



# 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. 2014-463

Date: October 28, 2015

Notice No. 15-46

Closing Date: November 27, 2015

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 (33 U.S.C. 1344).

2. APPLICANT: Jim Dunfee  
McElroy Coal Company  
P.O. Box 425, RD 4  
Moundsville, West Virginia 26041

3. LOCATION: The proposed project will be located in Marshall County, West Virginia, approximately 8.7 miles south of Moundsville, to the East of WV Route 2. The approximate center point of the proposed project is 39.836617°, -80.811035°.

4. PURPOSE AND DESCRIPTION OF WORK: The applicant proposes expansion of an existing coal prep plant raw coal stockpile and appurtenant storm water control structures, previously authorized by Surface Mining Control and Reclamation Act (SMCRA) Permit No. O-1023-92. Coal will be transported to the proposed stockpile area from the adjacent McElroy mine. The expansion will allow for uninterrupted coal shipment in the event of mining interruption and uninterrupted mining if shipping is interrupted.

The project area is approximately 20 acres and consists primarily of reclaimed slurry impoundment, on which wetlands have formed (see plans). The proposed activity will impact approximately 1,325 feet of stream channel, 3.36 acres of palustrine emergent wetland, 0.87 acre of palustrine scrub-shrub wetland and 0.04 acre of palustrine forested wetland. The applicant has proposed the purchase of mitigation bank credits or payment to an in-lieu fee fund to mitigate these impacts to aquatic resources.

5. WEST VIRGINIA CERTIFICATION: This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. An individual 401 water quality certification (WQC) may be required for this proposed activity in conjunction with the Section 10 of the Rivers and Harbors Act permit and/or Section 404 of the Clean Water Act permit. The applicant must apply directly to the WVDEP for an individual 401 WQC. The WVDEP will also consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws.

Please contact the agency below to determine if an individual 401 WQC is required for this proposed activity:

Ms. Wilma Reip, 401 Program Manager  
Phone: 304-962-0499 ext. 1599  
E-mail: Wilma.reip@wv.gov

Re: SMA Nos. O-1023-92 & U-0033-83 and Public Notice CELRP-OP-F No. 15-46

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project may affect, but is not likely to adversely affect endangered species or threatened species, or result in destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U.S. Fish and Wildlife 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 area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended). If the U.S. Fish and Wildlife Service concurs with the may affect, not likely to adversely affect determination please respond with written concurrence.

7. IMPACT ON CULTURAL RESOURCES: The Ohio State Historic Preservation Office (SHPO) (2015-MLT-30866) and West Virginia SHPO (FR 14-695-MR-1) have determined that there are no properties currently listed on the register, which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, 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 and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. 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, comments can be mailed to:

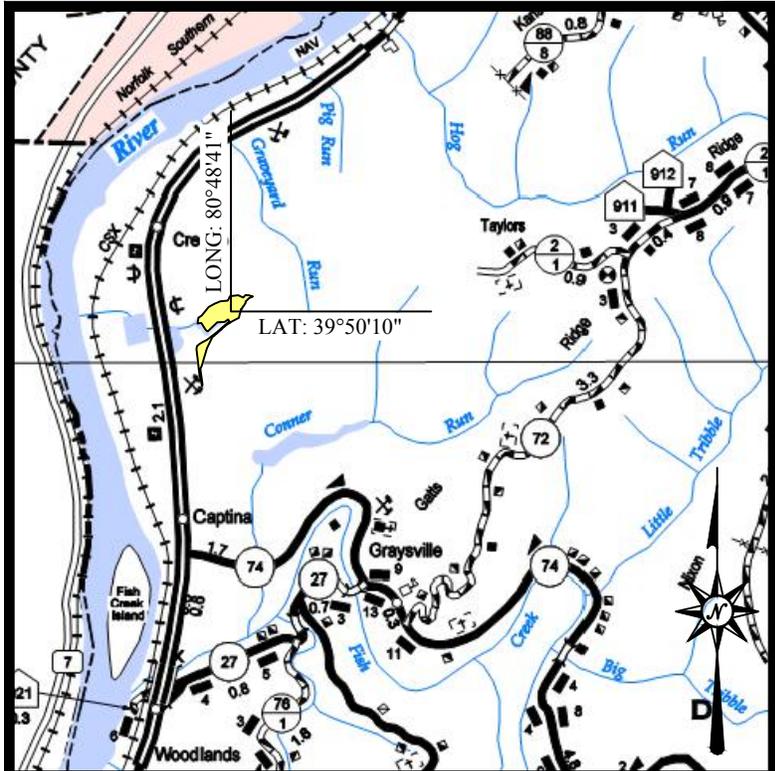
U.S. Army Corps of Engineers, Pittsburgh District  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4186  
Re: Public Notice CELRP-OP-F No. 15-46

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 Peter Steinour at the above address, by telephoning (412) 395-7141, or by e-mail at Peter.J.Steinour@usace.army.mil. Please refer to CELRP-OP-F 2014-463 in all responses.

FOR THE DISTRICT ENGINEER:

//SIGNED//

Karen A. Kochenbach  
Chief, Southern Section  
Regulatory Branch



**LOCATION MAP**  
 WEST VIRGINIA HIGHWAY MAP  
**MCELROY COAL COMPANY**  
 PREP PLANT RAW COAL STORAGE SITE  
 ARTICLE 3 PERMIT: U-33-83    NPDES PERMIT: WV0020834  
 CAMERON DISTRICT OF MARSHALL COUNTY, WEST VIRGINIA  
 1" = 1 MILE