



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. 2014-1271

Date: March 30, 2017

Notice No. 17-16

Closing Date: April 28, 2017

1. **TO ALL WHOM IT MAY CONCERN:** The District Engineer has received a mitigation prospectus to establish a wetland and/or stream compensatory mitigation bank for Federal and State permits as described in this Public Notice. Issuance of a public notice regarding proposed mitigation banks is required pursuant to the “Compensatory Mitigation for Losses of Aquatic Resources; Final Rule,” (Rule) as published in the April 10, 2008, Federal Register, Vol. 73, No. 70, Pages 19594-19705 (33 CFR Parts 332). The purpose of this public notice is to inform you of the proposed mitigation bank and to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

INTERAGENCY REVIEW TEAM: As indicated in the U.S. Army Corps of Engineers (Corps) regulations [33 CFR 332.8(b)], the District Engineer has established an Interagency Review Team (IRT) to review documentation for the establishment and management of mitigation banks and in-lieu fee programs. The primary role of the IRT is to facilitate the establishment of mitigation banks and/or in-lieu fee programs through the development of mitigation banking or in-lieu fee program instruments. The Corps Huntington District (Regulatory Division) is the lead district for the state of West Virginia (WV) and the WV IRT. The WV IRT consists of the following federal and state resource agencies: Corps Huntington and Pittsburgh Districts, U.S. Environmental Protection Agency (USEPA), U.S. Fish and Wildlife Service (USFWS), U.S. Department of Agriculture’s Natural Resource Conservation Service (NRCS), West Virginia Department of Environmental Protection (WVDEP) and West Virginia Division of Natural Resources (WVDNR).

2. **APPLICANT:** AllStar Ecology
1582 Meadowdale Road
Fairmont, WV 26554

3. **LOCATION:** Hackers Creek Road (CR-1) along Hackers Creek in Upshur County, WV (Latitude: 39.060857° Longitude: 80.295399°).

4. **PURPOSE AND DESCRIPTION OF WORK:** The applicant proposes to perform stream restoration/enhancement along unnamed tributaries of Rover Run unnamed tributaries to Hackers Creek and Hackers Creek. The bank is proposed to be constructed in three phases. The Hackers Mainstem Phase proposes enhancement of 442 linear feet of stream, restoration of 2,175 linear feet of stream, enhancement of 0.24 acre of wetland and restoration of 5.11 acres of

wetland. The Rovers Run Phase proposes enhancement of 10,705 linear feet, restoration of 9,345 linear feet of stream, enhancement of 0.793 acre of wetland, and restoration of 3.67 acres of wetland. The Back Hollow Phase proposes enhancement of 5,622 linear feet of stream, restoration of 2,070 linear feet of stream, enhancement of 0.41 acre of wetland and restoration of 2.84 acres of wetland. The objective of this project is to increase the functions and values of the aquatic resources which have been degraded by mining, logging, cattle grazing, and surface mining. Drawings of the proposed site are attached to this notice.

5. WEST VIRGINIA CERTIFICATION: In accordance with Nationwide Permit No. 27 [under the February 21, 2012 Federal Register, Reissuance of Nationwide Permits (77 FR 10184)], a general Section 401 Water Quality Certification with special conditions applies. Prior written approval is required from the WVDEP Division of Water and Waste Management in concurrence with the WVDNR.
6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project will have no effect on endangered species or threatened species, or result in destruction or adverse modification of habitat of such species which has been determined to be critical. While concurrence with this determination is not required, 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, 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 who has an interest that may be adversely affected by the approval of this mitigation bank may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity. This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Program of the Corps, and other pertinent laws, regulations, and executive orders. Interested parties are invited to state any objections they may have to the proposed work. The decision whether to approve this mitigation bank 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 that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that

may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain 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. Any person may submit cumulative impact information, which is substantive and specifically associated with the proposed action. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, USEPA, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination.

