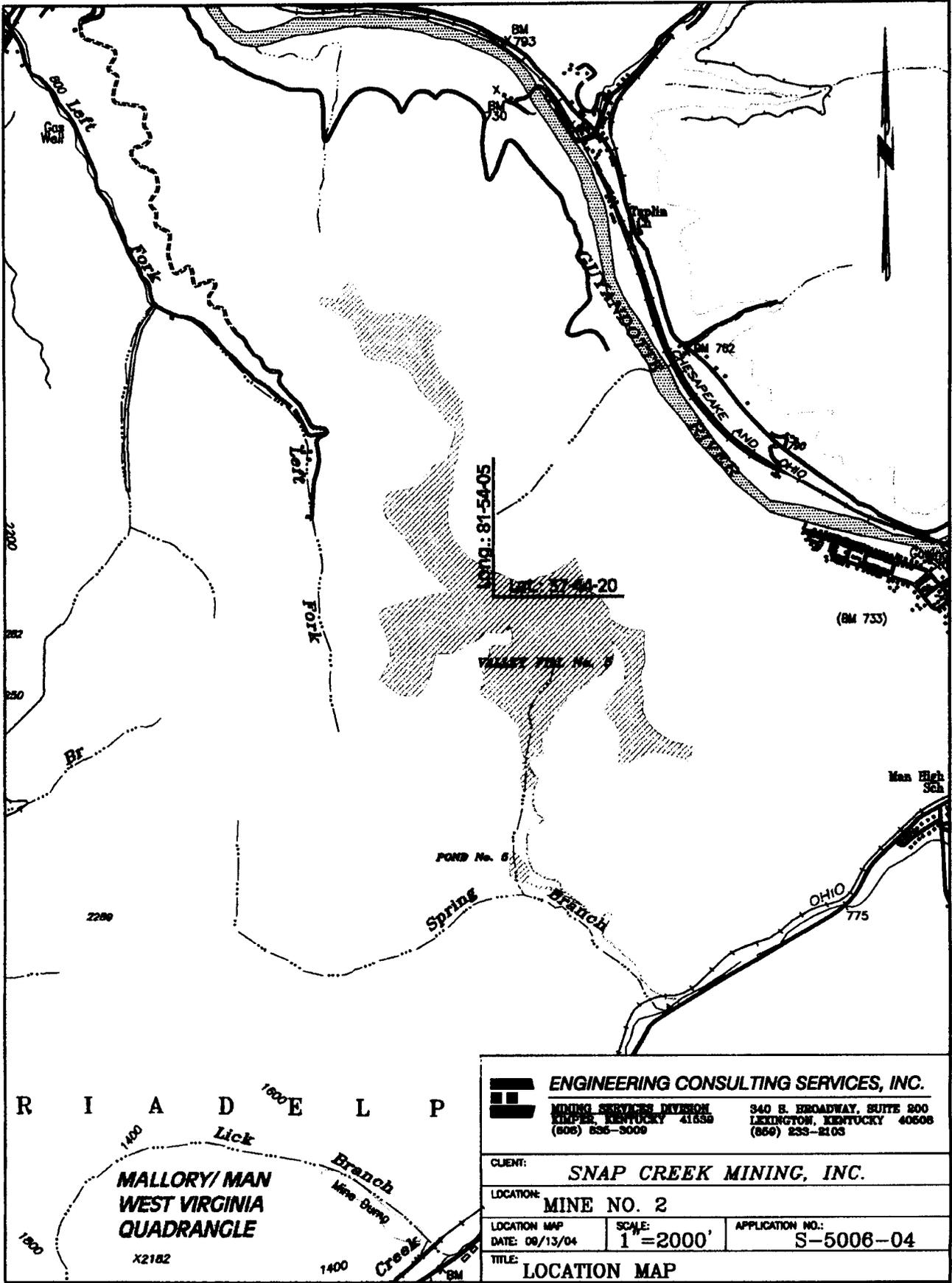
may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by 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. Teresa Spagna, 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 become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Mrs. Teresa Spagna of the South Regulatory Section at 304-399-5710.

(WV)


