



**US Army Corps
of Engineers**
Louisville District ®

Public Notice

Public Notice No.
LRL-2010-490

Open Date:
4 Nov 2014

Close Date:
4 Dec 2014

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Todd Williams CELRL-OP-FS
845 Sassafras Creek Road
Sassafras, KY 41759

Email: rl.regulatorypubliccomment@usace.army.mil

Phone: 606-642-3446

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act.

APPLICANT: ICG Hazard, LLC
3228 Summit Square Place, Ste 180
Lexington, Kentucky 40509

AGENT: Summit Engineering, Inc.
131 Summit Drive
Pikeville, Kentucky 41501

LOCATION: Approximately 3.5 miles west of the intersection of Sam Campbell Branch Road and KY 15 in Perry County, Kentucky in an unnamed tributary of Sam Campbell Branch.

PURPOSE: To construct one hollow fill, one sediment pond and one mine-through area as appurtenant structures to a surface coal mining operation.

Latitude: 37.323323° N
Longitude: -83.281266° W
7.5 Minute Quad: Krypton

DESCRIPTION OF WORK: The proposed project would utilize contour mining of the Hazard 5A coal reserves and area mining of the Hazard 7, Hazard 8, and Hazard 9 coal reserves within a 377.4 acre mine area. The applicant proposes to construct one hollow fill (HF 1), one sediment control pond (Pond SS-1), and one mine-through area in "waters of the United States." HF 1 would impact 2,363 linear feet of an intermittent stream and 120 linear feet of an ephemeral stream. Pond SS-1 would impact 119 linear feet of intermittent stream for the pond embankment, and 441 linear feet of intermittent stream between the embankment and HF 1. Additionally, 261 linear feet of intermittent stream would be impacted by a culvert, and 63 linear feet of an ephemeral stream would be mined through. The applicant has applied for authorization for this operation from the Kentucky Department of Mine Permits (KDMP) as 897-0587.

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AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The applicant has conducted an alternatives analysis and proposes to use on-bench sediment and drainage control as is practicable. The applicant has further avoided and minimized impacts by leaving some of the coal unmined, thereby reducing the amount of excess spoil generated. The Fill Placement Optimization Process has been applied to this project and the project demonstrates compliance with the KDNR Reclamation Advisory Memo 145 (RAM 145). The applicant has proposed to implement Best Management Practices (BMPs) to protect the quality of downstream aquatic resources. The crest elevation of Hollow Fill #1 has been raised above the lowest coal seam to be mined in order to store additional excess overburden in the smallest possible footprint.

The applicant proposes to compensate for unavoidable stream impacts by purchasing in-lieu fee credits from the Kentucky Department of Fish and Wildlife Resources (KDFWR) Stream and Wetland Mitigation Fund, and the Troublesome Creek Environmental Authority. A total of 1,343 EIUs would be purchased from the KDFWR Stream and Wetland Mitigation Fund. An additional equivalent of 447 EIUs (\$327,615.00) would be paid to the Troublesome Creek Environmental Authority. According to the applicant, the Troublesome Creek Environmental Authority uses such funds to construct wastewater treatment facilities to reduce the use of straight pipes in the Troublesome Creek watershed. Sediment Pond #1 would be removed upon completion of mining and would be restored to SMCRA standards. However, no mitigation credit would be given for the restoration of Sediment Pond #1.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant must apply for State certification from the Kentucky Energy and Environment Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in Accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

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Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, 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 archaeological, 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).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

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. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. 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 need for a public hearing and to determine the overall public interest of the proposed activity.

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Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Mr. Todd Williams; CELRL-OP-FS at the address noted above and should refer to the Public Notice Number LRL-2010-490.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in ONLY the Public Notice ID No. LRL-2010-490.

