



**U.S. Army Corps  
of Engineers**

Pittsburgh District

---

# Public Notice

---

In Reply Refer to  
Notice No. below

US Army Corps of Engineers, Pittsburgh District  
1000 Liberty Avenue  
Pittsburgh, PA 15222-4186

---

Application No. LRP-2011-1009

Date: October 27, 2015

---

Notice No. 15-12

Closing Date: November 26, 2015

---

1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act.

2. APPLICANT: Mr. Douglas Conklin  
Cumberland Coal Resources, LP.  
P.O. Box 1020  
158 Portal Road  
Waynesburg, PA 15370

3. LOCATION: the subject project is located along tributaries 41291 and 41292 to Whiteley Creek located in Whiteley Township, Greene County, PA (approximate center location at 39.814722° N, -80.130277° W).

4. PURPOSE AND DESCRIPTION OF WORK: The applicant proposes to continue mining and process coal reserves at the Cumberland Mine Complex in Greene County, Pennsylvania, however the existing Coal Refuse Disposal Areas (CRDA) are approaching their designed storage capacities and will not provide the necessary refuse disposal volume for continued operations. The construction of the proposed Cumberland CRDA No. 3 will result in permanent impacts to 28,845 linear feet (LF) of stream and 3.105 acres (Ac) of wetland. See attached (Exhibit 9.1) for details about the CRDA No. 3 site.

To mitigate for impacts to Waters of the U.S. the applicant proposes to conduct stream restoration of 43,500 LF and wetland creation of 4.86 Ac. Stream work will include stabilizing banks to prevent erosion by eliminating blockages to allow for natural stream flow, thereby creating stable, dense forest/shrub riparian buffer zones which will increase the amount and diversity of in-stream habitats and enhance flow regimes. The wetland mitigation work will consist of the creation of a three-cell wetland complex that will be 4.86 Ac. in size. This in-kind, permittee-responsible, compensatory mitigation is proposed within the Whiteley Creek watershed (same as the proposed impact site). See attached (Figures 1, 1a, 1b) for location details. Details on the proposed work is summarized in Table 1 below.

**Table 1 - Cumberland CRDA No. 3 Impacts/Proposed Stream and Wetland Mitigation**

Impacts				Mitigation			
Name	Amount		Impact type	Name	Amount		Mitigation Type
Streams (PER)	9,607	LF	Permanent Fill	Streams (PER) within Whiteley Creek (same watershed as impacts)	43,500	LF	Restoration
Streams (INT)	5,657	LF	Permanent Fill				
Streams (EPH)	13,581	LF	Permanent Fill				
Wetlands (PEM)	2.769	Ac	Permanent Fill	Wetlands (PEM)	3.16	Ac	Creation
Wetlands (PSS)	0.331	Ac	Permanent Fill	Wetlands (PSS)	0.77	Ac	Creation
Wetlands (PFO)	0.005	Ac	Permanent Fill	Wetlands (PFO)	0.43	Ac	Creation
				Wetlands (POW)	0.5	Ac	Creation

Impacts Total		
Streams	28,845	LF
Wetlands	3.105	Ac

Mitigation Total		
Streams	43,500	LF
Wetlands	4.86	Ac

The applicant is proposing to create more acres of functioning PSS and PFO wetland than typical replacement ratios dictate. Additionally, in consultation with the Pennsylvania Game Commission Land Manager, the applicant is proposing to enhance the wetland mitigation area by adding shallow, seasonally inundated aquatic PEM areas and an open-water component that exceeds typical mitigation acreage requirements in order to provide a more diverse, higher-functioning wetland system. Further details on mitigation efforts can be found in the mitigation plan dated June 2014, which is available upon request.

