



Public Notice

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

In Reply Refer to
Notice No. below

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

Application No. 2003-1526

Date: December 5, 2009

Notice No. 04-38

Closing Date: January 5, 2009

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 (33 U.S.C. 1344).
2. APPLICANT: The Ohio Valley Coal Company
56854 Pleasant Ridge Road
Alledonia, OH 43902
3. LOCATION: The project is located in Sections 35 & 36, Washington Township, Belmont County, Ohio. Latitude and Longitude in Decimal Degrees: 39.92528N -81.00708W
4. HISTORY: On May 11, 2004, the Corps received a permit application from The Ohio Valley Coal Company (TOVCC) to construct a new slurry impoundment within Casey Run to an elevation of 1130 mean sea level (MSL), which was advertised by PN 04-38. A revised Public Notice, 04-38A, was advertised on April 30, 2007. This amendment included the addition of a course refuse disposal site adjacent to the proposed slurry impoundment and increased the size of the proposed slurry impoundment. By letter dated April 24, 2008, the Ohio Environmental Protection Agency issued a proposed denial of Section 401 Water Quality Certification for the action proposed in PN 04-38A. By letter dated October 6, 2008, the Corps denied the proposed project without prejudice to the right of the applicant to resubmit an application if subsequent approval is received from the appropriate Federal, state, and/or local agencies. The revised permit application which is the subject of this notice was received on October 1, 2009.
5. PURPOSE AND DESCRIPTION OF WORK: TOVCC currently plans to construct a 12,908-acre foot coal slurry impoundment that will receive slurry from both the Powhatan No. 6 D-0360 and American Energy Corporation D-0425 wash plants to an elevation of 1200 MSL. Coal slurry is a liquid waste generated by the washing of coal at the wash plant facility. The impoundment is proposed to be constructed in the Casey Run watershed which is currently listed as Warmwater Habitat but is under consideration by Ohio Environmental Protection Agency to be designated as Coldwater Habitat. The proposed project would directly impact approximately 29,928 linear feet

(LF) of streams (6,426 Ephemeral, 13,928 Intermittent, and 9,574 perennial) and eighteen small wetlands (ranging in size from 0.003 acre to 0.11 acre) totaling 0.46-acres of wetlands. Casey Run discharges into Captina Creek which is designated an Exceptional Warmwater Habitat. TOVCC proposes to construct an under drain system to convey water from the upper reaches of Casey Run watershed to a point downstream of the proposed embankment. TOVCC also plans to construct "tributary diversion ditches" utilizing a natural stream design approach to convey water around the impoundment. The tributary diversion ditches are included as mitigation and will provide surface drainage from the upland areas and eventually from the 304 acre reclaimed facility. The proposed impoundment will be approximately 130 acres and have a total affected area of approximately 304 acres. Construction of the No. 3 slurry impoundment will be completed in three stages, plus a reclamation stage, that will provide 16 years of coarse and fine refuse disposal capacity. This capacity in combination with the remaining capacity of Dam No. 2 will satisfy the coarse and fine waste disposal needs for the life of Powhatan #6 mine (D-0360) and the fine refuse disposal needs for the life of Century mine (D-0425). Discharges from the proposed facility will be pumped to the existing Dam No. 2 impoundment. This will eliminate the need to discharge water into Casey Run. The site is currently composed of old field, scrub shrub, and immature and mature forest. Coal refuse fill would remain permanent and upon completion, would be capped with soil and converted to pastureland. A conceptual mitigation plan has been submitted and contains the following: (1) to offset the loss of 0.46 acres of wetlands, TOVCC proposes to create a minimum of 0.69 acre of category 2 scrub shrub and emergent wetlands. (2) on-site construction of approximately 17,875 LF of tributary diversion ditches utilizing natural stream channel design. (3) protection and riparian enhancements of approximately 19,500 linear feet of Millers Run. (4) riparian enhancements of a tributary to Captina Creek (at Linn Tipple) which includes the construction of an acid mine drainage passive treatment system. (5) streambank and riparian enhancement work along with in-stream random boulder placement for hellbender habitat along 10,000 feet of Captina Creek. (6) streambank stabilization, cattle exclusion, and habitat improvements on Reeves Hollow / Berrys Run totaling approximately 5,000 feet. Drawings of the proposed activity and mitigation site locations are attached.

