

DOA Permits

Application No: 200200371
Public Notice No: *2-53*

Date Received: 25 MAR 2002
Date Application Complete:

Name: Jonathan Pachter
Address: 1800 Washington Road
Pittsburgh, PA 15241-1421

Phone No: [REDACTED]

Activity Type: 404

Location: in an unnamed tributary to Enlow Fork
Bank & River Mile:

City: West Finley

County: Greene State: PA

Type of Work:

Permit Processor: Nancy Mullen / *Christina Neubert*

Public Notice Date: *09/23/02*
Date PN Expires: *10/23/02*

Responses

Date: *09/30/02*
Agency/Individual: *Commonwealth of PA Dept. of Transportation*
Type of Response: *No objections*

Date: *09/30/02*
Agency/Individual: *PA DEP, Dam Safety*
Type of Response: *sed pond dams are waived*

Date: *10/23/02*
Agency/Individual: *US EPA*
Type of Response: *Permit should be withdrawn or ~~modified~~ denied*

Date: *10/23/02*
Agency/Individual: *USFWS*
Type of Response: *recommend denial*

Date: *10/23/02*
Agency/Individual: *US EPA Region III*
Type of Response: *Recommendations*

Date: */ /*
Agency/Individual:
Type of Response:

Date: */ /*
Agency/Individual:
Type of Response:

Date: */ /*
Agency/Individual:
Type of Response:

ROUTING SLIPS for DOA PERMITS	
Al (review)	<i>[Signature]</i>
Bob (review)	
Bernie (review)	
Rich (review)	
Scott or Linda M. (PUBLIC NOTICE)	
<i>Nancy / Christy</i>	

Agency/Individual:

DOA Permits

|-----|

Cause of Delay (> 120 Days):

Provisional Permit Issued: / /

Date Permit Issued: / /

Date Permit Expires: / /

File Copy Received: / /

Payment: 100

Mitigation Required:

Completion Notice: / /

Completion Report: / /

Modification:

Extension of Time:

Modification:

Date of Modification Letter: / /

Withdrawal

Date Received: / /

Date of Response Letter: / /

Denial

Date of Denial: / /

Suspension

Date of Suspension: / /

Date of Reinstatement: / /

Revocation

Date of Revocation: / /



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. 200200371

Date: September 23, 2002

Notice No. 02-53

Closing Date: October 23, 2002

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: Consol Pennsylvania Coal Company
1800 Washington Road
Pittsburgh, PA 15241-1421

AGENT:

Michael Baker Jr., Inc
Airport Office Park, Building 3
420 Rouser Road
Coraopolis, PA 15108

3. LOCATION: The project is located approximately 3,300 feet south of the intersection of State Routes 4009 (Grinnage Road) and 4013 (Dog Town Road) in two unnamed tributaries to Enlow Fork, near West Finley, Greene County, Pennsylvania. See attached location maps.

4. PURPOSE AND DESCRIPTION OF WORK: The applicant is proposing to construct a new coal refuse disposal facility for the Bailey Mine Complex. The existing disposal areas that service the mine are nearing full capacity. The new disposal facility will be comprised of two coal refuse disposal areas; a slurry impoundment for coarse and fine coal refuse disposal and a coarse coal refuse disposal area. Both disposal areas will be valley fill type facilities. Together they will provide the Bailey Mine Complex with approximately 15 years of disposal capacity at projected refuse generation rates.

The project site encompasses two unnamed tributaries to Enlow Fork of which the applicant proposes to impact 13,198 feet of perennial and intermittent stream channel. The stream channel will be impacted by construction of a sedimentation pond beginning at a point approximately 450 feet west of the confluence of Enlow Fork and the main unnamed tributary and

continuing upstream for a length of 850 feet. From the upstream limit of the sediment pond stream flow will be carried under the proposed disposal areas by the use of a rock drain. This drain will extend upstream through the project site through both unnamed tributaries. Clayey site soils will be used for constructing a two foot thick compact soil liner over the slurry impoundment site, coarse coal refuse site, and sedimentation pond.

Stream impacts will be mitigated for by streambank fencing and fish habitat restoration in a watershed that is yet to be determined. A total of 1.27 acres of shrub/scrub wetland and 0.10 acres of forested wetland will be impacted as a result of this project. The applicant has proposed to mitigate for these wetland losses by enhancing wetlands that the applicant states have been created by subsidence as a result of the applicant's longwall mining activities along Rocky Run and Templeton Fork. Drawings of the proposed project are attached to this notice.

5. ENCROACHMENT PERMIT: The applicant is required to obtain an encroachment permit which includes State 401 Water Quality Certification from the:

Pennsylvania Department of Environmental Protection
McMurray District Office
3913 Washington Road
McMurray, PA 15317-2532
Telephone: 724 941-7100

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 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 Pennsylvania Historical and Museum Commission has requested that a Phase I archaeological survey of the project area be performed to locate potentially significant archaeological resources. The Phase I survey will be performed during the permit review process and will be submitted prior to permit approval. 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).

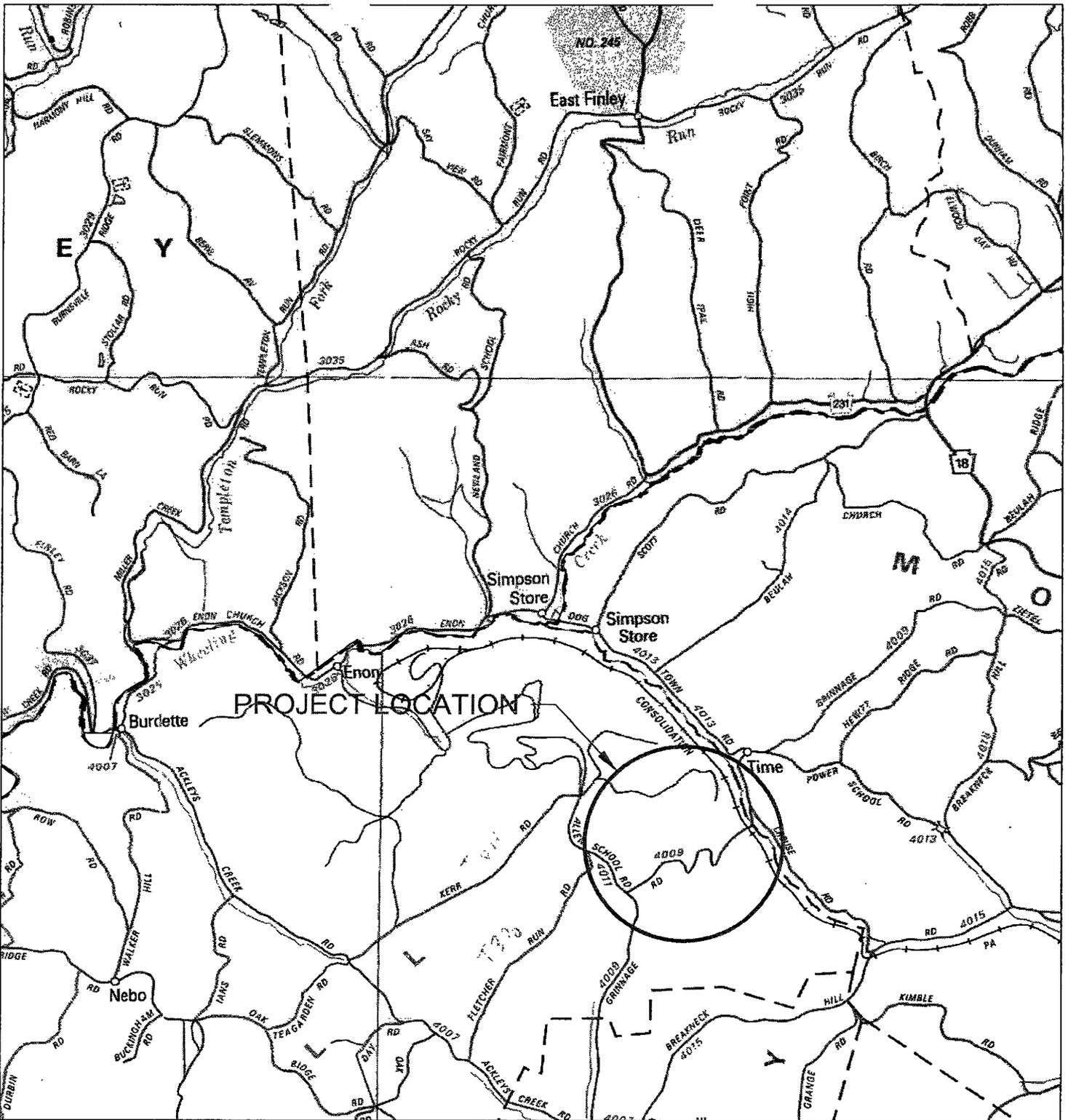
10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements

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 Albert Rogalla, at the above address, by telephoning (412) 395-7170, (412) 395-7375, (412) 395-7154, or by e-mail at Nancy.J.Mullen@usace.army.mil, Christina.L.Neubert@usace.army.mil, or Scott.H.Hans@usace.army.mil. Please refer to CELRP-OR-F 200200371 in all responses.

