



Public Notice

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

In reply refer to Public Notice No.
200401255-1

Issue Date: December 16, 2005

Stream:
Casey Creek

Closing Date: January 15, 2006

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Huntington District
ATTN: CELRH-OR-FS Public Notice No. 200401255-1
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 (U.S.), 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: Eastern Associated Coal, LLC
P.O. Box 1233
500 Lee Street
Charleston, West Virginia 25324

LOCATION: The proposed project would be located in Casey Creek, a tributary of Pond Fork of the Little Coal River, near Wharton, in Boone County, West Virginia (latitude 37° 54' 23" and longitude 81° 42' 33"). Drawing No. 1 depicts the location of the proposed project.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place fill material into waters of the U.S. in conjunction with the temporary enclosure of approximately 550 linear feet (0.279 acre) of intermittent stream in an 84" corrugated metal pipe. The enclosure would serve to isolate the stream and minimize impacts associated with the construction of entry portals for an underground mining operation. The applicant proposes to temporarily dispose of 18,766 cubic yards of durable rock fill generated from construction of an underground mine entry portal and use the resulting area as a site for ancillary facilities and raw coal storage. The proposed project would permanently impact 1,462 linear feet (or 0.13-acre) of intermittent stream.

The project would allow the recovery of approximately 54,866 million tons of coal from the Lower Winifrede Seam over the proposed five-year life of the mine operation. A site plan is provided in Drawing No. 2. Plan and section views are provided on Drawings 3 and 4.

Benthic macroinvertebrate survey data was utilized to perform the West Virginia Stream Condition Index (WVSCI), which indicated a total of two scores that were both classified as "poor" (31.0 and 23.1). The West Virginia Department of Environmental Protection (WVDEP) Cumulative Hydrological Impact Assessment (CHIA) indicates the Casey Creek Watershed has been extensively surface and deep mined in the past and the surface water is impaired due to existing high concentrations of selenium and manganese. Strata above and below the Winifrede coal seam are considered to have high selenium levels and would not be placed in the stream. In accordance with the U. S. Environmental Protection Agency's "Rapid Bioassessment Protocols For Use in Streams and Wadeable Rivers", R.E. I. Consultants, Inc. performed a habitat assessment of the stream. The habitat assessment indicates two scores (153 and 160), which classifies the stream as suboptimal. The Surface Water Runoff Analysis (SWROA) provided by R.E. I. Consultants, Inc. indicates based upon a 25 year/24 hour storm event the "during mining" and "after mining" conditions from peak discharges would be equal or lower than the "before mining" condition and there would be no net increase in surface runoff or a potential risk of flooding as a result of the mining operation.

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 proposed restoration and enhancement of the area temporarily impacted upon completion of mining. The 550 linear-foot stream section enclosed during the mining operation would be restored to its approximate original streambed location and the streambed and riparian buffer zones would be reconstructed to pre-mining conditions. A 60-foot riparian buffer zone would be established on each stream bank where practicable with annual and perennial herbaceous species as well as typical riparian woody species.

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.

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).

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.

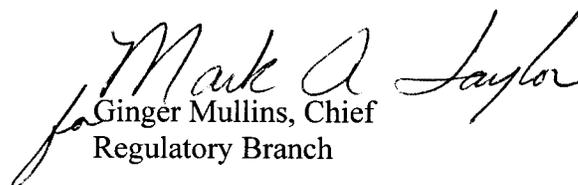
The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine 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.

