

Public Notice

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

Public Notice No.
LRL-2014-196-gjd

Open Date:
28 Jan 2015

Close Date:
27 Feb 2015

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. George DeLancey, CELRL-OPF-W
6855 State Road 66
Newburgh, Indiana 47630

lr.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.

APPLICANT: Sebree Mining LLC
 771 Corporate Drive
 Suite 500
 Lexington, KY 40503

LOCATION: Unnamed tributaries and an associated wetland of Deer
 Creek, adjacent to Kentucky 370 and Pennyryle
 Parkway, south of Sebree, Webster County, Kentucky.

Latitude: 37.577822°N
Longitude: - 87.494963°W

PURPOSE: To relocate wetlands and streams to facilitate the
 construction of a coal refuse disposal site.

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 220.8-acre site. The site is approved by Surface Mining Control and Reclamation Act (SMCRA)- Kentucky Division of Mine Permits (KDMP) No. 917-9007 Am 2. The disposal site would support an existing underground coal mine operation (KDMP Permit #917-9006).

Under this proposal, the applicant is proposing the following: 1. to fill 2,170 linear feet of intermittent streams; and, 2. to fill 0.194 acres of a palustrine forested (PFO) wetland. Once fill and disposal operations are completed, the area would be covered with soil material, vegetated, and returned to an approved post-mine land use through the SMCRA process.

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.

MITIGATION: The applicant is proposing to complete 7 acres of PFO wetland restoration, 1.3 acres of PFO wetland enhancement, and 0.9 acre of riparian restoration. The mitigation site would be planted

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and managed primarily for hard mast species. The project is located off site in an agricultural field bisected by Bailey Ditch.

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 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

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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 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-OPF-W at the address noted above and should refer to the Public Notice Number LRL-2014-196-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-2014-196-gjd.

Example:

Subject: LRL-2014-196-gjd

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.