FOR THE DISTRICT ENGINEER:



Albert H. Rogalla
Chief, Regulatory Branch



BAILEY CENTRAL MINE COMPLEX COAL
 REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
 CONSOL PENNSYLVANIA COAL COMPANY

PROJECT LOCATION MAP



MICHAEL BAKER JR., INC.
 Coraopolis, Pennsylvania
 412 269-6000 mbakercorp.com

SCALE:

DATE:

SEPTEMBER, 2002

200200371



BAILEY CENTRAL MINE COMPLEX COAL
 REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
 CONSOL PENNSYLVANIA COAL COMPANY

PROJECT LOCATION MAP



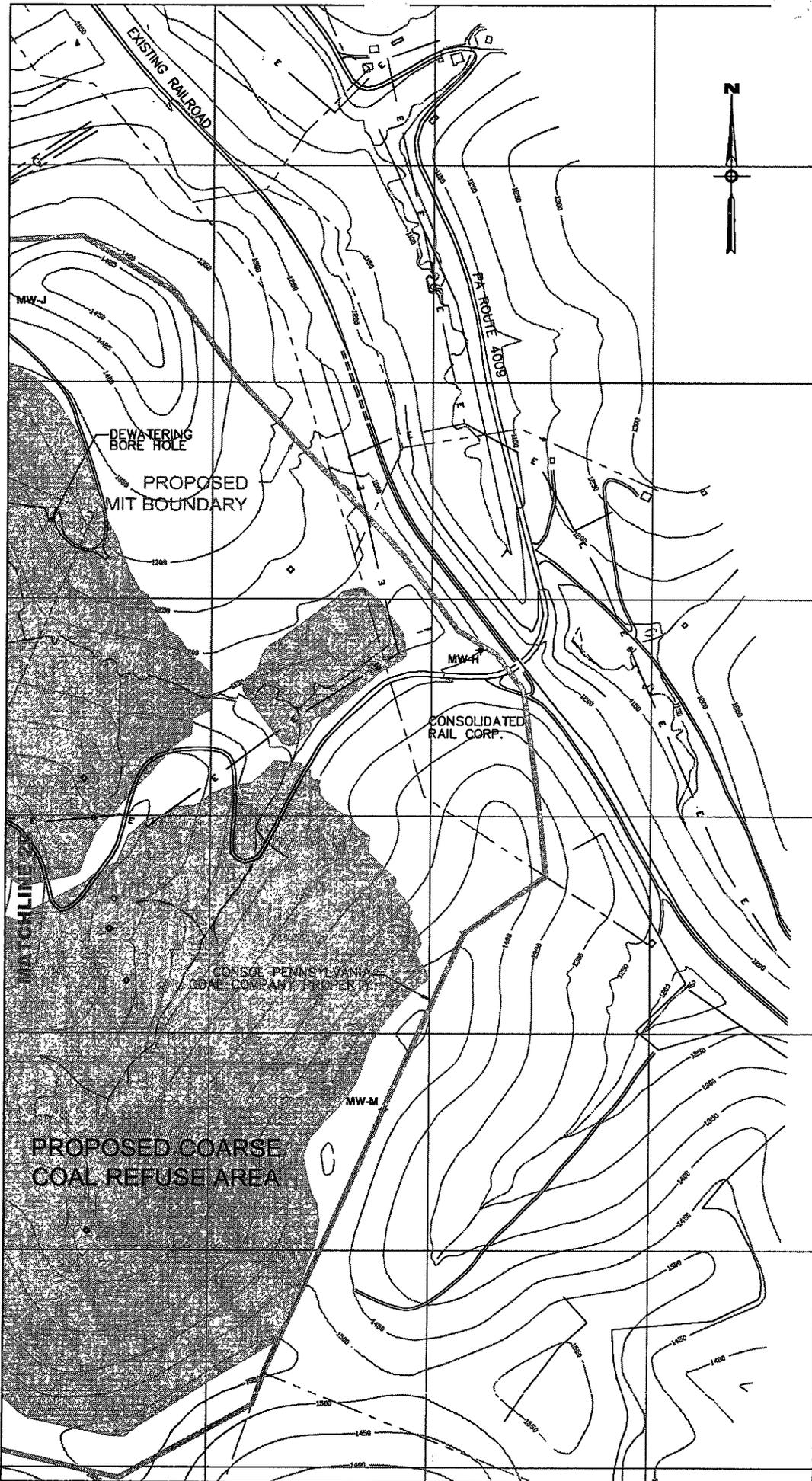
MICHAEL BAKER JR., INC.
 Coraopolis, Pennsylvania
 412 269-8000 mbakercorp.com

WIND RIDGE AND ROGERSVILLE, PA.
 QUADRANGLES - U.S.G.S. 7.5 MINUTE SERIES

SCALE:
 1" = 2000'

DATE:
 JANUARY, 2002

200200371



LEGEND

- Stream —————
- Groundwater Monitoring Well Location ———— ◆ MW-L
- Spring Sampling & Inventory Location ———— ◆ S-25
- Degas Borehole ———— ◆ 4A-1
- Gas Well ———— ◆ 660
- Oil Well ———— ◆
- Gasline and 50' Right-of-Way ———— |||
- Property Boundary ———— - - - - -
- Limit of Underground Mining ———— - - - - -
- Electric Line ———— E ————
- Permit Boundary ———— ————



Notes:

The existing 6" gas line and existing overhead electric lines will be relocated by others prior to construction. Locations of the existing and relocated gas and electric lines shown are approximate. The Contractor shall be responsible to verify the location and depths of all utilities prior to the start of construction. The contractor must comply with the Pennsylvania underground utilities act and shall contact PA one call at 1-800-242-1776 prior to construction.

Landslide areas shown were identified during a November 2001 site reconnaissance performed by Michael Baker Jr. personnel. There may be additional landslide or unstable areas other than those shown.



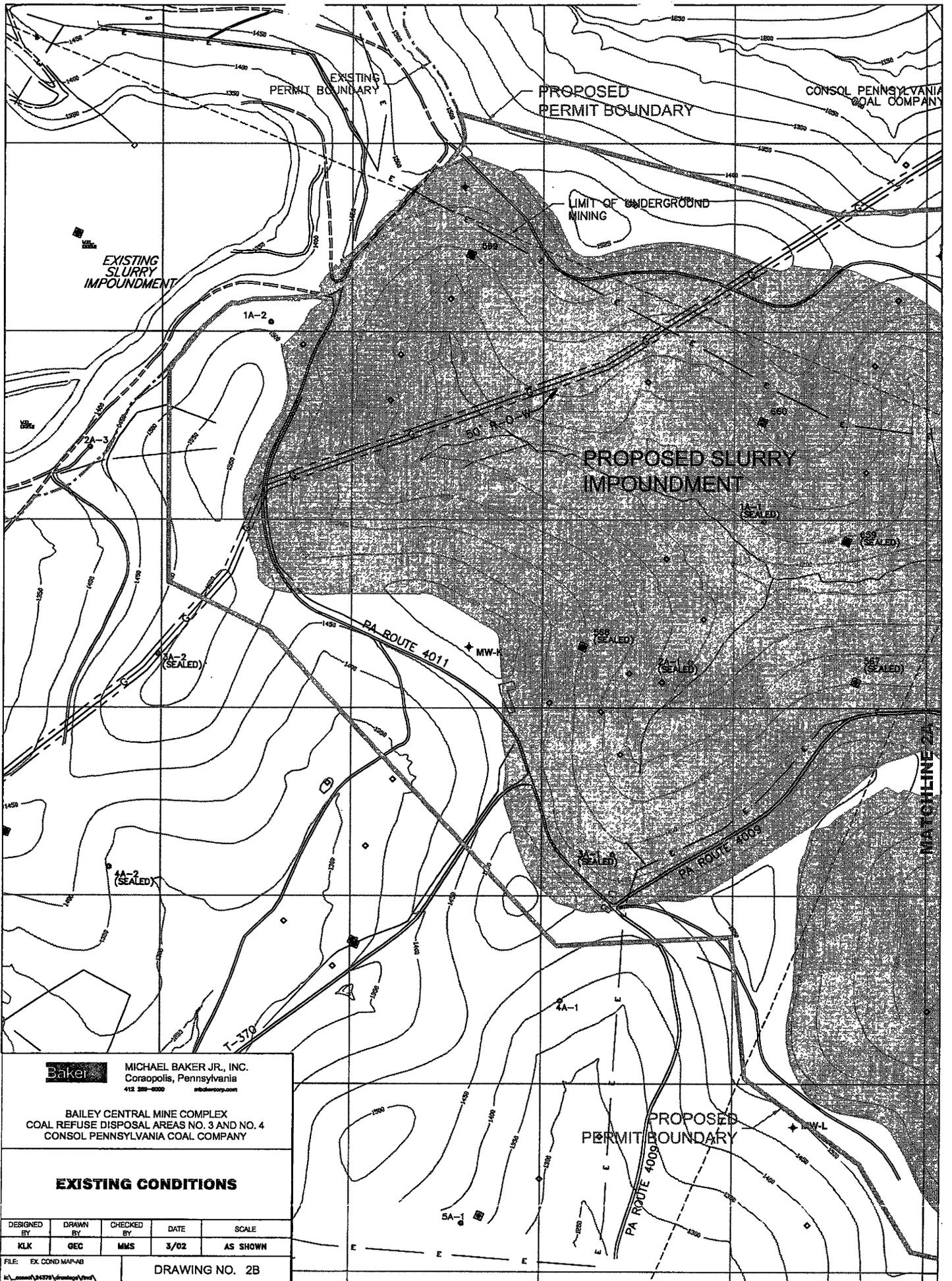
Baker MICHAEL BAKER JR., INC.
Coraopolis, Pennsylvania
412 268-6600 mbakercorp.com

BAILEY CENTRAL MINE COMPLEX
COAL REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
CONSOL PENNSYLVANIA COAL COMPANY

EXISTING CONDITIONS

DESIGNED BY	DRAWN BY	CHECKED BY	DATE	SCALE
KLK	GEC	MMS	3/02	AS SHOWN
FILE: EX COND MAP-AB			DRAWING NO. 2A	

200200371



MICHAEL BAKER JR., INC.
 Coraopolis, Pennsylvania
 412 269-6000 mjb@mbcorp.com

BAILEY CENTRAL MINE COMPLEX
 COAL REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
 CONSOL PENNSYLVANIA COAL COMPANY

