



**US Army Corps
of Engineers** ©
Nashville District

Public Notice

Public Notice No. 08-69

Date: November 14, 2008

File No. 2008-01100

Expires: December 14, 2008

Please address all comments to:
Nashville District Corps of Engineers
Regulatory Branch (Attention: Scott Fanning)
3701 Bell Road, Nashville, Tennessee 37214
Scott.Fanning@usace.army.mil

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
TENNESSEE VALLEY AUTHORITY
STATE OF ALABAMA

SUBJECT: Proposed Deposit of Fill Material into Wetlands Adjacent to Dry Creek and an Unnamed Tributary, Madison County, Alabama

TO ALL CONCERNED: The project described below has been submitted for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (CWA) and a Tennessee Valley Authority (TVA) permit pursuant to Section 26a of the TVA Act. Before a DA permit can be issued, the Alabama Department of Environmental Management (ADEM) must certify that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification, pursuant to Section 401 of the CWA.

APPLICANT: Mr. Hall Bryant
Blake Commercial Property
c/o Jorgen Paetz
406 Holmes Avenue
Huntsville, Alabama 35801

LOCATION: The site is southwest of the intersection of Douglass Road and Highway 53. Wetland A is adjacent to an Unnamed Tributary of Dry Creek Mile 4.1 Left Bank, and Wetlands B and C are adjacent to Dry Creek Mile 4.1 Left and Right Banks respectively. Dry Creek is a tributary of Indian Creek Mile 16.3 Left Bank, Tennessee River Mile 321.0 Right Bank, Madison County, Alabama.

USGS Quadrangle - Jeff, Alabama (see Attachment 1, Location Map);
lat: 34.7988°, long: 86.6757°

DESCRIPTION: The proposed action is the deposit of fill material into portions of three wetlands totaling 6.62 acres for the

development of a commercial and residential property. In addition, a temporary road crossing of Dry Creek will be utilized to access the northwestern portion of the property. The crossing will be accomplished by culvert and approach fill which will be completely removed and the area of the crossing restored upon completion of construction activities (See Attachments 2 and 4, Applicant Plans.)

MITIGATION: The applicant proposes to mitigate for the loss of 6.62 acres of existing wetlands through the purchase of 13.24 wetland credits (2:1 mitigation:impact ratio) from an approved mitigation bank.

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. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by 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 it to be contrary to the public interest.

The Corps of Engineers 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 of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historical properties, water quality, and general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and determine the overall public interest of the proposed

activity. An EA will be prepared by this office prior to a final decision concerning issuance or denial of the requested DA Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the proposed work will not destroy or endanger any federally listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and, therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Other federal, state, and/or local approvals required for the proposed work include:

TVA approval is required under Section 26a of the TVA Act for the proposed work. In addition to other provisions of its approval, TVA would require the applicant to employ Best Management Practices to control erosion and sedimentation to prevent adverse aquatic impacts.

Water Quality Certification from the State of Alabama is required for the proposed work in accordance with Section 401(a)(1) 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 hearings shall state, with particularity, the reasons for holding a hearing.

Written statements received in this office on or before December 14, 2008, will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: Scott Fanning, at the above address, telephone (615) 369-7521 or email scott.fanning@usace.army.mil.

It is not necessary to comment separately to TVA or ADEM since copies of all comments will be sent to them and will become part of their record on the proposal. However, comments sent to TVA should be directed to Samantha Strickland, Post Office Box 1010,

