



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. 2007-236

Date: January 21, 2011

Notice No. 11-4

Closing Date: February 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:
The Summit at Cheat Lake, LLC
1142 Steeplechase Drive
Morgantown, West Virginia 26508
3. LOCATION: Located near Morgantown, Cheat Lake, Monongalia County, West Virginia. (Latitude 39°.6999 N and Longitude -79°.8619 W).
4. PURPOSE AND DESCRIPTION OF WORK: During an enforcement inspection on April 20, 2010, the U.S. Army Corps of Engineers identified the unauthorized placement of fill material into Cheat Lake. The applicant, the developer of "The Summit at Cheat Lake" is requesting approval for the placement of the fill material for the construction of a seawall within Cheat Lake, by applying for an After the Fact Permit. The constructed seawall measures approximately sixty (60) feet in length by twenty-five (25) feet wide by six (6) feet in height to a total of 9,000 cubic feet or 333.33 cubic yards, starting at summer pool elevation of 870/868 and extending approximately six (6) feet below summer pool to an elevation of 860. The wall is constructed with interlocking cement blocks, placed into Cheat Lake and backfilled with fill material creating a seawall. The purpose of the seawall is to support proposed boat docks, for the residential community of The Summit at Cheat Lake. The applicant's proposed mitigation for the impacted area is to place approximately 343 linear feet under a deed restriction, approximately 420 feet west of the seawall's west-side, along the waterfront. This restriction will prevent for the future proposed residential development from further impacting the waterfront and to aid in the aquatic habitat. Pictures and drawings of the seawall and proposed restricted area are attached to this notice.
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. 11-4

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

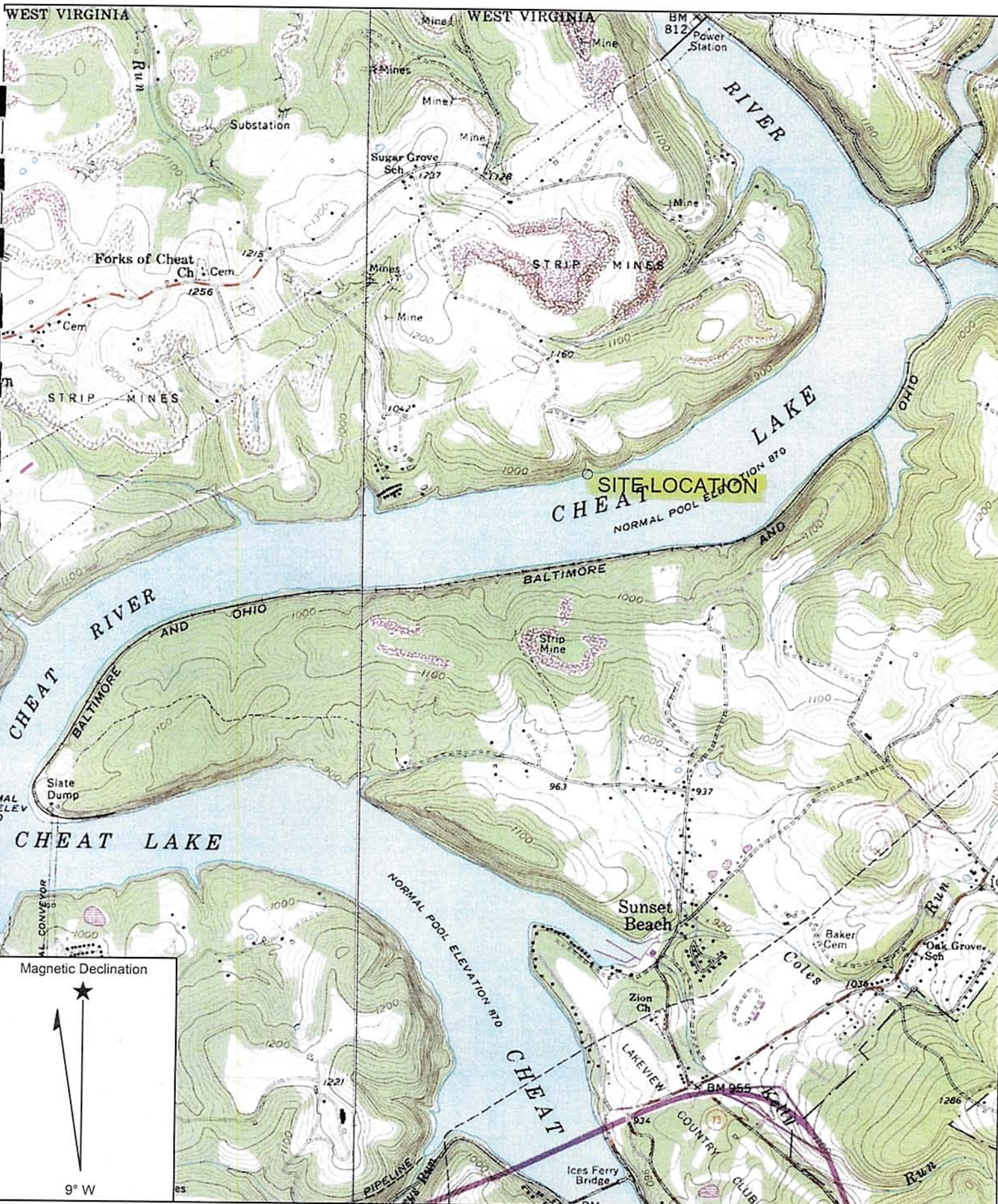
proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, 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 George Brkovich at the above address, by telephoning (412) 395-7247, or by e-mail at george.r.brkovich@usace.army.mil Please refer to CELRP-OP-F 20007-236 in all responses.

