

Public Notice

**U.S. Army Corps
of Engineers**
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. **2010-1186**

Date: **January 27, 2014**

Notice No. 14-01

Closing Date: **February 28, 2014**

1. TO ALL 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*.

2. APPLICANT: Mr. Frank Rose
Roaring Creek Coal Company
109 Appalachian Drive
Beckley, WV 25801

3. LOCATION: The Roaring Creek Coal Mining Complex (RCCMC) is proposed to be constructed near Ellamore, Randolph County, West Virginia (39.923N, -80.055 W), within the Brook Run watershed. Brook Run flows to Laurel Creek, to Middle Fork River, to Tygart River, to the West Fork River, a major tributary to the Monongahela River.

4. PURPOSE AND DESCRIPTION OF WORK: Roaring Creek Coal Company, LLC (RCCC) proposes to construct the Roaring Creek Coal Mining Complex (RCCMC) (See Pages 5-6) in order to facilitate mining the Sewell coal seam. The proposed RCCMC will disturb approximately 313 acres of land, which includes the construction of two (2) coal refuse piles, a slurry impoundment a coarse refuse fill, a preparation plant, a conveyor line, a rail line (See Page 7), a mine shaft, an air shaft and a portal.

The development of the proposed RCCMC will impact .90 acres (ac) of wetland and 16,729 linear feet (lf) of stream that flow into Brook Run, a documented wild trout stream. Please see Table 1 for a summary of aquatic resource impacts.

TABLE 1: PROPOSED AQUATIC RESOURCE IMPACTS

Wetland Type	Permanent Wetland Impact (Fill) in Acres
Palustrine Forested Wetland (PFO)	0.00
Palustrine Scrub-Shrub Wetland (PSS)	0.16
Palustrine Emergent Wetland (PEM)	0.74
TOTAL	0.90

Stream Type	Permanent Stream Impact (Fill) in Linear Feet
Perennial	6,328
Intermittent	7,851
Ephemeral	2,550
TOTAL	16,729

RCCC has explored several refuse disposal design alternatives to avoid aquatic resource impacts. Non-impounding embankment designs explored include a valley fill, a cross-valley design, a side hill design, and a heaped design. Impounding embankment designs explored include a cross valley, a side hill design, a diked impoundment, and an incised pond design. A no-build alternative was also explored along with several on-site and off-site alternate locations for the two refuse impoundments.

The West Virginia Stream and Wetland Valuation Metric (WVSWVM) will be applied to quantify aquatic resource impact and mitigation. To mitigate for .90 acres of unavoidable wetland fill, RCCC will replace 1.97 acres of wetland on-site adjacent to Brook Run (See Page 8). The wetland mitigation area will be composed of .48 acres of PSS wetland and 1.49 acres of PEM wetland.

The applicant proposes to offset 16,729 lf of unavoidable stream impact by restoring a total of 20,157 lf of stream channel. The compensatory stream mitigation plan includes restoring 15,936 lf of intermittent and perennial stream channel along Roaring Creek (See Page 9) and 4,221 lf of an ephemeral tributary to Devil Run (See Page 10). The current condition of Roaring Creek and Devil Run is very poor due to pre-law iron seeps from abandoned surface and underground mines that have contaminated the stream. Stream restoration will include step-pool bank stabilization, riparian buffer enhancement, and installation of in-stream structures. In addition, seven acid mine drainage (AMD) treatment basins will be constructed, each below an iron seep in Roaring Creek. Five AMD basins will be constructed in the main channel of Roaring Creek and two will be constructed on tributaries to the main stem of Roaring Creek. An alkaline dumping station will also be created in each treatment cell to help reduce the AMD before it is discharged into the watershed.

TABLE 2: PROPOSED AQUATIC RESOURCE MITIGATION

Wetland Type	Wetland Establishment in Acres
Palustrine Scrub-Shrub Wetland (PSS)	0.48
Palustrine Emergent Wetland (PEM)	1.49
TOTAL	1.97

Stream to be Restored	Stream Restoration Length (LF)
Roaring Creek	15,936
Devil Run	4,221
TOTAL	20,157

In the event the mitigation in Roaring Creek and Devil Run is unable to meet the proposed WVSWVM values at maturity, RCCC will submit a corrective action plan for CORPS approval.