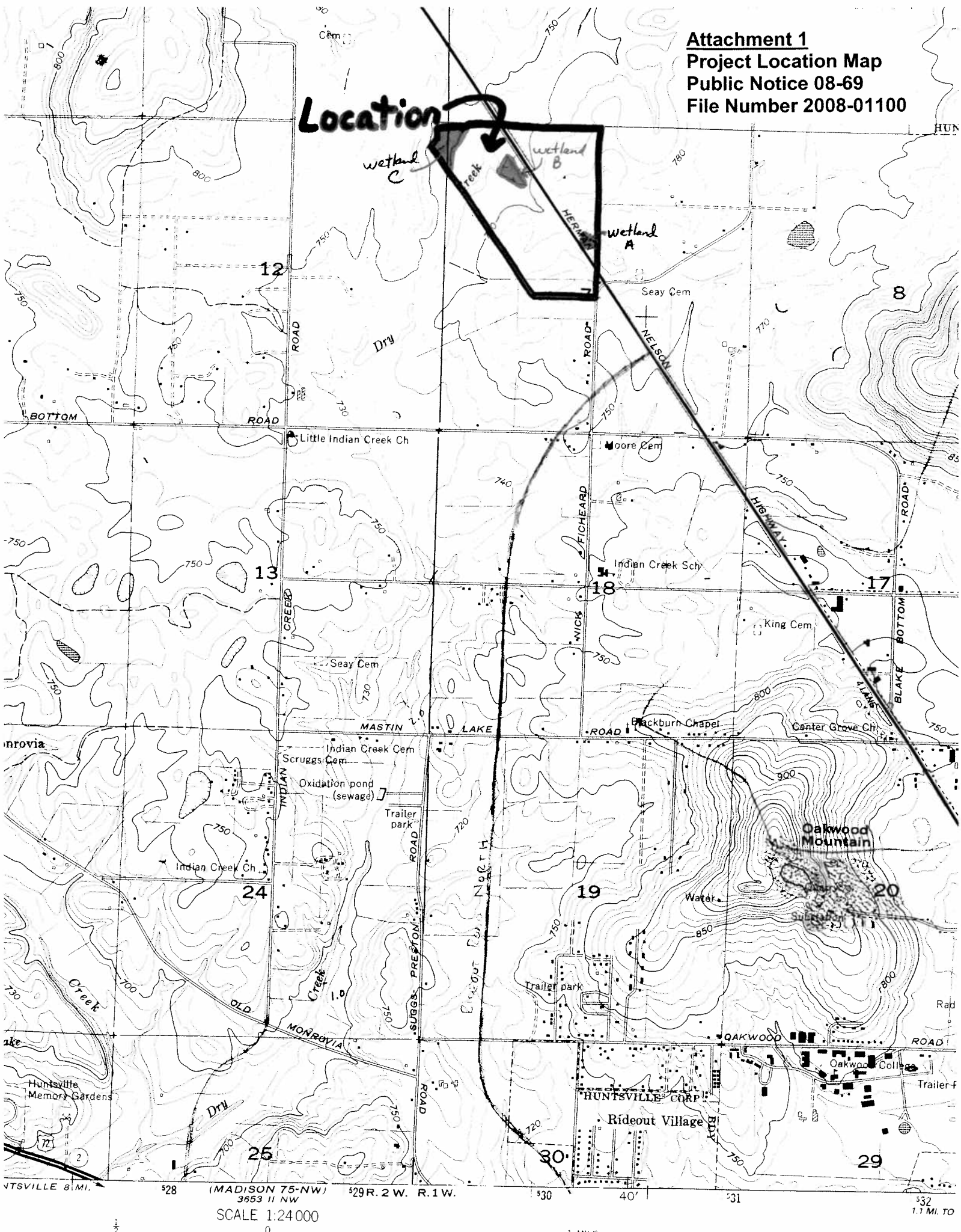
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Muscle Shoals, Alabama 35662-1010. Comments sent to ADEM should be directed to Brandy Bowen, Post Office Box 301463, Montgomery, Alabama 36130.

If you received this notice by mail and wish to view all of the attachments, please visit our web site at: <http://www.lrn.usace.army.mil/cof/notices.htm>, or contact Mr. Fanning at the above address, telephone (615) 369-7521, or email scott.fanning@usace.army.mil.