5. ENCROACHMENT PERMIT: The applicant must obtain a Water Obstruction and Encroachment Permit which includes 401 Water Quality Certification from the:

Pennsylvania Department of Environmental Protection  
California District Mining Office  
25 Technology Drive  
California Technology Park  
Coal Center, PA 15423

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project will have no effect on endangered species or threatened species, or result in destruction or adverse modification of habitat of such species which has been determined to be critical. While concurrence with this determination is not required, this Public Notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: The PA Bureau for Historic Preservation (BHP) and National Register of Historic Places (NRHP) has been consulted, appropriate studies and surveys have been conducted and it has been determined that there are no NHRP eligible properties which would be directly affected by the proposed refuse area work (Reference PHMC letter dated June 12, 2012 ER#1984-0392-059-A94).

Additionally, the BHP and NRHP has been consulted regarding the stream and wetland mitigation site work (Reference PHMC letter dated 19 March, 2014, ER#2008-1535-059-B) and it has been determined that while there may be historic buildings, structures, districts, and/or objects eligible for the National Register of Historic Places, the mitigation project will have no effect on any historic structures. Furthermore, consultation determined that archeological sites are located in or near the project area. As a result, A Phase I Cultural Resources investigation is required and is in the process of completion to determine if any specific archeological, scientific, prehistorical, or historical sites or structures, eligible for listing in the NRHP, exist and may be affected by mitigation work. The applicant intends to practice avoidance of any significant archeological/cultural resources that are identified that would be eligible for the NRHP.

If we are made aware, as a result of comments received in response to this notice, or by the results of the Phase I study or other means, of specific archeological, 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).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

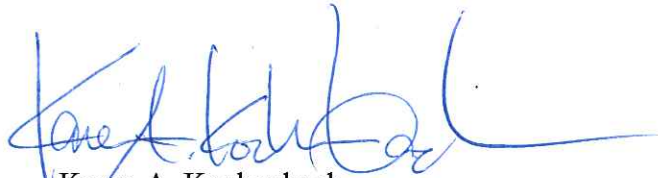
9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. 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

CELRP-OP-F  
Public Notice No. 15-12

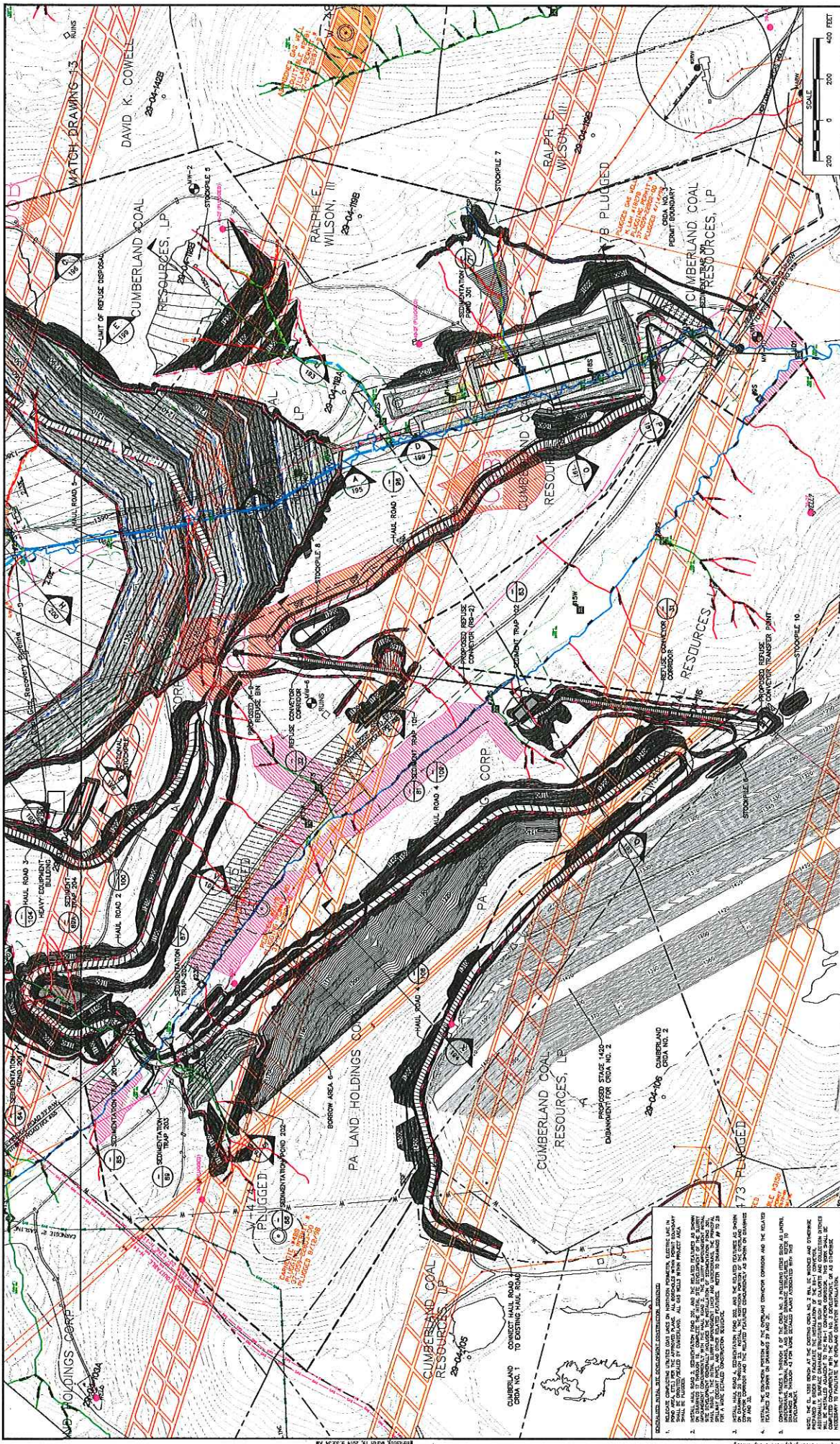
issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

