



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

Joint Public Notice

Public Notice No.
LRL-2012-852-sew

Open Date:
15 Oct 2012

Close Date:
14 Nov 2012

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Sam Werner , CELRL-OP-FW
P.O. Box 489
Newburgh, Indiana 47629-0489
Email: lrl.regulatorypubliccomment@usace.army.mil

Phone: 812 842-2768

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA) and for State Water Quality Certification pursuant to Section 401 of the CWA from the Indiana Department of Environmental Management, Office of Water Quality.

APPLICANT: Jarvis Coal, LLC
101 West Main Street
Jasonville, Indiana 47438

AGENT: Land Management Associates
P.O. Box 98
Wadesville, Indiana 47638

LOCATION: Unnamed tributaries to Campground Branch and White Oak Creek as well as associated wetlands and open waters located immediately east of Clay City, Clay County, Indiana.
Latitude: 39.280278° North
Longitude: 87.091667° West
7.5 Minute Quad: Clay City, Indiana

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

DESCRIPTION OF WORK: The proposed project would result in the discharge of fill and/or dredged material into "waters of the U.S." on a majority of a 591.1 acre site. The site is pending approval by Surface Mining Control and Reclamation Act (SMCRA) Permit No. S-00370.

The proposed project would fill 4.03 acres of palustrine forested (PFO) wetlands, 3142 linear feet of ephemeral streams, 13,505 linear feet of intermittent streams, and 1.6 acres of open waters. All economically recoverable coal would be removed during the excavation of the area, processed and sold. The area would be returned to approximate original contours, covered with stockpiled soil material, revegetated, and

returned to an approved post-mine land use through the SMCRA process. Approximately 99.4 acres (16.8% of the mine permit area) has been mined previously. The previously impacted area was mined in the post-SMCRA (1977) timeframe, which required reclamation to be conducted to approximate original contours and revegetation to occur.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The applicant's preferred alternative, has taken into consideration various mining methods to maximize the opportunities for avoidance and minimization measures. The preferred alternative has resulted in the avoidance of 563 linear feet of ephemeral streams, 3346 linear feet of intermittent streams, 0.04 acres of palustrine emergent (PEM) wetlands, and 3.5 acres of open waters.

The applicant proposes to mitigate the impacts to ephemeral streams at a ratio of 1.36:1 (4279 linear feet), reconstruct intermittent streams at a ratio of 1.06:1 (14,384 linear feet). The streams would employ a natural pattern, profile and dimension and would have forested riparian corridors adjacent to a majority of the reconstructed channels. Mitigated streams would be of Rosgen B,C, and E type dependent on stream and valley slope. Minimum Rapid Bioassessment Protocol (RBP) scores would be equal to or greater than the pre-existing streams.

Wetlands are proposed to be mitigated at a 3:1 ratio for a total of 12.09 acres of re-established PFO wetlands. The wetlands would be managed for hard mast species and constructed to receive hydrology from overbank flows of adjacent streams as well as precipitation. Impacts to 5.1 acres of open water would be mitigated at a 1.6:1 ratio (8.2 acres).

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 on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice may constitute the application for the 401 certification. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, Section 401 WQC Program, 100 N. Senate Avenue Room N1255, Indianapolis, Indiana 46204. The applicant is responsible for obtaining the certification from IDEM.

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 (NHRP) 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. During a phase I archaeological investigation of the proposed project area, one site that could potentially yield information relative to the local pottery industry was found and was recommended for a phase II investigation. This investigation will be conducted by the applicant to determine if further work would be necessary or if the site would potentially be eligible for listing in the NHRP. 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.

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

Operations Division
Regulatory Branch (West)
Public Notice No. LRL-2012-852-sew

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. Sam Werner, CELRL-OP-FW at the address noted above and should refer to the Public Notice Number LRL-2012-852-sew.

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-2012-852-sew.