6. WATER QUALITY CERTIFICATION: This permit decision will not be made until the State of Ohio, Environmental Protection Agency (OEPA), issues, denies, or waives State Certification. This public notice does not serve as application to the OEPA for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the OEPA for individual water quality certification. The OEPA will also consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws.

Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:

Ohio Environmental Protection Agency
Division of Surface Water
Section 401 Coordinator
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Randy Bournique
Re: Public Notice CELRP-OP-F No. 04-38

7. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project will have no affect on the continued existence of any Federal endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U. S. Fish and Wildlife Service (USFWS) 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).

8. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, 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 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).

9. 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.


10. 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 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).

11. 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 Allen Edris, at the above address, by telephoning (412) 395-7158, or by e-mail at allen.r.edris@usace.army.mil. Please refer to CELRP-OP-F 2003-1526 (Public Notice No. 04-38) in all responses.

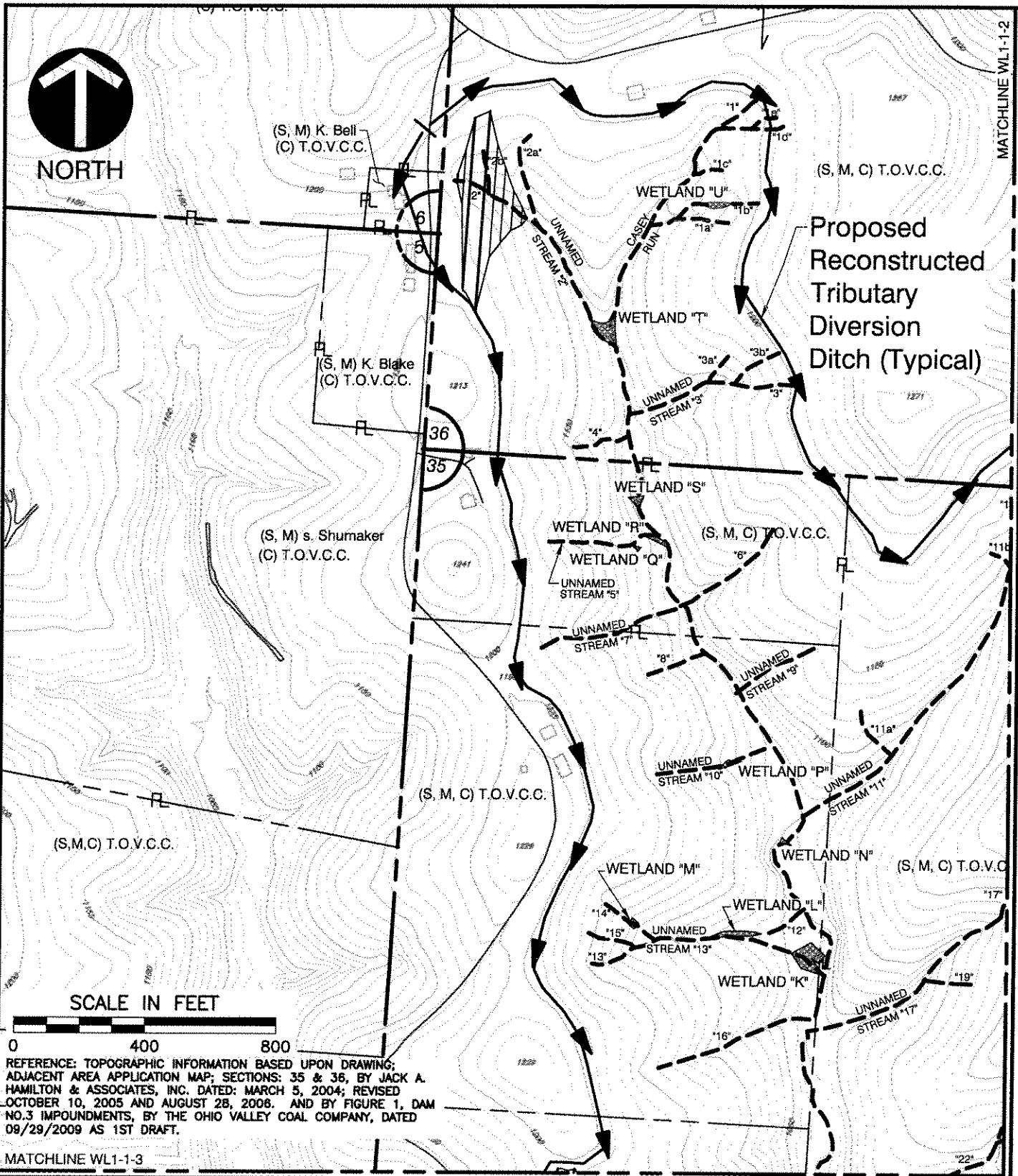
FOR THE DISTRICT ENGINEER:

