



**US Army Corps
of Engineers**
Fort Worth District

Public Notice

Applicant: Sabine Mining Company

Permit Application No. : SWF-2007-00560

Date: June 25, 2009

The purpose of this public notice is to inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

Regulatory Program

Since its early history, the U.S. Army Corps of Engineers has played an important role in the development of the nation's water resources. Originally, this involved construction of harbor fortifications and coastal defenses. Later duties included the improvement of waterways to provide avenues of commerce. An important part of our mission today is the protection of the nation's waterways through the administration of the U.S. Army Corps of Engineers Regulatory Program.

Section 10

The U.S. Army Corps of Engineers is directed by Congress under Section 10 of the Rivers and Harbors of 1899 (33 USC 403) to regulate *all work or structures in or affecting the course, condition or capacity of navigable waters of the United States*. The intent of this law is to protect the navigable capacity of waters important to interstate commerce.

Section 404

The U.S. Army Corps of Engineers is directed by Congress under Section 404 of the Clean Water Act (33 USC 1344) to regulate the *discharge of dredged and fill material into all waters of the United States, including wetlands*. The intent of the law is to protect the nation's waters from the indiscriminate discharge of material capable of causing pollution and to restore and maintain their chemical, physical and biological integrity.

Contact

Name: Ms. Jennifer Walker

Phone Number: (817) 886-1863

JOINT PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS, FORT WORTH DISTRICT

AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

SUBJECT: Application for a Department of the Army Permit under Section 404 of the Clean Water Act (CWA) and for water quality certification under Section 401 of the CWA to discharge dredged and fill material into waters of the United States associated with the construction of the South Hallsville No. 1 Mine – Rusk Permit Area in Rusk, Harrison and Panola Counties, Texas by Sabine Mining Company.

APPLICANT: Sabine Mining Company (SMC)
Mr. Phil Berry
Environmental Manager
6501 Farm Road 968 West
Hallsville, Texas 75650-7413

APPLICATION NUMBER: SWF-2007-00560

DATE ISSUED: June 25, 2009

LOCATION: The mine site consists of approximately 20,377 acres in Rusk, Panola, and Harrison counties, Texas with the mine center being approximately at Latitude 32.354°N and Longitude 94.536°W. The project site is approximately one mile north of Tatum, Texas and spans the Darco, Easton, Harris Chapel, and Tatum 7.5-minute USGS quadrangle maps and is in the USGS Hydrologic Unit 12010002 - Middle Sabine Watershed. The proposed mine is immediately south of the existing South Hallsville No. 1 Mine, south of the Sabine River, west of State Highway 43, and north of Farm Road 1797 and northeast of Farm Road 1716 to the eastern boundary of Gregg County, Texas.

OTHER AGENCY AUTHORIZATIONS: (1) State Water Quality Certification, Texas Commission on Environmental Quality (TCEQ), (2) Texas Pollutant Discharge Elimination System (TPDES) Wastewater Discharge Permit (02538), TCEQ, (3) Water Rights Exemption, TCEQ, (4) Water Rights Supply Contract, TECQ, (5) TPDES Stormwater Notice of Intent for Construction Activities (TXR150000), TCEQ, (6) Stormwater General Permit for Industrial Activities (TXR050000), TECQ, (7) Surface Mining Permit (pending), Railroad Commission of Texas (RCT), (8) Marl, Sand and Gravel (pending), Texas Parks and Wildlife Department (TPWD), (9) Federal Emergency Management Agency (pending), Harrison, Rusk, and Panola counties, (10) Bridge Construction (exempt), US Coast Guard.