Ginger Mullins, Chief
Regulatory Branch



R I A D E L P

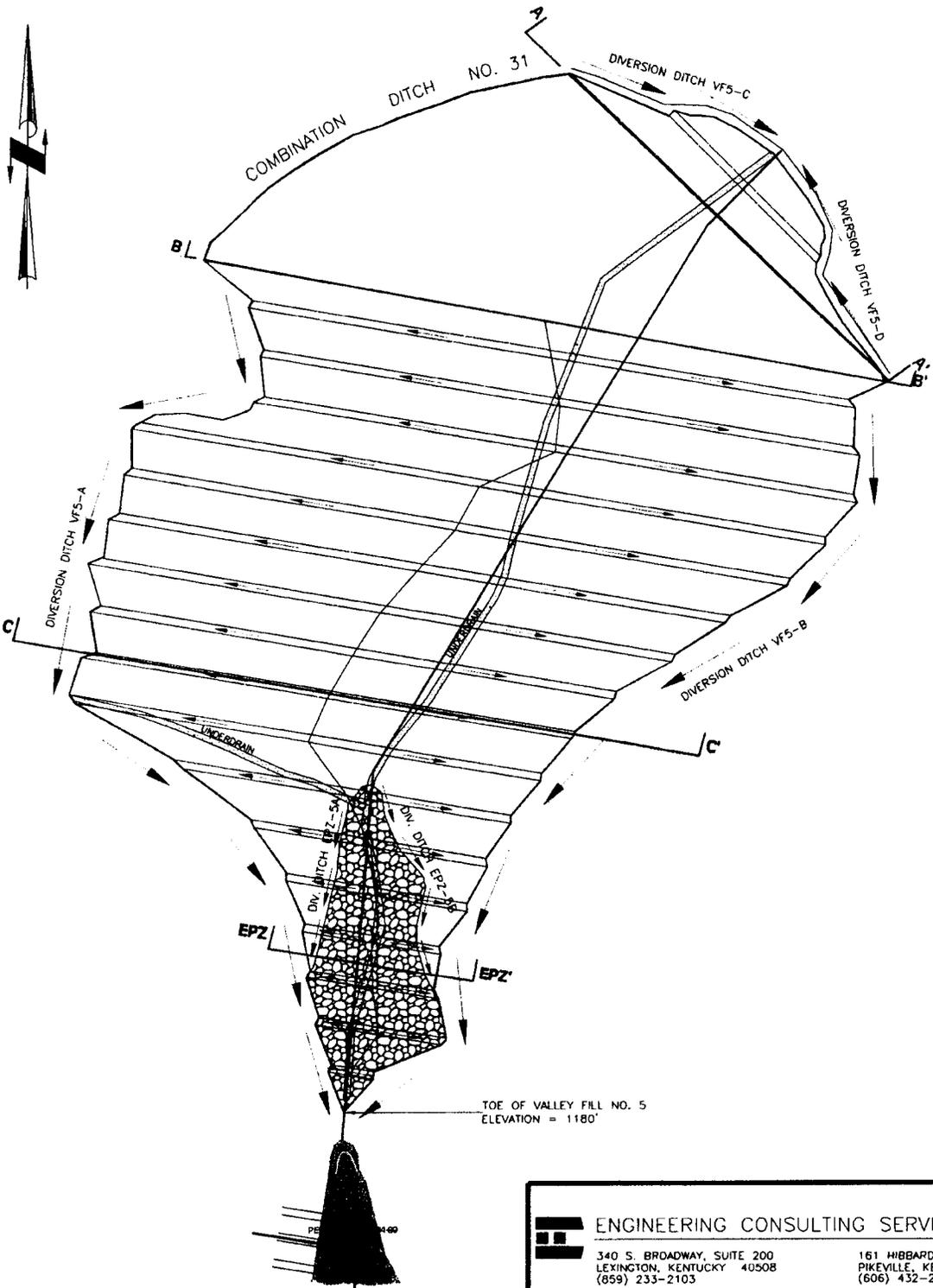
1600
Lick
Branch
Creek
Mine Dump

**MALLORY/ MAN
WEST VIRGINIA
QUADRANGLE**

X2182

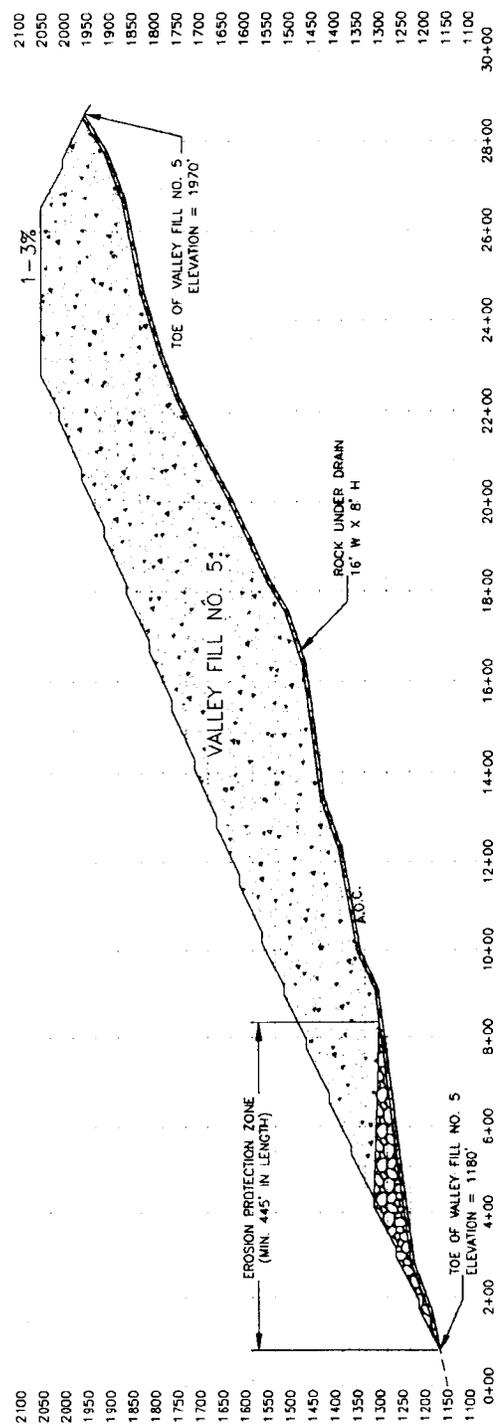
1400

 ENGINEERING CONSULTING SERVICES, INC. MINING SERVICES DIVISION KIMBER, KENTUCKY 41539 (800) 656-3009			340 E. BROADWAY, SUITE 200 LEXINGTON, KENTUCKY 40508 (850) 233-2103
CLIENT: SNAP CREEK MINING, INC.			
LOCATION: MINE NO. 2			
LOCATION MAP	SCALE: 1" = 2000'	APPLICATION NO.: S-5006-04	
DATE: 08/13/04			
TITLE: LOCATION MAP			



NOTE: FEATURES OF PERMIT NO. U-5064-89 NOT SURVEYED BY ECSI

 ENGINEERING CONSULTING SERVICES, INC.		
340 S. BROADWAY, SUITE 200 LEXINGTON, KENTUCKY 40508 (859) 233-2103		161 HIBBARD STREET, SUITE 202 PIKEVILLE, KENTUCKY 41501 (606) 432-2443
CLIENT:	SNAP CREEK SURFACE MINE NO. 2	
LOCATION:	UNNAMED TRIBUTARY of SPRING BRANCH	
DATE: 06/25/05	SCALE: 1" = 400'	APPLICATION NO.: S-5006-04
TITLE:	VALLEY FILL #5 PLAN VIEW	



PROFILE

ENGINEERING CONSULTING SERVICES, INC.

