



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
BIRMINGHAM FIELD OFFICE
218 SUMMIT PARKWAY, SUITE 222
HOMWOOD, ALABAMA 35209

June 18, 2012

Inland Section North
Regulatory Division

SUBJECT: Nationwide Permit Authorization - Permit Number SAM-2012-00638-CMS, CClay, Inc., Skelton Creek Revision R-1

CClay, Inc.
c/o Delta Natural Resource Services, Inc.
Attention: Mr. Cleo Stubbs
Post Office Box 941
Hartselle, Alabama 35640

Dear Mr. Stubbs:

This letter is in response to your May 17, 2012 application for a Department of the Army (DA) permit to impact 50 linear feet of intermittent stream and 0.37 acre of wetlands in association with the installation of an access road. The project is located in Section 36, Township 16 South, Range 6 West and Section 1, Township 17 South, Range 6 West near Praco, Jefferson County, Alabama (N 33.59618, W 87.12525).

DA authorization is necessary because your project will involve the placement of fill material into jurisdictional waters of the United States, regulated under Section 404 of the Clean Water Act. The project will involve the installation of a culvert and associated fill in 50 linear feet of intermittent stream and the placement of a culvert and associated fill in 0.37 acre of scrub shrub wetlands. The purpose of the road is to improve and expand the surface area of the existing road to provide safe access to the coal mine.

Based on the pre-construction notification and subsequent submittals, your proposal is authorized by Nationwide Permit (NWP) 14 Linear Transportation Projects (Federal Register, February 21, 2012 Vol. 77, No. 34). In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the General Conditions of Nationwide Permit 14, which can be viewed at our website at www.sam.usace.army.mil/RD/reg, and the following special conditions:

- a. The applicant shall purchase 0.274 wetland credits (0.184 credits x 1.49 proximity factor) from Big Sandy Mitigation Bank for the wetland mitigation. Proof of credit purchase must be received by this office prior to commencing work in waters of the United States.
- b. The applicant shall purchase 60 stream credits (40 credits x 1.49 proximity factor) from Big Sandy Mitigation Bank for the stream mitigation. Proof of credit purchase must be received by this office prior to commencing work in waters of the United States.

c. You shall comply with all the terms and conditions of the Alabama Department of Environmental Management Section 401 Water Quality Certifications for the Nationwide Permits. This document can be viewed at our website: www.sam.usace.army.mil/rd/reg/nwp/htm for your review and compliance, or at your request a paper copy will be provided to you.

Our verification of this NWP authorization is valid for 2 years from the date of this letter unless the NWP is modified, reissued, or revoked prior to that date. If the authorized work has not been completed by that date, please contact us to discuss the status of your authorization. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of Section 404 of the Clean Water Act.

This letter of authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Further, please note General Condition 30 requires that you submit a signed certification to us once any work has commenced and when the work and required mitigation are completed. Please complete and submit the attached Notification of Commencement of Work when work has begun and the attached Compliance Certification form to this office within 60 days of completion of the authorized work.

A copy of this authorization is being provided to the Alabama Department of Environmental Management, Attention: Mr. Richard Hulcher, Field Operations Division, 1400 Coliseum Boulevard, Montgomery, Alabama 36110.

Please contact me at 205-290-9096 if you have any questions and refer to File Number SAM-2012-00638-CMS. For additional information about our Regulatory Program, visit our web site at www.sam.usace.army.mil/RD/reg, and complete our customer satisfaction survey while you are there. Your responses are appreciated and will allow us to improve our services.

Sincerely,



Courtney Shea
Project Manager
Regulatory Division
Birmingham Field Office

Enclosures

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Cclay, Inc.		File Number: SAM-2012-00638-CMS	Date: 6/18/12
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
X	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 OF 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:
USACE Mobile District – Birmingham Field Office
218 Summit Parkway, Suite 222
Homewood, Alabama 35209

If you only have questions regarding the appeal process you may also contact:
Jason Steele
Administrative Appeals Review Officer
60 Forsyth Street, SW (Room 9M10)
Atlanta, GA 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:
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PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): 6/12/12

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:
PERC Engineering Company, Inc.
PO Box 1712
Jasper, AL 35502

C. DISTRICT OFFICE, FILE NAME, AND NUMBER: CESAM-RD-I-N, SAM-2012-00638-CMS, Skelton Creek Revision R-1

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

State: AL County/parish/borough: Jefferson City:
Center coordinates of site (lat/long in degree decimal format): Lat. 33.59618°
Pick List, Long. -87.12525° **Pick List**.

Universal Transverse Mercator:

Name of nearest waterbody: Locust Fork

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

Non-wetland waters: 50 linear feet: 2 width (ft) and/or acres.

Cowardin Class: riverine

Stream Flow: intermittent

Wetlands: 0.37 acres.

Cowardin Class: palustrine scrub shrub

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

Tidal:

Non-Tidal:

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

Office (Desk) Determination. Date:

Field Determination. Date(s): 3/12/12 (agent); 6/6/12 (Corps)

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: Sylvan Springs Quad.

- USDA Natural Resources Conservation Service Soil Survey. Citation:NRCS Jefferson County Soil Survey.
- National wetlands inventory map(s). Cite name:USFWS NWI map.
- 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 6/12/12.
or Other (Name & Date):site photos agent provided 3/12/12.
- 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.