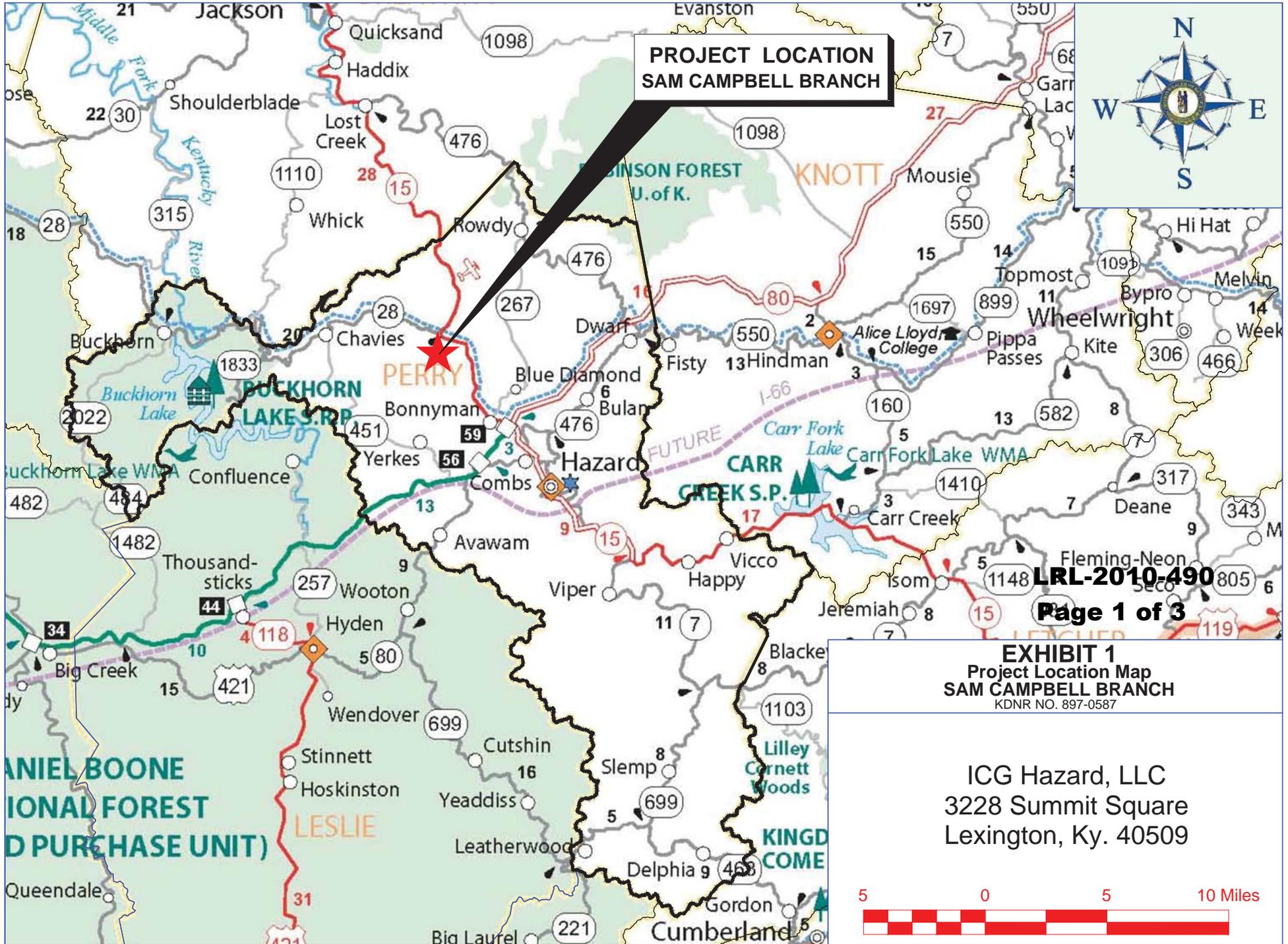
Example:

Subject: LRL-2010-490

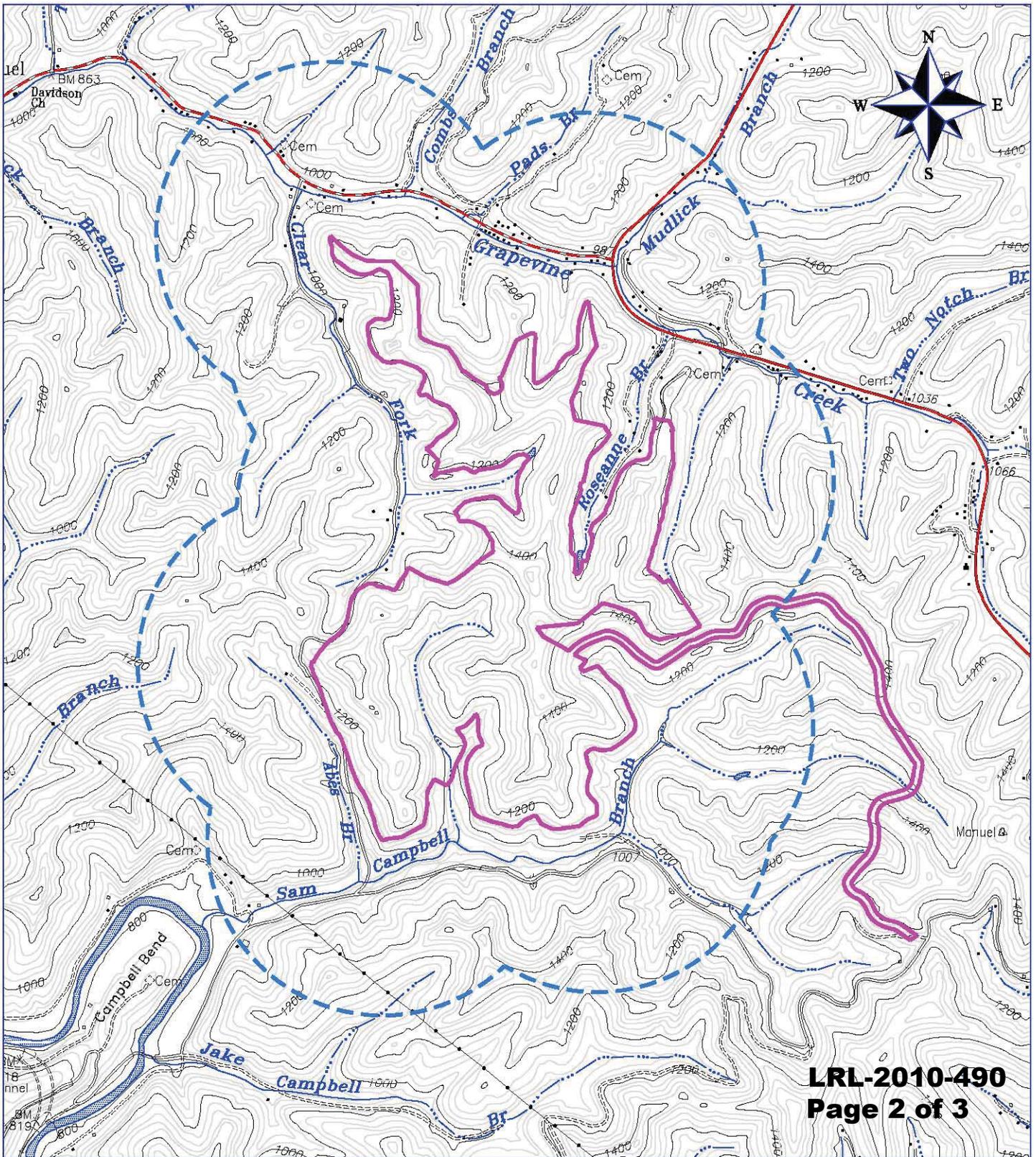
b) Provide your physical mailing address and telephone number.

c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.



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LEGEND

- 897-0587 PERMIT BOUNDARY
- - - - HALF MILE RADIUS

EXHIBIT 2
SAM CAMPBELL BRANCH

DATE: 03/31/09 SCALE: 1"=2000'

