



REPLY TO
ATTENTION OF:

**DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
218 SUMMIT PARKWAY, SUITE 222
HOMEWOOD, ALABAMA 35209**

April 4, 2012

Inland Section North
Regulatory Division

SUBJECT: Department of the Army Final Permit Number SAM-2010-00860-CTM,
Birmingham Coal and Coke Co., Inc. – Old Union Mine No.2

Mr. Robert Lewis
Birmingham Coal and Coke Co., Inc.
912 Edenton Street
Birmingham, Alabama 35242

Dear Mr. Lewis:

**PLEASE READ THIS LETTER CAREFULLY AND COMPLY
WITH ITS PROVISIONS**

There is enclosed a Department of the Army permit authorizing you to perform the work specified therein in accordance with the plans shown on the drawings attached thereto. This permit is issued under provision of the Federal laws for the protection and preservation of the navigable waters of the United States. These laws provide that after the proposed work has been approved by issuance of a Department of the Army permit,

**IT SHALL NOT BE LAWFUL TO DEVIATE FROM SUCH PLANS EITHER
BEFORE OR AFTER COMPLETION OF THE WORK,**

unless modification of said plans has previously been submitted to and received the approval of the Department of the Army.

You should study and carefully adhere to all the terms and conditions of the permit. The District must be notified of the commencement and completion of the permitted work. The enclosed forms may be used for that purpose. Also enclosed is a "NOTICE OF AUTHORIZATION" which must be conspicuously displayed at the site during construction of the permitted work. Any telephone inquiries relating to this permit should be directed to the Regulatory Division Birmingham Field Office, telephone number 205-290-9096.

If for any reason it becomes necessary to make a material change in location or plans for this work, revised plans should be submitted promptly to the District Commander in order that the revised plans may receive the approval required by law before work is begun.

Compliance with this and other conditions of the permit is essential. Failure to submit the notices requested may result in its revocation.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe Tanko", written in a cursive style.

Joe Tanko
Acting Section Chief
Inland North
Regulatory Division

Enclosures

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Birmingham Coal and Coke Company, Inc.	File Number: SAM-2010-00860-CTM	Date: 4/4/12
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
X	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
USACE Mobile District – Birmingham Field Office
218 Summit Parkway, Suite 222
Homewood, Alabama 35209

If you only have questions regarding the appeal process you may also contact:
Jason Steele
Administrative Appeals Review Officer
60 Forsyth Street, SW (Room 9M10)
Atlanta, GA 30303-8801
404-562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



US Army Corps of Engineers
Mobile District

NOTIFICATION OF COMMENCEMENT OF WORK

Permit Number: SAM-2010-00860-CTM

Name of Permittee: Birmingham Coal and Coke Company, Inc.

Date of Permit Issuance: April 4, 2012

Location of the Work: Ashbank, Winston and Walker Counties, Alabama

Upon commencement of the authorized work and any mitigation required by the permit, you must complete and return this notification to the following address:

**U.S. Army Corps of Engineers, Mobile District
Regulatory Division (RD-I-N)
218 Summit Pkwy, Suite 222
Homewood, AL 35209**

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

IT SHALL NOT BE LAWFUL TO DEVIATE FROM SUCH PLANS EITHER BEFORE OR AFTER COMPLETION OF THE WORK, unless modification of said plans has previously been submitted to and received the approval of the Department of the Army. If for any reason it becomes necessary to make a material change in location or plans for this work, revised plans should be submitted promptly to the District Engineer in order that the revised plans may receive the approval required by law before work is begun.

PERMITTEE TO COMPLETE THE FOLLOWING:

Date Work Commenced: _____

Signature of Permittee

Date



US Army Corps of Engineers
Mobile District

SELF-CERTIFICATION - STATEMENT OF COMPLIANCE

Permit Number: SAM-2010-00860-CTM

Name of Permittee: Birmingham Coal and Coke Company, Inc.

Date of Permit Issuance: April 4, 2012

Location of the Work: Ashbank, Winston and Walker Counties, Alabama

Upon completion of the activity authorized by this permit and any mitigation required by the permit, you must complete and return this certification to the following address:

**U.S. Army Corps of Engineers, Mobile District
Regulatory Division (RD-I-N)
218 Summit Pkwy, Suite 222
Homewood, AL 35209**

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

PERMITTEE TO COMPLETE THE FOLLOWING:

Date Work Completed: _____

I hereby certify that the work authorized by the above-referenced permit has been completed in accordance with the permit authorization, including all general and/or special conditions of the said permit, and the required mitigation (if applicable) was completed in accordance with the permit conditions.

Signature of Permittee

Date

DEPARTMENT OF THE ARMY PERMIT

Permittee: Birmingham Coal & Coke Company, Inc.

Permit No: SAM-2010-00860-CTM

Issuing Office: Mobile District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The proposed project is to surface area mine approximately 1,266 acres which includes the discharge of dredged and/or fill material into waters of the United States. These activities will involve impacts to 31,083 linear feet of intermittent streams and 48,734 linear feet of ephemeral streams, as well as impacts to 0.11 acre of wetlands and 0.66 acre of impoundments.

