



# 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. 2010-1132

Date: December 13, 2012

Notice No. 12-75

Closing Date: January 15, 2013

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. Jim Dunfee  
Consolidation Coal Company  
RR4, Box 425  
Moundsville, WV 26041-9437
3. LOCATION: Shoemaker Deep Mine, near Benwood, Marshall County, West Virginia.
4. PURPOSE AND DESCRIPTION OF WORK: The applicant proposes to expand the existing Browns Run Impoundment by raising the current elevation level. Raising the current surface elevation level will impact 308 linear feet (lf) of perennial stream channel #1 and 57 lf of intermittent stream channel 3, both of which currently flow into the impoundment. The Browns Run Impoundment then outlets to Browns Run, a tributary to the Ohio River. The applicant has proposed to pay into the West Virginia In-Lieu Fee Program to mitigate for stream impacts. Drawings of the proposed work are attached to this notice.
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. The applicant must apply directly to the WVDEP for individual water quality certification. 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. Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:  
West Virginia Department of Environmental Protection  
Office of Water Resources  
Regulatory Review Program  
601 57th Street SE  
Charleston, WV 25304-2345  
Telephone: 304-926-0499

Re: Public Notice CELRP-OP-F No. 12-75

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the 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).
  
7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. The West Virginia Division of Culture and History has indicated that no impacts to historic and archeological resources are anticipated. 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. 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 Bole at the above address, by telephoning (412) 395-7576, or by e-mail at Donald.R.Bole@usace.army.mil Please refer to CELRP-OP-F 2010-1132 in all responses.

FOR THE DISTRICT ENGINEER:

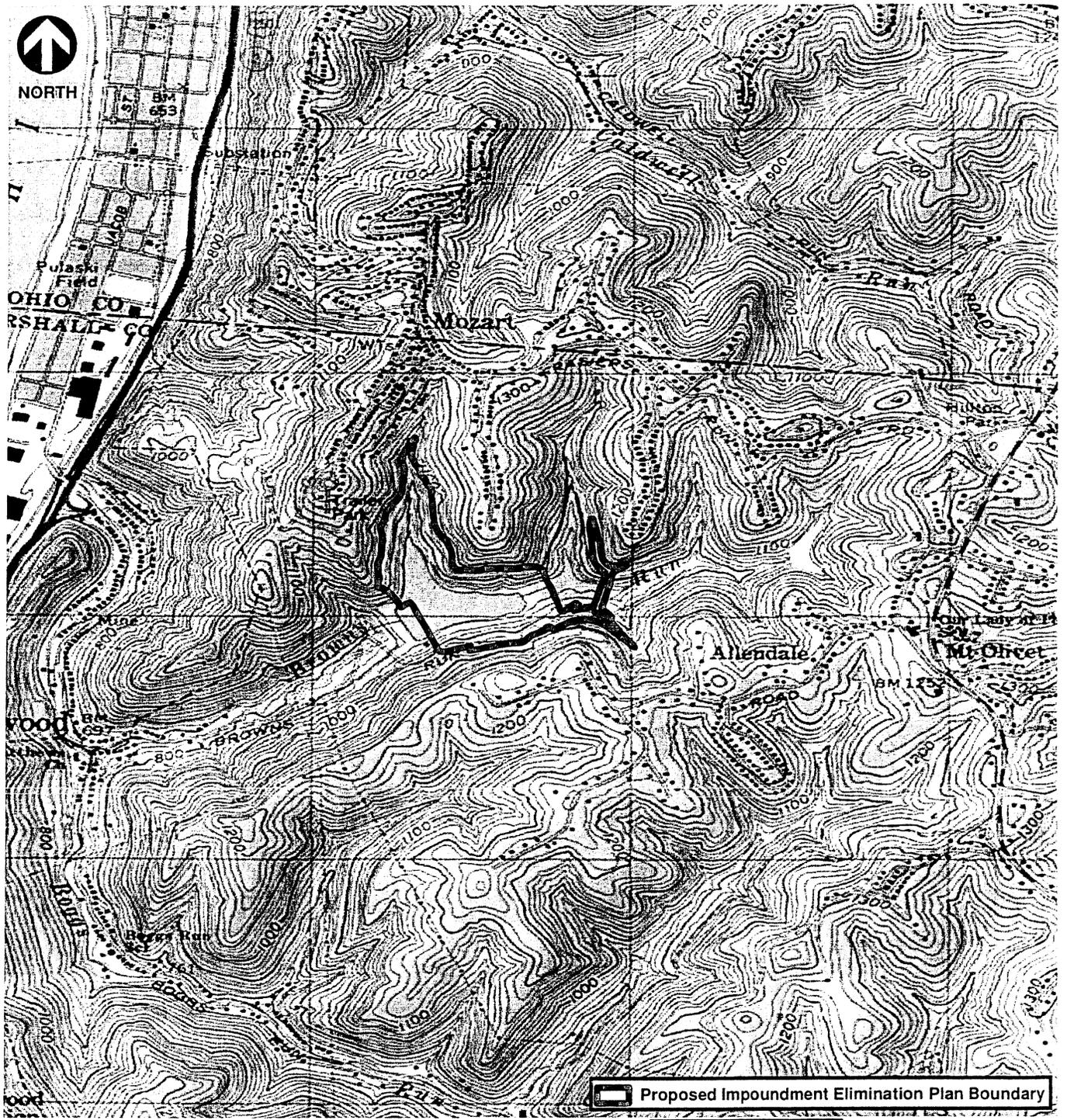
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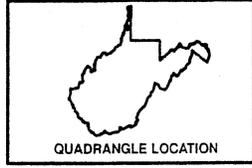
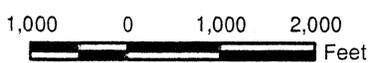
Scott A. Hans  
Chief, Regulatory Branch



