



U S Army USACE
of Engineers
Huntington District

Public Notice

In reply refer to Public Notice No. 200501031-1 Issuance Date: 02/07/2006

Stream: Brown Creek Closing Date: 03/09/2006

Please address all comments and inquiries to:

U.S. Army USACE 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 (USACE) 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 USACE Regulatory Program.

SECTION 10: The USACE 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 USACE 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 USACE request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Greenbrier Smokeless Coal Mining, LLC
P. O. Box 0
Rupert, West Virginia 25984

LOCATION: The proposed project would be located approximately 5.0 miles northeast of Rupert, in the Meadow Bluff District of Greenbrier County, West Virginia. The proposed project would result in disturbances unnamed tributaries of Brown Creek and unnamed tributaries of Big Clear Creek and adjacent wetlands to these unnamed tributaries. The unnamed tributaries of Brown Creek flow into Brown Creek. The unnamed tributaries of Big Clear Creek flow into Big Clear Creek. Brown Creek flows into Big Clear Creek of Meadow River. Meadow River ultimately flows into the Gauley River, a navigable Section 10 waterway of the U.S.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place dredged and fill material into 2.18 acres of waters of the U.S., including 1.85 acres of scrub-shrub and forested wetlands and 2,657 linear feet (0.33 acre) of intermittent streams, in conjunction with the construction, operation and reclamation of the Greenbrier Complex [Surface Mining Control and Reclamation Act (SMCRA) Permits O-3010-05, O-3011-05, U-3012-05, O-3013-05, O-3021-05, O-3022-05 and O-3023-05]. The proposed complex would consist of the preparation plant facility (SMCRA O-3010-05), deep mine (SMCRA U-3012-05), a refuse disposal facility (SMCRA O-3021-05), a conveyor and infrequently used access road (SMCRA O-3010-05), four haul road crossings (Upgrade of No. 1-SMCRA O-3011-05, No. 1A-SMCRA O-3013-05 and No. 3 and 3A-SMCRA O-3023-05). Approximately 187 acres of surface would be disturbed as a result of the proposed construction and operation of the proposed mining complex. Table A attached to this public notice lists the impacts to waters of the U.S. as a result of each specific project activity.

Site preparation for the Mountaineer Pocahontas No. 1 Deep Mine would begin with the construction and upgrading of proposed Mountaineer Haul Road No. 1A by grading, ditching, and installing culverts in 120 linear feet of two intermittent streams. Haul Road No. 1 would be upgraded from the existing haul road to the current construction standards and would result in temporary impacts to 120 linear feet of two intermittent streams. Approximately 60 linear feet of one intermittent stream segment would be impacted by the construction of the proposed conveyor (SMCRA O-3010-05) and associated infrequently used access road. Additionally, construction of Haul Roads 3 and 3A (SMCRA O-3023-05 respectively) would result in temporary impacts to 60 linear feet of an intermittent stream segment. The proposed preparation plant would use a reclaimed bench on the Beckley coal seam as the basis for the facility. The additional area required for the development of coal stockpile storage, preparation plant facilities, drainage control and truck dump would entail a cut and fill operations to create a level pad. Approximately 333,373 cubic yards of generated material on-site would be placed in 733 linear feet of intermittent streams and 0.705 acre of wetlands to facilitate the construction of the pad areas for the slope and shaft sites of the deep mine and preparation plant. Additionally, 177 linear feet of intermittent stream would be temporarily impacted by the construction of Sediment Pond 3 located on the shaft pad area. An additional 70 linear feet of one intermittent stream segment would be temporarily impacted by the deep mine face-up area.

Approximately 1.4 million tons of coal reserves from the Pocahontas No. 6 seam would be recovered in conjunction with the proposed deep mine (SMCRA U-3012-05). Approximately 4.8 million tons of coal from the Beckley, Fire Creek, Pocahontas No. 6 and Pocahontas No. 8 seams would be processed at the proposed preparation plant annually during the 20 plus operation life of the complex.

Approximately 1.3 millions tons of the processed coarse and fine coal waste from the above-mentioned coal seams would be placed in the proposed refuse disposal facility annually for a period of 3.4 years and would result in permanent impacts to 1,317 linear feet (0.08 acre) of intermittent streams and 1.14 acres of wetlands.

Reserves from the project site would be sold on the market to satisfy a currently high demand for coal. Plans for the proposed facility 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 overall project purpose. No permit will be issued until our review of the alternative analysis clearly shows that upland alternatives are not available to achieve the overall project purpose.

MITIGATION PLAN: To offset the proposed impacts to wetlands, the applicant proposes to acquire and preserve 51 acres of existing wetlands (29.7 acres of scrub-shrub wetlands and 21.4 acres of forested wetlands) adjacent to Meadow River approximately 1.5 miles southwest of Crawley, WV. To date, a compensatory mitigation plan has not been submitted for the proposed impacts to intermittent streams.