DRAWN BY: D.HANNAH

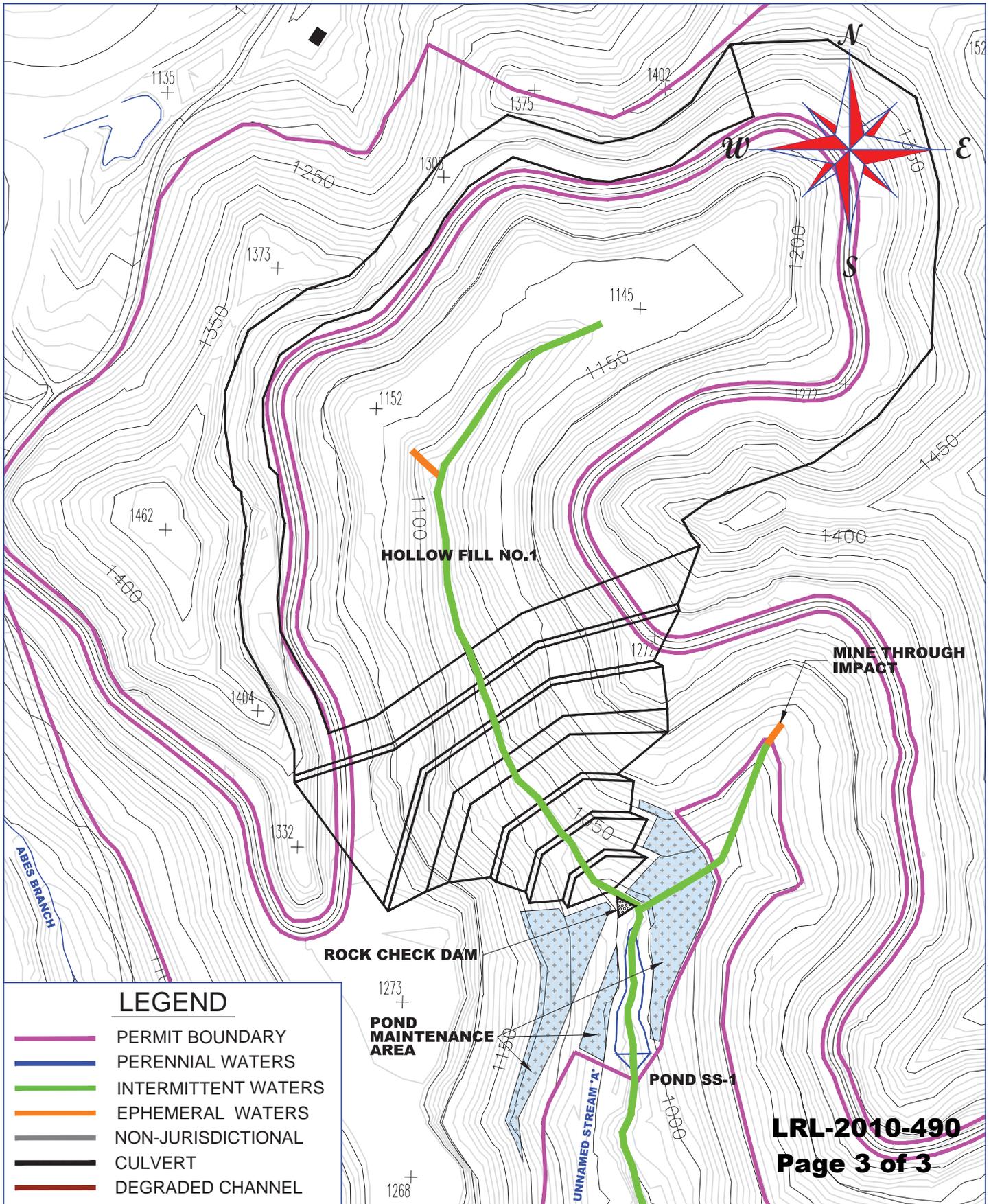
ICG HAZARD, LLC
 3228 SUMMIT SQUARE, SUITE 180
 LEXINGTON, KY. 40509

STUDY AREA MAP
 SAM CAMPBELL BRANCH
 PERMIT NO. 897-0587

SUMMIT ENGINEERING, INC.
 131 Summit Drive
 Pikeville, Ky. 41501
 (606) 432-1447



Lexington, Ky • Henderson, Ky.
 South Charleston, WVa • Bridgeport, WV



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LEGEND

- PERMIT BOUNDARY
- PERENNIAL WATERS
- INTERMITTENT WATERS
- EPHEMERAL WATERS
- NON-JURISDICTIONAL
- CULVERT
- DEGRADED CHANNEL

DATE: 08/08/2014

SCALE: 1" = 400'

DRAWN BY: D.HANNAH

ICG HAZARD, LLC
 3228 SUMMIT SQUARE, SUITE 180
 LEXINGTON, KY. 40509

IMPACT LOCATION MAP
 SAM CAMPBELL BRANCH
 PERMIT NO. 897-0587

SUMMIT ENGINEERING, INC.
 131 Summit Drive
 Pikeville, Ky. 41501
 (606) 432-1447



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 South Charleston, WV ● Bridgeport, WV