



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

Public Notice

Public Notice No.
LRL-2011-970-r9r

Open Date:
16 Nov 2012

Close Date:
17 Dec 2012

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Russell Retherford, CELRL-OP-FW,
P.O. Box 489
Newburgh, Indiana 47629

Email: lrl.regulatorypubliccomment@usace.army.mil

Phone: 812-842-0260

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

APPLICANT: Carbonado Coal Mining LLC
1205 Nebo Road
Madisonville, KY 42431

LOCATION: The project is located in the Jackson Ditch-Deer Creek watershed (HUC 051100050103), specifically in unnamed tributaries to Jackson Ditch-Deer Creek and in wetlands adjacent to these tributaries located approximately 6 miles southwest of Sebree, Webster County, Kentucky.

Latitude: 37.555693° North
Longitude: -87.621624° West
7.5 Minute Quad: Sebree, Kentucky

PURPOSE: To relocate wetlands and streams to facilitate the removal of subsurface coal and the construction of attendant features.

DESCRIPTION OF WORK: The proposed project would excavate and fill the majority of a 66-acre area, which is also being reviewed as the Carbonado Coal Mining LLC, Doc Cole Site by the Kentucky Division of Mine Permits (KDMP) ID No. 917-5022. The proposed project would fill approximately .085 acre of open water, .292 acre of wetlands, 2,730 linear feet of intermittent streams, and 2,241 linear feet of ephemeral streams. Once surface mining operations would be completed, the area would be regraded to approximate original contours, covered with soil material and revegetated to the approved KDMP post-mining land use.

AVOIDANCE MINIMAZATION AND MITIGATION MEASURES: The applicant has designed the project to avoid and minimize adverse impacts to "waters of the United States (U.S.)" and would meet the project's purpose and

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needs. The applicant located the surface facilities related to the underground mine on a 66-acre site so that it would minimally impact "waters of the U.S." Other mining techniques, including surface mining, were considered, but found not to be economically feasible due to the depth of the resources and the extensive environmental impacts to "waters of the U.S."

The applicant has proposed to mitigate the unavoidable impacts to wetlands and streams by payment of in lieu fees to the Kentucky Department for Fish & Wildlife Resources.

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 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 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 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).

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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/orf/listnotices.asp>. All comments regarding this proposal should be addressed to Mr. Russell Retherford, CELRL-OP-FW at the address noted above and should refer to the Public Notice Number LRL-2011-970-r9r.

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

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a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2011-970-r9r.

Example:

Subject: LRL-2011-970-r9r

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.

Vicinity Map Doc Cole Site

Permit Boundary

SCALE 1"=4000'



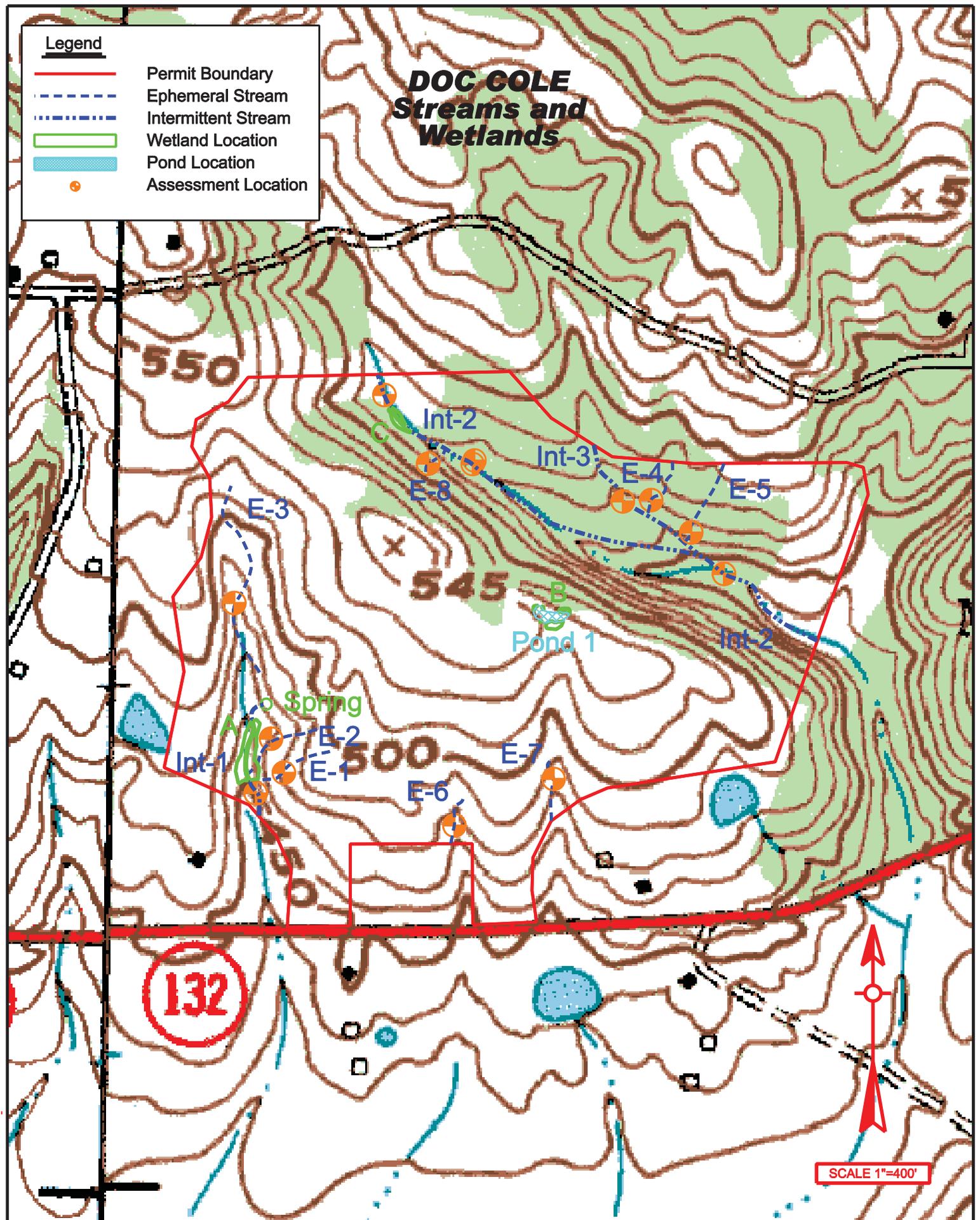
T.H.E. Engineers, Inc.	PROJECT: DOC COLE SITE - PERMIT BOUNDARY	LRL-2011-970-r9r	STREAMS: UT'S TO JACKSON DITCH		
	COUNTY: WEBSTER		STATE: KY	NEAR: ORTIZ	ITEM: VICINITY MAP

