



US Army Corps
of Engineers.

Public Notice

Public Notice No. 03-92

Date: November 20, 2003

Nashville District

Application No. 200000848

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214-2660

JOINT PUBLIC NOTICE **US ARMY CORPS OF ENGINEERS** **AND** **STATE OF TENNESSEE**

SUBJECT: Proposed Filling of Wetlands in Association with the Development of a Regional Subtitle D Solid Waste Landfill in Van Buren County, Tennessee

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Before a permit can be issued, certification must be provided by the State of Tennessee, Division of Water Pollution Control, pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards will not be violated. The applicant has submitted an application to the state for Water Quality Certification under Section 401 of the CWA.

APPLICANT: Waste Industries, Inc.
11200 Highway 178
Olive Branch, Mississippi 38654

AGENT: Heineke & Associates, Inc.
3014 Sycamore View Road
Bartlett, Tennessee 38134

LOCATION: Approximately 6 miles south of Spencer in Van Buren County, Tennessee; Immediately east of State Route 111 and south of State Route 284; Upper Reach of Dry Fork Creek, a Tributary to Cane Creek, and Tributaries of Samples Fork Branch, a Tributary to Rocky River; Smartt Mountain, Tenn and Spencer, Tenn Quadrangles; Latitude 35° 37' 00", Longitude 85° 28' 00"

DESCRIPTION: Waste Industries, Inc. proposes to construct a 142-acre footprint Regional Subtitle D Solid Waste on a 472-acre tract of land. The landfill would provide regional service for Van Buren, Clay, Jackson, Overton, Smith, Putnam, DeKalb, White,

Cumberland, Warren, Bledsoe, Grundy, Sequatchie, Marion and Hamilton Counties, Tennessee as well as the contiguous states. The facility would involve impacts to 5.9 acres of wetlands and 4,184 linear feet of stream under the jurisdiction of the U. S. Army Corps of Engineers (Corps) and the State of Tennessee (TDEC). Of these waters, 2.4 acres of wetland and 3,672 linear feet of stream are impaired by past coal mining activities (pH of less than 4.0 and high concentrations of manganese and iron). Additionally the project would involve impacts to 4.4 acres of isolated strip-pits, which are under the jurisdiction of TDEC but not subject to the Corps Section 404 jurisdiction.

The applicant proposes to mitigate the impacts to wetlands, streams, and strip pits by constructing 17.67 acres of wetlands and 4.40 acres of ponds, enhancing 14,575 linear feet of stream channel, and preserving 269 acres of primarily forested area. Mitigation would occur on the 472-acre tract. Wetland creation would occur prior to wetland and mine pit impacts. Stream enhancement would occur concurrent to stream impacts. The preservation area includes 28.46 acres of wetlands, 18,415 linear feet of streams, and the 22.07 acres of proposed wetland and pond construction.

Plans of the work are attached to this notice. Additional information, including the mitigation proposal and documentation provided in support of the permit application, is available upon request.

Background: In 2002, Wastes Industries, Inc. submitted an application seeking authorization to construct a 264-acre Class I Sanitary Landfill. The facility would have involved the filling of 14.4 acres of wetlands and 12,122 linear feet of stream under the jurisdiction of the U. S. Army Corps of Engineers and the state of Tennessee as well as 2.95 acres of isolated strip-pits, which are solely under the jurisdiction of the state. The application was withdrawn prior to a permit decision by either agency.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the 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 work, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the work, will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, 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 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 authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps 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 to determine whether to issue, modify, condition, or deny a permit for this proposal. Comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above and used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. This office will prepare an EA prior to a final decision concerning issuance or denial of the requested DA Permit.

An archaeological survey report was prepared by DuVall & Associates in December of 1999. The report was submitted to the Tennessee Historical Commission (THC) for review. On June 27, 2001, the THC responded that they have no objection to the implementation of the earlier submitted project. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or historic properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or historic properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer and the U.S. Department of the Interior, National Park Service - Atlanta.

