

Summary

It is the opinion of CFM Group that the development of the proposed mine shaft at the site detailed above will not adversely affect the survival, wellbeing, or health of any of the threatened or endangered species referenced. CFM group concludes that the research necessary to access the risks to the aforementioned species was sufficiently completed. Best Management Practices will be utilized to prevent and/or mitigate any erosion from the site during shaft installation activities.

If you have any questions or require additional information please call me at 205-547-2708.

Sincerely,
CFM Group, LLC

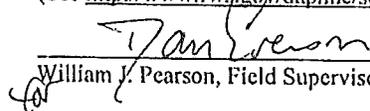


Heather L. Sisson
Sr. Project Manager



U.S. Fish and Wildlife Service
1208-B Main Street - Daphne, Alabama 36526
Phone: 251-441-5181 Fax: 251-441-6222

No federally listed species/critical habitat are known to occur in the project area. As described, the project will have no significant impact on fish and wildlife resources. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT NEW PLANS FOR REVIEW. We recommend use of best management practices specific to your project (See <http://www.fws.gov/daphne/section7/bmp.html>).


William J. Pearson, Field Supervisor

6-16-2011
Date # 3



CFM Group

Civil and Environmental Engineers,
Scientists, Planners, and Surveyors

May 26, 2010

Mr. William J. Pearson
Field Supervisor
U.S. Fish and Wildlife Service
1208-B Main Street
Daphne, Alabama 36526

RE: Jim Walter Resources Mine Shaft No. 4-12 (Permit Revision)
Endangered Species Survey
May 24, 2011

Dear Mr. Pearson:

This letter details the requested Endangered Species Survey required prior to the installation of the proposed revision for the above referenced mine shaft for Jim Walter Resources in Tuscaloosa County. The following is a list of the Endangered and Threatened species known to exist in Tuscaloosa County:

Endangered:

Red-Cockaded Woodpecker
Wood Stork
Southern Clubshell Mussel
Dark Pigtoe Mussel
Ovate Clubshell Mussel
Mitchell's Satyr Butterfly

Threatened:

Bald Eagle
Flattened Musk Turtle
Alabama Moccasinshell Mussel
Inflated Heelsplitter Mussel
Fine-lined pocketbook mussel
Orange-nacre mucket mussel

The impact to the above listed mussels and flattened musk turtle can be dismissed since adequate measures will be maintained during construction and operations to control any erosion and/or sedimentation that may result to surrounding areas.

On May 24, 2011 CFM Group, LLC conducted a site survey of the property to be developed. Proposed Mine Shaft 4-12 is located at Latitude 33.3711" N and Longitude 87.3072" W.

Using information gathered from the survey, it is our opinion that there is no reasonable evidence within development area that suggest sufficient habitats exist for the above species, nor do we expect that development activities to be conducted in the area would cause significant habitat disturbance.

These conclusions are drawn based on data developed during the site survey and research into these species with respect to their interaction with their habitat, as well as valuable information provided by the USFW web site and Ms. Ashley Peters of the Alabama Department of Conservation and Natural Resources. The following details findings for each species.

Bald Eagle

The U.S. Department of the Interior's Habitat Management Guidelines for the Bald Eagle in the Southeast Region defines the area around a particular nesting site which contains critical habitat elements to be approximately 1500 feet. CFM Group searched the area surrounding the proposed shaft sites for eagles nests that may fall within this "primary zone" An initial survey indicated that no eagles nesting sites were present within a 1500 foot radius of any portion of the proposed area. According to Ms. Ashley Peters of the Department of Conservation and Natural Resources, there are no known nesting sites within the area of the shaft sites.

Red-cockaded Woodpecker

The red-cockaded woodpecker usually inhabits a territory consisting of a stand of pine trees having a fifteen inch diameter at breast height with a sparse midstory. There was no visual evidence of wooded land associated with any pine tree stands of this description in the area. While pine trees are the dominate species in the area, the trees present at and surrounding the site are not suitable for the red-cockaded woodpecker.

Wood Stork

During the site survey there were no suitable feeding habitats for the wood stork observed. The site area has no impounded water bodies which would support the wood stork.