DATE:

DOC COLE Streams and Wetlands

Legend

- Permit Boundary
- Ephemeral Stream
- Intermittent Stream
- Wetland Location
- Pond Location
- Assessment Location



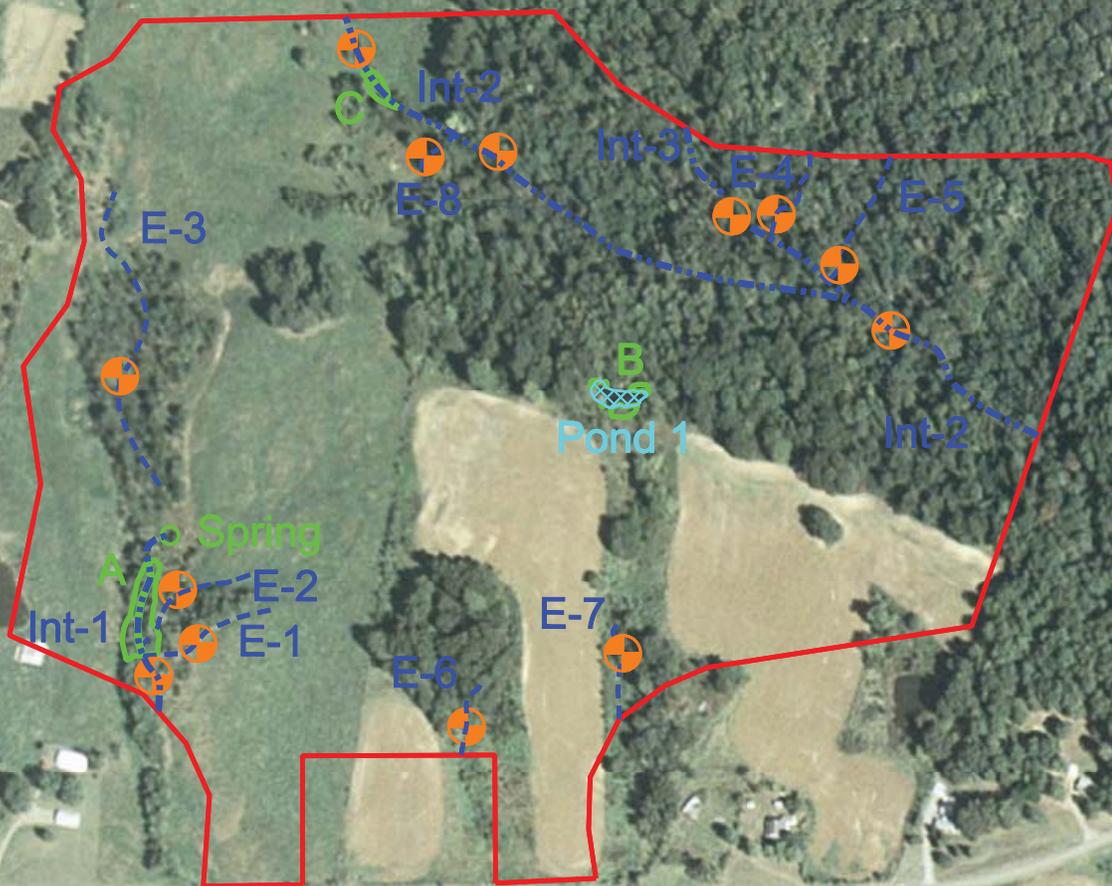
T.H.E. Engineers, Inc.	PROJECT: DOC COLE SITE - JURISDICTIONAL WATERS DELINEATION	LRL-2011-970-r9r	STREAMS: UT'S TO JACKSON DITCH		
	COUNTY: WEBSTER	STATE: KY	NEAR: ORTIZ	ITEM: QUAD MAP	EXHIBIT 2

DATE:

Legend

- Permit Boundary
- - - Ephemeral Stream
- · · · · Intermittent Stream
- ▭ Wetland Location
- ▭ Pond Location
- Assessment Location

DOC COLE Streams and Wetlands



SCALE 1"=400'

T.H.E. Engineers, Inc.	PROJECT: DOC COLE SITE - JURISDICTIONAL WATERS DELINEATION		LRL-2011-970-r9r	STREAMS: UT'S TO JACKSON DITCH	
	COUNTY: WEBSTER	STATE: KY	NEAR: ORTIZ	ITEM: AERIAL MAP	EXHIBIT 3

DATE: