



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

# Public Notice

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Public Notice No.	Open Date:	Close Date:
LRL-2009-768A-dah	3 Oct 2012	2 Nov 2012

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Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District

ATTN: Ms. Devetta Hill, CELRL-OP-FW

P.O. Box 489

Newburgh, Indiana 47629-0489

Phone: (812) 842-0250

Or email comments to:

[lr.regulatorypubliccomment@usace.army.mil](mailto:lr.regulatorypubliccomment@usace.army.mil)

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

APPLICANT: Richard Parks  
Oxford Mining Company-Kentucky, LLC  
3060 Cleaton Road  
Central City, KY 42330

LOCATION: Unnamed tributaries and adjacent wetlands of Pond Creek, located southeast of Central City, in Muhlenberg County, Kentucky.

PURPOSE: To relocate and/or fill streams, wetlands and open waters to facilitate the removal of subsurface coal.

Latitude: 37.26296  
Longitude: -87.09672  
7.5 Minute Quad: Central City East, KY

DESCRIPTION OF WORK: The proposed project area, Kentucky Division of Mine Permits (KDMP) Permit No. 889-0153-AM-1, is a 214-acre expansion of an existing surface coal mining operation (KDMP permit No. 889-0153). The proposed operation will use the open strip pit method of mining. See Figure 1 for the location of the project. Approximately 48% of the project area has been previously mined. A majority of the existing streams are drains that have formed through the erosional processes of these previously mined areas. The proposed excavated area will fill 6,243 feet of intermittent streams and 4,391 feet of ephemeral streams, for a total of 10,634 linear feet of stream impacts. Approximately 1.36 acres of Palustrine Emergent (PEM) wetlands, 4.08 acres of *Phragmites* PEM wetlands, 5.64 acres of Palustrine Forested (PFO) wetlands, and 3.18 acres of Palustrine Scrub/Shrub (PSS) wetlands will be filled. Approximately 2.5 acres of open water will also be filled. The stream, wetland, and open water locations are shown on Figure 2. All economically recoverable coal will be removed during the excavation of the area, processed and sold. 7KH DUHD ZLOO EH UHWXUQHG WR DSSUR[LPDWH RULJLQDO FRQWRXUV FRYHUHG

with stockpiled soil material, revegetated, and returned to an approved post-mine land use through the Surface Mining Control Reclamation Act (SMCRA) process.

**AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES:** The applicant proposes to avoid 962 feet of intermittent stream, 773 feet of ephemeral stream, 0.9 acres of PFO and 0.3 acres of PEM. Because the project area is small and most of the water resources are centrally located within the project area, additional avoidance or minimization efforts could not occur without significantly decreasing the amount of coal produced and would make the operation not cost-effective.

The applicant proposes to mitigate stream impacts on-site by creating a total of 6,243 feet of intermittent streams and 2,196 feet of ephemeral streams. This approximates a 1:1 mitigation ratio for intermittent and 0.5:1 for ephemeral streams. Streams will be created with riparian corridors and natural patterns, profiles, and dimensional characteristics. A riparian corridor, consisting of predominately hard-mast producing hardwood species, of 50 feet either side of the channel for the intermittent streams and 25 feet either side of the channel for ephemeral streams would be planted. Enhancement of stream functions would consist of, but not limited to, hard-mast riparian corridors and the use of engineered structures.

The applicant proposes to mitigate wetland impacts by the construction of 25.4 acres of PFO wetlands. This approximates a 3:1 ratio for PFO impacts and 1:1 for PSS and PEM impacts. The PFO wetlands would have hard-mast producing tree species that have a facultative or wetter indicator status. Refer to Figure 3 for the location of the proposed wetland and stream mitigation.

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, by this notice, hereby applies for State certification from the KDMP.

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

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Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

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.

A survey was conducted to locate historic and archaeological resources on the project area. A letter dated May 14, 2012 from the Kentucky Division of Mine Permits indicated there were no sites eligible for listing in the National Register of Historic Places found within the proposed project site. The Kentucky State Historic Preservation Office was in concurrence with the findings. As a result, the project constitutes a no effect on historic resources. 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. 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.

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Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

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/orf/listnotices.asp>. All comments regarding this proposal should be addressed to Ms. Devetta Hill, CELRL-OP-FW at the address noted above and should refer to the Public Notice Number LRL-2009-768A-dah.

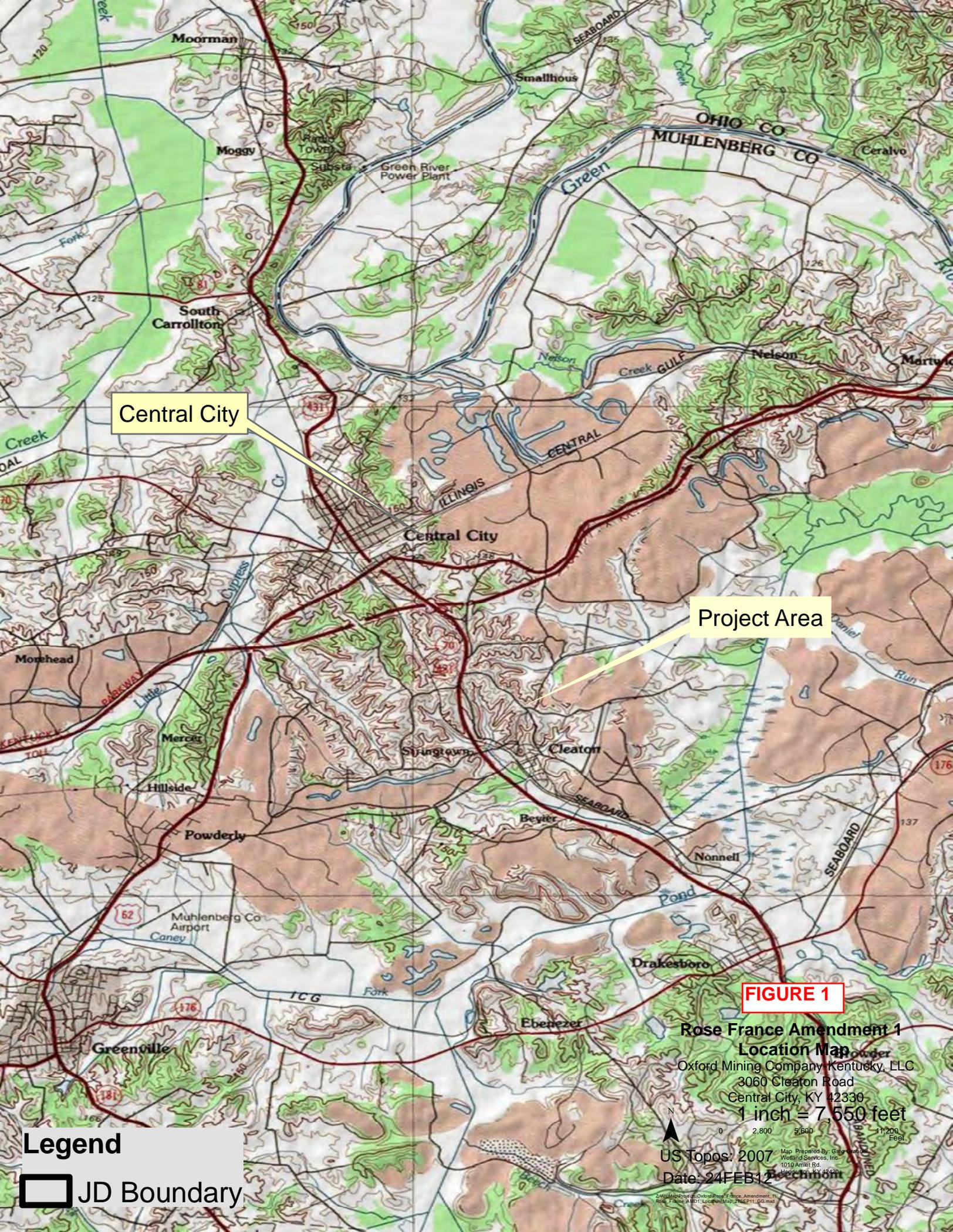
If you desire to submit your comments by email, you must comply with the following:

- a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2009-768A-dah.

Example:

Subject: LRL-2009-768A-dah

- b) Provide your physical mailing address and telephone number.
- c) Send your email to: [lrl.regulatorypubliccomment@usace.army.mil](mailto: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.