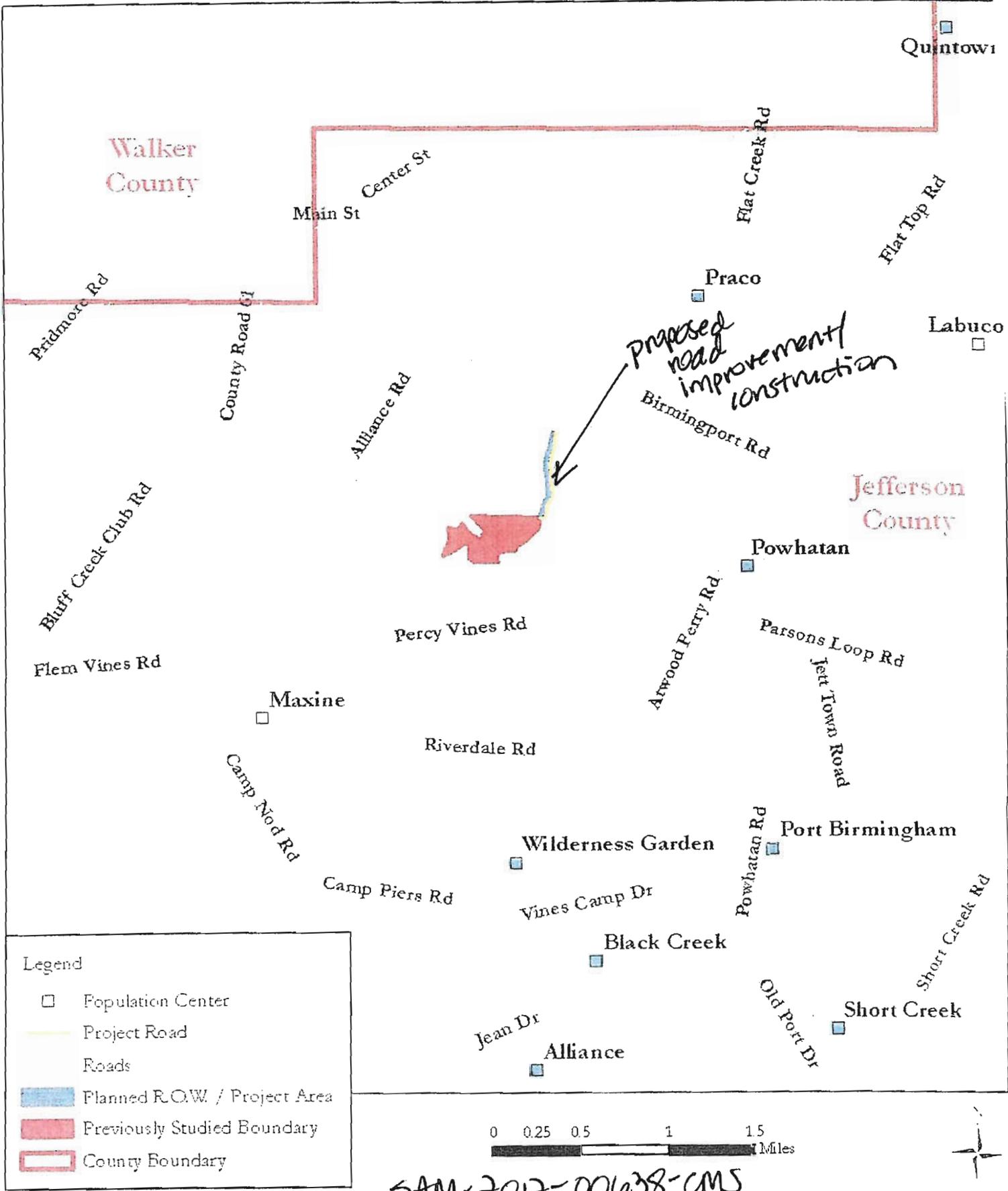
 6/15/12

 Signature and date of
 Regulatory Project Manager
 (REQUIRED)

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

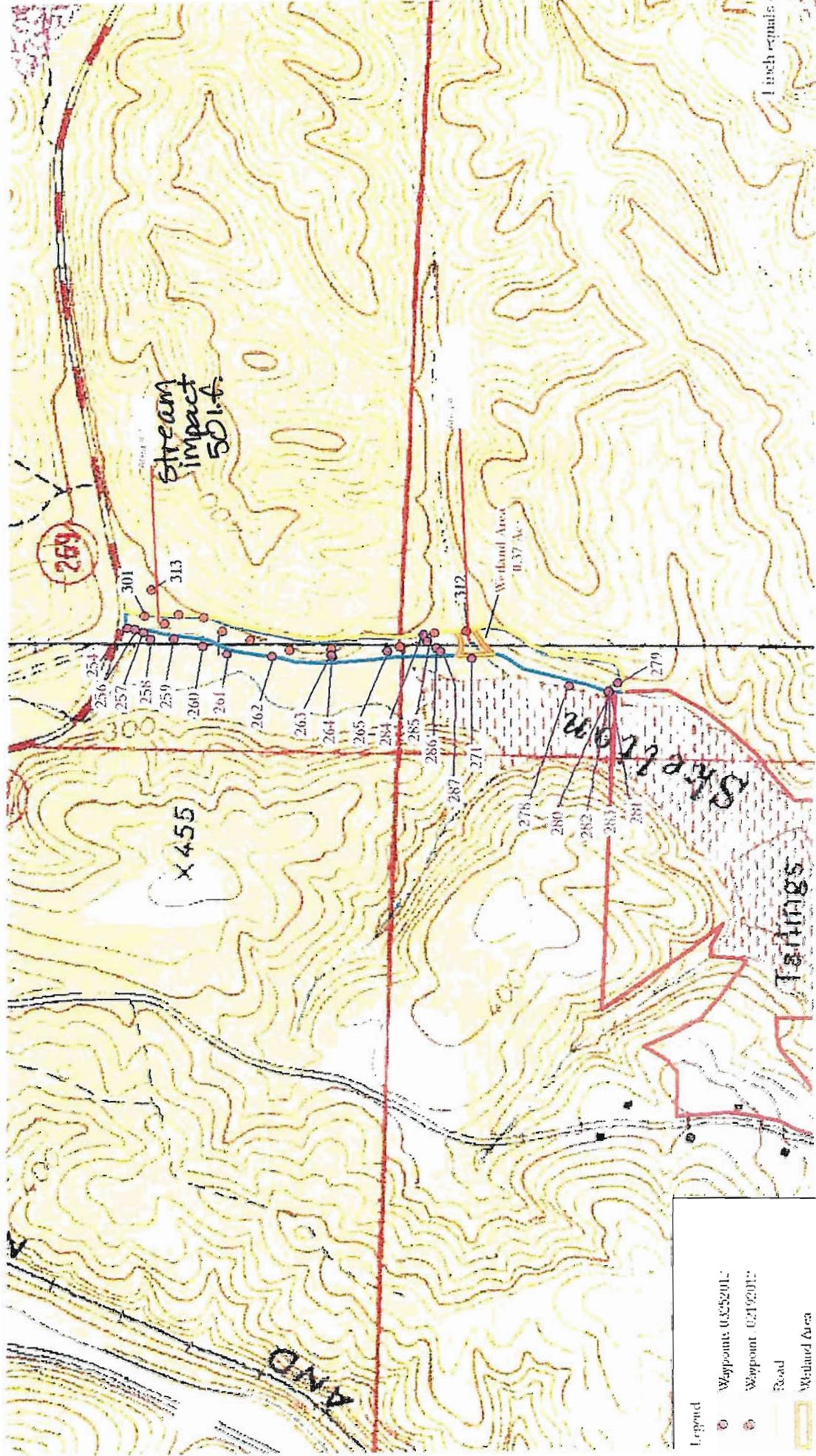
SAM-2012-00638-CMS Skelton Creek Revision R-1

Site number	Latitude	Longitude	Cowardin Class	Estimated amount of aquatic resource in review area	Class of aquatic resource
S-1	33.601285	-87.124530	Riverine intermittent	50 linear feet	Non-section 10, non-wetland
W-1	33.59618	-87.12525	Palustrine scrub shrub	0.37 acre	Non-section 10, non-wetland



Proposed road improvement construction

SAM-2012-00638-CMS



Legend	
	Waypoints 03/2012
	Waypoint 02/19/01
	Road
	Wetland Area
	Planned R.C.W. / Project Area
	Previously Studied Boundary



SAM2012-00038-CMS



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, MOBILE DISTRICT
CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, ALABAMA 36628-0001

January 13, 2010

Inland Branch
Regulatory Division

SUBJECT: Nationwide Permit Authorization - Permit Number SAM-2010-00020-CTM, R & S
Resource Recovery, Skelton Creek Project Road Crossings

Spectrum Environmental, Inc.
Attention: Mr. Chad Stinnet
85 Spectrum Cove
Alabaster, Alabama 35007

Dear Mr. Stinnet:

This letter is in response to your December 23, 2009 application for a Department of the Army (DA) permit to impact approximately 320 linear feet of intermittent stream in association with a roadway culvert project. It has been assigned file number SAM-2010-00020-CTM, which should be referred to in all future correspondence with this office. The project is located in Section 2, Township 17 South, Range 6 West (near Latitude 33.5933° N and Longitude 87.128306° W), in Powhatan, Jefferson County, Alabama.

