

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. 200600756

Date: November 17, 2006

Notice No. 06-47

Closing Date: December 18, 2006

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: ICG Tygart Valley, LLC
300 Corporate Centre Drive
Scott Depot, WV 25560
3. LOCATION: Latitude 39' 20' 04" Longitude 79' 57' 44". The project is located in unnamed tributaries of/and Rocky Branch of Three Fork Creek; unnamed tributaries of Three Forks Creek of Tygart Valley River in Knottsville District, Taylor County, West Virginia.
4. PURPOSE AND DESCRIPTION OF WORK: The applicant proposes to construct a coal load out facility, coal preparation plant facility, and refuse slurry cell facility as a result of a shaft and slope underground mining operation (West Virginia Department of Environmental Protection Permit No. U-2004-06) in the Lower Kittanning coal seam.

Development of the Tygart # 1 Mine will necessitate the placement of fill material into approximately 2,695 linear feet (LF) of Rocky Branch (Preparation Plant Site), approximately 487 LF of unnamed tributary (UNT) of Rocky Branch (Preparation Plant Site), approximately 44 LF of UNT of Three Fork Creek (Haul Road No.1), approximately 231 LF of UNT of Rocky Branch (Pond No.1), approximately 1,502 LF of UNT of Rocky Branch (Valley Fill No. 1), and approximately 608 LF of UNT of Three Fork Creek (Road Fill No. 1). As a result of this activity, a total of 5,567 LF of stream channel will be impacted. The stream reaches proposed to be filled are composed of first and second order stream systems.

The proposed Tygart #1 refuse disposal area will consist of a slurry cell and three in-stream sediment control ponds in succession. The development of the proposed slurry cell and sediment ponds will impact approximately 10,087 LF of four UNT of Three Fork Creek (refuse slurry cell), approximately 337 LF of UNT of Three Fork Creek (Pond No. 1), approximately 373 LF of UNT of Three Fork Creek (Pond No. 2), and approximately 505 LF of UNT of Three Fork Creek (Pond No. 3). As a result of this activity, a total of 11,302 LF of stream channel will be impacted. Additionally, one small scrub-shrub wetland totaling 0.15 acre will be impacted.

Cumulative total stream impacts for Tygart #1 Mine and Tygart #1 Slurry Cell are approximately 10,171 LF of intermittent stream and 6,698 LF of ephemeral stream totaling 16,869 LF of impact.

The applicant is currently working with the West Virginia Department of Environmental Protection and the Corps of Engineers to develop a compensatory mitigation plan to offset the unavoidable adverse impacts described above. A preliminary plan has been developed and includes the main channel of Rocky Branch, approximately 2,700 LF, being restored to pre-mining conditions upon final reclamation of the site. The plan proposes stream restoration and enhancement measures to Berkley Run, Shelby Run, and UNT of Shelby Run. The proposed mitigation site/plan consists of stream restoration, bank stabilization, riparian zone plantings, and stream bank fencing along portions (approx. 5,500 LF) of Berkley Run, Shelby Run, and (approximately 910 LF) to UNT of Shelby Run.

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
Division of Water & Waste Management
401 Certification Program
601 57th Street SE
Charleston, West Virginia 25304
Telephone: 304-926-0495

Re: SMA No. U-2004-06 and Public Notice CELRP-OP-F No 06-46.

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 (USFWS) 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. 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.

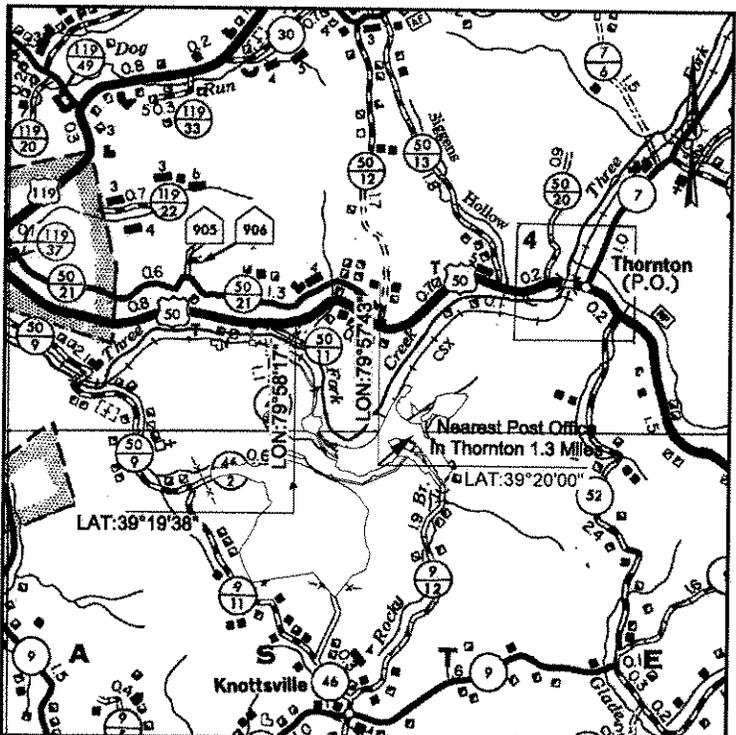
9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect 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).