Attached:

1. Mining Increment Maps (Figures 1 and 2)
2. ADEM 401 Water Quality Certification
3. Mitigation Maps (Figures 3, 4, and 5)
4. Addendum to Lease
5. Financial Assurance Table

Project Location: The project is located along portions of County Road 385 and County Road 37 near Ashbank, in Winston County and into Walker County. The project is located in Section 33, Township 11 South, Range 9 West; Sections 3,4,5,9,10,11,12,13,14,15, Township 12 South, Range 9 West; Section 7 South, Township 12 South, Range 8 West. The project also extends into Sections 23 & 24, Township 12 South, Range 9 West in Walker County. The streams and wetlands onsite are un-named tributaries to Long Branch Creek, Splunge Creek, Brown's Creek, Indian Creek, and Little Blackwater Creek. (See Figures 1 and 2, Attachment 1)

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on September 5, 2016. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least 1 month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions (Attachment 2).
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

- a. The permittee shall implement the mitigation plan dated February 15, 2012. A series of status reports must be submitted to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division, during various stages of the mining process including: 1. At completion of coal removal; 2. After any sediment pond removals; 3. When ASMC required reclamation is complete; 4. When mitigation construction begins, including final design plans; 5. Upon completion of stream construction (initial mitigation report), which shall include as-built drawings. These reports must be submitted for each mining increment.
- b. The permittee shall construct at least 31,083 lf of intermittent streams as compensatory mitigation for the impacts of the proposed project. This construction (including any preservation) shall generate no less than 131,455.2 stream SOP (2009) credits. If the permittee is unable to establish all of the required stream SOP credits through permittee-responsible mitigation activities, then the remaining amount shall be purchased from Big Sandy Mitigation Bank. Figures 3, 4, and 5 in Attachment 3 depict the intermittent stream restoration and perennial stream preservation locations.
- c. Mitigation monitoring reports (for each mining increment) will be due annually for 5 years from the date of the initial mitigation report. All reports must be submitted to the U.S. Army Corps of Engineers, Mobile District Birmingham Field Office, Regulatory Division and must prominently display the reference number SAM-2010-00860-CTM.
- d. The permittee shall purchase 1.87 wetland credits from Big Sandy Mitigation Bank to compensate for 0.11 acre of wetland impacts (0.11 acre x 0.472 WRAP x 1.497 proximity factor) and 48,734 lf (1.2 acres x 1.497 proximity factor) of ephemeral stream impacts. Calculations can be found in the final mitigation plan dated February 15, 2012. Proof of credit purchase must be received at our office prior to commencing work.
- e. The permittee shall preserve (in a restrictive covenant) 2,875 linear feet of perennial stream (as described in the February 15, 2012 mitigation plan) along Indian Creek in order to compensate for the lack of a site protection easement at the on-site mitigation areas. A signed and recorded restrictive covenant must be received at our office prior to commencing work.
- f. The permittee shall provide an "Addendum to Lease" to each property owner explaining the importance of restricting certain activities in the on-site mitigation areas (Attachment 4). Copies of the signed documents shall be provided to our office.

g. The permittee shall prepare a performance bond, or other suitable financial assurances, before commencing mining activities on each increment. Each financial assurance document shall be submitted to the U.S. Army Corps of Engineers, Mobile District, Regulatory Division for approval prior to being executed. The financial assurances shall be posted before construction authorized by this permit begins. The bonding will be based on the attached financial assurance table (Attachment 5) and Mining Increment Maps.

h. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition "b", will not be considered fulfilled until you have demonstrated compensatory mitigation project success for 5 consecutive years and have received written verification of that success from the U.S. Army Corps of Engineers. If mitigation, including any adaptive management, is determined to be unsuccessful, the Corps shall require the permittee to purchase credits at a Corps approved mitigation bank to offset any difference in the required number of stream SOP credits (listed in Special Condition "b").

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- Section 404 of the Clean Water Act (33 U.S.C. 1344).
- Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Robert Alvin April 4th 2012
 (PERMITTEE) (DATE)
 pres.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

STEVEN J. ROEMHILDT, P.E.
 Colonel, Corps of Engineers
 District Commander

BY: Joe Tanko DATE: 4/4/12
 Joe Tanko
 Acting Section Chief, Inland North
 Regulatory Division