Department of the Army authorization is necessary because your project will involve the placement of fill material into jurisdictional waters of the United States, regulated under Section 404 of the Clean Water Act.

Based upon the information and plans you provided, we hereby verify that the work described above, which would be performed in accordance with the received drawings, is authorized by Nationwide Permit (NWP) 14 in accordance with 33 CFR Part 330 of our regulations. This NWP and its associated Regional and General Conditions can be viewed at our website www.sam.usace.army.mil/RD/reg. *No mitigation is required due to the minimal impacts to jurisdictional waters.* In the event you have not completed construction of your project within the specified time limit, a separate application or re-verification may be required. This verification is valid until March 18, 2012.

This letter of authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Please note you are also required to submit a signed certification regarding the commencement and completion of proposed work, including the completion of any required mitigation. The enclosed certification forms must be completed and returned to the letterhead address at commencement and within 60 days of completion of the

work authorized. Also, enclosed please find a Notification of Administrative Appeals Options and Process and Request for Appeal form regarding this Jurisdictional Determination.

Please contact me at 205-290-9096 if you have any questions. For additional information about our Regulatory Program, visit our web site at www.sam.usace.army.mil/RE/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 McCullough". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Candice McCullough
Regulatory Specialist
Regulatory Division

Enclosures



November 25, 2008

PERC Engineering Company, Inc.
P.O. Box 1712
Jasper, AL 35502

Attention: Leslie Stephens

Subject: USACE Jurisdictional Evaluation Report
Skelton Creek Delineation
Jefferson County, AL
Spectrum Job Number 2246-002

Dear Mr. Stephens:

Spectrum Environmental, Inc. (Spectrum) is pleased to provide you with the following information gathered on the above referenced property. Our work was conducted in general accordance with the Scope of Work outlined in Proposal Number 08-6382. This report includes a summary of the Scope of Work conducted, details of the jurisdictional wetland evaluation, along with findings.

Scope of Work:

1. Spectrum provided experienced personnel to identify and delineate waters of the US and jurisdictional wetlands that may be present on the site, as defined by the Clean Water Act and the US Army Corps of Engineers (USACE) published 3-point method: Hydrology; Vegetation; and Hydric Soils. Further, Spectrum personnel classified Waters of the US via the USACE and Environmental Protection Agency (EPA) "Rapanos guidance" dated June 5, 2007.
2. Delineated areas were flagged and site data was gathered for the completion of USACE required Data Forms;
3. Spectrum took GPS readings of the flags in the field and prepared a delineation map.
4. Spectrum has prepared this report detailing our findings.

1.0 Project Location

The subject site is situated in Powhatan, Jefferson County, Alabama. Specifically, the site is located south of Highway 269 and west of the Locust Fork of the Black Warrior River (Attachment A - Figure 2246002-1). More specifically, the site is situated in Section 2 of

Township 17 South Range 6 West and is centered at Latitude 33.593333° N and Longitude 87.128306° W. The property is located in the Black Warrior River Basin, specifically the Locust Fork Watershed.

2.0 Field Evaluation Methods

Prior to mobilizing to the site, Spectrum personnel reviewed the USGS 7.5 Gilmore Quadrangle (Figure 2246002-2), the soil survey for Jefferson County (Figure 2246002-3), and the National Wetlands Inventory map (Figure 2246002-4) for the site. Spectrum personnel conducted the jurisdictional evaluation on November 18, 2008. The following briefly describes the field procedures conducted during site activities.

Spectrum conducted a reconnaissance of the property within the subject site boundaries as well as on adjacent properties to assist in describing representative vegetation and hydrology. The subject site was observed for jurisdictional wetland indicators and waters of the U.S.

The field delineation was performed in accordance with the guidelines established in the Field Guide for Wetland Delineation, 1987 Corps of Engineers Manual (Manual). Sampling information obtained during the field work was compiled on Data Forms taken from the Manual and is included in Attachment B of this application. Identified wetlands and waters of the U.S. were flagged in the field and classified in accordance with the memorandum regarding *CWA Jurisdiction Following The US Supreme Court Decision In Rapanos vs. United States* “Rapanos guidance” dated June 5, 2007. As required by the Rapanos guidance, Jurisdictional Determination (JD) forms were filled out and are included in Attachment C of this application.

The delineated areas were flagged in the field to accommodate a survey crew, and were recorded in the field using a handheld Garmin GPS unit. The accuracy of the handheld unit is dependent on atmospheric conditions, canopy conditions, and satellite feeds. The acreage and length estimations in this report are based on the GPS locations and can be more accurately quantified if a ground-run survey is completed.

3.0 Findings

It is Spectrum's professional opinion that the site contains four RPW's and one wetland (Figure 2246002-5). Photographs of these jurisdictional areas are provided in Attachment D. A table summarizing the jurisdictional areas is provided below, followed by a separate discussion of each area.

Name	Size	Type	Lat/Long
RPW 1 (Skelton Creek)	10' OHWM ¹ x 2004 LF ²	Riverine- Perennial	33.592686° N 87.127628° W
RPW 2	3' OHWM x 949 LF	Riverine- Intermittent	33.592531° N 87.129456° W
RPW 3	3' OHWM x 233 LF	Riverine- Intermittent	33.592772° N 87.129394° W
RPW 4	2' OHWM x 816 LF	Riverine- Intermittent	33.591703° N 87.130381° W
Wet A	0.073 Acre	Palustrine- Scrub/shrub	33.592081° N 87.131222° W

¹ OHWM = Ordinary High Water Mark

² LF = Linear Feet

3.1 RPW 1

RPW 1 (Skelton Creek) enters the property on the northern boundary and flows for approximately 2100 2004 linear feet before exiting the property on the southeast corner. Skelton Creek has a 10.0' OHWM and is classified as perennial and provided consistent flow during the time of evaluation.

3.2 RPW 2

RPW 2 enters the property from the west and flows for approximately 949 linear feet before entering RPW 1. This stream is classified as intermittent with a 3.0' OHWM.

