



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
PITTSBURGH DISTRICT, CORPS OF ENGINEERS
WILLIAM S. MOORHEAD FEDERAL BUILDING
1000 LIBERTY AVENUE
PITTSBURGH, PA 15222-4186

November 14, 2012

Operations Division
Regulatory Branch
2007-891

Mr. Matthew McClure
Foundation Mining, LLC
P.O. Box 1020
158 Portal Road
Waynesburg, PA 15370

Dear Mr. McClure:

I refer to your aquatic resource delineation and request for an approved jurisdictional determination, received in this office on November 3, 2011. The jurisdictional determination was completed on July 17, 2012 for the proposed Foundation Mine Complex site, located in Center and Jackson Townships, Greene County Pennsylvania. The site includes the Hoge Run, Grinage Run, Garner Run, and House Run watersheds, which drain into McCourtney Run, to Hargus Run, all classified as High Quality Warm Water Fisheries (HQWWF). Hargus Run then flows to the South Fork of Ten Mile Creek, to Ten Mile Creek, a major tributary of the Monongahela River.

The Corps of Engineers' authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328. Navigable waters, their tributaries, and surrounding wetlands are waters of the United States subject to the provisions of Section 404 of the Clean Water Act.

Based on information provided, 112,883 linear feet (lf) of stream channel and 2.659 acres of wetland were delineated on site. After completing field work and coordination with EPA, this office has determined that 110,367 lf of stream channel and 2.207 acres of wetland are jurisdictional waters of the United States found on the site map labeled "Foundation Mine Complex Final Jurisdictional Determination Streams and Wetlands Jackson and Center Townships, Greene County, PA" and Dated 9/13/2012. Please see the attached sheets for a list of jurisdictional streams and wetlands.

This delineation verification will remain valid for a period of five years from the date of this letter, unless new information warrants revision of the delineation. Every effort should be made to avoid impacts to the aquatic resources on-site. If stream or wetland impacts are proposed, this office should be contacted to discuss permit requirements. If you choose to appeal this Jurisdictional Determination, please see the attached appeal form.

If you have any questions, please contact Donald Bole by phone at (412) 395-7576 or email at Donald.R.Bole@usace.army.mil and reference project No. 2007-891 in all future correspondence with this office regarding this delineation.

Sincerely,

/SIGNED/

Scott A. Hans
Chief, Regulatory Branch

Enclosure:
JD Appeal Form

Copy Furnished:
Carrie Traver, EPA Region III
PADEP, California District Mining Office
Chris Wagner, Wallace & Pancher, Inc.

Foundation Mine - Stream Jurisdictional Summary

JD Status	DEP CODE	Stream Classification(s)	WOUS Within Project Area Total Length (feet)	Non-WOUS Within Project Area Total Length (feet)	
	40628-AA	EPH		36	
	40628-EE	EPH		21	
	40628-II	EPH		249	JD status confirmed during EPA JD
	40628-UNT11a	EPH		130	
	40628-Y	EPH		40	
	40632-EE	EPH		142	JD status changed during EPA JD
	40632-N1	EPH		23	
	40632-Q	EPH		348	JD Status changed per D. Bole email 4.26.12
	40632-R	EPH		203	JD Status changed per D. Bole email 4.26.12
	40635-M1	EPH		26	
	40643-B1	EPH		110	
	40643-BB	INT		85	JD status confirmed during EPA JD
	40643-CC	INT		65	JD status confirmed during EPA JD
	40643-P	EPH		27	JD status confirmed during EPA JD
	40643-U	EPH		28	JD status confirmed during EPA JD
	40643-X	EPH		9	JD status confirmed during EPA JD
	40643-Y	INT		77	JD status confirmed during EPA JD
	40646-E1	EPH		140	
	40646-K1	EPH		247	
	40646-K1a	EPH		180	
	40646-L1	EPH		71	
	40647-T1j1	EPH		114	JD status confirmed during EPA JD
	40647-T1j3	EPH		145	JD status confirmed during EPA JD
Non-Jurisdictional Stream Resources (Isolated)	40293	PER	420		
	40628	PER	861		
	40629	PER	73		
	40630	PER	70		
	40631	PER/EPH	1018		
	40632	PER/EPH/UNC	14232		
	40633	PER	574		
	40634	PER	548		
	40635	PER	2383		
	40636	PER/EPH	3026		
	40643	PER	1267		
	40644	PER	1791		
	40645	PER/INT/EPH	2437		
	40646	PER/INT	2059		
	40647	PER	747		
	40649	PER/EPH	3763		
	40293-UNT1	INT/EPH	76		
	40627-E	PER	70		
	40628-A	INT	71		
	40628-BB	EPH	50		
	40628-CC	EPH	26		
	40628-H	PER/INT/EPH	638		
	40628-H1	EPH	306		
	40628-H2	EPH	171		JD Status changed per D. Bole email 4.26.12
	40628-H3	EPH	76		
	40628-H4	INT	88		
	40628-I	PER/EPH	1194		
	40628-I2	EPH	552		JD status changed during EPA JD
	40628-I2a	EPH	54		JD status changed during EPA JD
	40628-J	INT	71		
	40628-K	PER	72		
	40628-Q	EPH	78		JD status changed during EPA JD
	40628-UNT10	EPH	707		
	40628-UNT11	EPH	413		
	40628-UNT4	PER/INT	1172		
	40628-UNT4c	INT	15		
	40628-UNT4e	PER/INT/EPH	451		
	40628-UNT4e1	EPH	75		
	40628-UNT4e2	INT/EPH	169		
	40628-UNT4e2a	EPH	72		
	40628-UNT4e2b	EPH	44		
	40628-UNT4f	INT	305		
	40628-UNT4f1	EPH	24		
	40628-UNT6	EPH	578		
	40628-UNT9	INT	429		JD status changed during EPA JD
	40628-UNT9a	EPH	220		JD status changed during EPA JD
	40628-W	EPH	247		JD status changed during EPA JD
40628-X	INT	421			
40628-Z	EPH	19			
40631-A	EPH	252			
40631-C	EPH	141			
40631-D	EPH	17			
40631-J	EPH	319			
40631-J1	EPH	94			
40631-J2	EPH	139			
40631-J3	EPH	52			
40631-O	EPH	123			