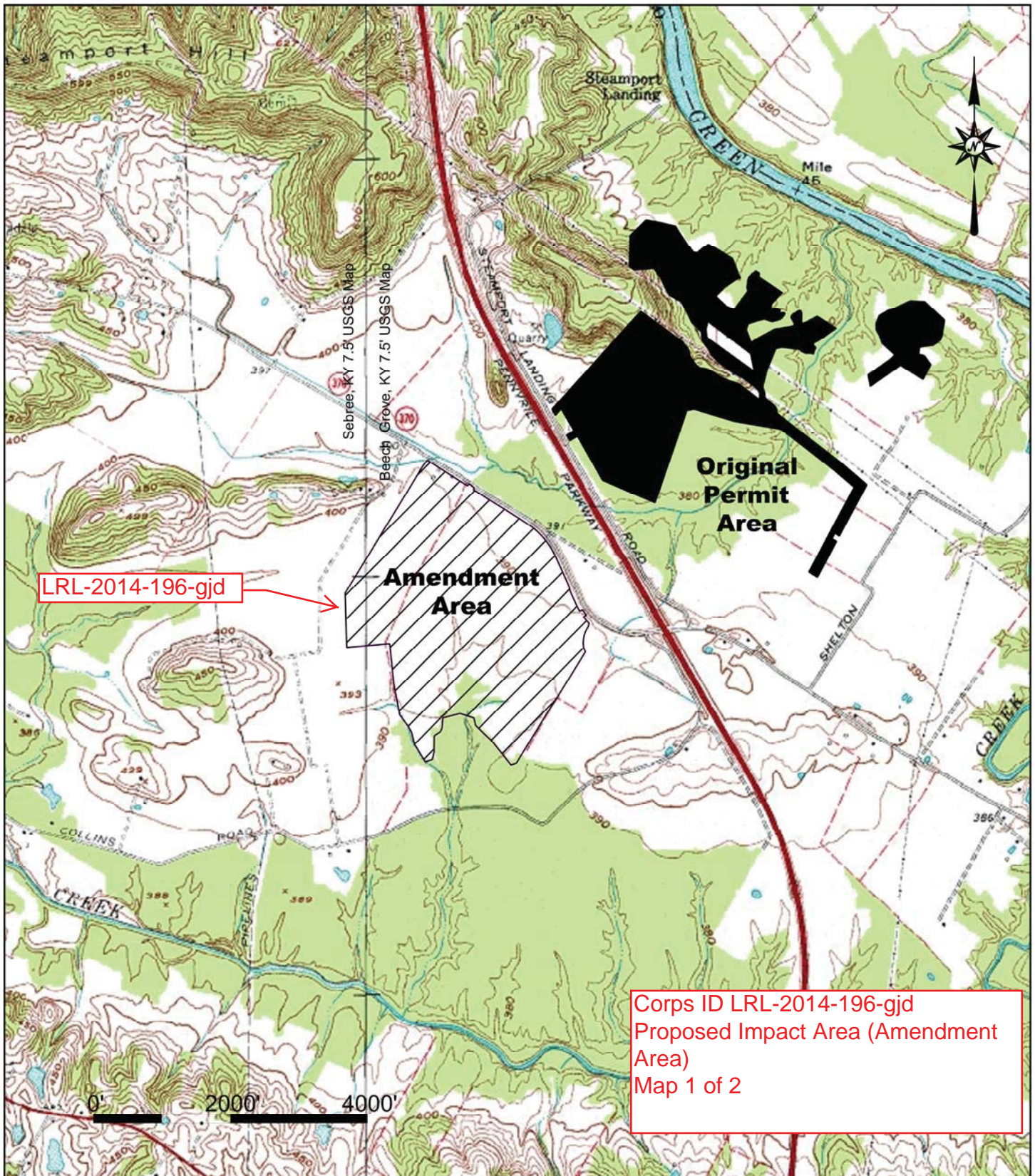
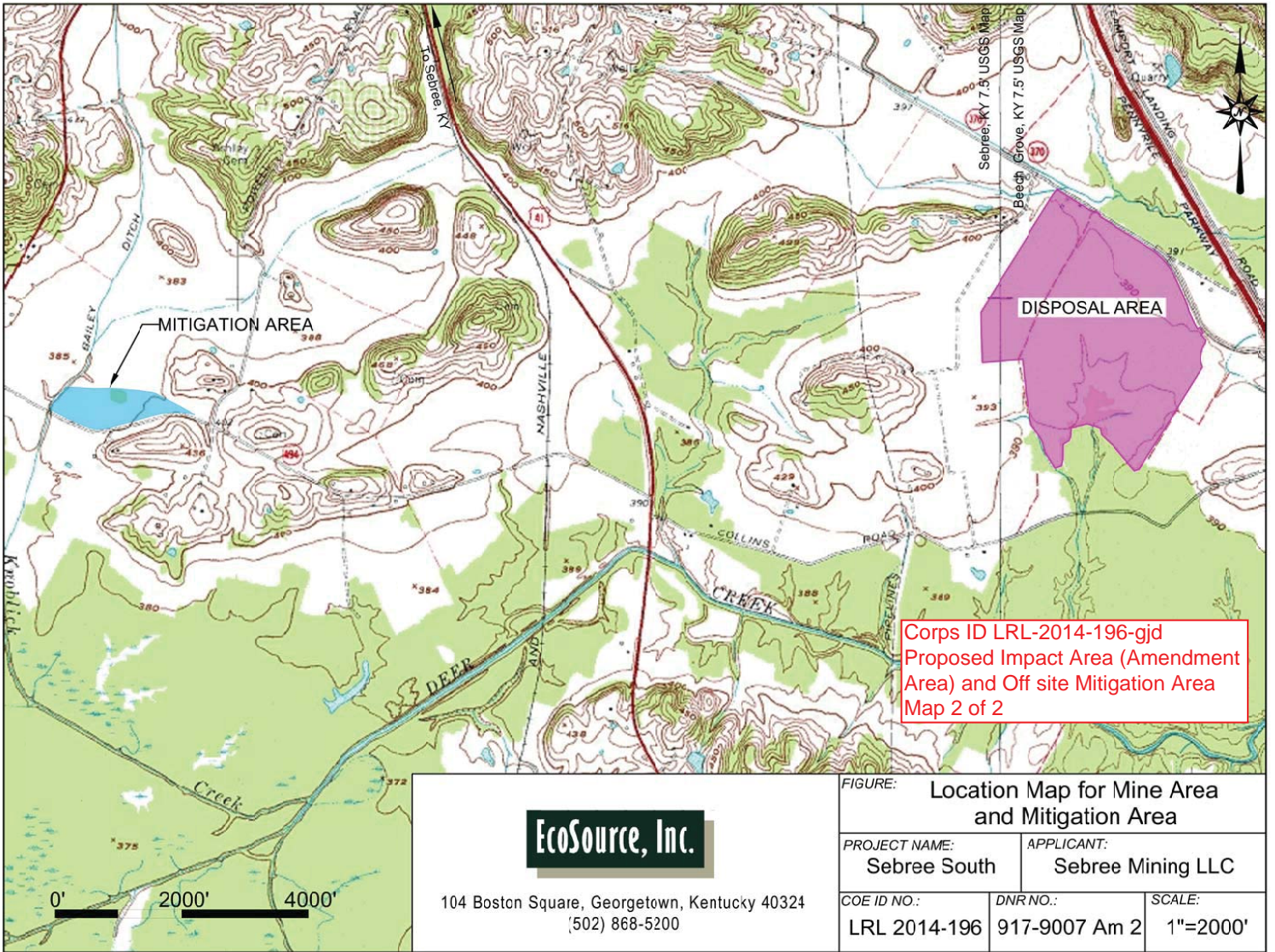


FIGURE:
Location Map for Mine Area

PROJECT NAME: Sebree South	APPLICANT: Sebree Mining LLC	
COE ID NO.: LRL 2014-196	DNR NO.: 917-9007 Am 2	SCALE: 1"=2000'



104 Boston Square, Georgetown, Kentucky 40324
 (502) 868-5200



EcoSource, Inc.

104 Boston Square, Georgetown, Kentucky 40324
(502) 868-5200

FIGURE: Location Map for Mine Area and Mitigation Area		
PROJECT NAME:	APPLICANT:	
Sebree South	Sebree Mining LLC	
COE ID NO.:	DNR NO.:	SCALE:
LRL 2014-196	917-9007 Am 2	1"=2000'