



Public Notice

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

In reply refer to Public Notice No.
200500968

Issuance Date:
MAR 1 5 2006

Stream:

Closing Date:

UT South Fork Crawley Creek

APR 1 4 2006

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 (CWA). This notice also 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: Snap Creek Mining
P.O. Box 1398
Gilbert, West Virginia 25801

LOCATION: The project site is located at Latitude 37° 54' 11" Longitude 82° 01' 00", near Henlawson in Logan County, West Virginia. The project site location is depicted on the Figure 1 of 5.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to discharge approximately 29.83 cubic yards of dredged and/or fill material into approximately 0.98 acres of waters of the United States (U. S.), in conjunction with the construction of two recreational ponds. Pond No. 1, a proposed 1.15 acre pond, would be constructed entirely within the boundaries of Chief Logan State Park. Pond No. 2, a proposed 1.19-acre pond, would be constructed within a West Virginia Division of Natural Resources (WVDNR) Wildlife Management Area, located north of Chief Logan State Park. On June 13, 2005, the applicant received authorization under WVDEP Permit No. S-5013-96 to construct, operate, and reclaim the Snap Creek Surface Mine No. 1. As part of a State Mitigation Agreement approved for this project, the applicant agreed to construct two ponds on land controlled by the WVDNR. Both ponds would be located in jurisdictional areas previously disturbed as a result of activities associated with the construction and abandonment of two sediment control ponds. These sediment ponds were constructed within perennial reaches of the Right Fork of the South Fork of Crawley Creek and the Left Fork of the South Fork of Crawley Creek and were used to control runoff and reduce sedimentation associated with a surface coal mine previously operated by HICA Corporation (WVDEP Permit No. S-5002-91). Although these sediment ponds were breached in 1996 as part of final reclamation activities associated with the HICA Surface Mine, the pond sites had not been restored to their pre-mining condition as streams. Consequently channels have eroded through the unstable silts and sediments originally captured by the ponds. Because stream restoration activities had not been undertaken, the eroded channels are not appropriately sized to convey pre-disturbance flows. Additionally, low quality emergent wetlands, dominated by cattail and rush with a fringe of willow have developed along the eroded channels. Selection of these two sites for proposed construction of the two recreational ponds was based primarily on the disturbed nature of these sites, in addition to their proximity to public lands.

Pond No. 1 would be constructed within the Right Fork and would impact approximately 0.64 acres of previously disturbed waters of the U.S., including approximately 500 linear feet (0.03 acre) of perennial stream and approximately 0.61 acre of low quality emergent wetlands. Pond No. 2 would be constructed within the Left Fork and would impact approximately 0.34 acre of previously disturbed waters of the U.S., including approximately 615 linear feet (0.05 acre) of perennial stream and approximately 0.29 acre of emergent wetlands.

MITIGATION PLAN: To compensate for impacts to waters of the U. S. associated with this project, the applicant proposes to establish an approximately 50-foot wide riparian buffer consisting of a variety of native tree species within an area located on each side of the existing stream channel from the toes of the two proposed pond embankments to the main culvert pipe under Corridor G (US Route 119). Additionally, several small emergent wetland areas would be established along the upper fringe areas of each proposed pond. According to the applicant, these areas would enhance overall water quality and would provide additional aquatic life habitat.

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 entire project site has been substantially disturbed as a result of prior mining activities. Therefore, the proposed project would not be expected to affect any historical, architectural, or archeological sites listed in or eligible for inclusion in the National Register of Historic Places (NRHP). This Public Notice will serve as coordination with the West Virginia Division of Culture and History (WVDCH) regarding the project and its potential effects to known historical, architectural, or archeological sites listed in or eligible for inclusion in the NRHP.

ENDANGERED/THREATENED SPECIES REVIEW: The U.S. Fish and Wildlife Service's latest published version of endangered and threatened species has been reviewed to determine if any endangered or threatened species may occur in the project area. The proposed project would be located in a county where the endangered Indiana bat (*Myotis sodalis*) is known to occur. The applicant has not conducted a survey for Indiana bats because the project would disturb less than 17 acres of forested land, the typical disturbance threshold requiring a survey for bats. Additionally, the applicant has provided information indicating that no known caves or abandoned mine portals are present on or near the project site. Therefore, no potential Indiana bat winter habitat would be affected by the proposed project. This Public Notice serves as a request to the U.S. Fish and Wildlife Service to provide any additional information the agency may have on the extent to which the proposed project would affect any listed or proposed to be listed endangered or threatened species, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers, 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. 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.