340 S. BROADWAY, SUITE 200
LEXINGTON, KENTUCKY 40508
(859) 233-2103

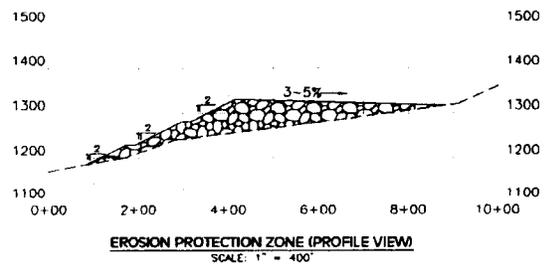
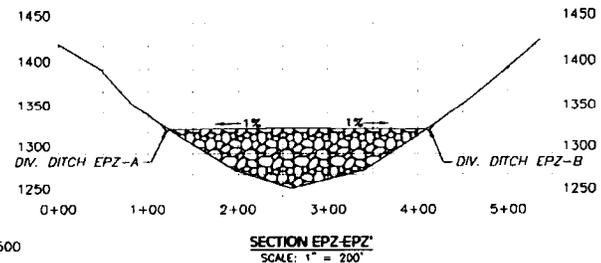
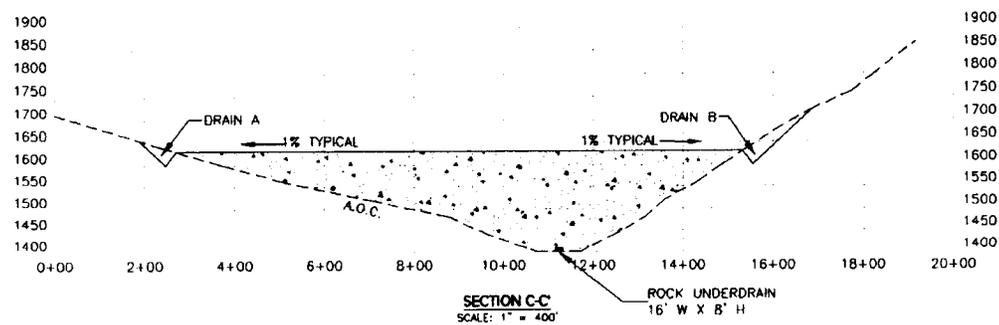
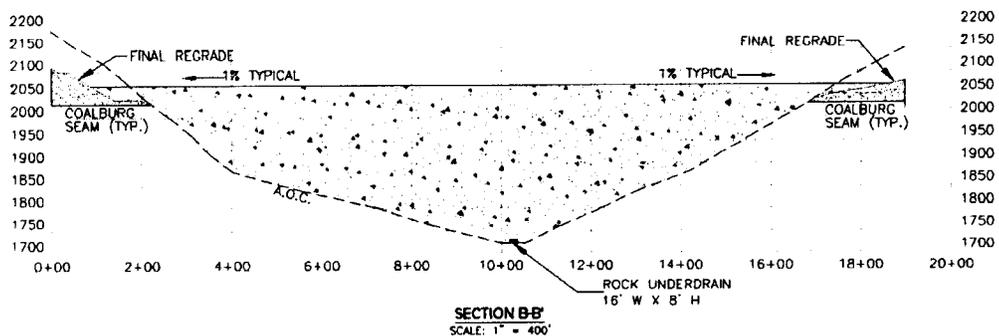
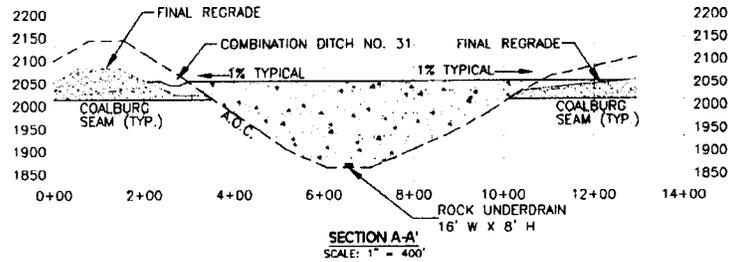
161 HIBBARD STREET, SUITE 202
PIKEVILLE, KENTUCKY 41501
(606) 432-2443

CLIENT: SNAP CREEK SURFACE MINE NO. 2

LOCATION: UNNAMED TRIBUTARY OF SPRING BRANCH

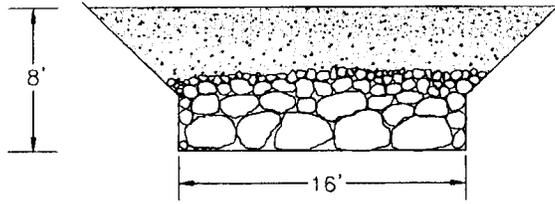
DATE: 06/25/05 SCALE: 1" = 400' APPLICATION NO.: S-5006-04

TITLE: VALLEY FILL #5 PROFILE

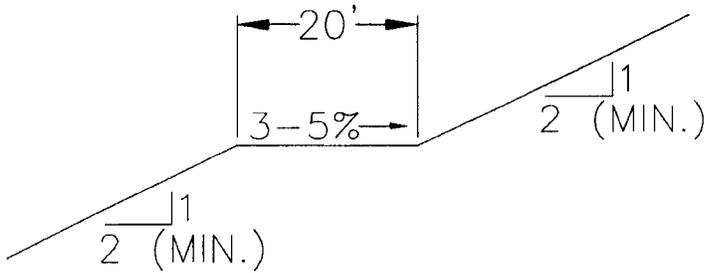


 ENGINEERING CONSULTING SERVICES, INC.		
340 S. BROADWAY, SUITE 200 LEXINGTON, KENTUCKY 40508 (859) 233-2103		151 HIBBARD STREET, SUITE 202 PIKEVILLE, KENTUCKY 41501 (606) 432-2443
CLIENT: SNAP CREEK SURFACE MINE NO. 2		
LOCATION: UNNAMED TRIBUTARY of SPRING BRANCH		
DATE: 06/25/05	SCALE: AS NOTED	APPLICATION NO.: S-5006-04
TITLE: VALLEY FILL #5 CROSS SECTIONS		

