



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. 2009-1656

Date: March 21, 2011

Notice No. PN 11-10

Closing Date: April 18, 2011

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:** Jason Witt
AmericanMountaineer Energy, Inc.
56854 Pleasant Ridge Road
Alledonia, OH 43902
3. **LOCATION:** This project is located at approximately 39° 23' 20" N and -80° 28' 04" W, near Brown, Harrison County, West Virginia.
4. **PURPOSE AND DESCRIPTION OF WORK:** The applicant proposes to construct and operate the AmericanMountaineer deep mine (WVDEP SMA No. U-2004-10) and refuse facility (WVDEP SMA No. O-2009-10). Components of this project include: a preparation plant, load-out facilities, stockpiles, haul roads, shaft/slope, and a refuse facility. The projected life of this mining complex is to be approximately 15 years, and will annually mine approximately 4.27 million tons of bituminous coal. Unavoidable impacts to waters of the United States will be caused by the construction of: two valley fills for the storage of overburden, a shaft site pad, the preparation plant pad, the construction of the refuse facility, eight drainage control structures (ponds), three in stream sediment control structures, and the placement of riprap and matting. These impacts will total: 3,451 linear feet of perennial stream, 8,883 linear feet of intermittent stream, 1,404 linear feet of ephemeral stream, and 2.07 acres of emergent wetland. These impacts will be mitigated by: for impacts to perennial streams the applicant proposes the construction and maintenance of a series of passive AMD treatment systems (in cooperation with the West Virginia Water Research Institute and the West Virginia Department of Environmental Protections Nonpoint Source Program) located approximately 3 miles downstream of the proposed mine; for impacts to intermittent and ephemeral streams the applicant proposes a payment into the West Virginia In-Lieu Fee Program for 4,589 linear feet of stream; for wetland impacts and the remaining length of stream impacts, the applicant proposes to mitigate upon completion of operation (approximately 15 years), wetlands will be replaced at a ratio of 2.5:1, streams will be restored to their approximate original contours. Drawings of the proposed project are attached to this notice, due to file size, more drawings are available upon request.

5. WEST VIRGINIA CERTIFICATION: This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the WVDEP for individual water quality certification. The WVDEP 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:

West Virginia Department of Environmental Protection
Office of Water Resources
Regulatory Review Program
601 57th Street SE
Charleston, WV 25304-2345
Telephone: 304-926-0499
Re: Public Notice CELRP-OP-F No. [11-10]

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any 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 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 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).

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 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 Jon T. Coleman at the above address, by telephoning (412) 395-7188, or by e-mail at jon.t.coleman@usace.army.mil Please refer to CELRP-OP-F 2009-1656 in all responses.

//SIGNED//

Marcia H. Haberman
Chief, Southern Section
Regulatory Branch