EXISTING CONDITIONS

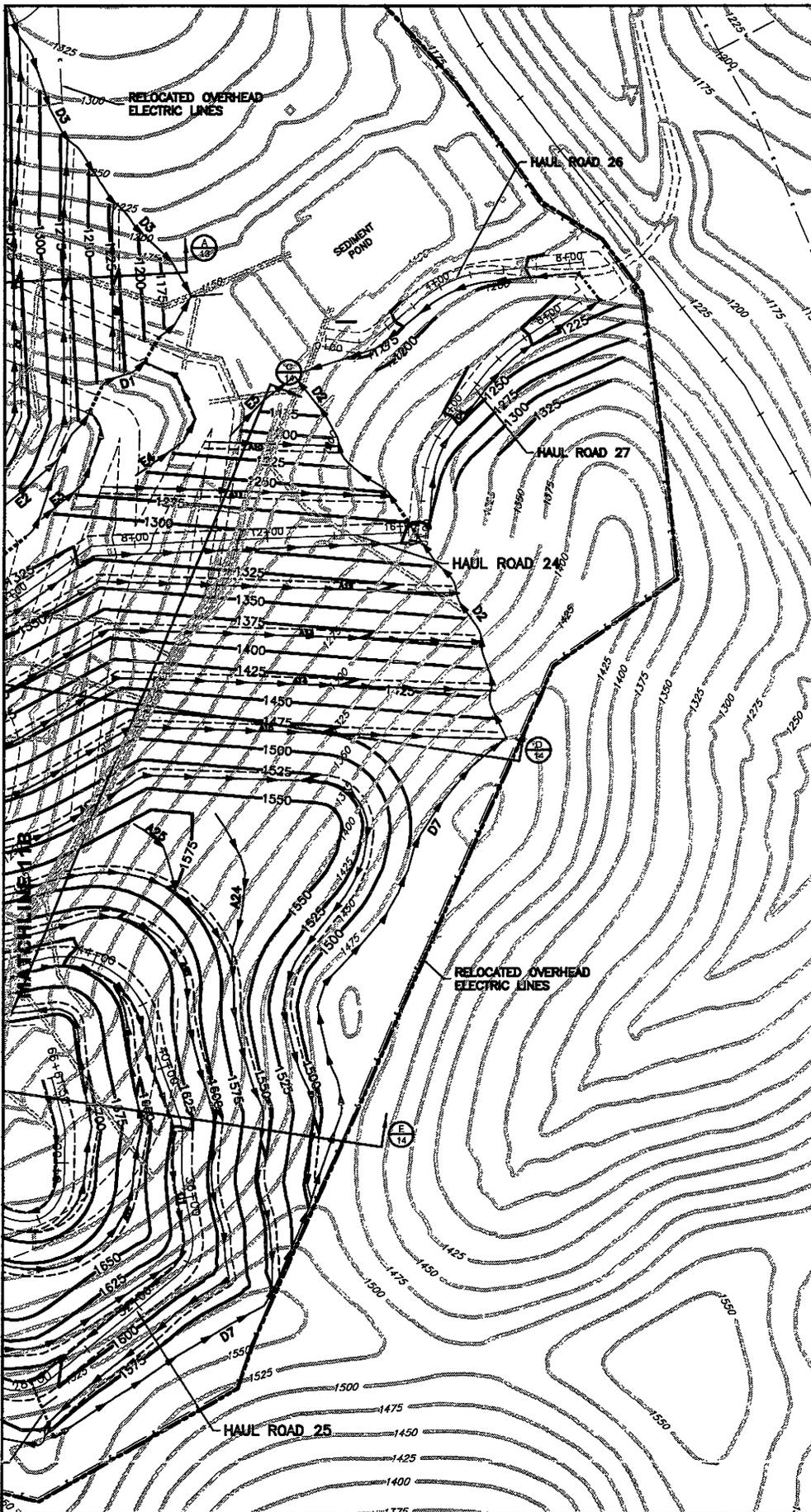
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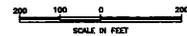
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200200371



LEGEND

- DECANT RISER
- DECANT
- ROCK DRAIN
- MODIFIED ROCK DRAIN
- SPRING DRAIN
- SPRING LOCATION
- CHANNEL
- PROPOSED CONVEYOR & BIN
- GAS LINE & 50' ROW
- EDGE OF PROPOSED ROAD
- CULVERT
- PERMIT BOUNDARY
- COARSE REFUSE INTERNAL DRAIN
- OVERHEAD ELECTRIC LINE



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 Coraopolis, Pennsylvania
 412.261-6000 mbcorp.com

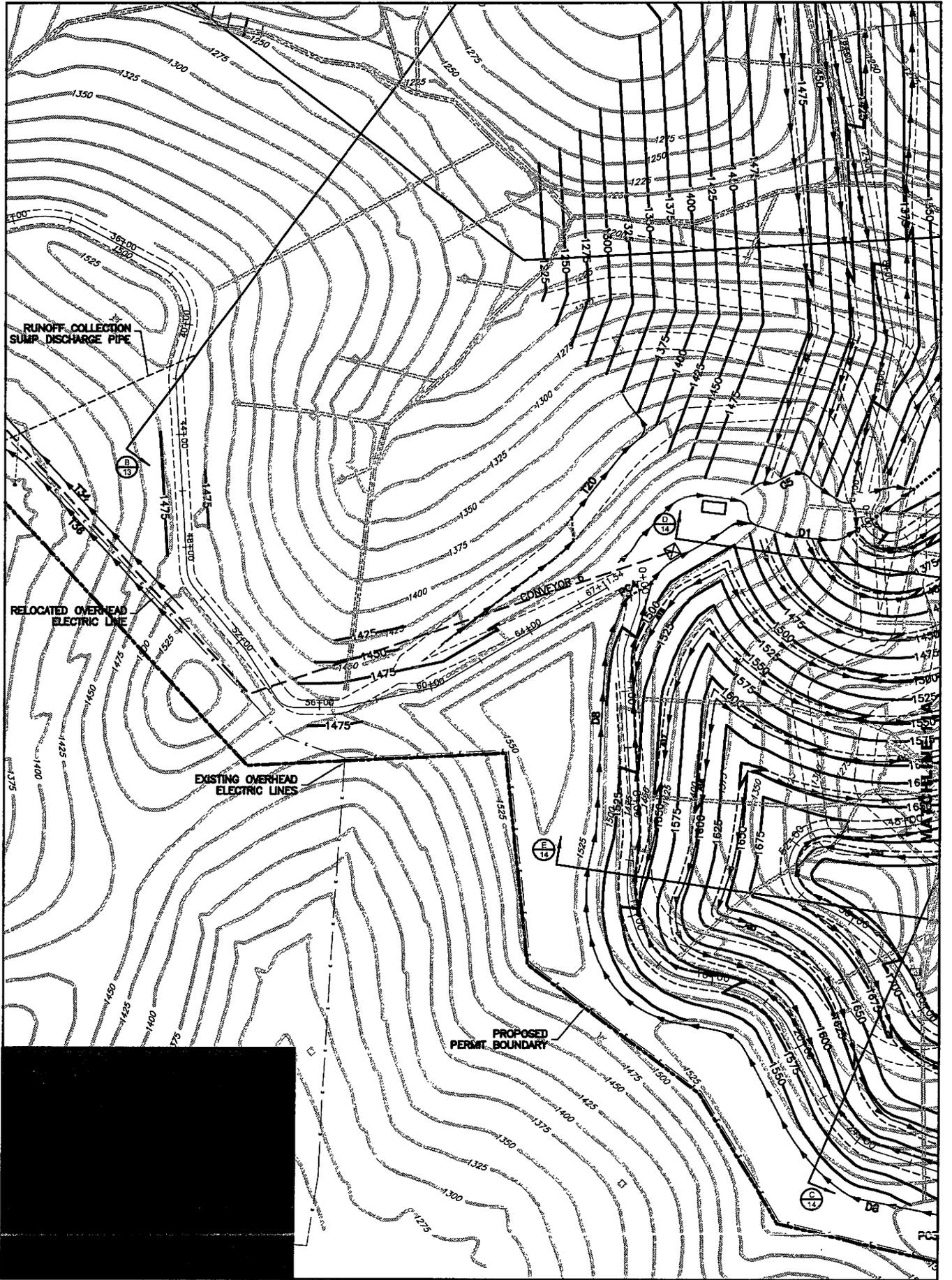
BAILEY CENTRAL MINE COMPLEX
 COAL REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
 CONSOL PENNSYLVANIA COAL COMPANY

**COAL REFUSE DISPOSAL
 AREA NO. 4
 (COARSE COAL REFUSE AREA)
 FINAL SITE LAYOUT**

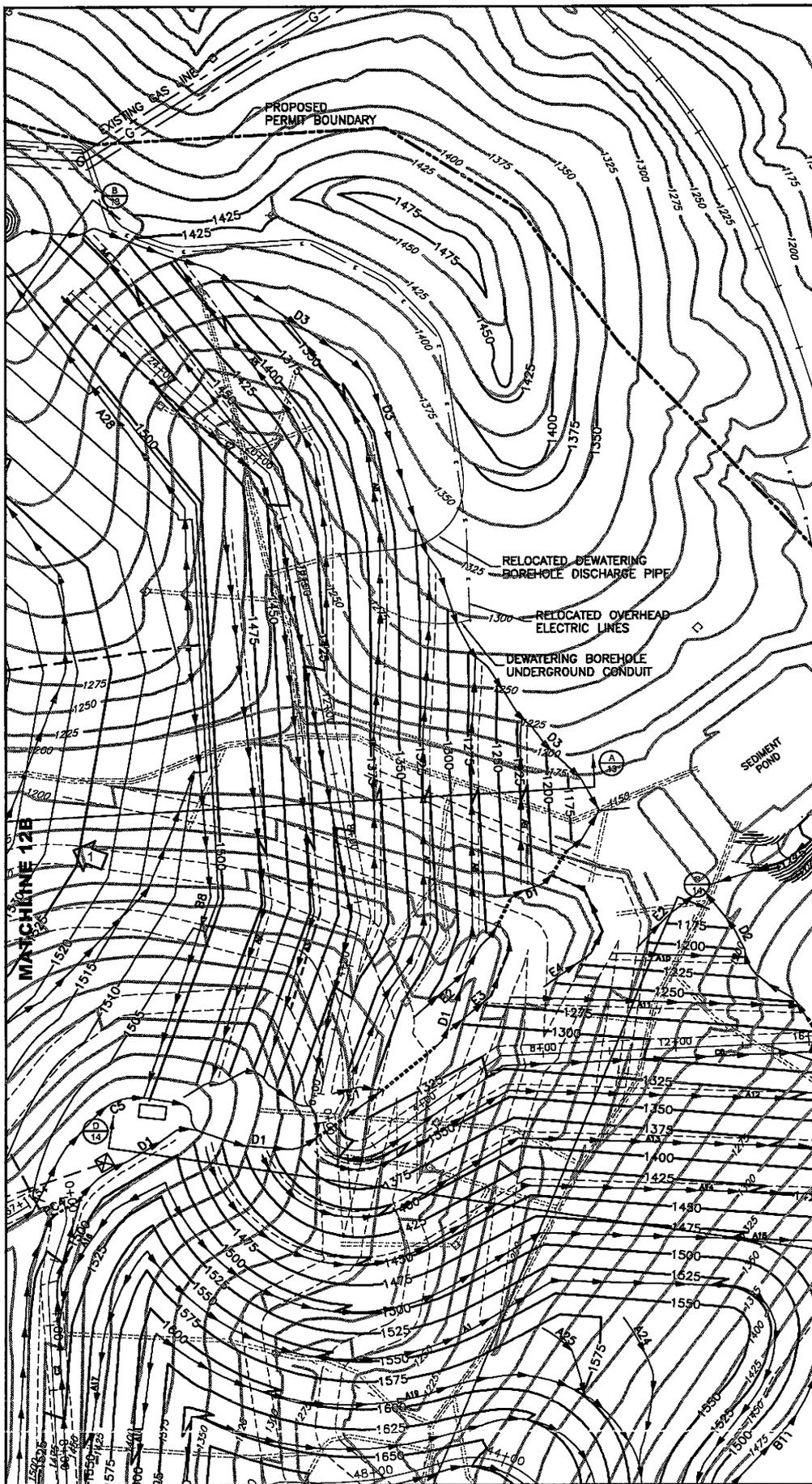
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JMB	JMB	GAH	3/02	AS SHOWN
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200200371

