

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

# Joint Public Notice

Public Notice No.

LRL-2014-336-gjd

Open Date:

13 Aug 2014

Close Date:

12 Sep 2014

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 47630

Phone: 812-842-2807

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

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: Liberty Mine, LLC  
528 Main Street  
Suite 202  
Evansville, IN 47708

AGENT: Wetland Services  
3880 Trigg Turner Road  
Corydon, KY 42406

LOCATION: Unnamed tributaries, associated wetlands, and open waters of Squaw Creek, northwest of Boonville, Warrick County, Indiana  
Latitude: 38.09094  
Longitude: -87.34757  
7.5 Minute Quad: Boonville, IN

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

DESCRIPTION OF WORK: This mine has an existing DA authorization, LRL-2010-218-gjd, that authorized the discharges of fill and/or dredged material into "waters of the United States" on a majority of a 1,646-acre site. The authorized impacts included impacts to to 8,948 feet of perennial streams, 5,183 linear feet of intermittent streams, 6,212 linear feet of ephemeral streams, 35.3 acres of palustrine forested (PFO) wetlands, 6.4 acres of palustrine unconsolidated bottom (PUBG) wetlands, 63.3 acres of palustrine emergent (PEM) wetlands, 0.8 acres of palustrine scrub-shrub (PSS) wetlands, and 138.9 acres of open waters. As part of that authorization, the permittee determined that they would avoid impacts to 51.3 acres of wetlands, 8,099 linear feet of streams, and 47.3 acres of open waters by utilizing high wall mining.

The applicant is proposing to impact additional areas that would be amended into the original permit area, as well as impact areas that were originally agreed to be avoided within the original permit area. A majority of the the proposed project area has been previously mined, both pre law and post Surface Mining Control Reclamation Act, 1977, and reclaimed post SMCRA. The amended area would add about 136 acres to the original permit area.

Under this proposal the applicant is proposing the following: 1. to fill 2,007 linear feet of ephemeral streams; 2. to fill 3,028 linear feet of intermittent streams; 3. to fill 2.8 acres of acres of palustrine forested (PFO) wetlands, 3.8 acres of palustrine unconsolidated bottom (PUBG) wetlands, 26.8 acres of palustrine emergent (PEM) wetlands, and 0.6 acres of palustrine scrub-shrub (PSS) wetlands; and 4. to fill 30 acres of open waters. With the exception of 0.5 acre of PEM wetlands, 242 linear feet of ephemeral streams, and 6.2 acres of open water, all of the above listed proposed impacts are part of the previous permit's avoided areas.

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: From the initial submittal, the permittee/applicant has re-evaluated its mine plan and determined that after the initial project set up was complete, coal that was previously thought not to be economically recoverable now can be recovered. In addition, the surface rights for some areas of avoidance areas had been recently negotiated for from the current land owners making those areas available for coal recovery operations.

The applicant proposes to mitigate the wetland, stream and open water impacts with both onsite and offsite mitigation. On site, the applicant proposes to recreate 11 acres of PFO wetlands on reclaimed ground and would be planted primarily for hard mast species. The applicant also proposes to recreate 2150 linear feet of streams based on natural stream design principals. Riparian buffers of 25 feet for ephemeral reaches and 50 feet for intermittent streams are proposed. Plantings would be managed for hard mast species.

The applicant also proposes to create a minimum of 30 acres of open water from the mining operation.

Off site, the applicant proposes to complete mitigation on two tracts of property located adjacent to State Road 61, north of State Road 66, and south of Boonville, Warrick County, Indiana. The applicant proposes to restore and enhance 2,688 linear feet of unnamed tributary streams to Otter Creek. The stream restoration would include the restoration of

Operations Division  
Regulatory Branch (West)  
Public Notice No. LRL-2014-336-gjd

pattern, profile, and dimensions on three streams currently farmed through. Riparian buffers would be planted and managed for hard mast species. Stream mitigation would also include the enhancement of an existing stream which has been channelized and entrenched. The applicant proposes to install a series of Newbury Riffles in the stream to stabilize the stream and promote in stream habitat. The applicant also proposes to restore 44.2 acres of PFO wetlands on ground currently in agricultural production. The wetland would be managed for hard mast plantings.

All mitigation is proposed to be protected in perpetuity through the use Restrictive Covenants.

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 serves as the notice for a Clean Water Act Section 401 application for water quality certification from the IDEM. The 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 North Senate Avenue, Room 1255, P.O. Box 6015, Indianapolis, Indiana 46206-6015. 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 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

Operations Division  
Regulatory Branch (West)  
Public Notice No. LRL-2014-336-gjd

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 (USEPA), 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/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-2014-336-gjd.

