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. 2011-1825 Date: January 29, 2013

Notice No. 12-60 Closing Date: March 4, 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
P.O. Box 425, RD4
Moundsville, WV 26041

3. LOCATION: The proposed Cunningham Hollow Ex-1 Coarse Coal Refuse Embankment (CCRE) associated with the Shoemaker Mine is located in Benwood, Marshall County, West Virginia (40.0044N, -80.7144 W), within unnamed tributaries to Boggs Run, to Boggs Run to the Ohio River.

4. PURPOSE AND DESCRIPTION OF WORK: Consolidation Coal Company (CONSOL), proposes to construct the CCRE associated with the Shoemaker Mine, located in Benwood, Marshall County West Virginia (See Pages 4-5). The basic purpose of the proposed facility is to provide an additional coarse coal refuse area at the existing Cunningham Hollow Refuse Disposal Facility in order to allow continued operation of the Shoemaker Mine and Preparation Plant. The proposed facility is expected to provide 10 million cubic yards of coarse coal refuse storage over a period of 7.7 years. The proposed project area boundary for the facility encompasses approximately 100 acres.

CONSOL has explored several different methodologies and project locations to reduce aquatic resource impacts for the proposed CCRE, including a "no action" alternative. The applicant proposed a Mixed Refuse Facility (MRF) and Backstowing as alternatives; however, the MRF would not meet the applicant's coarse volume storage requirements and backstowing is not feasible in longwall mining due to managed subsidence. The preferred site was selected after considering existing infrastructure, property availability and environmental impacts. The preferred alternative will fill approximately 4,398 linear feet (lf) of stream channel within the Boggs Run watershed. The applicant does not propose to impact any jurisdictional wetlands (See Proposed Aquatic Resource Impacts: Table 1).

TABLE 1: PROPOSED AQUATIC RESOURCE IMPACTS

Stream Type	Stream Impact Length (LF)	Fill
Perennial	1,342	1,342
Intermittent	2,196	2,196
Ephemeral	860	860
TOTAL	**4,398**	**4,398**

CONSOL is currently working with Environmental Banc Exchange (EBX), LLC, a mitigation banking company to identify stream mitigation locations to off-set stream impacts. As part of this process, EBX is currently identifying representative sites that meet the requirements set forth in the 2008 Final Mitigation Rule.

5. ENCROACHMENT PERMIT: The applicant must obtain 401 Water Quality Certifications from the:

West Virginia Department of Environmental Protection (SMCRA Permit)
Division of Mining and Reclamation (DMR)
601 57th Street SE
Charleston, WV 25304

6. IMPACT ON NATURAL RESOURCES: The West Virginia Department of Environmental Protection has issued a federally threatened and endangered species (T&E) clearance letter dated August 25, 2012, which indicates that the proposed mining project is not likely to adversely affect any federally threatened or endangered species. Please note that the USFWS clearance letter only relates to endangered or threatened species under federal jurisdiction. Consequently, the USFWS T&E clearance letter does not address potential USFWS concerns under the USFWS Coordination Act. This Public Notice serves as a request to USFWS for any comments or concerns regarding this project under the USFWS Coordination Act.

7. IMPACT ON CULTURAL RESOURCES: The West Virginia Department of Culture and History has issued clearance letters dated March 5, 2009 and April 11, 2012 indicating that the proposed project will have no adverse effects to historic structures and archeological resources respectively. 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