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S.D. No.: 24378-000-0000



200200371



LEGEND

- DECANT RISER
- DECANT
- ROCK DRAIN
- MODIFIED ROCK DRAIN
- SPRING DRAIN
- SPRING LOCATION
- CHANNEL
- PROPOSED CONVEYOR & BIN
- GAS LINE & 50' ROW
- EDGE OF PROPOSED ROAD
- CULVERT
- PERMIT BOUNDARY
- COARSE REFUSE INTERNAL DRAIN
- OVERHEAD ELECTRIC LINE
- CAP PLACEMENT SEQUENCE AND DIRECTION
- CAP PLACEMENT AREA BOUNDARY



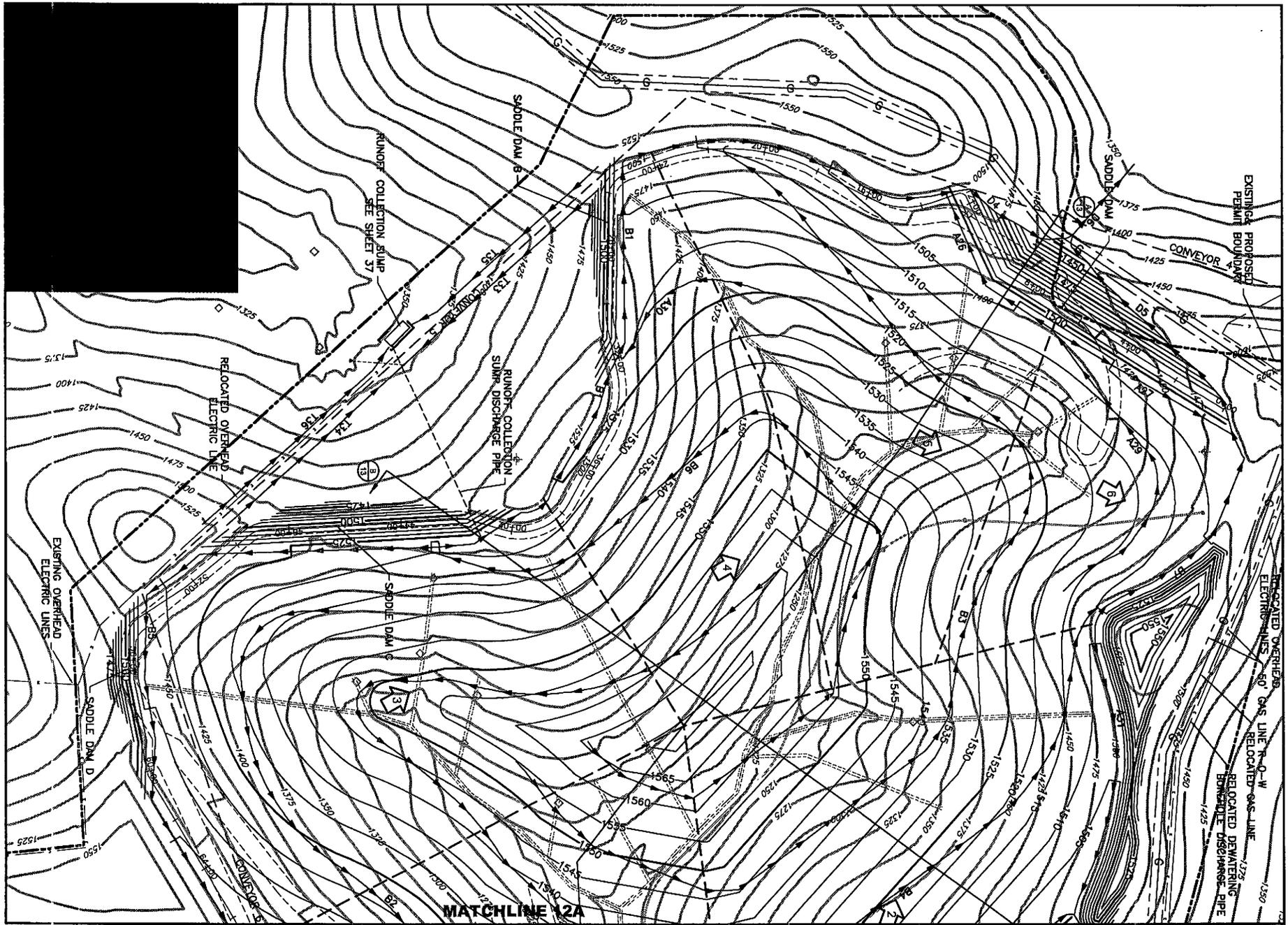
Baker MICHAEL BAKER JR., INC.
Coraopolis, Pennsylvania
412 269-6000 mbaker@mba.com

BAILEY CENTRAL MINE COMPLEX
COAL REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
CONSOL PENNSYLVANIA COAL COMPANY

