Public Notice

U S Army Corps of Engineers Huntington District

In reply refer to Public Notice No.	Issue Date:
200600117	April 17, 2006
Stream: Unnamed Tributary of Little Jarrells Creek	**Closing Date:** May 16, 2006

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Huntington District
ATTN: CELRH-OR-FS Public Notice No. 200600117
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: Pine Ridge Coal Company
P.O. Box 1233
Charleston, WV 25324

LOCATION: The proposed project would be located in an unnamed tributary of Little Jarrells Creek (longitude 38° 00' 13", longitude 81° 38' 25"), approximately 0.6 mile southwest of Prenter, in Boone County, West Virginia as depicted in the attached Location Map (Drawing 1). Little Jarrells Creek is a tributary to Big Jarrells Creek, which flows into Hopkins Fork of the Big Coal River. The Big Coal River is a tributary to the Coal River, a navigable (Section 10) water of the U.S.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to discharge dredged or fill material into waters of the U. S. in conjunction with the construction, operation and reclamation of the Hirams Hollow Coal Refuse Disposal Facilities. The proposed project would result in impacts to 2,320 linear feet (0.263 acre) of intermittent stream and 0.045 acre herbaceous wetland. Permanent impacts associated with construction of the coarse coal refuse embankment would consist of 1,371 linear feet of

intermittent stream and 0.045 acre of herbaceous wetland. The construction of two sediment ponds would result in temporary impacts to 949 linear feet of intermittent stream. The watershed acreage above the toe of the proposed valley fill is 143.0. Impacts associated with this project are depicted on the attached Drawing 2.

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 proposes future submission of an Environmental Information Document (EID) which should include the required alternatives analysis.

MITIGATION PLAN: The applicant proposes future submission of a Compensatory Mitigation Plan (CMP) which should include the applicant's proposal to compensate for impacts to waters of the U.S. regulated by Corps.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification would be 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 has been consulted and it was 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 West Virginia Division of Culture and History (WVDCH). It should be noted that in a letter dated June 7, 2001 (FR#01-970-BO), the WVDCH determined that no known historical, architectural or archaelogical sites listed in or eligible for inclusion in the national Register would be affected by future activities in this area.

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. 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.

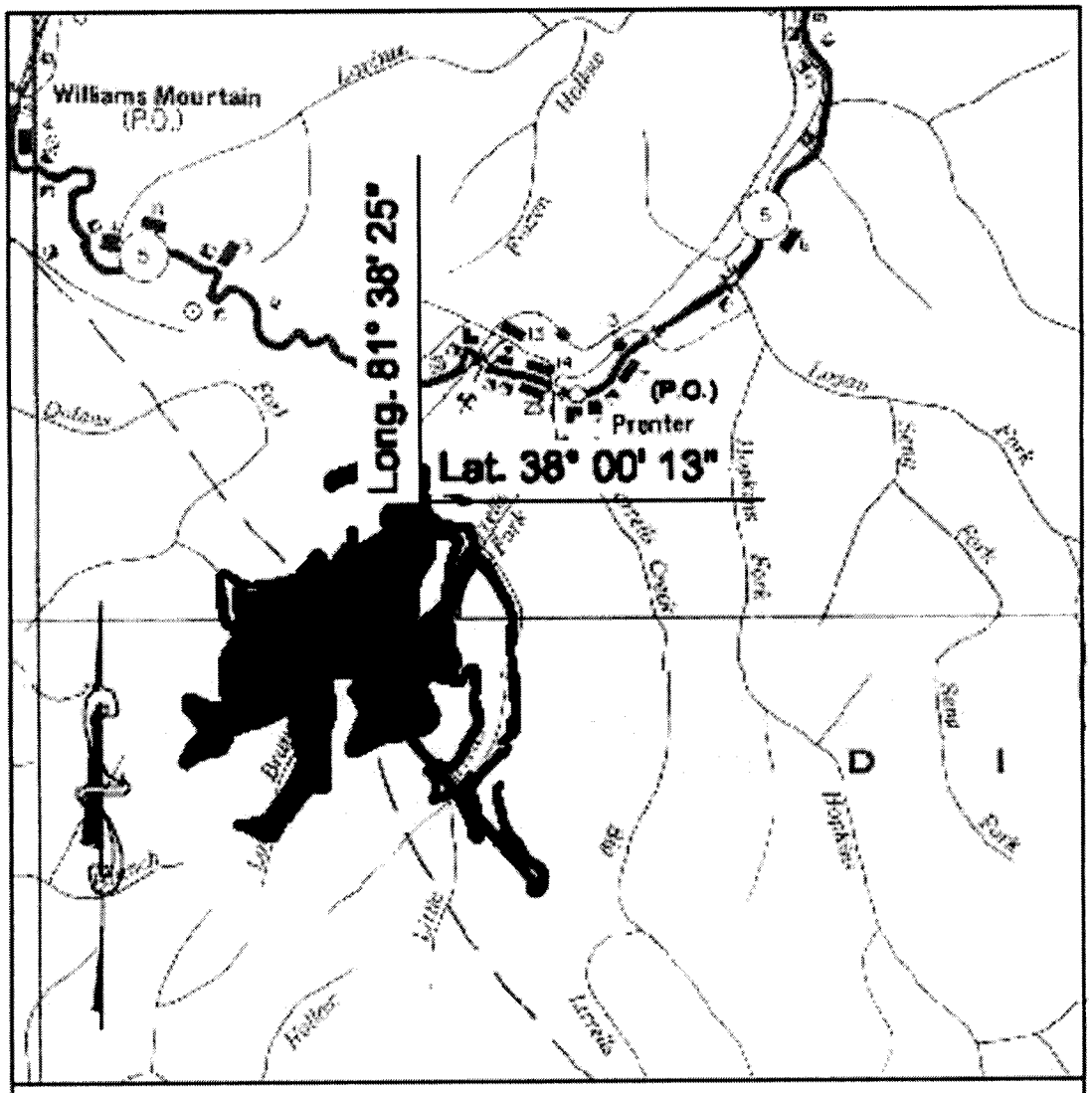
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

U.S. Army Corps of Engineers, Huntington District
Attn. CELRH-OR-FS, Public Notice 200600117
502 Eighth Street
Huntington, West Virginia 25701-2070

Please note 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 contact Mr. Richard A. Hemann of the South Regulatory Section at 304-399-5710.