Operations Division  
Regulatory Branch (West)  
Public Notice No. LRL-2014-336-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-2014-336-gjd.

Example:

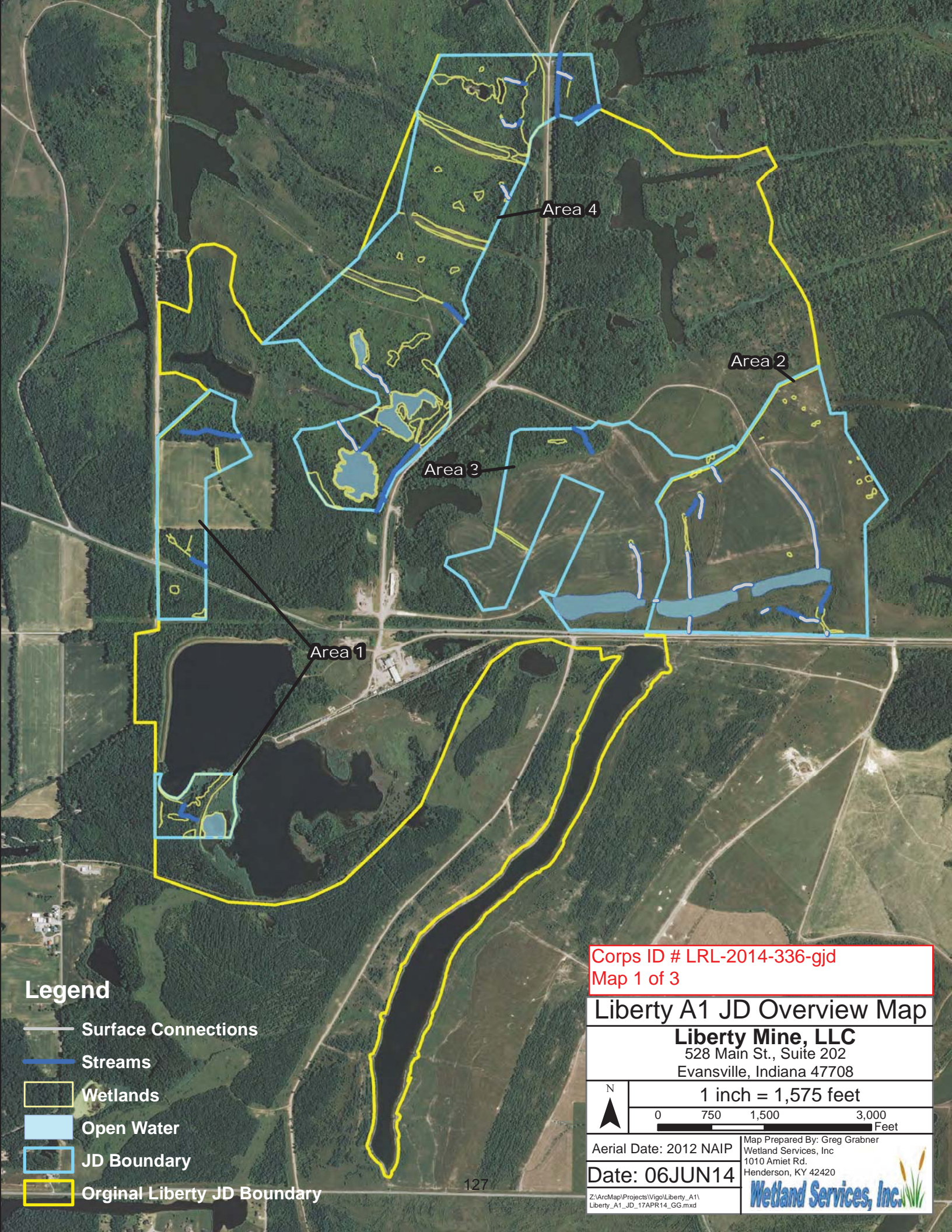
Subject: LRL-2014-336-gjd

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.