Mitchell's Satyr Butterfly

Mitchell's Satyr Butterfly is restricted to rare wetlands called fens which are low nutrient systems that receive carbonate-rich ground water from seeps and springs. During the site survey no habitats of this type were observed. Wetland delineation was also conducted for the Corp of Engineers permitting process and no wetland habitat was found at the proposed site.

Summary

It is the opinion of CFM Group that the development of the proposed mine shaft at the site detailed above will not adversely affect the survival, wellbeing, or health of any of the threatened or endangered species referenced. CFM group concludes that the research necessary to access the risks to the aforementioned species was sufficiently completed. Best Management Practices will be utilized to prevent and/or mitigate any erosion from the site during shaft installation activities.

If you have any questions or require additional information please call me at 205-547-2708.

Sincerely,
CFM Group, LLC



Heather L. Sisson
Sr. Project Manager



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
218 SUMMIT PARKWAY, SUITE 222
HOMEWOOD, ALABAMA 35209

Inland Section North
Regulatory Division

SUBJECT: No Permit Required – SAM-2011-00667-CTM, Jim Walter Resources, Inc. Shaft 4-12

Mr. Chris Michael
c/o CFM Group
Attention: R.A. Deerman
2135 University Boulevard, Suite A
Tuscaloosa, Alabama 35401

Dear Mr. Michael:

Reference is made to your letter requesting a jurisdictional determination at the proposed Shaft 4-12 site. Specifically, the property is located in Section 19, Township 19 South, Range 7 West and Section 24, Township 19 South, Range 8 West (Latitude 33° 22' 16", Longitude 87° 18' 26"), near Brookwood, Tuscaloosa County, Alabama.

Based on our review of the information you and your consultant, CFM Group, furnished and information available to our office, it appears that Federally-regulated wetlands or other "waters of the United States" do not occur on the property. Therefore, no permit, pursuant to our regulations, is required for your project. You should note that this determination is primarily based upon the information submitted by you and/or your consultant, and that you are ultimately responsible for its accuracy.

Please be advised that this jurisdictional determination reflects current policy and regulation and is valid for a period of 5 years from the date of this letter. If after the 5-year period this jurisdictional determination has not been specifically revalidated by the U.S. Army Corps of Engineers, it shall automatically expire. Should you disagree with certain terms and/or conditions of this determination, the enclosed Notification of Applicant Options outlines the steps to take to file your objection.

The statements contained herein do not convey any property rights or any exclusive privileges, and do not authorize any injury to property or obviate the requirements to obtain other local, State, or Federal assent required by law for the activities discussed above. If the scope of work or project location changes, you are urged to contact this office for a verification of this determination. Thank you for your cooperation with our permit program. If you have any questions concerning this matter, please feel free to contact me at (205) 290-9096.

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/RD/reg, and please take a moment to complete our customer satisfaction survey while you are there. Your responses are appreciated and will allow us to improve our services.

Sincerely,

A handwritten signature in black ink that reads "Candice Wheelahan". The signature is written in a cursive style with a large initial 'C'.

Candice Wheelahan
Regulatory Specialist
Regulatory Division

Enclosure

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Chris Michael (Jim Walter Resources, Inc.)	File Number: SAM-2011-00667-CTM	Date: 6/21/2011
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input checked="" type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Candice Wheelahan
CESAM-RD-P
U.S. ARMY CORPS OF ENGINEERS
218 SUMMIT PARKWAY, SUITE 222
HOMEWOOD, ALABAMA 35209
(205) 290-9096

If you only have questions regarding the appeal process you may also contact:

MR. JASON W. STEELE
REGULATORY APPEAL REVIEW OFFICER
60 FORSYTH STREET SOUTHWES
ATLANTA, GEORGIA 30303-8801
(404) 562-5137

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

CFM Group

Civil and Environmental Engineers,
Scientists, Planners, and Surveyors

CORPS PERMIT APPLICATION FOR PROPOSED SHAFT 4-12



Prepared for
Jim Walter Resources, Inc.
P.O. Box 133 (16243 Highway 216)
Brookwood, AL 35444