A threatened and endangered species assessment for the site was prepared by Morgan & Associates in October of 2001. The assessment included four species that could potentially be present at the site. The four species include the federally endangered Indiana bat (*Myotis sodalis*) and gray bat (*Myotis grisescens*) and the federally threatened Eggert's sunflower (*Helianthus eggertii*) and Virginia spirea (*Spirea virginiana*). The U.S. Fish and Wildlife Service (USFWS) responded to the assessment on March 1, 2000. The USFWS concurred that the project is not likely to adversely affect the Eggert's sunflower and Virginia spirea. The USFWS also stated that the project is not likely to adversely affect the gray bat provided a 100-foot buffer is established and maintained around the wetlands and streams and the project is not likely to affect the Indiana bat provided that removal of trees greater than six inches in diameter at breast height is accomplished only between October 15 and March 31. A copy of this notice is being furnished to the USFWS. We are requesting that the USFWS review the project as currently proposed and comment concerning any likely effect to any threatened or endangered species or their critical habitat. Initiation of formal consultation procedures with the USFWS is not planned at this time.

Other federal, state, and local approvals required for the proposed work are as follows:

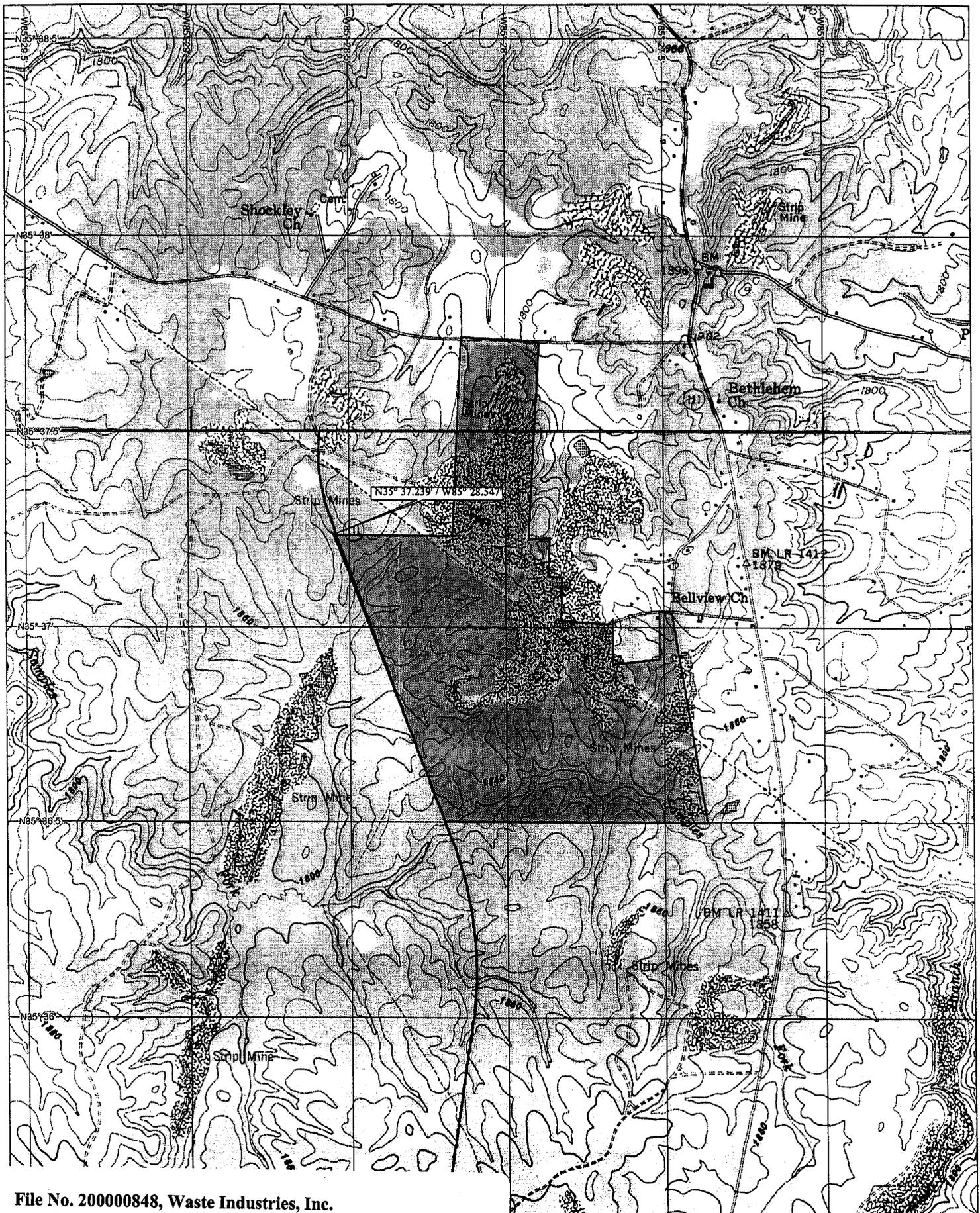
- a. Water quality certification from the State of Tennessee, Division of Water Pollution Control, in accordance with Section 401(a)(1) of the Clean Water Act.