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 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. 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 public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the District Engineer may be based. For accuracy and completeness of the 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 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.

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 Ms. Jennifer Walker, 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 that names and addresses of those who submit comments in response to this public notice may be made publicly available. Thank you for your interest in our nation's water resources. If you have any questions concerning this public notice, please call Ms. Jennifer Walker of the South Regulatory Section at 304-399-6956.



Ginger Mullins, Chief
Regulatory Branch

(W)

SNAP CREEK MINING COMPANY, INC.

P.O. Box 1389
GILBERT, WV 25601

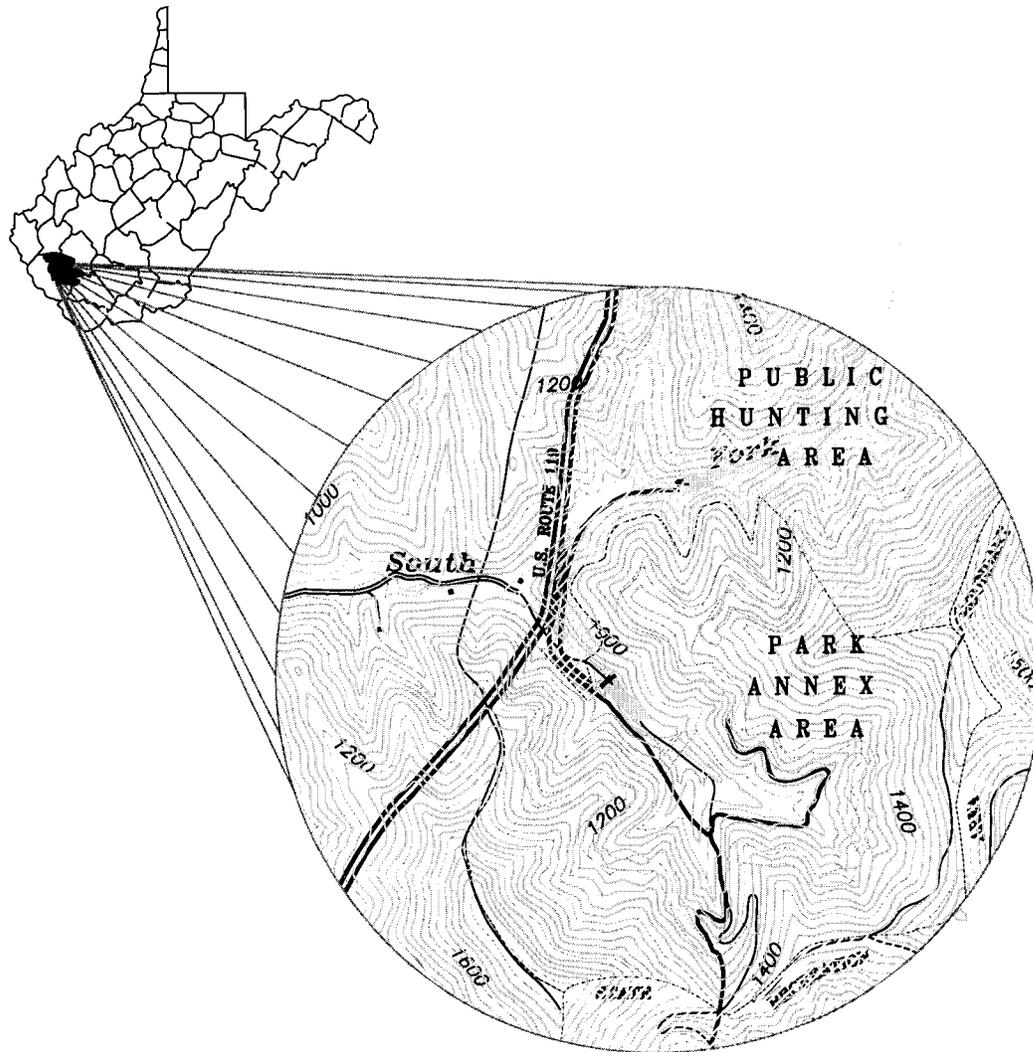


Figure 1 of 5

DATE:
January 24, 2006
FILENAME:
delta\Snap Creek

CAD BY: *B. Miles*
PROJECT:
05140

SNAP CREEK MINING COMPANY, INC.

