



DEPARTMENT OF THE ARMY
MOBILE DISTRICT, CORPS OF ENGINEERS
P.O. BOX 2288
MOBILE, AL 36628-0001

CESAM-RD-A
PUBLIC NOTICE NO. SAM-2007-01160-LET

OCTOBER 29, 2013

JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS AND
STATE OF ALABAMA
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

**AFTER-THE-FACT REQUEST TO RETAIN 0.76 ACRE OF FILL MATERIAL IN WETLANDS
ASSOCIATED WITH CONSTRUCTION OF A PRIVATE AMENITY LAKE AND AN ACCESS
ROAD TO THE LAKE, MOBILE COUNTY, ALABAMA**

TO WHOM IT MAY CONCERN:

This District has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403) Please communicate this information to interested parties.

APPLICANT: **Mr. Matthew Walker**
13 Wimbledon Drive
Mobile, Alabama 36608

AGENT: **Barry A. Vittor and Associates, Inc.**
8060 Cottage Hill Road
Mobile, Alabama 36695

LOCATION: In Miller Creek, south of Airport Boulevard and east of Newman and Grand Bay-Wilmer Roads, Mobile County Road 11, Section 23, Township 5 South, Range 4 West, Mobile County, Alabama; Latitude 30.598115° North and Longitude -88.344973° West.

WORK: The applicant proposes to retain 0.75 acre of fill material that was discharged into wetlands on an 82.5-acre parcel of land in 2007 to construct a private 6-acre lake and a culverted access road into the property without a Department of the Army permit. Additional unauthorized fill material had been discharged in other wetland areas of the property in 2007, however the fill has been removed from those areas and they have re-established as wetlands. The applicant proposes to provide mitigation for the 0.75 acre of medium quality wetland impacts through the purchase of an appropriate number of mitigation credits, including additional credits to address temporal loss of wetland functions, from a U.S. Army Corps of Engineers' (Corps) approved wetland mitigation bank. The applicant also proposes planting a buffer of fast-growing native trees such as tulip poplar, black willow and sycamore along a 1,500-linear-foot segment of the southern bank of Miller Creek that was cleared of its vegetative cover in 2007. The

25-foot-wide by 1,500-foot-long planting buffer is proposed in order to establish deep-rooted vegetation along the southern stream bank, which has continued to experience soil erosion and sloughing since the vegetation was cleared in 2007 due to failure to re-establish vegetative cover with sufficient root mass to hold exposed soils in place along the stream channel.

PROJECT PURPOSE: The intended purpose of the lake, at the time of construction, was for the siting of a lakefront home the previous owner had planned to build. The intended purpose of the road was for access to the property, the intended home site and the lake. The current applicant wishes to keep the lake and road intact and resolve the unauthorized discharge of fill material through provision of compensatory wetland mitigation and planting a buffer of native trees along 1,500 linear feet of the southern bank of Miller Creek that was cleared of its vegetative cover in 2007.

The applicant has applied for State Water Quality Certification (WQC) in accordance with Section 401(a)(1) of the Clean Water Act. Upon completion of the required advertising and public comment review, a determination relative to WQC will be made by the Alabama Department of Environmental Management (ADEM).

This public notice is being distributed to all known interested persons in order to assist in developing facts on which a decision by the Corps can be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition. The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed 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 proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal 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, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment 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 to determine the overall public interest of the proposed activity. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this

application. Requests for public hearings shall state with particularity, the reasons for holding a public hearing. Evaluation of the probable impacts involving deposits of dredged or fill material into waters of the United States will include the application of guidelines established by the Administrator of the U.S. Environmental Protection Agency.

In accordance with Section 106 of the National Historic Preservation Act and Appendix C of 33 CFR 325, the undertaking defined in this notice is being considered for the potential to effect cultural and historic properties within the permit area. In accordance with Appendix C of 33 CFR Part 325, the Corps has determined that the permit area consists of the project site. 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 a potential exists for the location of significant sites or properties within the permit area, the Corps will consult with the State Historic Preservation Officer to make a final determination.

Preliminary review of this application and the U.S. Department of the Interior List of Endangered and Threatened Wildlife and Plants indicate that the proposed activity would have "no effect" on federally listed species, or their critical habitat. This notice and application will be coordinated with the U.S. Fish and Wildlife Service to assess if the proposed activity will affect listed endangered or threatened species or their critical habitat.