*CFM Group, LLC
2135 University Blvd.
Suite A
Tuscaloosa, AL 35401
(205) 752-4037*

Table of Contents

1. Introduction	3
1.1. Location	3
1.2. Driving Directions	3
1.3. Background	3
1.4. Purpose	3
2. Application for Proposed Shaft.....	4

1. Introduction

1.1. Location

Jim Walter Resources, Inc. is the world's largest producer of Blue Creek Coal from some of the deepest mines on the North American Continent. The Blue Creek Seam is located in the Warrior Basin. The headquarters of Jim Walter Resources is located in Brookwood, Alabama.

1.2. Driving Directions

From the intersection of Interstate Highway 20/59 and County Road 59 (CR-59, also known as Covered Bridge Road), go north on CR-59 5.7 miles. Turn right and go east on Alabama Highway 216 0.8 miles. Turn left and go north on CR-59 (this segment called Lock 17 Road) 9.7 miles. Turn right and go east on a private road 1.2 miles (generally, the existing private road will become the future shaft access road). The site is a quarter mile to the south.

1.3. Background

Jim Walter Resources proposed to install a new shaft to access its underground mine. As described in this document, the proposed shaft does not impact jurisdictional waters (wetlands or streams). Nonetheless, the Alabama Surface Mining Commission has requested written confirmation from the Corps of Engineers regarding jurisdictional waters.

1.4. Purpose

The purpose of this document is to present an application for the proposed shaft and access road. If the Corps concurs that no Department of the Army Permit is required, then a written statement to that effect is requested.

2. Application for Proposed Shaft

5. Project Description (continued)

The dimensions and quantities described below are specific to the section of road that impacts jurisdictional waters and not the entire project.

6. Dredging Project Specifications (Show locations and dimensions of proposed dredge areas on attached plans. Include existing and proposed depths.)

New Work Maintenance Work _____
Cubic yards of material to be removed 20,000 Type of material Earth
Surface area (square feet) impacted 230,000 (sand, muck, hard bottom, ect.)
Method of excavation Earthmoving equipment
Nature of area to be dredged (check all that apply) Upland Wetland _____ Waterbottom _____
Other (explain) _____

7. Specifications for Discharge of Dredged or Fill Material (Show locations and dimensions of all disposal or fill areas on attached plans.)

Cubic yards of fill 20,000 Type of fill Earth
Surface area (square feet) impacted 80,000
Source of fill material (check all that apply) Commercially obtained _____ Dredged material _____ Borrowed on-site _____
Other (explain) New mining shaft, see "Dredging" above
How will discharged material be contained? (Include erosion control measures, levees, etc.) _____
Stable embankment material _____
Nature of disposal/fill areas (check all that apply) Upland Wetland _____ Waterbottom _____
Other (explain) _____

8. Additional information relating to the proposed activity.

Are oyster reefs located within or near the project area? Yes _____ No If yes, explain: _____

Will this project result in the siting, construction, and/or operation of an energy-related facility? Yes No _____

Is the project area greater than 25 acres in size? Yes _____ No

Is any portion of the activity for which authorization is sought now complete? Yes _____ No If yes, explain: Not Applicable

Month and year activity took place Not Applicable

If project is for maintenance work of existing structures or existing channels, describe legal authorization for the existing work. Provide permit number, dates or other form of authorization Not Applicable

9. Describe the purpose and public benefit, if any, of the project. Describe the relationship between the project and any secondary or future development the project is designed to support. Mining

Intended use: Public _____ Private _____ Commercial Other (explain) _____

10. Project Schedule:

Proposed start date September 2011 Proposed completion date May 2012

11. Names and address of adjoining property owners, lessees, etc. whose property also adjoins the waterway. Also identify the owners on the plan views in attachment. Adjacent to project: Shook Estate (c/o AmSouth Bank; PO Box 13475; Arlington, TX) 76094 and Drummond Coal (PO Box 1549; Jasper, AL 35502)

12. List all authorizations or certifications received or applied for from federal, state or local agencies for any Structures, construction, discharges, deposits or other activities described in or directly related to this application. Note that the signature in Item 13 certifies that application has been made to or that permits are not required from the following agencies. If permits are not required place NA in space for Type Approval.