10. **RESPONSES:** A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, attn Josh Shaffer at the above address, by telephoning (412) 395-7121, or by e-mail at [Joshua.d.shaffer@usace.army.mil](mailto:Joshua.d.shaffer@usace.army.mil). Please refer to CELRP-OP-F 2011-1009 in all responses.

FOR THE DISTRICT ENGINEER:



Karen A. Kochenbach  
Chief, Southern Section  
Regulatory Branch



**CUMBERLAND COAL RESOURCES, LP**  
**COAL REFUSE DISPOSAL AREA NO. 3**  
 EXHIBIT 9.1  
 OPERATIONS MAP (SHEET 1 OF 2)

**CUMBERLAND COAL RESOURCES, LP**  
 DATE: 02/20/14  
 DRAWN BY: AM  
 CHECKED BY: LHM  
 SCALE: AS SHOWN  
 DRAWING NO. 12  
 REV. 1

**D'APPOLONIA**  
 ENGINEERING, INC.  
 PROJECT NUMBER: 110508  
 FILE NAME: Operations Map-R-149

NO.	DATE	DESCRIPTION
1	02/20/14	ISSUED FOR 7452P-SHE CONSULT LATER DATED 07/27/2013
2	02/20/14	REVISION: EXPLANATION
3	02/20/14	ISSUED FOR 7452P-SHE CONSULT LATER DATED 07/27/2013
4	02/20/14	REVISION: EXPLANATION
5	02/20/14	ISSUED FOR 7452P-SHE CONSULT LATER DATED 07/27/2013
6	02/20/14	REVISION: EXPLANATION

**NOTES / REVISIONS**  
 TOPOGRAPHY PREPARED BY BLUE MOUNTAINS ENGINEERING.  
 DATE OF PHOTOGRAPHY: 04-2010  
 VERTICAL DATUM: NAVD83  
 ACCURACY: 1 FOOT VERTICAL AND 0.5 FEET HORIZONTAL