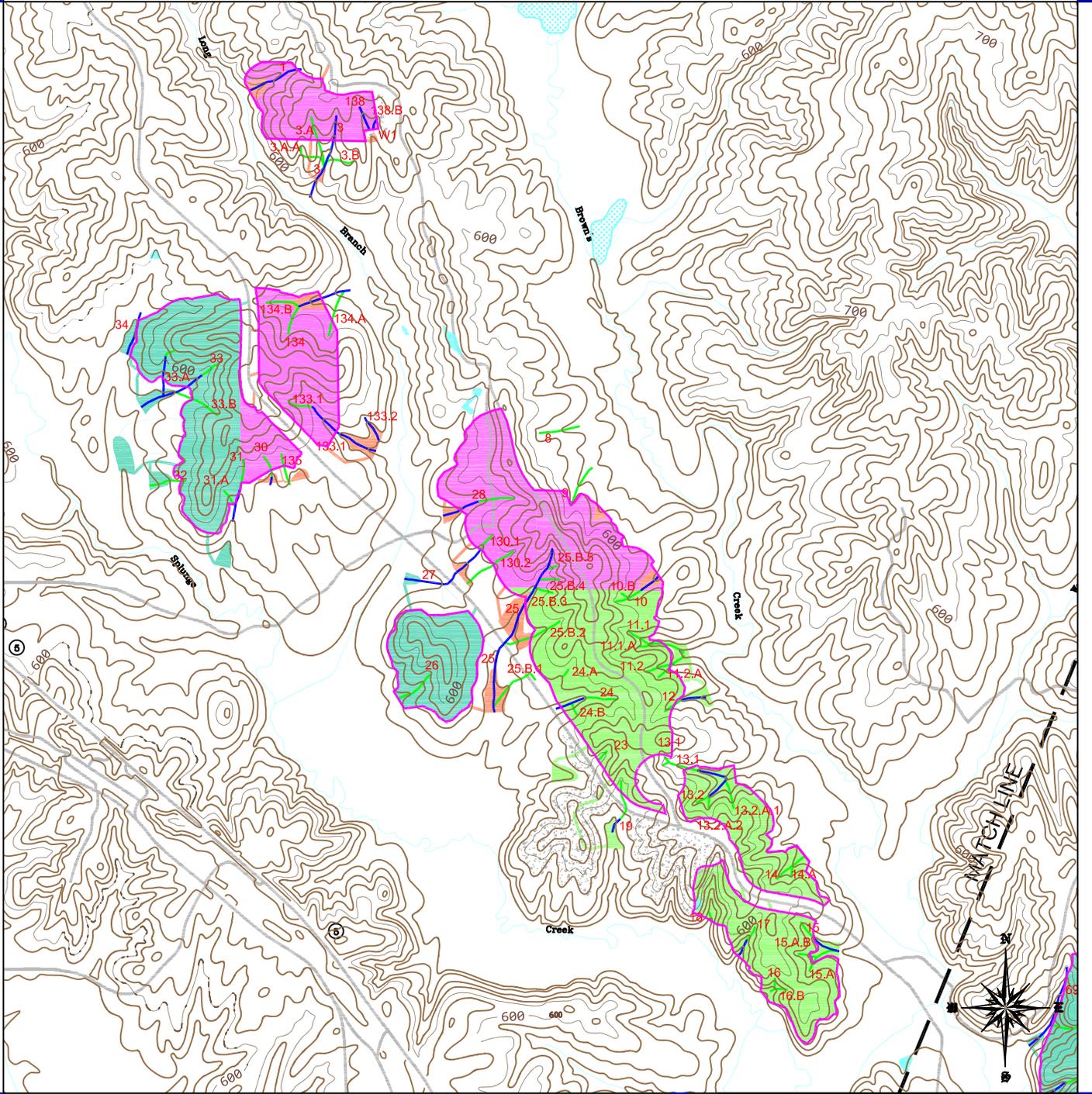
When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____ _____
 (TRANSFEREE) (DATE)

