

Public Notice

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

In reply refer to Public Notice No.

200501243

Issuance Date:

November 8, 2005

Stream:

Spring Branch and unnamed tributaries

Closing Date:

December 8, 2005

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-FS Public Notice No. 200501243

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 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: Laurel Run Mining Company
1800 Washington Road
Pittsburgh, Pennsylvania 15241

LOCATION: The proposed project would be located in Spring Branch and unnamed tributaries thereof, near Myrtle, in Mingo County, West Virginia (latitude 37° 47' 22" and longitude 82° 11' 51"). Spring Branch is a tributary of the Trace Fork of Pigeon Creek which is a tributary of the Tug Fork, a navigable (Section 10) water of the U.S. Drawing No. 1 depicts the location of the proposed project.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place fill material into 3,551 linear feet of waters of the U.S. in conjunction with the proposed deep-mine entry portal, haulroad extension and crossing and sediment control structures. The construction of a portion of the valley fill (VF) would result in the permanent impacts to 663 linear feet of intermittent stream. The remaining portion of the VF would result in the temporary impact to 135 linear feet of intermittent stream and 72 linear feet of ephemeral stream. The construction of sediment control ponds 1 and 2 would result in the temporary impact to 1,631 linear feet of intermittent stream and the construction of the haulroad and crossing would result in the temporary impact to 1,050 linear feet of intermittent stream. Proposed impacts to waters of the U.S. are indicated in Drawing No. 2.

The purpose of the project is to extract approximately 2.55 million tons of coal from the Coalburg seam through underground mining. The size of the watershed to be impacted by the VF is approximately 93 acres measured from the toe of the fill. The expected duration of pre-mining construction, mining and reclamation would be approximately eight years.

The applicant's consultant, Michael Baker Jr., Inc. performed habitat assessment surveys for the proposed project. Benthic macroinvertebrate survey data was evaluated using the West Virginia Stream Condition Index (WVSCI), which indicated a total of five scores ranging from 54 to 84 which would be classified "fair" to "very good". The West Virginia Department of Environmental Protection (WVDEP) Cumulative Hydrological Impact Assessment (CHIA) indicates there are no anticipated impacts or changes to the surface water flows or ground water resources which would result in adverse changes to hydrologic balance as a result of the proposed underground mine. In accordance with the U. S. Environmental Protection Agency's "Rapid Bioassessment Protocols For Use in Streams and Wadeable Rivers" Compliance Monitoring Labs, Inc performed a habitat assessment of the streams. The habitat assessment scores range from 78 to 105 which classified the streams as marginal. The Surface Water Runoff Analysis (SWROA) indicates the "during mining" and "after mining" conditions from peak discharges would be equal or lower than the "before mining" condition based upon a 25 year/24 hour storm event.

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. The applicant has submitted an alternatives analysis, which is currently under review.

MITIGATION PLAN: The applicant has submitted a compensatory mitigation plan (CMP) to for the permanent and temporary impacts to waters of the U. S. The applicant utilized Stream Habitat Units (SHU) to provide quantitative values for mitigation. The applicant has adjusted SHU loss to compensate for the lack of permanent site protection. To compensate for temporary impacts to 2,888 linear feet of stream the applicant proposes the on-site restoration of the affected streams to their approximate original state. To compensate the permanent impacts to 663 linear feet of stream the applicant proposes off-site enhancement of 1,300 linear feet of Spring Branch.

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. This public notice serves as coordination with the State Historic Preservation Officer regarding historic properties. If the West Virginia Division of Culture and History (WVDCH) believe any potential effects to historic properties may result from the proposed permitting action, we request the WVDCH provide information to this office pursuant to Section 106 of the National Historic Preservation Act.

It should be noted that DuVall & Associates, Inc. prepared a Phase One Archaeological Survey in May 1993 for the proposed project area. A reply from the WVDCH dated August 4, 1993 indicated that no known historical, architectural, or archaeological sites listed on or eligible for inclusion in the National Register of Historic Places would be affected by the proposed project.

ENDANGERED/THREATENED SPECIES REVIEW: This public notice also serves as coordination with the U. S. Fish and Wildlife Service (USFWS) regarding threatened or endangered species. If the Service believes any potential effects to federally listed species would be attributable to the Huntington District's proposed permitting action, we request the Service provide any additional information pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

It should be noted that Compliance Monitoring Labs Inc. performed a Bat Species Inventory on August 17, 2005 for the proposed project area. The survey indicated there were no federally listed endangered bat species captured within the proposed project area and there were no deep mine portals and/or any man-made structures considered suitable bat roosting habitat within the proposed project area.