Attachment 1
Project Location Map
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Location



Attachment 3
Temporary Stream Crossing Location
Public Notice 08-69
File Number 2008-01100

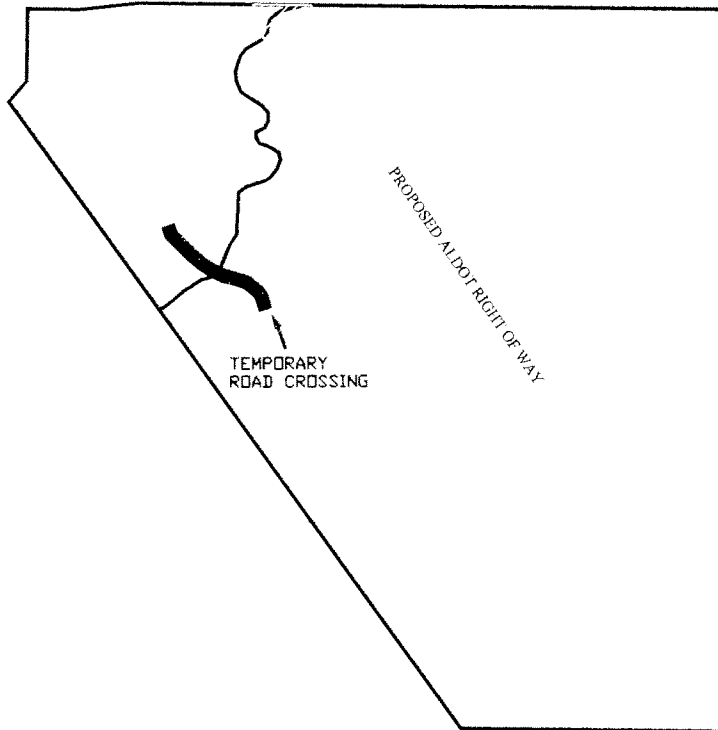


FIGURE
2

Goodwyn, Mills & Cawood, Inc.

2701 First Avenue South, Suite 100
 Birmingham, Alabama 35233

TITLE: APPROXIMATE LOCATION
 OF TEMPORARY
 STREAM CROSSING

PROJECT:
 BLAKE COMMERCIAL
 DEVELOPMENT WETLAND DELINEATION

DESIGNED:

DRAWN: SAB

SCALE: 1"=750'

DATE: 11/12/08

SHEET TITLE:

PLAN VIEW
AND CROSS SECTION
OF TEMPORARY
STREAM CROSSING

CLIENT:

HALL BRYANT

PROJECT:

BLAKE COMMERCIAL
DEVELOPMENT

Goodwyn, Mills
& Cawood, Inc.

2701 First Avenue South, Suite 100
Birmingham, AL 35233
205.879.4462

DESIGNED:

DRAWN: SAB

SCALE: NTS

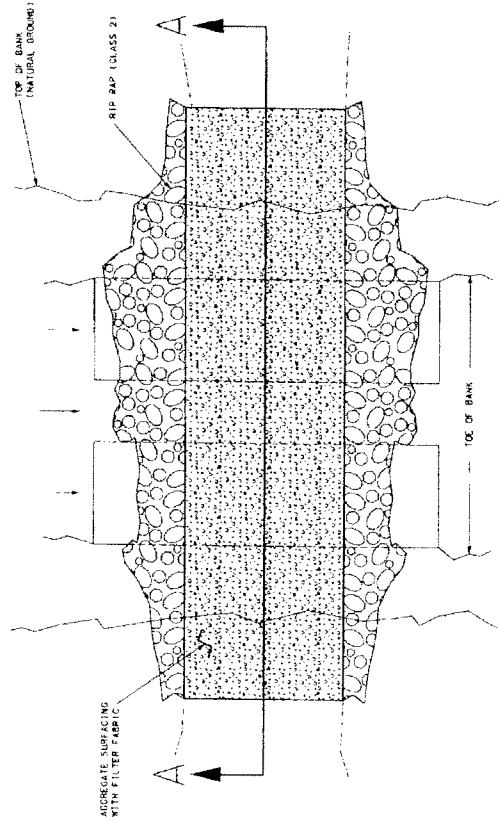
DATE: 11/12/08

FIGURE NO.:

