
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. 2009-759

Date: August 31, 2010

Public Notice No. 10-43

Closing Date: September 30, 2010

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: Patriot Mining Company, Inc.
2708 Cranberry Square
Morgantown, WV 26508
(304) 594-1616

3. LOCATION: The site is located approximately 0.5 miles east of the community of New Hill, Monongalia County, West Virginia, Latitude 39° 40' 18.3" / Longitude -80° 03' 36". The project is located on unnamed tributaries of Scotts Run and Scotts Run itself, a direct tributary of the Monongahela River.

4. PURPOSE AND DESCRIPTION OF WORK: Patriot Mining Company, Inc. proposes to disturb 225 acres in order to surface mine the Waynesburg and Waynesburg "A" coal seams, called the New Hill West Surface Mine. One existing "side hill fill" will be expanded, but this fill will not impact "Waters of the United States" (WOUS). Approximately 4,118 linear feet of stream channel classified as jurisdictional "Relatively Permanent Waters" will be temporarily impacted in order to surface mine coal that lies below the elevation of these stream channels. In addition, approximately 0.064 acres of jurisdictional palustrine emergent (PEM) abutting wetlands will be permanently impacted by this surface mining.

Patriot Mining is proposing three (3) types of stream mitigation to offset the above losses to impacted streams.

a. Restoration on-site of unnamed tributaries of Scotts Run that would be mined through as part of the mining operation. These restoration efforts will include stabilizing stream banks, restoring the riparian zone, and enhancing the stream beds by installing in-stream and bank-placed structures to provide cover and riffle areas. This work will be completed after mining during the reclamation phase.

b. Restoration on-site/off-site of historic drainage patterns in areas that currently contain ditches or swales. These restoration efforts as well as channel enhancement

efforts would concentrate on restoring the appropriate pattern, dimension, and profile of these reaches. These efforts will focus on reconnecting the drainage area to the proper drainage outlet (channel), which will be appropriately sized based on total drainage area. Also, the channels would be configured with the properly sized inorganic substrate, and restoration would include stabilizing stream banks, restoring the riparian zone, and enhancing the stream bed by installing in-stream and bank-placed structures which would provide cover and riffle (or step) areas.

c. Restoration off-site of 2,750 linear feet of Scotts Run located outside of the mining area. This area is located adjacent to the mining area in Scotts Run. These restoration efforts would again concentrate on stabilizing stream banks, restoring the riparian zone, and enhancing the stream bed by installing in-stream and bank placed structures to provide cover and riffle areas.

Wetland mitigation would be accomplished by payment into the West Virginia "in-lieu fee" program.

Drawings of the proposed activity are attached to this document.

5. WEST VIRGINIA WATER QUALITY CERTIFICATION: A West Virginia State 401 Water Quality Certification will be required and is under review by the WVDEP.

West Virginia Department of Environmental Protection
Division of Mining and Reclamation
601 57th Street SE
Charleston, WV 25304-2345

6. IMPACT ON NATURAL RESOURCES: The District Engineer has determined that the project is not likely to affect the continued existence of any endangered 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. 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 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: Greg Currey, at the above address, by telephoning (412) 395-7517, or by e-mail at gregory.currey@usace.army.mil. Please refer to CELRP-OP-F 2009-759 in all responses.

CELRP-OP-F
Public Notice No. 10-43

FOR THE DISTRICT ENGINEER:

SIGNED

Marcia H. Haberman
Chief, Southern Section
Regulatory Branch