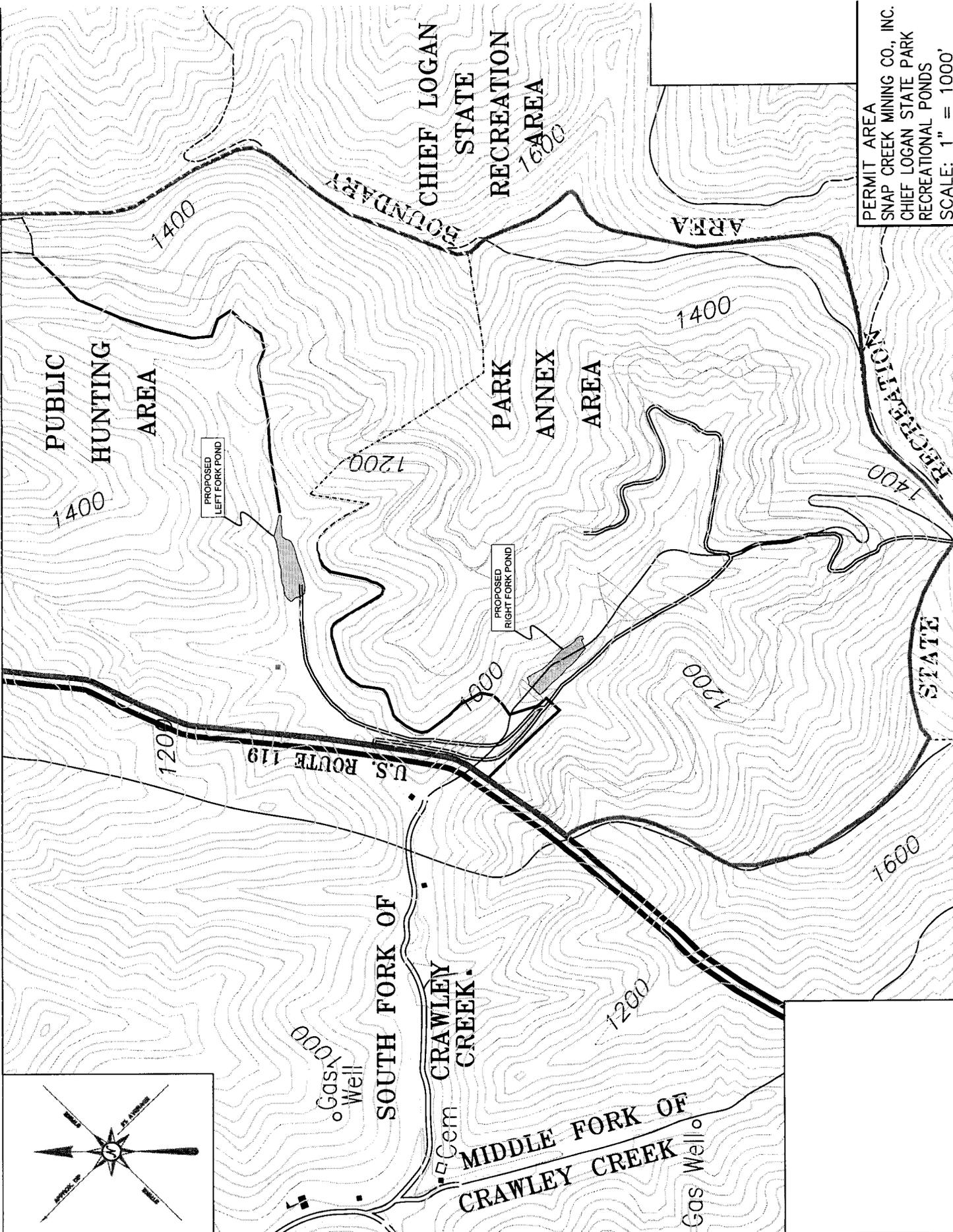
P.O. BOX 1389 GILBERT, WV 25601

Chief Logan State Park
Recreational Ponds
General Location Map

USACE No. 200500968

HERITAGE

TECHNICAL ASSOCIATES, INC.