40631-P	EPH	183	
40632 RR	EPH	228	
40632 RR1	EPH	144	
40632 SS	EPH	251	
40632 SS1	EPH	89	
40632 TT	EPH	120	
40632 TT1	EPH	101	
40632-AA	INT/EPH	225	
40632-AAA	INT/EPH	129	
40632-BB	INT/EPH	289	
40632-CC	EPH	191	
40632-DD	INT/EPH	317	
40632-FF	EPH	290	
40632-GG	EPH	605	
40632-H	PER/EPH	829	
40632-H1	INT/EPH	228	
40632-H1a	EPH	54	
40632-H2	EPH	222	
40632-H5	EPH	177	
40632-HH	INT/EPH	513	
40632-I	PER/INT/EPH	991	
40632-I1	EPH	291	
40632-I1a	EPH	44	
40632-I2	EPH	68	
40632-I3	EPH	51	
40632-I4	EPH	45	
40632-I5	EPH	48	
40632-J	PER/EPH	1775	
40632-J10	PER	282	
40632-J11	PER/EPH	366	
40632-J12	EPH	89	
40632-J13	EPH	169	
40632-J14	EPH	65	
40632-JJ	PER/INT/EPH	2434	
40632-JJ1	EPH	50	
40632-JJ10	INT	108	
40632-JJ11	INT/EPH	89	
40632-JJ12	EPH	105	
40632-JJ13	EPH/INT	309	
40632-JJ14	INT	168	
40632-JJ15	EPH	147	
40632-JJ2	EPH/INT	100	
40632-JJ2a	EPH	113	
40632-JJ2a1	EPH	62	
40632-JJ3	EPH	72	
40632-JJ3a	EPH	35	
40632-JJ4	EPH	107	
40632-JJ5	EPH	179	
40632-JJ6	INT/EPH	246	
40632-JJ6a	EPH	70	
40632-JJ6b	EPH	102	
40632-JJ7	EPH	199	
40632-JJ8	INT	165	
40632-JJ9	INT/EPH	242	
40632-K	PER/INT	1174	
40632-K1	INT/EPH	256	
40632-K10	EPH	123	
40632-K11	EPH	102	
40632-K12	INT	189	
40632-K4	EPH	51	
40632-K5	EPH	213	
40632-K6	EPH	45	
40632-K7	EPH	70	
40632-K8	EPH	107	
40632-K9	EPH	174	
40632-KK	EPH	205	
40632-L	PER	734	
40632-L1	PER/INT	278	
40632-L1a	PER/INT	144	
40632-L1a1	PER/INT	271	
40632-L1b	PER/EPH	412	
40632-L1b1	PER/INT/EPH	140	
40632-LL	EPH	129	
40632-M	PER/INT/EPH	1263	
40632-M1	PER/INT/EPH	228	
40632-M1a	INT	47	
40632-M2	INT/EPH	237	
40632-M3	EPH	109	
40632-M4	EPH	53	
40632-MM	EPH	119	
40632-N	PER/EPH	552	
40632-N2	EPH	220	
40632-NN	PER/EPH	825	
40632-NN1	EPH	76	
40632-NN2	EPH	58	
40632-NN3	EPH	115	
40632-NN4	EPH	77	
40632-NN5	EPH	108	
40632-NN6	EPH	141	