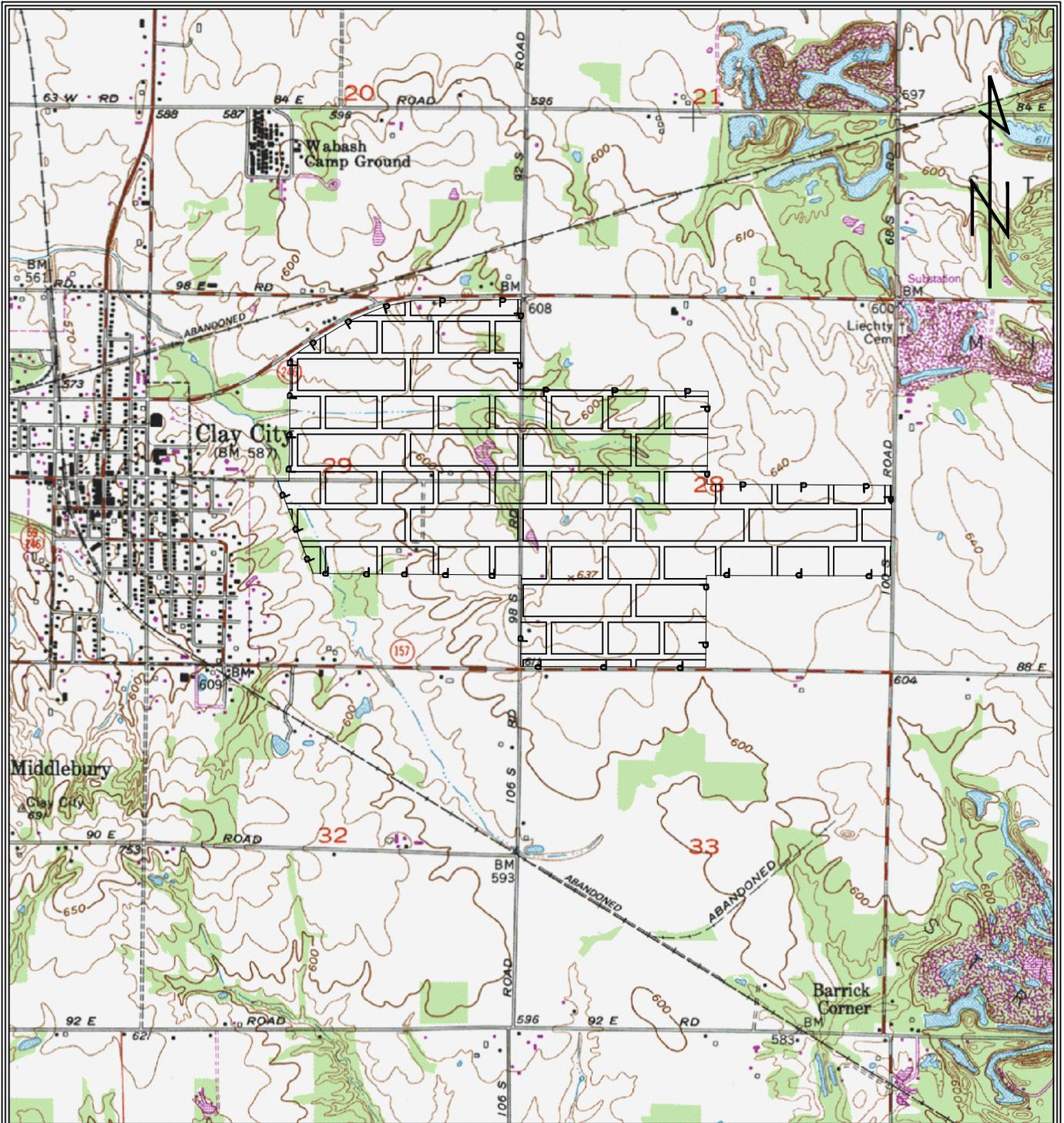
Example:

Subject: LRL-2012-852-sew.

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.



