



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

Public Notice

Public Notice No.	Open Date:	Close Date:
LRL-2013-272-teh	18 Mar 2015	17 Apr 2015

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Todd E. Hagman, CELRL-OPF-S
P.O. Box 59
Louisville, Kentucky 40201-0059

lrl.regulatorypubliccomment@usace.army.mil

Phone: 502-315-6683

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

APPLICANT: ICG Hazard, LLC
3228 Summit Square Place
Lexington, KY 40509

AGENT: Aquatic Resources Management
950 Contract Street
Suite 100
Lexington, KY 40505

LOCATION: Dan's Fork, unnamed tributaries (UTs) to Dan's Fork, UTs to Buckhorn Creek, UTs to Long Fork, UTs to Cane Branch and UTs to Toms Branch, located approximately 4.5 miles southwest of the community of Decoy and 5 miles west of the community of Elmrock, in Breathitt and Knott Counties, Kentucky.

Latitude: 37.429832°N
Longitude: -83.115027°W
7.5 Minute Quad: Vest/Noble

PURPOSE: To construct two (2) permanent excess disposal fills, two (2) instream embankment ponds and to fill/reclaim seventy-eight (78) streams as appurtenant structures and work for a surface coal mining operation.

DESCRIPTION OF WORK: The proposed project would result in discharges of fill and/or dredged material into "waters of the United States" on a site approved by Surface Mining Control and Reclamation Act (SMCRA)-Kentucky Division of Mine Permits (KDMP) No. 860-0542 & 860-0543. The proposed mining operation would utilize surface area mining to extract the Hazard (HZ) 7, HZ 8, HZ 9, HZ 10 AND HZ 11 coal seams within a 1,631-acre mine area. The applicant proposes to construct two permanent hollow fills (HF 2 and 11) and two sediment control structures (Pond 2 and 11) and fill/reclaim jurisdictional waters. The proposed fills would permanently impact 4,444 linear feet of perennial streams, 4,694

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linear feet of intermittent streams and 1,003 linear feet of ephemeral streams. The proposed sediment ponds would impact 1,858 linear feet of perennial streams and 301 linear feet of intermittent streams. The proposed fill/reclaim areas would impact 8,599 linear feet of intermittent streams and 12,279 linear feet of ephemeral streams. In total, the project would impact 33,178 linear feet of streams.

AVOIDANCE, MINIMIZATION, and AVOIDANCE MEASURES: The applicant's preferred alternative, was selected after considering other areas/available reserves under their control, mining methods, and no mining. The applicant has eliminated eight (8) hollow fills from the approved SMCRA permit. The applicant has further minimized impacts to the two (2) proposed hollow fills by proposing to place overburden in the uplands on an adjacent previously mined property. The applicant has reduced the linear feet of impacts of the SMCRA approved permit from 57,642 linear feet to the proposed 33,178 linear feet.

MITIGATION: The applicant proposes in-lieu fee payments to the Kentucky Department of Fish and Wildlife Resources Stream and Wetland Mitigation Trust Fund to mitigate for all impacts to jurisdictional waters. Monies paid to this fund are used to undertake stream and wetland restoration projects in the vicinity of the proposed impacts.

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 Commonwealth 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

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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. Drawings

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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. Todd E. Hagman, CELRL-OPF-S at the address noted above and should refer to the Public Notice Number LRL-2013-272-teh.

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-2013-272-teh.

