



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

# Public Notice

Public Notice No.  
LRL-2012- 859-gjd

Open Date:  
12 Oct 2012

Close Date:  
13 Nov 2012

Please address all comments and inquiries to:  
U.S. Army Corps of Engineers, Louisville District  
ATTN: Mr. George DeLancey, CELRL-OP-FW  
P.O. Box 489  
Newburgh, Indiana 47629

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

Phone: 812-842-2807

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

APPLICANT: Oxford Mining Company - Kentucky LLC  
3060 Cleaton Road  
Central City, Kentucky 42440

LOCATION: Unnamed tributaries and associated wetlands of Little Cypress Creek, located south of Central City Muhlenberg County, Kentucky.  
Latitude: 37.27509  
Longitude: -87.13050

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

DESCRIPTION OF WORK: The proposed project would result in discharges of fill and/or dredged material into "waters of the United States" within the 75-acre permit area, Briar Hill Amendment #4, pending approval under Surface Mining Control and Reclamation Act (SMCRA) - Kentucky Division of Mining Permits (KDMP) Permit Number 889-0155 Amendment 4.

The applicant is proposing to impact the following: 1) 1,401 linear feet of ephemeral and intermittent streams; 2) 5.7 acres of palustrine forested (PFO) and palustrine emergent wetlands; 3) and, 7.5 acres of open water.

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.

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 applicant has reduced direct mining impacts within the

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75-acre permit area down to 43 acres. Through this evaluation, the applicant has been able to plan the operation so as to avoid impacts to 1,801 linear feet of intermittent and perennial streams, 13.1 acres of wetlands, and 0.2 acre of open waters.

For the unavoidable impacts, the applicant proposes to offset the stream and wetland impacts by enhancing on site wetlands and streams that would be otherwise avoided. The wetland enhancement would occur in 8.5 acres of Phragmites wetlands. The enhancement would include the selective removal of Phragmites and replanting the site with beneficial hard mast tree species and herbaceous vegetation. 2.4 acres of wetlands would be established along the stream mitigation site. The wetland establishment would similarly be planted with beneficial herbaceous and tree species.

The stream enhancement would occur along 782 linear feet of an onsite perennial stream. The enhancement would replace low quality Rosgen A, B and G type stream sections with a Rosgen type C. The stream pattern, profile and dimension would be based on Rosgen parameters for a C channel. The applicant proposes a 75 foot riparian buffer for the enhancement section.

The mitigation would commence with permit issuance since the mitigation area is within a mining avoidance area.

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 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.

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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. The site has been surveyed for cultural resources and coordination with the Kentucky State Historic Preservation Office is on-going. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre historical, 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. 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

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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. George DeLancey, CELRL-OP-FW at the address noted above and should refer to the Public Notice Number LRL-2008-320-A-GJD.

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-2012-859-GJD.