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 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. 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.

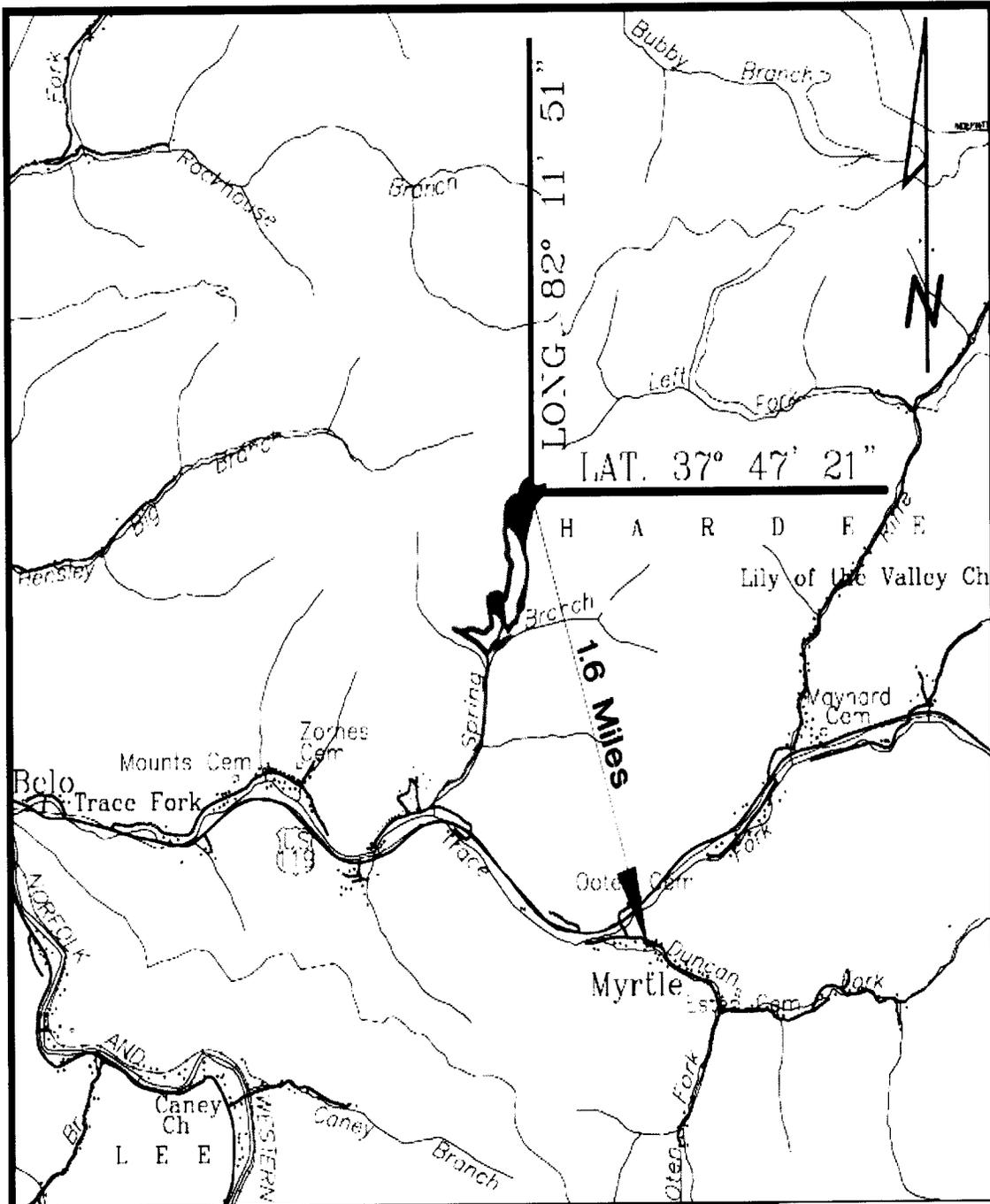
Persons wishing to submit comments, objections or requests for public hearings concerning the Corps of Engineers permit should write:

U. S. Army Corps of Engineers
ATTN: CEORH-OR-F Public Notice No. **200501243**
502 Eighth Street
Huntington, West Virginia 25701-2070