738
749 Proposed 738

264' A-A' 36'

261.74 + 7.38 = 269.12

3.3 **RPW 3**

266.6'

93 Proposed 290

RPW 3 is a small intermittent stream that flows for 233 linear feet before entering into RPW 2. The stream is classified as intermittent with a 3.0' OHWM that provided consistent flow during the time of evaluation.

3.4 **RPW 4**

RPW 4 is located south of RPW 2 and also enters the property from the west. This stream is classified as intermittent and flows for 816 linear feet with a 2.0' OHWM before converging with RPW 1. Wetland A, located at the beginning of RPW 4, provides for hydrologic input for RPW 4.

863 Proposed 873

3.5 **Wetland A**

255 + 8.73 263.73

Wetland A is located at the head of RPW 4. Wetland A is 0.073 acre in size and is classified as palustrine scrub/shrub. The soils exhibited a matrix of 7.5yr with a chroma of 5/2 and mottles with a matrix of 10yr and a chroma of 6/4. Wetland vegetation such as red maple and chinese privet is abundant.

4.0 **Conclusion and Permitting Requirements**

Based on the results of the field evaluation, it is Spectrum's opinion that the site contains four RPW's and one wetland that currently fall under jurisdiction of the USACE. It should be noted that the USACE is the final authority on jurisdictional designation.

The USACE retains permitting authority for all surface waters under Section 404 of the Clean Water Act. Spectrum attended a meeting with the USACE on November 21, 2008 to discuss the delineation area and the nature of material on the site. Following the meeting, it is Spectrum's opinion that the proposed excavation activities, as described by Lanny Ross, could be completed with a USACE Nationwide Permit #21 and mitigation would be required for all jurisdictional areas that are impacted. To streamline the permitting timeframe, it would be prudent to keep cumulative impacts less than 1/2 acre. Impacts in excess of 1/2 acre will require coordination with other agencies (US EPA, US Fish and Wildlife, ADEM, etc.) and will prolong the permitting process.

* * * * *

Spectrum Environmental Inc. appreciates the opportunity to work with you on this project. Should you have any questions or comments, please contact the undersigned at (205) 664-2000.

Sincerely,
SPECTRUM ENVIRONMENTAL, INC.


Heath Belyeu
Natural Resource Scientist

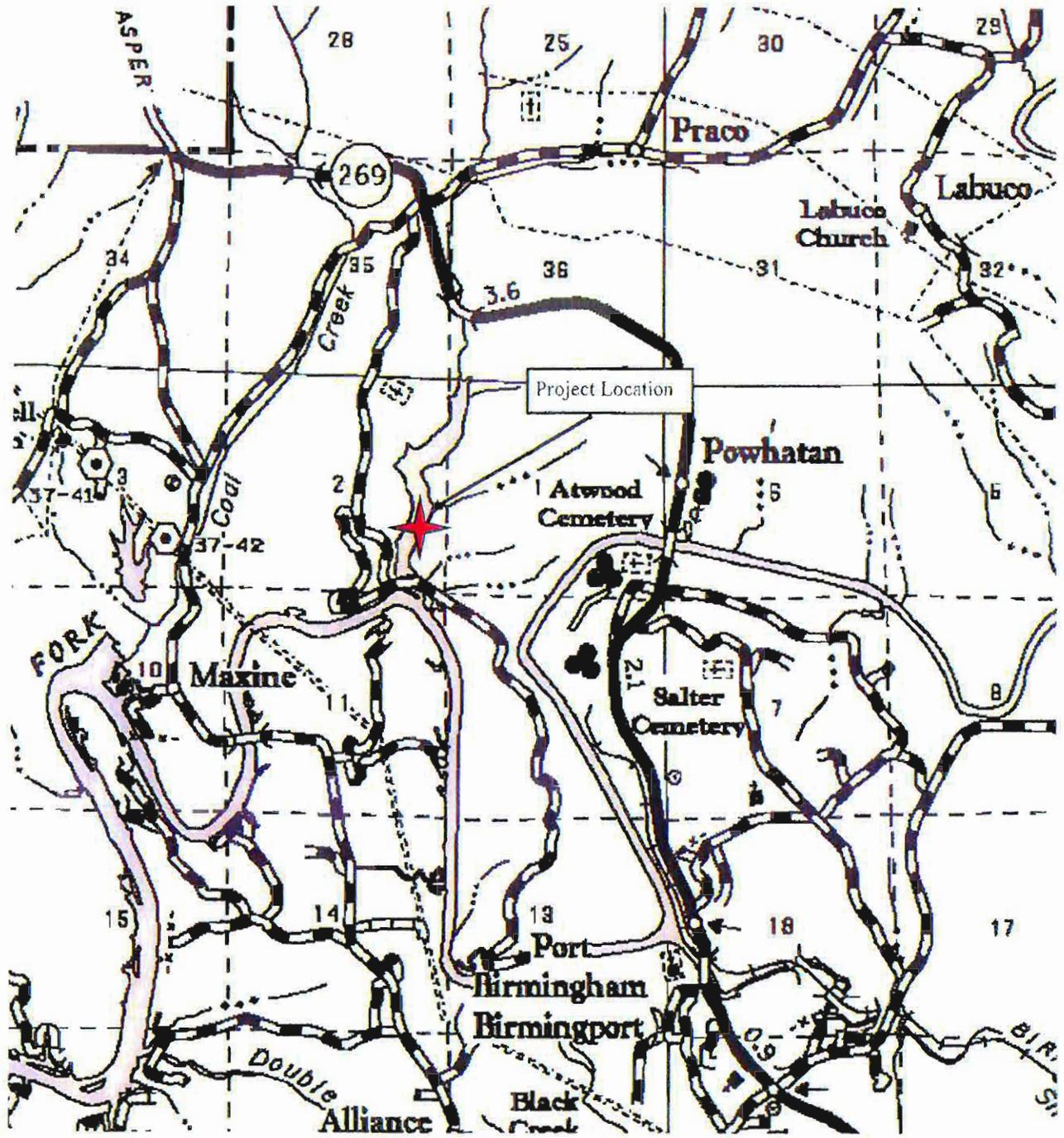

Chad Stinnett
Natural Resource Coordinator

Attachments: Attachment A - Figures
Attachment B - Data Sheets
Attachment C - JD Forms
Attachment D - Photographs

K:\working\Reports\2246\2246-002 Skelton Creek\jurisdictional evaluation report.doc