 //SIGNED//
Scott A. Hans
Chief, Regulatory Branch



NORTH

MATCHLINE WL1-1-2



SCALE IN FEET



REFERENCE: TOPOGRAPHIC INFORMATION BASED UPON DRAWING; ADJACENT AREA APPLICATION MAP; SECTIONS: 35 & 36, BY JACK A. HAMILTON & ASSOCIATES, INC. DATED: MARCH 5, 2004; REVISED OCTOBER 10, 2005 AND AUGUST 28, 2006. AND BY FIGURE 1, DAM NO.3 IMPOUNDMENTS, BY THE OHIO VALLEY COAL COMPANY, DATED 09/29/2009 AS 1ST DRAFT.

MATCHLINE WL1-1-3



Civil & Environmental Consultants, Inc.

333 Baldwin Road - Pittsburgh, PA 15205
412-429-2324 · 800-365-2324
www.cecinc.com

- LEGEND**
- PERMIT D-0360
 - STREAM
 - WETLAND

* HAND SIGNATURE ON FILE



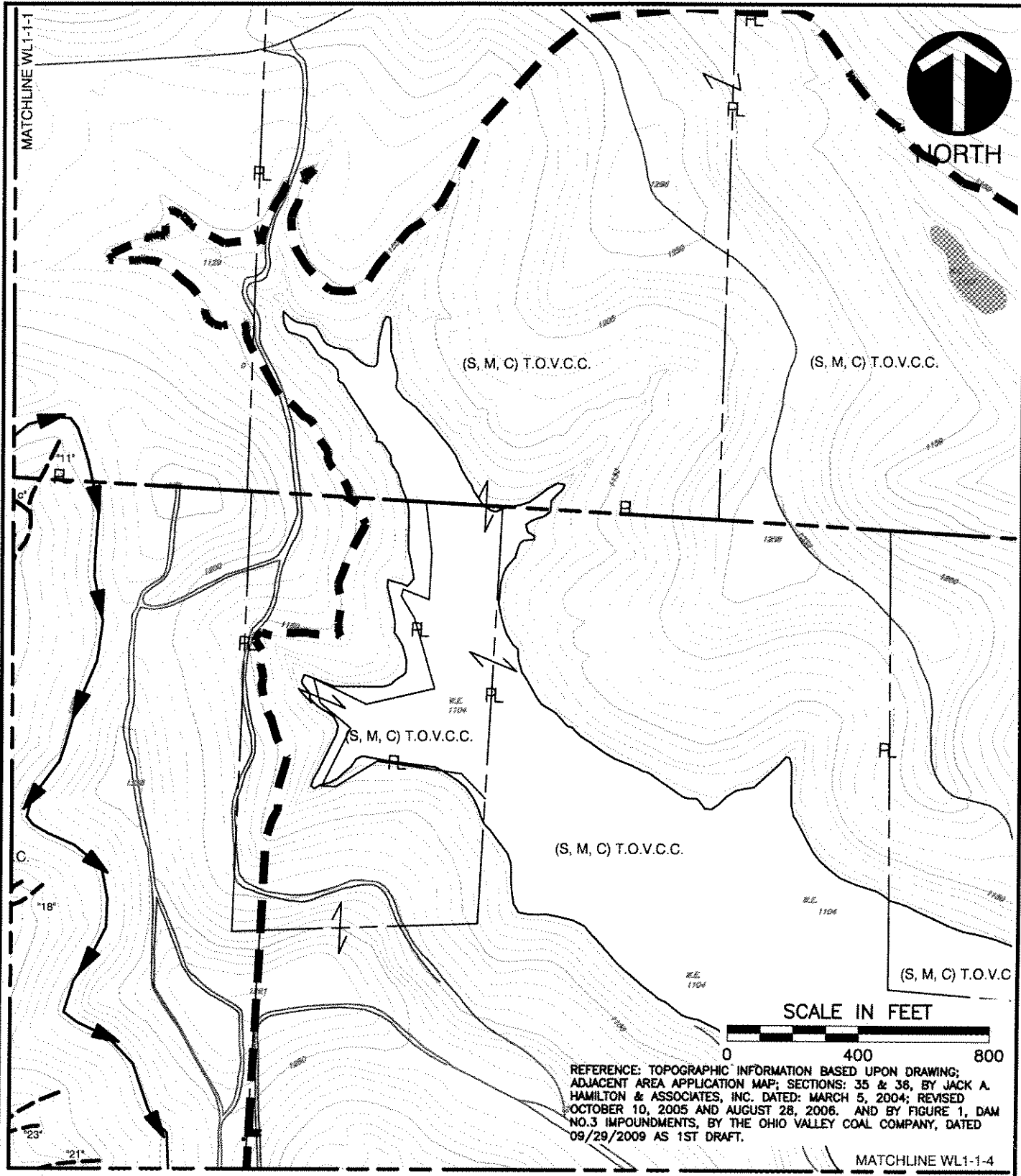
56854 Pleasant Ridge Rd.
Alledonia, OH 43902
Phone: 740.926.1351 Fax: 740.926.1618