PERMIT AREA
 SNAP CREEK MINING CO., INC.
 CHIEF LOGAN STATE PARK
 RECREATIONAL PONDS
 SCALE: 1" = 1000'

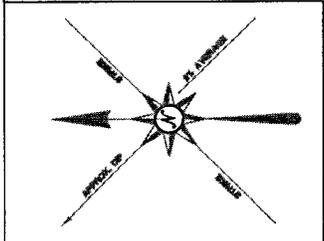


Figure 2 of 5

SNAP CREEK MINING COMPANY, INC.

P.O. BOX 1389 GILBERT, WV 25601

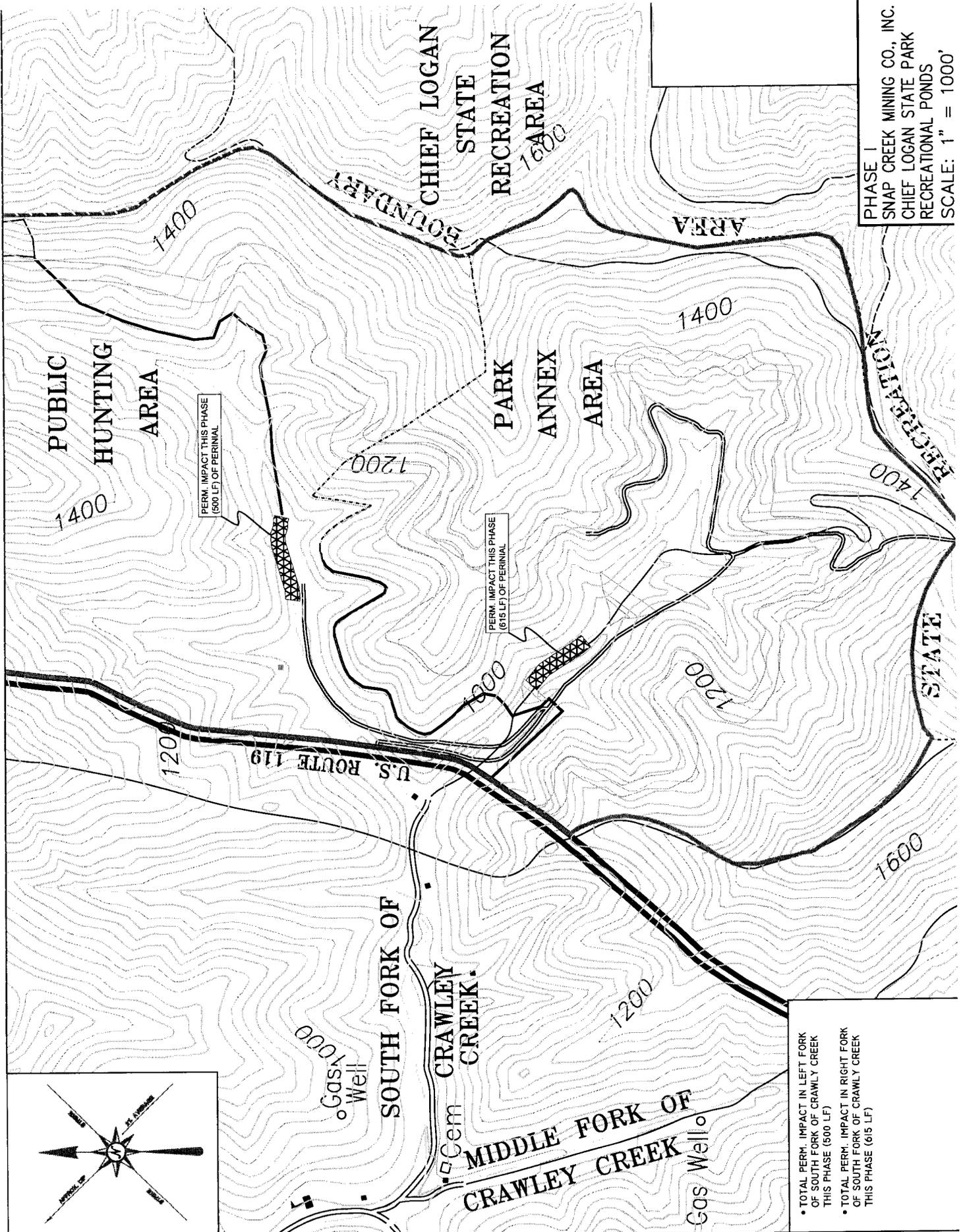
**Chief Logan State Park
 Recreational Ponds
 Permit Area**