5. 401 Water Quality Certification: The applicant must obtain an individual 401 Water Quality Certifications from the West Virginia Department of Environmental Protection:

West Virginia DEP
105 South Railroad St.
Philippi, WV 26416

6. IMPACT ON NATURAL RESOURCES: The West Virginia Department of Environmental (WVDEP) Protection issued a letter on June 24, 2010 and February 1, 2011 concluding that the proposed RCCCX is not likely to adversely affect federally- listed endangered and threatened species. WVDEP references the National Programmatic 1996 Biological Opinion and Conference Report ('96 BO) between the U.S. Office of Surface Mining (OSM) and the U.S. Fish and Wildlife Service regarding endangered species procedures or approved state coal permitting programs; the West Virginia Surface Coal Mining and Reclamation Act, Chapter 22-Article 3 Section 9; and the West Virginia Surface Mining Reclamation Rules at Title 38-Series 2, Section 3.16, 3.18, 3.32 and 8. Please note that the threatened and endangered (T&E) species clearance letter only relates to T&E species under federal jurisdiction. Consequently, the T&E clearance letter does not address potential USFWS concerns under the USFWS Coordination Act. This Public Notice serves as a request to USFWS for any comments or concerns regarding this project under the USFWS Coordination Act.

7. IMPACT ON CULTURAL RESOURCES: The West Virginia Division of Culture and History (WVDCH) issued a letter on October 28, 2010 concluding that there are no archeological resources in the project area listed on or eligible for inclusion in the National Register of Historic Places. No further consultation was required regarding archeological resources. On July 8, 2011, WVDCH concluded the project will have no effect on historic resources eligible for or listed in the National Register of Historic Places and no further consultation regarding architecture is necessary. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. **EVALUATION:** 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 which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain 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 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 which would conclude in a Finding of No Significant Impact (FONSI). If such a conclusion can-not be reached, comments may be used in future studies and/or the preparation of an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the overall public interest of the proposed activity. 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 (40 CFR Part 230).

10. **RESPONSES:** A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, ATTN: Donald R. Bole at the above address, or by telephoning (412) 395-7576, or by e-mail at Donald.R.Bole@usace.army.mil Please refer to CELRP-OP-F 2010-1186 in all responses. This public notice is posted on the U.S. Army Corps of Engineers website at the following link: http://www.lrp.usace.army.mil/or/or-f/public_notice.htm

FOR THE DISTRICT ENGINEER:

