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. 2007-527 Date: June 18, 2007

Notice No. 07-24 Closing Date: July 9, 2007

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 10 of the Rivers and Harbors Act of 1899.

2. APPLICANT: McElroy Coal Company
Route 4, Box 425
Moundsville, WV 26041

AGENT: Jack Hamilton & Associates, Inc.
342 High Street, Box 471
Flushing, OH 43977

3. LOCATION: Ohio River, left bank, Mile 110.5, near Moundsville, Marshall County, West Virginia.

4. PURPOSE AND DESCRIPTION OF WORK: The applicant proposes to perform maintenance dredging, as necessary, for a period of 10 years, to remove accumulated sediment at their loadout facility to provide adequate water depth for barges to be loaded without hitting the bottom of the channel. Approximately 2,500 cubic yards of sediment would be removed from an area 400 feet long by 150 feet wide, to a depth of 12 feet below normal pool elevation 623.0. The dredged material would be transported to an upland disposal site to preclude its reentry into the waterway. A drawing of the proposed work is attached to this notice.

5. 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).

6. 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).

7. 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.

8. 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.

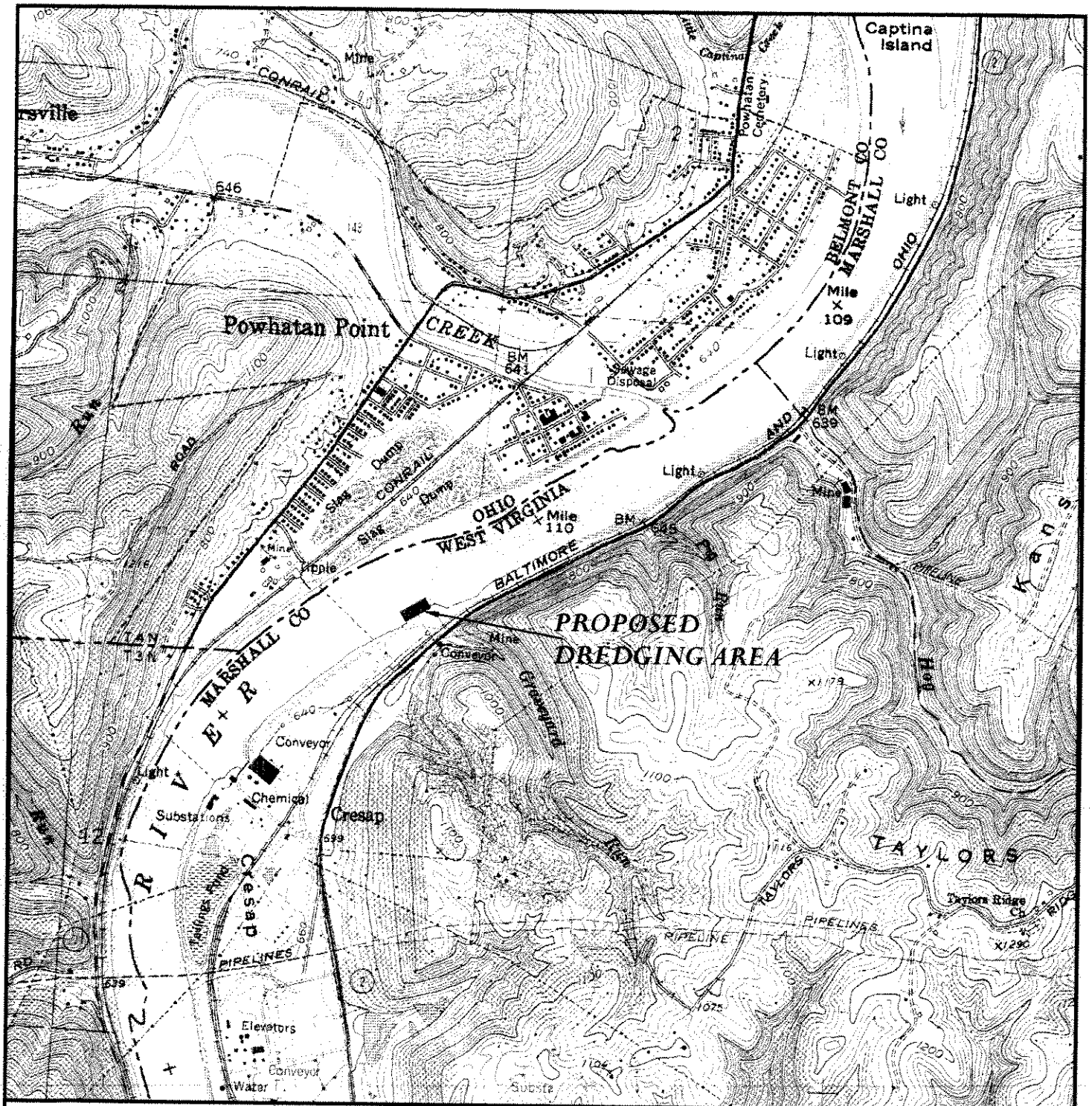
9. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered 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 Linda Malsch, at the above address, by telephoning

(412) 395-7392, or by e-mail at linda.m.malsch@usace.army.mil. Please refer to CELRP-OP-F 2007-527 in all responses.