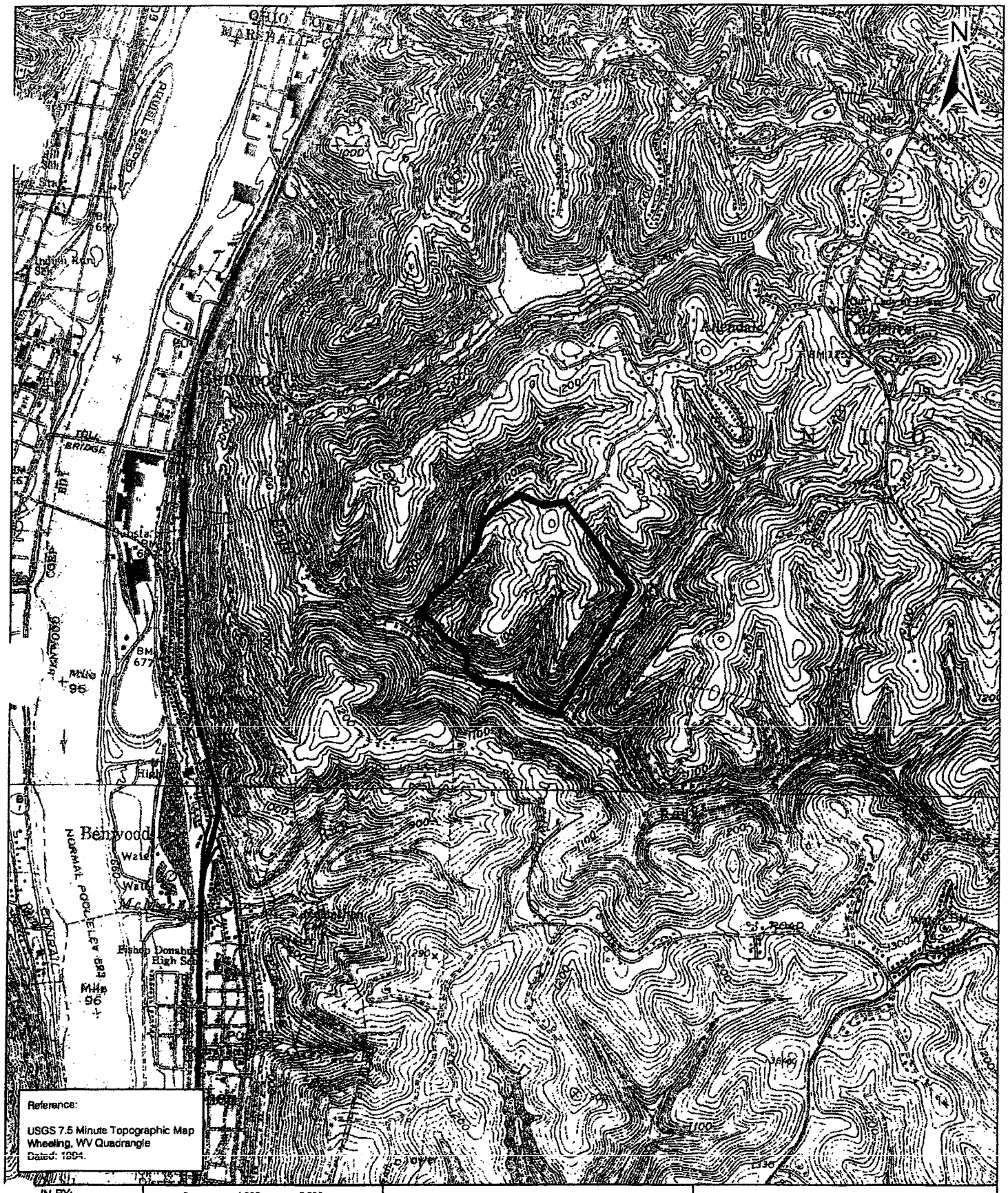
will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered 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 which would conclude in a Finding of No Significant Impact (FONSI). If such a conclusion can not be reached, comments may be used in future studies and/or the preparation of an Environmental Impact Statement pursuant to the National Environmental Policy Act(NEPA). 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 R. Bole at the above address, or by telephoning (412) 395-7576, or by e-mail at Donald.R.Bole@usace.army.mil Please refer to CELRP-OP-F 2011-1825 in all responses. This public notice is posted on the U.S. Army Corps of Engineers website at the following link: **http://www.lrp.usace.army.mil/or/or-f/public_notice.htm**

FOR THE DISTRICT ENGINEER:

