



Public Notice

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

In reply refer to Public Notice No.

200300065-2

Issuance Date:

May 2, 2006

Stream:

Closing Date:

U/T Boardtree Branch

June 1, 2006

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Huntington District

ATTN: CELRH-OR-E 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. 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: Hobet Mining, LLC
P.O. Box 305
Madison, West Virginia 25130

LOCATION: The proposed project would be located near the town of Julian, in Boone County, West Virginia. **Drawing No. 1** depicts the location of the proposed activities (Lat. 38 08 45 and Long. 81 48 53).

PROJECT HISTORY: Pursuant to Section 404 of the CWA, the applicant received a Nationwide Permit (NWP) No. 21 verification [USACE File No. 200300065-U/T Boardtree Branch] for the proposed activities on February 4, 2004. In addition, the applicant obtained a Surface Mining Control and Reclamation Act (SMCRA) permit [No. S-5027-99] and an Individual Water Quality Certification from the West Virginia Department of Environmental Protection (WVDEP). In accordance with the July 8, 2004 and August 13, 2004 U.S. District Court for the Southern District of West Virginia rulings, this office suspended this NWP verification on July 12, 2004 and revoked this NWP verification on September 24, 2004 since the project had not commenced construction as of July 8, 2004.

DESCRIPTION OF THE PROPOSED WORK: The applicant has submitted an Individual Permit application proposing the development of a 411 acre surface mining operation in the Five Block including its splits, Upper Stockton Rider, Upper Stockton, Lower Stockton, and Coalburg seam horizons within a defined geographic area [as depicted on Drawing No. 1]. The proposed project would include the construction of six valley fills, four additional sediment ponds and one existing sediment pond, which would function as two ponds but would be combined as one. The project would permanently impact 2,200 linear feet (or 0.37-acre) of intermittent stream channels and 5,930 linear feet (or 0.49-acre) of ephemeral stream channels as well as temporarily impact 2,100 linear feet (or 0.43-acre) of intermittent stream channels and 1,020 linear feet (or 0.15-acre) of ephemeral stream channels. Therefore, the total permanent and temporary impacts would equal 11,250 linear feet (or 1.44 acre). The proposed project has been designed to meet the requirements of the WVDEP Final Approximate Original Contour guidance document. The project is estimated to recover 2,725,000 tons of coal over four-phases of construction with an operational life of four and one half years.

ALTERNATIVE ANALYSIS: This project is not 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: The applicant has not submitted a Compensatory Mitigation Plan (CMP) to compensate for permanent and temporary impacts to waters of the U. S. that are regulated by the USACE.

WATER QUALITY CERTIFICATION: 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 they provide information to this office pursuant to Section 106 of the National Historic Preservation Act.

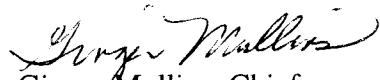
ENDANGERED/THREATENED SPECIES REVIEW: This public notice also serves as coordination with the U. S. Fish and Wildlife Service (USFWS) regarding threatened or endangered species. The proposed project lies within the distribution range of the Bald Eagle (*Haliaeetus leucocephalus*), Indiana Bat (*Myotis sodalis*), and Eastern Cougar (*Felis concolor cougar*). 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 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.

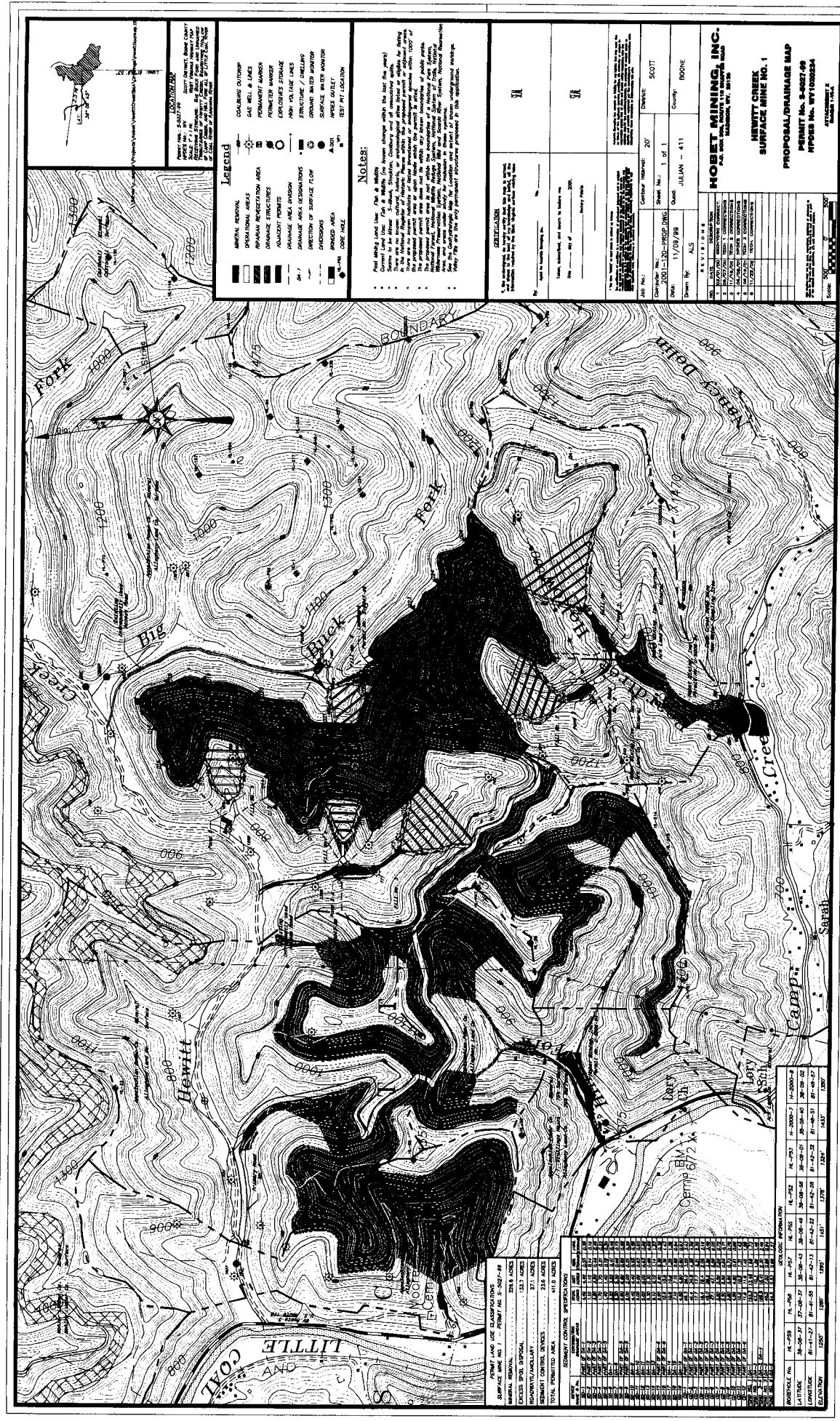
SOLICITATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. For accuracy and completeness of the administrative 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.

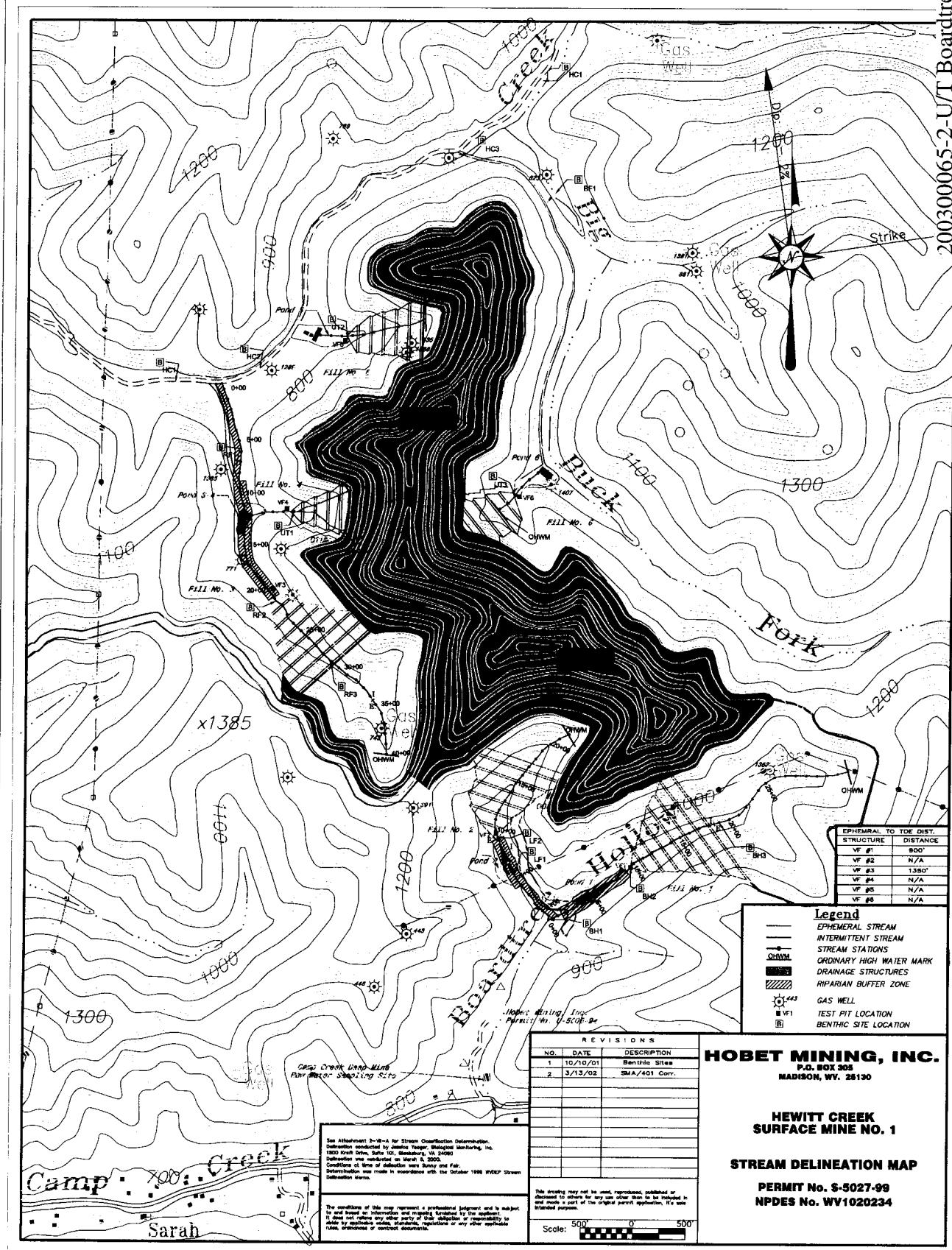
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to Mr. Michael Hatten, 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 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 Mr. Hatten at (304) 399-5710.