Attachment 1

Figures 1 and 2

SAM-2010-00860-CTM

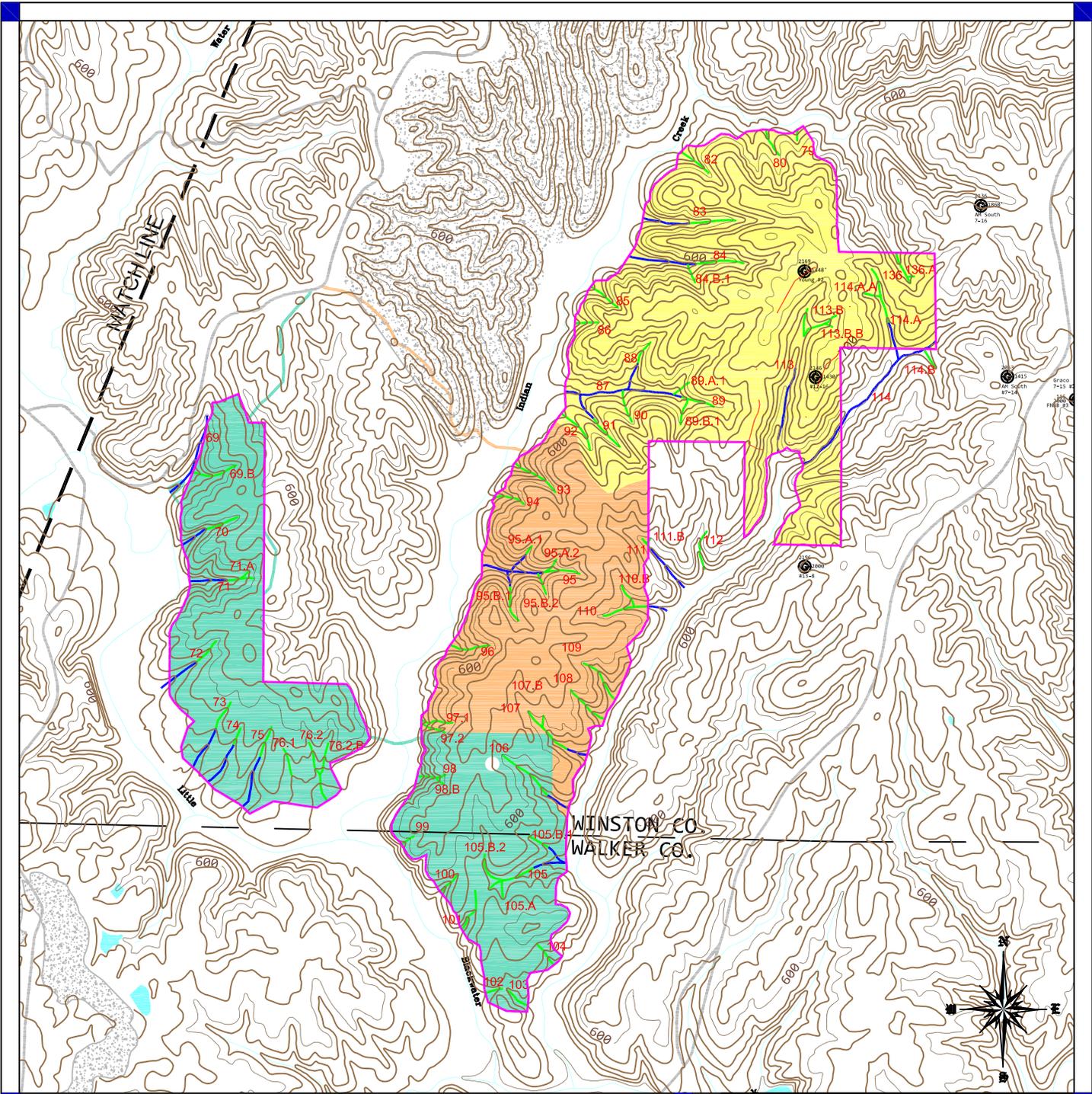


OLD UNION NO. 2 MINE INCREMENT MAP

DRAWN BY: Z.B.W.	DATE: 05/26/10	INCREMENT 1 INCREMENT 2 INCREMENT 3 INCREMENT 4 INCREMENT 5 INCREMENT 6	
APPROVED BY: J.D.M.	DATE: 05/26/10		
SCALE: 1" = 2000'	SHEET: 1 OF 2	Intermittent Stream Ephemeral Stream	

DESIGN GROUP, LLC
ENGINEERING / SURVEYING

1400 VIKING DRIVE
JASPER, ALABAMA 35501
TELEPHONE: (205) 221-6262



OLD UNION NO. 2 MINE INCREMENT MAP

DRAWN BY: Z.B.W.	DATE: 05/26/10		INCREMENT 1
			INCREMENT 2
			INCREMENT 3
			INCREMENT 4
			INCREMENT 5
			INCREMENT 6
			Intermittent Stream
			Ephemeral Stream
SCALE: 1" = 2000'	SHEET: 2 OF 2		

DESIGN GROUP, LLC
 ENGINEERING / SURVEYING

1400 VIKING DRIVE
 JASPER, ALABAMA 35501
 TELEPHONE: (205) 221-6262

Attachment 2

ADEM 401 Water Quality Certification

SAM-2010-00860-CTM

LANCE R. LEFLEUR
DIRECTOR



ROBERT J. BENTLEY
GOVERNOR

Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

September 6, 2011

BIRMINGHAM COAL AND COKE COMPANY INC
ATTN ROBERT LEWIS
912 EDENTON STREET
BIRMINGHAM AL 35242

RE: Certification with Special Conditions
Clean Water Act (CWA) Section 401 Water Quality Certification Issued September 6, 2011
Water Quality Certification Expires September 5, 2016
Corps of Engineers (COE) JPN# SAM-2010-00860-CTM Issued September 8, 2010
Winston County (133)
Proposed wetland and waterbottom impacts for the purpose of subsurface coal mining

Dear Mr. Lewis:

This office has completed a review of the above-referenced joint public notice and all associated materials submitted related to the proposed project. Any comments made during the public notice period have also been forwarded to us for review.

From our review, it is understood that the applicant proposes to surface area mine 1,266 acres which includes the discharge of dredged and/or fill material into waters of the United States. These activities will involve impacts to 31,083 linear feet of intermittent drainage courses and 48,734 linear feet of ephemeral drainage courses, as well as impacts to 0.11 acre of wetlands and 0.66 acre of impoundments.

Because action pertinent to water quality certification (WQC) is required by Section 401(a)(1) of the Clean Water Act (CWA), 33 U.S.C. Section 1251, et seq., we hereby issue certification, for a period not to exceed five (5) years from the date of issuance, that there is reasonable assurance that the discharge resulting from the proposed activities as submitted will not violate applicable water quality standards established under Section 303 of the CWA and Title 22, Section 22-22-9(g), Code of Alabama, 1975, provided the applicant acts in accordance with the following conditions as specified. We further certify that there are no applicable effluent limitations under Section 301 and 302 nor applicable standards under Section 306 and 307 of the CWA in regard to the activities specified.