9. **SOLICITATION OF COMMENTS:** The Corps 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 this proposed mitigation bank. For accuracy and completeness of the administrative record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. Any comments received will be considered by the Corps to determine whether to approve, modify, condition or deny 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 need for a public hearing and to determine the overall public interest of the proposed activity.

10. **RESPONSES:** All comments pertaining to this Public Notice must reach this office on or before the close of the comment period listed on page one of this Public Notice. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to:

U.S. Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186
Re: Public Notice CELRP-OP-F No. 14-45

Please note names and addresses of those who submit comments in response to this public notice become part of our administrative record and, as such, are available to the public under provisions of the Freedom of Information Act. Thank you for your interest in our Nation's water resources. If you have any questions concerning this public notice, please direct them to the Regulatory Branch, attn Jared Pritts at the above address, by telephoning (412)-395-7251, or by e-mail at jared.n.pritts@usace.army.mil Please refer to **CELRP-OP-F 2014-1271** in all responses.

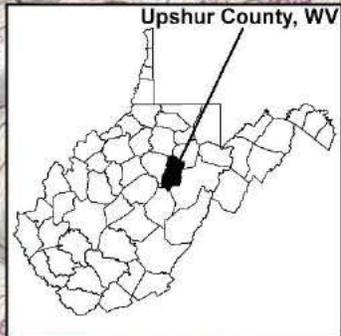
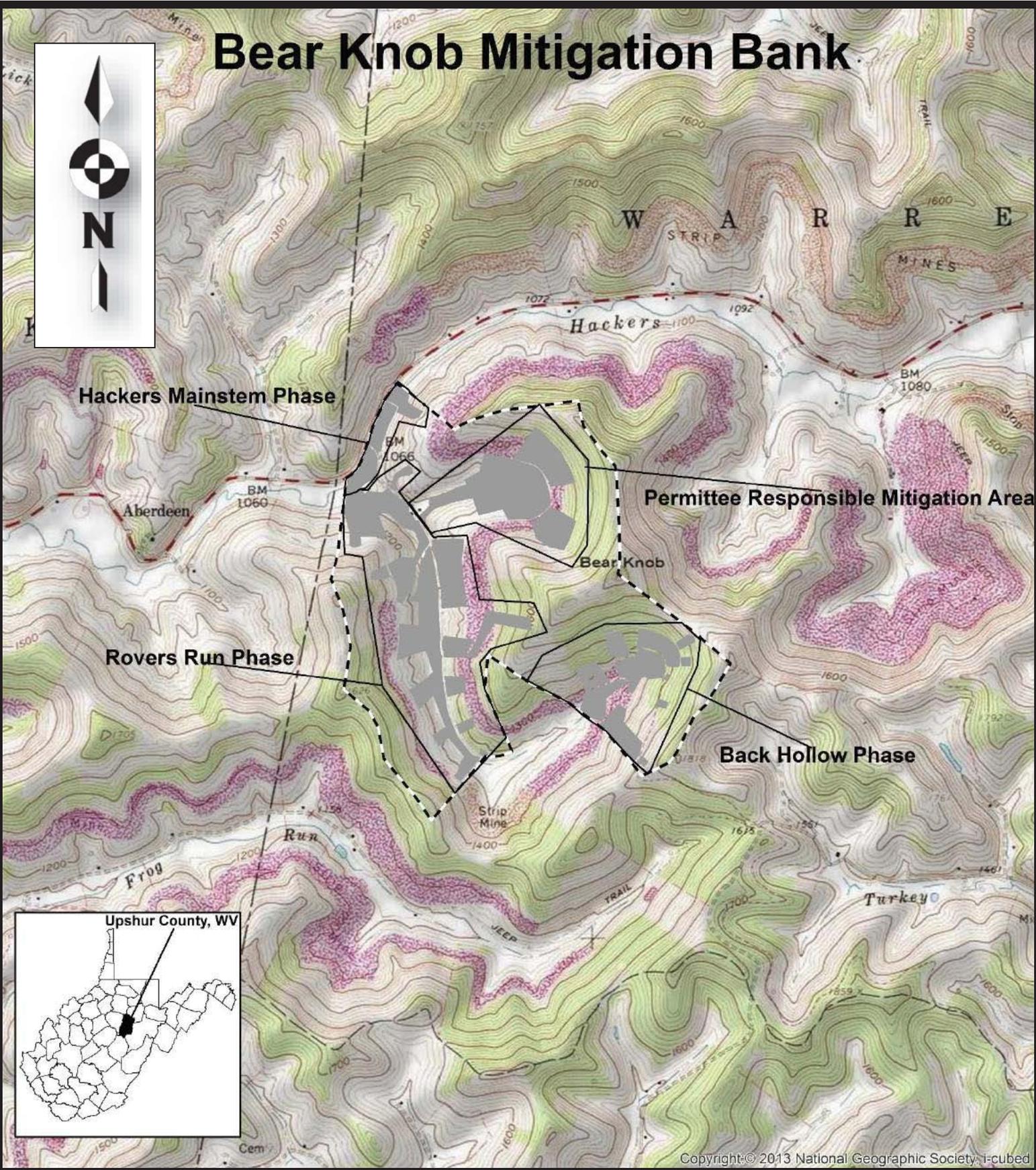
CELRP-OP-F
Public Notice No. 17-16