**NOTES / REVISIONS**  
 1. PROPERTY OWNERS: PA LAND HOLDINGS CORP, DAVID K. COWELL, CUMBERLAND COAL RESOURCES, LP.  
 2. THIS PLAN IS A REPRESENTATION OF THE PROJECT AS APPROVED BY THE STATE OF MICHIGAN. ALL OF THE FIELD DATA SHOWN HEREON IS THE PROPERTY OF THE ENGINEER.  
 3. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE PROJECT AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE PERMITS AND REGULATIONS OF THE STATE OF MICHIGAN.  
 4. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE PROJECT AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE PERMITS AND REGULATIONS OF THE STATE OF MICHIGAN.  
 5. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE PROJECT AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE PERMITS AND REGULATIONS OF THE STATE OF MICHIGAN.  
 6. THE ENGINEER HAS CONDUCTED VISUAL INSPECTIONS OF THE PROJECT AND HAS FOUND IT TO BE IN ACCORDANCE WITH THE PERMITS AND REGULATIONS OF THE STATE OF MICHIGAN.



1. RELOCATE EXISTING UTILITIES BASED UPON THE APPLICABLE PROJECT, EXISTING UTILITIES SHALL BE RELOCATED BY THE CONTRACTOR. ALL UTILITIES SHALL BE RELOCATED WITHIN THE PROJECT AREA.

2. UTILITIES SHALL BE RELOCATED TO THE CENTER OF THE ROAD AND THE EXISTING UTILITIES SHALL BE RELOCATED TO THE CENTER OF THE ROAD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RELOCATION OF ALL UTILITIES TO THE CENTER OF THE ROAD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RELOCATION OF ALL UTILITIES TO THE CENTER OF THE ROAD.

3. UTILITIES SHALL BE RELOCATED TO THE CENTER OF THE ROAD AND THE EXISTING UTILITIES SHALL BE RELOCATED TO THE CENTER OF THE ROAD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RELOCATION OF ALL UTILITIES TO THE CENTER OF THE ROAD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RELOCATION OF ALL UTILITIES TO THE CENTER OF THE ROAD.

4. UTILITIES SHALL BE RELOCATED TO THE CENTER OF THE ROAD AND THE EXISTING UTILITIES SHALL BE RELOCATED TO THE CENTER OF THE ROAD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RELOCATION OF ALL UTILITIES TO THE CENTER OF THE ROAD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE RELOCATION OF ALL UTILITIES TO THE CENTER OF THE ROAD.

**CUMBERLAND COAL RESOURCES, LP**  
**COAL REFUSE DISPOSAL AREA NO. 3**

EXHIBIT 9.1  
 OPERATIONS MAP (SHEET 2 OF 2)