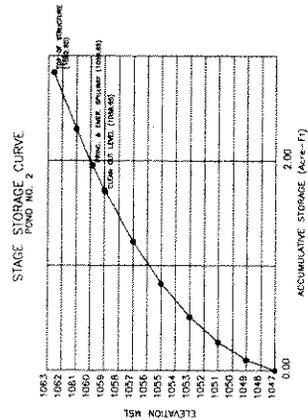
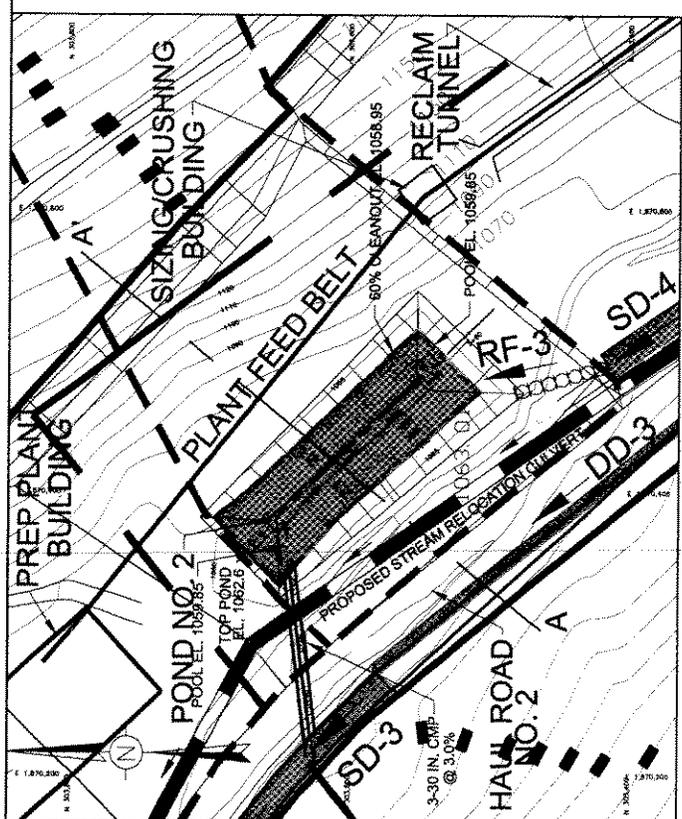
10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered 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 Allen Edris, at the above address, by telephoning (412) 395-7158, or by e-mail at allen.r.edris@lrp02.usace.army.mil. Please refer to CELRP-OP-F 200502461 in all responses.

FOR THE DISTRICT ENGINEER:

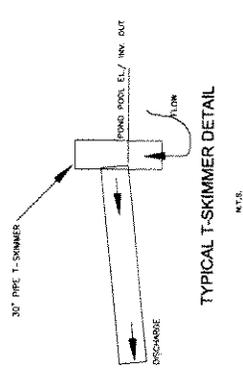
Michael J. Cummings, Jr.
Chief, Regulatory Branch



LOCATION MAP - SMA NO. U-2004-06 SMA NO. PENDING
 NPDES NO. WV1017764 NPDES NO. PENDING
 WV DEPT. OF HIGHWAYS
 KNOTTSVILLE DISTRICT OF TAYLOR COUNTY
 THORNTON QUADRANGLE
 SCALE: 1" = 1 MILE
 Receiving streams:
 Unnamed Tributary of/and Rocky Branch of Three Fork Creek; Unnamed
 Tributary of Unnamed Tributary of Three Fork Creek; Unnamed Tributaries of
 Three Fork Creek; of Tygart Valley River of Monongahela River



ELEV. (FT)	WIDTH (FT)	LENGTH (FT)	AREA (SQ FT)	AVG. DEPTH (FT)	VOLUME (CU FT)	STORAGE (ACRES-FT)	ACC. STORAGE (ACRES-FT)
1059.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1058.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1057.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1056.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1055.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1054.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1053.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1052.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1051.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1050.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1049.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1048.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000
1047.00	N/A	0.000	0.000	0.000	0.000	0.000	0.000



Required Sediment Control Capacity = 0.22 ac-ft
Sediment Control Capacity Provided = 1.95 ac-ft

LEGEND

- ORIGINAL GROUND INDEX ELEVATION CONTOURS
- PROPOSED GRADE CONTOURS
- PERMIT FOOTPRINT AND BOUNDARY AREA
- PROPOSED DRAINAGE STRUCTURES
- PROPOSED DRAINAGE AREA LINKS

NOTES:

- 1) ROCK RIP-RAP APRON SHALL BE CONSTRUCTED AT ALL POINTS ON PONDS.
- 2) CUT SURFACES ON PONDS SHALL BE AS FOLLOWS:
DURABLE ROCK 0.25:1
WEATHERED ROCK 1.0:1
SOIL 2.0:1

Prepared by: _____
Checked by: _____
Approved by: _____

Responsible Professional Engineer under the Seal of the State of West Virginia

Notwithstanding to whom a liability shall be limited by any contract or agreement, the liability of the undersigned shall not be limited by any contract or agreement.

Marshall Miller and Associates
Surveying, Engineering, Planning & Construction
Charmers, W. - Charleston, W. - Chicago, IL
Charmers, W. - Charleston, W. - Denver, CO
Charmers, W. - Charleston, W. - El Paso, TX
Charmers, W. - Charleston, W. - Houston, TX
Charmers, W. - Charleston, W. - Miami, FL
Charmers, W. - Charleston, W. - Phoenix, AZ
Charmers, W. - Charleston, W. - San Antonio, TX
Charmers, W. - Charleston, W. - Tulsa, OK

SWA No. 14-2003-246
ADDRESS CHANGE: _____
DATE: 07/20
SCALE: 1" = 40'

Pond No. 2 Detail Sheet
ATTACHMENT #8 MAP 1 OF 2
TYGART #1 MINE
KHOTISVILLE DISTRICT, TAYLOR COUNTY, WEST VIRGINIA
ICG TYGART VALLEY, LLC
300 CORPORATE CENTRE DRIVE, SCOTTS DEPOT, WV 25560

DESIGNED BY: MWM
CHECKED BY: MWM
APPROVED BY: MWM

DATE: 3/08
SCALE: 1" = 40'

