



DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

October 11, 2001

REPLY TO
ATTENTION OF:

Operations and Readiness Division
Regulatory Branch
U/T Little Beech Creek-Mining Activities-200000413

Mr. Paul Horn
Beech Fork Processing, Inc.
Post Office Box 190
Lovely, Kentucky 41231

NOTICE OF NATIONWIDE PERMIT AUTHORIZATION MODIFICATION

Dear Mr. Horn:

I refer to the Nationwide Permit (NWP) 21 authorization dated June 20, 2000 for Martin County Coal Corporation's (MCCC) proposal to conduct mining activities in waters of the United States in conjunction with its surface coal mining operation under DSMRE Permit Number 880-0135. The proposal included the construction of 27 hollow fills and associated sediment control structures. Attachment A lists the proposed mining activities and corresponding information. The project is located approximately 0.75 miles north of State Route 3 and the Davella Road Junction, in the headwaters of the Middle Fork and Rockhouse Creek watersheds, near Inez, in Martin County, Kentucky.

A reexamination of the circumstances and conditions of the NWP 21 authorization indicates that the proposed project will result in impacts to more jurisdictional waters of the United States than originally estimated. It is now the position of the Corps of Engineers that 33,120 total feet of jurisdictional waters will be impacted by your project and that impacts to all of these waters must be mitigated. Accordingly, we must modify your NWP 21 authorization to provide compensatory mitigation.

In view of the above, the project is modified subject to the terms and conditions of the Nationwide Permit 21(attached), under the December 13, 1996 Federal Register, Final Notice of Issuance, Reissuance, and Modification of the Nationwide Permits (61 FR 65874) and the attached special conditions that address compensatory mitigation for the jurisdictional waters that will be lost as a result of the project. Please be aware that although the NWP 21 authorization for this mining operation is not being suspended, further discharges of fill material into jurisdictional streams should not occur until the Corps approves the compensatory mitigation plan. Informal consultations between you and a representative of both my staff and Corps headquarters indicate that your company is in agreement with this approach.



The Nationwide Permit 21 will expire on February 11, 2002. Since you have begun work at the proposed site, you will have twelve additional months (February 11, 2003) to complete the activity under the present terms and conditions of this permit. In addition, the NWP 21 file for this proposed operation has been documented to reflect the change in ownership. If you have any questions, please contact me at (304) 529-5487.

Sincerely,



Michael D. Gheen
Chief, Regulatory Branch

Nationwide Permit 21 Authorization Special Conditions
Beech Fork Processing, Inc.
DSMRE Permit # 880-0148

1. To compensate for permanent impacts to 33,120 linear feet of jurisdictional waters, Beech Fork Processing, Inc. must submit a compensatory mitigation plan to restore, enhance, or preserve streams in the Eastern Kentucky coalfields. The plan must be submitted to the Huntington District Regulatory Branch by October 25, 2001, but no further discharges of fill material into jurisdictional streams should occur until and unless the Corps of Engineers approves, in writing, the submitted plan.

2. To compensate for temporary impacts to 1,900 linear feet of jurisdictional waters, Beech Fork Processing, Inc. must submit a Stream Restoration Plan (SRP) for each of the following sediment ponds:

SEDIMENT POND #	STREAM NAME
4	U/T Little Beech Fork
3	U/T Little Beech Fork
5	U/T Little Beech Fork
10	U/T Little Beech Fork
11	U/T Little Beech Fork
14	Upper Twin Branch
14A	Upper Twin Branch
15	Lower Twin Branch
18	U/ Rockhouse Fork
16	Lick Fork
24	Porter Camp Branch
25	U/T Porter Camp Branch
27	U/T Rockhouse Fork
28	U/T Rockhouse Fork
32	Big Rough Branch
33	U/T Big Rough Branch
32A	Big Rough Branch
35	Bent Branch
35A	Bent Branch

The SRP must include measures to restore the streams in the areas between the sediment ponds and the toe of the hollow fills after removal of the sediment ponds. The reconstructed stream channels should mimic the original stream channel configurations. In-stream habitat enhancements, such as pool-riffle complexes, eddy rocks, meanders, root-wads, etc., should be incorporated into the restoration plan. A minimum of a 25' buffer zone, planted with native grasses and tree species, must be planted on each side of the reconstructed channels, where possible. In areas with steep slopes, riparian buffer zones should be restored using the "Kentucky Forest Practice Guidelines for Water Quality Management." The SRP must be provided to this office by October 25, 2001.