Table with 6 columns: Agency, Type Approval, Identification No., Date of Application, Date of Approval, Date of Denial. Rows include AL Dept. of Environmental Management, U. S. Army Corps of Engineers, AL State Lands Division, Alabama State Docks, City/County, and Other.

13. Application is hereby made for authorization to conduct the activities described herein. I agree to provide any additional information/data that may be necessary to provide reasonable assurance or evidence to show that the proposed project will comply with the applicable state water quality standards or other environmental protection standards both during construction and after the project is completed. For projects within the coastal area of Mobile and Baldwin Counties, I certify that the proposed project for which authorization is sought complies with the approved Alabama Coastal Area Management Program and will be conducted in a manner consistent with the program. I agree to provide entry to the project site for inspectors from the environmental protection agencies for the purpose of making preliminary analyses of the site and monitoring permitted works. I certify that I am familiar with responsible for the information contained in this application, and that to the best of my knowledge and belief such information is true, complete and accurate. I further certify that I possess the authority to undertake the proposed activities or I am acting as the duly authorized agent of the applicant.

(SIGNATURE OF APPLICANT OR AGENT REQUIRED BELOW)


Signature of Applicant or Agent

05/25/2011
Date

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willingly falsifies, conceals, or covers up by any trick, scheme or device a material fact or make any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$1 0,000 or imprisoned not more than five years or both.

14. In addition to the completed application, the following attachments are required:

Provide a vicinity map showing the location of the proposed site along with a written description of how to reach the site from major highways or landmarks. Provide accurate drawings of the project site with existing structures and proposed activities shown in detail. For projects located adjacent to, or on water, the site plan must clearly indicate the location of the ordinary mean high tide line and the width of the water body at the site location.. All drawings must be to scale or with dimensions noted on drawings and must show a plan view and across section or elevation. **All plans and attachments must be of reproducible quality on 8 ½ inch x 11 inch paper.**

NOTE: **FEES ARE REQUIRED IN CONJUNCTION WITH ADEM CERTIFICATION: ADEM WILL CONTACT APPLICANT WITH FEE REQUIREMENTS.**

NOTE: **FEES MAY BE REQUIRED BY THE ALABAMA STATE LANDS DIVISION FOR DREDGE ACTIVITIES AND PROJECTS IMPACTING STATE OWNED SUBMERGED LANDS. THE STATE LANDS DIVISION WILL CONTACT APPLICANT WITH FEE REQUIREMENTS.**

15. APPLICATION SUBMISSION INFORMATION

Contact the Corps of Engineers prior to submittal with any questions or to request acceptable alternate content/format. An instruction package, example PAP and SPCC plans, and other information are available upon request. Complete this form, attach additional information as necessary, and submit signed original to:

(Statewide, Except Tennessee River Watershed)
District Engineer, Attn: Regulatory Division
U.S. Army Corps of Engineers - **Mobile District**
Post Office Box 2288
Mobile, Alabama 36628-0001
Phone: (251) 690-2658 Fax: (251) 690-2660
WebPage: www.sam.usace.army.mil/ WebPage:

OR (Tennessee River Watershed Only)
District Engineer, Attn: Regulatory Branch
U.S. Army Corps of Engineers - **Nashville District**
3701 Bell Road
Nashville, Tennessee 37214
Phone: (615) 369-7500 Fax: (615) 369-7501
WebPage: www.orn.usace.army.mil/

Submit signed copy of application and attachments to:

For Activities Statewide:

Mining & Nonpoint Source Section Field Operations Division, ADEM PO Box 301463 Montgomery, AL 36110-2059 Phone: (334) 394-4311 Fax: (334) 394-4326 Email: mnps@adem.state.al.us WebPage: www.adem.state.al.us	Alabama State Port Authority Environmental, Health, Safety P. O. Box 1588 Mobile, AL 36633 Phone: (251) 441-7085 Fax: (251) 441-7255 ebPage: www.asdd.com
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(In Mobile, Baldwin and Washington Counties Only)