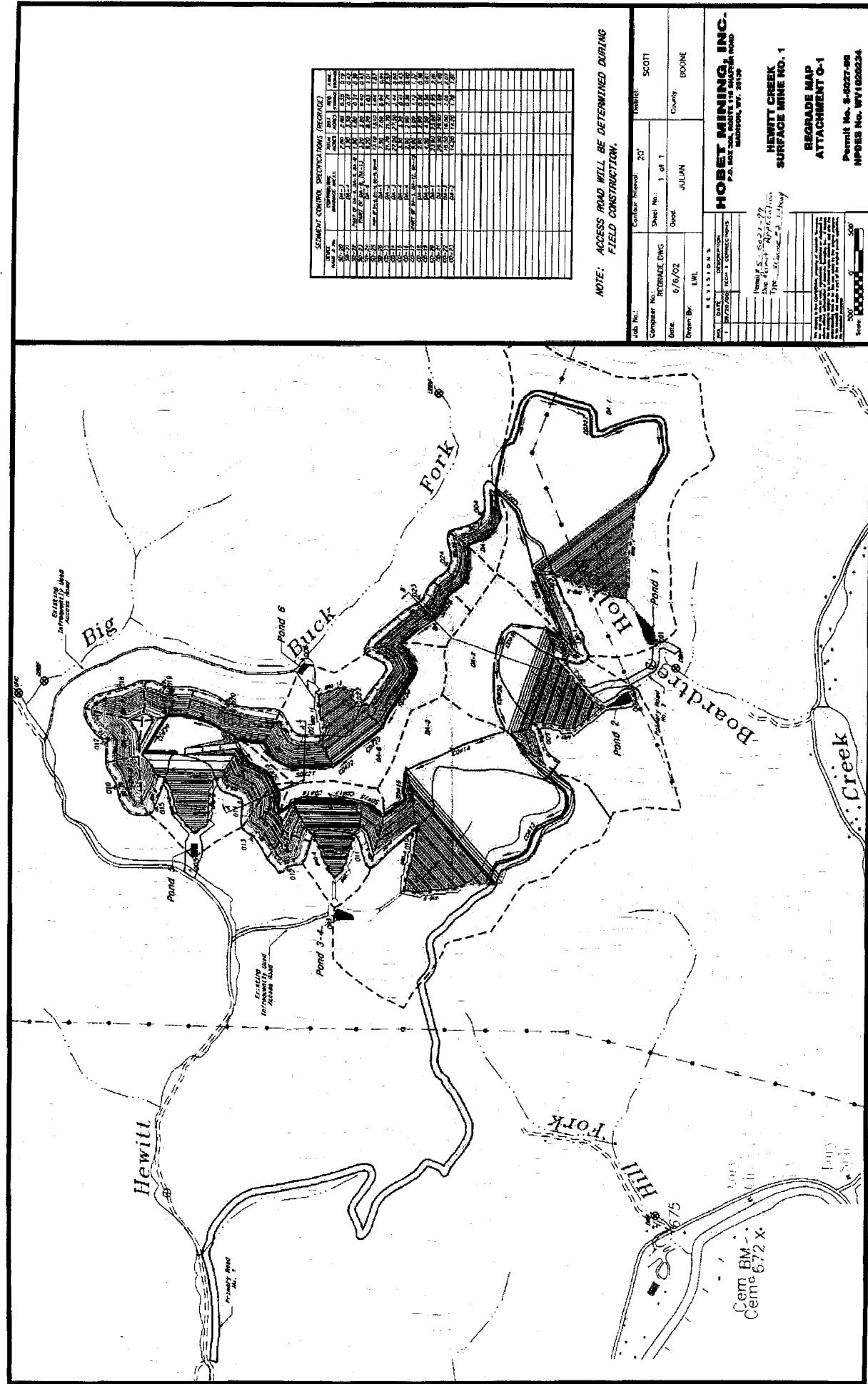


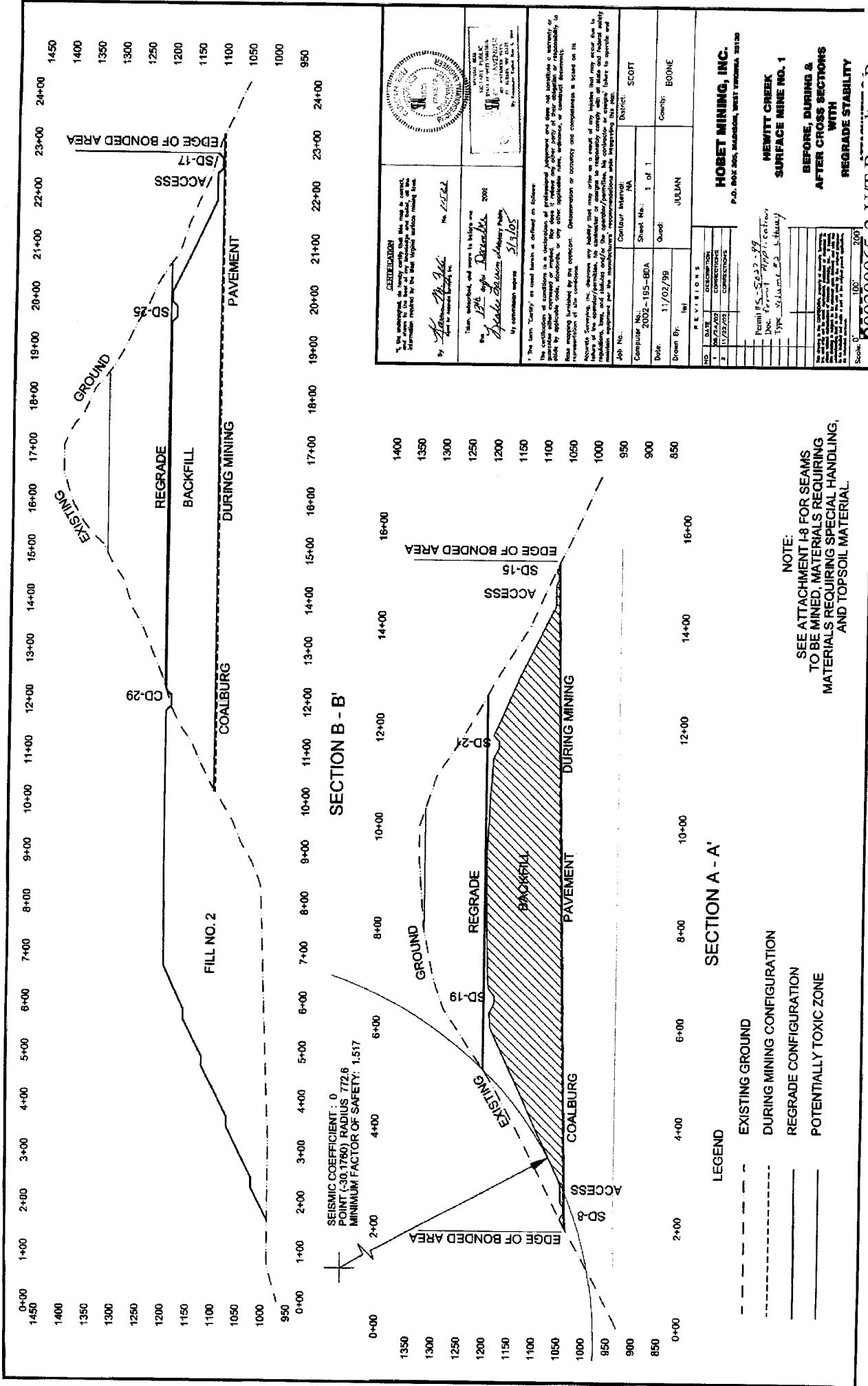
Ginger Mullins
Ginger Mullins, Chief
Regulatory Branch

(W)