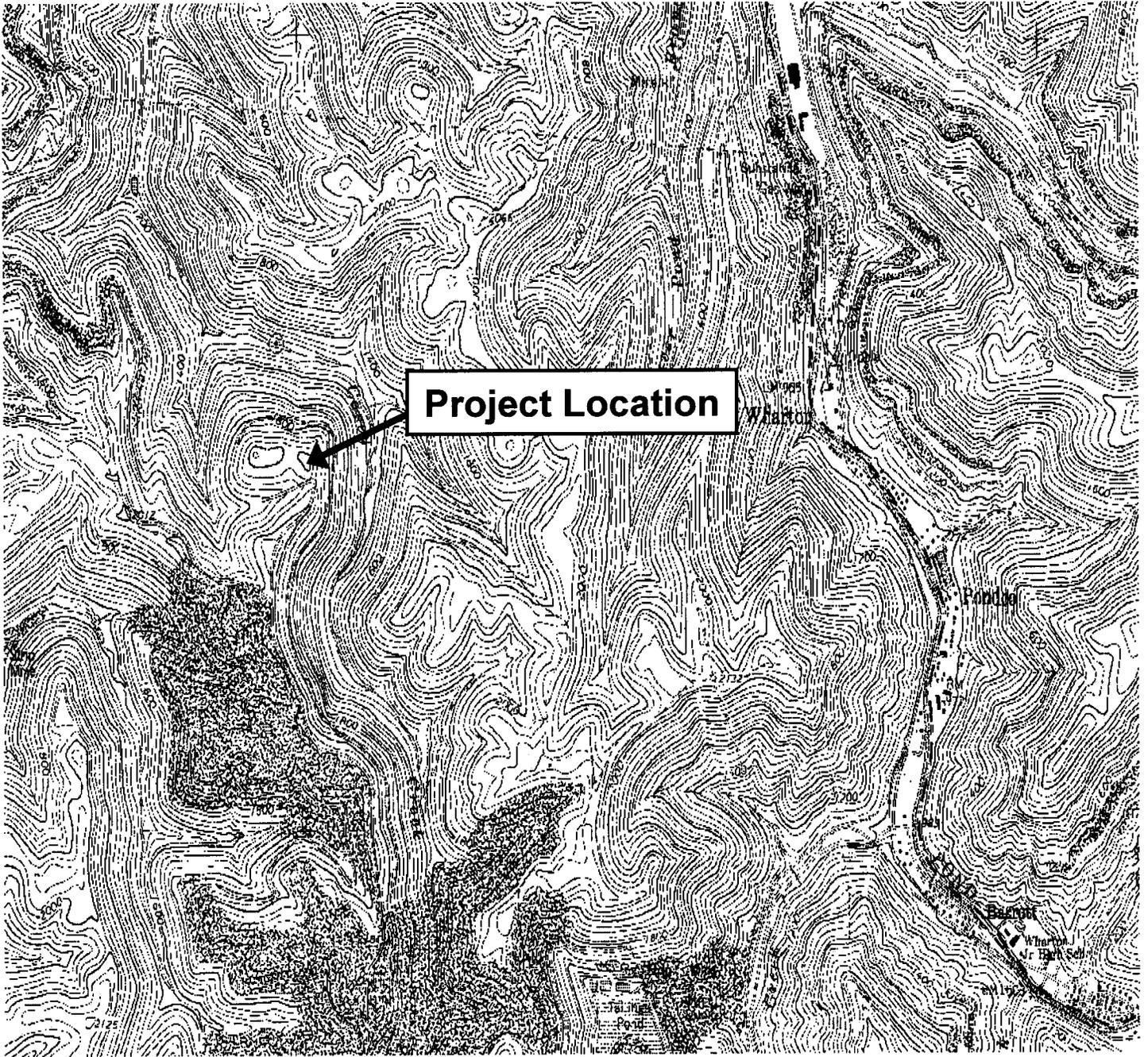
Persons wishing to submit comments, objections or requests for public hearings concerning the Corps of Engineers permit should write:

U. S. Army Corps of Engineers
ATTN: CEORH-OR-FS Public Notice No. 200401255-1
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)