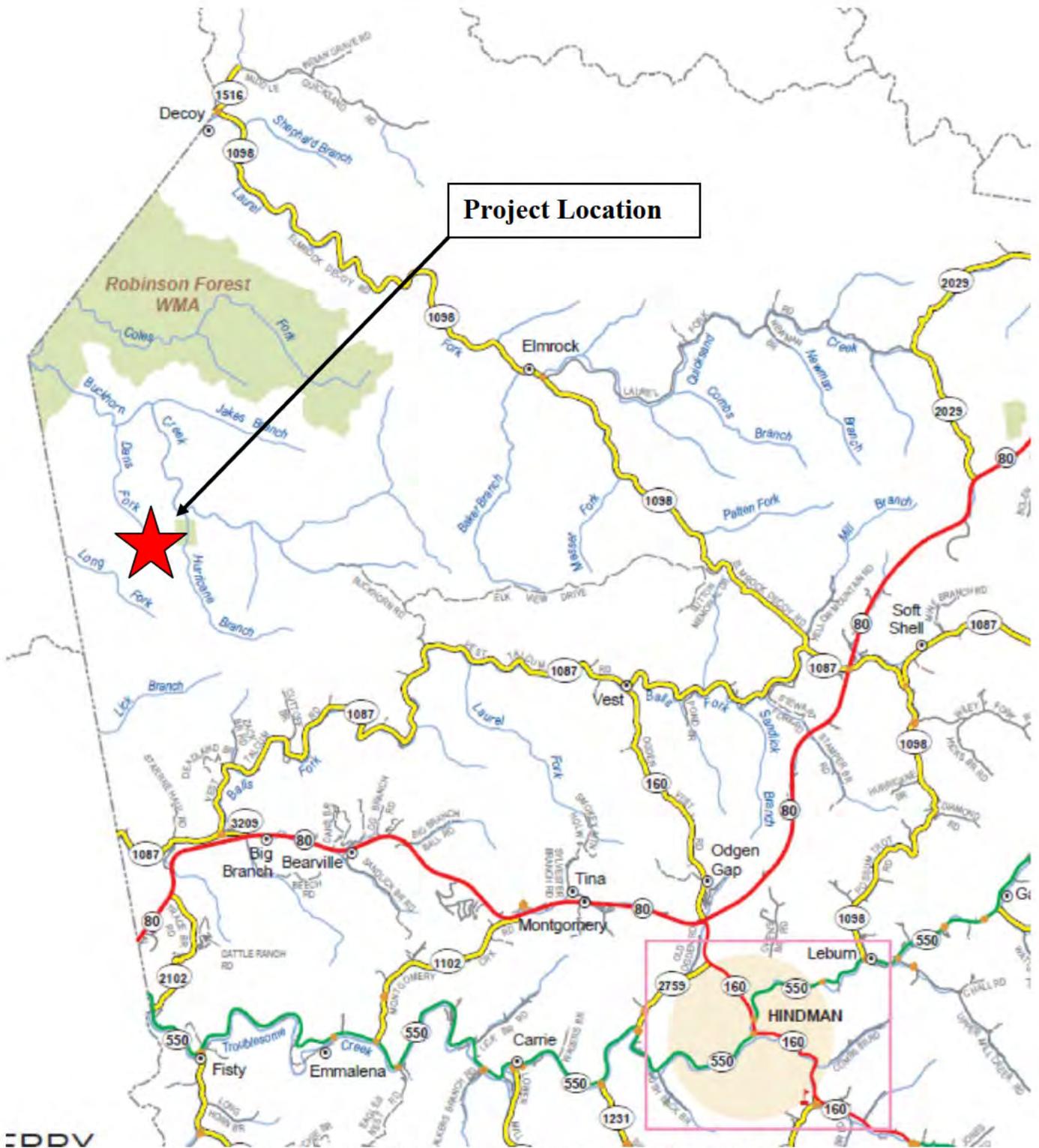
Example:

Subject: LRL-2013-272-teh

b) Provide your physical mailing address and telephone number.

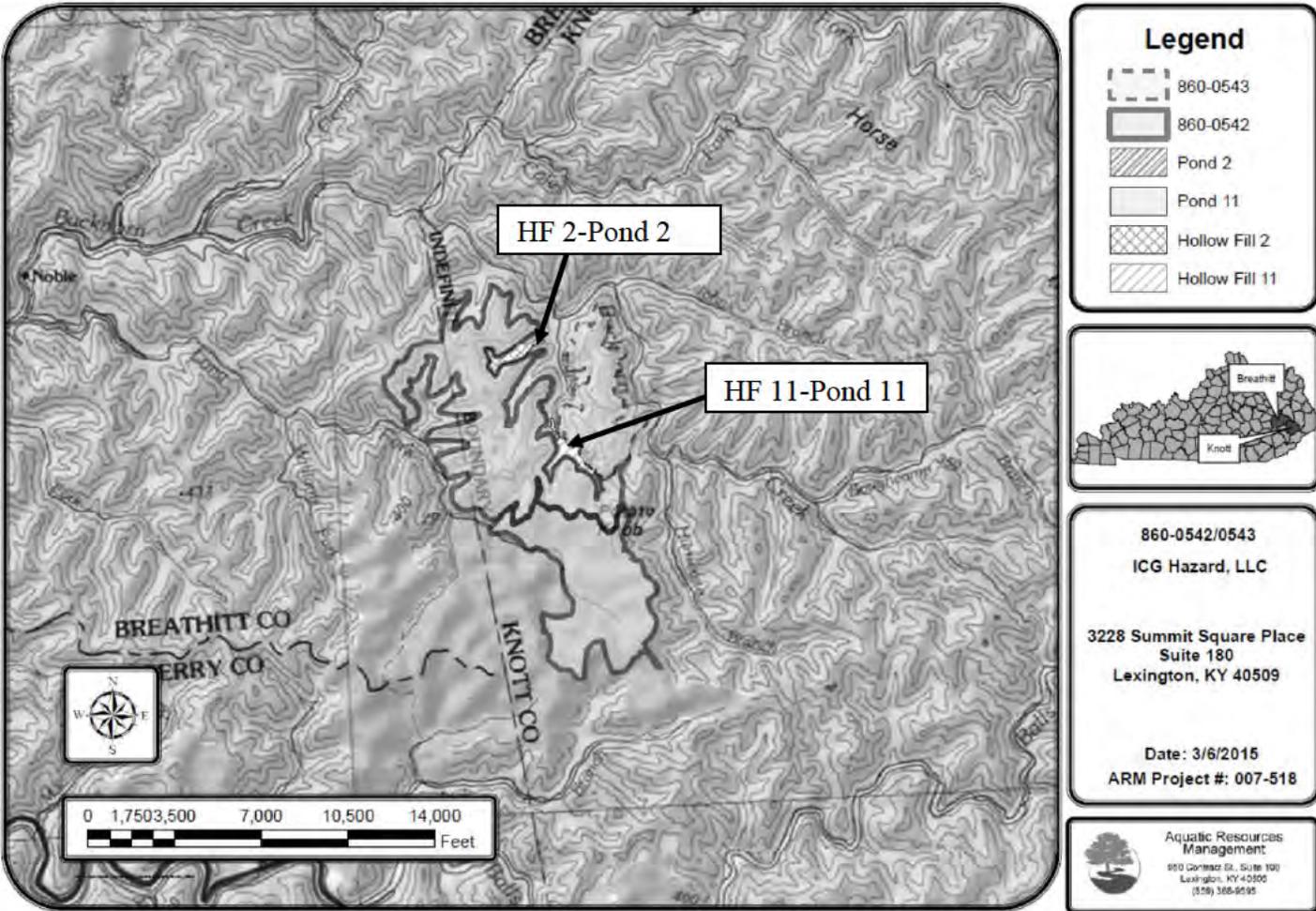
c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