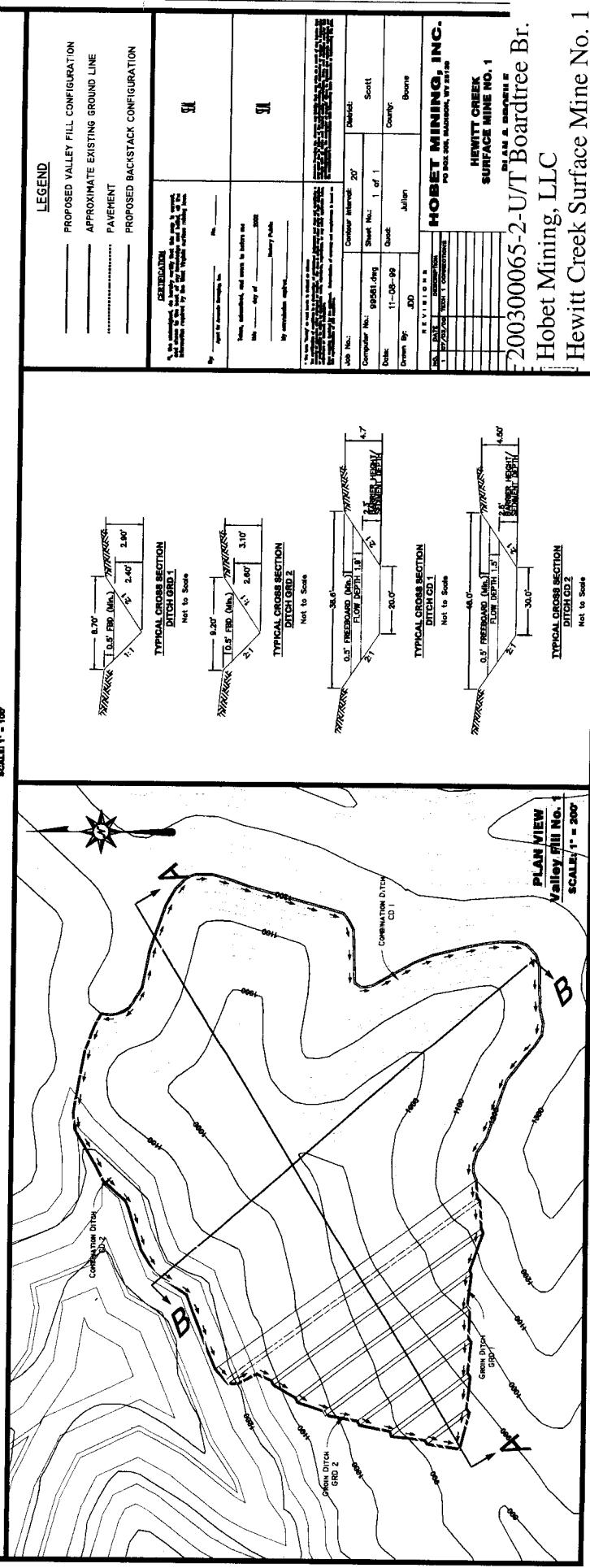
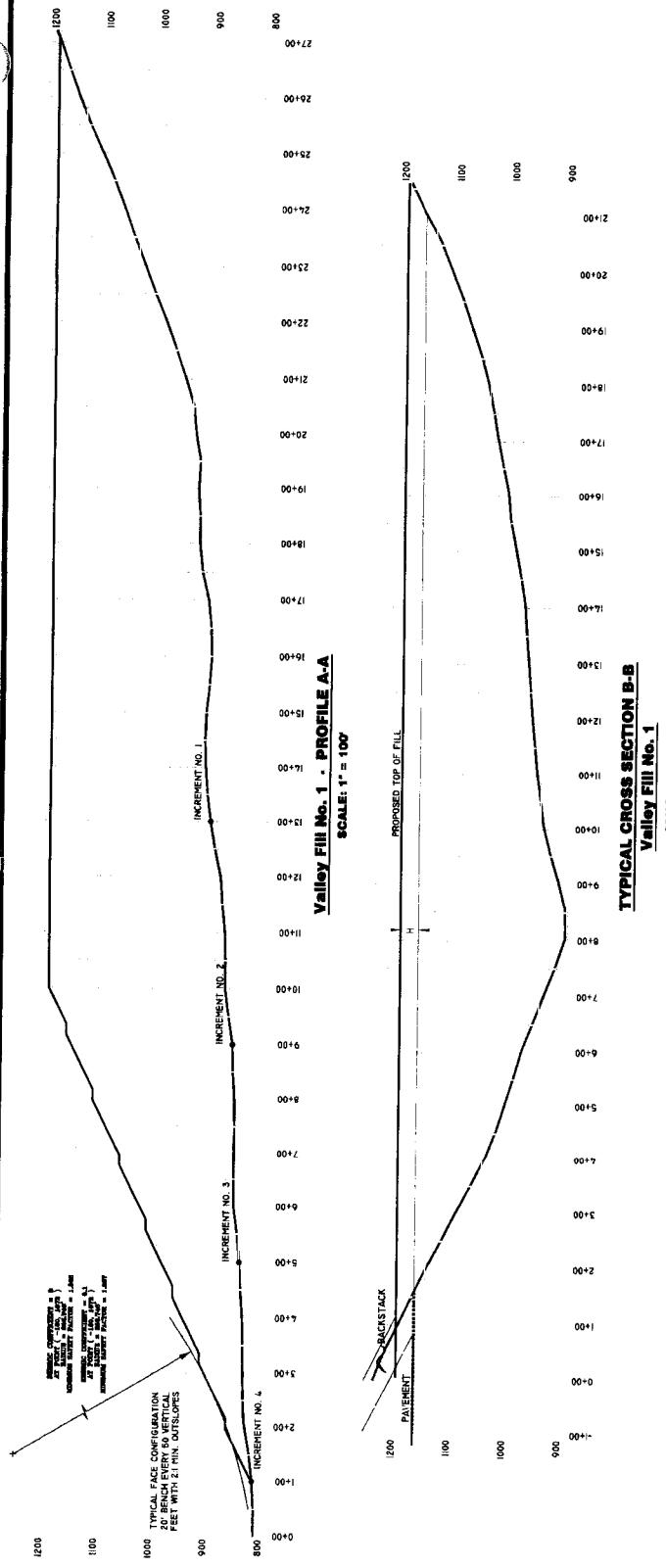








Document 2 - Search Results
Hobet Mining, LLC
Hewitt Creek Surface Mine No. 1
Boone County, West Virginia
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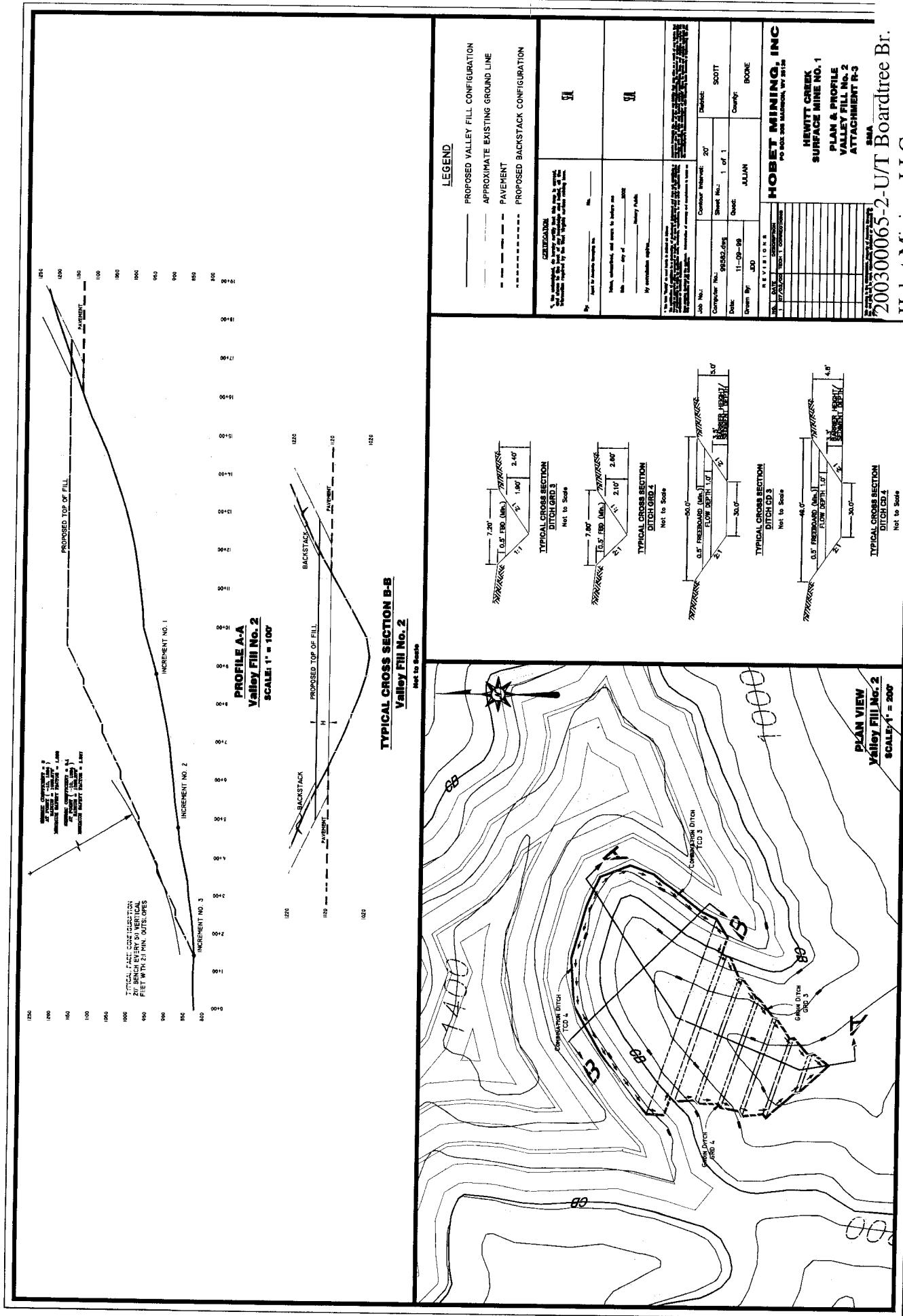


