

Public Notice

U S Army Corps
of Engineers
Huntington District

In reply refer to Public Notice No. 200500167 Issuance Date: **AUG 24 2006**

Stream: Tenmile Fork Closing Date: **SEP 23 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 (WVDEP) to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Catenary Coal Company
5914 Cabin Creek Road
Eskdale, West Virginia 25075

LOCATION: The proposed project would be constructed in the headwaters of an unnamed tributary of Tenmile Fork approximately 4.0 miles southwest of Eskdale in the Sherman District of Kanawha County, West Virginia. The project area can be found at latitude 38°01'27" and longitude 81°27'22" on the Eskdale USGS quadrangle. The eight wetlands on-site exhibit surface water connections to an unnamed tributary of Tenmile Fork. Tenmile Fork flows into Cabin Creek, which ultimately flows into Kanawha River, a navigable (Section 10) water of the U.S.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place 169,500 cubic yards of dredged and fill material into 0.604 acre of emergent wetlands in conjunction with the construction, operation and reclamation of the Tenmile Fork Deep Mine approved under Surface Mining Control and Reclamation Act (SMCRA) permit U-3004-06. The proposed project would involve the development of a mine portal area in the Hernshaw coal seam and stockpile area and upgrades to existing haulroads with an approximate project area of 26.81 acres. The proposed operation would utilize an existing bench of an abandoned refuse fill for storage of this overburden material. Mandatory sediment control would be constructed on the existing mine bench and would not result in impacts to waters of the U.S. In addition, upgrades to the existing roads would not involve impacts to waters of the U.S. Mining and reclamation operations would take place in three phases over a 24-year period. The purpose of the proposed project is construct attendant and associated features (i.e. sediment control structures, overburden disposal, etc.) to facilitate efficient extraction of 7 million tons of coal reserves from the Hernshaw coal seam in the SMRCA permitted area. 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: The applicant has not submitted a Compensatory Mitigation Plan (CMP) to compensate for temporary impacts to waters of the U.S. that are regulated by the USACE.

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 WVDEP.

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. 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. A mist-net survey is scheduled for roosting season 2007. Additionally, the applicant would be required to investigate the project area for the presence of abandoned mine portal or other openings that could support winter and summer colonies for the Virginia big-eared bat and hibernaculum for the Indiana bat. This public notice serves as a request to the 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 ESA Species Act of 1972 (as amended).

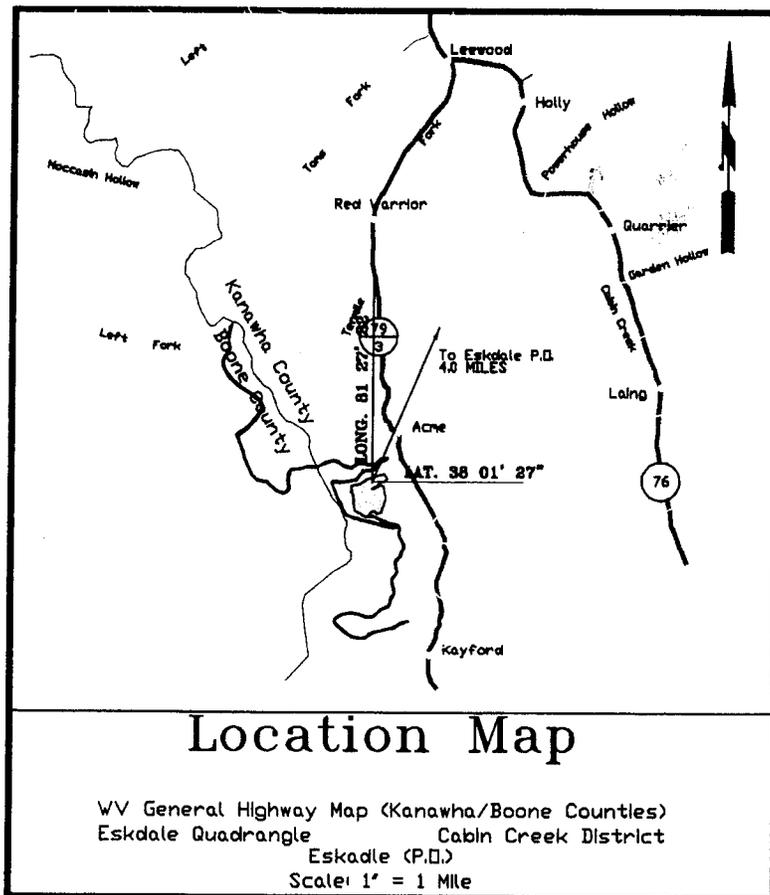
PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the 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.