FOR THE DISTRICT ENGINEER:

//SIGNED//

Scott A. Hans
Acting Chief, Regulatory Branch



0' 2000' 4000'

SCALE: 1" = 2000'

McELROY MINE
RIVER LOADOUT FACILITY

ARTICLE 3 PERMIT NO. U-33-83
NPDES PERMIT NO. WV0020834

PROPOSED DREDGING LOCATION MAP

PREPARED FOR
McELROY COAL COMPANY
ROUTE 4, BOX 425
MOUNDSVILLE, WEST VIRGINIA 26041
FRANKLIN DISTRIST-MARSHALL COUNTY
POWHATAN POINT QUADRANGLE
20' CONTOUR INTERVAL

HAMILTON & Associates, Inc.
342 High St., Box 471
Flushing, Ohio 43977
Ph: (740) 968-4947
Fax: (740) 968-4225
e-mail: hamilton@1st.net
www.hamiltonandassoc.com

DRAWN BY: HDK SCALE: 1" = 2000' DATE: MAY 2, 2007

2007-527

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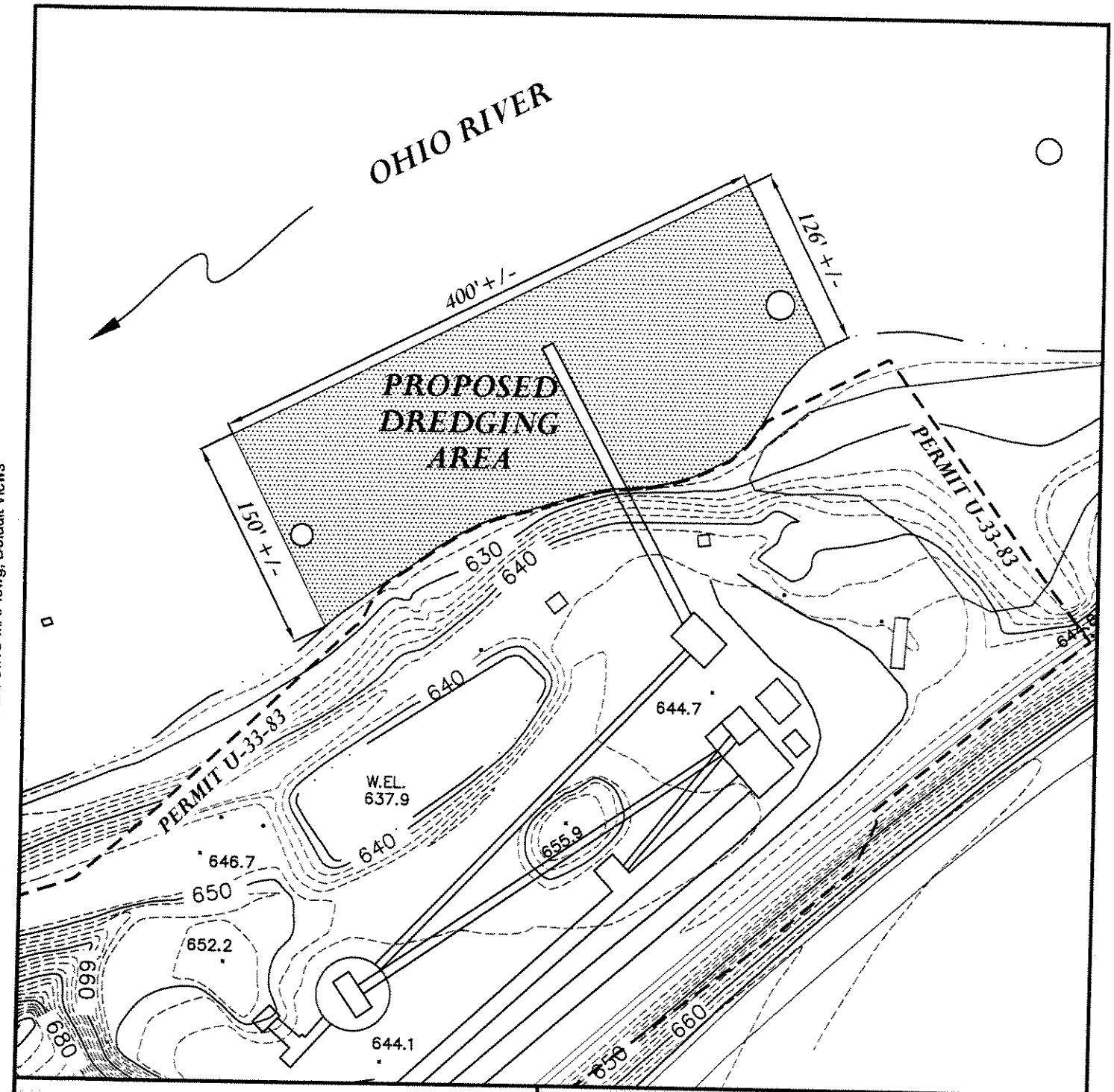

0' 100' 200'

SCALE: 1" = 100'

McELROY MINE
RIVER LOADOUT FACILITY

ARTICLE 3 PERMIT NO. U-33-83
NPDES PERMIT NO. WV0020834

PROPOSED DREDGING SITE

PREPARED FOR
McELROY COAL COMPANY
ROUTE 4, BOX 425
MOUNDSVILLE, WEST VIRGINIA 26041
FRANKLIN DISTRIST-MARSHALL COUNTY
POWHATAN POINT QUADRANGLE
20' CONTOUR INTERVAL

HAMILTON & Associates, Inc.
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Fax: (740) 968-4225
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www.hamiltonandassoc.com

DRAWN BY: HDK SCALE: 1" = 2000' DATE: MAY 3, 2007

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