



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

Public Notice

Public Notice No.
LRL-2011-1036

Open Date:
8 Mar 2013

Close Date:
8 Apr 2013

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

Email: lr.regulatorypubliccomment@usace.army.mil

Phone: 606-642-3404

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

APPLICANT: Fuel Recovery Partners, LLC
5996 Sulfur Wells Road
Lexington, Kentucky 41509

AGENT: EcoSource, Inc.
104 Boston Square
Georgetown, Kentucky 40324

LOCATION: The project is located approximately 1.5 miles north on KY 89 from Irvine, off Coal Wash Road and Industrial Drive in Estill County, Kentucky in wetlands and unnamed tributaries to Masters Creek.

Latitude: 37°43'45.79" N
Longitude: -83°59'22.34" W
7.5 Minute Quad: Ravenna

PURPOSE: To expand an existing coal slurry impoundment to comply with Mining Safety and Health Administration (MSHA) standards and to facilitate the disposal of additional coal waste material.

DESCRIPTION OF WORK: The applicant proposes to modify an existing coal slurry impoundment (Puckett Impoundment) to bring it into compliance with MSHA standards and to facilitate the storage of additional coal waste materials generated from the reactivation of an adjacent inactive coal processing facility. The proposed project is also being reviewed by the Kentucky Department of Mine Permits (KDMP) ID No. 833-9005. Impacts to "waters of the United States (U.S.)" would be downstream of the existing Puckett Impoundment and would include the filling of 700 linear feet of a perennial stream, 100 linear feet of an intermittent stream, 390 linear feet of an ephemeral stream, 0.15-acre of palustrine emergent (PEM) wetlands and 0.10-acre of palustrine scrub/shrub (PSS) wetlands in order to raise the height of the dam.

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AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The applicant has conducted an alternatives analysis. In order to bring Puckett Impoundment into compliance with MSHA standards avoidance of impacts could not be accomplished. The proposed KDMP permit area currently contains approximately 440 acres of previously processed coal refuse materials, an abandoned coal processing facility, rail yard, mine management area, and sediment control structures. The existing Effluent Pond and Puckett Impoundments are covered under existing KPDES permits. If permitted, the existing Puckett Impoundment would be brought into MSHA compliance, and approximately 238 acres of coal refuse would be reprocessed within the KDMP permit area. Additionally, an existing slurry impoundment (Charlie Pond) would be removed from the Kentucky River floodplain; thereby, eliminating a potential risk of a slurry release into the Kentucky River.

The applicant proposes to compensate for unavoidable stream and wetland impacts by removing Charlie Pond from the floodplain and constructing 27.8 acres of wetlands adjacent to the Kentucky River.

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.

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.

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

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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. 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/Missions/Regulatory.aspx>. All comments

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regarding this proposal should be addressed to Mr. David Baldrige;
CELRL-OP-FS at the address noted above and should refer to the Public
Notice Number LRL-2011-1036.

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-2011-1036.