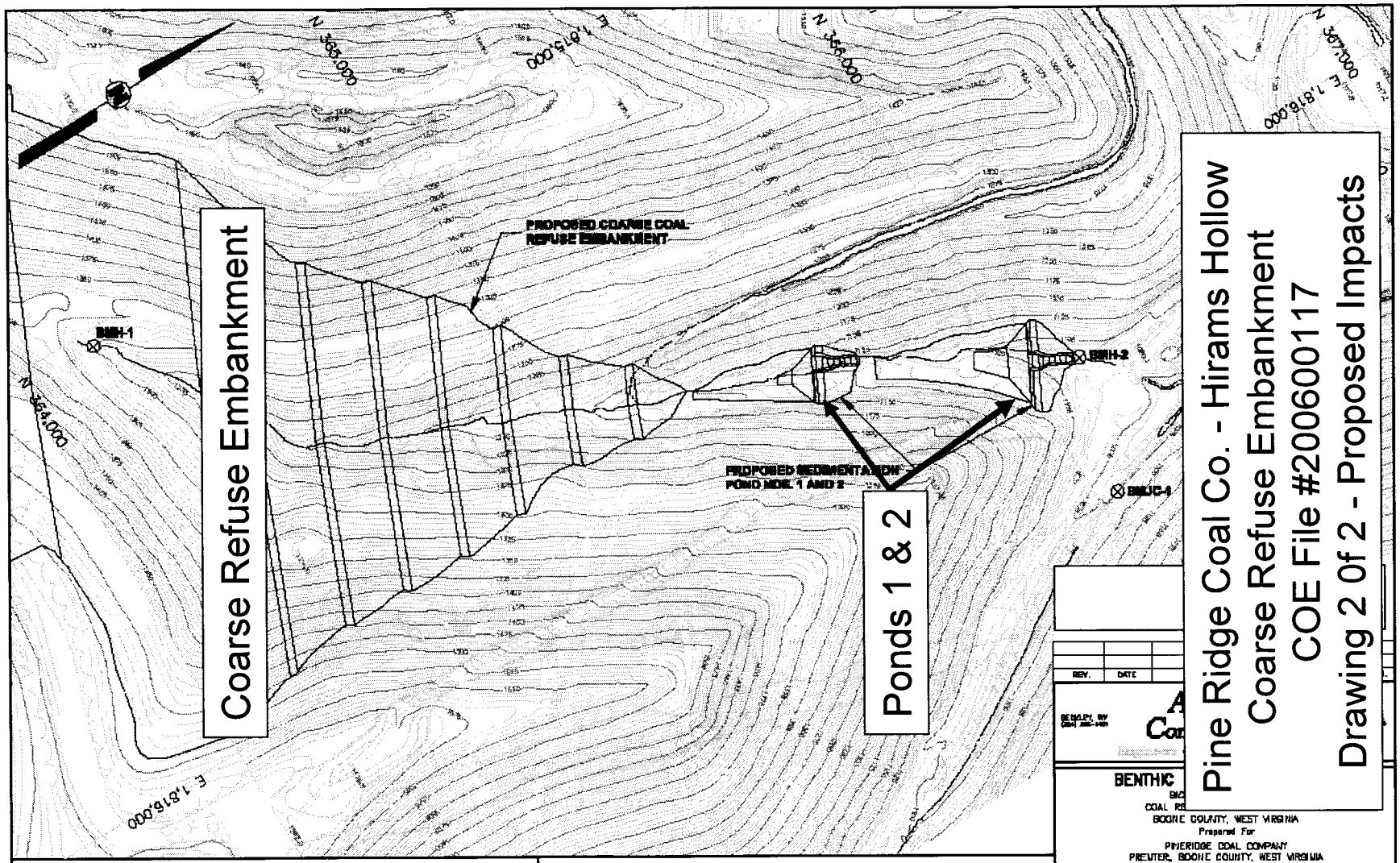
Mark A Taylor
for Ginger Mullins, Chief
Regulatory Branch

(W)



PERMIT NOS. O-69-83
NPDES WV0065617
SHERMAN DISTRICT, BOONE COUNTY, WEST VIRGINIA
WV GENERAL HIGHWAL MAP

Pine Ridge Coal Co. - Hirams Hollow
Coarse Refuse Embankment
COE File #200600117
Drawing 1 0f 2 – Project Location



Pine Ridge Coal Co. - Hirams Hollow
Coarse Refuse Embankment
COE File #200600117
Drawing 2 0f 2 - Proposed Impacts

REFERENCES:

TOPOGRAPHIC MAP PREPARED BY PENTREE, INC. PRINCETON, W.V. 24740, USING AERIAL PHOTOGRAPHY METHODS (DATED 04/07/88) SCALE 1"=100'. UPDATED BY KIMBALL MAY, 1992.

LEGEND:

BMH-1 ⊗ BENTHIC SAMPLE LOCATION