DATE: 07/20/2014  
 DRAWN BY: LAM  
 CHECKED BY: NRP  
 SCALE: AS SHOWN  
 DRAWING NO.: 13  
 REV: 1

**D'APPOLONIA**  
 ENGINEERS ARCHITECTS & PLANNERS  
 1100 MARKET STREET, SUITE 100  
 PHILADELPHIA, PA 19107

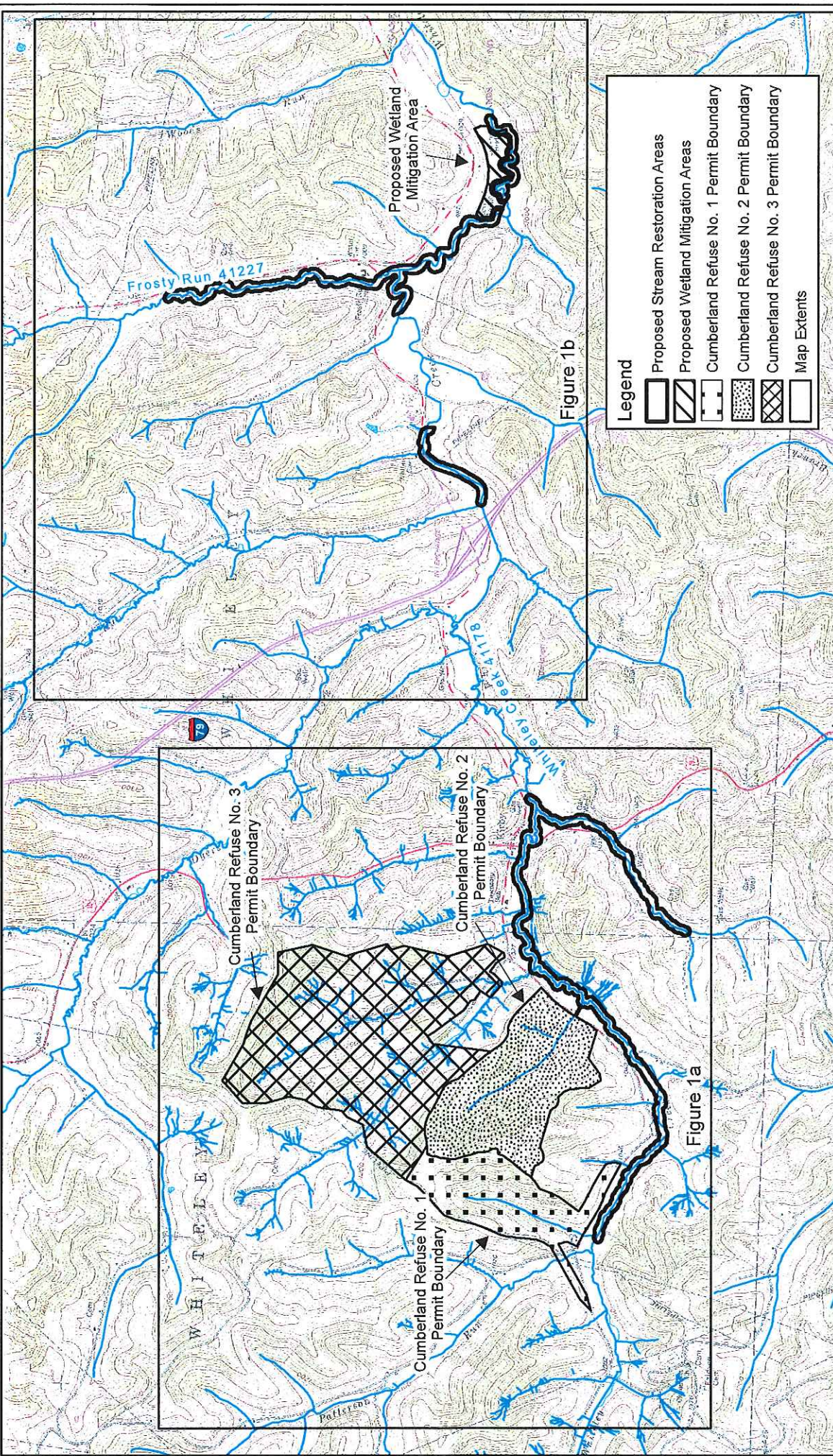
PROJECT NUMBER: 10056  
 FILE NAME: Operations Map-R1005

NOTES / REVISIONS

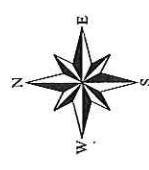
NO.	DATE	DESCRIPTION
1	07/20/14	ISSUED PER PADE-RE & USA 17/2014
2	07/20/14	ISSUED PER PADE-RE & USA 17/2014
3	07/20/14	ISSUED PER PADE-RE & USA 17/2014
4	07/20/14	ISSUED PER PADE-RE & USA 17/2014
5	07/20/14	ISSUED PER PADE-RE & USA 17/2014

TOPOGRAPHY PREPARED BY BLUE MOUNTAIN ENGINEERING.  
 HORIZONTAL DATA: NATIONAL GRID, PA 8307M (NO. 27)  
 VERTICAL DATA: NAVD83  
 ACCURACY: 1 FOOT VERTICAL AND 0.5 FEET HORIZONTAL

PADE-RE & USA 17/2014  
 DATE: 07/20/14  
 MADE BY: LAM  
 CHECKED BY: NRP



Date: 7/1/2015



Source Data:  
 1. 7.5 Minute Topographic DRG, Garards Fort and Oak Forest, PA.  
 U.S. Geological Survey, 1996.  
 2. Mitigation Boundary Polygons, WPI 2011-2015.