PROJECT DESCRIPTION: The applicant proposed to construct, operate, and reclaim an expansion of the South Hallsville No.1 Mine. The new 20,377-acre area is located south of the existing mine and across the Sabine River into Rusk and Panola counties. Surface mining operations would continue with conventional open pits excavated by large draglines and supported by standard earth moving equipment such as loading shovels, dozers, end dumps, and scrapers. Infrastructure in support of the operation would include (1) construction of a transportation corridor across the Sabine River, including a haul road, bridge, and a dragline walkway, (2) construction of ponds and diversions to control surface water drainage, (3) placement of groundwater well fields to dewater overburden and relieve underburden pressures, (4) construction of service roads, and (5) closure and/or relocation of numerous public roads to facilitate mine operations and protect public safety. The applicant proposes to begin construction of mine infrastructure in 2011 with mining activities proposed to commence in 2012. Various construction projects and mining operations would involve adverse impacts to waters of the U.S., including wetlands associated with filling or dredging activities.

The applicant has indicated that expansion of the South Hallsville No. 1 Mine to the Rusk Permit Area would provide American Electric Power (AEP) reliable access to a long-term reserve of low cost lignite fuel resources to fuel the Henry W. Pirkey Unit No.1. In addition, this fuel resource is necessary to provide continuation of reliable and cost effective electric generation for customers and provides base load electric generation capacity for the local electric grid.

Appropriate and practicable steps would be taken to avoid, minimize, and mitigate adverse impacts on the aquatic ecosystem. Although the applicant has made efforts to design the project in a manner to avoid and minimize impacts to waters of the U.S., the project would result in the unavoidable loss of approximately 275.5 acres of waters of the U.S. Specifically, 190.9 acres of wetlands and 37.3 acres (345,929.9 linear feet) of streams would be permanently impacted. 53.8 acres of wetlands and 1.5 acres (400.0 linear feet) of streams would incur temporary impacts. In addition, 47.3 acres of open water impoundments would be permanently impacted and 2.3 acres would be temporarily impacted. After consideration of all available options, the applicant plans to mitigate for unavoidable losses of waters of the U.S. by construction of various waters of the U.S. within the reclaimed mine site. Additional compensatory mitigation that could not be achieved on the mine site would be provided at an off-site mitigation area proposed to be purchased in the future. Use of an off-site area for compensatory mitigation has been approved in the past as part of Section 404 permits associated with the existing South Hallsville No. 1 Mine.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-331, the Regulatory Program of the U. S. Army Corps of Engineers (USACE), and other pertinent laws, regulations, and executive orders. Our evaluation will also follow the guidelines published by the U. S. Environmental Protection Agency pursuant to Section 404(b)(1) of the CWA. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concerns for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be

considered, including its cumulative effects. Among the factors addressed are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore 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 USACE 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 USACE in determining whether to issue, issue with modifications, or conditions, 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. The Ft. Worth District has determined the proposed project is a major federal action with the potential to significantly impact the quality of the human environment. Therefore an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act will be prepared. A public hearing will be held during the public comment period for the draft EIS.

EIS SCOPING MEETING: In accordance with 40 CFR 1501.7, a public scoping meeting to gather information on the scope of the EIS, including the issues to be addressed in detail in the document will be held Tuesday July 7, 2009, from 5:00 p.m. to 8:00 p.m. at the Tatum Middle School, located at 410 North Hill, Tatum, Texas. The purpose of this open house format meeting is to gather information on the scope of an Environmental Impact Statement (EIS) for the Sabine Mining Company's proposed Rusk Permit Area Lignite Mine. Written comments on the scope of the EIS will be accepted during the public meeting and until the close of the comment period on August 8, 2009.

STATE WATER QUALITY CERTIFICATION: This project incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier II project criteria. Tier II projects are large projects that affect more than three (3) acres of waters of the United States and/or 1,500 linear feet or more of streams. They also include projects that impact rare and ecologically significant wetlands and would not qualify for a Tier I review or for which the applicant elects not to incorporate Tier I Best Management Practices (BMP's) including the applicant choosing to use alternative BMP's. Accordingly, a request for 401 certification is necessary and there will be additional TCEQ review.

ENDANGERED AND THREATENED SPECIES: The USACE has reviewed the U.S. Fish and Wildlife Service's (USFWS) latest published version of endangered and threatened species to determine if any may occur in the project area. The proposed project would be located in Rusk, Harrison and Panola Counties where the Louisiana black bear (*Ursus americanus luteolus*) is federally listed as a threatened species. In addition, Earth fruit (*Geocarpon minimum*) is federally listed as a threatened species in Harrison and Panola Counties. No sightings of state or federal listed threatened or endangered species, or species of special concern were recorded within the Rusk

Permit Area during field reconnaissance, and our initial review indicates that the proposed work would have no adverse effects on any federally-listed endangered or threatened species.