200300065-2-U/T Boardtree Br.
DIAN A. BROWN

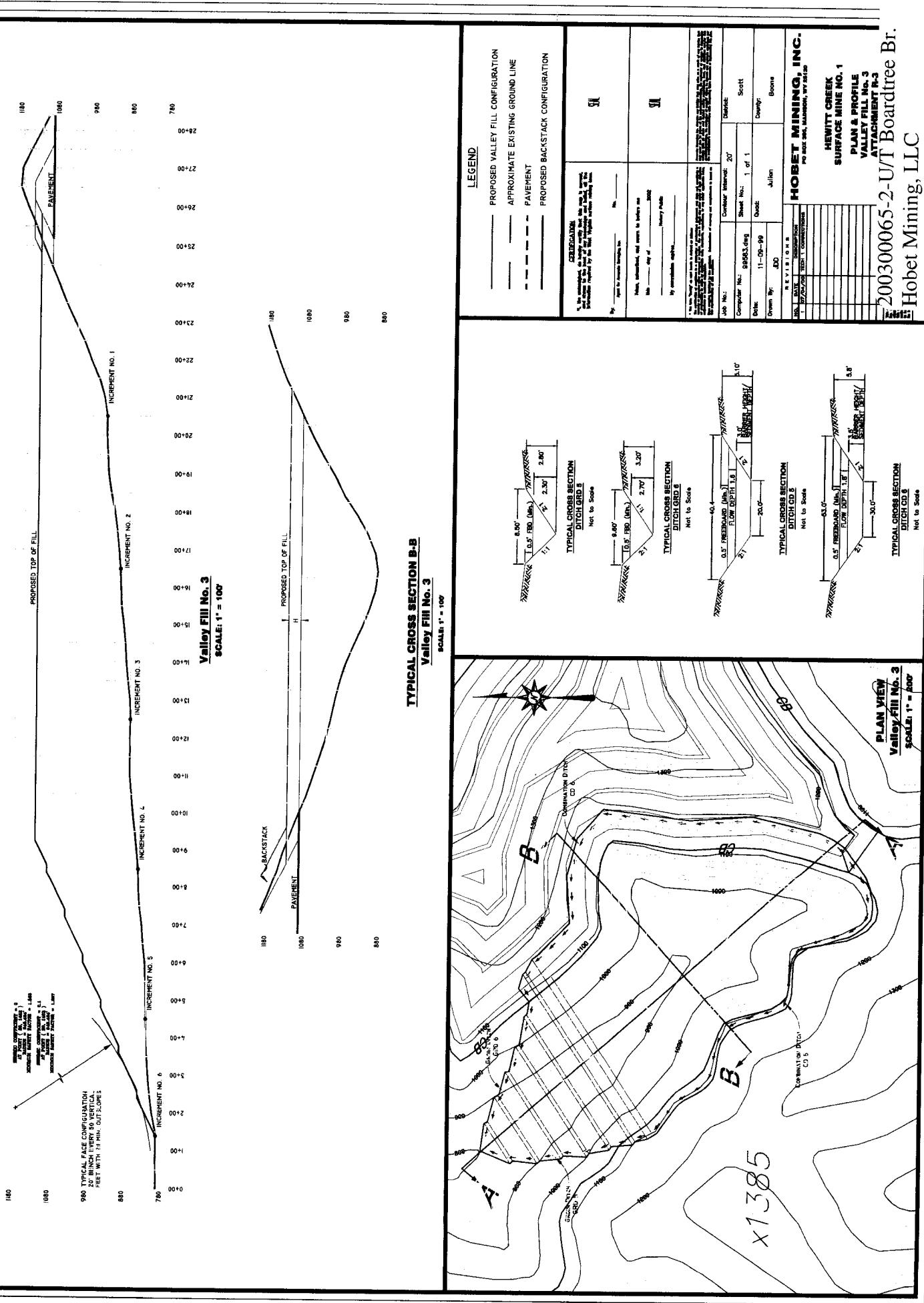
Hobet Mining, LLC

Hewitt Creek Surface Mine No 1

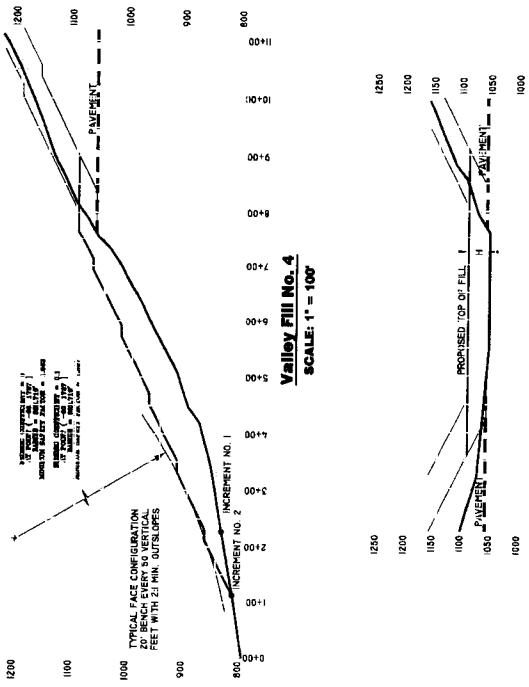
Hewitt Creek Surface Mine No. 1
Boone County, West Virginia



Hewitt Mining, LLC
Hewitt Creek Surface Mine No. 1
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Hewitt Creek Surface Mine No. 1
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TYPICAL CROSS SECTION B-B

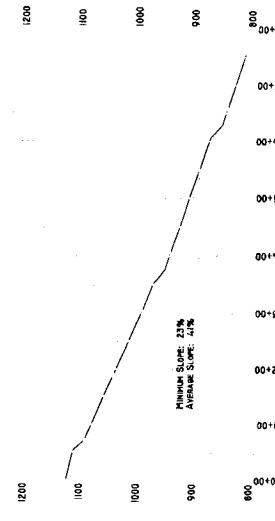
alley Fill No. 4



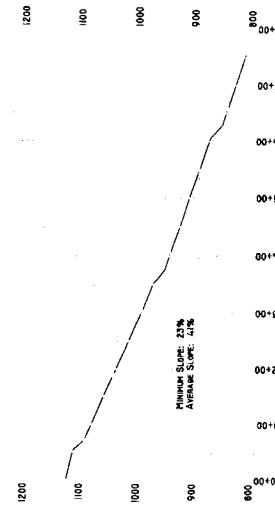
Profile - GRD-7



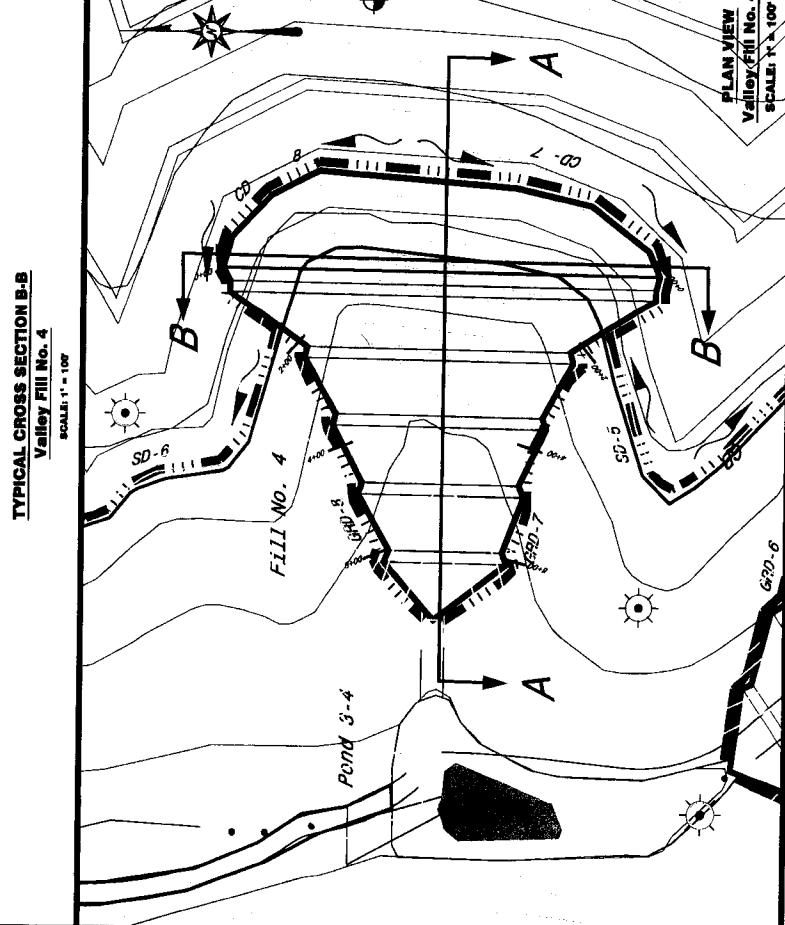
8



Profile - GRD-8
SCALE: 1" = 100'