Central City

Project Area

**FIGURE 1**

**Rose France Amendment 1  
Location Map**  
 Oxford Mining Company Kentucky, LLC  
 3060 Cleaton Road  
 Central City, KY 42330  
 1 inch = 7,550 feet

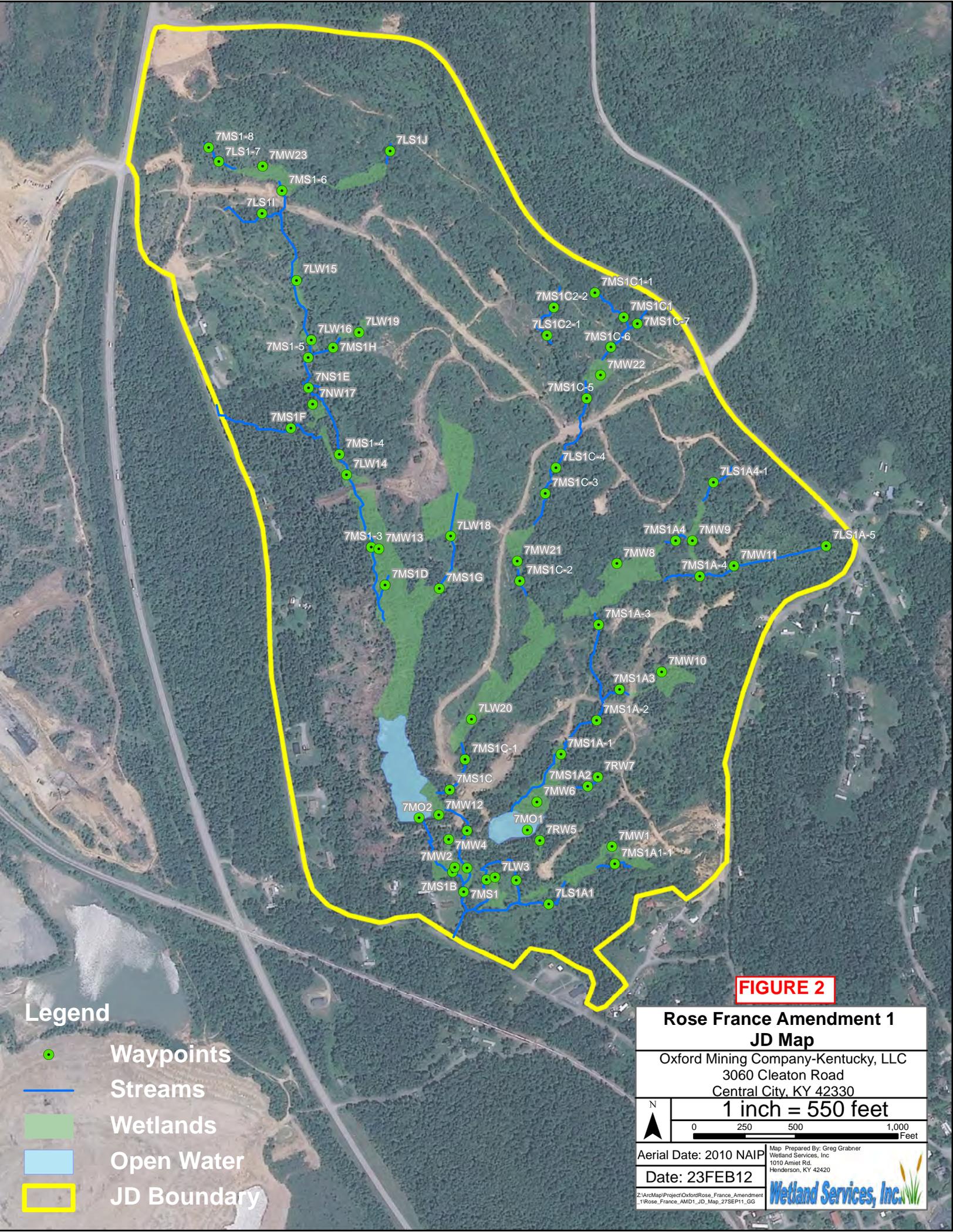
**Legend**

 JD Boundary

US Topos: 2007  
 Date: 24FEB12

Map Prepared By: Greg  
 Wetland Services, Inc.  
 1010 Amel Rd.  
 Hazardton, KY 42420