NATIONAL REGISTER OF HISTORIC PLACES (NRHP): The applicant proposes to address historic properties and cultural resources in accordance with the requirements of Section 106 of the National Historic Preservation Act and through direct consultation with applicable agency officials and other stakeholders. An integral part of the permit application process involves comprehensive cultural resource surveys for, at a minimum, the five-year project area term to determine the presence or evidence of significant historic or archaeological sites within the project area that could be affected by the proposed mining activities. Several historic properties and cultural resource sites have been identified in the region. However, no cultural resource sites listed on the National Register of Historic Places (NRHP), eligible for listing on the NRHP, or with an unknown NRHP status would be impacted by mine-related activities unless the proper approvals are received from the Texas Historical Commission, Railroad Commission of Texas.

FLOODPLAIN MANAGEMENT: The USACE is sending a copy of this public notice to the local floodplain administrator. In accordance with 44 CFR part 60 (Flood Plain Management Regulations Criteria for Land Management and Use), the floodplain administrators of participating communities are required to review all proposed development to determine if a floodplain development permit is required and maintain records of such review.

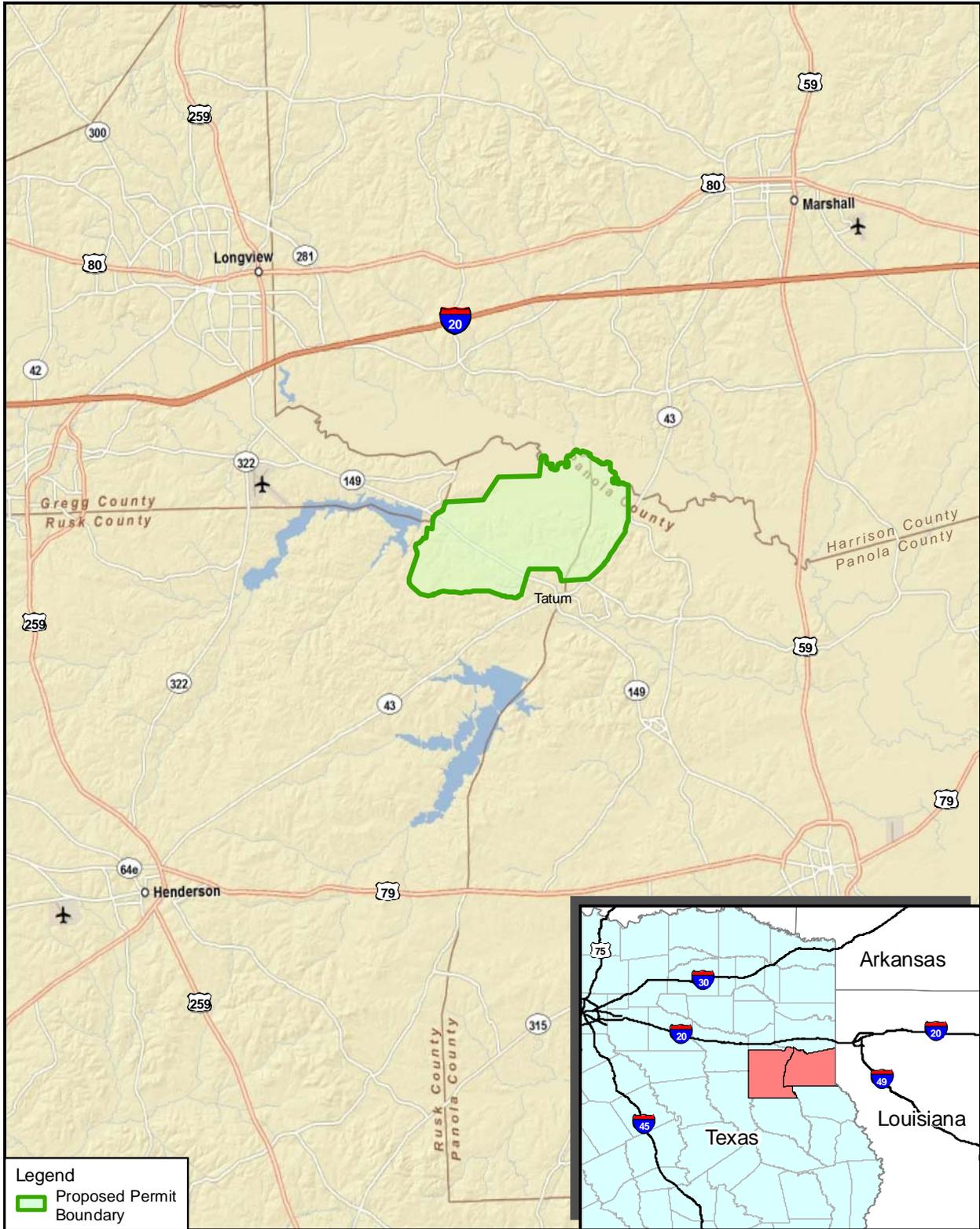
SOLICITATION OF COMMENTS: The public notice is being distributed to all known interested persons in order to assist in developing fact upon which a decision by the USACE may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues raised are substantial and should be considered in his permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before August 8, 2009, which is the close of the comment period. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. If no comments are received by that date, it will be considered that there are no objections. Comments and requests for additional information should be submitted to; Regulatory Branch, CESWF-PER-R; U. S. Army Corps of Engineers; Post Office Box 17300; Fort Worth, Texas 76102-0300. You may visit the Regulatory Branch in Room 3A37 of the Federal Building at