Coastal Section-Mobile Branch Field Operations Division, ADEM 4171 Commanders Dr. Mobile, AL 36615 Phone (251) 432-6533 Fax: (251) 432-6598 Email: coastal6@adem.state.al.us WebPage: www.adem.state.al.us	Alabama State Lands Division Coastal Section 2310 US Hwy. 98 Suite B-1 Fairhope, AL 36532 Phone: (251) 929-0900 Fax: (251) 990-9293
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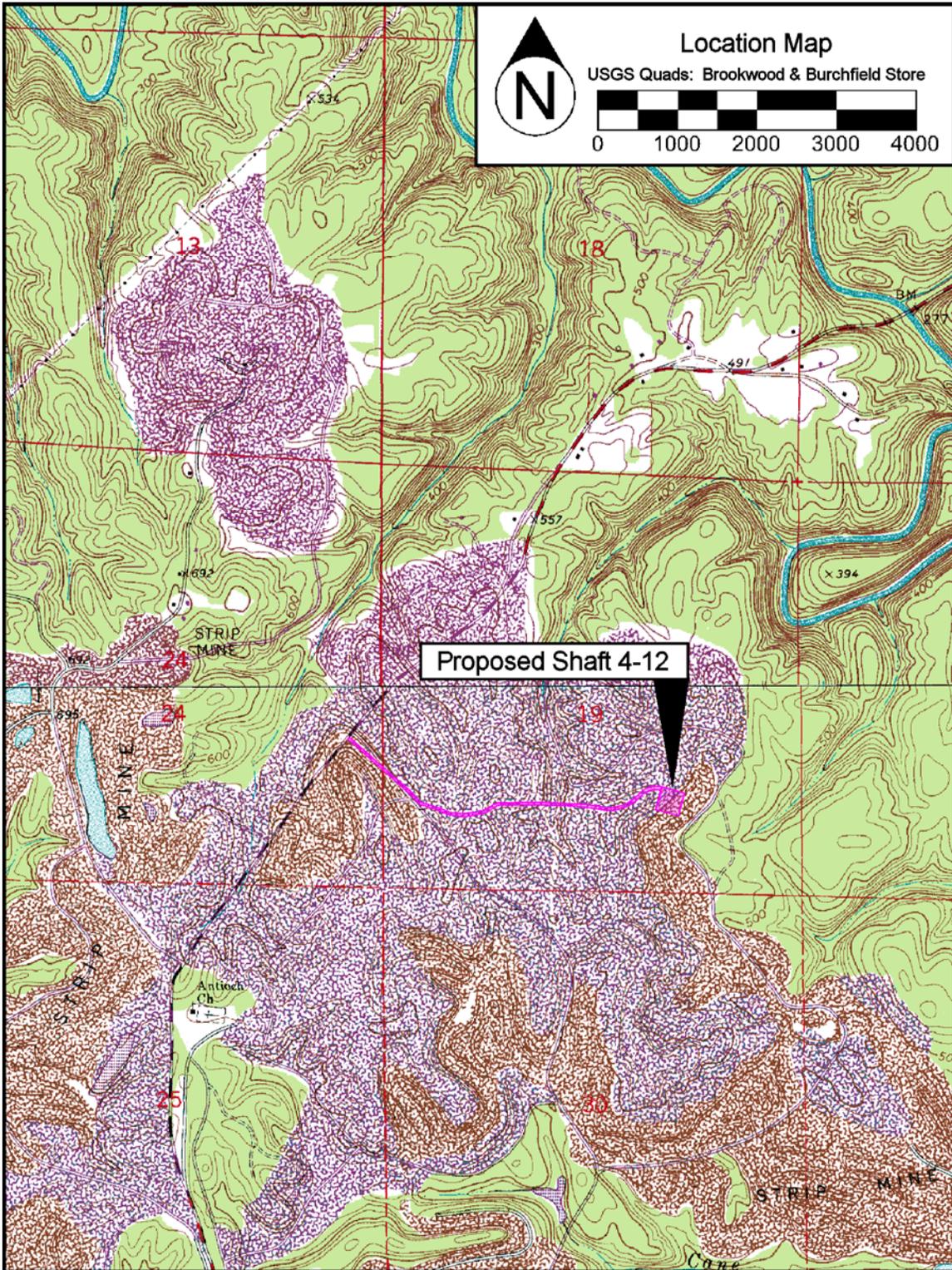


Figure 1. Location Map.