To minimize adverse impacts to State waters, by copy of this letter we are requesting the Mobile District Corps of Engineers to incorporate the following as special conditions of the Corps Permit:

1. During project implementation, the applicant shall ensure compliance with applicable requirements of ADEM. Admin. Code Chapter 335-6-6 [National Pollutant Discharge Elimination System (NPDES)], Chapter 335-6-10 (Water Quality Criteria), and Chapter 335-6-11 (Water Use Classifications for Interstate and Intrastate Waters).
2. The applicant shall obtain and maintain valid NPDES permit coverage prior to commencing and/or continuing the proposed project activities. A review of ADEM records indicates that the applicant applied to ADEM for NPDES permit coverage (proposed AL0080098) for the site on January 8, 2009. If you have any questions regarding regulated mining activity or NPDES permit requirements, please contact ADEM's Water Division at (334) 271-7823.
3. Please be advised that ADEM permit coverage may be required prior to commencing and/or continuing certain activities/operations relating to or resulting from the project. If you have any questions regarding ADEM regulated activity or the need for NPDES permit coverage, please contact ADEM's Water Division at (334) 271-7823. If you have any questions regarding ADEM regulated activity or the need for air permit coverage, please contact ADEM's Air Division at (334) 271-

Birmingham Branch
110 Vulcan Road
Birmingham, AL 35209-4702
(205) 942-6168
(205) 941-1603 (FAX)

Decatur Branch
2715 Sandlin Road, S. W.
Decatur, AL 35603-1333
(256) 353-1713
(256) 340-9359 (FAX)



Mobile Branch
2204 Perimeter Road
Mobile, AL 36615-1131
(251) 450-3400
(251) 479-2593 (FAX)

Mobile-Coastal
4171 Commanders Drive
Mobile, AL 36615-1421
(251) 432-6533
(251) 432-6598 (FAX)

Birmingham Coal & Coke, Inc.
September 6, 2011
Page 2 of 2

7869. If you have any questions regarding ADEM regulated activity or the need for hazardous, toxic, and/or solid waste permit coverage, please contact ADEM's Land Division at (334) 271-7730.

In recognition that projects are site specific in nature and conditions can change during project implementation, ADEM reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case by case basis, in order to ensure the protection of water quality. Liability and responsibility for compliance with this certification are not delegable by contract or otherwise. The applicant shall ensure that any agent, contractor, subcontractor, or other person employed by, under contract, or paid a salary by the applicant complies with this certification. Any violations resulting from the actions of such person shall be considered violations of this certification.

Issuance of a certification by ADEM neither precludes nor negates an operator/owner's responsibility or liability to apply for, obtain, or comply with other ADEM, federal, state, or local government permits, certifications, licenses, or other approvals. This certification does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, and in no way purports to vest in the applicant title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State of Alabama that may be in the applicant's possession.

Should you have any questions on this or related matters, please do not hesitate to contact Aaron Peters, Office of Field Services, by email at dapeters@adem.state.al.us or by phone at (334) 394-4310.