Profile - GRD-8
SCALE: 1" = 100'

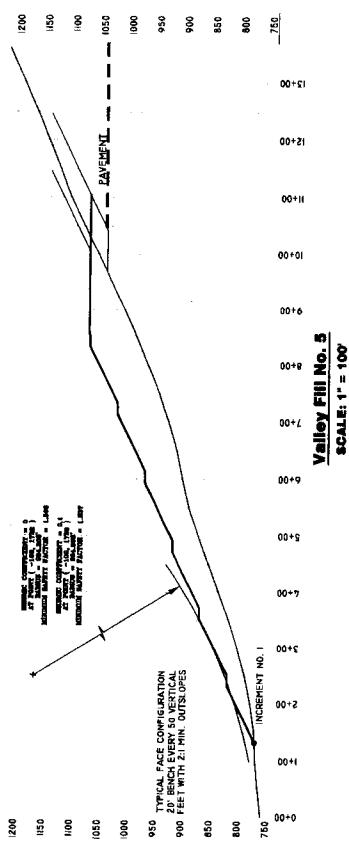


PLAN VIEW
Valley Fill No. 1
SCALE: 1' = 100'

—20.0'—

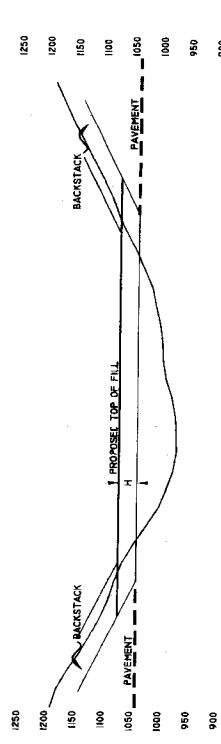
ATTACHMENT R-3

Hobet Mining, LLC

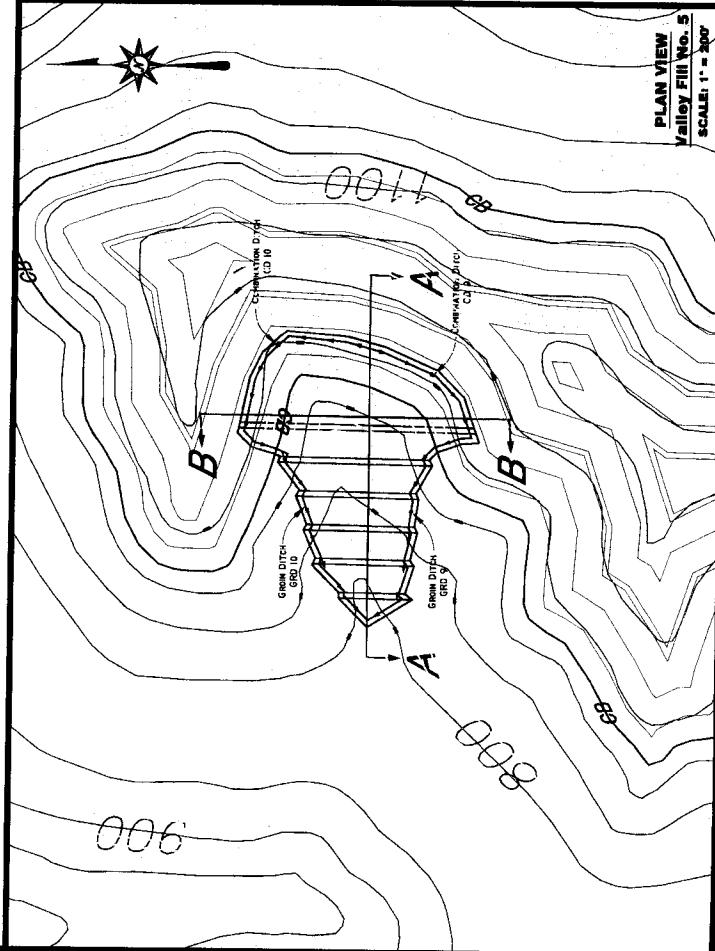


SCALE: 1" = 100'

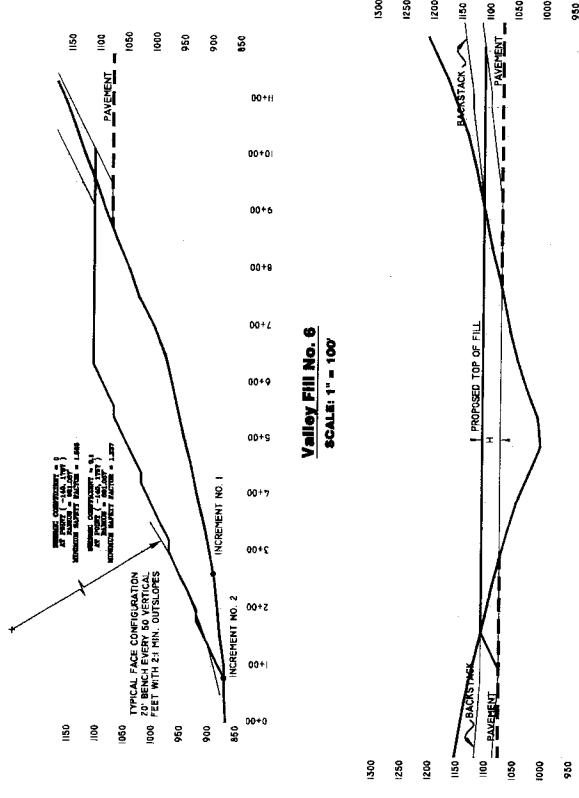
RATION
PRACTICAL
SLOPES



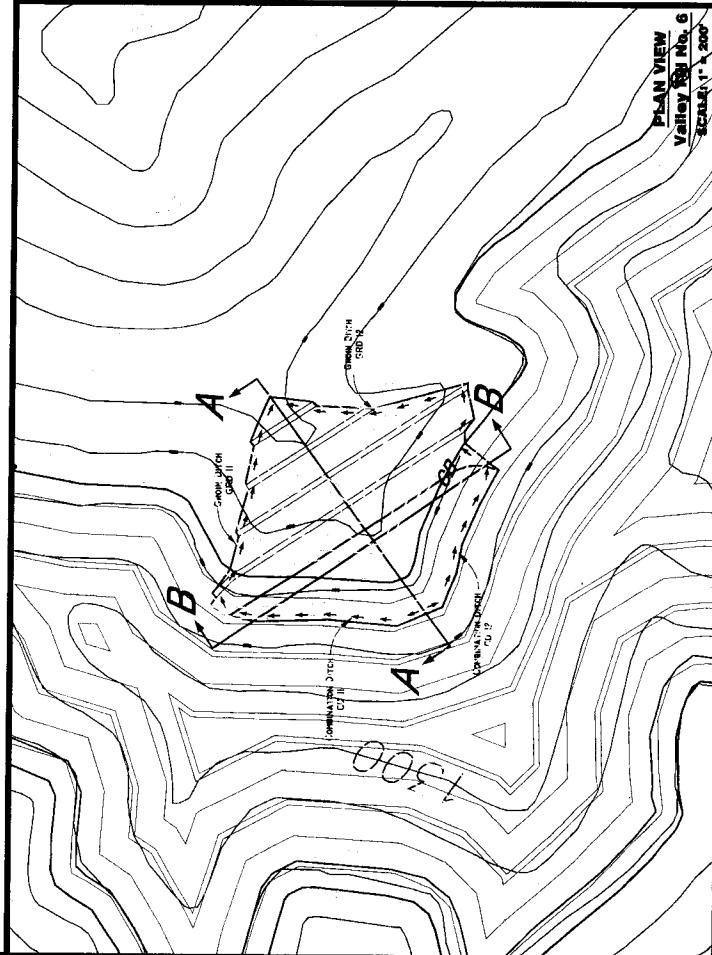
TYPICAL CROSS SECTION B-B
Valley Fill No. 5



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Boone County, West Virginia
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TYPICAL CROSS SECTION B-B
Valley Fill No. 6