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. In correspondences dated December 21, 2005, the West Virginia Division of Culture and History concluded no known historical, architectural or archaeological sites listed in or eligible for inclusion in the NRHP would be affected by the proposed preparation plant and haul road. 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 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. Although each proposed SMCRA permit would disturb less than 17 acres individually the proposed complex cumulatively would result in disturbances to a total of 187 acres of potential Indiana bat summer habitat. Apogee Environmental Consultants, Inc. completed a bat mist net survey for the proposed refuse disposal facility, Haul Road No. 2, and Haul Road No. 3 in July 2005. Mist net surveys provided no evidence of summer Indiana bat usage. Additionally, the entire 187 acres of land proposed for the complex were surveyed to determine the presence of old abandoned mine portals that could support summer or winter colonies of the endangered Virginia big-eared bat or provide hibernaculum for the Indiana bat. No such features were identified within the project area.

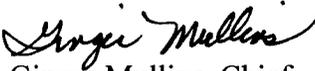
In correspondences dated August 15, 2005, the USFWS concluded no further consultation was required for the proposed preparation plant, deep mine and Haul Roads No. 1 and 1A. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether 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 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.

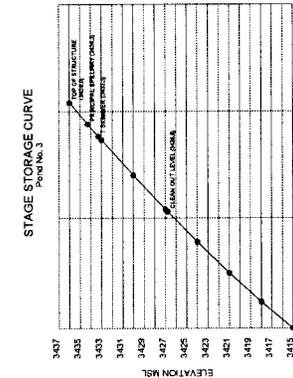
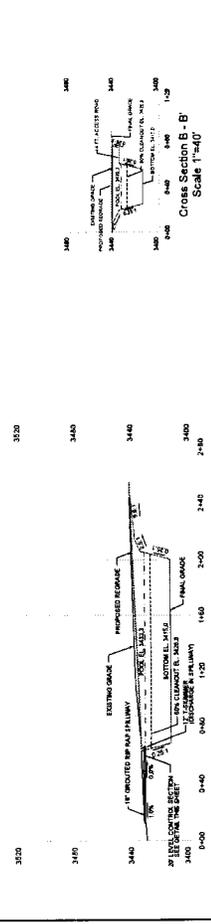
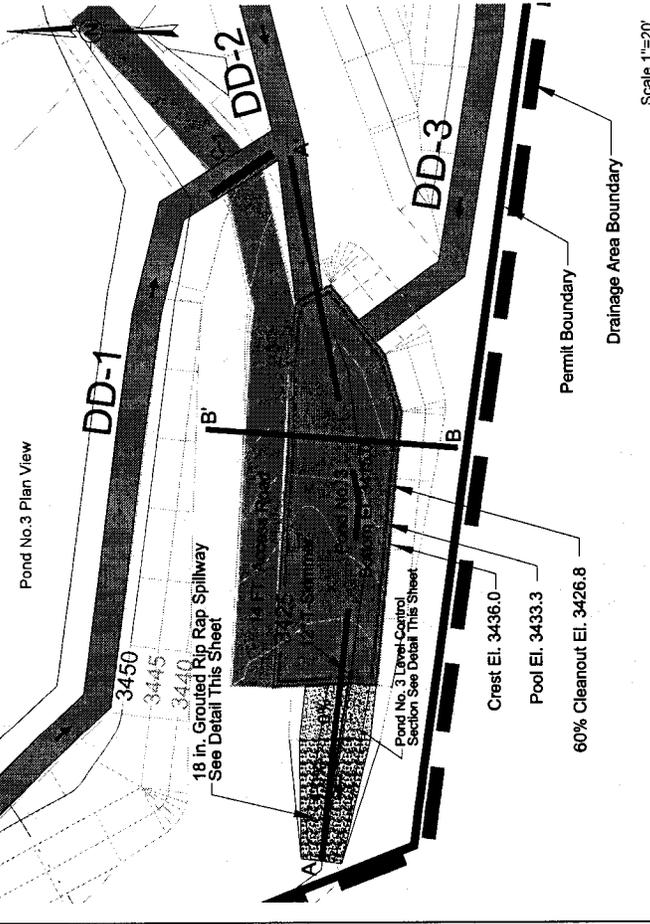
Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national 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 USACE 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 USACE 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. Comments and requests for additional information should be submitted to Mrs. Teresa Spagna, Project Manager, South Regulatory Section, CELRH-OR-FS, USACE 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.