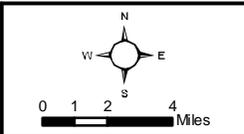
819 Taylor Street in Fort Worth between 8:00 A.M. and 3:30 P.M., Monday through Friday. Telephone inquiries should be directed to (817) 886-1731. Please note that names and addresses of those who submit comments in response to this public notice may be made publicly available.

DISTRICT ENGINEER
FORT WORTH DISTRICT
CORPS OF ENGINEERS



Legend
 Proposed Permit Boundary

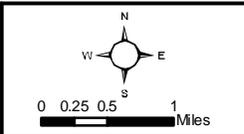
**South Hallsville No. 1 Mine
 Rusk Permit Area
 General Location Map**



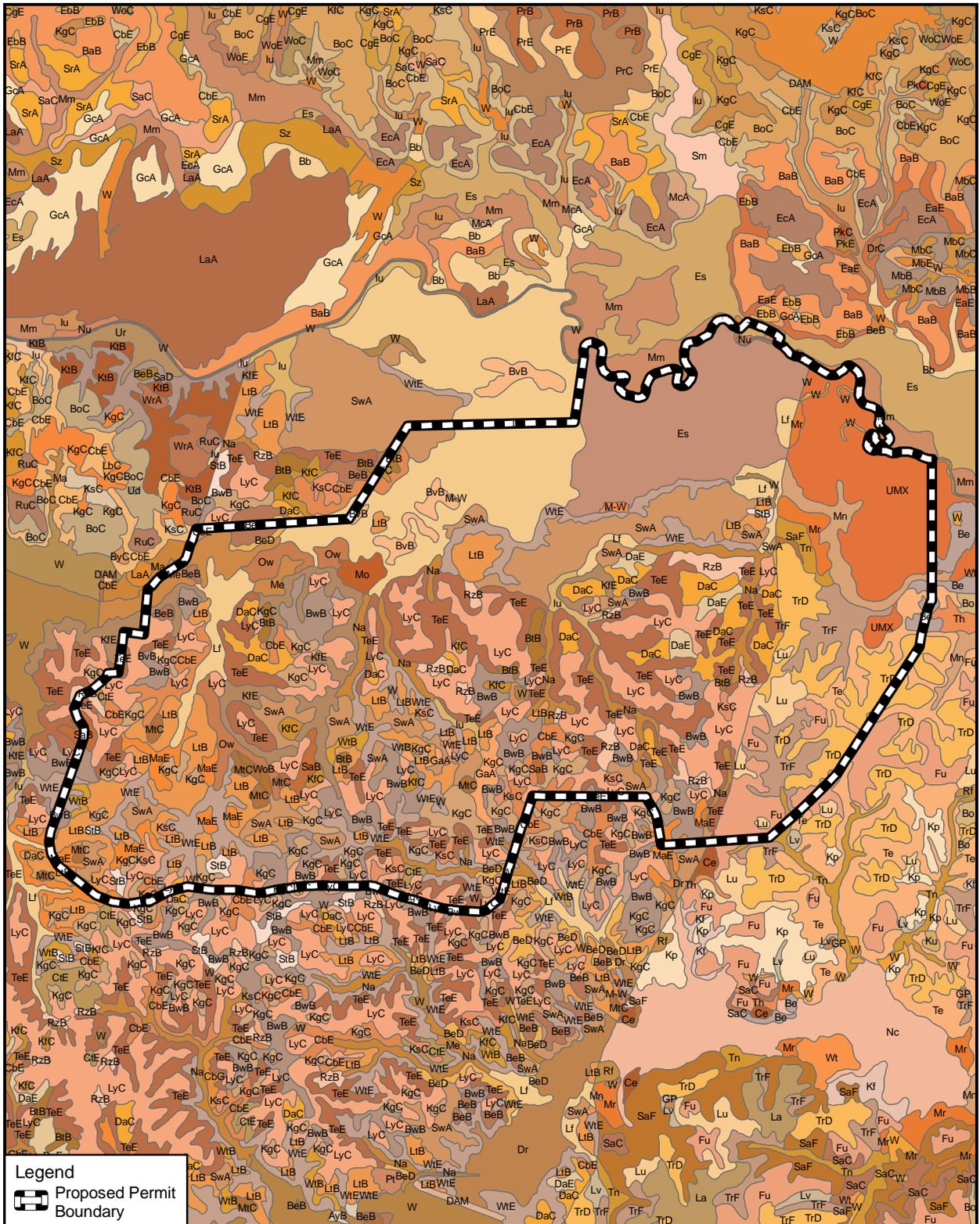
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|  HDR Engineering, Inc. 17111 Preston Rd., Suite 200 Dallas, TX 75248-1232 972-960-4400 | |
| June 2009 | Figure 1 |



**South Hallsville No. 1 Mine
Rusk Permit Area
Topographic Features**

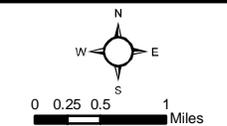


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| | HDR Engineering, Inc. 17111 Preston Rd., Suite 200 Dallas, TX 75248-1232 972-960-4400 | |
| | June 2009 | Figure 2 |



Legend
 Proposed Permit Boundary

**South Hallsville No. 1 Mine
 Rusk Permit Area
 Soil Features**



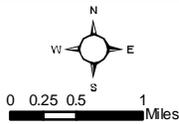
HDR HDR Engineering, Inc.
 17111 Preston Rd., Suite 200
 Dallas, TX 75248-1232
 972-960-4400