Projection: Lambert Conformal Conic  
 Datum: NAD27  
 Coordinate System:  
 PA State Plane South (Feet)

Prepared For:

**Alpha Natural Resources**  
 158 Portal Road  
 Waynesburg, PA 15370

**WALLACE & PANCHER, INC.**

160 TECHNOLOGY DRIVE, STE. 102  
 CANONSBURG, PA 15317  
 PHONE: (724) 551-1240  
 FAX: (724) 551-1279

ENGINEERING AND ENVIRONMENTAL CONSULTING

Project:

Stream Mitigation and Wetland Mitigation Areas  
 Cumberland Refuse #3  
 Greene and Whiteley Townships  
 Greene County, PA

Figure

1

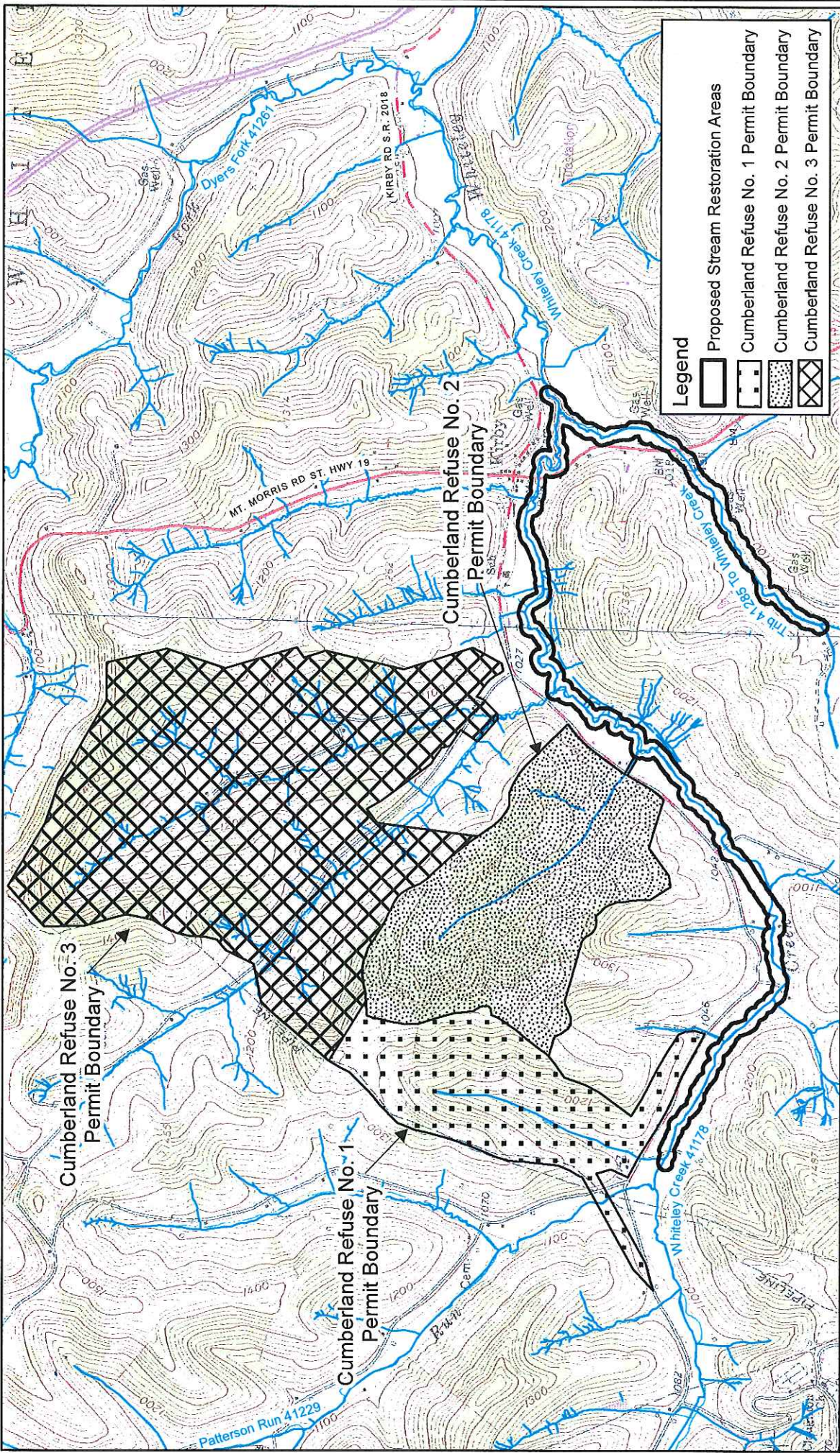
Drawn: LAS

Checked: CJW

Reviewed: CJW

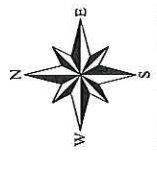
Project No.:

10482



- Legend**
- Proposed Stream Restoration Areas
  - Cumberland Refuse No. 1 Permit Boundary
  - Cumberland Refuse No. 2 Permit Boundary
  - Cumberland Refuse No. 3 Permit Boundary

Date: 7/1/2015



Source Data:  
 1. 7.5 Minute Topographic DRG, Garards Fort and Oak Forest, PA.  
 U.S. Geological Survey, 1996.  
 2. Mitigation Boundary Polygons, WPI 2011-2015.

Projection: Lambert Conformal Conic  
 Datum: NAD27  
 Coordinate System:  
 PA State Plane South (Feet)

Prepared For:

**Alpha Natural Resources**  
 158 Portal Road  
 Waynesburg, PA 15370

**WALLACE & PANCHER, INC.**  
 160 TECHNOLOGY DRIVE, STE. 102  
 CANONSBURG, PA 15317  
 PHONE: (724) 551-1240  
 FAX: (724) 551-1279  
 ENGINEERING AND ENVIRONMENTAL CONSULTING