4 of 12

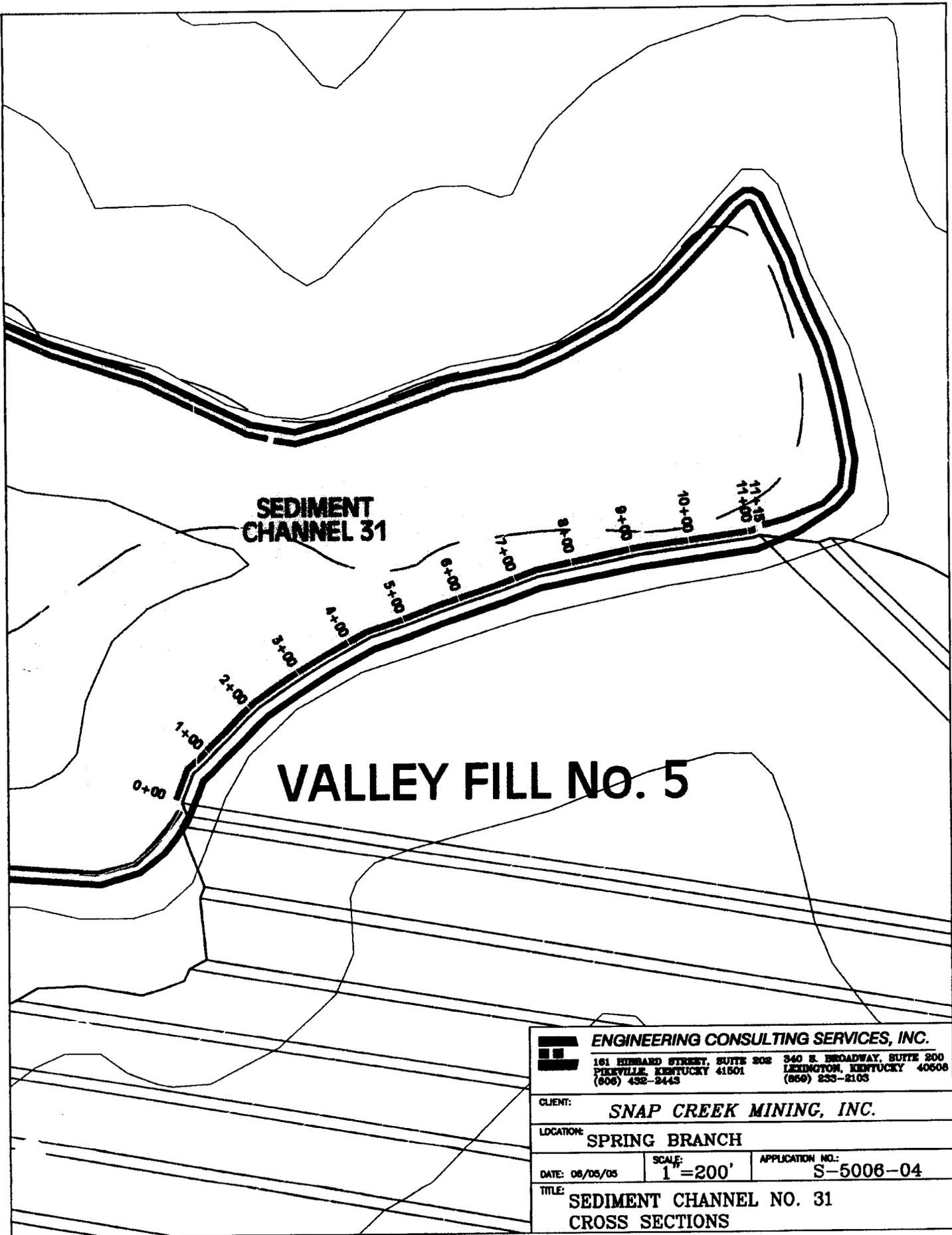


UNDERDRAIN DETAIL
SCALE: 1" = 10'

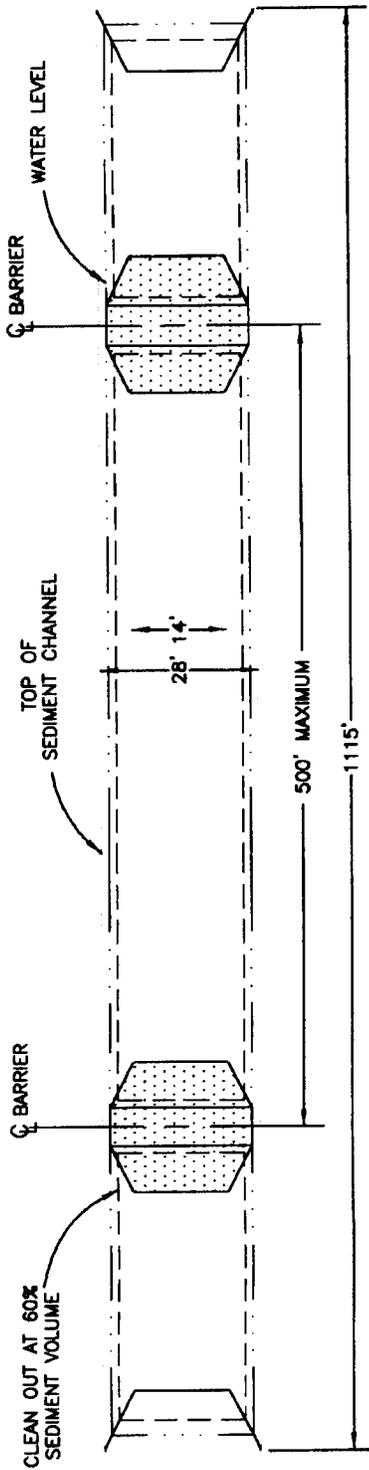


TYPICAL TERRACE DETAIL
SCALE: 1" = 20'

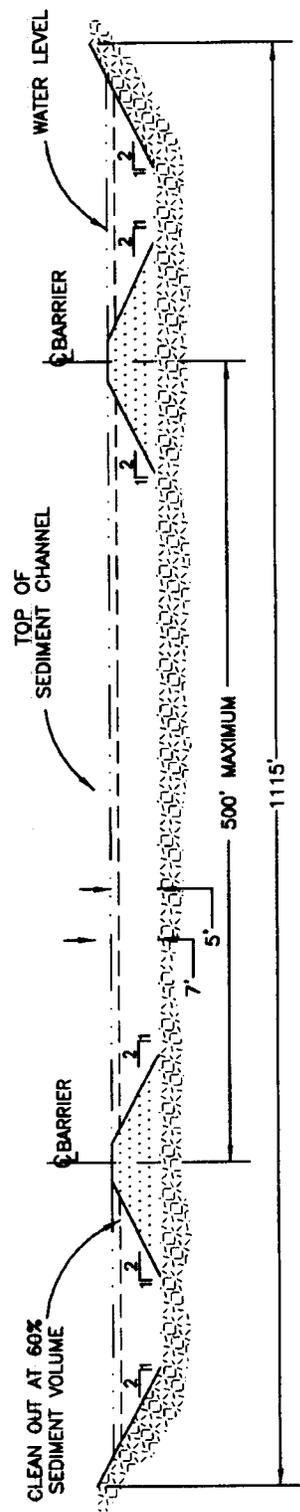
 ENGINEERING CONSULTING SERVICES, INC.		
340 S. BROADWAY, SUITE 200 LEXINGTON, KENTUCKY 40508 (859) 233-2103		161 HIBBARD STREET, SUITE 202 PIKEVILLE, KENTUCKY 41501 (606) 432-2443
CLIENT: SNAP CREEK SURFACE MINE NO. 2		
LOCATION: UNNAMED TRIBUTARY of SPRING BRANCH		
DATE: 06/25/05	SCALE: AS NOTED	APPLICATION NO.: S-5006-04
TITLE: VALLEY FILL #5 TYPICALS		