NORTH



Proposed Impoundment Elimination Plan Boundary



QUADRANGLE LOCATION

SOURCE: PORTION OF THE USGS 7.5-MINUTE SERIES TOPOGRAPHIC QUADRANGLE MAP - WHEELING, WEST VIRGINIA - 1985.



Civil & Environmental Consultants, Inc.  
Cincinnati, OH

(513) 985-0226 (800) 759-5614

Pittsburgh, PA Chicago, IL Cleveland, OH Columbus, OH Detroit, MI  
Export, PA Indianapolis, IN Nashville, TN St. Louis, MO Phoenix, AZ

Site Location Map

CONSOL PENNSYLVANNIA COAL COMPANY  
Browns Run Impoundment IBR #27  
Benwood, Marshall County, West Virginia

DWN. BY: MJB  
CHKD. BY: JCD

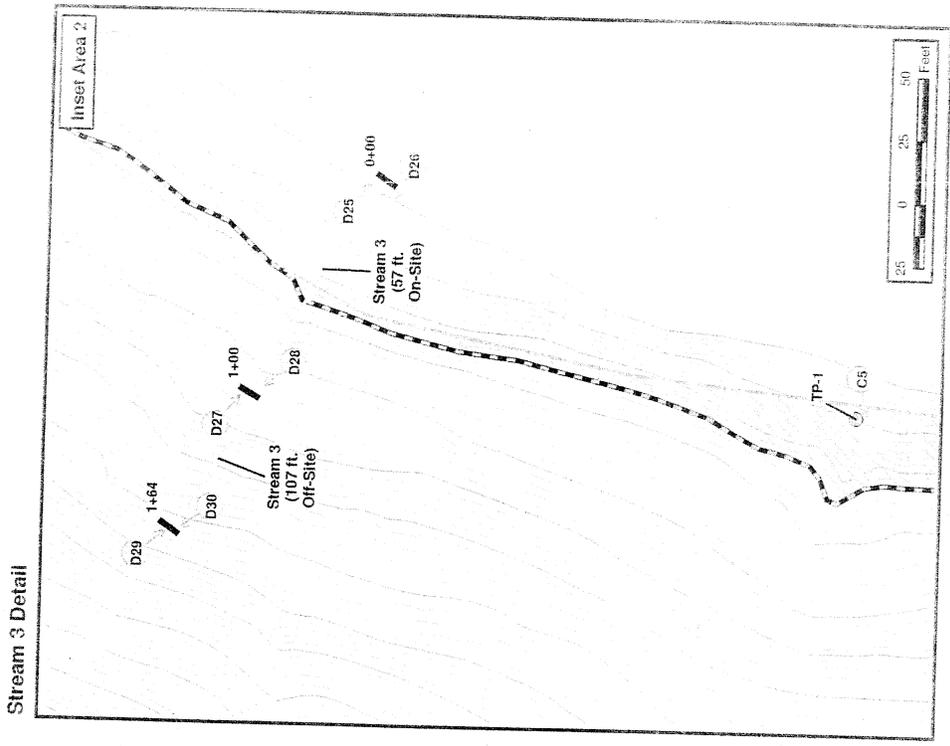
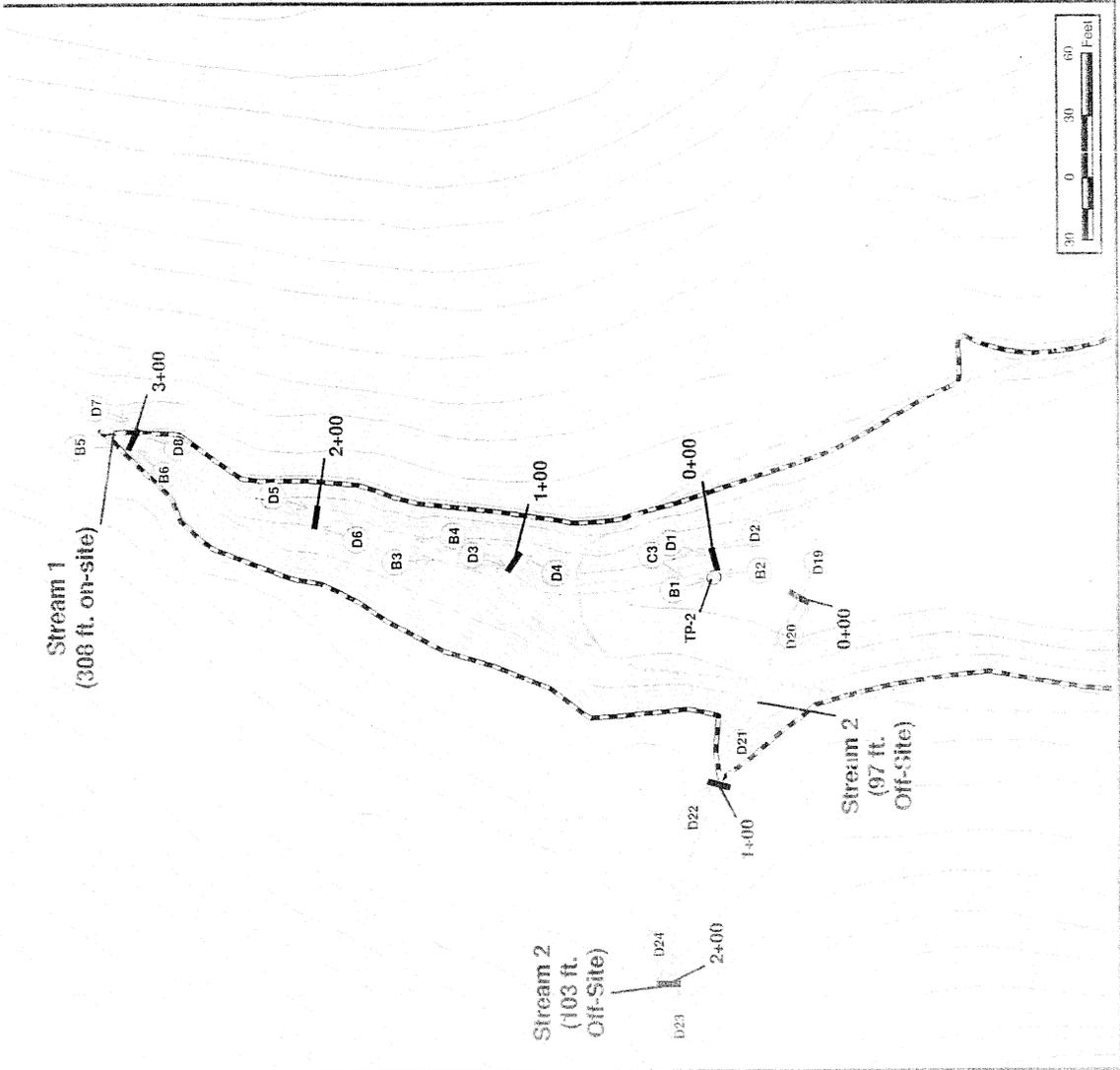
SCALE:  
1" = 2,000'

DATE:  
06/21/2010

PROJECT NO:  
100-510

FIGURE NO:  
1

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**NOTES:**

- 1) Wetlands were not identified within the study area, outside of the limits of the existing refuse impoundment.
- 2) The wetland delineation services, performed by Civil & Environmental Consultants, Inc., (CEC) were conducted in a manner consistent with the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual (1987 Manual), and the level of care and skill ordinarily exercised by consulting professional practicing for temporarily under similar conditions in the locality of the project. It must be recognized that the delineation was based on field observations and CEC's professional interpretation of the criteria in the 1987 Manual. Wetland determinations may change based on changes to regulatory criteria, changes to drainage, and other human activities and/or land disturbances.
- 3) CEC performed a Wetland Delineation Survey within the "Proposed Impoundment Elimination Plan Boundary", designated on this plan as "Proposed Impoundment Elimination Plan Boundary" (see attached file titled "Wetland Delineation Survey").