LEGEND

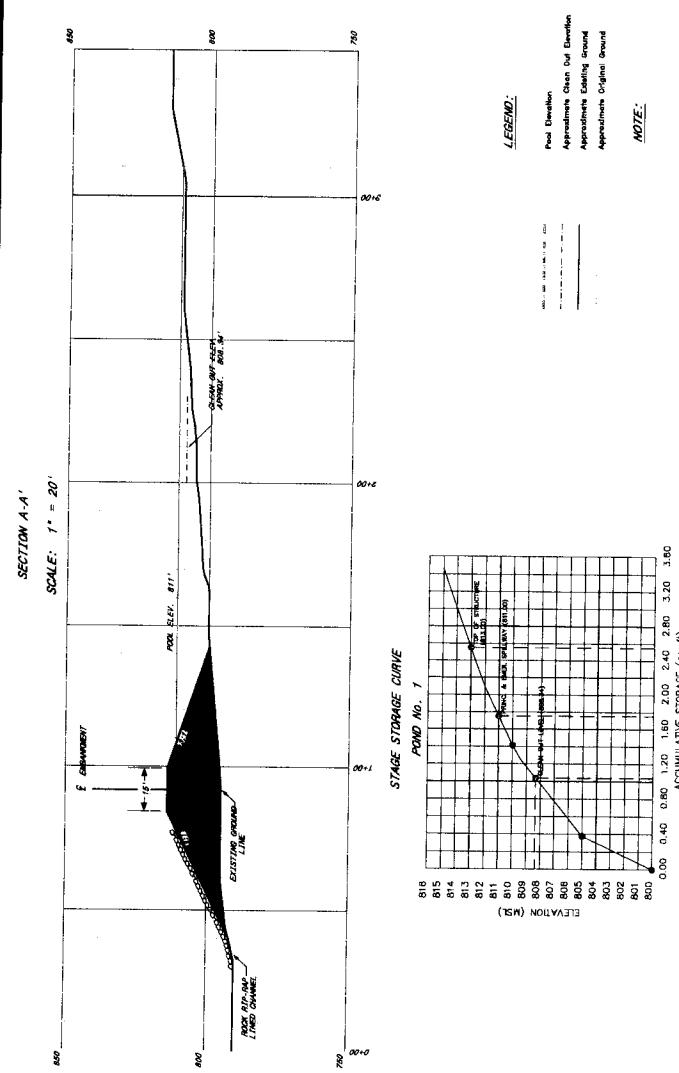
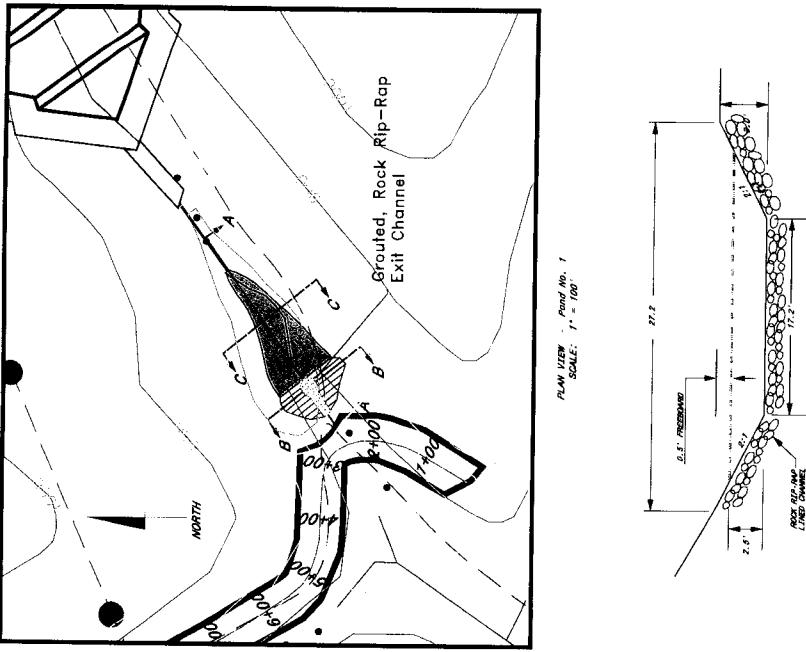
_____ PROPOSED VALLEY FILL CONFIGURATION
 _____ APPROXIMATE EXISTING GROUND LINE
 - - - - - PAVEMENT
 - - - - - PROPOSED BACKSTACK CONSTRUCTION

HOBET MINING, INC.			
PO Box 300, Madison, WY 82520			
HEWITT CREEK PLAN & PROFILE SURFACE MINE NO. 1 VALLEY FILL, No. 6 VALLEY FILL, No. 7			
Job No.: SHS56, Dug Date: 11-09-99 Driver No.: JDO Distance: 20' Sheet No.: 1 of 1 Comments: Boats			
District: Scott Surveyor: DCHC			

ATTACHMENT K

Hobet Mining, LLC

**Hewitt Creek Surface Mine No. 1
Boone County, West Virginia**

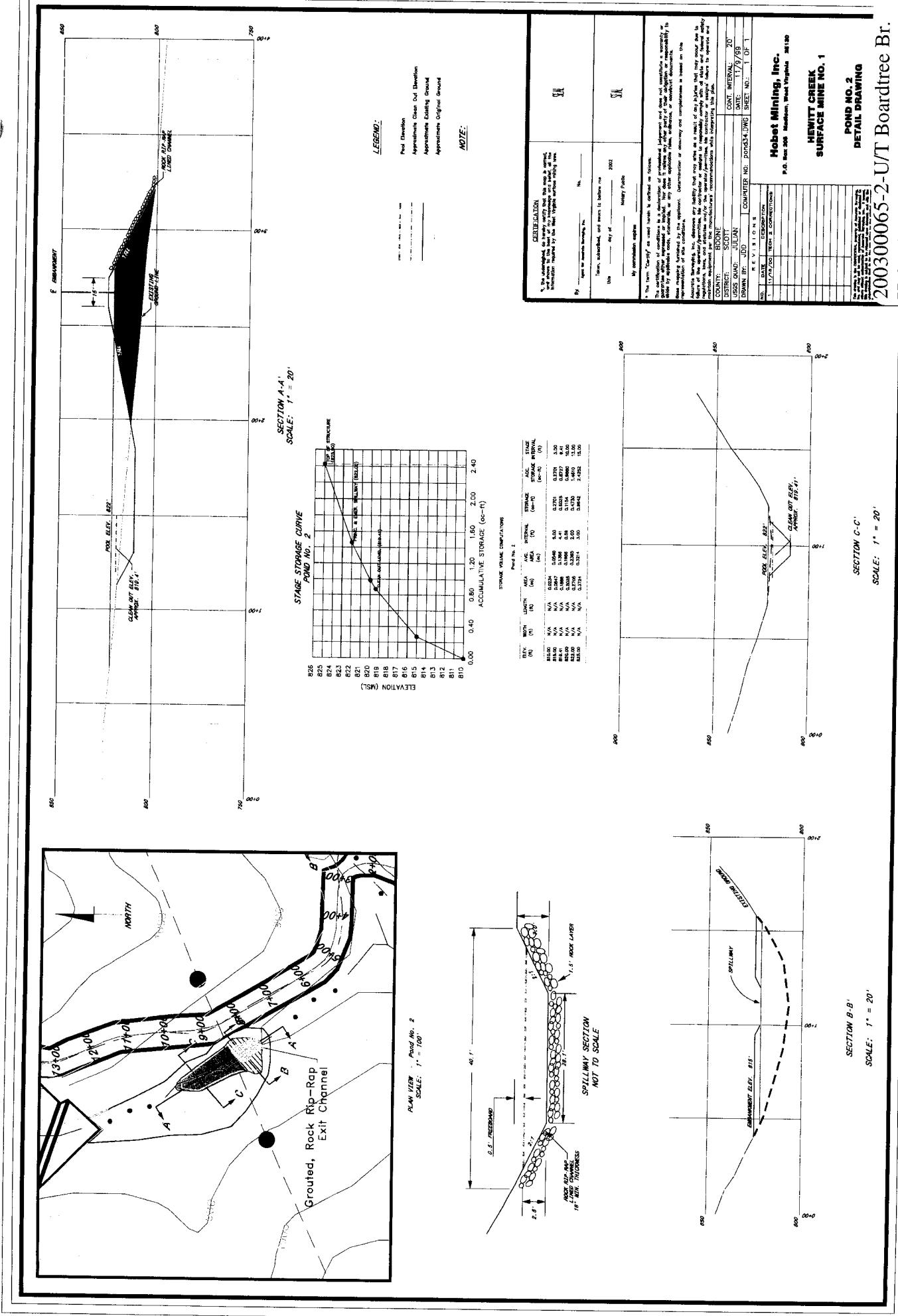


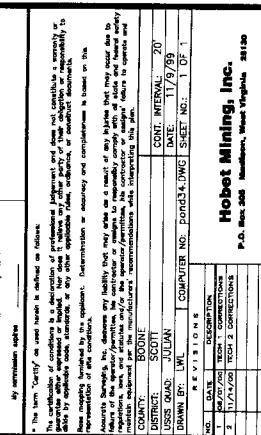
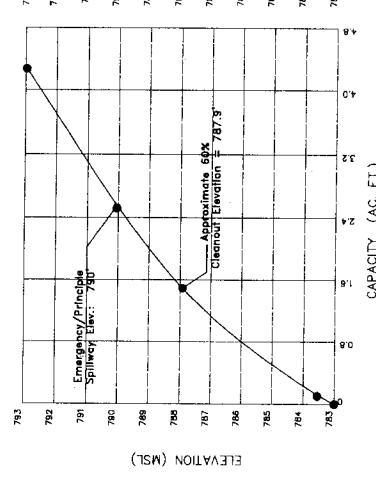
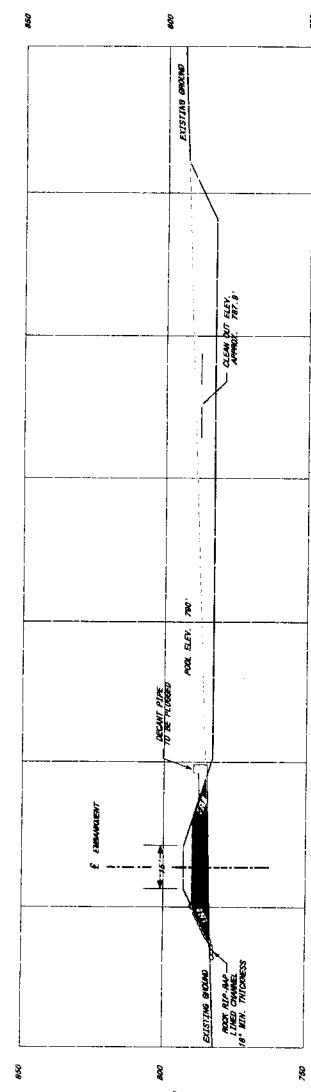
**HENITT CREEK
SURFACE MINE NO. 1**