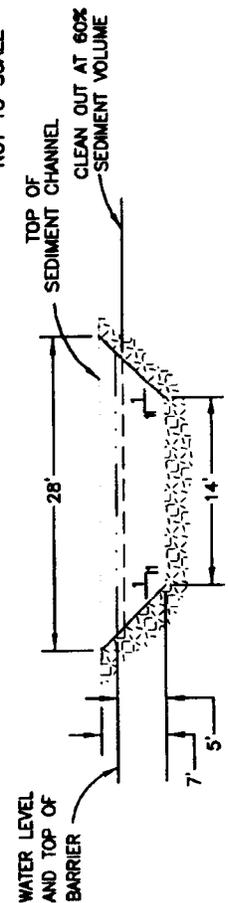
	ENGINEERING CONSULTING SERVICES, INC.	
	161 HERRARD STREET, SUITE 202 PIKEVILLE, KENTUCKY 41501 (606) 432-2443	340 E. BROADWAY, SUITE 200 LEXINGTON, KENTUCKY 40508 (606) 233-2103
CLIENT:	SNAP CREEK MINING, INC.	
LOCATION:	SPRING BRANCH	
DATE: 06/05/05	SCALE: 1" = 200'	APPLICATION NO.: S-5006-04
TITLE:	SEDIMENT CHANNEL NO. 31 CROSS SECTIONS	



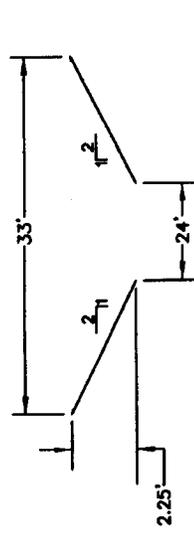
PLAN VIEW - SEDIMENT CHANNEL
NOT TO SCALE



PROFILE - SEDIMENT CHANNEL
NOT TO SCALE



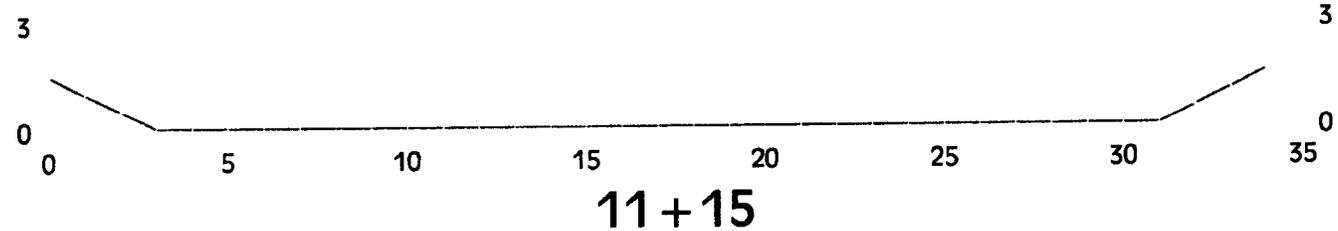
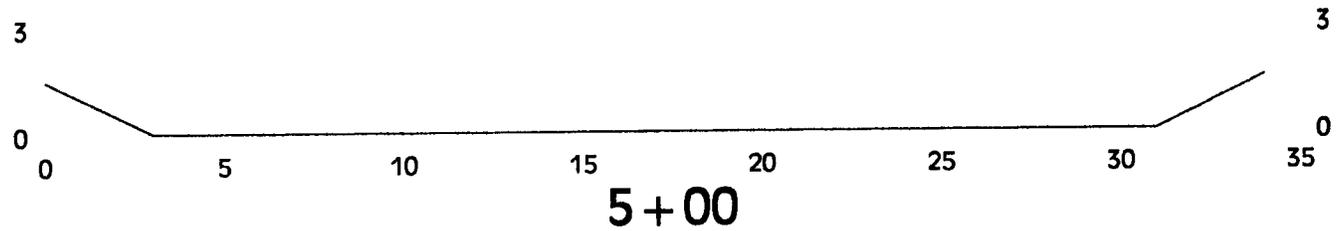
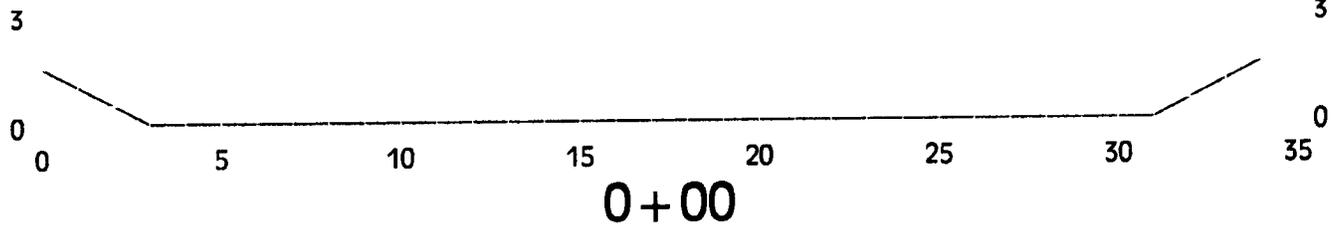
SECTION - SEDIMENT CHANNEL
NOT TO SCALE