**PROPOSED NO. 3 IMPOUNDMENT
BELMONT COUNTY, OHIO**

DRAWN BY:	LKC	CHECKED BY:	DAM	APPROVED BY:	DAM*	FIGURE NO.:	1 of 4
DATE:	OCT. 29, 2009	DWG SCALE:	1"=400'	PROJECT NO:	091-719.AW00		




S:\PIT\PROJECTS\2009\091-719-1\CADD\DWG\091719-WL1-1-1.DWG(WL1-1-1) (LCCOLAZZI) - NOV 3, 2009 - 10:43:44

\\SVR-PIT\PROJECTS\2009\091-719-719-1-DWG\WL1-1-2\ (COLAIZZI) - NOV 3, 2009 - 10:42:20

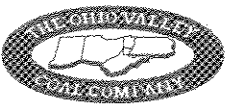



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LEGEND

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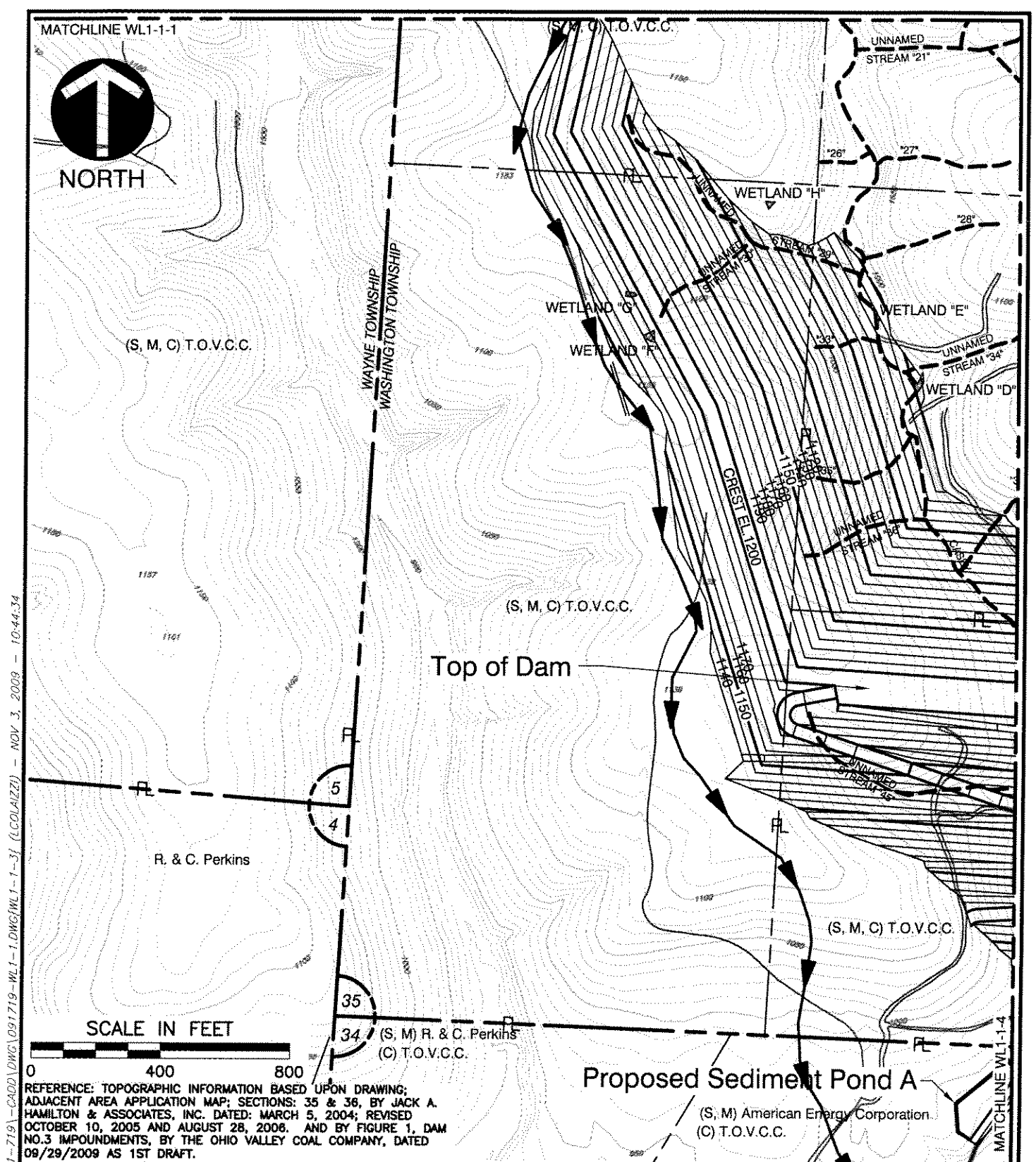
* HAND SIGNATURE ON FILE