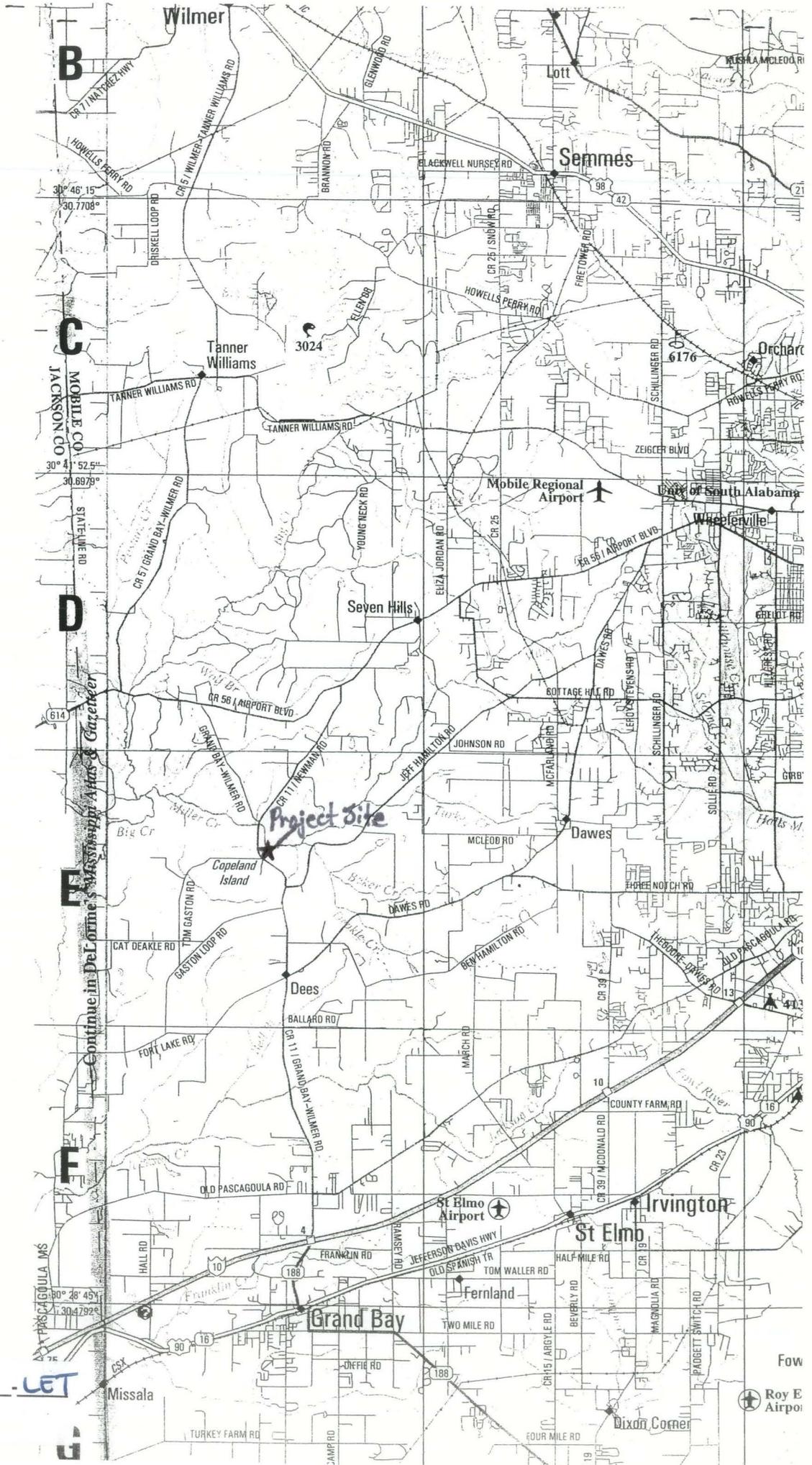
Correspondence concerning this Public Notice should refer to Public Notice Number **SAM-2007-01160-LET** and should be directed to the District Commander, U.S. Army Engineer District, Mobile, Attention: Regulatory Division, Post Office Box 2288, Mobile, Alabama 36628-0001, with a copy furnished to ADEM, Coastal Section, 3664 Dauphin Street, Suite B, Mobile, Alabama 36608. Comments should be received no later than **30 days** from the date of this Public Notice.

If you have any questions concerning this publication, you may contact the project manager, **Ms. Leslie Turney** via e-mail at **leslie.e.turney@usace.army.mil** or phone **(251) 694-3873**. Please refer to the above Public Notice number.