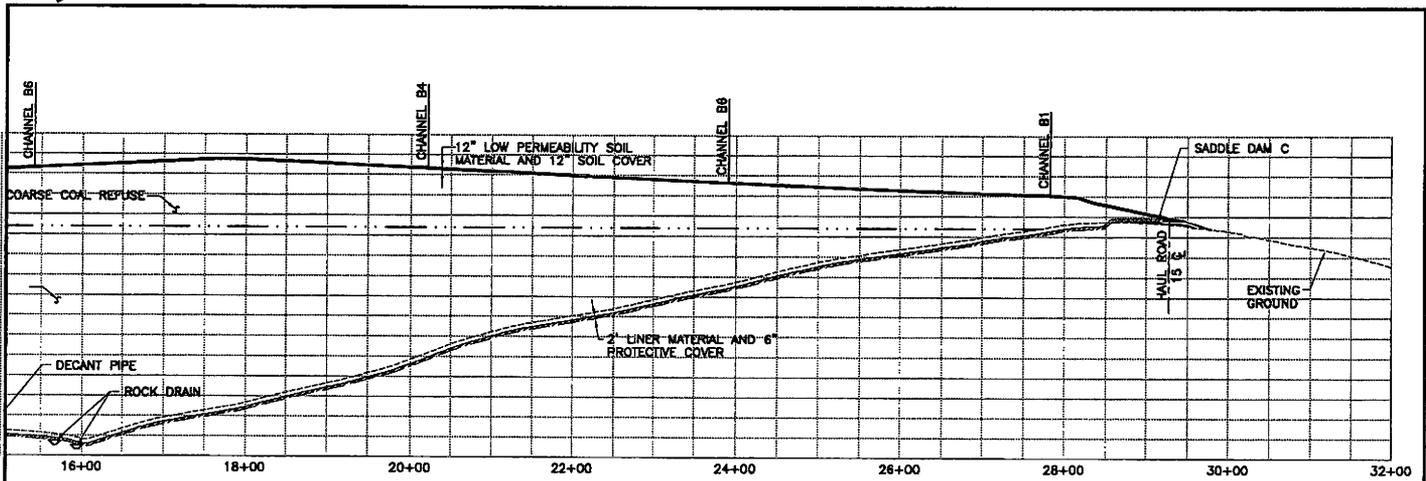
**SLURRY IMPOUNDMENT
(AREA NO. 3)
FINAL SITE LAYOUT**

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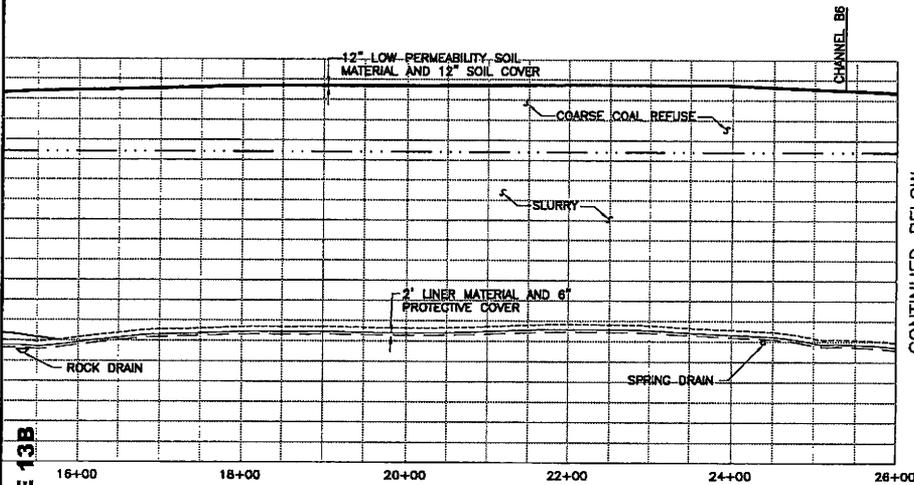
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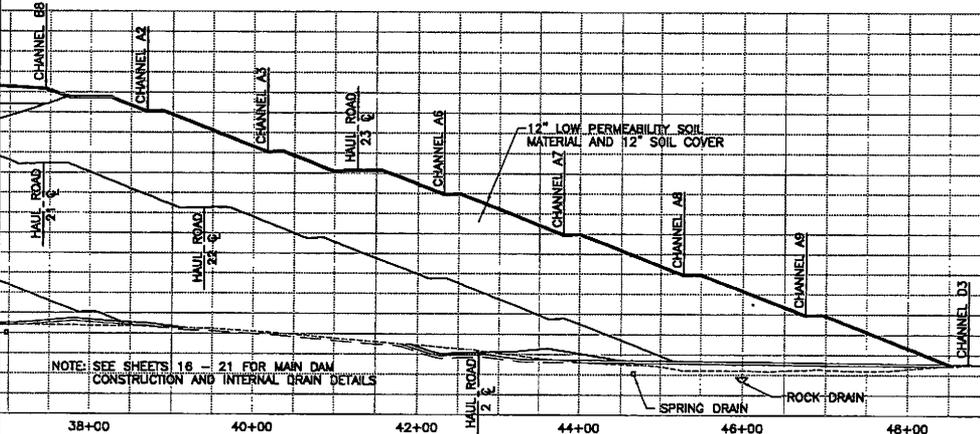
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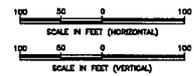
SECTION BB



MATCHLINE 13B



NOTE: SEE SHEETS 16 - 21 FOR MAIN DAM CONSTRUCTION AND INTERNAL DRAIN DETAILS



Baker MICHAEL BAKER JR., INC.
Coraopolis, Pennsylvania
412 282-8000 mbakercorp.com

BAILEY CENTRAL MINE COMPLEX
COAL REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
CONSOL PENNSYLVANIA COAL COMPANY

**COAL REFUSE DISPOSAL
AREA NO. 3
(SLURRY IMPOUNDMENT)
CROSS SECTIONS**

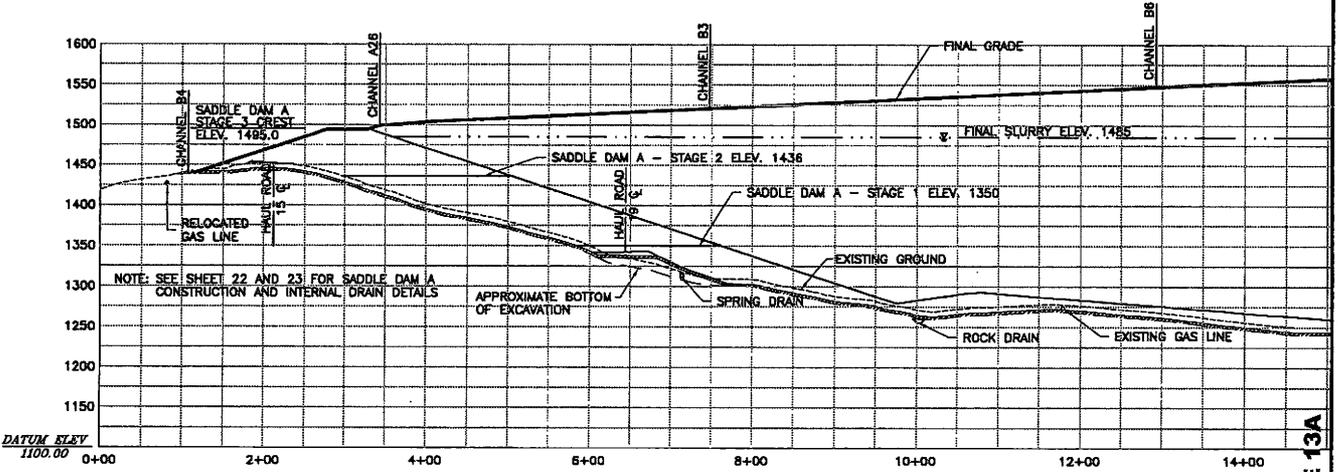
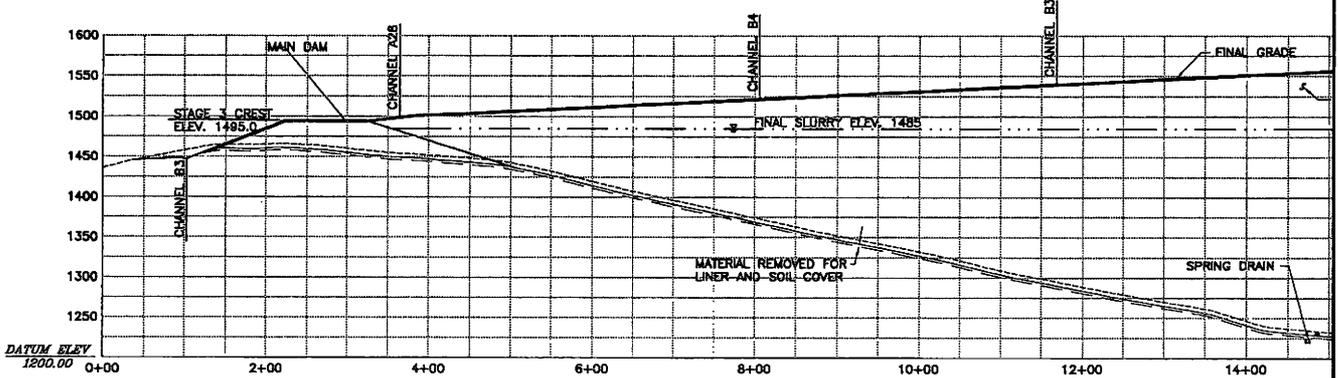
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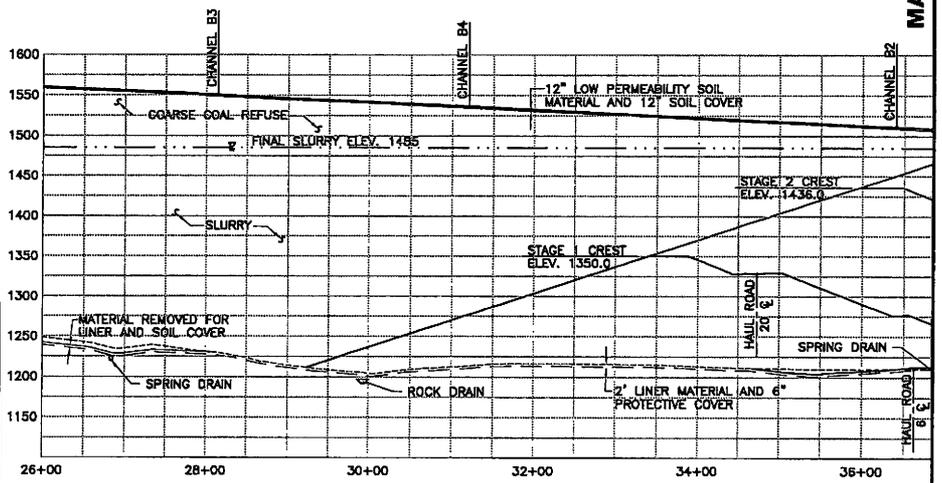
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 S.O. No.: 24379-000-0000



SECTION AA
 MATCHLINE 13A



SECTION AA

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 Coraopolis, Pennsylvania
 412 269-9000 mjbakercorp.com