1

REV. NO. DATE:

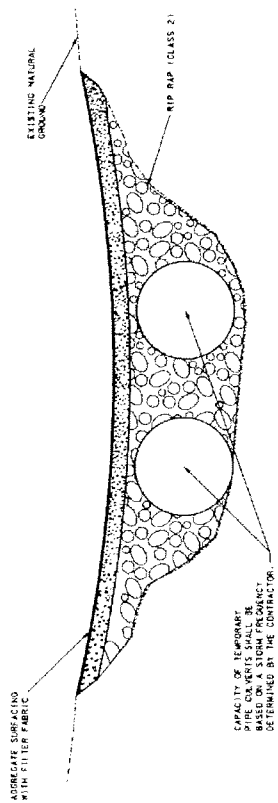
Attachment 4
Temporary Stream Crossing Plans
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PLAN VIEW

TEMPORARY CULVERT STREAM CROSSING

TEMPORARY CULVERT STREAM CROSSING



SECTION A-A

- NOTES:
- TEMPORARY CULVERT STREAM CROSSINGS PROVIDE A MEANS FOR VEHICLES AND EQUIPMENT TO SAFELY CROSS A WA TERRACE WHILE MINIMIZING DAMAGE TO THE CHANNEL AND/OR BANKS.
 - TEMPORARY CULVERT STREAM CROSSINGS, WHEN PERMITTED BY THE ENGINEER, SHALL BE CONSTRUCTED TO PROVIDE A MEANS FOR THE FLOW OF WATER THROUGH THE STREAM FOR THE TIME OF YEAR AND LENGTH OF TIME THAT THE PIPE IS INSTALLED.
 - TEMPORARY STREAM CROSSINGS SHALL BE DESIGNED TO ENHANCE STRUCTURAL INTEGRITY AND STABILITY, AND MAINTAIN NORMAL DOWNSTREAM FLOW. THE USE OF STRUCTURAL CROSSINGS AND INSTREAM AGGREGATE FILL SHALL BE MINIMIZED TO THE EXTENT PRACTICABLE.
 - A CONTINUOUS PROGRAM OF EFFECTIVE EROSION AND SEDIMENT CONTROL MEASURES SHALL BE IMPLEMENTED PRIOR TO AND CONCURRENT WITH ANY TYPE OF CONSTRUCTION ACTIVITY. EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION OF THE STREAMBED AND STREAM BANKS. SUCH MEASURES SHALL BE DESIGNED TO PREVENT EROSION OF THE STREAMBED AND STREAM BANKS THAT PROVIDES SUBSTANTIALLY EQUIVALENT PROTECTION OF WATER QUALITY.
 - LOCATIONS OR TYPES OF TEMPORARY CULVERT STREAM CROSSINGS WILL NOT BE SHOWN ON THE PLANS AS REQUIRED ITEMS NOR WILL REQUIREMENTS FOR MATERIALS OR CONSTRUCTION BE FOUND IN THE STANDARD SPECIFICATIONS.
 - THE CONTRACTOR MAY PROPOSE OTHER OPTIONS FOR TEMPORARY STREAM CROSSINGS SUCH AS STEEL/TIMBER BRIDGES, FORD OR WAITS.
 - THE DETAILS PROVIDED REFLECT A TYPICAL TEMPORARY CULVERT STREAM CROSSING. THE DETAILS SHOW ONLY OPTIONAL REQUIREMENTS, BUT NOT MANDATORY. PERMITTING ADOPTED REQUIREMENTS MAY PROHIBIT THE PLACEMENT OF MATERIAL WITHIN STREAM BANKS.