Sincerely,



Steven O. Jenkins, Chief
Field Operations Division

SOJ/DAP

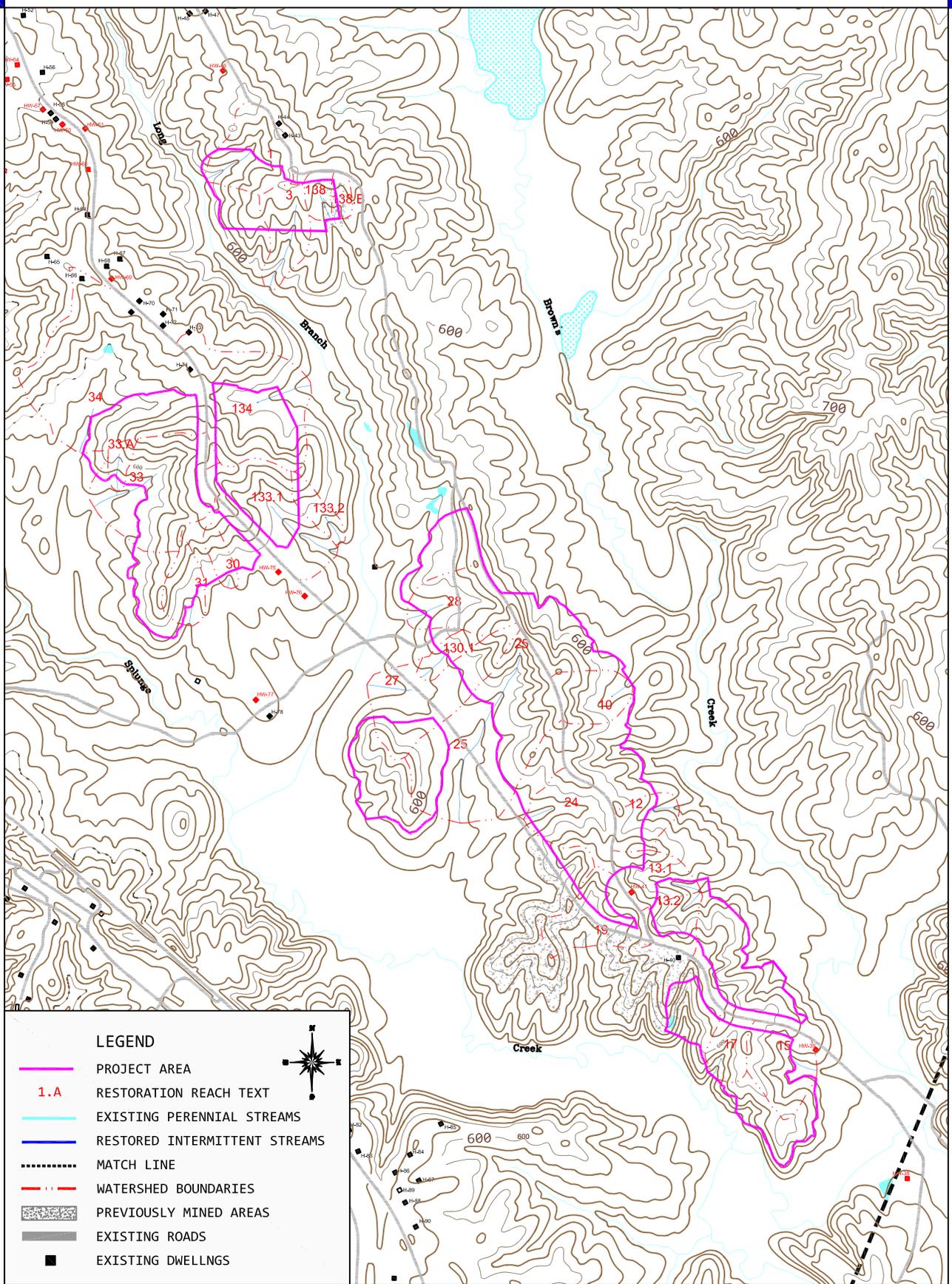
File: WQ401

c: Birmingham Field Office, Mobile COE
Permits & Services Division, ADEM
Wetlands Section, EPA Region IV
Water Division, ADEM

Attachment 3

Mitigation Maps (Figures 3, 4, and 5)

SAM-2010-00860-CTM



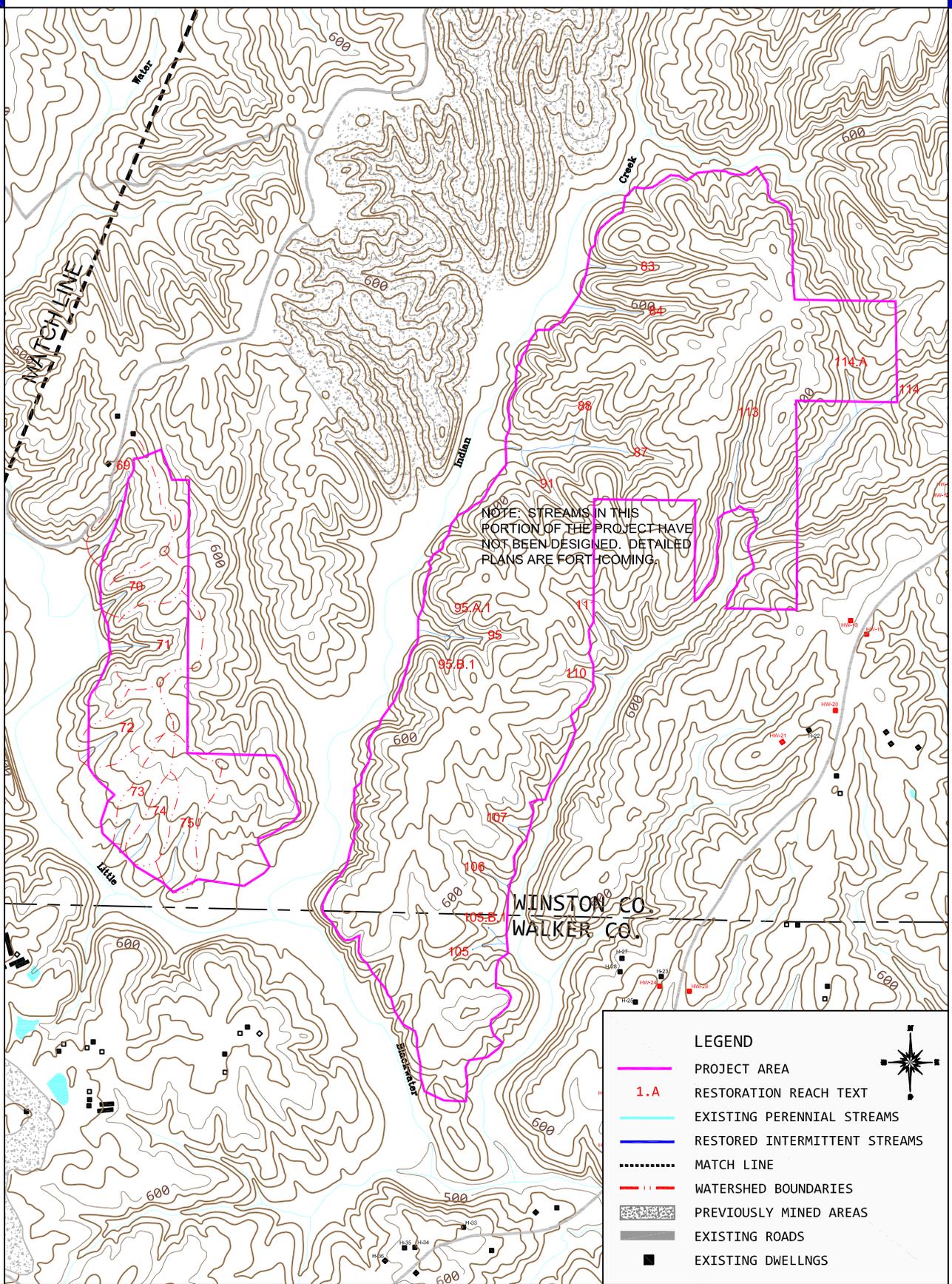
<p>DRAWN BY: Z.B.W. 10/24/2011</p>
<p>APPROVED BY: J.D.M. 10/24/2011</p>
<p>SCALE: 1" = 1,200'</p>
<p>SHEET: 1 OF 2</p>