**Jurisdictional
Stream Resources
(WOUS)**

40632-NN7	EPH	135	
40632-NN8	PER	204	
40632-O	INT/EPH	155	
40632-OO	PER	479	
40632-OO1	INT/EPH	102	
40632-OO2	EPH	245	
40632-OO2a	EPH	60	
40632-P	PER/EPH	2285	
40632-P1	EPH	627	
40632-P1a	EPH	182	
40632-P1b	EPH	215	
40632-P1c	EPH	338	
40632-P2	EPH	118	
40632-P3	INT	114	
40632-P4	INT/EPH	313	
40632-P4a	EPH	81	
40632-P4b	EPH	65	
40632-P5	INT/EPH	324	
40632-P5a	EPH	87	
40632-P6	EPH	335	
40632-P7	INT	303	
40632-P8	INT	91	
40632-PP	EPH	314	
40632-R2	EPH	257	
40632-UU	INT/EPH	461	
40632-VV	EPH	199	
40632-WW	EPH	423	
40632-XX	PER	414	
40634-A	EPH	379	
40634-B	INT/EPH	270	
40634-B3a	EPH	130	
40635-L	PER/EPH	1886	
40635-L1	PER	211	
40635-L1a	INT	29	
40635-L2	PER/INT/EPH	599	
40635-L2a	EPH	70	
40635-L2b	PER	130	
40635-L2c	EPH	96	
40635-L3	INT/EPH	454	
40635-L3a	INT	222	
40635-L4	PER	370	
40635-L5	PER/INT	334	
40635-L5a	PER	368	
40635-M	INT/EPH	441	
40635-M2	INT	173	
40635-U2	EPH	26	
40635-U3	EPH	117	
40636-A	EPH	117	
40636-B	EPH	311	
40636-C	PER/INT	301	
40636-D	PER/EPH	224	
40636-D1	EPH	70	
40636-E	EPH	189	
40636-F	EPH	90	
40636-G	EPH	112	
40636-G1	EPH	51	
40636-H	EPH	99	
40636-I	PER/INT	716	
40636-I1	EPH	136	
40636-I2	EPH	62	
40636-I3	EPH	122	
40636-I4	INT/EPH	245	
40636-J	EPH	121	
40636-K	EPH	60	
40636-L	EPH	227	
40636-M	PER	257	
40643-B	PER/INT/EPH	996	
40643-B2	INT/EPH	347	
40643-E	INT/EPH	444	
40643-G	EPH	252	
40643-J	INT	31	
40643-O	EPH	177	
40643-Q	EPH	18	
40643-V	EPH	29	
40644-A	INT	426	

JD status and classification changed during EPA JD

JD status changed during EPA JD

JD status changed during EPA JD

Previously Eph Stream- JD status and classification verified during follow-up field

JD status changed during EPA JD

40644-UNT3	INT	253	JD status and classification changed during EPA JD
40644-UNT3a	INT	662	
40644-UNT3a1	EPH	132	JD status for these three streams changed during EPA JD, CORPS
40644-UNT3a2b	EPH	44	determination of classification is unclear, classification is assumed to remain
40644-UNT3b	EPH	43	ephemeral
40645-A	EPH	182	
40645-B	EPH	165	
40645-C	EPH	54	
40645-D	EPH	188	
40645-E	EPH	118	
40645-F	EPH	116	
40645-G	EPH	171	
40645-H	EPH	177	
40645-I	EPH	74	
40645-J	EPH	123	
40645-K	EPH	91	
40645-L	EPH	89	
40645-M	EPH	192	
40645-N	EPH	66	
40645-O	EPH	115	
40645-P	EPH	112	
40645-Q	PER/INT/EPH	631	
40645-R	EPH	241	
40645-S	EPH	277	
40645-T	EPH	91	
40645-U	INT	163	
40645-V	EPH	61	
40645-W	EPH	50	
40645-X	INT	43	
40646-D	EPH	115	
40646-E	INT/EPH	301	
40646-F	INT	591	
40646-G	EPH	165	
40646-H	EPH	265	
40646-I	PER/INT/EPH	302	
40646-J	INT/EPH	485	The CORPS determination for these streams references 40632-Q and 40632-R.
40646-J1	EPH	206	It was assumed that as 40646-J has a clear confluence with 40646, all three
40646-J2	INT	194	tributaries would be considered WOUS.
40646-K	INT	675	
40646-L	INT	463	
40646-M	INT	96	
40647-t1	PER/INT	873	
40647-T1h	EPH	60	JD status changed during EPA JD
40647-T1i	EPH	232	JD status changed during EPA JD
40647-T1j	INT/EPH	909	JD status changed during EPA JD
40647-T1j2	EPH	101	JD status changed during EPA JD
40647-T1m	INT	115	Previously Unclassified Stream - JD status and classification completed during fc
40647-T1m3	EPH	120	Previously Unclassified Stream - JD status and classification completed during fc
40649-L1	EPH	76	
40649-L10	EPH	126	
40649-L11	EPH	247	
40649-L12	EPH	144	
40649-L13	PER/EPH	635	
40649-L14	INT/EPH	333	
40649-L15	INT/EPH	233	
40649-L16	PER/INT/EPH	935	
40649-L16a	EPH	218	
40649-L16b	EPH	206	
40649-L16c	EPH	192	
40649-L17	EPH	621	
40649-L18	EPH	273	
40649-L19	INT	343	
40649-L2	PER/EPH	200	
40649-L3	PER/EPH	214	
40649-L4	PER/EPH	206	
40649-L5	EPH	144	
40649-L6	PER/EPH	145	
40649-L7	EPH	194	
40649-L8	EPH	207	
40649-L9	EPH	220	
40649-R1	EPH	153	
40649-R10	INT	69	
40649-R11	INT/EPH	168	
40649-R12	INT/EPH	394	
40649-R12a	EPH	182	
40649-R13	EPH	144	
40649-R2	EPH	209	
40649-R3	INT/EPH	358	
40649-R4	PER	115	
40649-R5	INT/EPH	249	
40649-R6	EPH	80	
40649-R7	PER/EPH	80	
40649-R8	INT/EPH	52	
40649-R9	EPH	350	
40650-L	INT/EPH	223	Previously Unclassified Stream - JD status and classification completed during fc
Non-Jurisdictional Stream Resources (Non-WOUS)		2,516	2.2%
Jurisdictional Stream Resources (WOUS)		110,367	97.8%
Grand Total All Streams		112,883	