For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/Missions/Regulatory.aspx.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosures



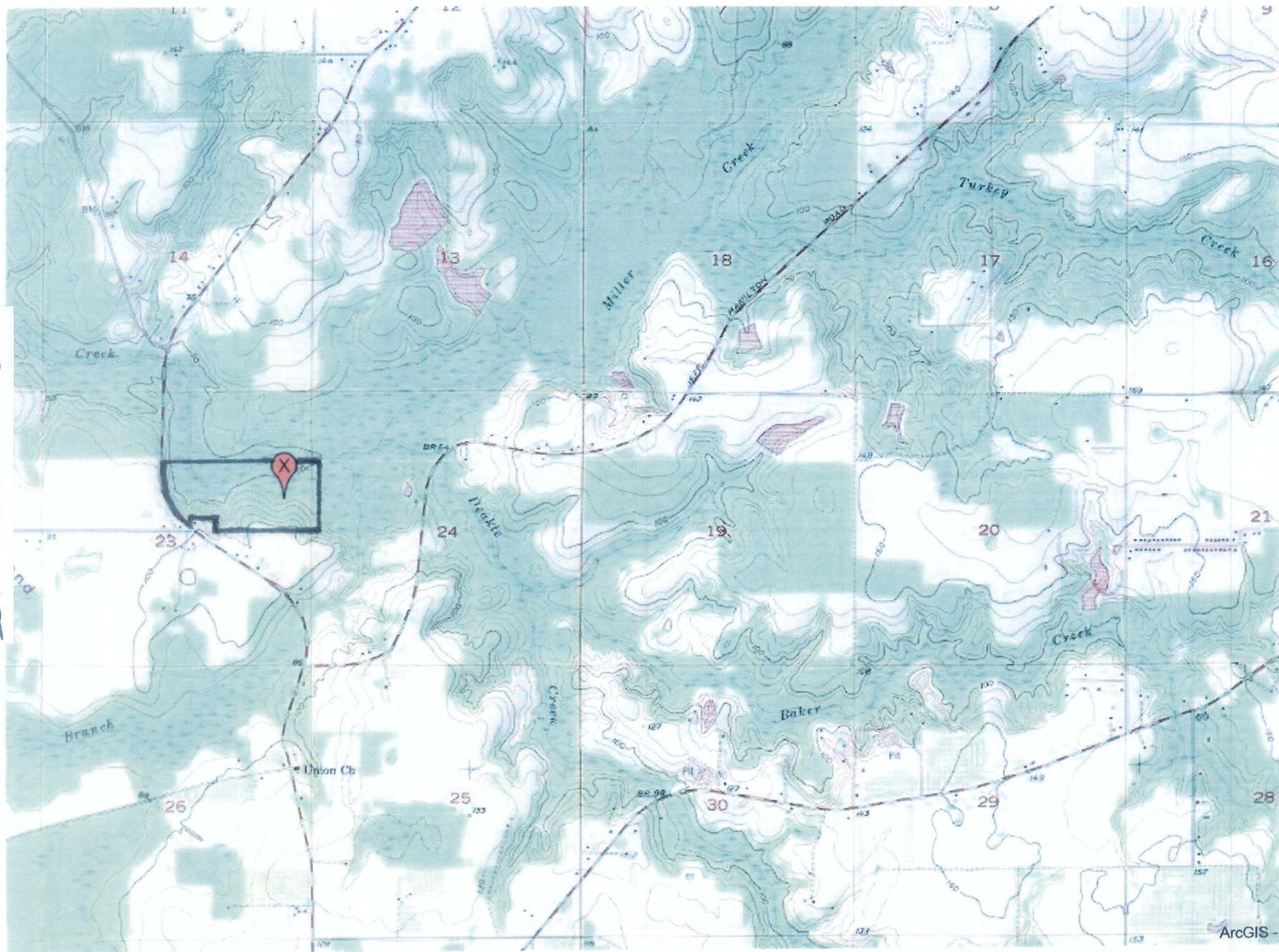
Continue in DeLoone, Mississippi Arms & Cartridge

Project Site

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Google Earth

Miller Creek - Streamside Planting Zone

SAM-2007-01160 -LET
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Grand Bay/Wilmer Rd

2007-01160

5100

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Creek banks to be stabilized where tributary converges with Miller Creek

Drain sediment to be removed and banks stabilized

0.08 Ac

0.67 Acre

- Legend**
-  Existing_Lake
 -  Additional jurisdictional area mapped 7-18-08
 -  Property Boundary
 -  Wetland cleared and filled for existing lake 0.67 Acre
 -  Sediment disposal area
 -  .08 acres of wetland fill to remain for access road
 -  Cleared and grubbed wetlands
 -  Timbered wetland
 -  Cleared and filled wetlands
 -  Corps Wetlands 12-05-07



1 inch equals 300 feet