/SIGNED/

Jon T. Coleman
Chief, Southern Section
Regulatory Branch

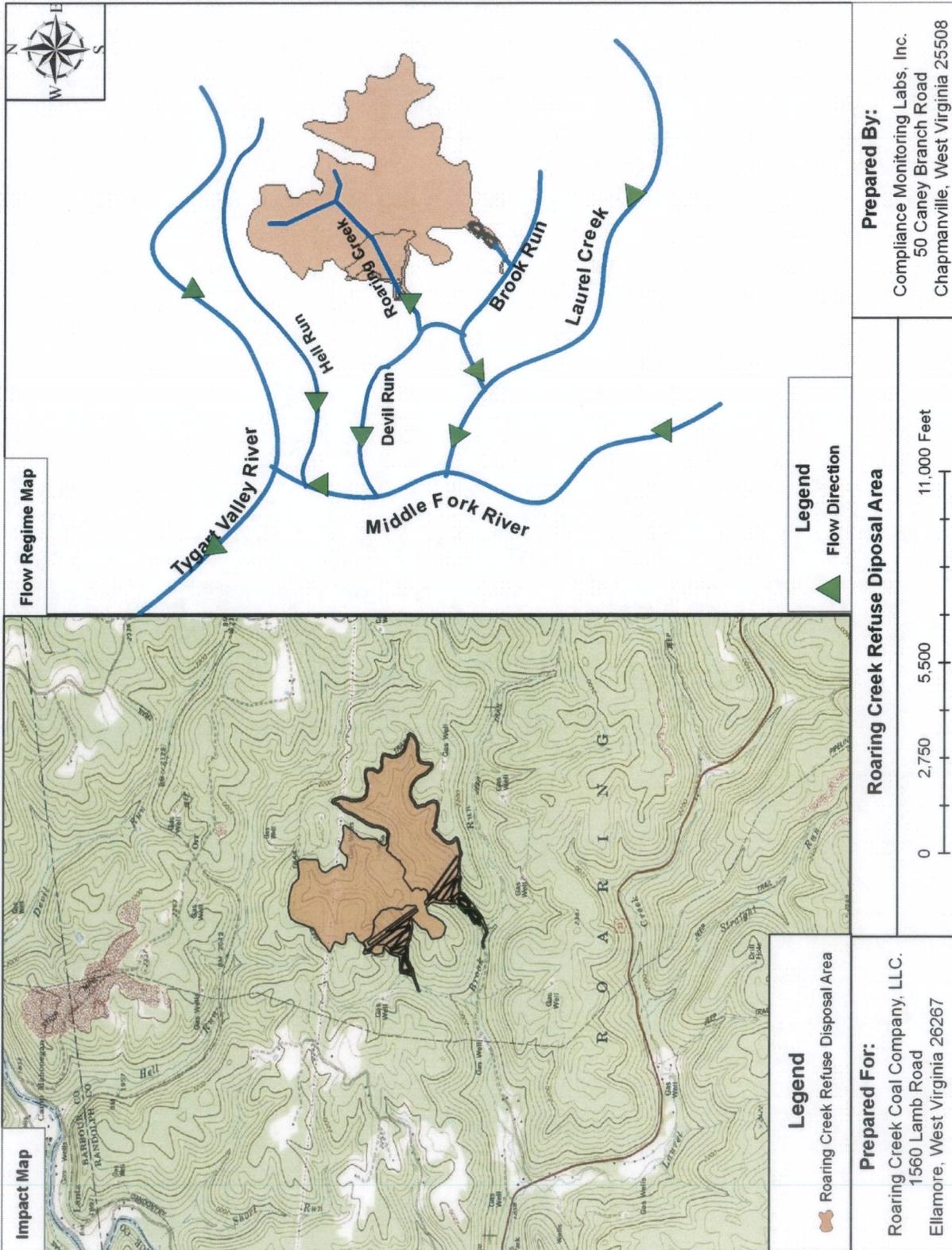
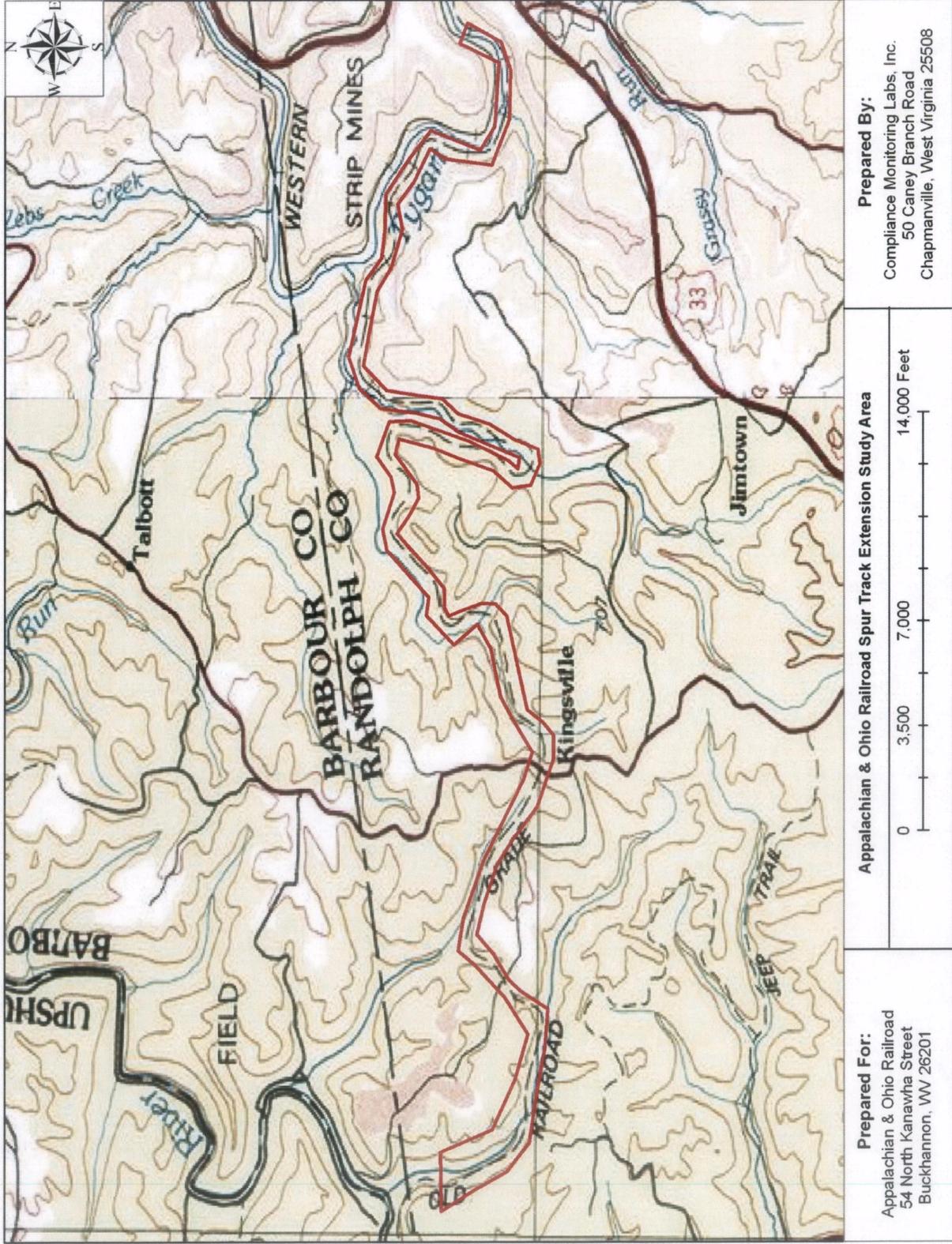


