



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

Public Notice

Public Notice No.
LRL-2011-707-b-mad

Open Date:
23 Jun 2015

Close Date:
23 Jul 2015

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Matt Dennis, CELRL-OPF-W, Rm 752
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: 502-315-6689

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act:

APPLICANT:

Matthew Haaga
Harthshorne Mining Group, LLC
6724 East Morgan Avenue, Suite B
Evansville, IN 47714

AGENT:

THE Engineers, Inc.
2331 Fortune Drive, Suite 295
Lexington, KY 40509

LOCATION:

Green River on the left descending bank at Mile 61 - 61.3, in McLean County, Kentucky

Latitude: 37.525278 N
Longitude: 87.290933 W
7.5 Minute Quad: Calhoun, KY

PURPOSE:

Modify an existing permit to relocate the location of an authorized barge loading and fleeting facility, and to fill wetlands and streams to construct a conveyor to transport coal from an underground mine to the proposed loading facility.

DESCRIPTION OF WORK: The permit for the proposed Cypress Creek Underground Mine has been transferred from Buck Creek Resources, LLC, to Hartshorne Mining Group, LLC. The new permittee proposes to move the location of the unconstructed barge loading and fleeting facility authorized by Department of the Army permit LRL-2011-707-mad from Green River Mile 62.5 to Mile 61. The new proposed location was unavailable for purchase at the time of the original proposal. This new location would move the facility further downstream from the Green River Lock and Dam #2 at Calhoun, and provide a location closer to the proposed surface facilities of the mine site. The new location allows the applicant an opportunity to construct a conveyor corridor from the mine site to the loading facility that was previously eliminated from the original proposal due to the amount of aquatic resources impacts that would have been required by the previous route.

The loading facility would include two work barges each anchored by a 10'x 10'x 8' concrete box deadman and 2" bent rod cable keeper placed in the river bank and attached to a 1 1/4" diameter steel cable. Barges would be loaded utilizing a conveyor on a steel frame. Two fleeting areas would be constructed immediately up and downstream of the loading facility on the left bank. The barges would be anchored by two deadmen each and configured two wide by four long downstream of the loading facility and two wide by five long upstream of the loading facility for a total of 18 barges. Thirteen "H" beam deadmen with an offshore mooring chain around the permitmeter attached to a 1 1/4" diameter steel cable would be installed for the fleeting. The maximum riverward projection of the loading facility and associated fleeting would be 155' into the Green River at normal pool.

The proposal also includes the filling of streams and wetlands for the installation of a 10,300 foot conveyor corridor and associated maintenance road, approved under Surface Mining Control and Reclamation Act (SMCRA) - Kentucky Department of Natural Resources (KDNR) Permit No. 875-5009, as well as the conversion of Palustrine Forested Wetland (PFO) to Palustrine Emergent Wetland (PEM) for the conveyor right-of-way. The project would result in filling of 30 linear feet of ephemeral stream, 40 linear feet of intermittent stream, 0.02 acre of Palustrine Emergent Wetlands (PEM), 0.052 acre of Palustrine Forested Wetlands (PFO), and the conversion of 0.266 acre of PFO to PEM.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES:

The project would avoid direct impacts to 2.510 acres of wetlands, 375 linear feet of intermittent stream, and 896 linear feet of ephemeral stream. Additionally, impacts to Cypress Creek would be avoided by providing a clear span crossing for the conveyor.

Proposed impacts would be mitigated through the purchase of credits from the Kentucky Department of Fish and Wildlife Resources in lieu fee program.

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 must apply for State certification from the Kentucky Energy and Environment Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in

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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 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. 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 assess impacts on endangered species, historic properties, water

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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. Matt Dennis, CELRL-OPF-W at the address noted above and should refer to the Public Notice Number LRL-2011-707-b-mad.

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-2011-707-b-mad.

Example:

Subject: LRL-2011-707-b-mad

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.