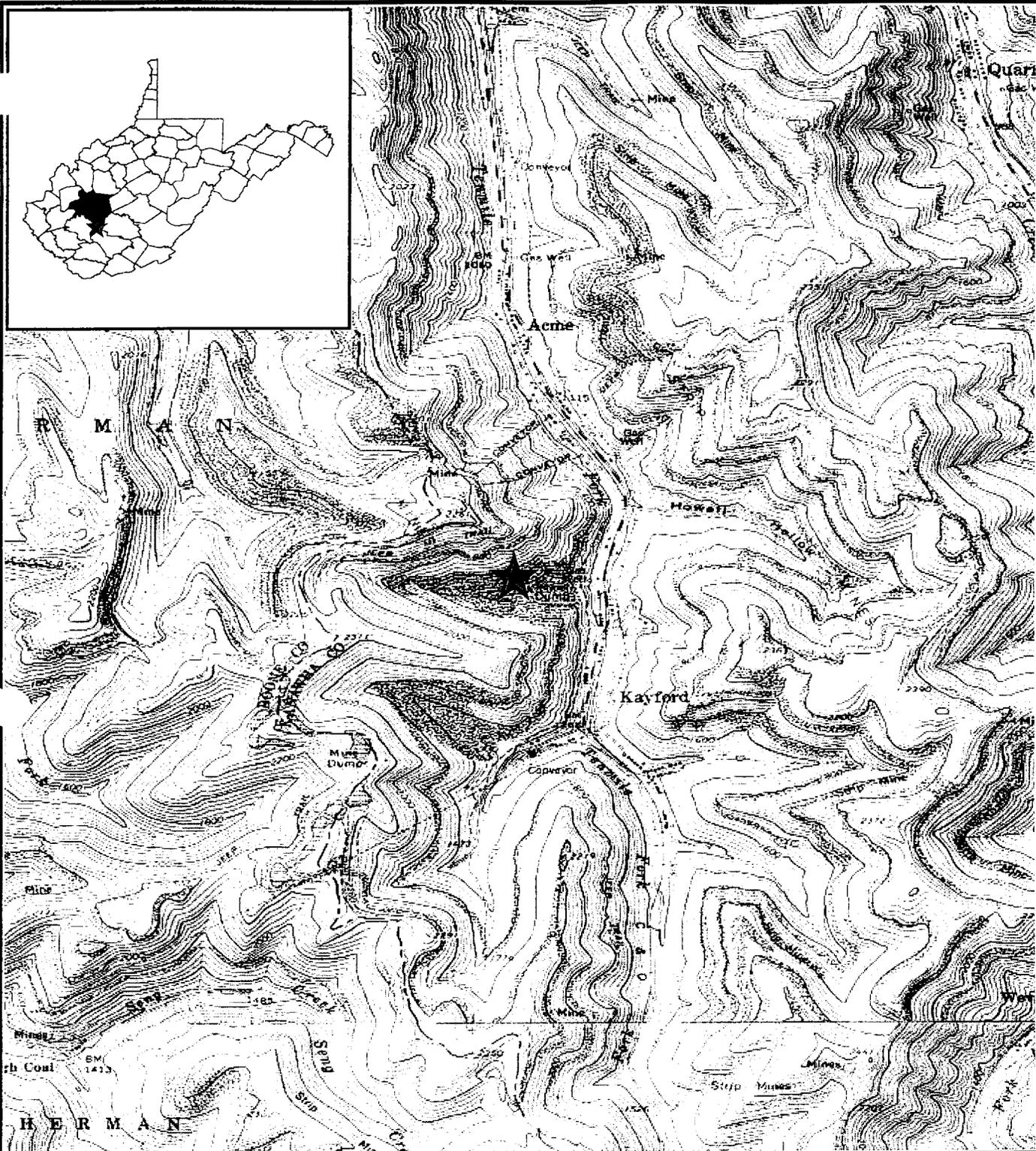
CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for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



1 of 6



0.2 0 0.2 0.4 Miles

0.2 0 0.2 0.4 Kilometers



Catenary Coal Company
Samples Mine Complex
5914 Cabin Creek Road
Eskdale, West Virginia 25075