Birmingham Coal & Coke, Inc
Old Union #2 Mine

STREAM RESTORATION LOCATION MAP
 T. 11 S., R. 9 W., SEC. 33
 T. 12 S., R. 9 W. SEC. 3, 4, 5, 9, 10, 15
 WINSTON CO., AL



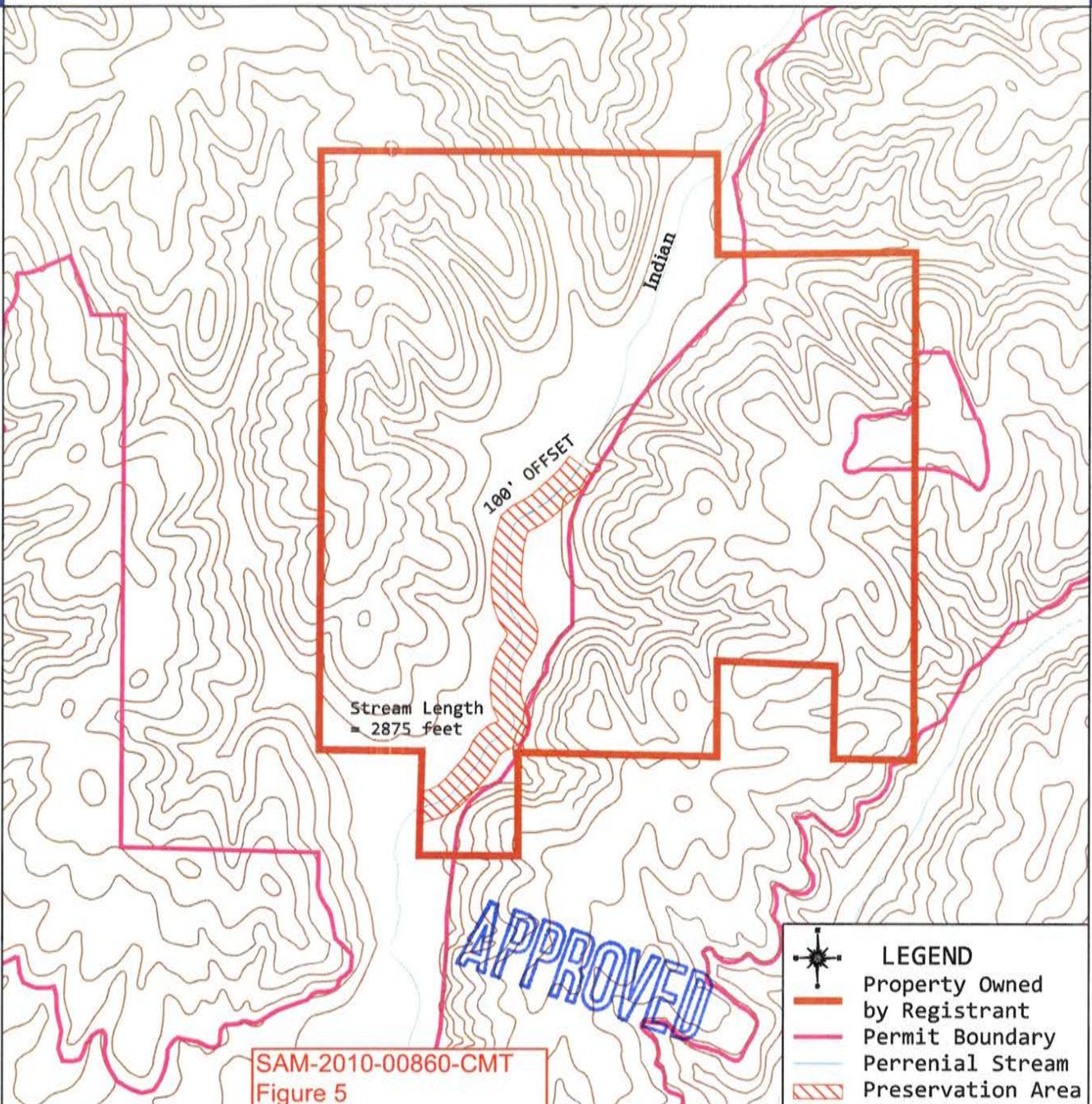
DSM
 DESIGN GROUP, LLC
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 1400 VIKING DRIVE
 JASPER, ALABAMA 35501
 TELEPHONE: (205) 221-6262



DRAWN BY:
 Z.B.W.
 10/24/2011
 APPROVED BY:
 J.D.M.
 10/24/2011
 SCALE:
 1" = 1,200'
 SHEET:
 2 OF 2

Birmingham Coal & Coke, Inc
Old Union #2 Mine
 STREAM & BUFFER RESTORATION MAP
 T. 12 S., R. 8 W., SEC. 7
 T. 12 S., R. 9 W. SEC. 11, 12, 13, 14, 23, 24
 WALKER & WINSTON CO., AL