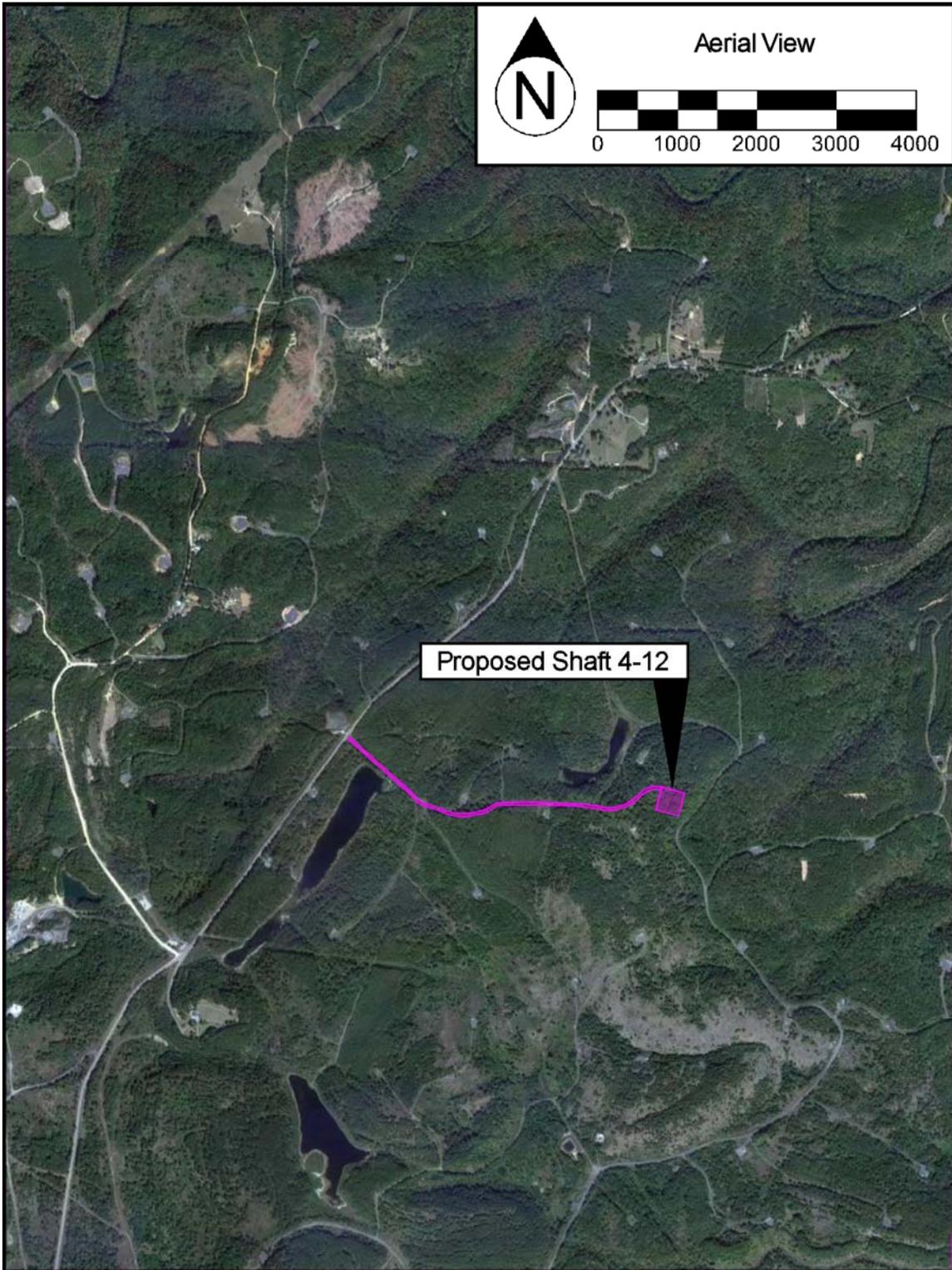


Figure 2. Aerial View.