FOR THE DISTRICT ENGINEER:

// SIGNED //

Marcia H. Haberman
Chief Southern Section
Regulatory Branch



Name: LAKE LYNN
 Date: 10/18/2010
 Scale: 1 inch equals 2000 feet

Location: 039.6937675° N 079.8668451° W NAD 83
 Caption: The Summit at Cheat Lake
 Sea Wall
 USACE 2007-236

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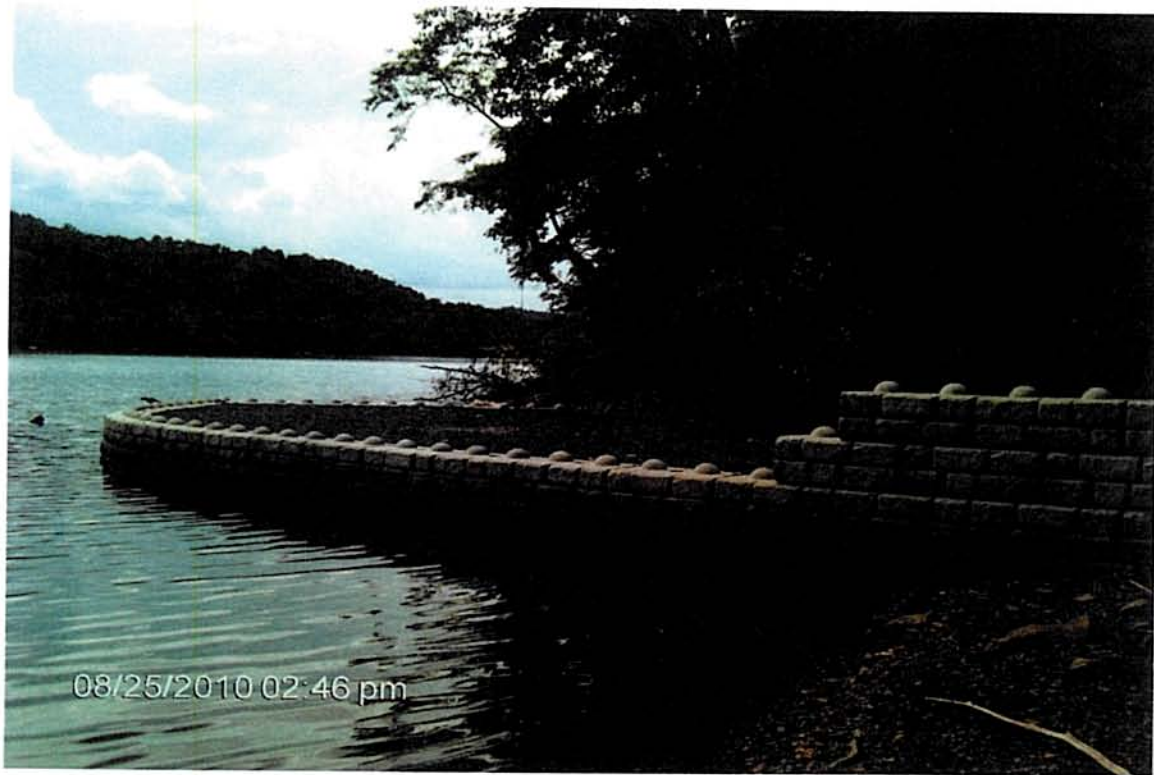


Photo 1: Sea Wall Facing Upstream on Cheat Lake



Photo 2: Sea Wall Facing Downstream on Cheat Lake

2007-236



125 Lakeview Drive
Morgantown, West Virginia 26508
Phone: (304) 225-2245
Fax: (304) 225-2246

Sea Wall Photographs
The Summit at Cheat Lake, LLC
Cheat Lake, Monongalia County, West Virginia
Project No. 0102-10-0422



PROPOSED MITIGATION/
DEED RESTRICTION 343
LINEAR FEET (APPROXIMATE)

Cheat
Lake

PROPOSED SEA WALL



ENGINEERS AND ENVIRONMENTAL CONSULTANTS

DATE: JANUARY 2011

PROJECT NO. 0102-10-0422

FIGURE 1
USACE 2007-236
PROPOSED MITIGATION
SUMMIT AT CHEAT LAKE
MORGANTOWN, WV

2007-236

P:\Projects\2010\10-0422 (0102) Summit at Cheat Lake\Map
Documents\MITIGATION MAP.mxd