



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

REPLY TO  
ATTENTION OF

December 7, 2010

Operations Division  
Regulatory Branch  
**2009-759**

Patriot Mining Company, Inc.  
Attn: Greg Nair  
2708 Cranberry Square  
Morgantown, West Virginia 26508

Dear Mr. Nair:

I refer to your application, received in this office on June 3, 2010; regarding your proposal to mine through and place backfill material into waters of the United States (WOUS) in order to mine the Waynesburg and Waynesburg "A" coal seams at the New Hill West Surface Mine. This site is located near the community of New Hill, Monongalia County, West Virginia.

In response to Public Notice 2010-43 issued by this office on August 31, 2010, the following comments were submitted and are included in this enclosure:

1) Correspondence dated October 15, 2010 from the US Environmental Protection Agency, Region III, citing concerns whether the project application complies with the Section 404(b)(1) Guidelines of the Clean Water Act.

Exemption 6 - Privacy

2) Correspondence dated September 29, 2010 from the [REDACTED] citing numerous concerns including surface and groundwater impacts, air quality, and truck traffic.

As a result of our review of the information submitted and of the comments received in response to the public notice, we have the following comments and request the following information:

### 1) Alternatives Analysis

a. Discuss how spoil placement throughout the project area will be controlled to reduce drainage through overburden into streams, including the backfill area, i.e. the side hill fill, compaction of this fill, etc.

b. Discuss whether the data from Scotts Run and its tributaries and from adjacent surface mines (NPDES outlet data for example) demonstrate that excursions from applicable water quality standards have or have not occurred, and whether the proposed surface mine is similar enough to these adjacent surface mines, i.e. geology, acid-base accounting data, mining methods and techniques, to infer that excursions from applicable water quality standards also should or should not occur due to the proposed surface mine or from cumulative effects in the watershed.

### 2) Water Quality Impacts

a. Baseline chemical and biological data will be needed for the streams that are proposed to be mined through. This data will be needed for Tributaries 1, 1-1, 5, 6, and 7. Two water quality chemistry samples will be needed for each of these streams. The following parameters must be analyzed: pH, Total Hot Acidity, Total Alkalinity, Total Iron, Total manganese, Total aluminum, Total Dissolved Solids, Specific Conductance or Conductivity, Sulfates, and Selenium. These chemistry samples must be taken at least three weeks apart. One biological sample must be provided for each of the above streams. A West Virginia Stream Condition Index (WVSCI) score must be provided for each of these sample sites, along with the raw taxonomic data used to generate these scores.

b. Provide a biological sample for each of the following downstream sampling sites: BWQ-B, BWQ-C, BWQ-E, NH-3 (DSR), and SS-5. A West Virginia Stream Condition Index (WVSCI) score must be provided for each of these sample sites, along with the raw taxonomic data used to generate these scores. Also, provide chemistry data of Site SS-5 of the full spectrum of mining parameters (listed in a. above).

c. Provide NPDES Outlet data from Article 3 Permits S-2010-01 and S-2010-04. One year of data from these outlets would suffice.

c. Sample Sites DSR, USR, and SS-5 in Scotts Run show elevated conductivity levels (DSR) or no conductivity data is available (USR and SS-5). Therefore, provide a one-time sample and analyze these sites for conductivity or specific conductance, Ca+2, Mg+2, BCO3-, SO4, and Cl-.

d. Coal ash has been placed on most of the recent surface mines (2000-2010) in the Scotts Run watershed. The NPDES Outlets at many of these mines have been monitored for “coal ash parameters” as have some of the receiving streams. Provide as much data from these sites as possible that demonstrates seasonal variation (at least one year).

e. Provide conductivity or specific conductance data of tributaries of Scotts Run that have had significant mining discharges to them. Such as Guston Run, Wades Run, Jere Hollow, and the tributary just west of Guston Run (between S-2010-04 and S-2010-06).

f. Provide selenium data, two samples at least three weeks apart, for Sites DSR, USR, and DSR-5 (SS-5) in Scotts Run.

g. Provide a “Cumulative Impact Assessment” (CIA) of the Scotts Run watershed. This includes an analysis of past, present, and reasonably foreseeable activities. This analysis should include a description of all man-made activities in this watershed, such a mining, timbering and timbering due to mining, other industrial activity, commercial and residential construction, sewage discharges (municipal and otherwise), etc.

#### 4) **Compensatory Mitigation Plan**

a. The length of the “historical drainage areas” stream restoration areas presented in the application is different than what I am measuring from your maps. I get 137 feet for Reach 4, 563 feet for Reach 5, 90 feet for Reach 6, and 248 feet for Reach 7 for a total of 1,038 feet. The total length you present is 2,193 feet. Please correct or clarify this.

b. Please provide more detail on how the mine-through streams will be re-constructed. Cross-sections and profiles would help with this. What will be the stream dimensions, the shape of the stream bottom, etc.? What size of substrate will be replaced and will it mimic the natural existing size of the substrate? Will the sinuosity or straightness of the streams be the same as the original existing stream? Pleases address.

c. How many tree or shrub species will be planted in the riparian areas that will be created adjacent to the mitigated streams. There should be a minimum of two species of trees and three species of shrubs. State this.

d. Conservation easements need to be established for the vegetated riparian zones that are to be established at the mitigation stream reaches. These should encompass 25 feet on both sides of these streams. Provide a draft conservation easement document.

e. For the off-site stream restoration in Scotts Run, is there a Reach 4 as listed on Page 94 of the CMP? If so, where is this reach? Is this the same stream reach as identified in Comment 4a. above.

f. For the off-site stream restoration in Scotts Run, Reaches 2 and 3 comprise 2,750 linear feet. What reach comprised 202 feet, as shown in the table on Page 64? Please address.

g. What are joint plantings? Please address.

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If you have any questions, please contact Greg Currey by telephone at 412-395-7517 or by email at [gregory.currey@usace.army.mil](mailto:gregory.currey@usace.army.mil).

Sincerely,

Marcia H. Haberman  
Chief, Southern Section  
Regulatory Branch

**Copies Furnished:**

Potesta and Associates, Inc. (Jessica Yeager)

USEPA (Greg Gies)