**POND NO. 1
DETAIL DRAWING**

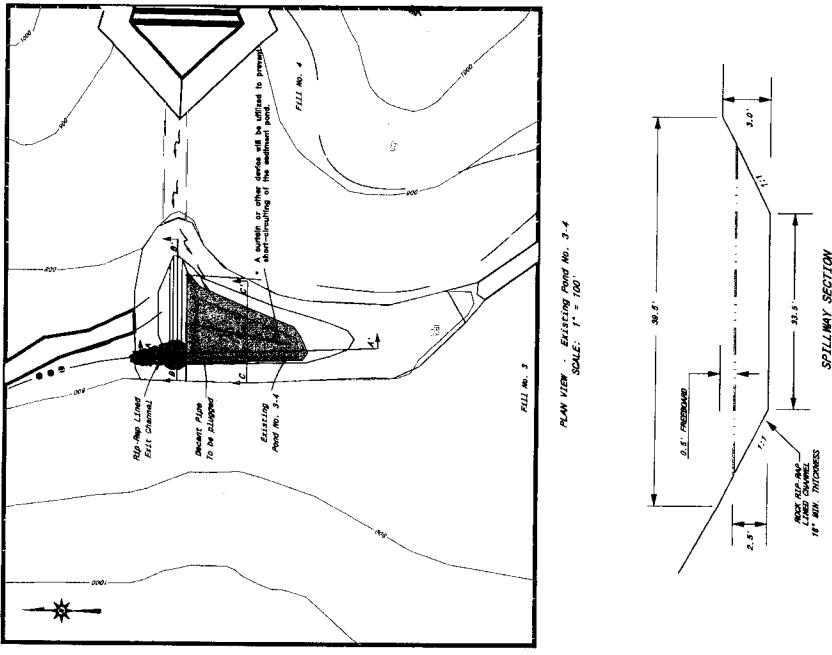
200300065-2-U/T Boardtree Br.

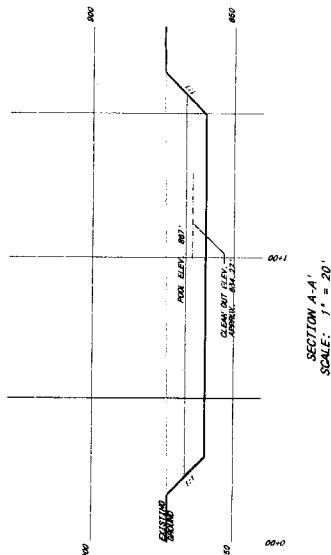
Hobet Mining, LLC
Hewitt Creek Surface Mine No. 1
Boone County, West Virginia
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DETAIL DRAWING
20030065-2-U/T Boardtree Br.
Hobet Mining, LLC
Hewitt Creek Surface Mine No. 1
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SECTION A-A'
SCAFFOLD

LEGEND:

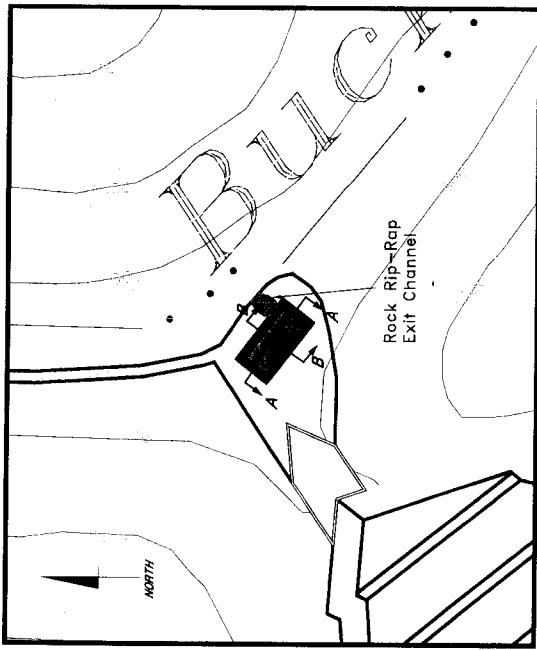
Pool Elevation
 Approximate Clean Out Elevation
 Approximate Existing Ground
 Approximate Original Ground

NOTE:

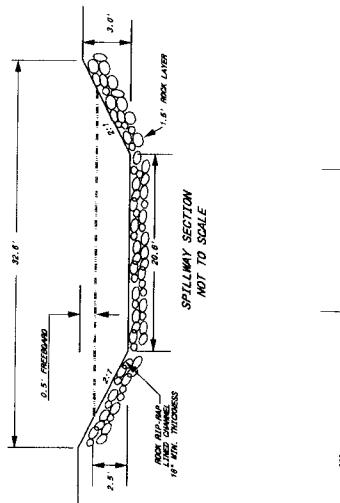
By _____	No. _____
Please be advised that we, the _____	
Title, subscriber, and owner to receive the	copy of _____
this _____ day of _____, 2002.	

200300065-2-U/T Boardtree Br.

Hobet Mining, LLC
Hewitt Creek Surface Mine No. 1
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POLYAMIDE - PART NO. 6



ELEV	AVERAGE STORAGE
880	0.00
878	0.05
875	0.10
870	0.15
865	0.20
860	0.25
855	0.40
850	0.60
845	0.80
840	1.00
835	1.15
830	1.20

SECTION B-B'

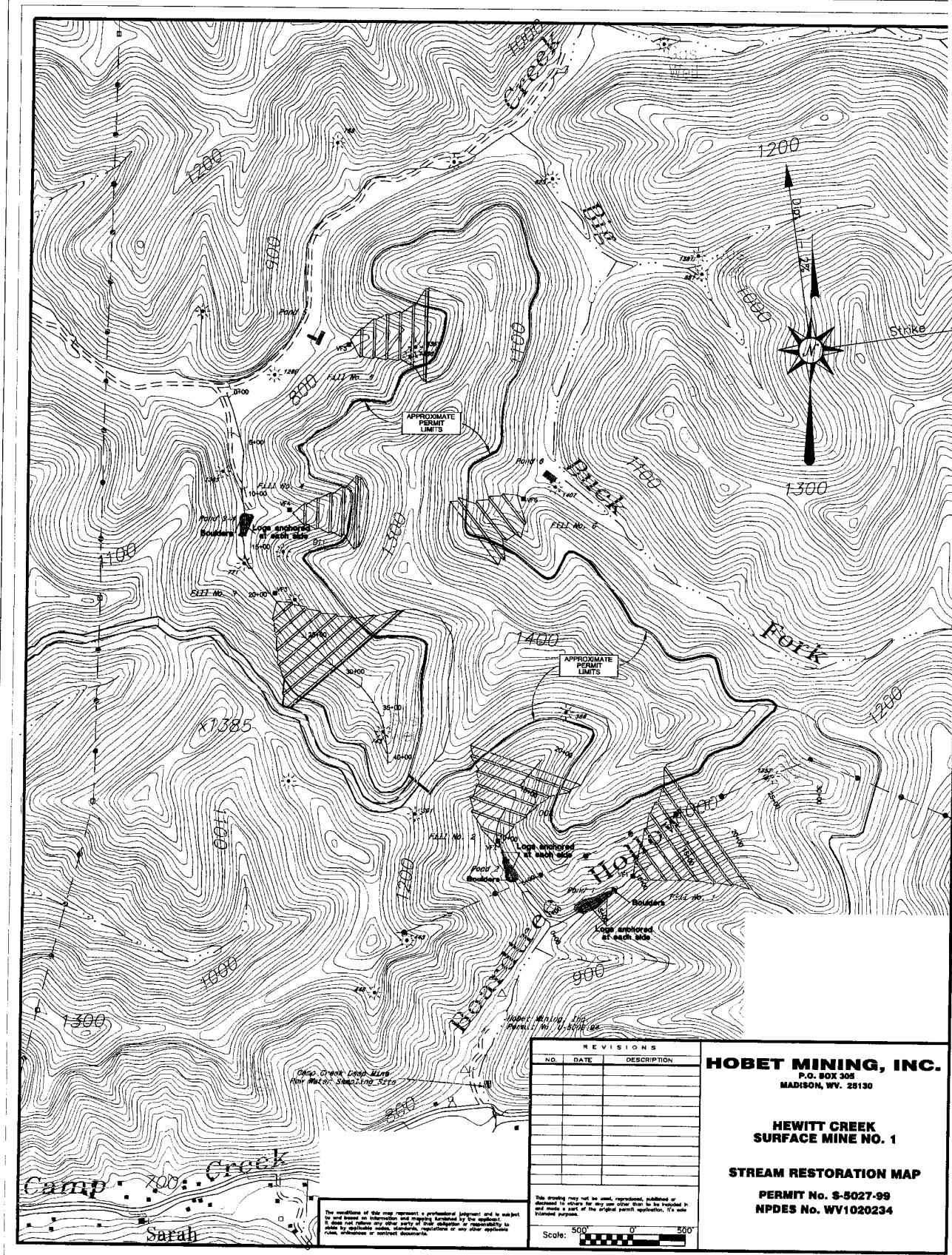
	α	β	γ	δ	ϵ	ζ
846.00	N/A	N/A	0.1820	0.1792	1.00	0.00012
846.00	N/A	N/A	0.1845	0.1792	2.00	1.2740
867.00	N/A	N/A	0.2154	0.2275	3.00	0.0025
867.00	N/A	N/A	0.2154	0.2275	4.00	0.0001