for Ginger Mullins, Chief
Regulatory Branch



**Location Map
Casey Creek Portal
200401255-1
Drawing 1 of 4**

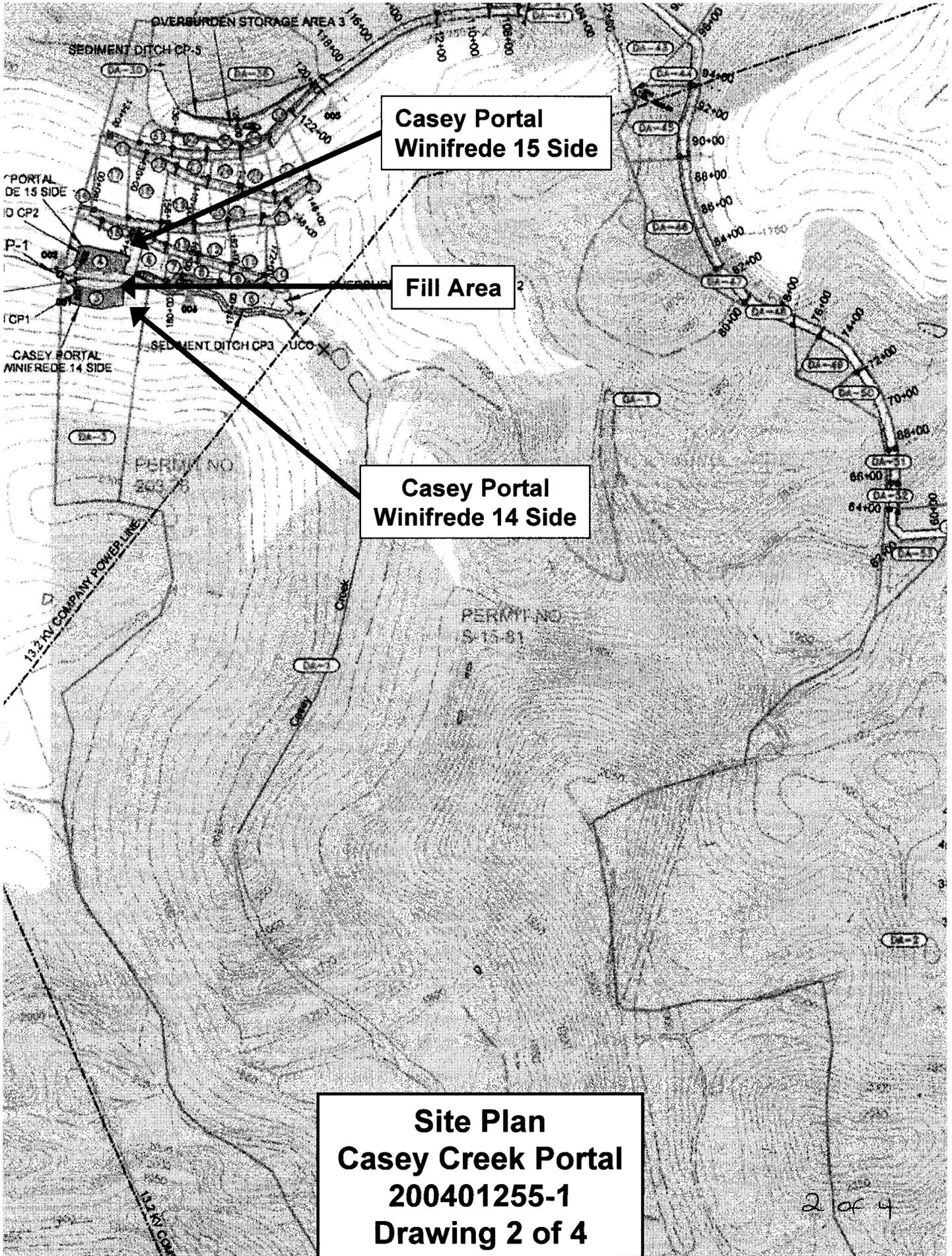
**Casey Portal
Winifrede 15 Side**

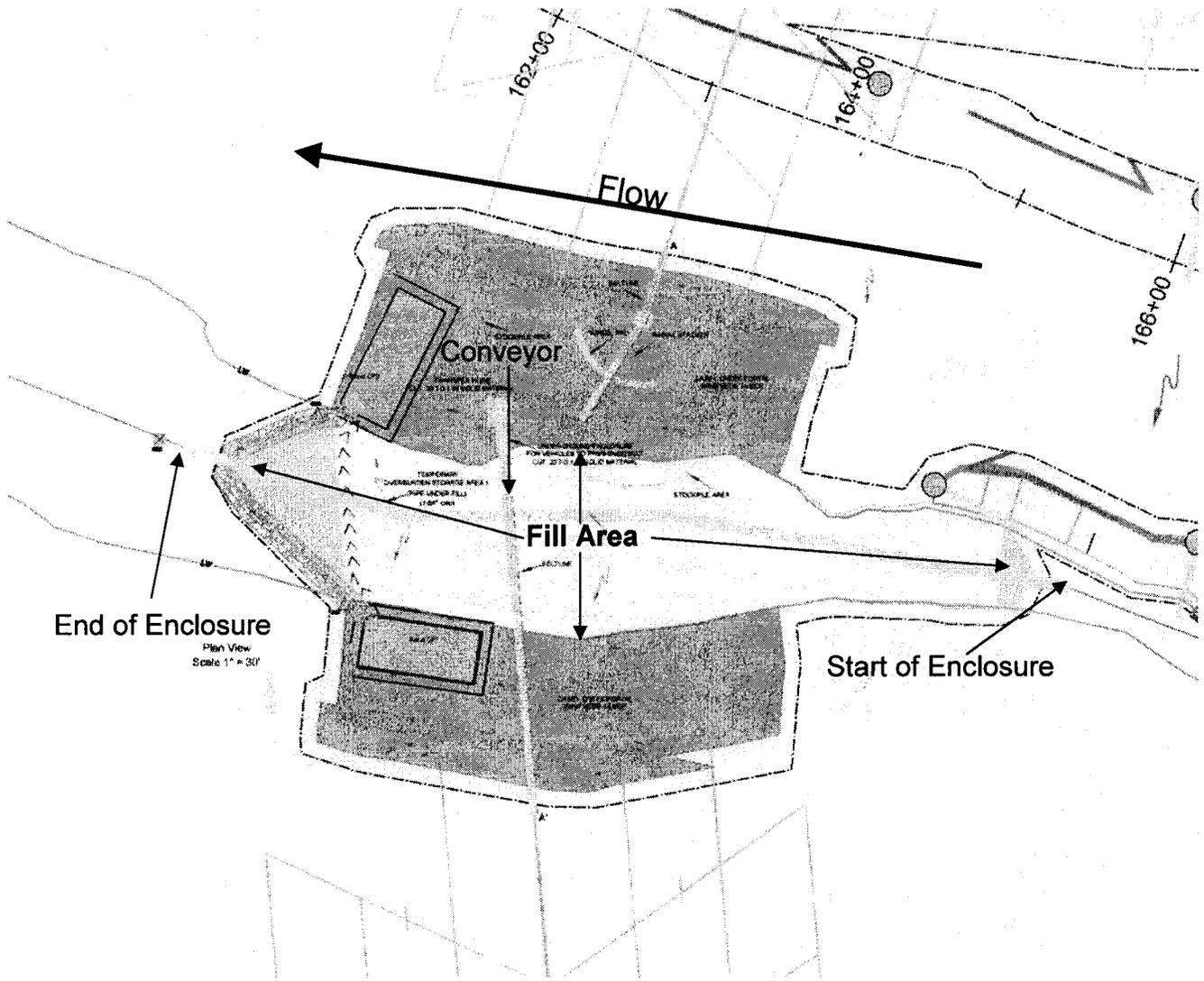
Fill Area

**Casey Portal
Winifrede 14 Side**