ATTACHMENT A

FIGURES



Source: ALDOT, Jefferson County, AL
 Not to Scale

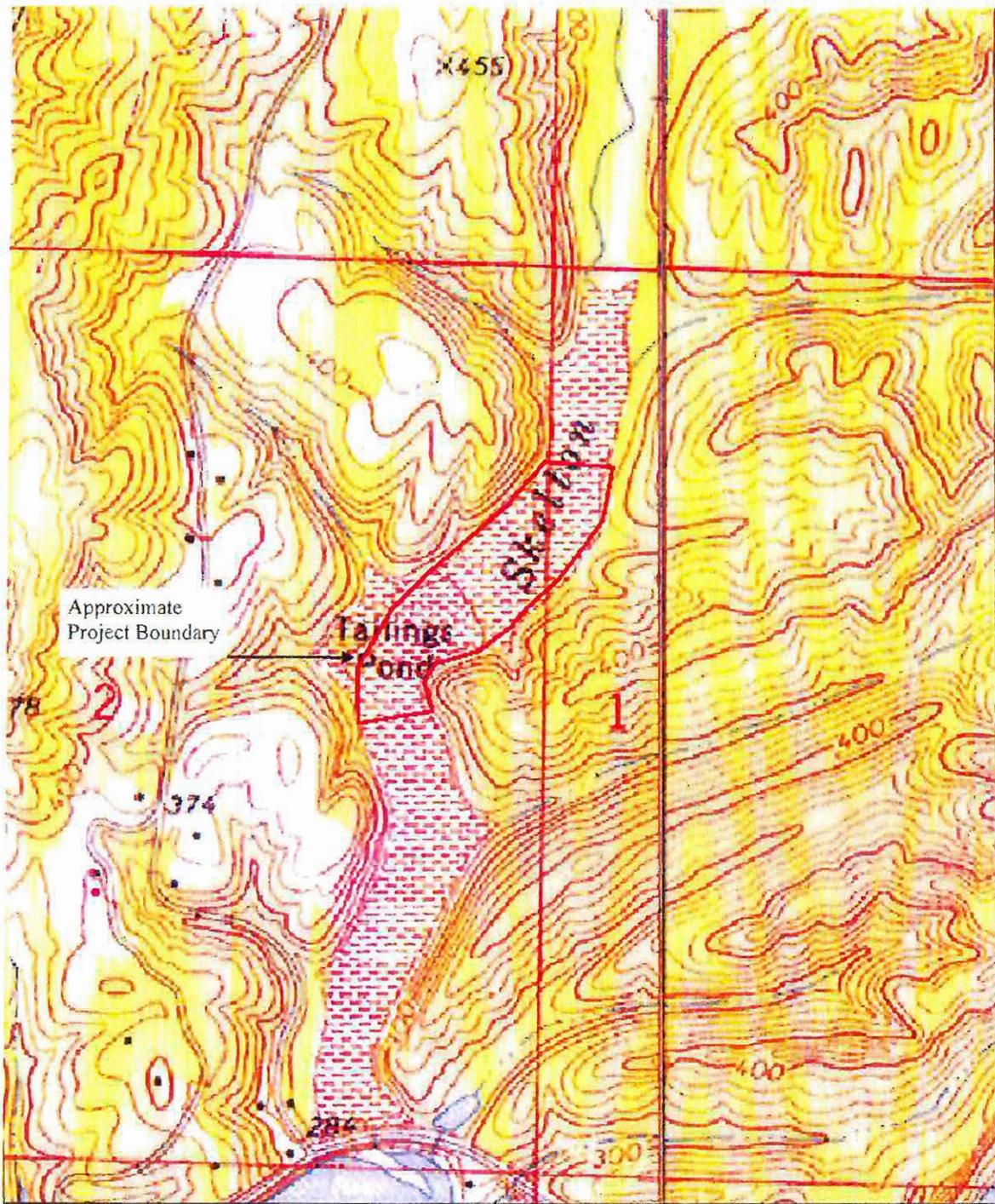


NO.	DATE	REVISION NOTE	BY

Drawn By:	Project #:
HB	2246-002
Checked By:	Date:
CS	11-17-08
Project Mgr:	File Name:

36 Spectrum Cove
 Alabaster, AL 35007
 FAX (205) 684-2142
 PH-CRE (205) 684-3000

TITLE
 Figure 2246002-1
 Site Locator
 Skelton Creek Delineation
 Jefferson County, AL



Source: Maptech, Inc. 1999
 Section 2, Township 17 South, Range 6 West
 Gilmore Quadrangle

Scale: 1" ≈ 665'

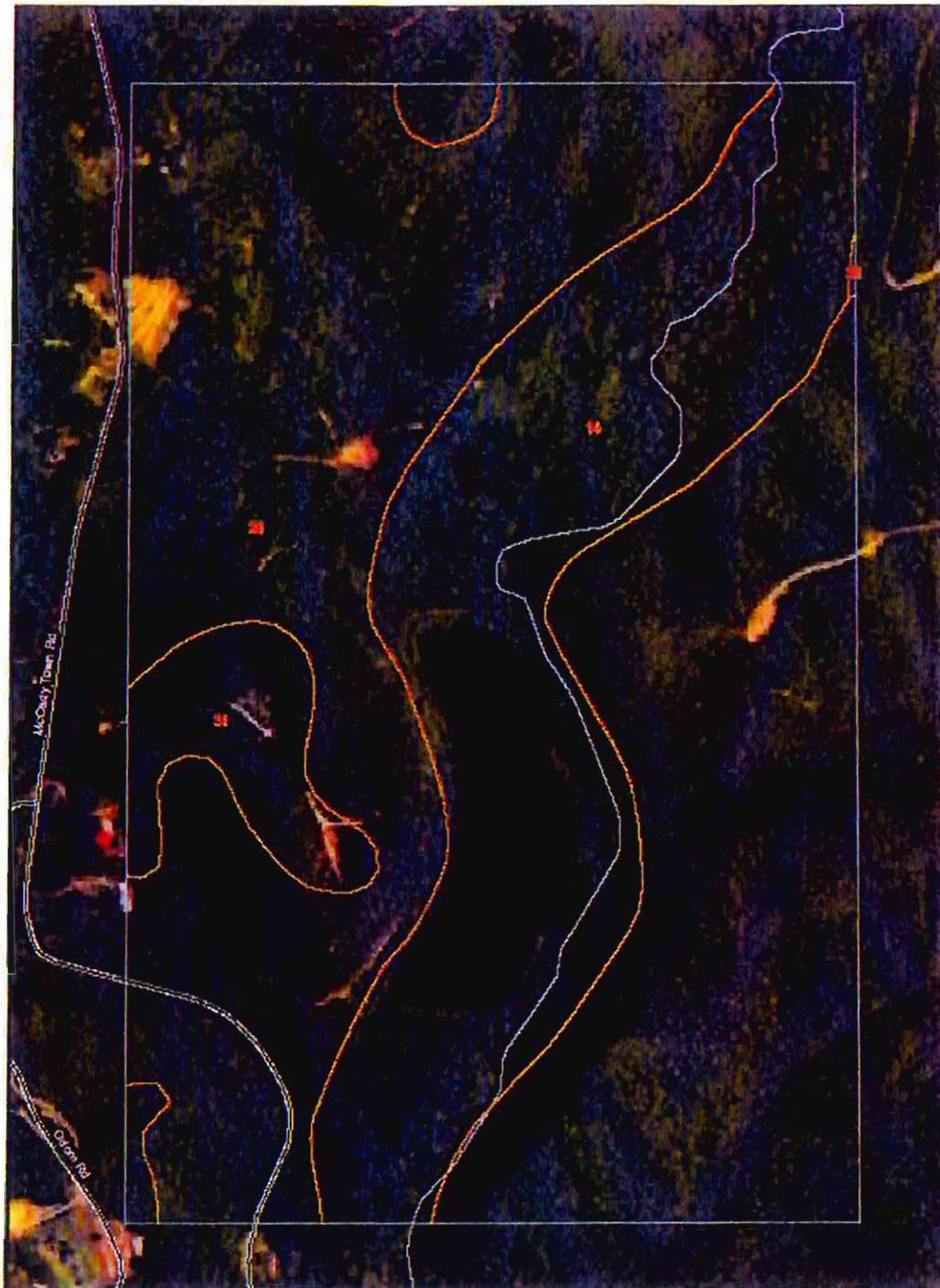


NO.	DATE	REVISION NOTE	BY

Drawn By:	Project #:
HB	2246-002
Checked By:	Date:
CS	11-17-08
Project Mgr.:	File Name:

65 Spectrum Cove
 Alabaster, AL 35007
 FAX (205) 664-2142
 PHONE (205) 664-2090

TITLE
Figure 2246002-2 Topographic Map Skelton Creek Delineation Jefferson County, AL



Source: USDA Web Soil Survey, Jefferson County, AL
Section 2, Township 17 South, Range 6 West
Not to Scale



NO.	DATE	REVISION NOTE	BY

Drawn By:	Project #:
HB	2246-002
Created By:	Date:
CS	11-17-08
Project No.:	File Name:

SPECTRUM
 Environmental
 Inc.

85 Spectrum Cove
 Alhaster, AL 35007
 FAX (205) 664-2142
 PHONE (205) 664-2000

TITLE
Figure 2246002-3 Soil Survey Skelton Creek Delineation Jefferson County, AL

Jefferson County, Alabama (AL873)

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
14	Dumps	54.0	28.7%
29	Montevallo-Nauvoo association, steep	123.6	65.7%
31	Nauvoo fine sandy loam, 8 to 15 percent slopes	10.6	5.6%
39	Sullivan-State complex, 0 to 2 percent slopes	0.1	0.0%
Totals for Area of Interest		188.2	100.0%

Source: USDA Web Soil Survey, Jefferson County, AL
Section 2, Township 17 South, Range 6 West



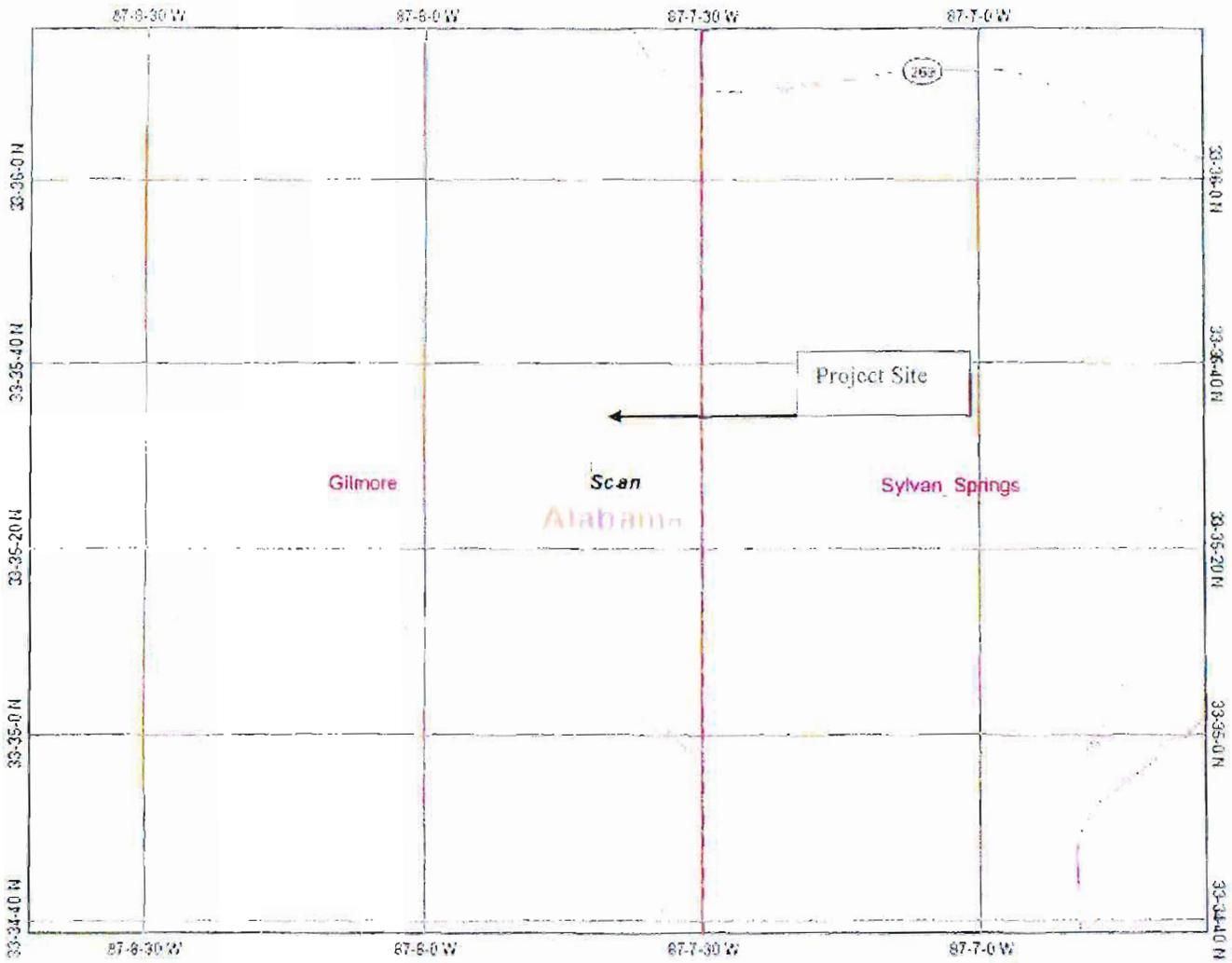
NO.	DATE	REVISION NOTE	BY

Drawn By:	Project#:
HE	2246-002
Checked By:	Date:
CS	11-17-98
Project Mgr.:	File Name:



85 Spectrum Cove
 Montgomery, AL 36107
 Phone: (205) 864-2142
 FAX: (205) 864-2000

TITLE
Figure 2246002-3A Soil Survey Text Skelton Creek Delineation Jefferson County, AL



Taken from U.S. Fish and Wildlife Service
 National Wetlands Inventory
 Not to Scale