Figure 3. Photos.

WETLAND DETERMINATION DATA FORM – Eastern Mountains and Piedmont

Project/Site: _____ City/County: _____ Sampling Date: _____
 Applicant/Owner: _____ State: _____ Sampling Point: _____
 Investigator(s): _____ Section, Township, Range: _____
 Landform (hillslope, terrace, etc.): _____ Local relief (concave, convex, none): _____ Slope (%): _____
 Subregion (LRR or MLRA): _____ Lat: _____ Long: _____ Datum: _____
 Soil Map Unit Name: _____ NWI classification: _____

Are climatic / hydrologic conditions on the site typical for this time of year? Yes _____ No _____ (If no, explain in Remarks.)
 Are Vegetation _____, Soil _____, or Hydrology _____ significantly disturbed? Are "Normal Circumstances" present? Yes _____ No _____
 Are Vegetation _____, Soil _____, or Hydrology _____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes _____ No _____ Hydric Soil Present? Yes _____ No _____ Wetland Hydrology Present? Yes _____ No _____	Is the Sampled Area within a Wetland? Yes _____ No _____
Remarks:	

HYDROLOGY

Wetland Hydrology Indicators: <u>Primary Indicators (minimum of one is required; check all that apply)</u> ___ Surface Water (A1) ___ True Aquatic Plants (B14) ___ High Water Table (A2) ___ Hydrogen Sulfide Odor (C1) ___ Saturation (A3) ___ Oxidized Rhizospheres on Living Roots (C3) ___ Water Marks (B1) ___ Presence of Reduced Iron (C4) ___ Sediment Deposits (B2) ___ Recent Iron Reduction in Tilled Soils (C6) ___ Drift Deposits (B3) ___ Thin Muck Surface (C7) ___ Algal Mat or Crust (B4) ___ Other (Explain in Remarks) ___ Iron Deposits (B5) ___ Inundation Visible on Aerial Imagery (B7) ___ Water-Stained Leaves (B9) ___ Aquatic Fauna (B13)	<u>Secondary Indicators (minimum of two required)</u> ___ Surface Soil Cracks (B6) ___ Sparsely Vegetated Concave Surface (B8) ___ Drainage Patterns (B10) ___ Moss Trim Lines (B16) ___ Dry-Season Water Table (C2) ___ Crayfish Burrows (C8) ___ Saturation Visible on Aerial Imagery (C9) ___ Stunted or Stressed Plants (D1) ___ Geomorphic Position (D2) ___ Shallow Aquitard (D3) ___ Microtopographic Relief (D4) ___ FAC-Neutral Test (D5)
Field Observations: Surface Water Present? Yes _____ No _____ Depth (inches): _____ Water Table Present? Yes _____ No _____ Depth (inches): _____ Saturation Present? Yes _____ No _____ Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No _____
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:	
Remarks:	

VEGETATION (Four Strata) – Use scientific names of plants.