June 2009 Figure 3



Legend
 Proposed Permit Boundary

**South Hallsville No. 1 Mine
 Rusk Permit Area
 Aerial Photograph**

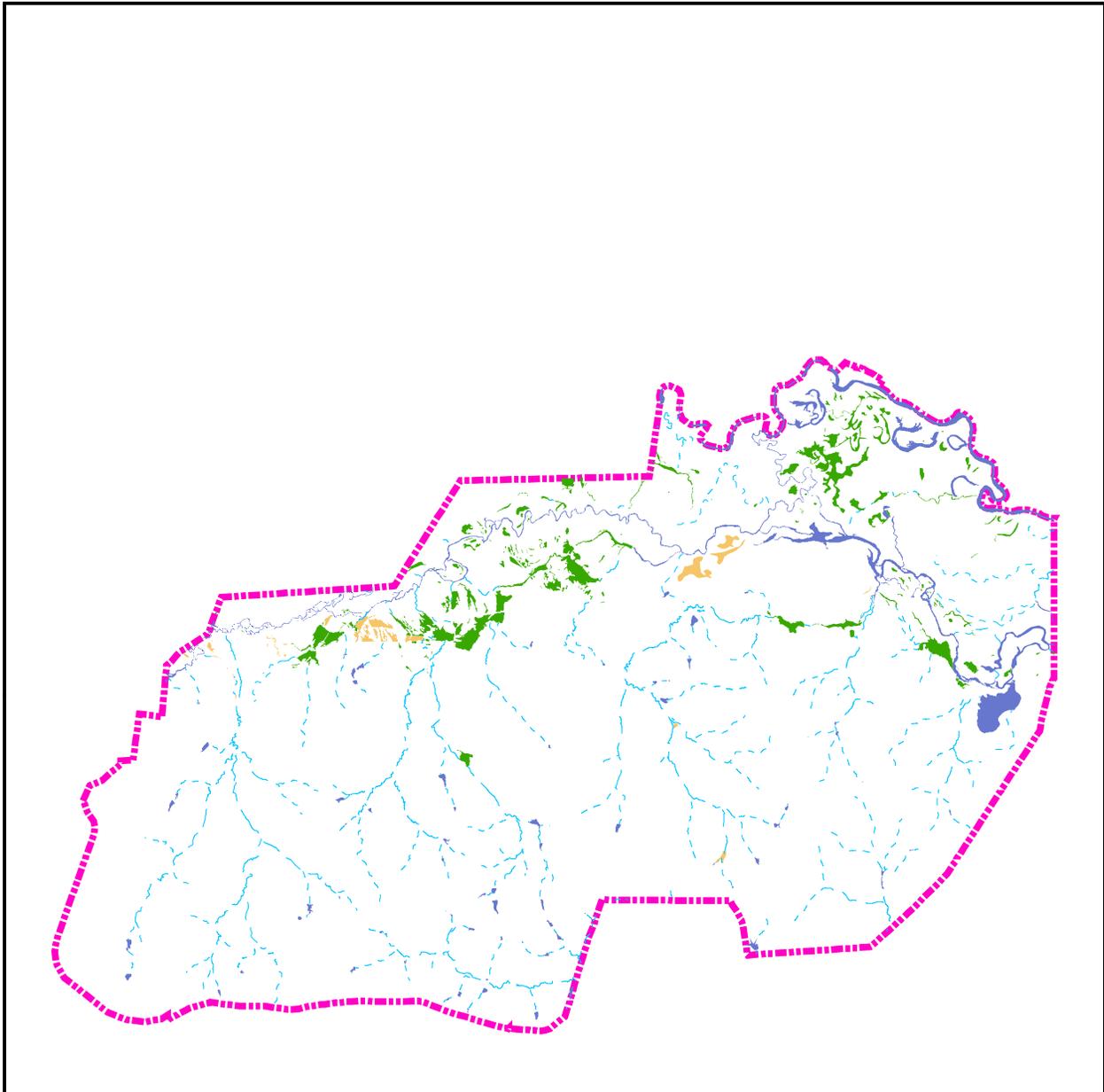


NORTH AMERICAN
COAL
 CORPORATION
SABINE MINE

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June 2009

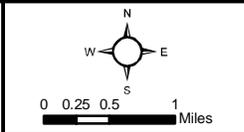
Figure 4



Legend

-  Proposed Permit Boundary
-  3 ft Stream
-  5 ft Stream
-  8 ft Stream
-  10 ft Stream
-  Forested Wetland
-  Non-Forested Wetland
-  Open Water

**South Hallsville No. 1 Mine
Rusk Permit Area
Waters of the U.S.**



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|  | HDR Engineering, Inc. 17111 Preston Rd., Suite 200 Dallas, TX 75248-1232 972-960-4400 | |
| | June 2009 | Figure 5 |