From: USGS Clay City, IND.
 Quadrangle Map

Jarvis Coal, LLC
 JC #2 Mine, #S-370

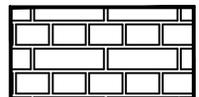
CWA 404 Vicinity Map

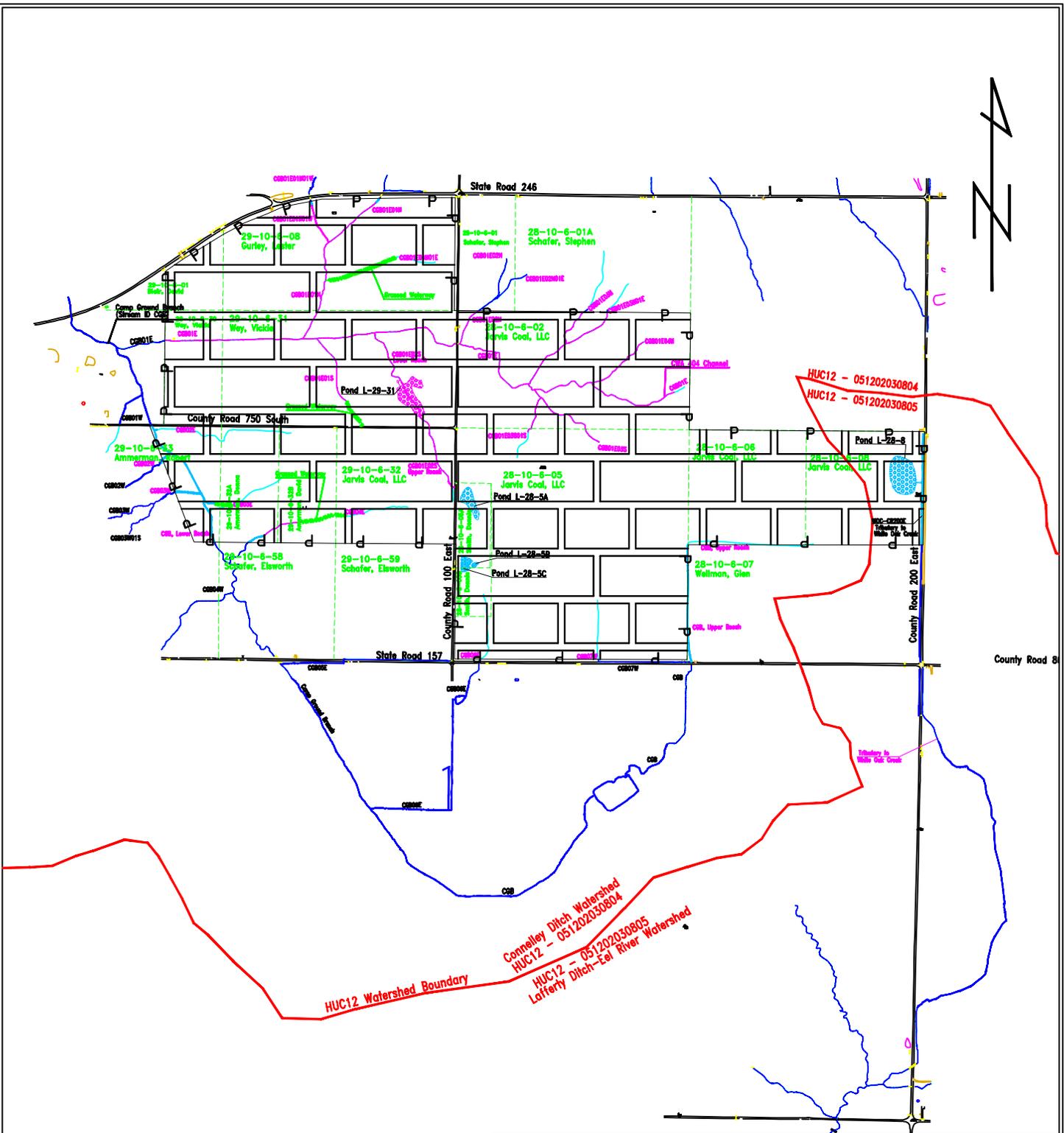
#S-370 Permit Area &
 USACE ID LRL-2012-852-sew