/SIGNED/

Jon T Coleman
Chief, Southern Section
Regulatory Branch



N BY: CLC	0 1,000 2,000 Feet	ISSUED FOR: CONSOLIDATION COAL COMPANY	SITE LOCATION MAP CUNNINGHAM HOLLOW REFUSE EXPANSION CONSOLIDATION COAL COMPANY, SHOEMAKER MINE MARSHALL COUNTY, WEST VIRGINIA
KED BY: JLF	**Legend** Approximate Site Boundary	ISSUED BY:	
APPROVED BY:		CIVIL & ENVIRONMENTAL CONSULTANTS, INC. 333 Baldwin Road Pittsburgh, PA 15205-9702 1-800-365-2324 www.cecinc.com	
SCALE: 1" = 2,000'			
DATE: 8/25/2010			PROJECT NO.: 100-959 FIGURE: 1

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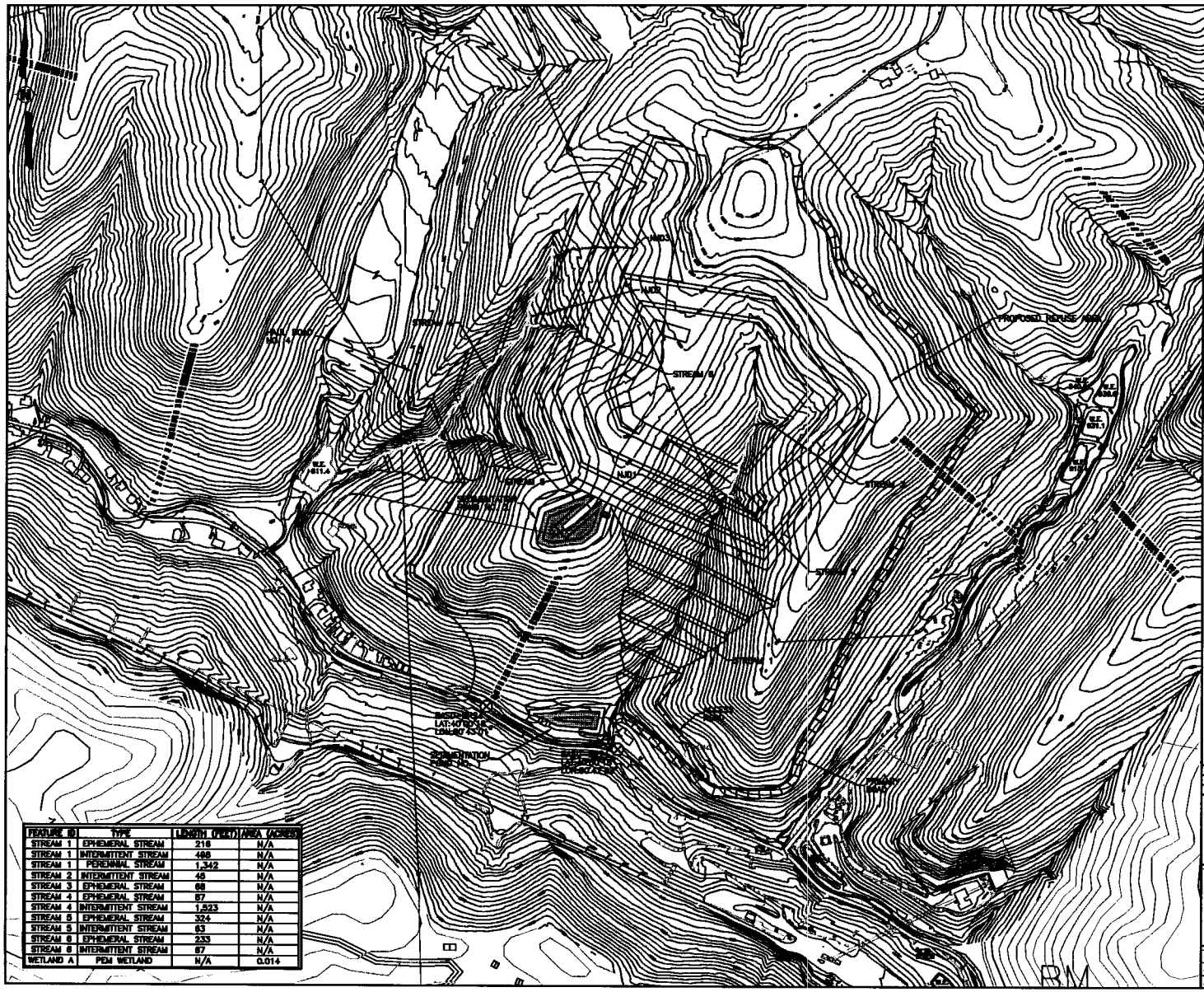

FEATURE ID	TYPE	LENGTH (FEET)	AREA (ACRES)
STREAM 1	EPHEMERAL STREAM	216	N/A
STREAM 1	INTERMITTENT STREAM	498	N/A
STREAM 1	PERENNIAL STREAM	1,342	N/A
STREAM 2	INTERMITTENT STREAM	46	N/A
STREAM 3	EPHEMERAL STREAM	68	N/A
STREAM 4	EPHEMERAL STREAM	87	N/A
STREAM 4	INTERMITTENT STREAM	1,523	N/A
STREAM 5	EPHEMERAL STREAM	324	N/A
STREAM 5	INTERMITTENT STREAM	63	N/A
STREAM 6	EPHEMERAL STREAM	233	N/A
STREAM 6	INTERMITTENT STREAM	67	N/A
WETLAND A	PEM WETLAND	N/A	0.014

NOTES:

1) DRAWING ON NAD 27, WEST VIRGINIA NORTH COORDINATE SYSTEM.

2) TOPOGRAPHY FROM 7.5 MIN. USGS QUADRANGLE OF WHEELING WEST VIRGINIA.

LEGEND:

- STUDY AREA
- IBR NO. 6 AREA OUTLINE
- INTERMITTENT STREAM CHANNEL
- PERENNIAL STREAM CHANNEL
- EPHEMERAL STREAM CHANNEL
- NON-JURISDICTIONAL DITCH
- BASU-BR24 BAS SITES
- OPEN WATER SITE

"I, THE UNDERSIGNED, HEREBY CERTIFY THAT THIS MAP IS CORRECT AND SHOWS TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL THE INFORMATION REQUIRED BY THE SURVEYING LAWS OF THIS STATE."

_____ R.P.E. NO._____

ACKNOWLEDGED BEFORE ME A NOTARY PUBLIC. _____

THIS ___ DAY OF _____, ___ MY COMMISSION EXPIRES _____

"THE TERM "CERTIFY" AS USED HEREIN IS DEFINED AS FOLLOWS: "AN ENGINEER'S CERTIFICATION OF DOCUMENTS IS A DECLARATION OF PROFESSIONAL JUDGEMENT. IT DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESSED OR IMPLIED, NOR DOES IT RELIEVE ANY OTHER PARTY OF WHOM RESPONSIBILITY TO ABIDE BY CONTRACT DOCUMENTS, APPLICABLE CODES, STANDARDS, REGULATIONS AND ORDINANCES".

SCALE

200 0 200 400 FEET

REV.	DATE	DESCRIPTION	P.M.
1	08/30/12	REVISIONS AS PER A.C.O.E. COMMENTS	

Alliance Consulting, Inc.

Engineers • Constructors • Scientists

BECKLEY, WV (304) 252-4200 — BRIDGEPORT, WV (304) 842-3400 — CHARLESTON, PA (304) 342-3400

NPDES PERMIT NO. WV0004901 ARTICLE 3 PERMIT NO. O-1001-00

MSI NO. 6

PROJECT IMPACT MAP

CUNNINGHAM HOLLOW EX-1 REFUSE AREA

MARSHALL COUNTY, WEST VIRGINIA

Prepared For

CONSOLIDATION COAL COMPANY

RD 4, BOX 420, MOUNDSVILLE, WEST VIRGINIA 26041

CAD BY	DSM	08/16/12	PROJECT NO. B10-377-176
CHECKED BY			
APPROVED BY			DRAWING NO. B10-377-E1