b. Solid Waste Disposal Facility (Landfill) Permit from the State of Tennessee, Division of Solid Waste Management

c. A National Pollutant Discharge Elimination System (NPDES) permit from the State of Tennessee, Division of Water Pollution Control, in accordance with Section 402 of the Clean Water Act.

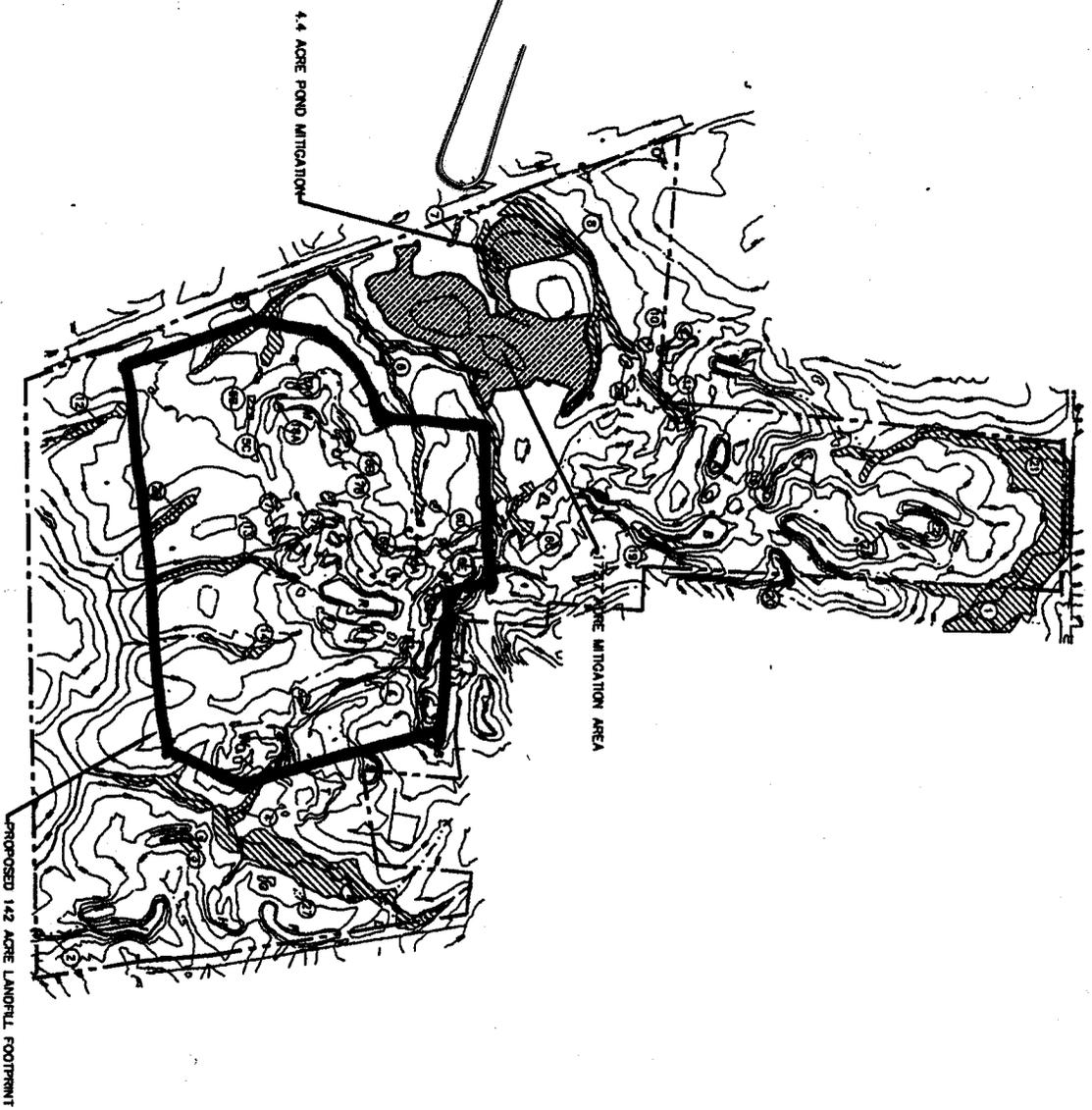
Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received on or before December 19, 2003, will become a part of the record and will be considered in the determination. Written responses to this notice should be directed to the Regulatory Branch, Attention: Marty Tyree, at the above address. Oral questions can be directed to Mr. Tyree at (615) 369-7514. It is not necessary to comment separately to the Tennessee Division of Water Pollution Control since copies of all comments will be forwarded to that agency. However, if you wish to send §401 Water Quality Certification specific comments directly to that agency, please send your comments to Mr. Mike Lee, Tennessee Division of Water Pollution Control, 7th Floor, L&C Annex, 401 Church Street Nashville, Tennessee 37243-1534.