Page 1 of 5

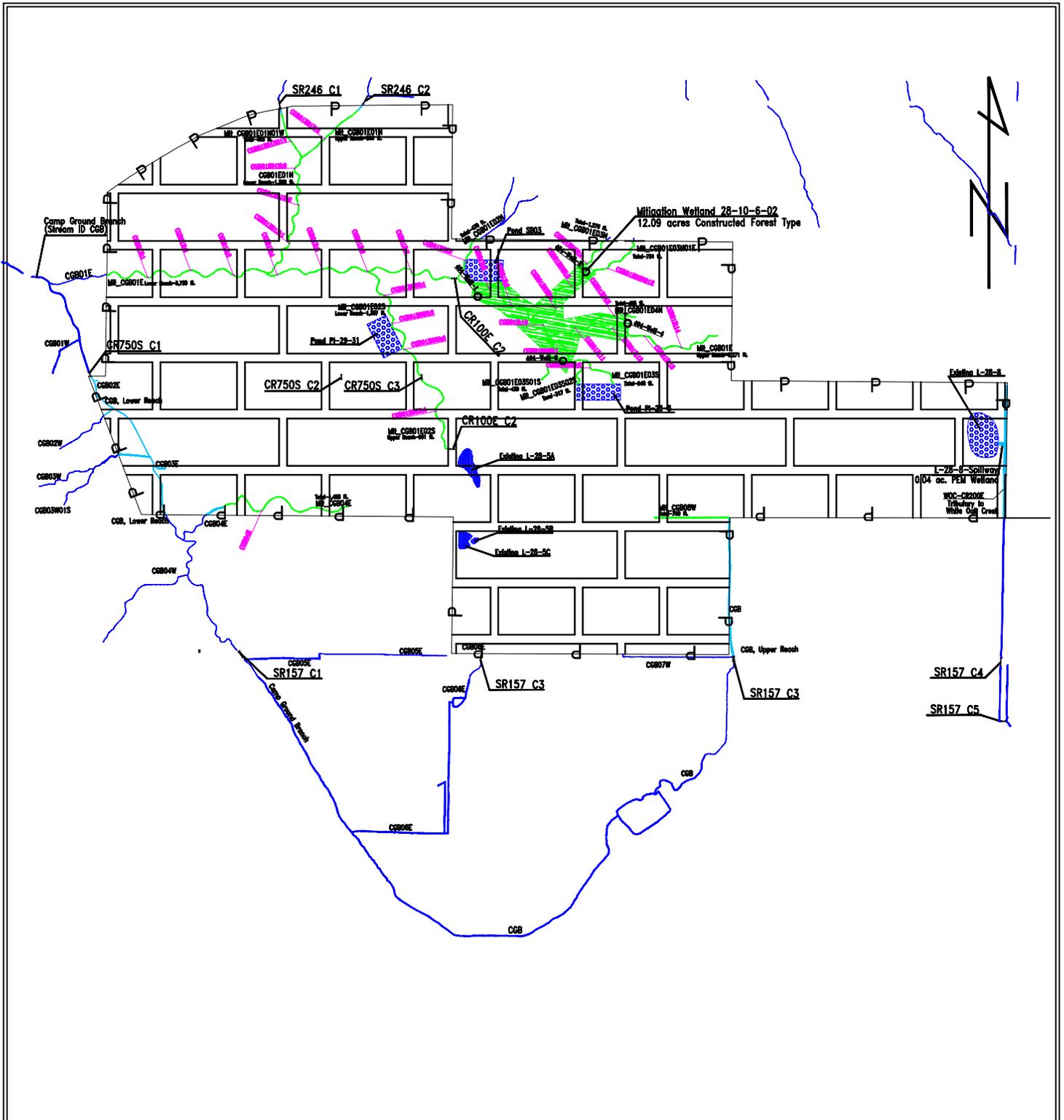
Scale 1" = 2,000'

Date: 10/02/12





Jarvis Coal, LLC
JC #2 Mine, #S-370
COE ID No. LRL-2012-852-sew
S370 Stream Impacts Map
Page 2 of 5
No Scale
Date: 10/02/12



Jarvis Coal, LLC
 JC #2 Mine, #S-370
 COE ID No. LRL-2012-852-sew
 S370 Mitigation Map
 Page 4 of 5
 No Scale Date: 10/02/12