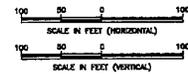
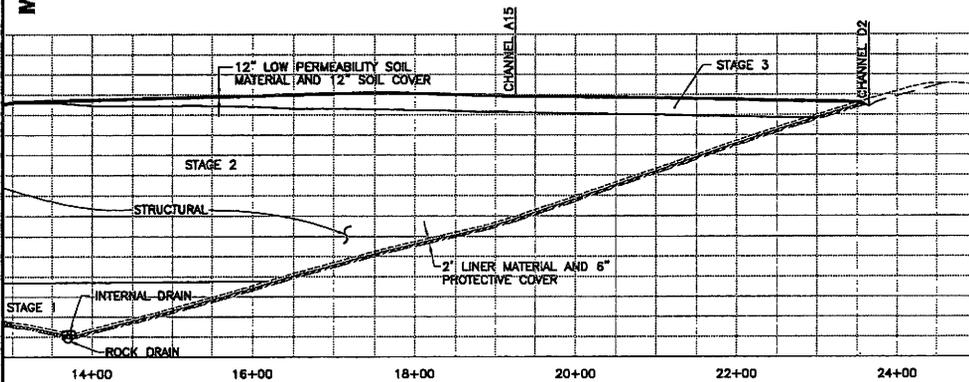
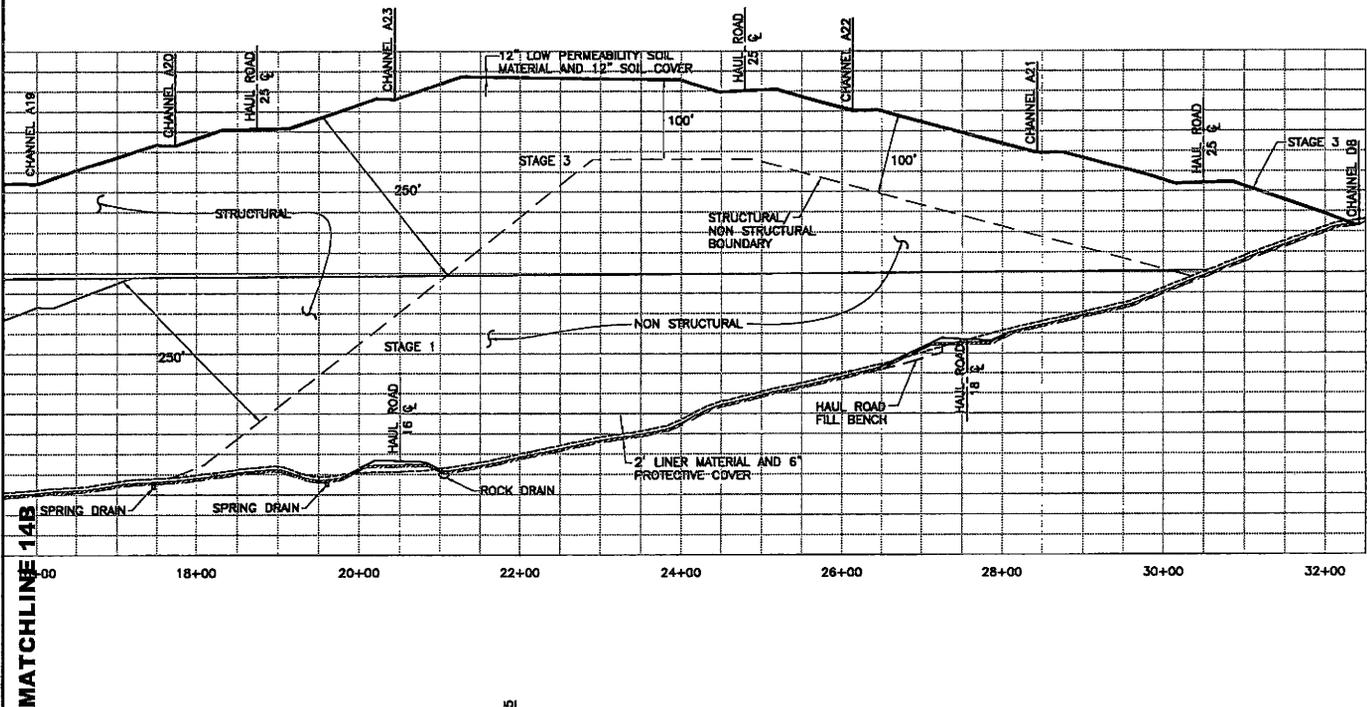
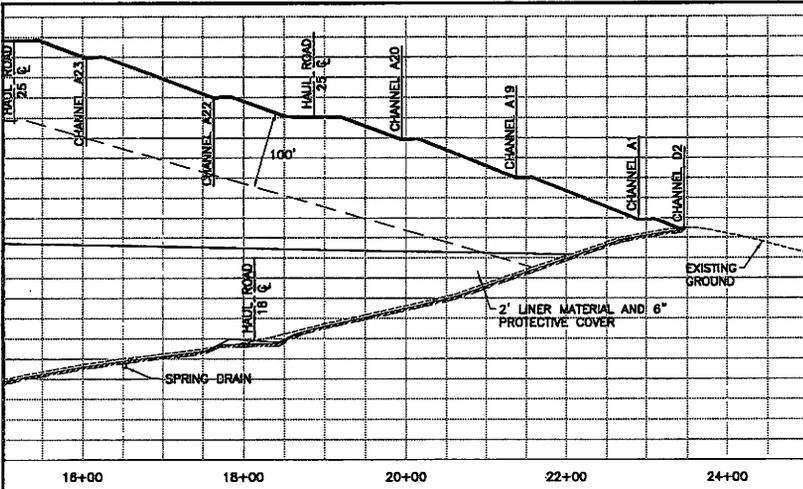
BAILEY CENTRAL MINE COMPLEX
 COAL REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
 CONSOL PENNSYLVANIA COAL COMPANY

**COAL REFUSE DISPOSAL
 AREA NO. 3
 (SLURRY IMPOUNDMENT)
 CROSS SECTIONS**

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JMB	JMB	GAH	3/02	AS SHOWN

FILE: CROSS SECTIONS 100-AB (LAYOUT 1)
 DRAWING NO. 13B

200200371



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 Coropolls, Pennsylvania
 412 265-6000 mba@corp.com

BAILEY CENTRAL MINE COMPLEX
 COAL REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
 CONSOL PENNSYLVANIA COAL COMPANY

**COAL REFUSE DISPOSAL
 AREA NO. 4
 (COARSE COAL REFUSE AREA)
 CROSS SECTIONS**

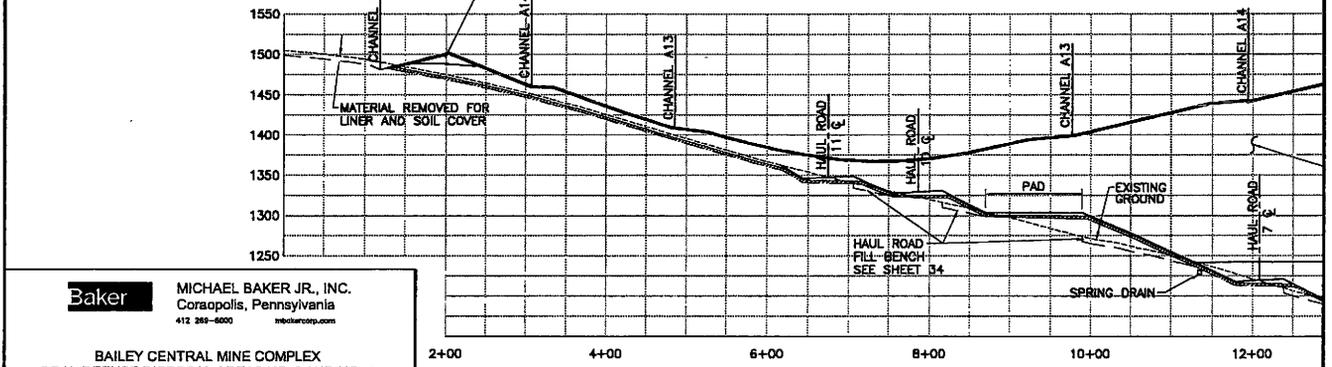
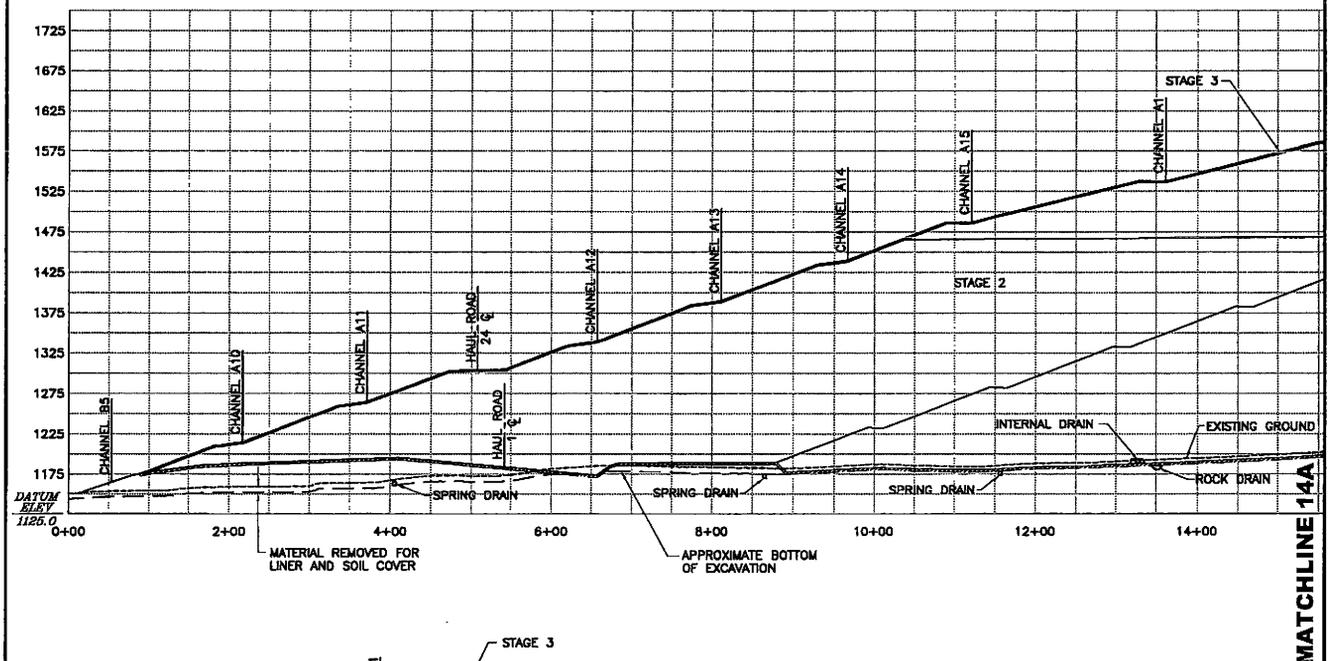
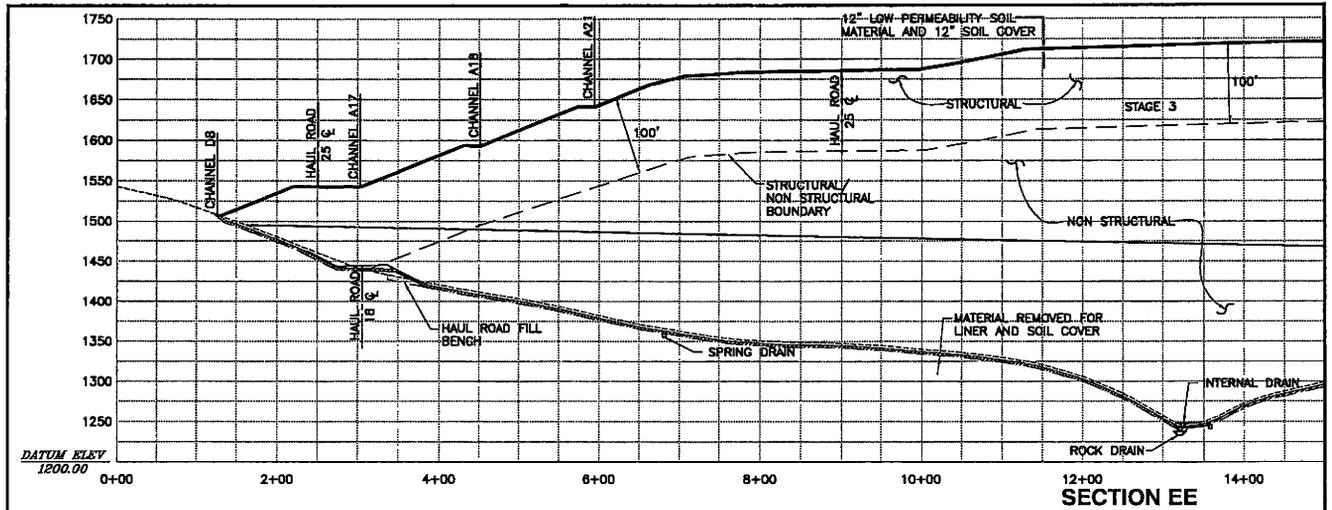
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200200371