LEGEND

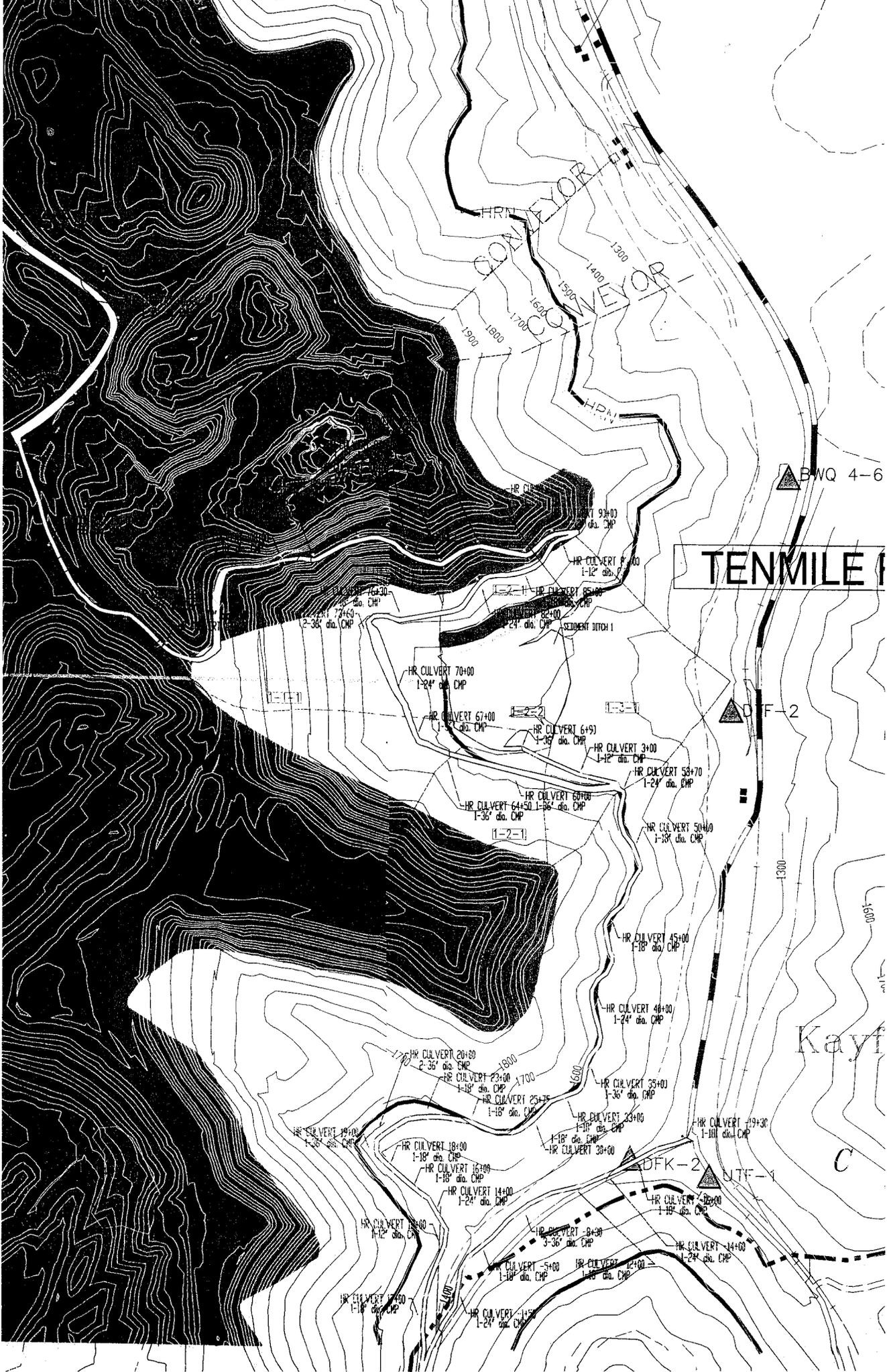


TENMILE FORK HERNSHAW
DEEP MINE
STUDY AREA



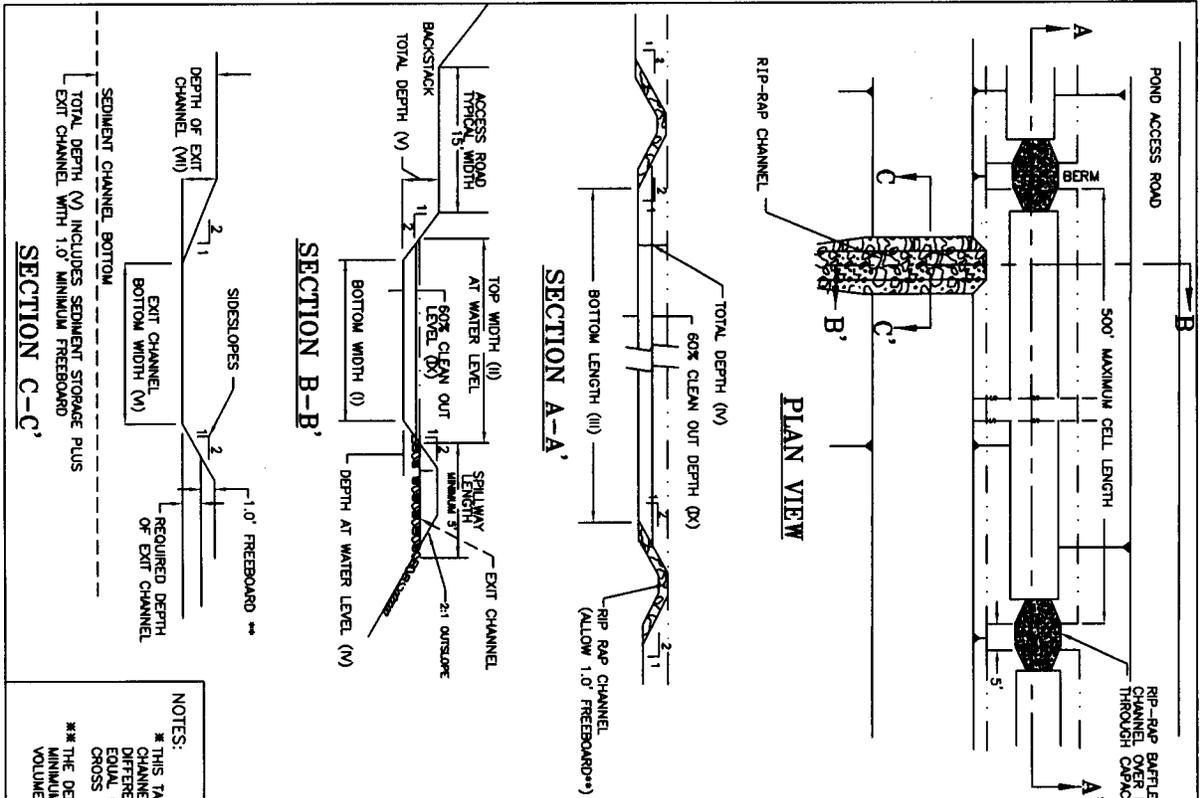
EXHIBIT 1
PROJECT LOCATION MAP

20f6



TENMILE I

Kayf C



RIp-RAP BATTLE (FOR CELLS IN SERIES) CHANNEL OVER BATTLE SHALL HAVE A FLOW THROUGH CAPACITY EQUAL TO THE EXIT CHANNEL.

EXCAVATED SEDIMENT CHANNEL DESIGNS ****				EXIT CHANNEL DESIGN									
Depth Number	Length of Water Level (ft.)	Bottom Width (ft.)	Width of Water Level (ft.)	Bottom Length (ft.)	Depth of Water Level (ft.)	Total Depth (ft.)	Required Storage (cc-ft.)	Design Storage (cc-ft.)	*60% Cleanout Depth (ft.)	Bottom Width (ft.)	Exit Channel Bottom Width (ft.)	Total Depth of Exit Channel (ft.)	**Required Depth of Exit Channel (ft.)
1	184	50	74	150	6	10	1.36	1.47	4.17	20	4	4	3.9

* Total depth from top. **includes 1 foot of freeboard.

NOTES:
 * THIS TABLE SHOWS SEDIMENT CHANNEL AND EXIT CHANNEL DIMENSIONS FOR ONE SINGLE OPTION. DIFFERENT OPTIONS ARE AVAILABLE USING AN EQUAL OR GREATER REQUIRED STORAGE AREA CROSS SECTION FROM THE DESIGN SHEET.
 ** THE DEPTH OF EXIT CHANNEL INCLUDES 1.0' MINIMUM FREEBOARD. THE DESIGNED STORAGE VOLUME IS OBTAINED AT DEPTH OF WATER LEVEL.

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THIS PLAN IS CORRECT AND SHOWS ALL THE INFORMATION TO THE BEST OF MY KNOWLEDGE AND BELIEF REQUIRED BY THE SURFACE MINEING LAWS OF THIS STATE.