2010 Topographic Data from USGS, Amendment 1  
 Rose France Amendment 1, 2/24/12, 1:7,550

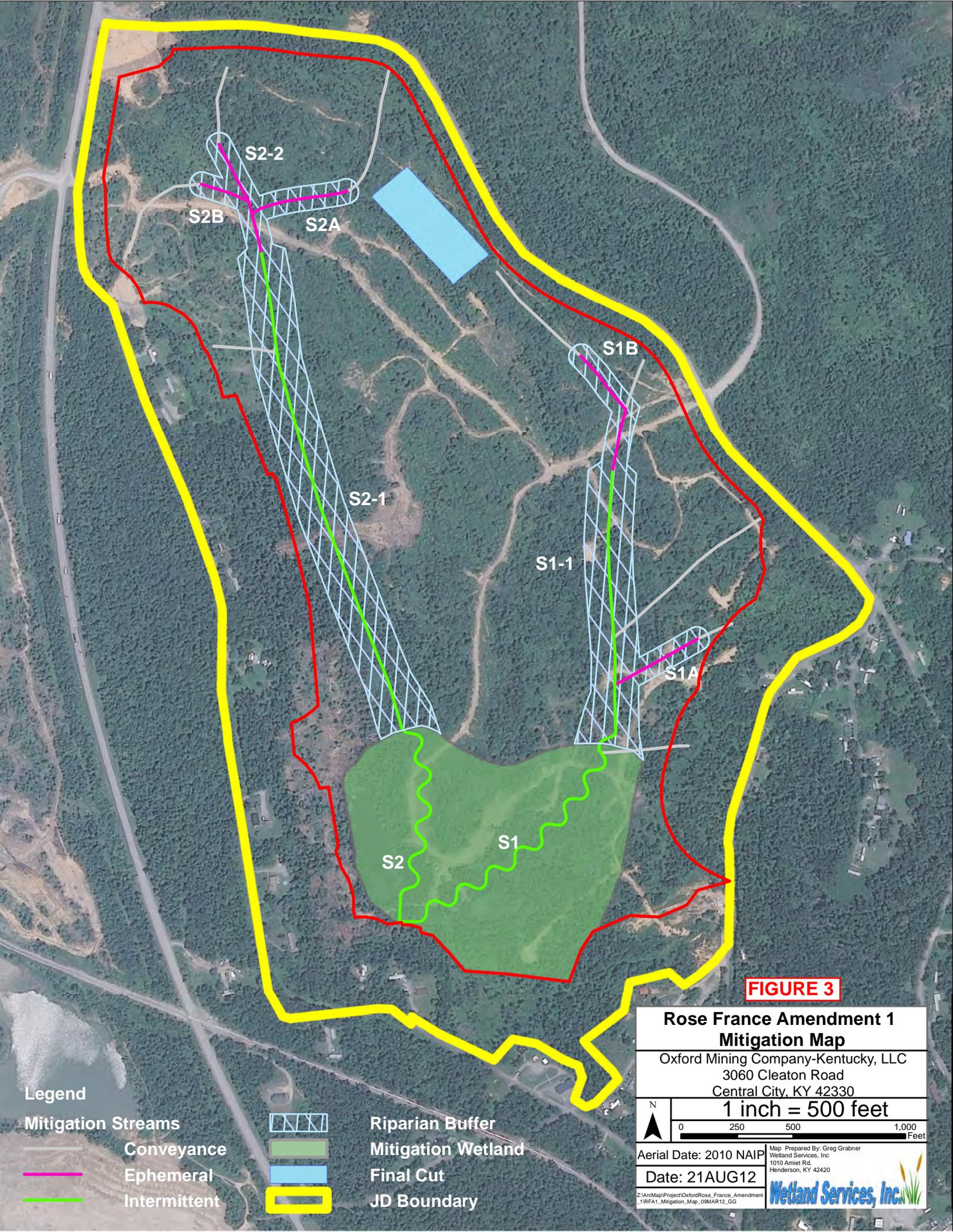


**Legend**

- Waypoints
- Streams
- Wetlands
- Open Water
- JD Boundary

**FIGURE 2**

<b>Rose France Amendment 1 JD Map</b>	
Oxford Mining Company-Kentucky, LLC 3060 Cleaton Road Central City, KY 42330	
N	1 inch = 550 feet
Aerial Date: 2010 NAIP	Map Prepared By: Greg Grabner Wetland Services, Inc. 1010 Amiet Rd. Henderson, KY 42420
Date: 23FEB12	<b>Wetland Services, Inc.</b>
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**FIGURE 3**

**Rose France Amendment 1  
Mitigation Map**

Oxford Mining Company-Kentucky, LLC  
3060 Cleaton Road  
Central City, KY 42330

**1 inch = 500 feet**

0 250 500 1,000 Feet

Aerial Date: 2010 NAIP  
Date: 21AUG12

Map Prepared By: Greg Grabner  
Wetland Services, Inc.  
1010 Amiet Rd.  
Henderson, KY 42420

**Wetland Services, Inc.**

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1\RF\_A1\_Mitigation\_Map\_09MAR12.GG

- Legend**
- Mitigation Streams
    - Conveyance
    - Ephemeral
    - Intermittent
  - Riparian Buffer
  - Mitigation Wetland
  - Final Cut
  - JD Boundary