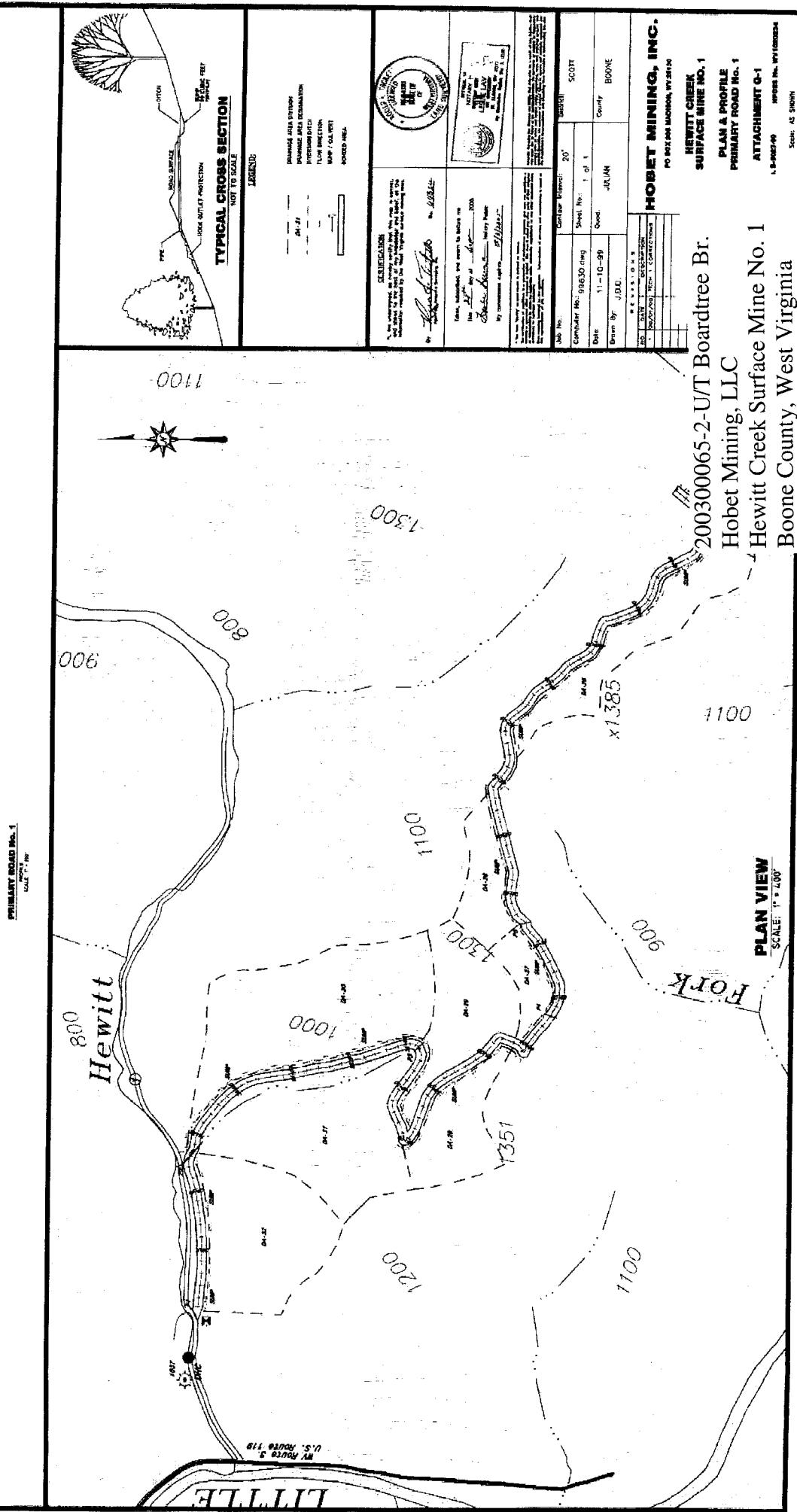
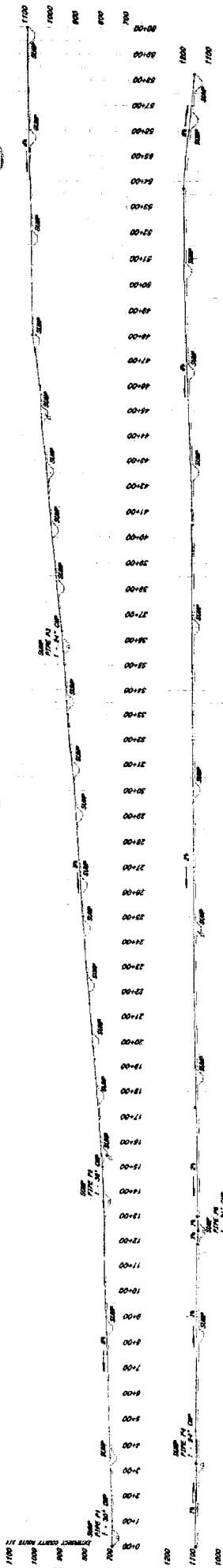
POND NO. 6

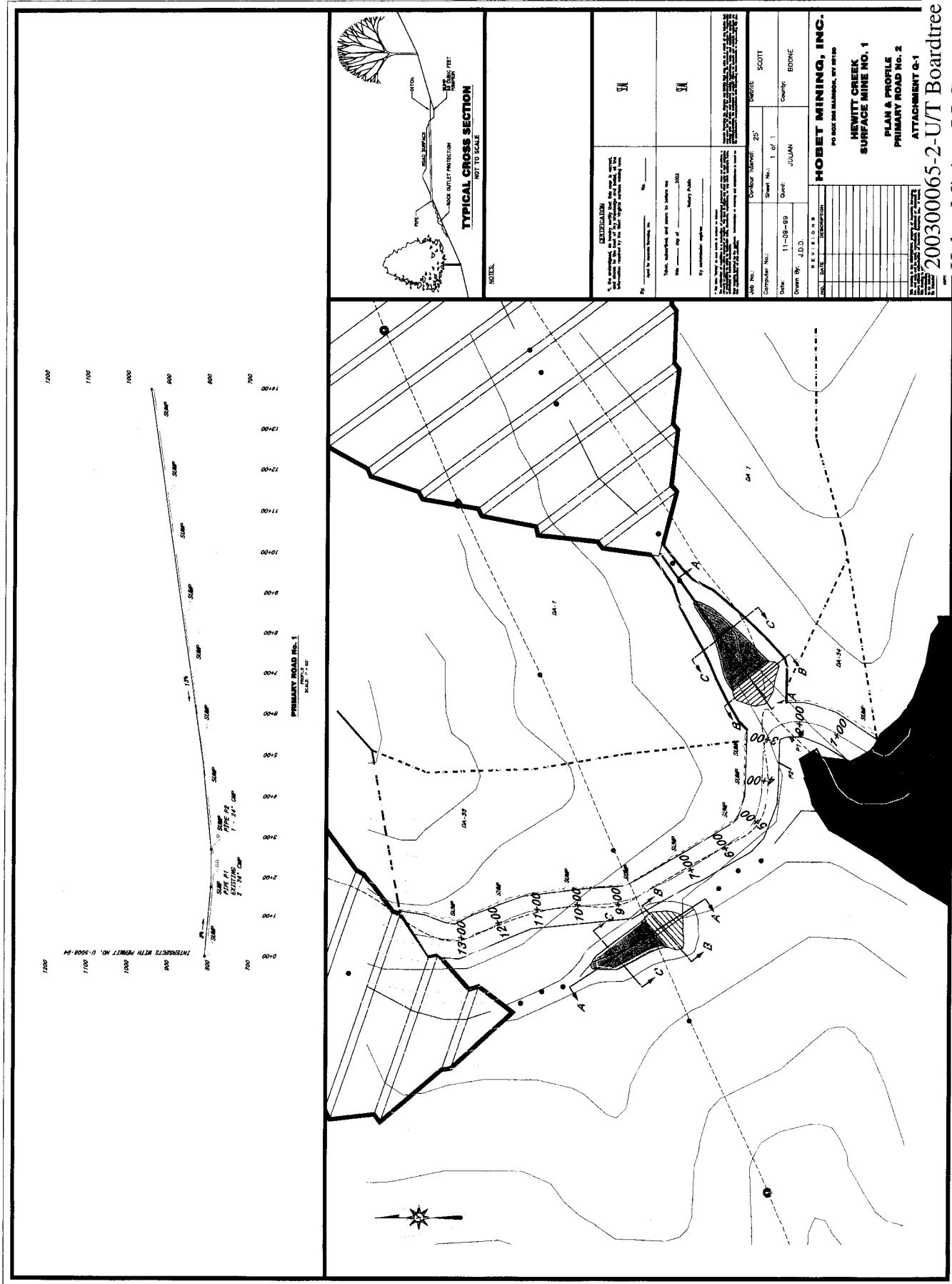
**POND NO. 6
DETAIL DRAWING**

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Hewitt Creek Surface Mine No. 1
Boone County, West Virginia
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