



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

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# Public Notice

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|-------------------|------------|-------------|
| Public Notice No. | Open Date: | Close Date: |
| LRL-2013-070-gjd  | 1 Mar 2013 | 1 Apr 2013  |

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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 47629-2678

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

Phone: 812-842-2807

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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: Arrakis Oil Recovery, LLC  
101 NW 1<sup>st</sup> Street  
Suite 213  
Evansville, Indiana 47708

LOCATION: Unnamed tributaries and associated wetlands of Muddy Creek, adjacent to Kentucky Highway 79, just southwest of Costelow, Logan County, Kentucky.  
Latitude: 36°59'7.34"N  
Longitude: - 86°46'57.59"W

PURPOSE: To relocate streams and wetlands to facilitate the recovery of bitumen (Heavy oil).

DESCRIPTION OF WORK: The proposed project would result in discharges of fill and/or dredged material into "waters of the United States" on a majority of a 100.1-acre site. The site is approved by Surface Mining Control and Reclamation Act (SMCRA)- Kentucky Division of Mine Permits No. 071-9701.

Under this proposal, the applicant is proposing the following: 1. to fill 3,057 linear feet of ephemeral streams; 2. to fill 1,542 linear feet of intermittent streams; 3. to fill 0.03 acre of palustrine emergent (PEM) wetlands, and 4. 0.19 acre of open water. All economically recoverable bitumen 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.

Part of this proposal is for after the fact authorization for direct impacts to 56 linear feet of ephemeral stream and 195' of intermittent stream. These impacts were completed during the construction of a diversion berm and sediment basin. This work was completed prior to any proper DA reviews or authorization.

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AVOIDANCE, MINIMIZATION, and AVOIDANCE MEASURES: The applicant's preferred alternative, was selected after considering other areas and available reserves.

MITIGATION: The applicant is proposing to complete stream mitigation on site. Intermittent streams would be mitigated by reconstructing 1,618 linear feet of streams, about a 1:1 ratio, and ephemeral streams would be replaced with 1,528 feet of streams, about a 0.5:1 ratio. Stream designs would be based on Rosgen natural stream design and methodologies. The stream mitigation would be conducted with phased mining and reclamation of the project. Riparian areas would be managed for hard mast tree species, beneficial shrubs and grasses.

The applicant is proposing to mitigate the wetland impacts by paying an in lieu fee payment of \$2,016.

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.

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 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. The Public Notice and drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. 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-2013-070-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-2013-070-GJD.

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Example:

Subject: LRL-2013-070-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.

