

US EPA ARCHIVE DOCUMENT



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

April 8, 2009

4WPD-WCOB-WMRS

Mr. James L. Thomas  
USACE Louisville District  
Eastern Kentucky Regulatory Office  
845 Sassafras Creek Road  
Sassafras, KY 41759-8806

SUBJ: Proposed stream impacts associated with Pine Branch Coal Sales, Inc. surface coal mining project in Perry County, Kentucky  
KDMP Application # 897-0498  
Pre-Discharge Notification LRL-2009-198

Dear Mr. Thomas

The United States (U.S.) Environmental Protection Agency (EPA), Region 4 has reviewed the Pre-Discharge Notice associated with DA Nationwide Permit 21 Permit Application ID No. LRL-2009-198 submitted by Pine Branch Coal Sales, Inc. (KDMP #897-0498), for surface mining activity impacts to 2,430 linear feet of perennial and intermittent streams reaches along Rye Branch of Napier Branch, located in Perry County, Kentucky.

The applicant has requested authorization under Nationwide Permit 21 (NWP 21) to construct one (1) hollow fill extension (HF1) and utilize one (1) existing sediment control structure (Pond 6N) in order to conduct surface coal mining operations. The proposed structure (HF1) would permanently bury 1,675 and 755 linear feet of perennial and intermittent stream reaches, respectfully, along Rye Branch Creek, which flows into Napier Branch. An additional 450 linear feet of temporary impacts to Rye Branch are proposed along the drainage corridor between the toe of HF1 and existing pond 6N. The applicant proposes to debit from a previously approved mitigation site to compensate for any aquatic and functional losses related to the proposed project. EPA Region 4 offers the following comments regarding the mitigation and monitoring for this proposal for further consideration.

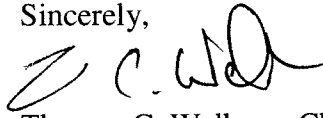
The application addendum Section 2.c.iv states the applicant has opted to reuse an existing sediment pond (6N) and that the pond corridor, which will temporarily impact 450 feet of stream, will be restored after the mining is completed. Conversely, the compensatory mitigation plan, Section 3, states that mitigation for the pond is not being offered now since it is an existing structure and likewise for the pond corridor since the stream reach has a very low Ecological Integrity Index score (0.10). EPA recommends that the applicant formulate a mitigation plan that addresses the temporary impacts associated with the pond corridor as well as the existing pond. Unless previously approved mitigation for impacts to Rye Branch already exists, EPA recommends the applicant provide for mitigation of the pond corridor in-situ following project completion as stated in Section 2. This issue is not addressed clearly in the application and should be considered prior to authorization.

Additionally, KDMP Application # 897-0498 Section D gives a tentative waiver approving the retention of sediment basin 6N as a permanent impoundment. EPA does not agree with this waiver and believes the existing pond should be removed and, together with the associated perennial reach of Rye Branch, restored to its previous functional value. Otherwise, appropriate mitigation must be offered to compensate for the permanent impacts associated with the impoundment on Rye Branch.

The applicant provided no baseline macroinvertebrate data as part of their application except to state that aquatic taxa are likely to show signs of stress related to mining's negative effect on water quality. Also, the applicant did not state whether the lack of macroinvertebrate sampling adhered to the Kentucky Department of Water's (KDOW) Methods for Assessing the Biological Integrity of Surface Waters. Mining in this watershed has already proven to have a negative effect on water quality based on the applicant's stated high conductivity of affected reaches of Rye Branch in excess of 500 microMHOs. EPA is concerned Rye Branch could become further impaired or exceed water quality requirements as a result of project effluent unless appropriate measures are taken to prevent degradation of Rye Branch and subsequently Napier Branch. Further, as noted by the applicant, the Sam Campbell and Napier Branch watersheds have been severely impacted by both surface and underground mining, resulting in a cumulative impact of over 20% and 51% of their respective drainage areas. We recommend the applicant address not only the surface acreage of disturbance but also potential water quality impacts, including those, if any, on the North Fork Kentucky River. EPA recommends that the applicant conduct baseline sampling and monitoring of Abes Branch, Napier Branch, and Sam Campbell Branch; all of which the applicant proposes to affect with surface discharges from the mine.

Thank you for the opportunity to comment on the above referenced pre-discharge notice for water impacts associated with this surface mining project in Perry County. Please direct further correspondence to Todd Bowers at the above address, his phone number (404) 562-9225, or via email at [bowers.todd@epa.gov](mailto:bowers.todd@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'T. C. Welborn', written over the word 'Sincerely,'.

Thomas C. Welborn, Chief,  
Wetlands, Coastal and Oceans Branch

CC:

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