Ginger Mullins, Chief
Regulatory Branch

(W)

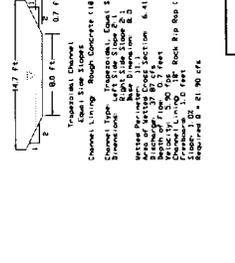
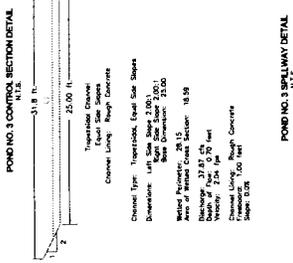
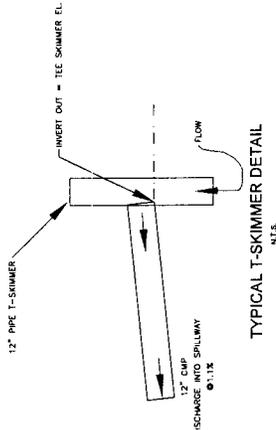


ACCUMULATIVE STORAGE (cu-ft)

| ELEV. (ft) | DEPTH (ft) | AREA (sq ft) | AVG. DEPTH (ft) | VOLUME (cu ft) | STORAGE (cu ft) | STAGE (ft) |
|------------|------------|--------------|-----------------|----------------|-----------------|------------|
| 3415 | 0.00 | 0 | 0.00 | 0 | 0 | 0.00 |
| 3416 | 0.10 | 100 | 0.10 | 10 | 10 | 0.10 |
| 3417 | 0.20 | 200 | 0.20 | 40 | 50 | 0.20 |
| 3418 | 0.30 | 300 | 0.30 | 90 | 140 | 0.30 |
| 3419 | 0.40 | 400 | 0.40 | 160 | 300 | 0.40 |
| 3420 | 0.50 | 500 | 0.50 | 250 | 550 | 0.50 |
| 3421 | 0.60 | 600 | 0.60 | 360 | 910 | 0.60 |
| 3422 | 0.70 | 700 | 0.70 | 490 | 1300 | 0.70 |
| 3423 | 0.80 | 800 | 0.80 | 640 | 1740 | 0.80 |
| 3424 | 0.90 | 900 | 0.90 | 810 | 2250 | 0.90 |
| 3425 | 1.00 | 1000 | 1.00 | 1000 | 2850 | 1.00 |
| 3426 | 1.10 | 1100 | 1.10 | 1210 | 3560 | 1.10 |
| 3427 | 1.20 | 1200 | 1.20 | 1440 | 4380 | 1.20 |
| 3428 | 1.30 | 1300 | 1.30 | 1690 | 5320 | 1.30 |
| 3429 | 1.40 | 1400 | 1.40 | 1960 | 6380 | 1.40 |
| 3430 | 1.50 | 1500 | 1.50 | 2250 | 7560 | 1.50 |
| 3431 | 1.60 | 1600 | 1.60 | 2560 | 8860 | 1.60 |
| 3432 | 1.70 | 1700 | 1.70 | 2890 | 10280 | 1.70 |
| 3433 | 1.80 | 1800 | 1.80 | 3240 | 11820 | 1.80 |
| 3434 | 1.90 | 1900 | 1.90 | 3610 | 13480 | 1.90 |
| 3435 | 2.00 | 2000 | 2.00 | 4000 | 15260 | 2.00 |
| 3436 | 2.10 | 2100 | 2.10 | 4410 | 17160 | 2.10 |
| 3437 | 2.20 | 2200 | 2.20 | 4840 | 19180 | 2.20 |

Pond No. 3

| | | | | | |
|-----------------|-------|-----------------------|------|-----------------------|------|
| Disturbed Acres | 11.39 | Required Volume Ac-Ft | 1.42 | Designed Volume Ac-Ft | 1.77 |
|-----------------|-------|-----------------------|------|-----------------------|------|



Labels earth for the structure are provided by an existing site plan. Existing structures and labels are shown for reference only. Labels are not to be used for construction purposes.

Drawn by: _____
 Checked by: _____
 Approved by: _____

Address: _____
 City: _____
 State: _____

| NO. | DATE | REVISION | BY | DESCRIPTION |
|-----|--------|----------------------|----|----------------------|
| 1 | 1/1/00 | ISSUED FOR PERMITS | MM | ISSUED FOR PERMITS |
| 2 | 1/1/00 | REVISED FOR COMMENTS | MM | REVISED FOR COMMENTS |

Prepared By: Marshall Miller and Associates
 George, Environmental, Spatial, & Landmark, Computer
 Blacksburg, VA - Charleston, KY - Chicago, IL
 Blacksburg, VA - Charleston, WV - Denver, CO
 Draper, UT - Dallas, TX - Denver, CO - Fort Worth, TX

Project: Meadow Bluff Mine
 Location: Meadow Bluff District, Greenbrier County, West Virginia
 Project No.: 03-013-03
 SMA No.: U-3012-03
 NPDES No.: WV007893

Scale in Feet (Unless Otherwise Noted)

| | | |
|---|----|----|
| 0 | 20 | 40 |
|---|----|----|