FOR THE DISTRICT ENGINEER:

//SIGNED//

Jon T. Coleman
Chief, Southern Section
Regulatory Branch

Bear Knob Mitigation Bank



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Exhibit 1

VICINITY MAP

Latitude 39.060857° N, Longitude -
80.295399° W
A portion of the Berlin NE Quadrangle

Scale: 1 inch = 2000 feet



Property Boundary

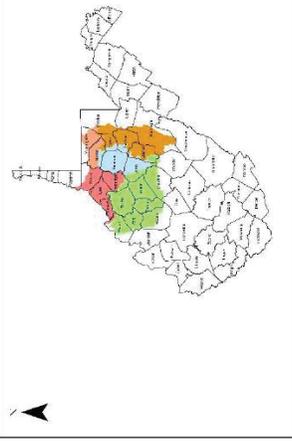
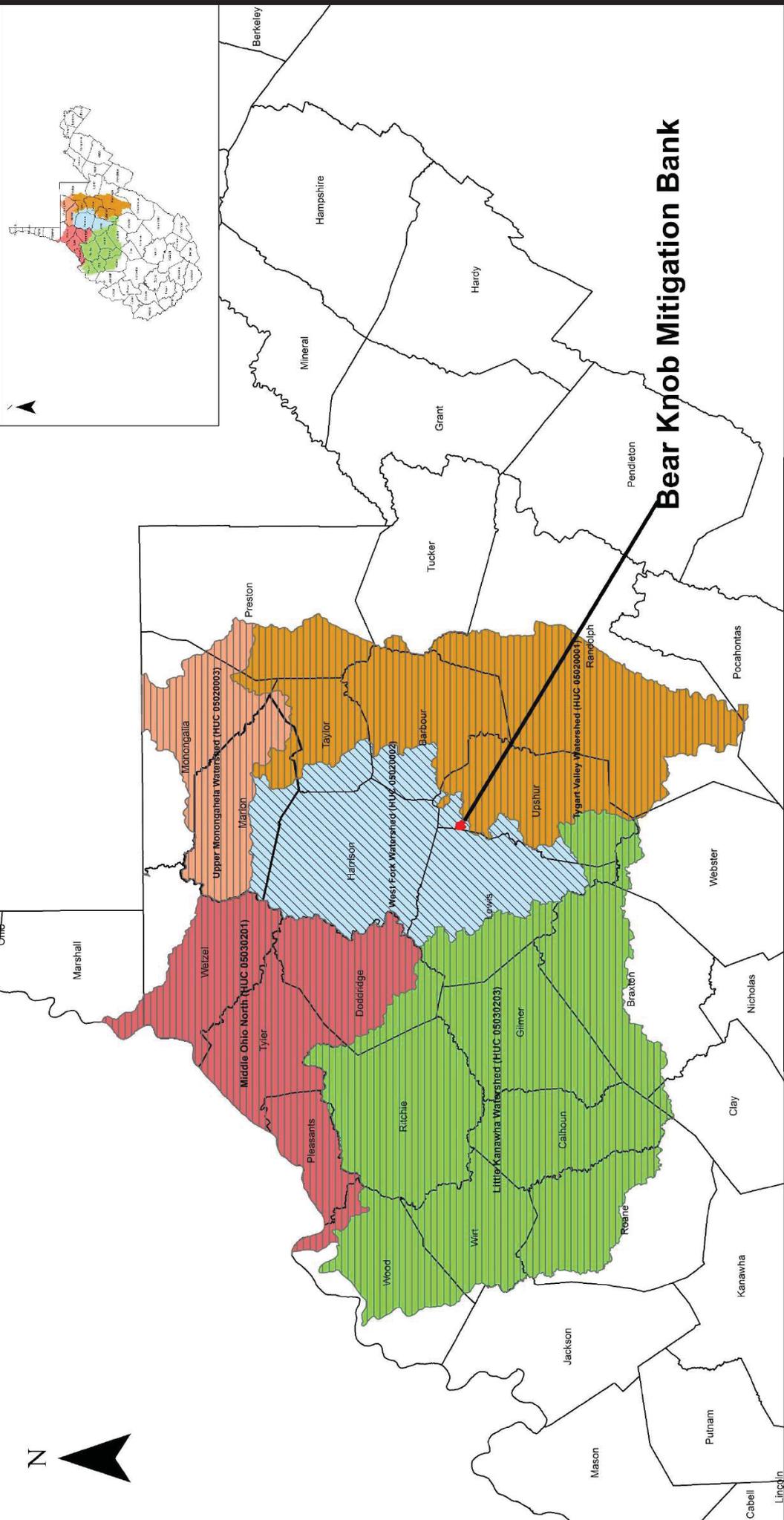