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.

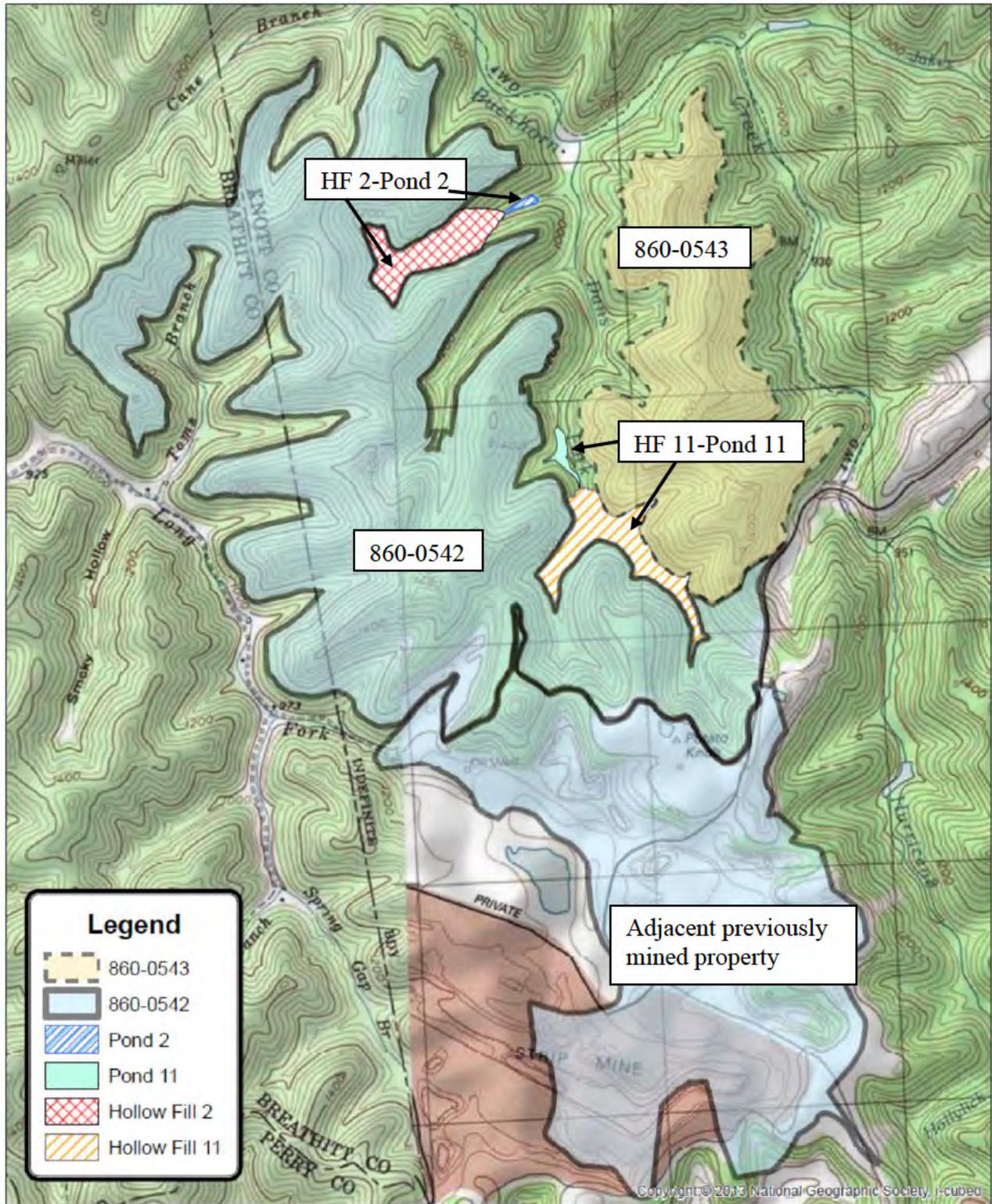


Project location map, Knott County, Kentucky.

Road Location Map



Topo Location Map of project area.



Plan view of Hollow Fills and Ponds.