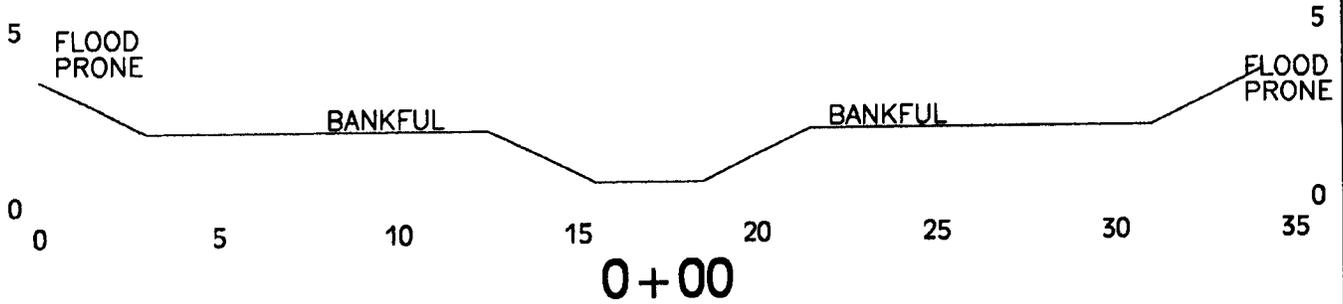
SECTION - OPEN CHANNEL SPILLWAY
NOT TO SCALE

FILE: SED CHANNEL 31	DRAWN BY: IST
PROJECT No.: 4258-001	CHECKED BY: DMW
SCALE: NOT TO SCALE	DATE: 4-20-04
ENGINEERING CONSULTING SERVICES, INC. 100 S. BROADWAY SUITE 200 HOUSTON, TEXAS 77002 (800) 332-3183	

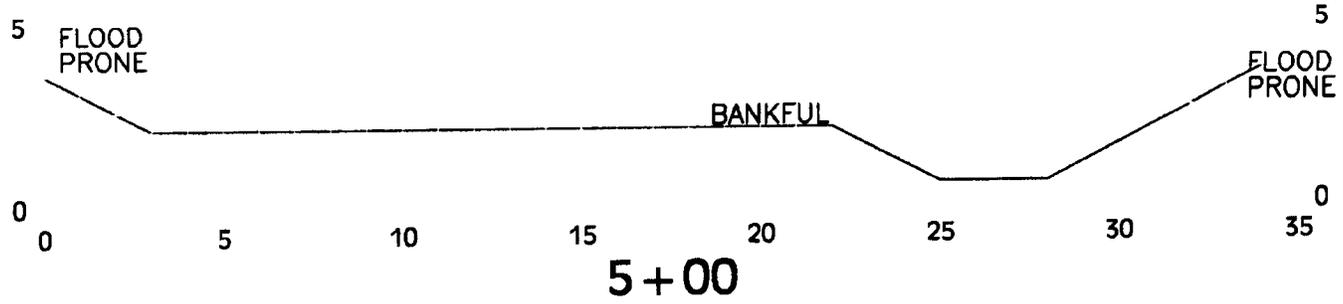
SEDIMENT CHANNEL 31



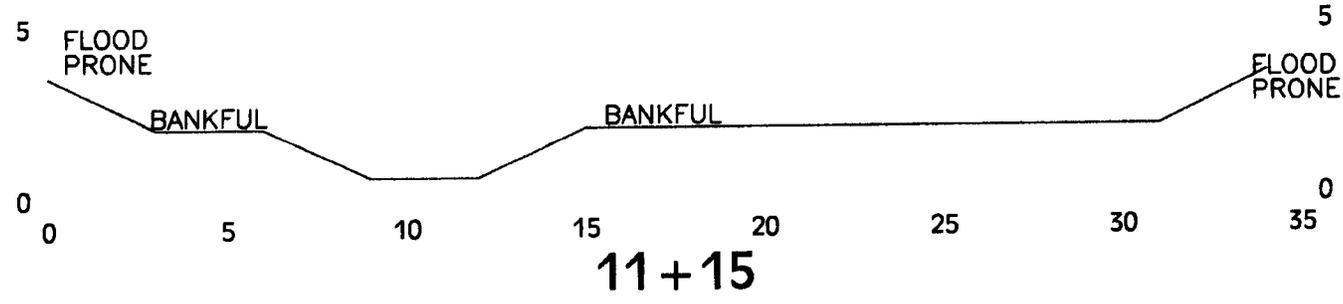
ENGINEERING CONSULTING SERVICES, INC.		
 181 HIBBARD STREET, SUITE 202 PIKEVILLE, KENTUCKY 41501 (606) 432-2443	340 S. BROADWAY, SUITE 200 LEXINGTON, KENTUCKY 40508 (858) 233-2103	
CLIENT: SNAP CREEK MINING, INC.		
LOCATION: SPRING BRANCH		
DATE: 7/06/06	SCALE: 1"=5'	APPLICATION NO.: S-5006-04
TITLE: SED. CHANNEL NO. 31 CROSS-SECTIONS DURING MINING TYPICAL		



0 + 00



5 + 00

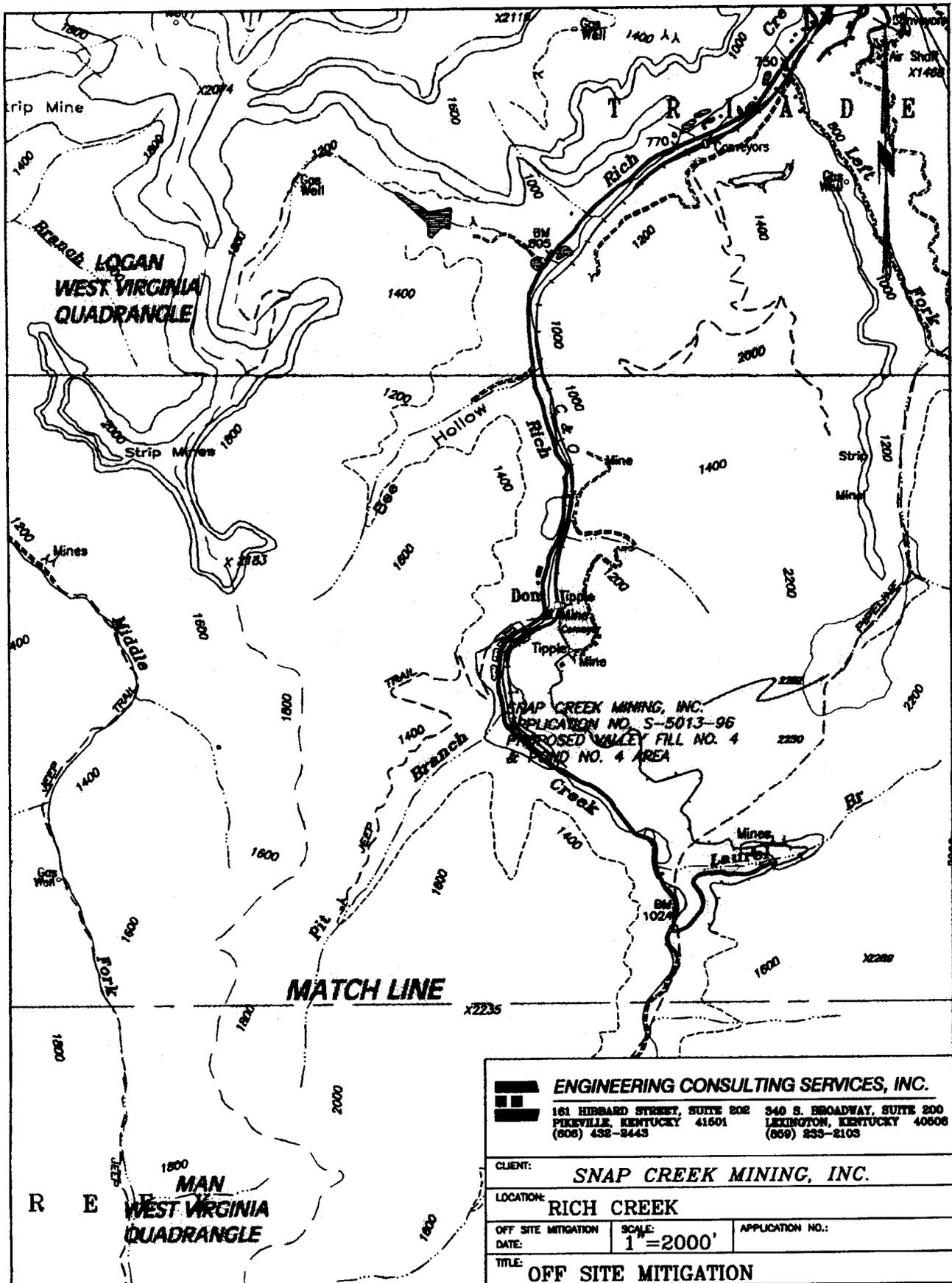


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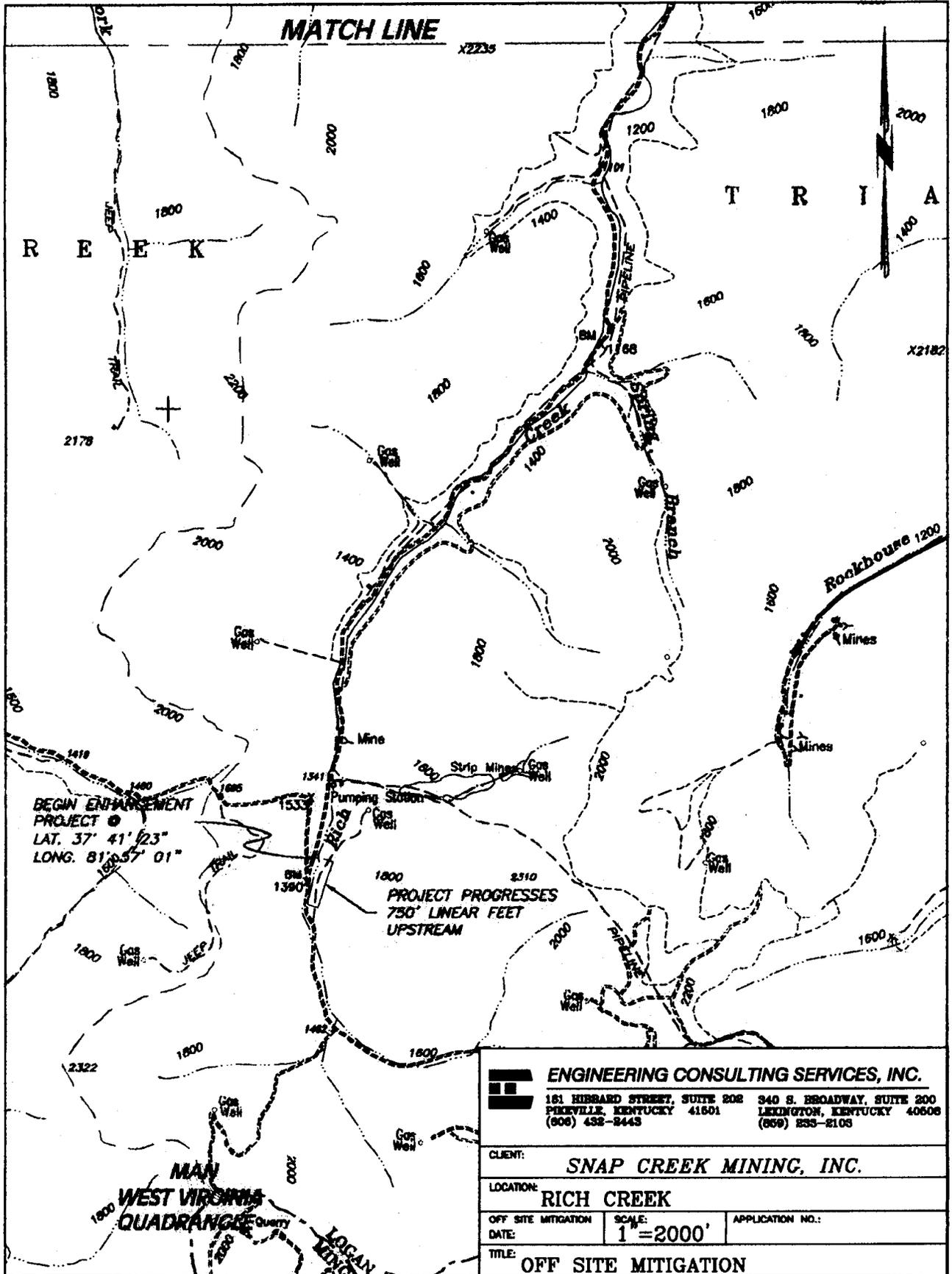
ESTABLISH BANKFUL DEPTH
 ESTABLISH FLOODPRONE DEPTH
 ESTABLISH NORMAL FLOW DEPTH

MEANDERS OF POST MINING
 CONFIGURATION TO BE DETERMINED
 @ TIME OF MITIGATION.