# Vicinity Map Stampede Mine Site

**Permit Boundary**

Arrakis Oil Recovery  
Stampede Mine  
Logan County, KY  
Page 1 of 3

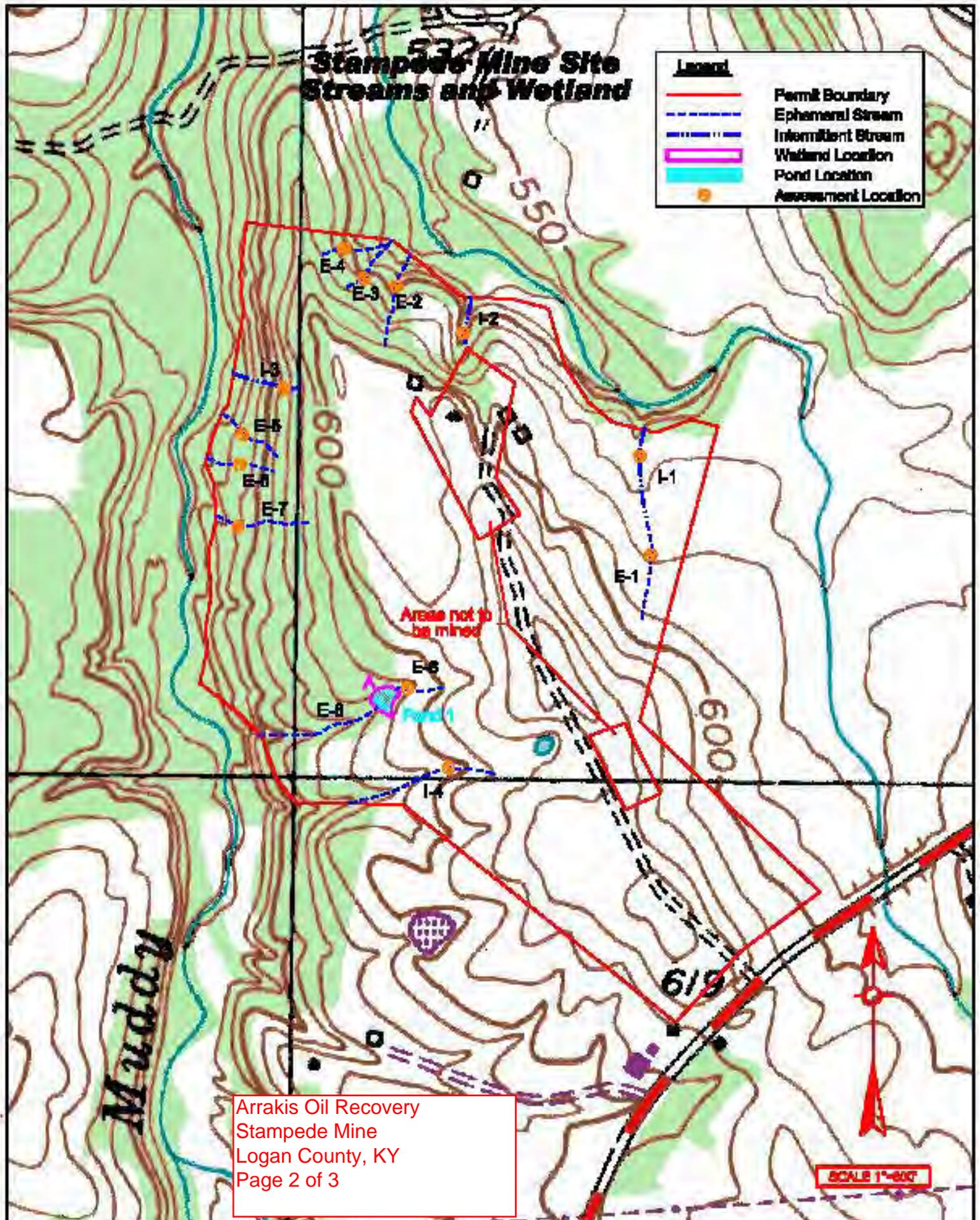
SCALE 1"=4000'

|                                  |           |  |  |                              |            |
|----------------------------------|-----------|--|--|------------------------------|------------|
| <b>T.H.E.</b><br>Engineers, Inc. |           | PROJECT: STAMPEDE MINE SITE - LOCATION |  | STREAMS: UT'S OF MUDDY CREEK |            |
| COUNTY: LOGAN                    | STATE: KY | NEAR: COSTELOW                         |  | ITEM: VICINITY MAP           | EXHIBIT: I |

DATE:

# Stampede Mine Site Streams and Wetland

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



Arrakis Oil Recovery  
Stampede Mine  
Logan County, KY  
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SCALE 1"=600'