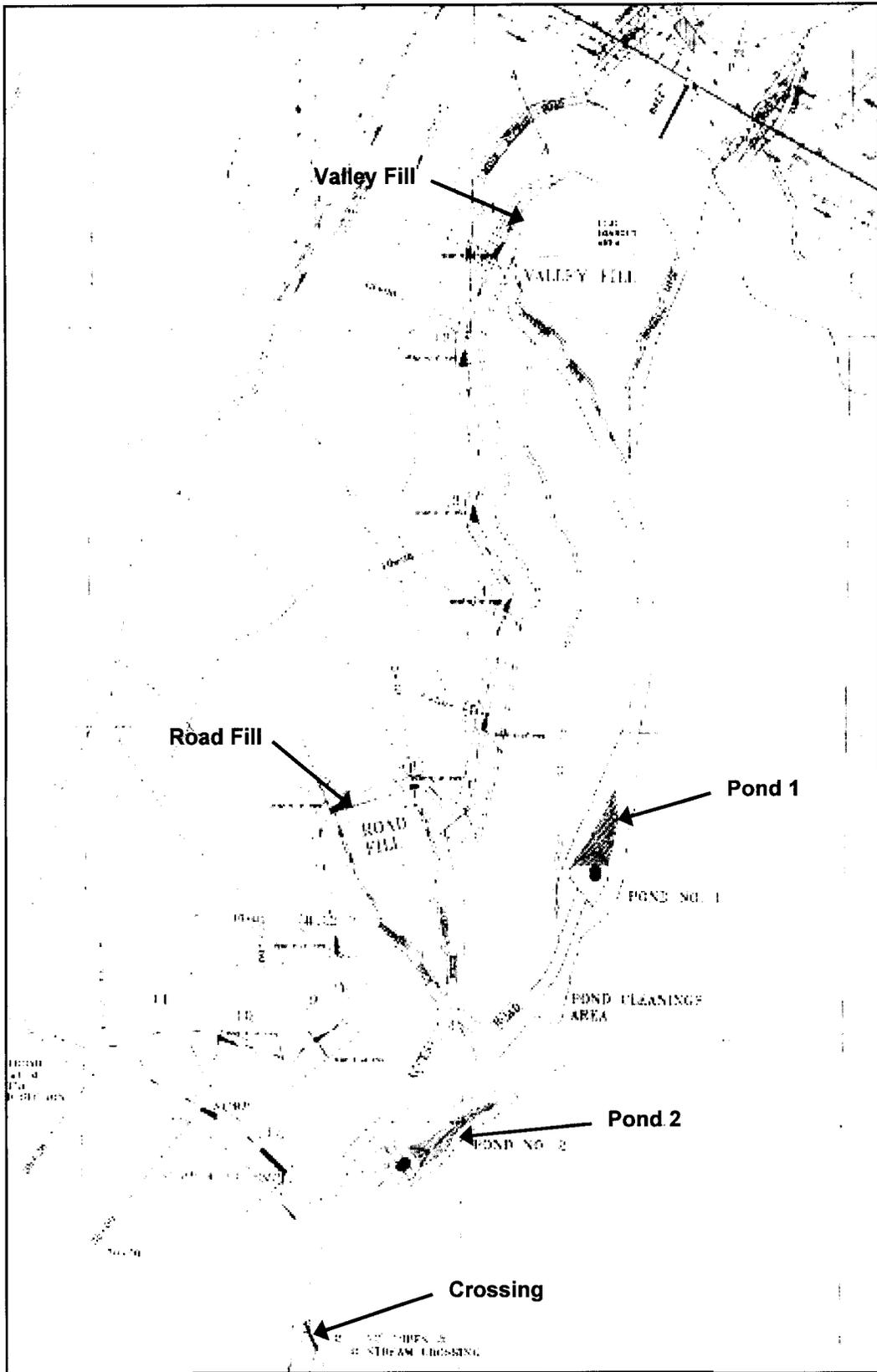
If you have any questions concerning this public notice, please call Mr. Richard Hemann of the South Regulatory Section at 304-399-5710.

(W)


Ginger Mullins, Chief
Regulatory Branch



Project Location
 Laurel Run Mining-Spring Branch Mine
 File No. 200501243
 Drawing 1 of 2



Proposed Impacts
 Laurel Run Mining-Spring Branch Mine
 File No. 200501243
 Drawing 2 of 2