Figure 2. Permit boundary area and flow regime for the proposed Roaring Creek Refuse Disposal Area located in Randolph County, West Virginia.



Prepared For:
 Appalachian & Ohio Railroad
 54 North Kanawha Street
 Buckhannon, WV 26201

Prepared By:
 Compliance Monitoring Labs, Inc.
 50 Caney Branch Road
 Chapmanville, West Virginia 25508

Appalachian & Ohio Railroad Spur Track Extension Study Area

0 3,500 7,000 14,000 Feet

Figure 3. Boundary area of the Beech Mountain Railroad – Norton Branch located in Randolph County, West Virginia.

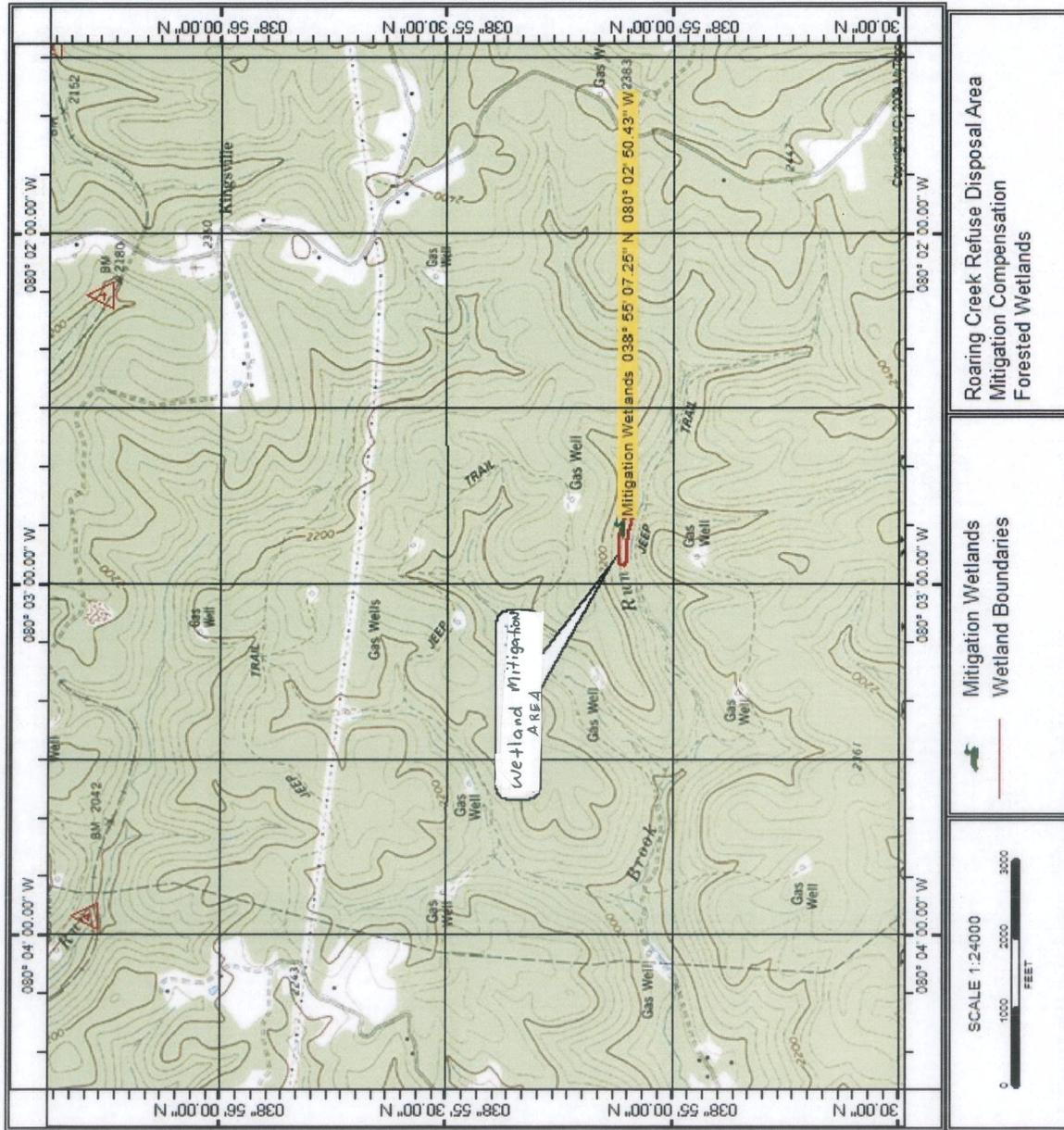


Figure 9. Wetland mitigation (Creation) located in Brook Run.

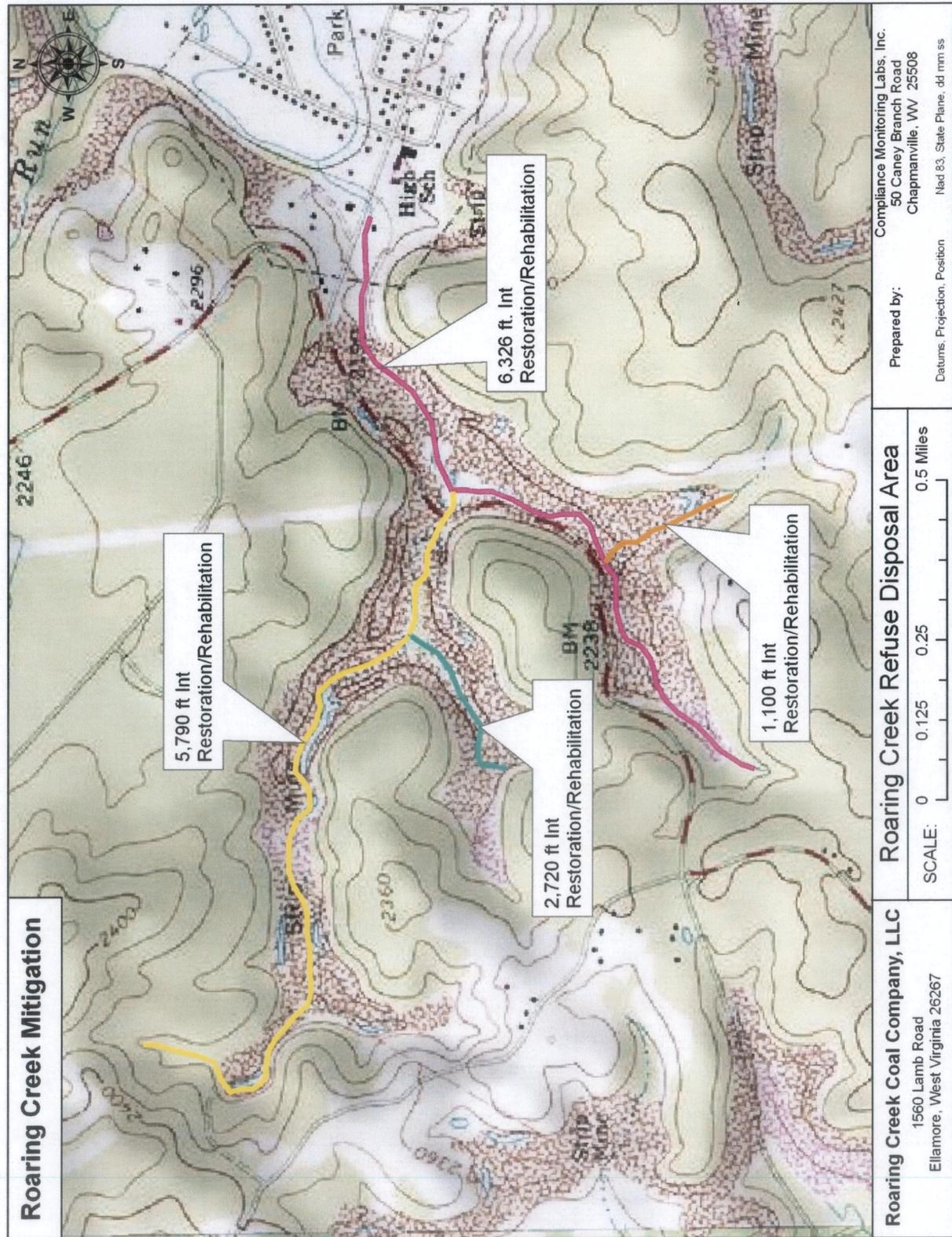


Figure 7. Proposed mitigation in Roaring Creek.