File No. 20000848, Waste Industries, Inc.
 PN 03-92, Van Buren County, Tenn.
 Smart Mountain, TN and Spencer, TN Quadrangles;
 Lat. $35^{\circ} 37' 00''$, Long. $85^{\circ} 28' 00''$

Source Data: USGS | 1950 ft Scale: 1 : 24,000 Detail: 13-1 Datum



LEGEND

	WETLANDS		INTERMITTENT STREAM
	PROPERTY BOUNDARY		PERENNIAL STREAM
	EVALUATED LANDFILL FOOTPRINT		SURFACE DRAINAGE DIVIDE
	PERENNIAL SPRING		WETLAND IDENTIFICATION MARKER
	MITIGATION AREA		SURFACE BODY OF WATER

NOTE:
 THE EXISTING PERENNIAL AND INTERMITTENT STREAMS OUTSIDE OF THE PROPOSED 142 ACRE FOOTPRINT WILL BE PRESERVED AND RESTORED. AREAS NOT DESIGNATED BY LANDFILLING AND RESTORATION ACTIVITIES WILL BE PRESERVED.

Wetland ID #	Wetlands area Impacted (ac)	Streams Impacted (sq ft)	Pond ID #	Pond area Impacted
4	0.51	1558.63	K	0.233
5	1.348	483.39	KA	0.013
5A	0.015		KB	0.057
5B	0.07		L	0.812
5C	0.146		LA	0.16
6	0.756	8.37	LB	0.186
6A	0.01		M	0.693
6B	0.017		N	0.078
6D	0.094		O	0.081
6E	0.052		P	0.096
13	1.183	1318.46	Q	0.133
14	0.684	433.52	R	1.283
17	0.056		U	0.469
17A	0.022		W	0.045
17B	0.134		X	0.052
18A	0.055			
18B	0.146			
26	0.609			
Total	5.587	4184.26	Total	4.391

File No. 200000848, Waste Industries, Inc.
 Public Notice 03-92, Van Buren County, Tenn.
 Footprint of the 142-Acre Landfill Area with Aquatic Resource
 Impacts Identified and Mitigation Areas Identified (17.67 Acres
 of Wetland / 4.40 Acres of Ponds)

JWS & ASSOCIATES
 CONSULTING ENGINEERS

NO. 1	142 ACRES	142 ACRES
NO. 2	142 ACRES	142 ACRES
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FIGURE 4