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 S.O. No.: 24379-000-0000



Baker MICHAEL BAKER JR., INC.
 Coraopolis, Pennsylvania
 412 261-6000 mbakercorp.com

BAILEY CENTRAL MINE COMPLEX
 COAL REFUSE DISPOSAL AREAS NO. 3 AND NO. 4
 CONSOL PENNSYLVANIA COAL COMPANY

**COAL REFUSE DISPOSAL
 AREA NO. 4
 (COARSE COAL REFUSE AREA)
 CROSS SECTIONS**

DESIGNED BY	DRAWN BY	CHECKED BY	DATE	SCALE
JMB	JMB	GAH	3/02	AS SHOWN

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200200371

LAURY ZICARI
U.S. FISH & WILDLIFE SERVICE
300 WESTGATE CENTER DRIVE
HADLEY MA 01035-9589

MATTHEW H. STEVENSON
DOCK HARDWARE & MARINE FABRICATION
60 NAPCO DRIVE
TERRYVILLE CT 06787

SULLIVAN FLOATATION SYSTEMS
PO BOX 639
WARWICK NY 10990



GEORGE A. ROBB
GENERAL MATERIAL TERMINALS, INC.
15 STATE STREET
BADEN PA 15005-1916

RUDOLPH V. MASSA
BEAVER COUNTY ENGINEERING DEPARTMENT
COUNTY ENGINEER
810 THIRD STREET
BEAVER PA 15009

T.L. LAWRENCE CONSTRUCTION COMPANY
208 3RD AVENUE
EASTVALE
BEAVER FALLS PA 15010



MS. PATRICIA REMY
PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION, DISTRICT 11-0
ENGINEERING DISTRICT 11-0
45 THOMS RUN ROAD
BRIDGEVILLE PA 15017

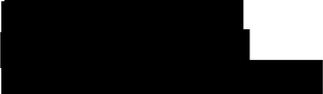
SUE MOLNAR
MOLNARS MARINA
185 ELK HORN
BUNOLA PA 15020-9999

EDWARD J. GOLANKA
BOROUGH OF CHARLEROI
3 MCKEAN AVENUE
PO BOX 211
CHARLEROI PA 15022

ROBERT W. SEIBERT, JR.
LINCOLN WAREHOUSES, INC.
PO BOX 34
CHESWICK PA 15024-0034

MR. RICHARD E. REID
REID'S MARINA
109 N HIGHLAND AVENUE
CHESWICK PA 15024-0071

WEAVERTOWN ENVIRONMENTAL GROUP
3866 MILLERS RUN ROAD
MC DONALD PA 15057-2858



THE VALLEY NEWS DISPATCH
210 E FOURTH AVENUE
TARENTUM PA 15084

WILLIAM HAMEL
TRI RIVER CONSULTANTS
PO BOX 288
WEBSTER PA 15087

MS. MICHELE STEWART
MICHAEL BAKER JR., INC.
AIRPORT OFFICE PARK BLDG 3
420 ROUSER ROAD
CORAOPOLIS PA 15108

TIM YUNK, SECRETARY
ELIZABETH BOAT CLUB
650 DEBALDO DRIVE
WEST MIFFLIN PA 15122

JACQUELINE A. DIXON
WATERWAYS ASSOCIATION OF PITTSBURGH
PO BOX 48
IMPERIAL PA 15126-0048

APRIL WINKLMANN
SPRINGDALE BOROUGH
PO BOX 153
325 SCHOOL STREET
SPRINGDALE PA 15144

CAPTAIN JACK ROSS
CAPTAIN JACK ROSS & ASSOC.
PO BOX 971
MONROEVILLE PA 15146-0971

RICHARD L. GEORGE
EDWARD O'NEIL RESEARCH CENTER
5800 BAUM BLVD
PITTSBURGH PA 15206

THE HERALD
101 EMERSON AVENUE
PITTSBURGH PA 15215

SANDY SCHNEIDER
WATERWAYS, INC.
1717 MURRAY AVENUE #6
PITTSBURGH PA 15217



HONORABLE RICK SANTORUM
UNITED STATES SENATOR
THE LANDMARK BLDG STE 250
1 STATION SQUARE
PITTSBURGH PA 15219

THOMAS STOCKHAUSEN
MAGUIRE GROUP, INC.
564 FORBES AVNEUE
PITTSBURGH PA 15219

FRED REGINELLA, P.E., DIR.
CITY OF PITTSBURGH
DEPT. OF ENGR. & CONSTRUCTION
CITY COUNTY BLDG RM 301
414 GRANT STREET
PITTSBURGH PA 15219-2455

DARIA SCHWARTZ
OHIO RIVER COMPANY
1016 GREENTREE ROAD STE 201
PITTSBURGH PA 15220-3125

MYRON ARNOWITT
CLEAN WATER ACTION
100 FIFTH AVE STE 1108
PITTSBURGH PA 15222

DON HOPEY
PITTSBURGH POST GAZETTE
34 BLVD OF THE ALLIES
PITTSBURGH PA 15222

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Neubert/7375

October 30, 2002

Operations and Readiness Division
Regulatory Branch
200200371

Mr. William Plassio
District Mining Manager
Pennsylvania Department of Environmental Protection
McMurray District Mining Office
3913 Washington Road
McMurray, Pennsylvania 15317

Dear Mr. Plassio:

I refer Consol Pennsylvania Coal Company's application dated March 2002 to fill 13,198 linear feet of stream and 1.37 acres of adjacent wetland in two unnamed tributaries to Enlow Fork, near West Finley, Greene County, Pennsylvania (Public Notice No. 200200371).

Enclosed are copies of comment letters from USEPA, Region III, and USFWS that were issued in response to our Public Notice. Both letters address water quality issues downstream from the existing coal refuse disposal facility. We believe these letters may be useful and pertinent during your 401 Water Quality Certification review process. These letters were also forwarded to the applicant with instructions to respond appropriately.

If you have any questions, please contact Scott Hans at (412) 395-7154.

Sincerely,

Albert H. Rogalla
Chief, Regulatory Branch



Enclosures

record file copy



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Suite 322
315 South Allen Street
State College, Pennsylvania 16801

October 23, 2002

Colonel David Ridenour, District Engineer
District Engineer, Pittsburgh District
U.S. Army Corps of Engineers
Federal Building, 1000 Liberty Avenue
Pittsburgh, PA 15222

Dear Colonel Ridenour:

The Fish and Wildlife Service has reviewed Public Notice No. 02-53, describing an application by Consol Pennsylvania Coal Company to construct two valley fills: a slurry impoundment for coarse and fine coal refuse disposal, and a coarse coal refuse disposal area. The project will eliminate 13,198 feet of perennial and intermittent stream channels, 1.27 acres of scrub/shrub wetlands, and 0.10 acre of forested wetland. The facilities will provide the nearby Bailey Mine Complex with approximately 15 years of waste disposal capacity.

This report is prepared in accordance with the requirements of the Fish and Wildlife Coordination Act (16 U.S.C. 661-667e) and is to be used in your determination of Section 404(b)(1) Guidelines compliance (40 CFR 230) and in your public interest review (33 CFR 320.4) as they relate to protection of fish and wildlife resources.

A Service biologist visited the project site on May 8, 2001. Both terrestrial and stream habitats in the project area have been degraded by poor land management practices. Consol leases the proposed slurry valley for cattle grazing, and there appears to have been no attempt made to limit cattle access to the streams. As described in Consol's report, "Biological resources of the proposed Bailey Mine refuse and slurry valleys, Greene County, Pennsylvania," by Dale Pike and Bradford Owen (August 8, 2001), the stream and adjacent habitats are heavily impacted by the cattle; we noted eroded and sloughing banks and trampled floodplain areas devoid of vegetation during our site visit. Pike and Owen describe the valley proposed for coarse refuse disposal as forested, but the stream has been disturbed by four-wheeler use of the stream channel. It is especially noteworthy that, in spite of these insults to the integrity of these streams, Consol's macroinvertebrate survey revealed diverse biological communities.

Small headwater streams, such as the ones proposed for filling by Consol, are valuable components of downstream ecosystems. Enclosed for your information is a copy of a publication entitled "The Value of Headwater Streams: Results of a Workshop, State College, Pennsylvania, April 13, 1999." The purpose of the workshop was to assemble experts in stream ecology to discuss the value of headwater streams and the possibility of setting acceptable impact thresholds. The proceedings provide valuable information on the state-of-the-art of knowledge

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about these important ecosystems, which unfortunately are little understood outside of scientific circles. In fact, meeting participants discussed the fact that historically, small streams have been under-protected by regulatory agencies because of ignorance about their values. Despite the growing body of scientific literature documenting the value of small streams, regulatory agencies have been slow to respond with increased protection. Following the workshop, one of the speakers, Dr. Bernard W. Sweeney of the Stroud Water Research Center, wrote us to summarize his thoughts. Dr. Sweeney's letter, which is included in the document, concludes with the following statements:

In conclusion, small first order streams form the heart and soul of the functional stream ecosystem in... every watershed that has been carefully studied. They are small but numerous and collectively represent a significant part of the system with respect to its physical, chemical and biological characteristics. They support a wide variety of unique species that do not occur in larger streams. The structure and function of small streams is not only important locally (to the reach itself) but critical to the productivity of larger downstream tributaries. Clearly, any discussion of destroying even one first order stream is out of order.