**Attachment A
Beech Fork Processing, Inc.
DSMRE Permit # 880-0148**

MINING ACTIVITY	STREAM NAME	LINEAR FEET	WATERSHED ACREAGE
Hollow Fill 1B	U/T Little Beech Fork	1,070	121.6
Hollow Fill 1C	U/T Little Beech Fork	630	64.3
Sediment Pond 4 (Embankment)	U/T Little Beech Fork	100	-----
Sediment Pond 3 (Embankment)	U/T Little Beech Fork	100	-----
Hollow Fill 1D	U/T Little Beech Fork	2,100	64.6
Sediment Pond 5 (Embankment)	U/T Little Beech Fork	100	-----
Hollow Fill 2A	U/T Little Beech Fork	1,850	65.9
Hollow Fill 2B	U/T Little Beech Fork	740	39.6
Sediment Pond 10 (Embankment)	U/T Little Beech Fork	100	-----
Hollow Fill 2C	U/T Little Beech Fork	600	30.4
Sediment Pond 11 (Embankment)	U/T Little Beech Fork	100	-----
Hollow Fill 3A	Upper Twin Branch	1,200	60.6
Hollow Fill 3B	Upper Twin Branch	1,700	70.1
Sediment Pond 14 (Embankment)	Upper Twin Branch	100	-----
Sediment Pond 14A (Embankment)	Upper Twin Branch	100	-----
Hollow Fill 4A	Lower Twin Branch	2,000	80.2
Sediment Pond 15 (Embankment)	Lower Twin Branch	100	-----
Hollow Fill 5A	U/T Lick Fork	1,250	96.2
Hollow Fill 5B	Lick Fork	2,200	201.9
Sediment Pond 18 (Embankment)	U/ Rockhouse Fork	100	-----
Sediment Pond 16 (Embankment)	Lick Fork	100	-----
Hollow Fill 5C	U/T Lick Fork	650	35.5
Hollow Fill 6A	U/T Porter Camp Branch	520	15.3
Hollow Fill 6B	Porter Camp Branch	2,600	132.5

**Attachment A-Continued
Beech Fork Processing, Inc.
DSMRE Permit # 880-0148**

Sediment Pond 24 (Embankment)	Porter Camp Branch	100	-----
Hollow Fill 7A	U/T Porter Camp Branch	670	32.1
Hollow Fill 7B	Porter Camp Branch	1,300	89.5
Hollow Fill 7C	U/T Porter Camp Branch	1,100	49.5
Sediment Pond 25 (Embankment)	U/T Porter Camp Branch	100	-----
Hollow Fill 8A	U/T Rockhouse Fork	650	21.7
Sediment Pond 27 (Embankment)	U/T Rockhouse Fork	100	-----
Hollow Fill 8B	U/T Rockhouse Fork	620	27.6
Sediment Pond 28 (Embankment)	U/T Rockhouse Fork	100	-----
Hollow Fill 8C	U/T Big Rough Branch	870	26.4
Sediment Pond 32 (Embankment)	Big Rough Branch	100	-----
Sediment Pond 33 (Embankment)	U/T Big Rough Branch	100	-----
Hollow Fill 8D	U/T Big Rough Branch	1,750	50.5
Hollow Fill 8E	Big Rough Branch	1,780	80.5
Hollow Fill 9A	U/T Big Rough Branch	1,020	42.6
Hollow Fill 9B	U/T Big Rough Branch	1,200	75.8
Sediment Pond 32A (Embankment)	Big Rough Branch	100	-----
Hollow Fill 10A	U/T Bent Branch	980	37.9
Sediment Pond 35 (Embankment)	Bent Branch	100	-----
Hollow Fill 10B	U/T Bent Branch	1,050	49.7
Hollow Fill 10C	U/T Bent Branch	1,020	24.4
Sediment Pond 35A (Embankment)	Bent Branch	100	-----
TOTAL (Permanent and Temporary Impacts)		35,020 (33,120'- Permanent and 1,900'-Temporary)	1686.90