USACE No. 200500988



TECHNICAL ASSOCIATES, INC.

DATE: January 24, 2006	CAD BY: <i>B. Miles</i>
FILENAME: delta\Snap Creek	PROJECT: 05140



PHASE I
 SNAP CREEK MINING CO., INC.
 CHIEF LOGAN STATE PARK
 RECREATIONAL PONDS
 SCALE: 1" = 1000'

- TOTAL PERM. IMPACT IN LEFT FORK OF SOUTH FORK OF CRAWLEY CREEK THIS PHASE (500 LF)
- TOTAL PERM. IMPACT IN RIGHT FORK OF SOUTH FORK OF CRAWLEY CREEK THIS PHASE (615 LF)

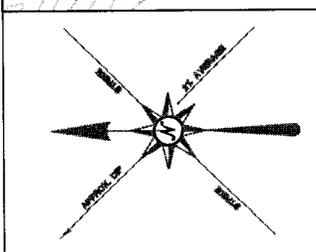


Figure 3 of 5

SNAP CREEK MINING COMPANY, INC.

P.O. BOX 1389 GILBERT, WV 25601

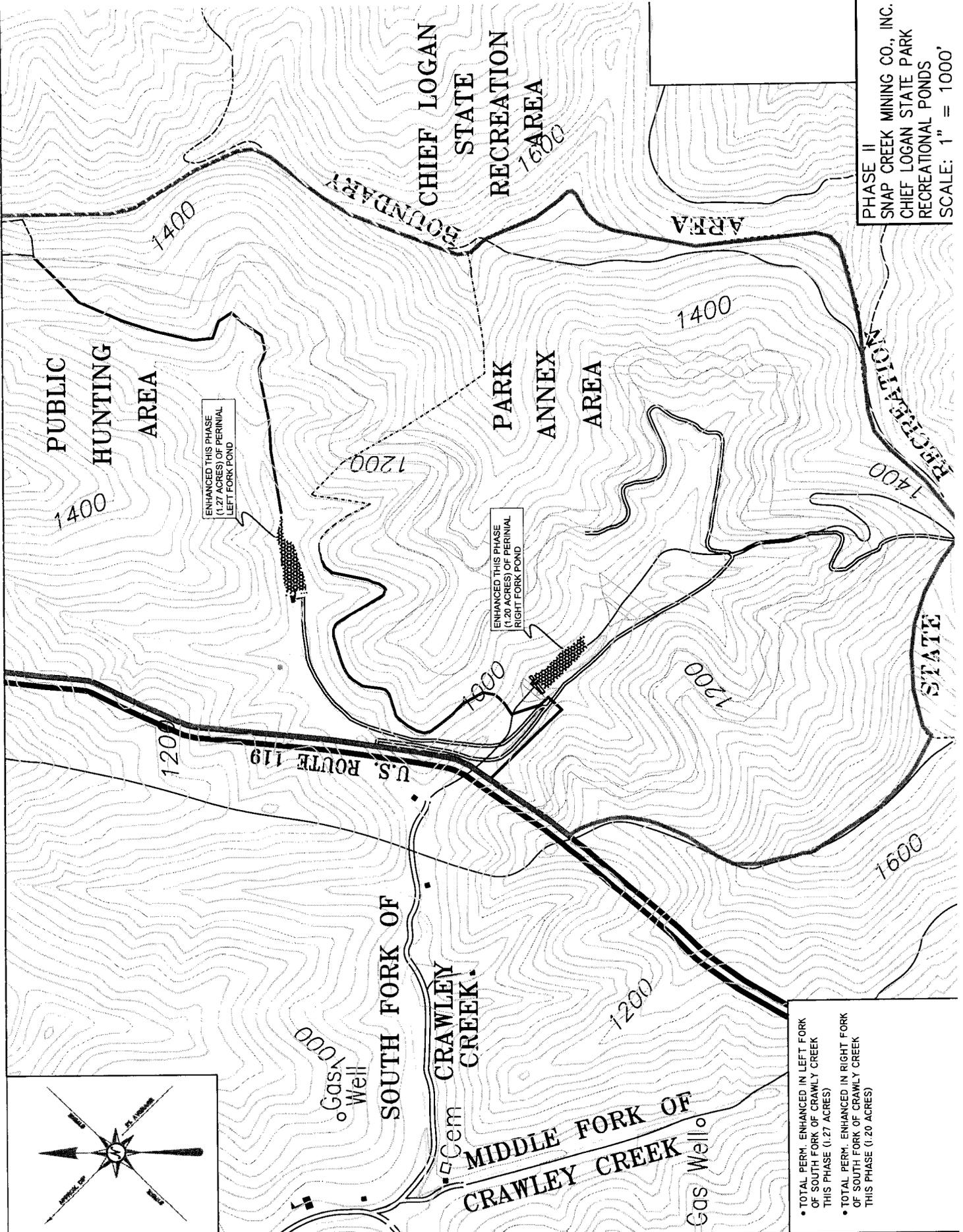
**Chief Logan State Park
 Recreational Ponds
 Phase I**