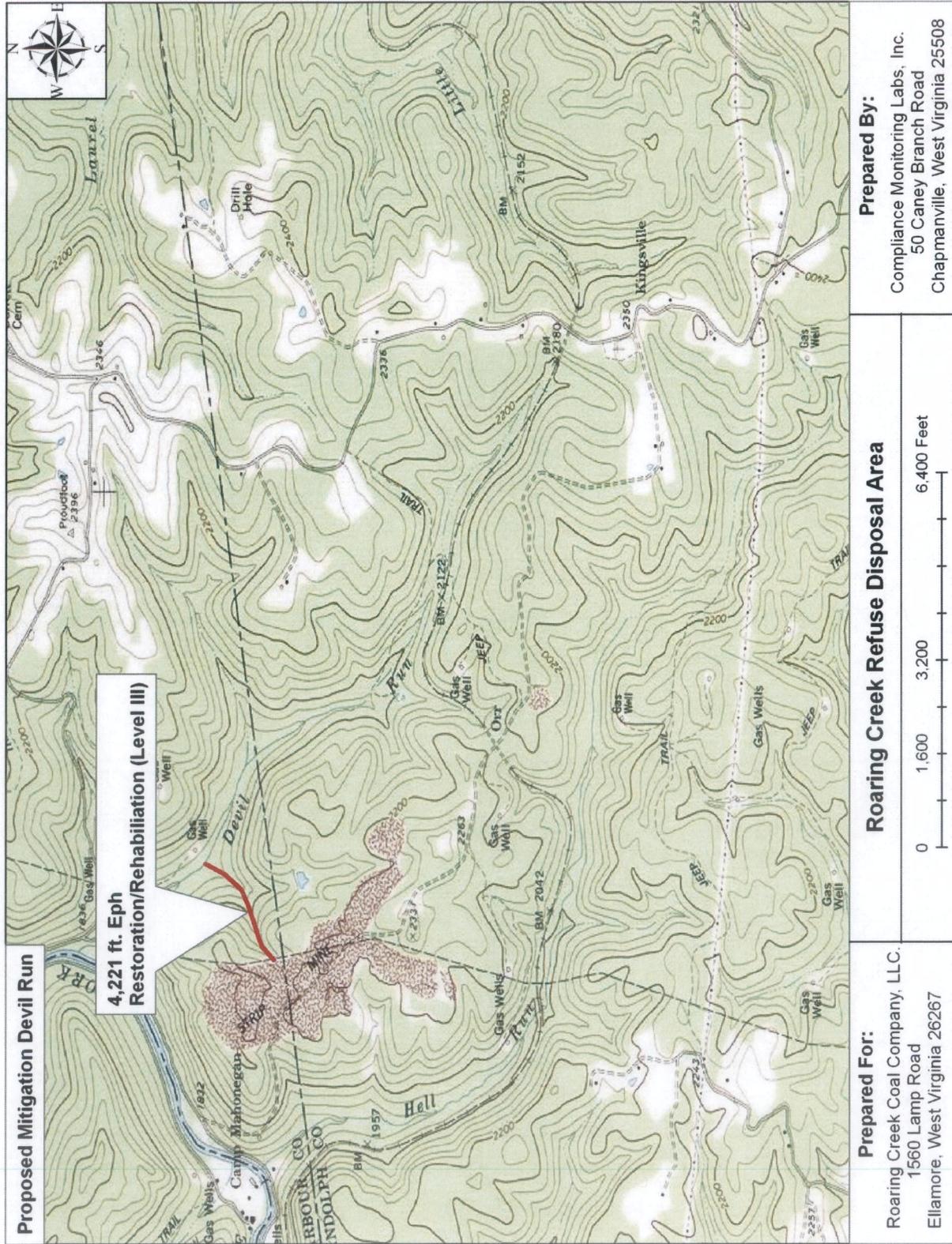


Figure 8. Proposed mitigation in Devil Run