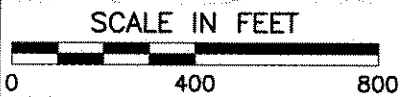
56854 Pleasant Ridge Rd.
 Alledonia, OH 43902
 Phone: 740.926.1351 Fax: 740.926.1615

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DRAWN BY: LKC	CHECKED BY: DAM	APPROVED BY: DAM*	FIGURE NO.:
DATE: OCT. 29, 2009	DWG SCALE: 1"=400'	PROJECT NO: 091-719.AW00	2 of 4







\\SVR-PIT\PROJECTS\2009\091-719-CADD\DWG\091719-WL1-1.DWG\WL1-1-31 (COLAIZZI) - NOV 3, 2009 - 10:44:34



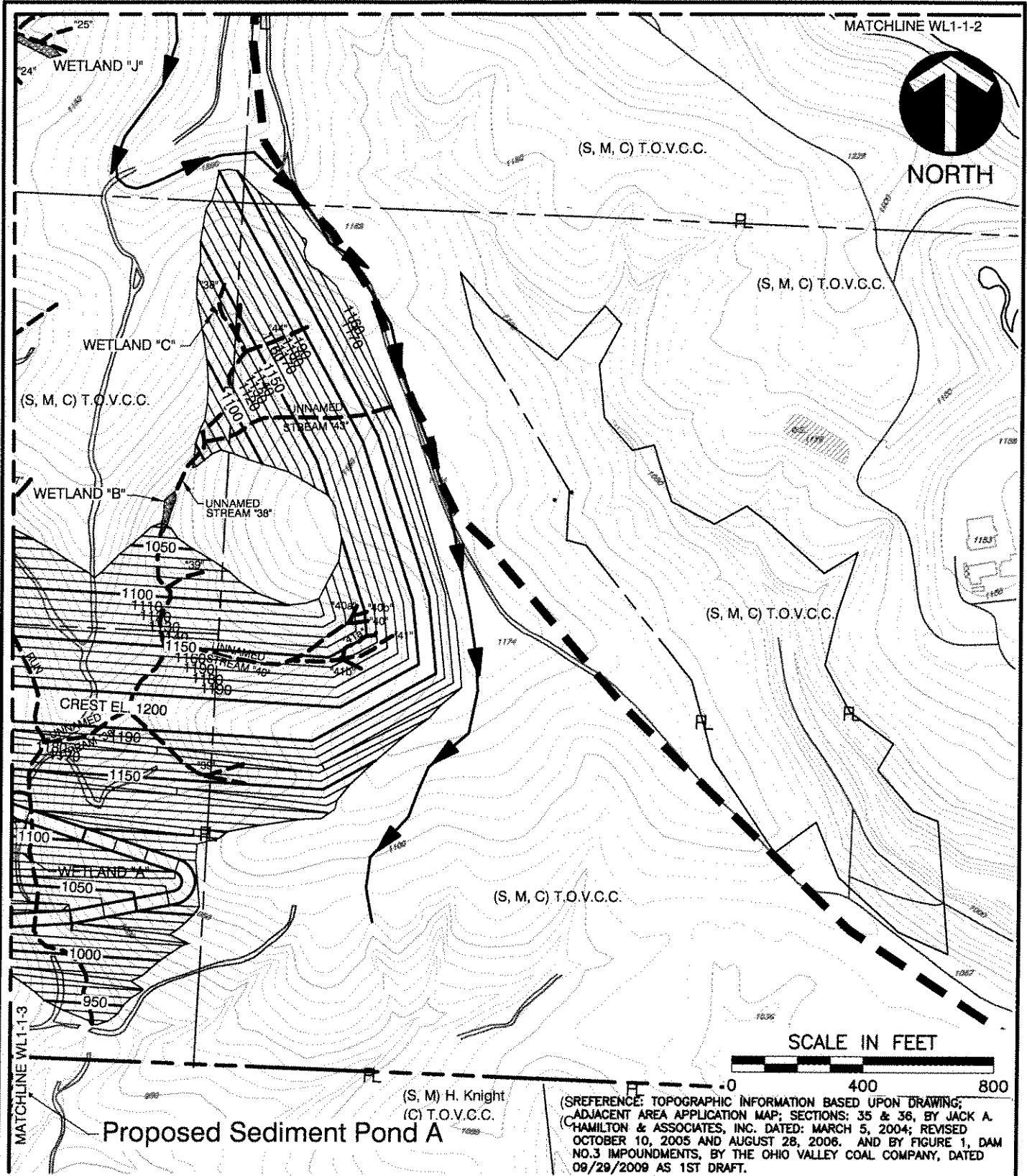
REFERENCE: TOPOGRAPHIC INFORMATION BASED UPON DRAWING;
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 BELMONT COUNTY, OHIO**

DRAWN BY: LKC	CHECKED BY: DAM	APPROVED BY: DAM*	FIGURE NO.:
DATE: OCT. 29, 2009	DWG SCALE: 1"=400'	PROJECT NO: 091-719.AW00	3 of 4



Proposed Sediment Pond A

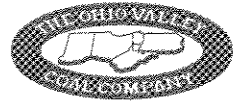
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LEGEND	
	PERMIT D-0360
	STREAM
	WETLAND