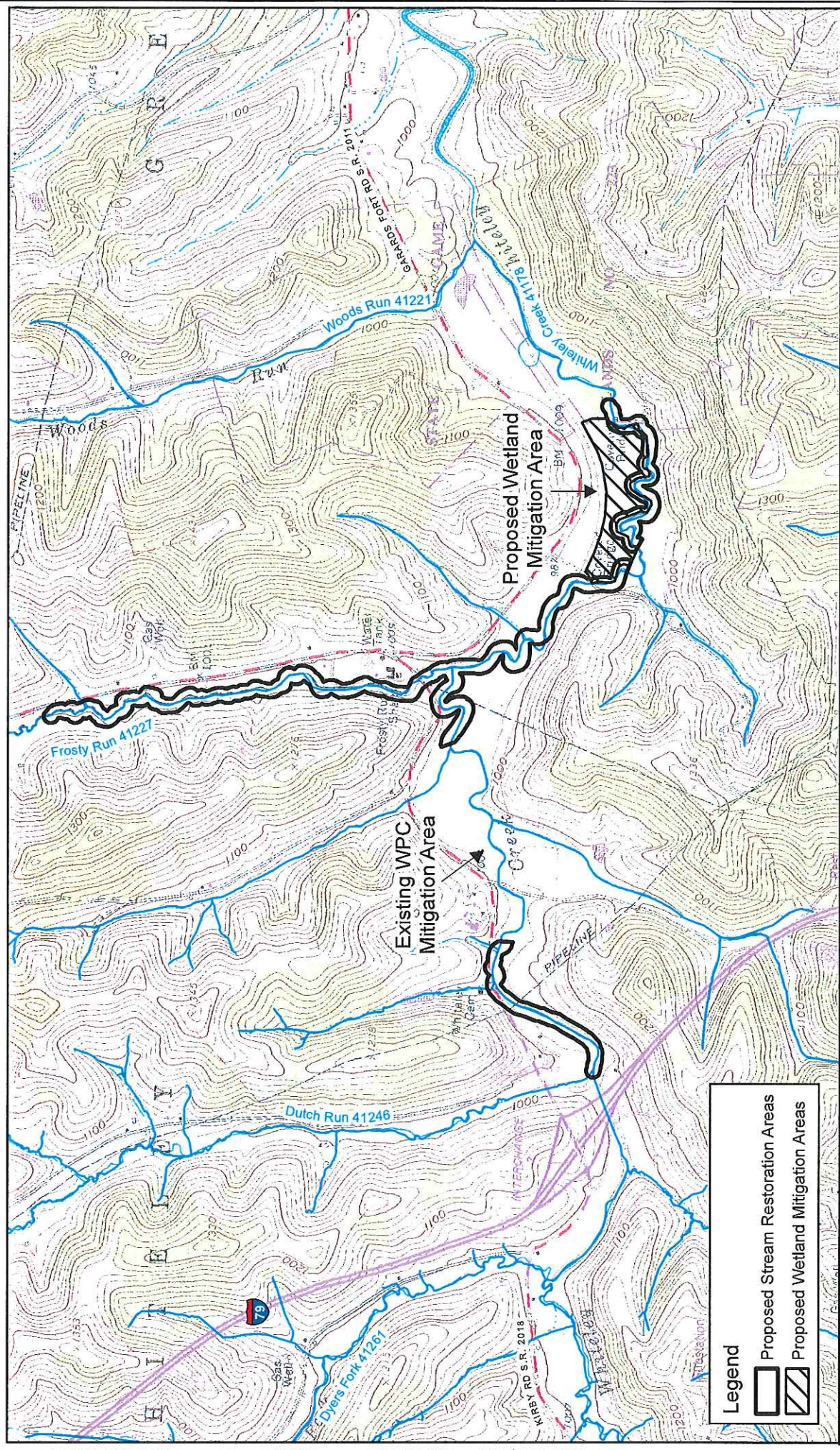


Project:  
 Stream Mitigation and Wetland Mitigation Areas  
 Cumberland Refuse #3  
 Greene and Whiteley Townships  
 Greene County, PA



Figure  
**1a**

Drawn: LAS  
 Checked: CJW  
 Reviewed: CJW  
 Project No.: 10482





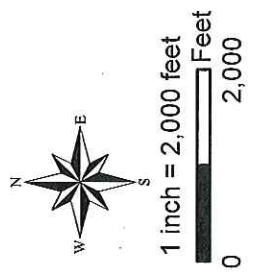
**Legend**

-  Proposed Stream Restoration Areas
-  Proposed Wetland Mitigation Areas

Date: 7/1/2015

Source Data:  
 1. 7.5 Minute Topographic DRG, Garards Fort and Oak Forest, PA.  
 U.S. Geological Survey, 1996.  
 2. Mitigation Boundary Polygons, WPI 2011-2015.

Projection: Lambert Conformal Conic  
 Datum: NAD27  
 Coordinate System:  
 PA State Plane South (Feet)



1 inch = 2,000 feet

0 2,000 Feet

**WALLACE & PANCHER, INC.**  
 160 TECHNOLOGY DRIVE, STE. 102  
 CANONSBURG, PA 15317  
 PHONE: (724) 551-1240  
 FAX: (724) 551-1279  
 ENGINEERING AND ENVIRONMENTAL CONSULTING

Prepared For:  
**Alpha Natural Resources**  
 158 Portal Road  
 Waynesburg, PA 15370



Project:  
 Stream Mitigation and Wetland Mitigation Areas  
 Cumberland Refuse #3  
 Greene and Whiteley Townships  
 Greene County, PA

Drawn: LAS  
 Checked: CJW  
 Reviewed: CJW  
 Project No.: 10482

Figure  
**1b**