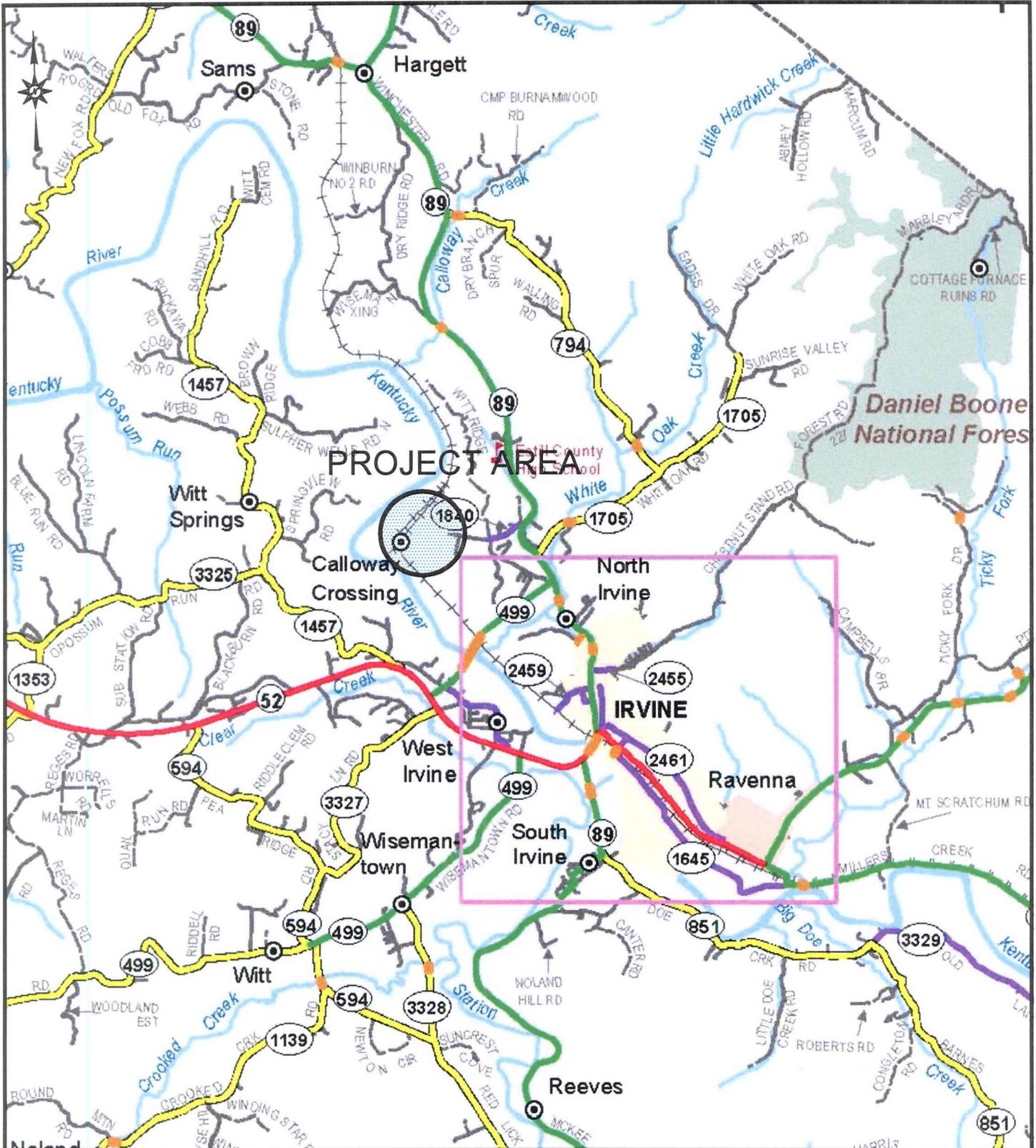
Example:

Subject: LRL-2011-1036

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.