* HAND SIGNATURE ON FILE

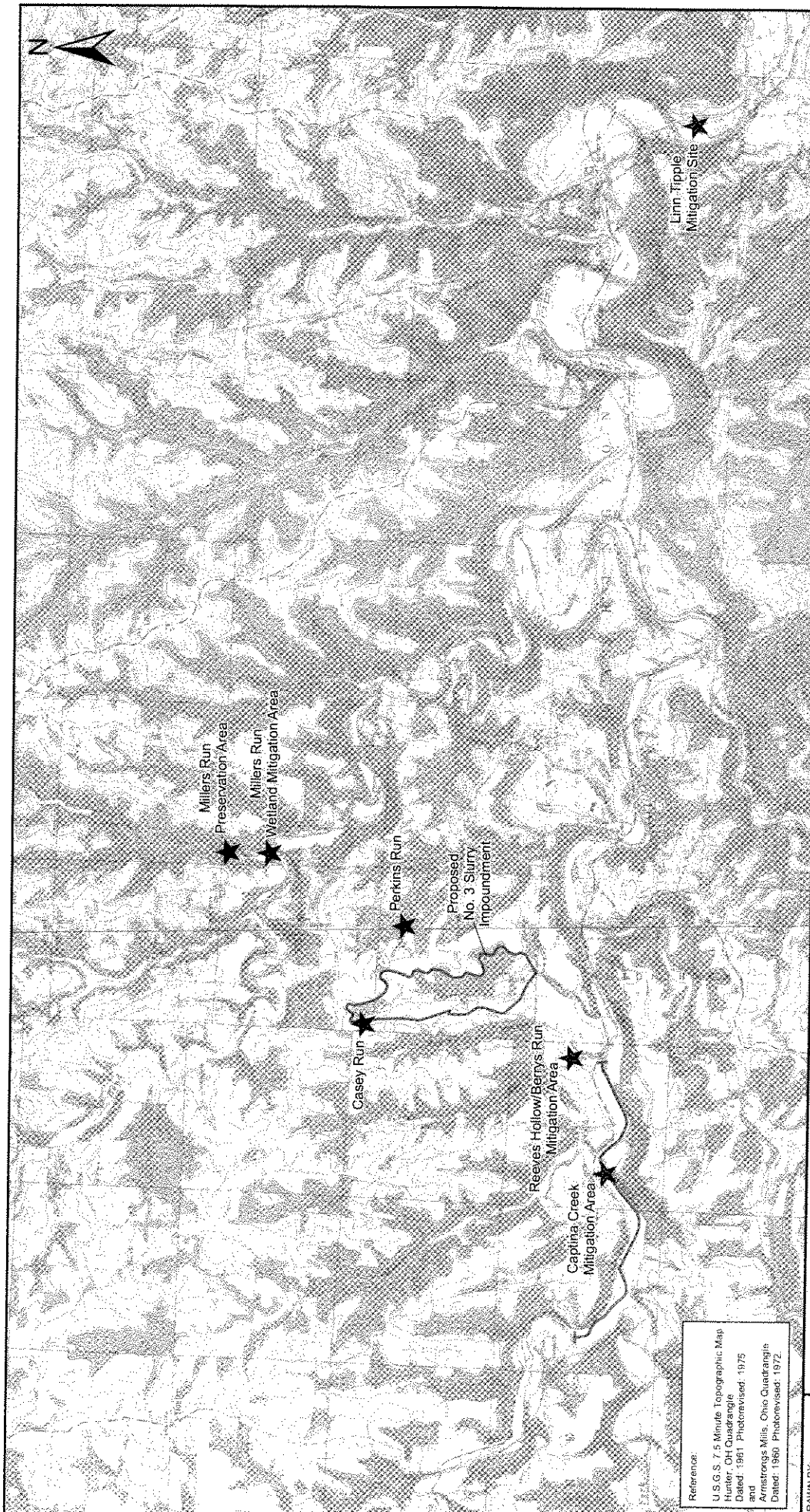


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PROPOSED NO. 3 IMPOUNDMENT BELMONT COUNTY, OHIO

DRAWN BY:	LKC	CHECKED BY:	DAM	APPROVED BY:	DAM*	FIGURE NO.:	4 of 4
DATE:	OCT. 29, 2009	DWG SCALE:	1"=400'	PROJECT NO.:	091-719.AW00		

\\SVR-PITT\PROJECTS\2009\091-719-CADD\DWG\091719-WL1-1-DWG\WL1-1-43 (LCCOLAZZI) - NOV 3, 2009 - 10:45:14



Reference:
 U.S.G.S. 7.5 Minute Topographic Map
 Hunter, OH Quadrangle
 Dated: 1961; Photorevised: 1975
 and
 Armstrongs Mills, Ohio Quadrangle
 Dated: 1960; Photorevised: 1972

DRAWN BY: CLC

CHECKED BY: NRB

APPROVED BY: DAM

SCALE: 1" = 3,000'

DATE: 9/23/2009

ISSUED FOR:

ISSUED BY:



CIVIL & ENVIRONMENTAL CONSULTANTS, INC.
 333 Baldwin Road
 Pittsburgh, PA 15205-9702
 1-800-385-2324
www.ceconline.com

MITIGATION SITE LOCATION MAP
 ADDENDUM TO APRIL 2008
 COMPENSATORY SURFACE WATERS MITIGATION PLAN
 NO. 3 SLURRY IMPOUNDMENT
 WASHINGTON TOWNSHIP, BELMONT COUNTY, OHIO

PROJECT NO.: 081-719

FIGURE: 1

Hand signature in file
 P:\2009\081-719\GIS\maps\081719_silo_bcr_map.mxd - 9/24/2009 @ 11:55:17 AM