Foundation Mine - Wetland Jurisdictional Summary

JD Status	Wetland Name	Cowardin Class (% Vegetative Cover)	Wetland Area (Acres)	
Non-Jurisdictional Wetland Resources	F-19	100 % PEM	0.025	
	F-22	100 % PEM	0.012	
	F-21	100 % PEM	0.052	
	F-28	100 % PEM	0.009	
	F-4	100 % PEM	0.023	
	F-62	95%PEM/5%PSS	0.006	
	F-7	100 % PEM	0.008	
	F-8	95%PEM/5%PSS	0.073	
	GRI-1	100 % PEM	0.070	
	Wetland A	100 % PEM	0.028	
	Wetland B	100 % PEM	0.001	
	Wetland C	95%PEM/5%PSS	0.106	JD status confirmed during EPA JD
	Wetland G	90%PEM/5%PSS/5%PFO	0.012	
	Wetland K	100 % PEM	0.027	
Jurisdictional Wetland Resources	40649-W1	85%PEM/15%PSS	0.010	
	F-1	85% PEM/15%PSS	0.003	
	F-16	100 % PEM	0.009	
	F-2	90%PEM/10%PSS	0.042	
	F-20	100 % PEM	0.067	
	F-23	100 % PEM	0.009	
	F-41	90%PEM/10%PSS	0.055	
	F-44	100 % PEM	0.004	
	F-45	95%PEM/5%PSS	0.024	JD status changed during EPA JD
	F-5	100 % PEM	0.020	
	F-52	100 % PEM	0.040	
	F-54	100 % PEM	0.037	
	HOG-3	100 % PEM	0.168	JD status changed during EPA JD
	HOGE-1	100 % PEM	0.128	JD status changed during EPA JD
	HOGE-2	100 % PEM	0.256	JD status changed during EPA JD
	R3-1	100 % PEM	0.020	
	R3-2	100 % PEM	0.022	
	R3-3	100 % PEM	0.006	
	Wetland E	100 % PEM	0.037	
	Wetland F	95%PEM/5%PSS	0.023	
	Wetland H	80%PEM/20%PFO	0.380	
	Wetland I	10%PEM/5%PFO/85%POW	0.236	
	Wetland J	100 % PEM	0.043	
	Wetland M	70%PEM/25%PSS/5%PFO	0.124	
	R3-4	90%PEM/10%PFO	0.146	
	R3-5	100 % PEM	0.084	
	F-70	100 % PEM	0.001	
	F-71	100 % PEM	0.012	
F-72	100 % PEM	0.020		
F-73	80%PEM/20%PSS	0.181		
Non-Jurisdictional Wetland Resources			0.452	17.0%
Jurisdictional Wetland Resource			2.207	83.0%
Total			2.659	

Per ACOE direction, Wetland F-31 (0.017 ac) along with the 40638 headwater streams were removed from the delineation changing the 404 permit application total of 2.676 ac to 2.659 ac.