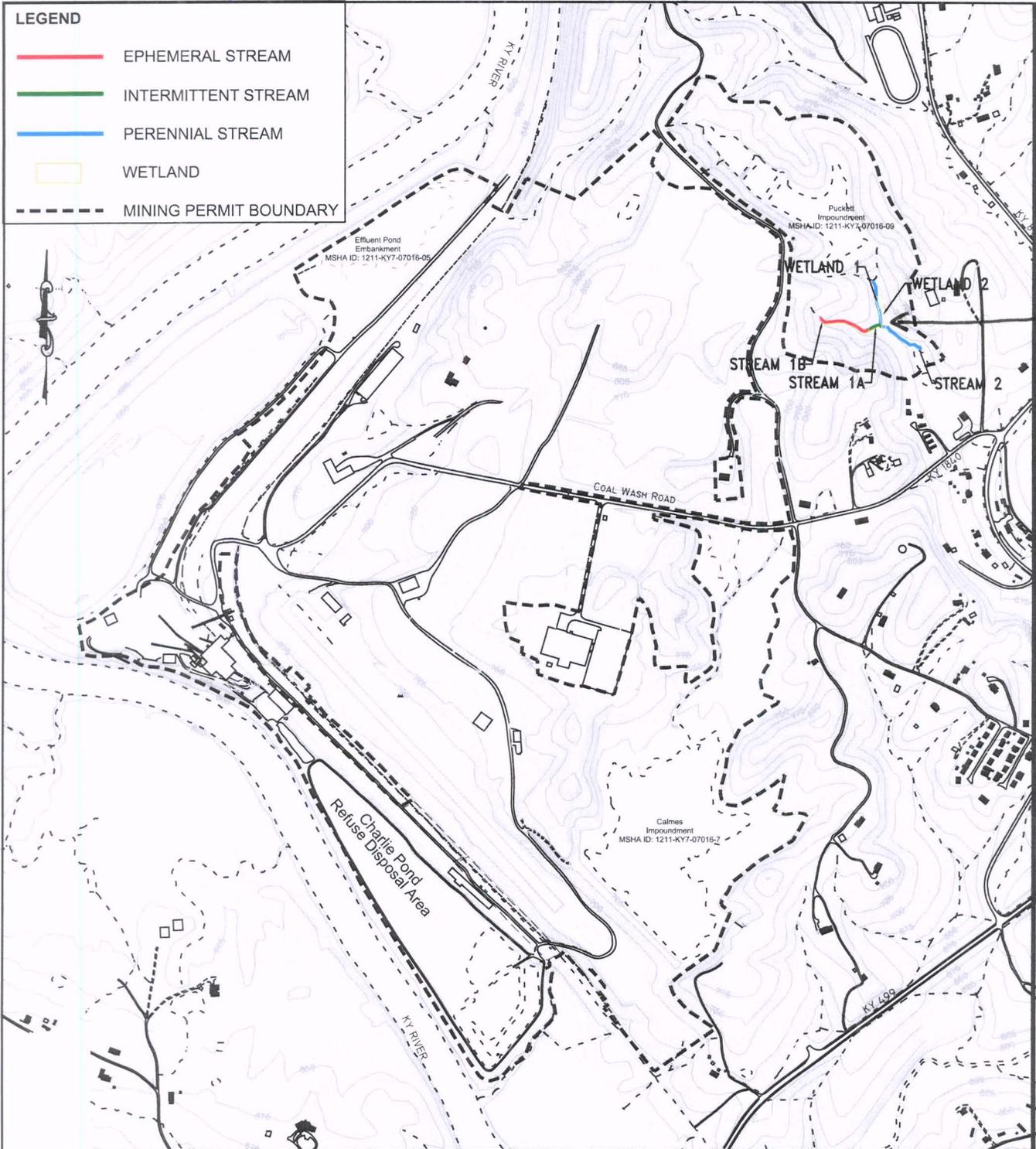
PROJECT AREA

FIGURE: Highway Location Map

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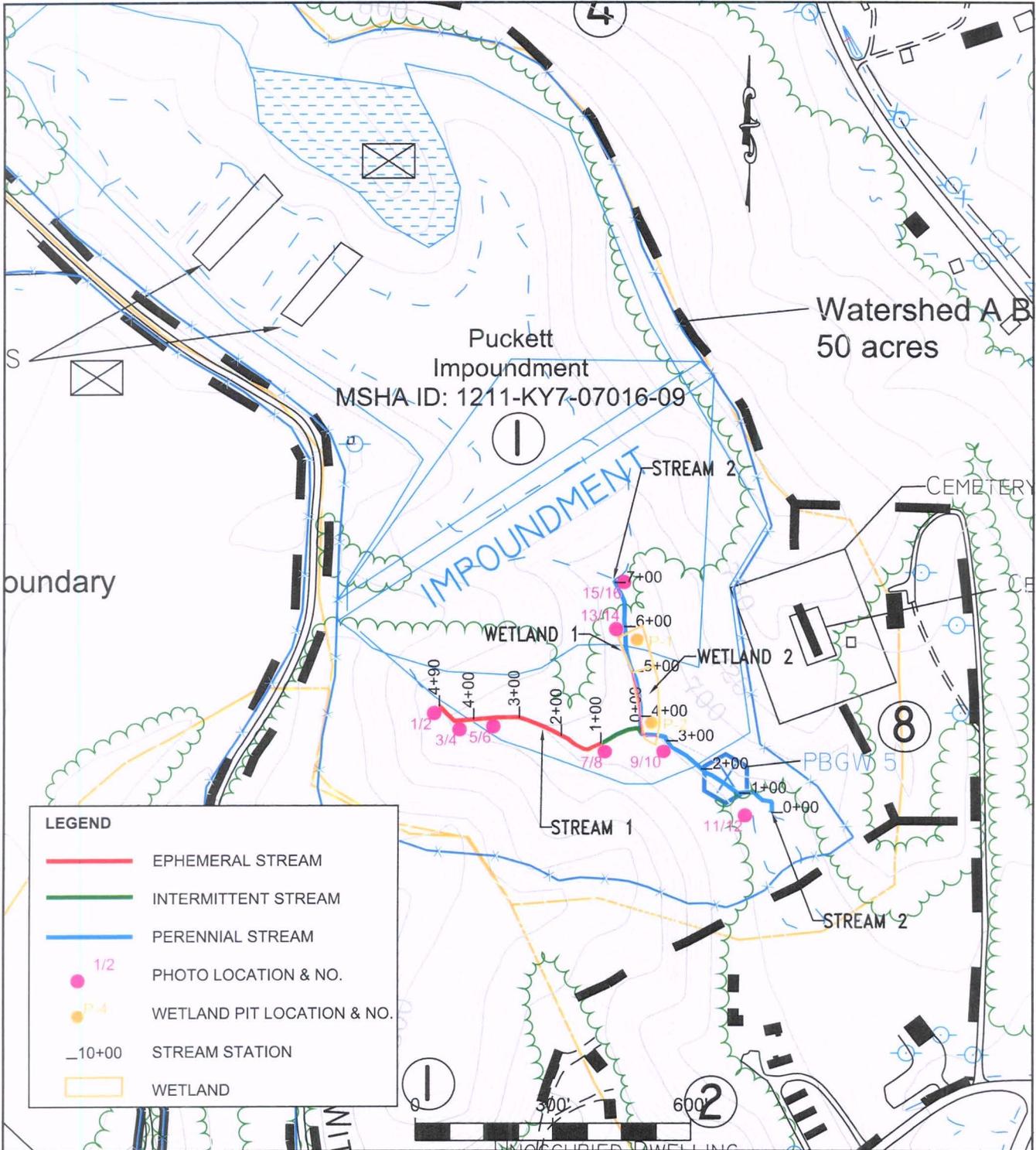
APPLICANT: Fuel Recovery Partners LLC	DNR PERMIT NO.: 833-9005	COE ID NO.: 2011-1036
DATE: 11/16/2011	REVISION DATE:	SCALE: not to scale

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FIGURE: Impacts to Jurisdictional Waters	
DNR PERMIT NO: 833-9005	APPLICANT: Fuel Recovery Partners LLC
COE ID NO.: 2011-1036	SCALE: 1"=1000'



LEGEND	
	EPHEMERAL STREAM
	INTERMITTENT STREAM
	PERENNIAL STREAM
	1/2 PHOTO LOCATION & NO.
	P-4 WETLAND PIT LOCATION & NO.
	-10+00 STREAM STATION
	WETLAND

FIGURE:
Jurisdictional Determinations Map

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