ACKNOWLEDGED BEFORE ME A NOTARY PUBLIC, _____ DATE _____

SIGNATURE _____ REGISTRATION _____

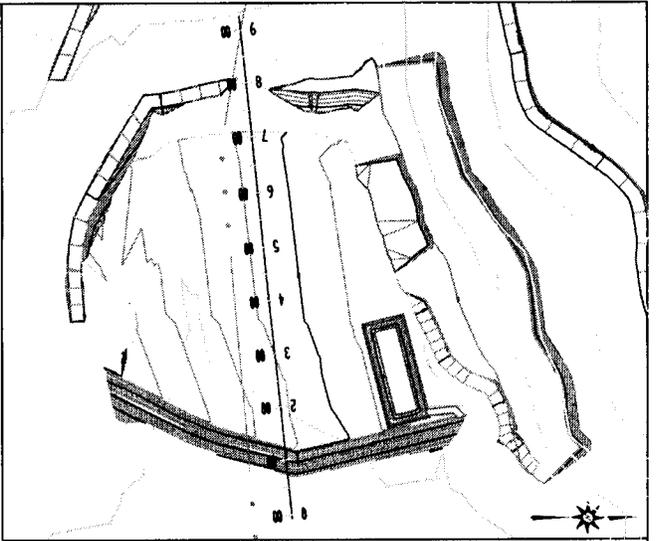
OF _____ 20 _____ BY COMMISSION EXPIRES _____

Catenary Coal Company, LLC
 5914 Cabin Creek Road, Eskdale, WV 25075
 Tennile Fork Mine
 SEDIMENT CHANNEL DETAIL CHANGES

STANLEY ENGINEERING INC.
 Charleston, WV
 Registered Professional Engineer
 License No. 17000
 State of West Virginia

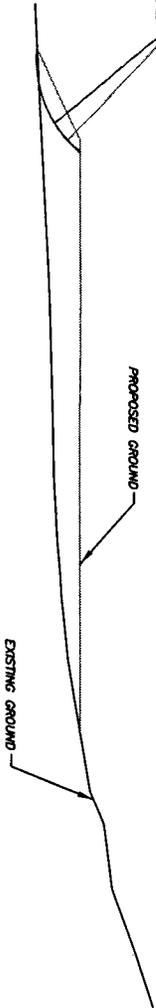
DATE: 10/7/05	REV. DATE: 10/7/05	SCALE: NTS	PER. NO: Pending
FILENAME: SedimentDetail	DISK NO:	PLOT DATE: 10/7/05	ATT: P-7
DRAWN BY: DCM	CHK BY: DCM	APPROD. BY: DCM	PAGE NO: 1 of 1

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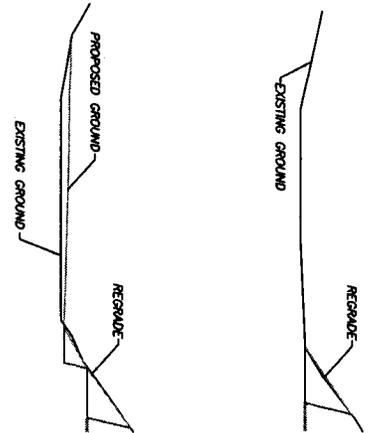
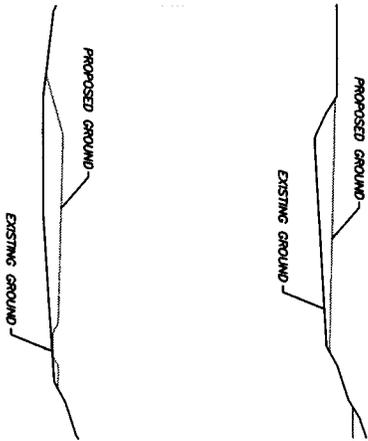


PLAN VIEW
SCALE: 1"=100'

RAILS = 14528
STATE S = 1241
RAILS = 12416
STATE S = 1498



PORTAL SITE PROFILE
SCALE: 1"=50'



FILL CROSS SECTIONS
SCALE: 1"=100'

- LEGEND**
- HERNSHAW COAL SEAM
 - EXISTING GROUND
 - CONTOUR LINES
 - DURING MINING CONTOUR LINES
 - POST MINING CONTOUR LINES

<p>TENNILE FORK HERNSHAW DEEP MINE CHARTERED BY TENNILE FORK HERNSHAW DEEP MINE CO., INC. OPERATED BY TENNILE FORK HERNSHAW DEEP MINE CO., INC.</p>	
<p>ENGINEER RODRIGUEZ ENGINEERING, INC. 400 ALLEN DRIVE, SUITE 100 MEMPHIS, TENNESSEE 38117</p>	<p>DATE 10/15/2010</p>
<p>PROJECT NO. 1000000000</p>	<p>SCALE 1"=50'</p>
<p>DATE 10/15/2010</p>	<p>BY [Signature]</p>

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