The Consol project will require the filling of approximately 2.5 miles of two such first-order tributaries at the headwaters of Enlow Fork, permanently depriving Enlow Fork of 2.5 miles worth of organic production. Based on our examination of the 1964 USGS Wind Ridge quadrangle, the existing Consol disposal facility also destroyed approximately 2 miles of headwater streams. Other springs and headwater streams that are tributary to Enlow Fork in this area have been dewatered, wholly or partially, by subsidence resulting from longwall mining. We are concerned that the cumulative impacts of the valley fills, combined with the subsidence effects, will lead to long-term degradation of the aquatic resources of Enlow Fork.

We have reviewed the applicant's January 2002 mitigation plan, "Mitigation Proposal for Bailey Coal Refuse Disposal Site, Greene County, Pennsylvania," included as Attachment 15.2.C in Module 15 of Consol's application for a state mining permit. We assume that this plan is the basis for the statement in the Corps' public notice that "Stream impacts will be mitigated for by streambank fencing and fish habitat restoration in a watershed that is yet to be determined." Although, for the reasons stated above, we do not believe that it is possible to fully replace the functions and values of the streams that would be lost if this project is developed as proposed, implementation of the proposed mitigation plan must occur within the upper Enlow Fork watershed if it is to provide any meaningful compensation for the project's impacts.

In addition to lost stream functions and values, we are also concerned about the potential impacts of the proposed disposal area on the chemical water quality of Enlow Fork. On September 4, 2001, biologists on my staff collected sediment samples for chemical analysis from local "reference" streams and in Enlow Fork upstream of, and 600 feet downstream of, Talley Run (the receiving stream for the discharge from Consol's existing coal refuse disposal area). We noted that the sediment sample collected downstream of Talley Run had a strong petroleum-like odor. Chemical analysis identified contaminants in the sample:

Polycyclic aromatic hydrocarbons (PAHs) were present at 310 ppm downstream of Talley Run. This compares to only 3.9 ppm in the upstream sample; five other sediment samples collected for

this effort contained no more than 5.9 ppm PAHs. The 310 ppm detected in Enlow Fork downstream of the existing Consol disposal area would be expected to be toxic to aquatic life. Although there are no regulatory criteria for sediment contamination, the National Oceanic and Atmospheric Administration (1999) has developed freshwater sediment guidance values, called "Upper Effects Threshold" (UET) values, representing the concentration above which adverse biological impacts (such as reduced benthic invertebrate abundance) would be expected. The UET value for PAHs for sediments containing 1 percent organic carbon is 12 ppm; on a 1 percent carbon basis, the PAH concentration of our downstream Enlow Fork sample would be 18.8 ppm, well above the UET. Canada has also developed sediment quality guidelines for the protection of aquatic life (Canadian Council of Ministers of the Environment, 1999), and lists 7.1 ppm as the "probable effects level" for PAHs. PAHs occur in both coal (Shorten et al., 1990) and petroleum (Albers, 1995).

Selenium was not detected in the upstream sample or in any of the reference streams' sediments, but was present at 1.5 ppm downstream of Talley Run. Selenium is known to concentrate in organic matter and coal (Growitz, 2001), and has been documented at concentrations averaging 4.2 ppm and ranging up to 21.3 ppm in West Virginia coals (West Virginia Geologic and Economic Survey, 2002). The Environmental Protection Agency (2002) recently documented selenium in excess of water quality standards in water samples collected below numerous coal overburden valley fills in southern West Virginia. The presence of selenium in sediments downstream of Consol's facility is therefore not surprising, but of concern from an aquatic life and wildlife standpoint. Selenium is extremely toxic to fish and wildlife, causing teratogenic and congenital deformities in the offspring of apparently healthy adults, and its ability to accumulate in living organisms means that even small inputs of selenium to the aquatic environment can affect ecosystem health. As Lemly (1999) describes the process:

"Selenium in water can be concentrated from 100 to more than 30,000 times in the food organisms eaten by fish and wildlife, which exposes them to a highly concentrated dietary source of contamination. Biomagnification may also occur, resulting in a two- to sixfold increase in selenium between primary producers and forage fish. Moreover, if the ecosystem is allowed to reach equilibrium such that recycling of selenium from sediment occurs, the detrital food pathway can deliver toxic doses of selenium for many years even if waterborne sources are eliminated.

Although based on a limited number of sediment samples, our results, taken in the context of what is known about the chemical composition of coal, raise concerns about pollutant loading to Enlow Fork from the current and proposed coal refuse disposal area. Clearly, additional sampling is needed to determine the extent of this loading, and whether technology is available to prevent releases of contaminants to the watershed. Additional refuse disposal should not be permitted in this watershed until such investigations have been completed.

In summary, headwater streams, such as the ones that will be destroyed by the proposed project, are irreplaceable, and they play a vital role in maintaining the integrity of downstream aquatic ecosystems. In light of the potential cumulative impacts to Enlow Fork as a result of stream loss, pollutant loading from refuse disposal activities, and subsidence-related impacts already occurring to streams throughout the Enlow Fork watershed, we do not believe that issuance of Section 404 authorization for this project is in the public interest. Accordingly, we recommend that this permit be denied.

If you have any questions regarding this report, please contact Cindy Tibbott of my staff at 814-234-4090.

Sincerely,



 David Densmore
Supervisor

References

Albers, P. H. 1995. Petroleum and individual polycyclic aromatic hydrocarbons. In handbook of ecotoxicology. D. J. Hoffman, B. A. Rattner, G. A. Burton Jr., and J. Cairns Jr., editors. Lewis Publishers, CRC Press, Inc., Boca Raton, Florida. 755 pp.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

OCT 23 2002

Mr. Albert H. Rogalla
Chief, Regulatory Branch
U.S. Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Re: Public Notice No. 200200371; September 23, 2002; Consol Pennsylvania Coal Company;
Greene County, Pennsylvania

Dear Mr. Rogalla:

This is in reply to your request for comments on the proposal announced in the referenced public notice. The applicant proposes to construct a new coal refuse disposal facility for the existing Bailey Mine Complex consisting of two coal refuse disposal areas; a slurry impoundment for coarse and fine coal refuse and a coarse coal refuse disposal area. Both disposal areas will be valley fill type facilities in two unnamed tributaries to Enlow Fork, near West Finley in Greene County, Pennsylvania.

The applicant proposes to impact approximately 13,198 feet (2.5 miles) of intermittent and perennial stream channel during the construction of the coal processing waste impoundments and associated sediment ponds. From the upstream limit of the sediment ponds, stream flow will be carried under the proposed disposal areas by use of rock drains that will extend upstream through the project site through both unnamed tributaries. Clayey site soils will be used for constructing a two-foot thick compact soil liner over the slurry impoundment site, coarse coal refuse site, and sedimentation pond. A total of 1.27 acres of shrub/scrub wetland and 0.10 acres of forested wetland will also be impacted as a result of this project.

To mitigate for stream impacts, the applicant proposes to provide streambank fencing and fish habitat restoration in a watershed that is yet to be determined. The wetland mitigation proposed includes enhancing wetlands that the applicant states have been created by subsidence as a result of the applicant's longwall mining activities along Rocky Run and Templeton Fork.

We also recommend that the permittee evaluate and document all existing aquatic functions that would be impacted by this proposal. We further suggest that the Pittsburgh District Corps of Engineers utilize the new procedures being developed in the Louisville District, Kentucky, to assess stream impacts and adequate stream mitigation associated with Mountaintop Mining.

Customer Service Hotline: 1-800-438-2474

*PR Need
Scott/Christy
10/23/2002
JR*

Compensatory mitigation for impacts to streams should take place in streams (habitat improvement) or in riparian areas (streamside plantings, fencing, etc.). Reforestation of riparian zones along the streams and the subsequent protection of such vegetation should be key components of the mitigation plan. Sufficient vegetation within the riparian areas will serve to buffer the sediment load carried by runoff into the streams, accelerate the recovery of benthic populations by providing a detrital source, provide microhabitat for macroinvertebrates, provide shading of the streams and thereby maintain cooler water temperatures, enhance streambank protection from erosion, and provide habitat for a host of wildlife species. We recommend that such mitigation be included as one of the permit conditions if this project is eventually authorized. The entire compensatory mitigation plan should be developed in consultation with the Pennsylvania Department of Environmental Protection.

Although we have concurred with other proposals that incorporate streambank fencing and fish habitat restoration as part of an adequate mitigation plan, this proposal includes no specific information on how much fencing and/or habitat restoration will be provided. As a minimum, the applicant should detail the proposed location and need for restoration within an appropriate watershed, as well as how the proposed measures would benefit the watershed. Additionally, we have substantial concern for endorsing a wetland mitigation proposal on a stream impacted by subsidence from longwall mining by this same applicant.

Finally, we understand that high levels of contaminants such as selenium have been found in the sediments downstream of the existing sediment impoundment. This issue should be thoroughly explored and detailed in a subsequent revised application. Therefore, we recommend withdrawal of this application until further details of the contaminants and mitigation plans can be provided. Otherwise, we recommend that the permit be denied.

Thank you for the opportunity to comment on the public notice. We would be happy to discuss our recommendations with your office and the applicant. Please contact Mr. David Rider (215-814-2787) should you have questions regarding our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'William J. Hoffman', with a stylized flourish extending to the right.

William J. Hoffman, Director
Office of Environmental Programs

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
www.dot.state.pa.us



P. O. Box 459
Uniontown, Pennsylvania 15401
September 27, 2002

Greene County
Richhill Township
Consol Pennsylvania Coal Company
Application Number 200200371
Coal Refuse Disposal Facility for the Bailey Mine Complex

US Army Corps of Engineers
1000 Liberty Avenue
Pittsburgh, PA. 15222-4186
ATTN: Albert H. Rogalla

Gentlemen:

We acknowledge receipt of the above-mentioned application. The Department has no objections to this application. We are in communication with Consol Pennsylvania Coal Company about impacts to the state roadways.

If you have any questions, please contact David J. Whitlatch, P.E., District Geotechnical Engineer, at 724-439-7357.

Sincerely,

A handwritten signature in cursive script that reads "David J. Whitlatch".

David J. Whitlatch, P.E.
Geotechnical Engineer
Engineering District 12-0

120:RLH:dlr

*Rec'd
9/30/2002
file w/p permit file*