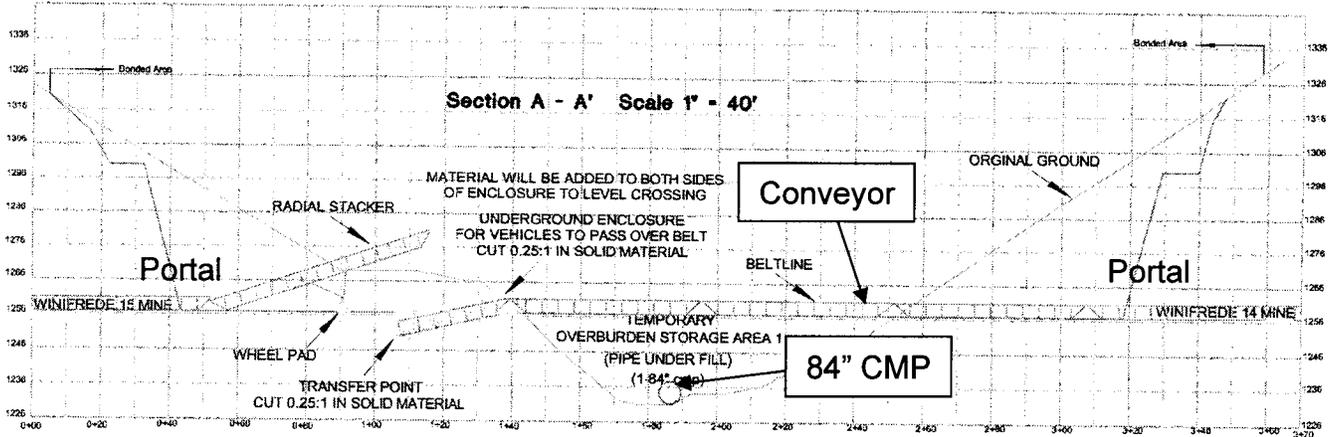
**Site Plan
Casey Creek Portal
200401255-1
Drawing 2 of 4**

2 of 4





Impact Area
Casey Creek Portals
200401255-1
Drawing 3 of 4



**Impact Area-Section View
Casey Creek Portal
200401255-1
Drawing 4 of 4**