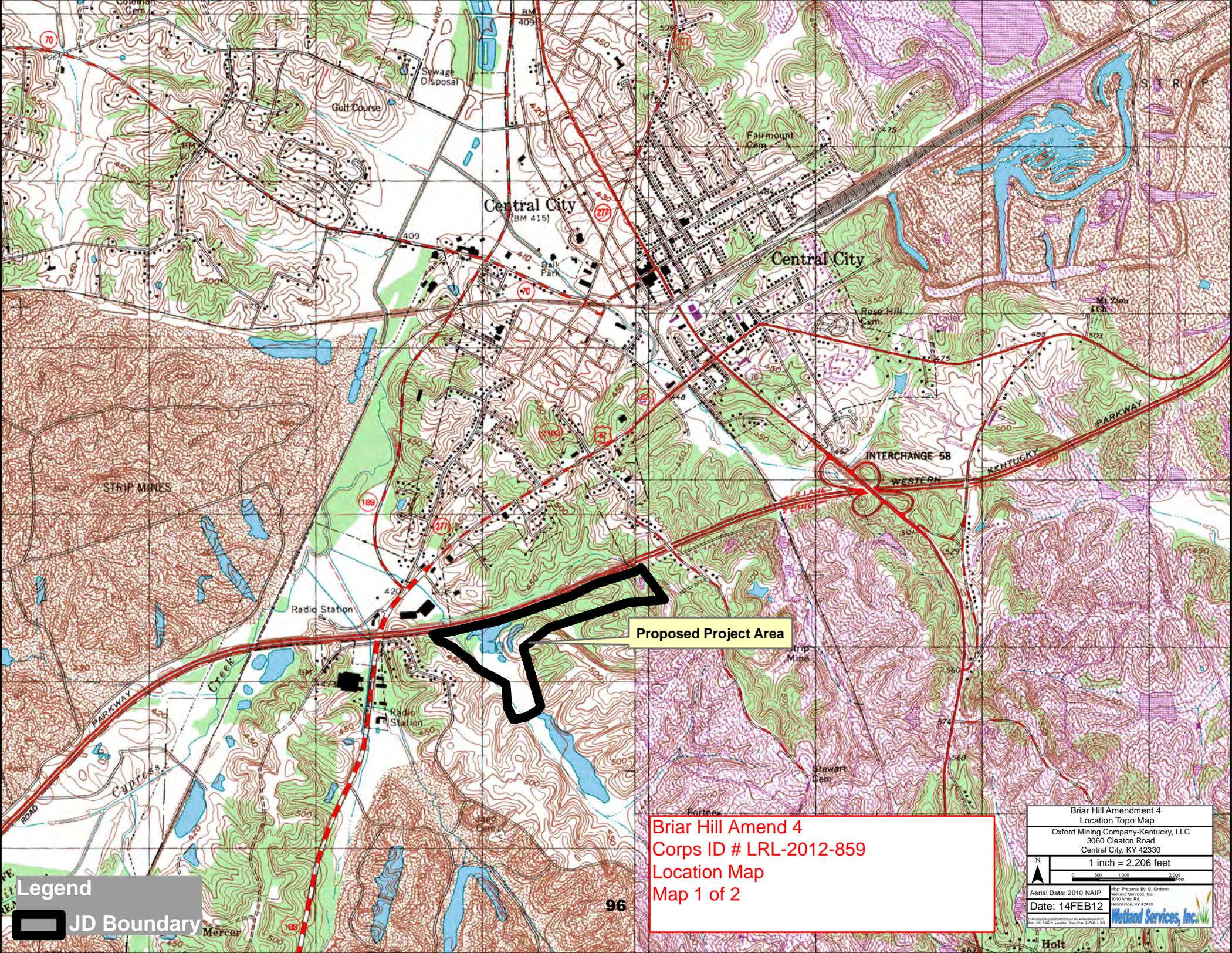
Example:

Subject: LRL-2012-859-gjd

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.