## Legend

- Surface Connections
- Streams
- Wetlands
- Open Water
- JD Boundary
- Original Liberty JD Boundary

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Map 1 of 3

## Liberty A1 JD Overview Map

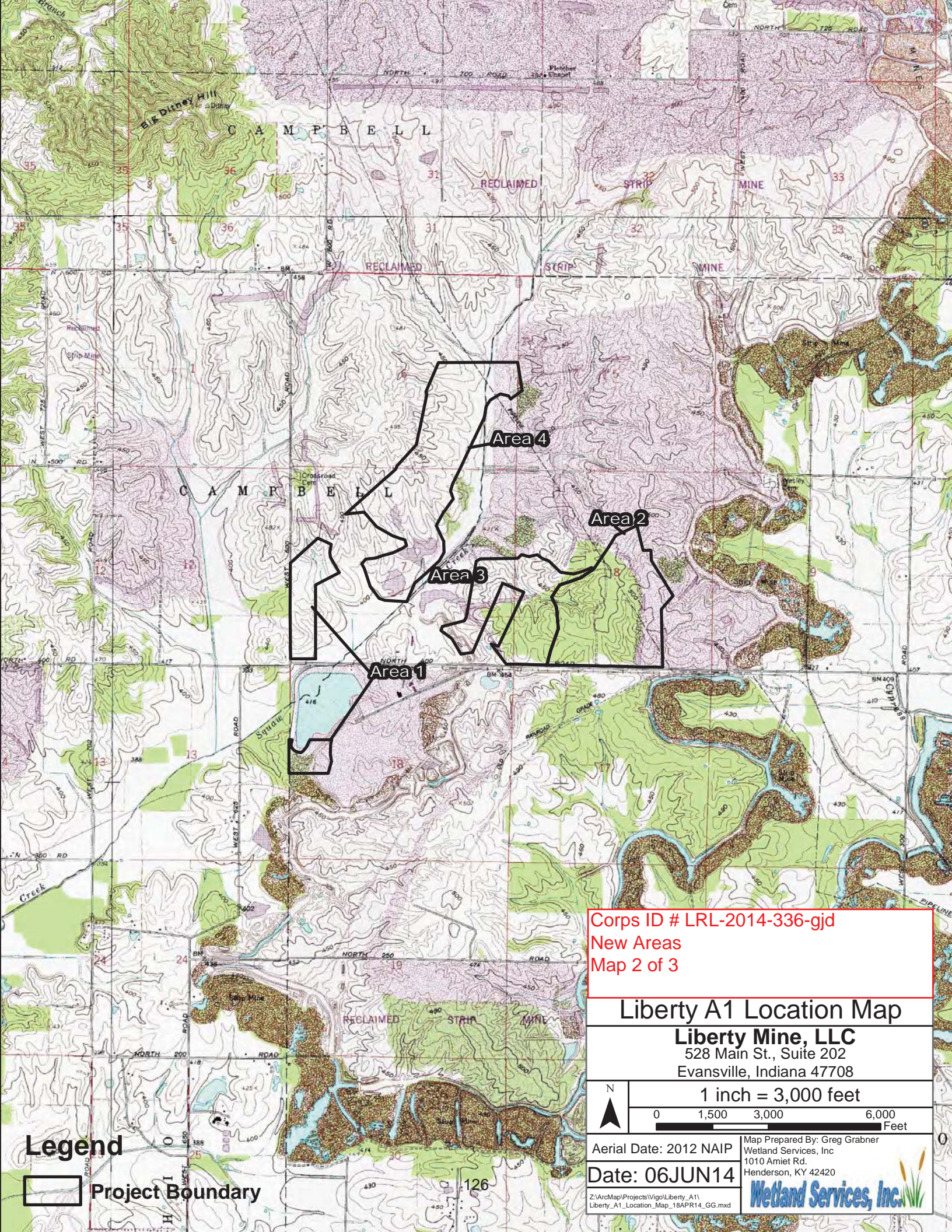
**Liberty Mine, LLC**  
528 Main St., Suite 202  
Evansville, Indiana 47708

N  
1 inch = 1,575 feet  
0 750 1,500 3,000 Feet

Aerial Date: 2012 NAIP  
Date: 06JUN14

Map Prepared By: Greg Grabner  
Wetland Services, Inc.  
1010 Amiet Rd.  
Henderson, KY 42420  
Z:\ArcMap\Projects\Wigo\Liberty\_A1\Liberty\_A1\_JD\_17APR14\_GG.mxd  
**Wetland Services, Inc.**





Corps ID # LRL-2014-336-gjd  
New Areas  
Map 2 of 3

**Liberty A1 Location Map**  
**Liberty Mine, LLC**  
528 Main St., Suite 202  
Evansville, Indiana 47708

N  
1 inch = 3,000 feet  
0 1,500 3,000 6,000 Feet

**Legend**  
Project Boundary

Aerial Date: 2012 NAIP  
Date: 06JUN14  
Map Prepared By: Greg Grabner  
Wetland Services, Inc.  
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Liberty\_A1\_Location\_Map\_18APR14\_GG.mxd  
**Wetland Services, Inc.**