Easement Boundary

Prepared by:



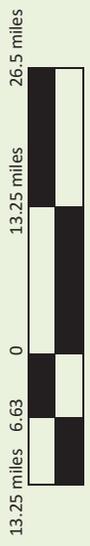
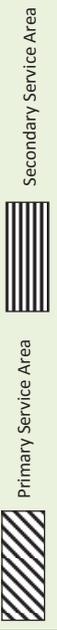
1582 Meadowdale Road, Fairmont, WV 26554
866-213-2686



Bear Knob Mitigation Bank

Exhibit 3

Bear Knob Mitigation Bank Service Area Map

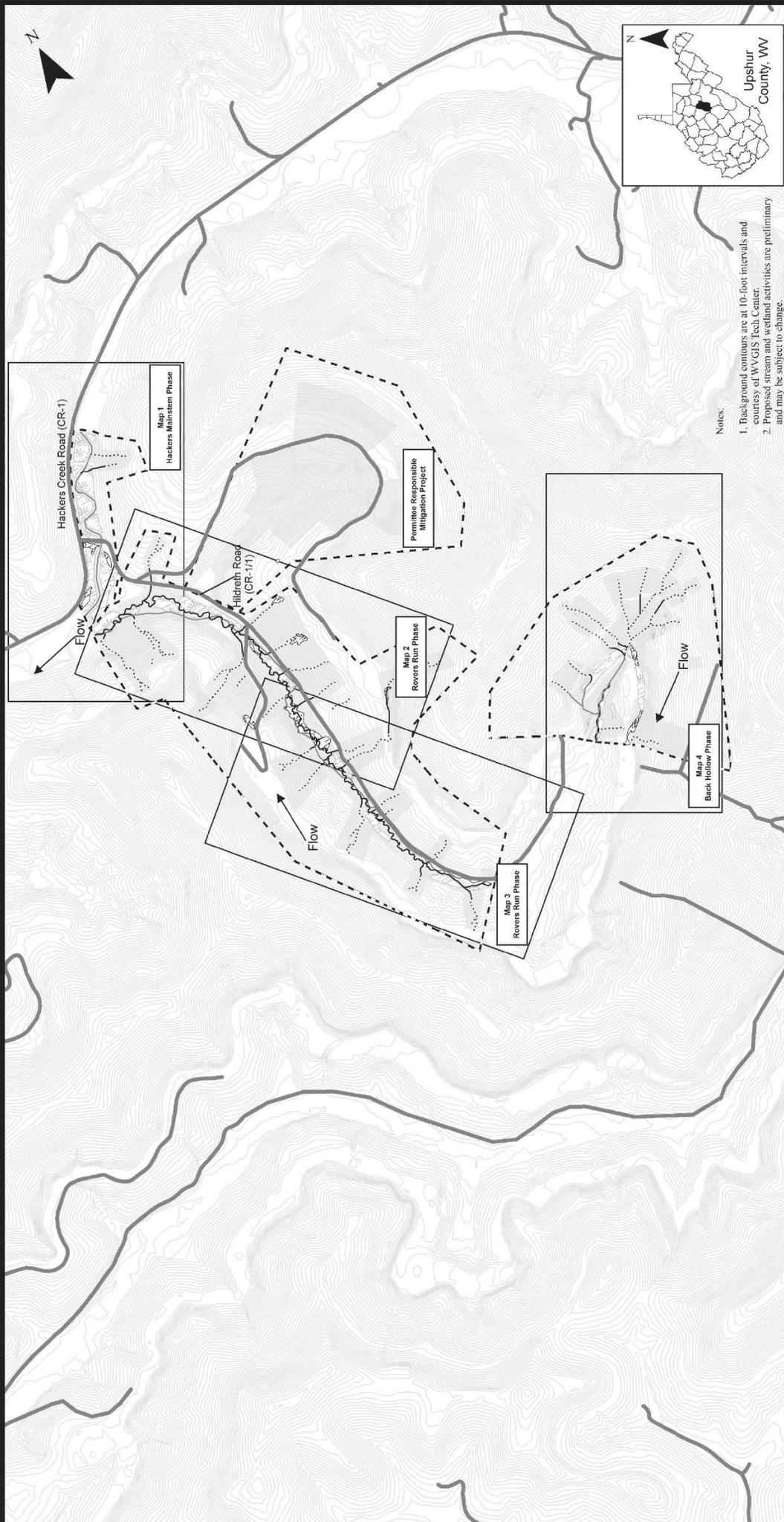


Map created August 31, 2016

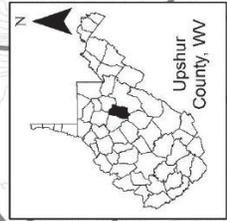
Prepared by:



1582 Meadowdale Road
Fairmont, WV 26554



Notes:
 1. Background contours are at 10-foot intervals and courtesy of WVGIS Tech Center.
 2. Proposed stream and wetland activities are preliminary and may be subject to change.



- LEGEND**
- Easement Boundary
 - Wetland Enhancement
 - Wetland Restoration
 - Stream Enhancement
 - Stream Restoration (Existing Alignment)
 - Stream Restoration (Proposed Alignment)
 - Roads
 - Phase/Project Boundary