Sampling Point: _____

	Absolute % Cover	Dominant Species?	Indicator Status	
Tree Stratum (Plot size: _____)				Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: _____ (A) Total Number of Dominant Species Across All Strata: _____ (B) Percent of Dominant Species That Are OBL, FACW, or FAC: _____ (A/B)
1. _____	_____	_____	_____	
2. _____	_____	_____	_____	
3. _____	_____	_____	_____	
4. _____	_____	_____	_____	
5. _____	_____	_____	_____	
6. _____	_____	_____	_____	
7. _____	_____	_____	_____	
8. _____	_____	_____	_____	
_____ = Total Cover				
Sapling/Shrub Stratum (Plot size: _____)				Prevalence Index worksheet: Total % Cover of: _____ Multiply by: _____ OBL species _____ x 1 = _____ FACW species _____ x 2 = _____ FAC species _____ x 3 = _____ FACU species _____ x 4 = _____ UPL species _____ x 5 = _____ Column Totals: _____ (A) _____ (B) Prevalence Index = B/A = _____
1. _____	_____	_____	_____	
2. _____	_____	_____	_____	
3. _____	_____	_____	_____	
4. _____	_____	_____	_____	
5. _____	_____	_____	_____	
6. _____	_____	_____	_____	
7. _____	_____	_____	_____	
8. _____	_____	_____	_____	
9. _____	_____	_____	_____	
10. _____	_____	_____	_____	
_____ = Total Cover				
Herb Stratum (Plot size: _____)				Hydrophytic Vegetation Indicators: ___ 1 - Rapid Test for Hydrophytic Vegetation ___ 2 - Dominance Test is >50% ___ 3 - Prevalence Index is ≤3.0 ¹ ___ 4 - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) ___ Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.
1. _____	_____	_____	_____	
2. _____	_____	_____	_____	
3. _____	_____	_____	_____	
4. _____	_____	_____	_____	
5. _____	_____	_____	_____	
6. _____	_____	_____	_____	
7. _____	_____	_____	_____	
8. _____	_____	_____	_____	
9. _____	_____	_____	_____	
10. _____	_____	_____	_____	
11. _____	_____	_____	_____	
12. _____	_____	_____	_____	
_____ = Total Cover				
Woody Vine Stratum (Plot size: _____)				Definitions of Four Vegetation Strata: Tree – Woody plants, excluding vines, 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height. Sapling/Shrub – Woody plants, excluding vines, less than 3 in. DBH and greater than 3.28 ft (1 m) tall. Herb – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall. Woody vine – All woody vines greater than 3.28 ft in height.
1. _____	_____	_____	_____	
2. _____	_____	_____	_____	
3. _____	_____	_____	_____	
4. _____	_____	_____	_____	
5. _____	_____	_____	_____	
6. _____	_____	_____	_____	
_____ = Total Cover				
Remarks: (Include photo numbers here or on a separate sheet.)				Hydrophytic Vegetation Present? Yes _____ No _____

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): May 25, 2011

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
Jim Walter Resources, Inc. ; PO Box 133 ; Brookwood, AL 35444

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE ATTACHED TABLE TO DOCUMENT MULTIPLE WATERBODIES AT DIFFERENT SITES)**

State:AL County/parish/borough: Tuscaloosa City: Brookwood
Center coordinates of site (lat/long in degree decimal format): Lat. 33.3711° N, Long. 87.3073° W.

Universal Transverse Mercator:

Name of nearest waterbody: UT to Davis Creek

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 0 linear feet: width (ft) and/or acres.

Cowardin Class:

Stream Flow:

Wetlands: 0 acres.

Cowardin Class:

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal: 0

Non-Tidal: 0

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

Office (Desk) Determination. Date:

Field Determination. Date(s): May 20, 2011

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "*may be*" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

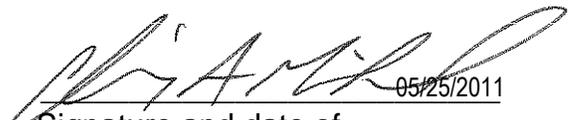
SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply

- checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: .
- Corps navigable waters' study: .
- U.S. Geological Survey Hydrologic Atlas: .
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Brookwood & Burchfield Store.
- USDA Natural Resources Conservation Service Soil Survey. Citation: .
- National wetlands inventory map(s). Cite name: .
- State/Local wetland inventory map(s): .
- FEMA/FIRM maps: .
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Google Earth, 10/04/2010. or Other (Name & Date): Deerman, 05/20/2011.
- Previous determination(s). File no. and date of response letter: .
- Other information (please specify): .

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and date of
Regulatory Project Manager
(REQUIRED)


05/25/2011
Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining
the signature is impracticable)

SAMPLE

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
1				0.1 acre	section 10 – tidal
2				100 linear feet	section 10 – non-tidal
3				15 square feet	non-section 10 – wetland
4				0.01 acre	non-section 10 – non-wetland