USACE No. 200600968

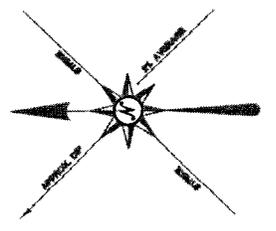


TECHNICAL ASSOCIATES, INC.

DATE: January 24, 2006	CAD BY: <i>B. Miller</i>
FILENAME: delta\Snap Creek	PROJECT: 05140



PHASE II
 SNAP CREEK MINING CO., INC.
 CHIEF LOGAN STATE PARK
 RECREATIONAL PONDS
 SCALE: 1" = 1000'



- TOTAL PERM. ENHANCED IN LEFT FORK OF SOUTH FORK OF CRAWLEY CREEK THIS PHASE (1.27 ACRES)
- TOTAL PERM. ENHANCED IN RIGHT FORK OF SOUTH FORK OF CRAWLEY CREEK THIS PHASE (1.20 ACRES)

Figure 4 of 5

SNAP CREEK MINING COMPANY, INC.

P.O. BOX 1389 GILBERT, WV 25601

**Chief Logan State Park
 Recreational Ponds
 Phase II**

USACE No. 200500968



TECHNICAL ASSOCIATES, INC.

DATE: January 24, 2006	CAD BY: <i>B. Miller</i>
FILENAME: delta\Snap Creek	PROJECT: 05140

MAP KEY
 SNAP CREEK MINING CO., INC.
 CHIEF LOGAN STATE PARK
 RECREATIONAL PONDS
 SCALE: 1" = 1000'

PHASE	IMPACTED LINEAR FEET						ENHANCED		
	EPHEMERAL		INTERMITTENT		PERENNIAL		EPH	INT	PER
	TEMP.	PERM.	TEMP.	PERM.	TEMP.	PERM.			
I	0	0	0	0	0	1115	0	0	0
II	0	0	0	0	0	0	0	0	2.47ac.
TOTAL	0	0	0	0	0	1115	0	0	2.47ac.

Figure 5 of 5

DATE: January 24, 2006	CAD BY: <i>B. Miles</i>
FILENAME: delta\Snap Creek	PROJECT: 05140

SNAP CREEK MINING COMPANY, INC.

P.O. BOX 1389 GILBERT, WV 25601

**Chief Logan State Park
 Recreational Ponds
 Map Key**

USACE No. 200500968



TECHNICAL ASSOCIATES, INC.