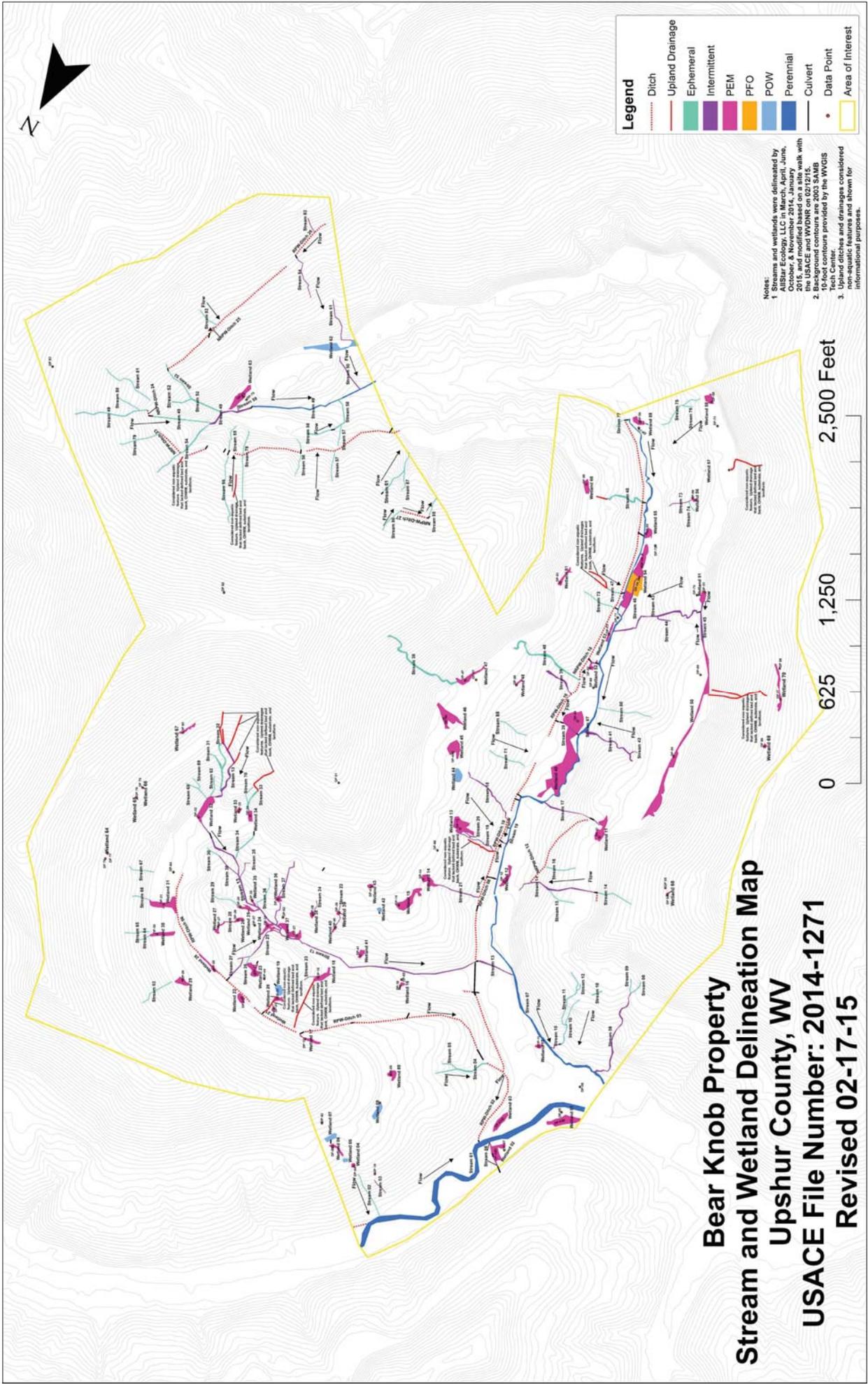


Prepared for:



Prepared by:

Map Created: September 1, 2016⁵ of 44



- Legend**
- Ditch
 - Upland Drainage
 - Ephemeral
 - Intermittent
 - PEIM
 - PFO
 - POW
 - Perennial
 - Culvert
 - Data Point
 - Area of Interest

Notes:
 1. Streams and wetlands were delineated by AllStar Ecology, LLC in March, April, June, October, & November 2014, January 2015, and February 2015. The map was prepared for the USACE and WODNR on 02/17/15.
 2. Background contours are 2003 SAMP 10-foot contours provided by the WGIS.
 3. Upland ditches and drainages considered non-aquatic features and shown for informational purposes.

**Bear Knob Property
 Stream and Wetland Delineation Map
 Upshur County, WV
 USACE File Number: 2014-1271
 Revised 02-17-15**

0 625 1,250 2,500 Feet