DSM
 DESIGN GROUP, LLC
 ENGINEERING / SURVEYING
 1400 VIKING DRIVE
 JASPER, ALABAMA 35501
 TELEPHONE: (205) 221-6262



SAM-2010-00860-CMT
Figure 5

**Birmingham Coal & Coke, Inc
Old Union #2 Mine**

DRAWN BY: Z.B.W.	DATE: 11/04/10	PRESERVATION AREA SEC: 11 & 13 T: 12 S., R: 9 W. WINSTON CO., AL
APPROVED BY: J.D.M.	DATE: 11/04/10	
SCALE: 1" = 1000'	SHEET: 1 OF 1	PRESERVATION MAP

DSM
DESIGN GROUP, LLC
ENGINEERING / SURVEYING
1400 VIKING DRIVE
JASPER, ALABAMA 35501
TELEPHONE: (205) 221-6262

Attachment 4

Addendum to Lease

SAM-2010-00860-CTM

ADDENDUM TO LEASE -DATED _____

I (we), _____, agree to follow "Alabama Best Management Practices (BMP) for forestry" as part of the long term management plan of my (our) property for all reestablished streams, drainage courses and adjacent buffer zones within the Birmingham Coal & Coke Co., Inc. US Army Corp of Engineers (USACE) permitted mitigation area. I (we) will specifically comply with the BMP's for the following:

- 1) Buffer areas, otherwise referred to as Stream Side Management Zones (SMZ's).
 - a) These buffer zones will be a minimum of 50 feet from the center of any reestablished stream or designated mitigated drainage course.
 - b) The SMZ may be subject to selective harvest methods to improve stand or site conditions.
- 2) Any future stream or road crossings of the reestablished stream or drainage courses will follow USACE nationwide permit general conditions and may require a USACE permit.
- 3) In the event I (we) anticipate any impacts to the reestablished stream or its buffer zone, I (we) will consult with a professional forester to determine if the impacts comply with BMP's and/or with the USACE to determine if the impacts will require a permit.

Landowner

Birmingham Coal & Coke Co., Inc.

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Attachment 5

Financial Assurance Table

SAM-2010-00860-CTM

Birmingham Coal and Coke Co., Inc.
 Old Union No. 2 Mine Site
 Winston/Walker County, Alabama

Cost Estimating Worksheet for Implementation of Mitigation Plan

Task	Expenditure	Labor Source	Specification	Labor Personnel	Hourly Rate (\$ x/hr)	hours	No. Items	Units	Cost per Item	Total Cost
1.) Restoration Activities										
In-stream location/length	once	staff	Locate stream restoration position and length extents	Restor. Crew	50	1 hr/100 ft	31083	linear ft	---	\$15,541.50
In-stream Geometry Reconst.	once	staff	Reconstruct stream based off geometric specs in plan	Restor. Crew	50	1 hr/50 ft	31083	linear ft	---	\$15,541.50
In-stream structures	once	staff	Provide stream with log structures as described in plan	Restor. Crew	---	---	690	structures	\$325.00	\$224,250.00
In-stream structures	once	staff	Provide stream with boulder/cobble structures as described in plan	Restor. Crew	---	---	1380	structures	\$450.00	\$621,000.00
In-stream structures	once	staff	Install in-stream structures	Restor. Crew	50	2 hr/str	2070	structures	---	\$207,000.00
Design in-stream structure	once	subcontr.	Design plans for restor. and structure placement	Pro. Engineer	---	---	1	project	\$15,000.00	\$15,000.00
Riparian Buffer Zone	once	staff	Locate 50 feet to both sides of stream bank for boundary	Restor. Crew	50	1 hr/100 ft	31083	linear ft	---	\$31,083.00
Riparian Buffer Planting	once	staff	Plant seed assortment as described in mitigation plan	Restor. Crew	50	4 hr/ac	71.4	acres	\$1,308.00	\$107,671.20
2.) Preservation Activities										
Legal Survey	once	subcontr.	Prepare legal survey and map for conservation easement	P.L.S.	120	40	---	labor hrs	---	\$4,800.00
Document Preparation	once	subcontr.	Fill out appropriate accompanying documents with signatures	Eng. Consult.	100	8	---	labor hrs	---	\$800.00
Signage & Placement	once	staff	Place preservation signage along boundary of area.	Restor. Crew	50	1 hr/5 signs	620	signs	\$8.00	\$11,160.00
3.) Monitoring Activities										
Inspections	biannual	subcontr.	Perform biannual inspections on restored streams	Eng. Consult.	---	---	10	reports	\$500.00	\$5,000.00
Macroinvertebrate study	once	subcontr.	Perform baseline annual benthic macroinvertebrate study	Biologist	---	---	2	reports	\$1,100.00	\$2,200.00
Macroinvertebrate study	annual	subcontr.	Perform annual benthic macroinvertebrate study	Biologist	---	---	10	reports	\$1,100.00	\$11,000.00
Corp Reporting	annual	subcontr.	Prepare and submit annual monitoring reports CoE	Eng. Consult.	---	---	5	reports	\$500.00	\$2,500.00
Total Cost										
\$1,274,547.20										
Operation and Maintenance (machinery of \$5000/yr)										
\$25,000.00										
Adaptive Mgmt (20%)										
\$254,909.44										
Contingency (15%)										
\$191,182.08										
Estimated Financial Assurance										
\$1,745,639										

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