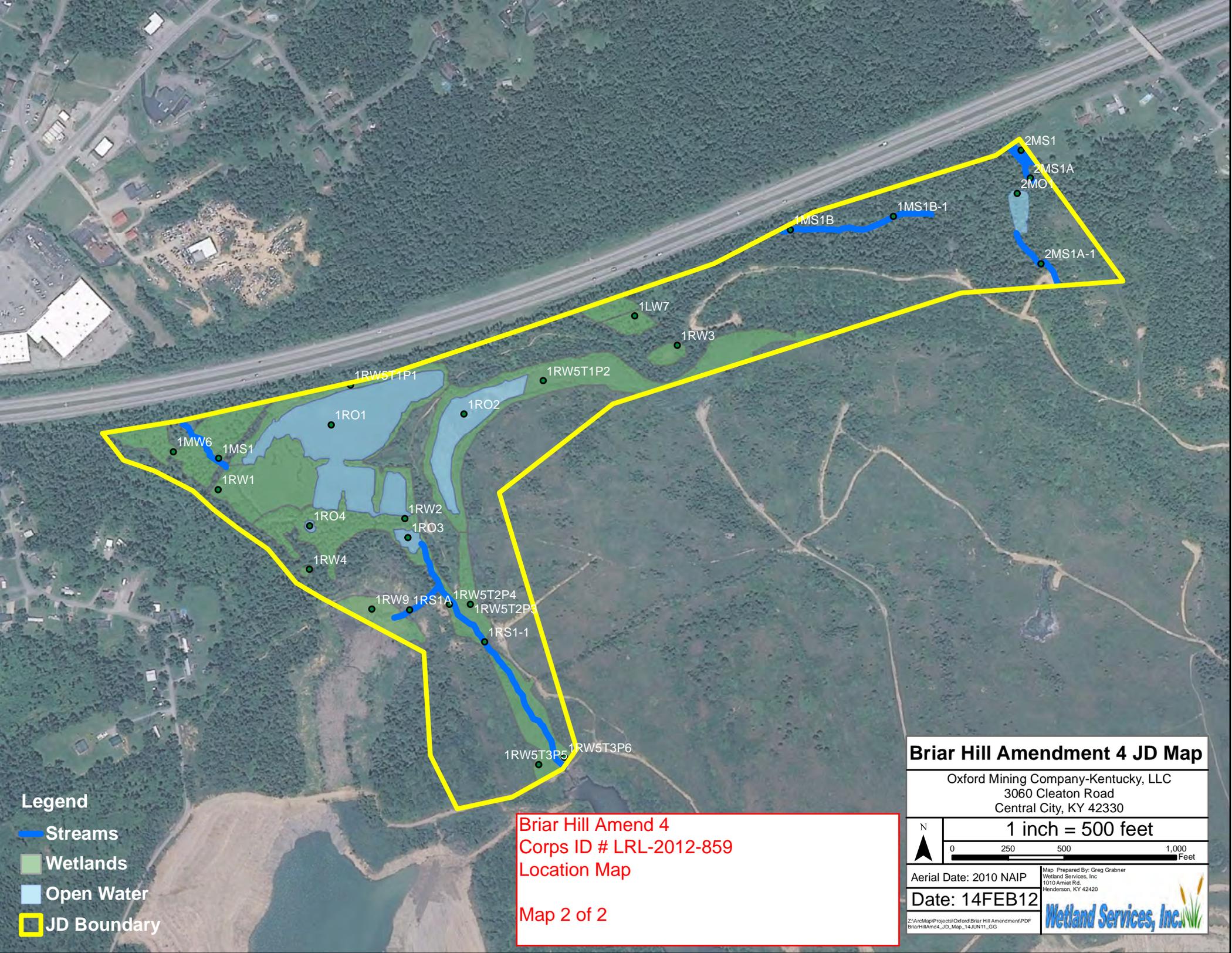


Proposed Project Area

Briar Hill Amend 4  
Corps ID # LRL-2012-859  
Location Map  
Map 1 of 2

Legend  
JD Boundary

Briar Hill Amend 4 Location Topo Map	
Oxford Mining Company-Kentucky, LLC 3060 Cleaton Road Central City, KY 42330	
1 inch = 2,206 feet	
Aerial Date: 2010 NAIP	Map Prepared By: G. Grabner Wetland Services, Inc. 1010 Amer Rd Henderson, KY 42420
Date: 14FEB12	Wetland Services, Inc.



- Legend**
- Streams
  - Wetlands
  - Open Water
  - JD Boundary

Briar Hill Amend 4  
 Corps ID # LRL-2012-859  
 Location Map

Map 2 of 2

Briar Hill Amendment 4 JD Map

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

N

1 inch = 500 feet

Aerial Date: 2010 NAIP

Date: 14FEB12

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 BriarHillAmd4\_JD\_Map\_14JUN11.GG

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