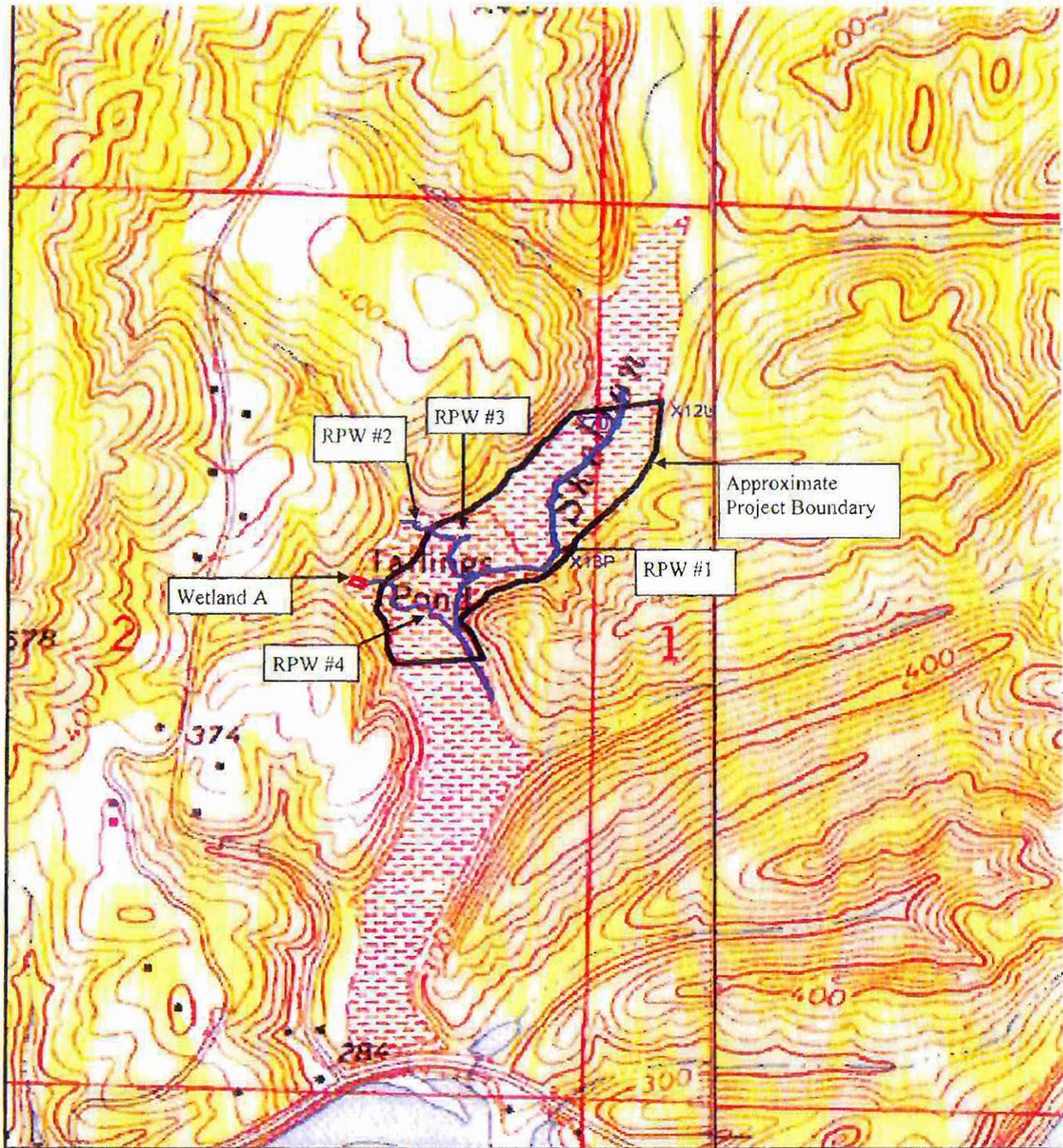


NO	DATE	REVISION NOTE	BY

Drawn By: CS	Project #: 2146-002
Checked By: HE	Date: 11-25-08
Project Manager:	File Name:



TITLE
Figure 2246002-4 Wetland Inventory Map Skelton Creek Delineation Jefferson County, AL



Source: Maptech, Inc. 1999
 Section 2, Township 17 South, Range 6 West
 Gilmore Quadrangle

Scale: 1" ≈ 665'



NO.	DATE	REVISION NOTE	BY

Drawn By	Project #
HB	2246-002
Checked By	Date
CS	11-17-08
Project Mgr	File Name

85 Spectrum Cove
 Atabator AL 35007
 FAX (205) 664-2142
 PHONE (205) 664-2050

TITLE
Figure 2246002-5 Jurisdictional Map Skelton Creek Delineation Jefferson County, AL

ATTACHMENT B

DATA SHEETS

DATA FORM
ROUTINE WETLAND DETERMINATION
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>Skelton Creek</u>	Date: <u>11-18-08</u>
Applicant/Owner: _____	County: <u>Jeff</u>
Investigator: <u>C. Stinneff, H. Belyeu</u>	State: <u>AL</u>
Do Normal Circumstances exist on the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Community ID: <u>Wetland</u>
Is the site significantly disturbed (Atypical Situation)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Transect ID: <u>Up-stream of road</u>
Is the area a potential Problem Area? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Plot ID: <u>Wetland A</u>
Behind 402 Pond, beaver activity, previous strip mine activity	<u>33.592081, -87.131222</u>

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Red Maple</u>	<u>T</u>	<u>facw</u>	9. _____	_____	_____
2. <u>Chinese Privet</u>	<u>S</u>	<u>fac</u>	10. _____	_____	_____
3. _____	_____	_____	11. _____	_____	_____
4. _____	_____	_____	12. _____	_____	_____
5. _____	_____	_____	13. _____	_____	_____
6. _____	_____	_____	14. _____	_____	_____
7. _____	_____	_____	15. _____	_____	_____
8. _____	_____	_____	16. _____	_____	_____

Percent of Dominant Species that are OBL, FACW or FAC
 (excluding FAC-): 100

Remarks:

HYDROLOGY

Recorded Data (Describe in Remarks):

- Stream, Lake, or Tide Gauge
- Aerial Photographs
- Other

No Recorded Data Available

Wetland Hydrology Indicators:

Primary Indicators:

- Inundated
- Saturated in Upper 12 Inches
- Water Marks
- Drift Lines
- Sediment Deposits
- Drainage Patterns in Wetlands

Secondary Indicators (2 or more required)

- Oxidized Root Channels in Upper 12 Inches
- Water-Stained Leaves
- Local Soil Survey Data
- FAC-Neutral Test
- Other (Explain in Remarks)

Field Observations:

Depth of Surface Water: none (in.)

Depth to Free Water in Pit: 4 (in.)

Depth to Saturated Soil: 0 (in.)

Remarks: Road Crossing downstream is influencing hydrology

SOILS

Map Unit Name (Series and Phase): _____		Drainage Class: _____			
Taxonomy (Subgroup) _____		Field Observations Confirm Mapped Type? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Profile Descriptions:					
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/ Size/Contrast	Texture, Concretions, Structure, etc.
0-16	A	5/2 7.5 YR	6/4 10 YR	Few, distinct	Silty loam
Hydric Soil Indicators:					
<input type="checkbox"/> Histosol	<input type="checkbox"/> Histic Epipedon	<input checked="" type="checkbox"/> Sulfidic Odor	<input type="checkbox"/> Aquic Moisture Regime	<input checked="" type="checkbox"/> Reducing Conditions	<input checked="" type="checkbox"/> Gleyed or Low-Chroma Colors
<input type="checkbox"/> Concretions	<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils	<input type="checkbox"/> Organic Streaking in Sandy Soils	<input type="checkbox"/> Listed on Local Hydric Soils List	<input type="checkbox"/> Listed on National Hydric Soils List	<input type="checkbox"/> Other (Explain in Remarks)
Remarks:					

WETLAND DETERMINATION

Hydrophytic Vegetation Present? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check)	(Check)
Wetland Hydrology Present? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Hydric Soils Present? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is this Sampling Point Within a Wetland? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Remarks	

DATA FORM
ROUTINE WETLAND DETERMINATION
(1987 COE Wetlands Delineation Manual)

Project/Site: <u>Skelton Creek</u>	Date: <u>11-18-08</u>
Applicant/Owner: _____	County: <u>Jeff</u>
Investigator: <u>C. Stinnett, H. Belyeu</u>	State: <u>AL</u>
Do Normal Circumstances exist on the site? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Community ID: <u>Upland</u>
Is the site significantly disturbed (Atypical Situation)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Transect ID: <u>Adjacent to wetland A</u>
Is the area a potential Problem Area? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Plot ID: _____
Previous strip mine activity _____	33.8191562, -87.1314648

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Mimosa</u>	<u>T</u>	<u>fac</u>	9. _____	_____	_____
2. <u>Sycamore</u>	<u>T</u>	<u>facw</u>	10. _____	_____	_____
3. <u>Chinese Privet</u>	<u>S</u>	<u>fac</u>	11. _____	_____	_____
4. _____	_____	_____	12. _____	_____	_____
5. _____	_____	_____	13. _____	_____	_____
6. _____	_____	_____	14. _____	_____	_____
7. _____	_____	_____	15. _____	_____	_____
8. _____	_____	_____	16. _____	_____	_____

Percent of Dominant Species that are OBL, FACW or FAC
(excluding FAC-): 66

Remarks:

HYDROLOGY

- Recorded Data (Describe in Remarks).
 Stream, Lake, or Tide Gauge
 Aerial Photographs
 Other
- No Recorded Data Available

Field Observations:

Depth of Surface Water: none (in.)

Depth to Free Water in Pit: >7 (in.)

Depth to Saturated Soil: >7 (in.)

Wetland Hydrology Indicators:

Primary Indicators:

- Inundated
 Saturated in Upper 12 Inches
- Water Marks
 Drift Lines
- Sediment Deposits
 Drainage Patterns in Wetlands

Secondary Indicators (2 or more required):

- Oxidized Root Channels in Upper 12 Inches
- Water-Stained Leaves
 Local Soil Survey Data
- FAC-Neutral Test
 Other (Explain in Remarks)

Remarks: Rock at 7"

SOILS

Map Unit Name (Series and Phase): _____		Drainage Class: _____	
Taxonomy (Subgroup) _____		Field Observations Confirm Mapped Type? <input type="checkbox"/> Yes <input type="checkbox"/> No	

Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/ Size/Contrast	Texture, Concretions, Structure, etc.
0-7	A	5/6 10 YR	--		Silty clay

Hydric Soil Indicators:

<input type="checkbox"/> Histosol	<input type="checkbox"/> Concretions
<input type="checkbox"/> Histic Epipedon	<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils
<input type="checkbox"/> Sulfidic Odor	<input type="checkbox"/> Organic Streaking in Sandy Soils
<input type="checkbox"/> Aquic Moisture Regime	<input type="checkbox"/> Listed on Local Hydric Soils List
<input type="checkbox"/> Reducing Conditions	<input type="checkbox"/> Listed on National Hydric Soils List
<input type="checkbox"/> Gleyed or Low-Chroma Colors	<input type="checkbox"/> Other (Explain in Remarks)

Remarks: Hit rock at 7"

WETLAND DETERMINATION

Hydrophytic Vegetation Present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Check)	(Check)
Wetland Hydrology Present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Hydric Soils Present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Is this Sampling Point Within a Wetland? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Remarks: Strip Mine

ATTACHMENT C

JD FORMS

ATTACHMENT

PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD):

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:

Heath Belyeu (Spectrum)
85 Spectrum Cove
Alabaster, AL 35007

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: Jefferson City: N/A

Center coordinates of site (lat/long in degree decimal format):

Lat. 33.593333°N, Long. 87.128306° W.

Universal Transverse Mercator:

Name of nearest waterbody: Locust Fork

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

Non-wetland waters: 4,002 linear feet: variable width (ft) and/or 0.58 acres.

Cowardin Class: riverine

Stream Flow:

Wetlands: 0.073 acres.

Cowardin Class: palustrine-scrub/shrub

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

Tidal:

Non-Tidal:

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

Office (Desk) Determination. Date:

Field Determination. Date(s): 11-18-08

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. Attachment A.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant. (Spectrum)
 - 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: Gilmore, 7.5 Minute.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Jefferson County.
- National wetlands inventory map(s). Cite name: Jefferson County/ Gilmore.
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Soil Survey.
or Other (Name & Date): Spectrum 11-08, Attachment D.
- 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)

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

Name	Size	Type	Lat/Long
RPW 1 (Skelton Creek)	10' OHWM ¹ x 2004 LF ²	Riverine- Perennial	33.592686° N 87.127628° W
RPW 2	3' OHWM x 949 LF	Riverine- Intermittent	33.592531° N 87.129456° W
RPW 3	3' OHWM x 233 LF	Riverine- Intermittent	33.592772° N 87.129394° W
RPW 4	2' OHWM x 816 LF	Riverine- Intermittent	33.591703° N 87.130381° W
Wet A	0.073 Acre	Palustrine- Scrub/shrub	33.592081° N 87.131222° W

¹ OHWM = Ordinary High Water Mark

² LF = Linear Feet

ATTACHMENT D
PHOTOGRAPHS

JURISDICTIONAL EVALUATION REPORT
SKELTON CREEK SITE
JEFFERSON COUNTY, AL



Photograph #1: View of Skelton Creek at Southern property boundary.



Photograph #2: View of RPW #2.

JURISDICTIONAL EVALUATION REPORT
SKELTON CREEK SITE
JEFFERSON COUNTY, AL



Photograph #3: View of RPW #3.



Photograph #4: View of RPW #4.

JURISDICTIONAL EVALUATION REPORT
SKELTON CREEK SITE
JEFFERSON COUNTY, AL.



Photograph #5: View of test pit adjacent to Skelton Creek.



Photograph #6: General view of vegetation present on the site.