 ENGINEERING CONSULTING SERVICES, INC.		
161 HIBBARD STREET, SUITE 202 PIKEVILLE, KENTUCKY 41501 (606) 432-2443		340 S. BROADWAY, SUITE 200 LEXINGTON, KENTUCKY 40508 (856) 233-2103
CLIENT: SNAP CREEK MINING, INC.		
LOCATION: SPRING BRANCH		
DATE: 7/08/05	SCALE: 1" = 5'	APPLICATION NO.: S-5006-04
TITLE: SED. CHANNEL NO. 31 CROSS-SECTIONS POST MINING MITIGATION TYPICAL		



 ENGINEERING CONSULTING SERVICES, INC. 161 HIBBARD STREET, SUITE 202 340 S. BROADWAY, SUITE 200 PIKEVILLE, KENTUCKY 41601 LEXINGTON, KENTUCKY 40608 (606) 438-2443 (606) 233-2103		
CLIENT: SNAP CREEK MINING, INC.		
LOCATION: RICH CREEK		
OFF SITE MITIGATION	SCALE: 1" = 2000'	APPLICATION NO.:
DATE:		
TITLE: OFF SITE MITIGATION		



BEGIN ENHANCEMENT PROJECT @
 LAT. 37° 41' 23"
 LONG. 81° 57' 01"

PROJECT PROGRESSES
 730' LINEAR FEET
 UPSTREAM

ENGINEERING CONSULTING SERVICES, INC.
 151 HIBBARD STREET, SUITE 202 PIKEVILLE, KENTUCKY 41601 (806) 432-8443
 340 S. BROADWAY, SUITE 200 LEXINGTON, KENTUCKY 40506 (606) 835-8105

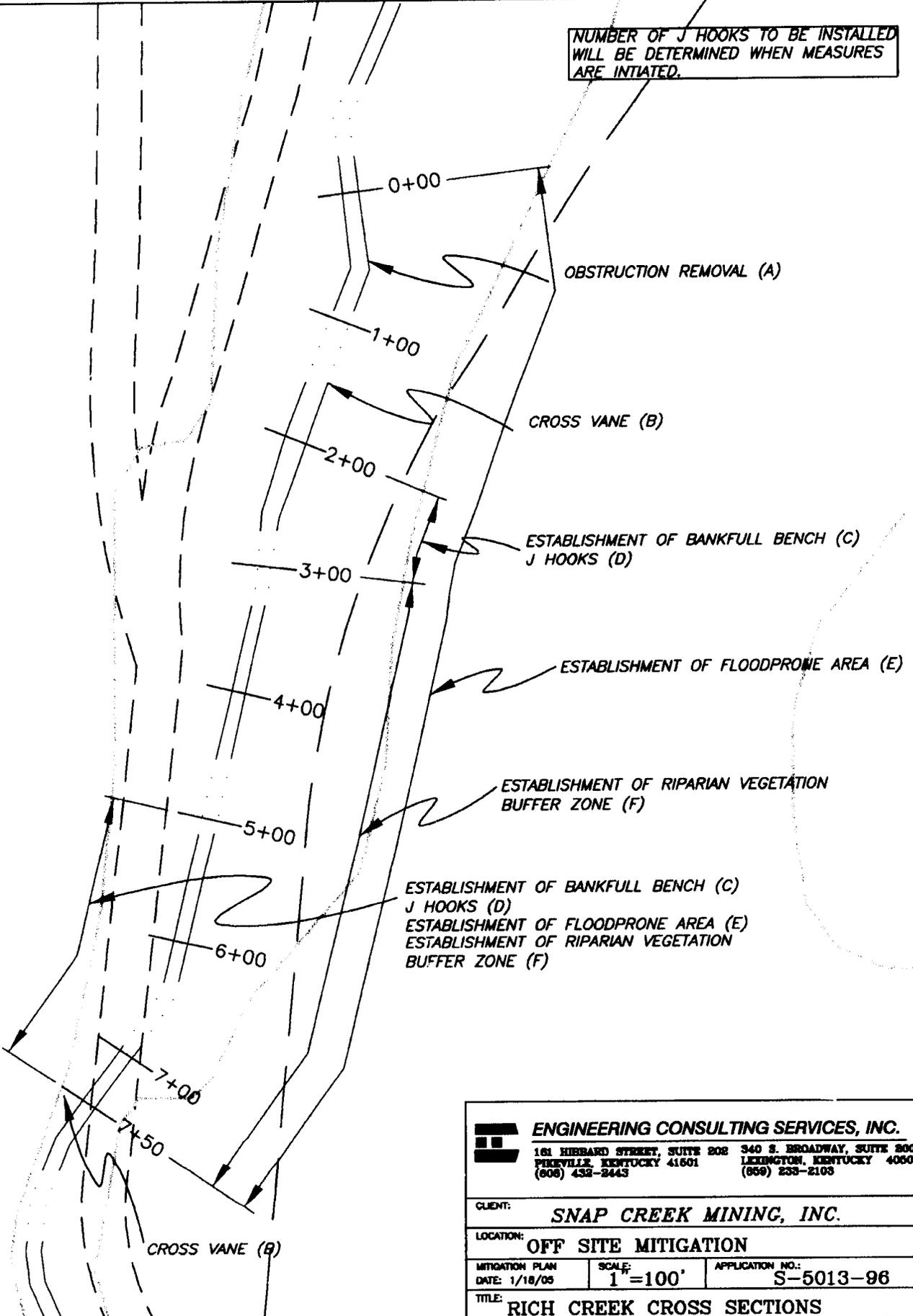
CLIENT: **SNAP CREEK MINING, INC.**

LOCATION: **RICH CREEK**

OFF SITE MITIGATION DATE: SCALE: **1" = 2000'** APPLICATION NO.:

TITLE: **OFF SITE MITIGATION**

NUMBER OF J HOOKS TO BE INSTALLED
WILL BE DETERMINED WHEN MEASURES
ARE INITIATED.



 ENGINEERING CONSULTING SERVICES, INC. 161 HIBBARD STREET, SUITE 202 340 S. BROADWAY, SUITE 200 PIKEVILLE, KENTUCKY 41601 LEXINGTON, KENTUCKY 40508 (606) 432-2443 (606) 233-2105		
CLIENT: SNAP CREEK MINING, INC.		
LOCATION: OFF SITE MITIGATION		
MITIGATION PLAN DATE: 1/18/05	SCALE: 1"=100'	APPLICATION NO.: S-5013-96
TITLE: RICH CREEK CROSS SECTIONS		