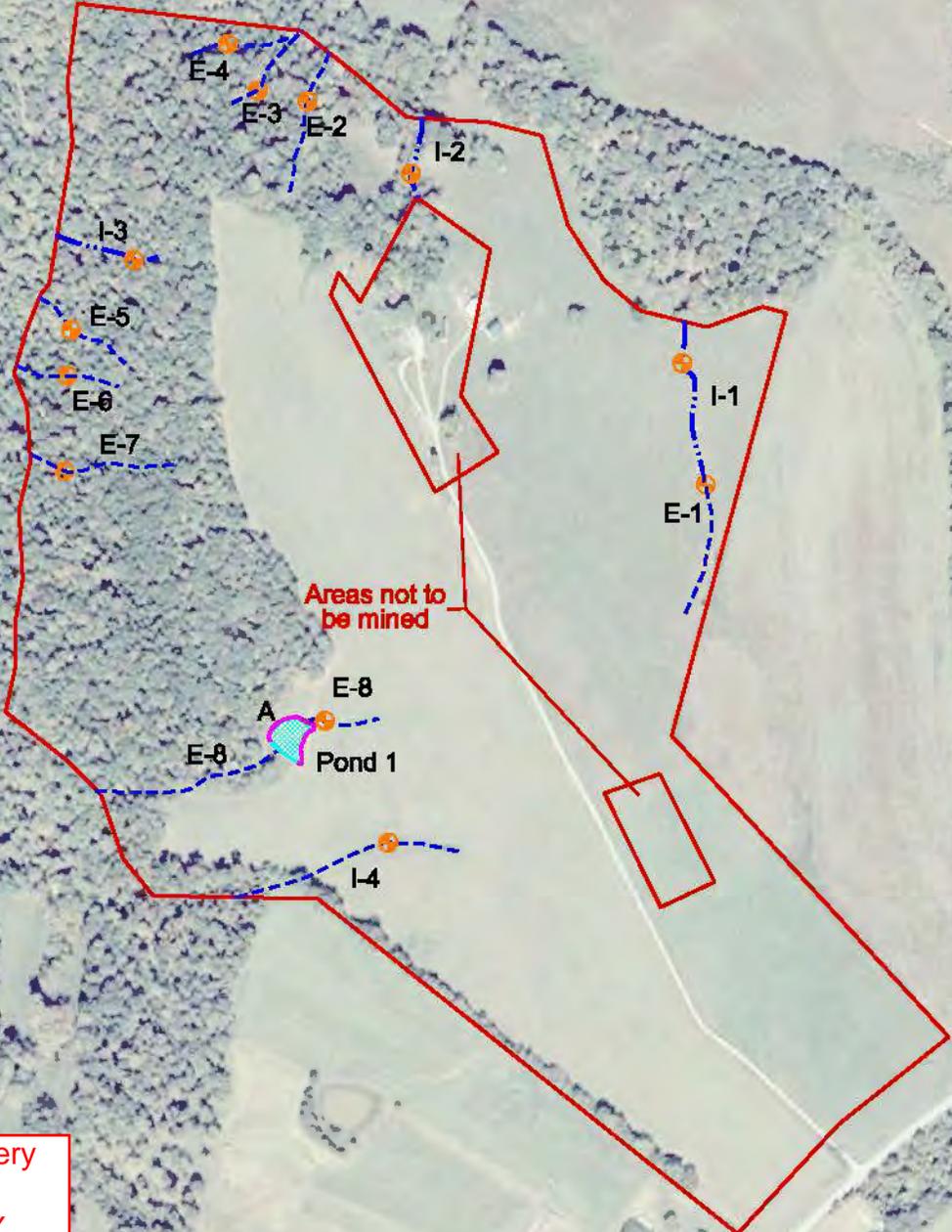
|                           |   |          |              |                             |          |
|---------------------------|---|----------|--------------|-----------------------------|----------|
| T.H.E.<br>Engineers, Inc. | PROJECT: STAMPEDE MINE SITE - JURISDICTIONAL BAYERS DELINEATION |          |              | STREAM: RT'S OF MUDDY CREEK |          |
|                           | COUNTY: LOGAN   | SOUTH BY | MAP: OVERLAY | ITEM: CMB                   | SHEET: 2 |

DATE:

# Stampede Mine Site Streams and Wetland

**Legend**

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



Arrakis Oil Recovery  
Stampede Mine  
Logan County, KY  
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SCALE 1"=500'

|                                   |   |           |                              |              |           |
|-----------------------------------|---|-----------|------------------------------|--------------|-----------|
| <b>T.H.E.<br/>Engineers, Inc.</b> | PROJECT: STAMPEDE MINE SITE - JURISDICTIONAL WATERS DELINEATION |           | STREAMS: UT'S OF MUDDY CREEK |              |           |
|                                   | COUNTY: LOGAN   | STATE: KY | NEAR: COSTELOW               | ITEM: AERIAL | EXHIBIT 3 |

DATE: