



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

CESAM-RD-N
PUBLIC NOTICE NO. SAM-2014-01336-CMS

August 27, 2015

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

**PROPOSED PLACEMENT OF FILL MATERIAL IN WATERS OF THE UNITED STATES
(U.S.) IN ASSOCIATION WITH THE PROPOSED
BLACK WARRIOR MINERALS MINE NO.2
JEFFERSON 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). Please communicate this information to interested parties.

APPLICANT: Black Warrior Minerals, Inc.
Post Office Box 1190
Sumiton, Alabama 35148

AGENT: McGehee Engineering Corp.
Attention: Mr. Stephen Blankenship
450 19th Street West
Jasper, Alabama 35501

LOCATION: The proposed project is located near Kimberly, Jefferson County, Alabama (33.74685, -86.83872) within Sections 2, 3, 9, 10, 11, 15 and 19, Township 15 South, Range 3 West. The project is located in the Lower Locust Fork and Middle Locust Fork 10-digit HUCs within the Locust Fork watershed (HUC 03160111).

PROJECT PURPOSE: The basic project purpose is for coal extraction.

WORK: The applicant is proposing a surface mining activity, which includes the discharge of dredged and/or fill material into waters of the U.S. through the construction of sediment detention basins and mine-through activities. These activities would impact 11,899 linear feet (lf) of ephemeral streams, 403 lf of intermittent streams, 0.53 acre of wetlands, and 2.53 acres of impoundments. The project encompasses 1,293 acres of land, portions of which contain unreclaimed highwalls from prior surface mining activities at the site.

Proposed Project Impacts

Name	Latitude	Longitude	Impact Amount	Classification	Impact Type
S-1	33.7483	-86.848	962'	Ephemeral	Fill, impoundment, and mine-through
S-2	33.7505	-86.84527	1553'	Ephemeral	Fill, impoundment, and mine-through
S-3	33.73527	-86.84083	1167'	Ephemeral	Fill, impoundment, and mine-through
OW-1	33.7366	-86.8394	0.96 acre	Open water	Mine-through
S-11	33.74583	-86.8441	3274'	Ephemeral	Mine-through
S-17	33.7588	-86.8325	403'	Intermittent	Fill, impoundment
OW-4	33.75861	-86.8333	0.44 acre	Open water	Impoundment
W-1	33.7583	-86.8338	0.10 acre	Scrub shrub	Impoundment
W-2	33.7588	-86.8333	0.02 acre	Scrub shrub	Impoundment
W-3	33.7588	-86.8352	0.41 acre	Scrub shrub	Fill
OW-5	33.7583	-86.8366	0.92 acre	Open water	Fill
S-18	33.7425	-86.85472	803'	Ephemeral	Fill, impoundment, mine-through
S-19	33.74472	-86.8555	827'	Ephemeral	Fill, impoundment, mine-through
S-22	33.73638	-86.8438	499'	Ephemeral	Fill, impoundment, mine-through
S-23	33.73583	-86.8427	441'	Ephemeral	Fill, impoundment, mine-through
OW-6	33.7322	-86.83694	0.21 acre	Open water	Mine-through, impoundment
S-27	33.7311	-86.8372	464'	Ephemeral	Fill, impoundment
S-24	33.73194	-86.83416	546'	Ephemeral	Fill, impoundment, mine-through
S-25	33.73305	-86.83194	1363'	Ephemeral	Fill, impoundment, mine-through

AVOIDANCE & MINIMIZATION: The applicant stated impacts to 404 lf of ephemeral stream and 275 lf of intermittent stream have been minimized through modification of the mining plan. **The U.S. Army Corps of Engineers (USACE) has not verified the adequacy of the applicant's avoidance and minimization at this time.**

ALTERNATIVES: The project is not water dependent; therefore, the applicant is required to show that other less damaging practicable alternatives, which do not require placing fill into waters of the U.S., are not available. No permit will be issued unless the alternatives analysis demonstrates that practicable upland alternatives are not available to achieve the overall project purpose.

MITIGATION: The applicant proposes a combination of on-site stream mitigation, as well as purchasing credits from an approved mitigation bank, to compensate for the loss

of functions associated with the unavoidable impacts to waters of the U.S. Each stream was assessed using the 2012 Mobile District Compensatory Stream Mitigation Standard Operating Procedures and Guidelines to calculate necessary compensation for function loss. The applicant would be required to provide at least 13,923.56 stream credits to compensate for stream function loss. The wetland functions were assessed using the Wetland Rapid Assessment Procedure (2nd edition). The applicant would be required to provide at least 0.26 wetland credits to compensate for wetland function loss. The applicant is proposing to purchase 2,089.65 stream credits from an approved mitigation bank and generate 12,452.6 stream credits through on-site permittee responsible mitigation activities. The applicant proposes to purchase the 0.26 wetland credits from an approved mitigation bank to compensate for wetland function loss.

The USACE has not verified the adequacy of the applicant's compensatory mitigation plan at this time.

WATER QUALITY: The applicant has applied for certification from the State of Alabama in accordance with Section 401(a) (1) of the Clean Water Act, and upon completion of the required advertising, a determination relative to certification will be made.

This public notice is being distributed to all known interested persons in order to assist in developing facts on which a decision by the USACE 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 use 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 USACE 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 USACE 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.

HISTORIC AND CULTURAL RESOURCES: 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 affect cultural and historic properties within the permit area. A Cultural Resource Survey has been performed, which included the permit area as well as other parts of the property not currently under review for this action. The USACE is seeking comment from the State Historic Preservation Officer (SHPO), Federally-recognized American Indian tribes, local historical societies, museums, universities, the National Park Service, and the general public regarding the existence, or the potential for existence, of significant cultural and historical properties, which may be affected by the work. Copies of this public notice are being provided to the SHPO and American Indian Tribes.

ENDANGERED/THREATENED SPECIES: McGehee Engineering conducted a habitat assessment on the subject property for the possible presence of federally listed species and candidate species that are known to occur in the County. The survey identified potential summer roosting habitat for the Indiana bat (*Myotis sodalis*) and the Northern-long eared bat (*Myotis septentrionalis*) on approximately 99 acres scattered throughout the site. The findings of an Acoustic Presence/Absence Survey conducted by the agent indicate there were no *Myotis* calls captured during the survey.

A review of the United States Fish and Wildlife Service (USFWS) website <http://ecos.fws.gov/ipac/> identified twenty-six federally listed, or candidate, species known to occur in the area. Preliminary review of this application indicates that the proposed activity “may affect, is not likely to adversely affect” the Indiana bat (*Myotis sodalis*) and the Northern-long eared bat (*Myotis septentrionalis*) because of the presence of potential summer roosting habitat; therefore, the Corps will initiate informal consultation with USFWS. The applicant submitted the habitat survey report and acoustic survey report to the USFWS. The USFWS responded with a reply dated July 31, 2015 (2015-TA-0507) stating no federally listed species/critical habitat occur in the project area. Copies of this public notice are being sent to the USFWS for review and comment.

Correspondence concerning this Public Notice should refer to Public Notice Number SAM-2014-01336-CMS and should be directed to:

U.S. Army Corps of Engineers Mobile District
Birmingham Field Office
Attention: Ms. Courtney Shea
218 Summit Parkway, Suite 222
Homewood, Alabama 35209

with a copy to the:

Alabama Department of Environmental Management
Post Office Box 301463
Montgomery, Alabama 36130-1463

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 via e-mail at **Courtney.M.Shea@usace.army.mil** or telephone number **(205) 290-9096**. Please refer to the above Public Notice number.

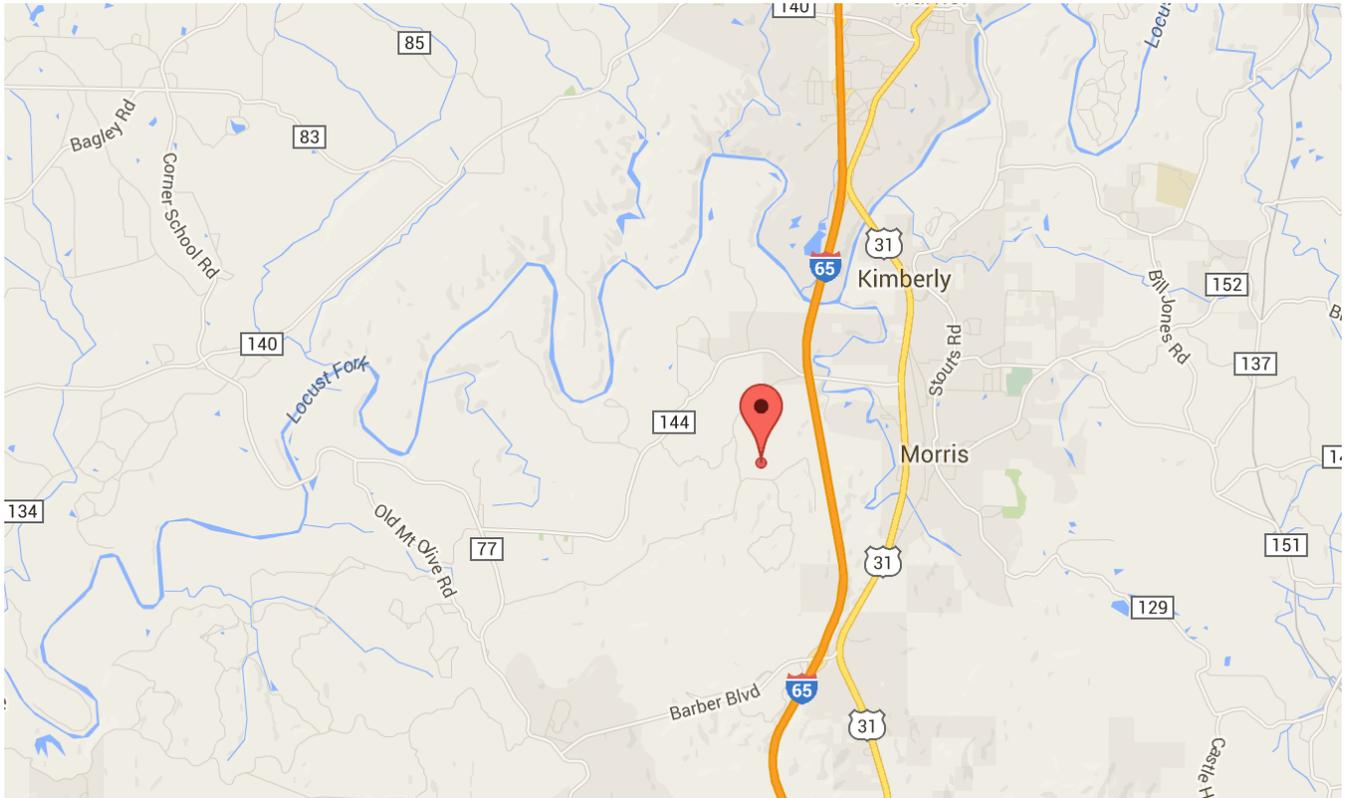
For additional information about our Regulatory Program, please visit our web site at <http://www.sam.usace.army.mil/Missions/Regulatory.aspx>, and please take a moment to complete our customer satisfaction survey while you are there. Your responses are appreciated and will allow us to improve our services.

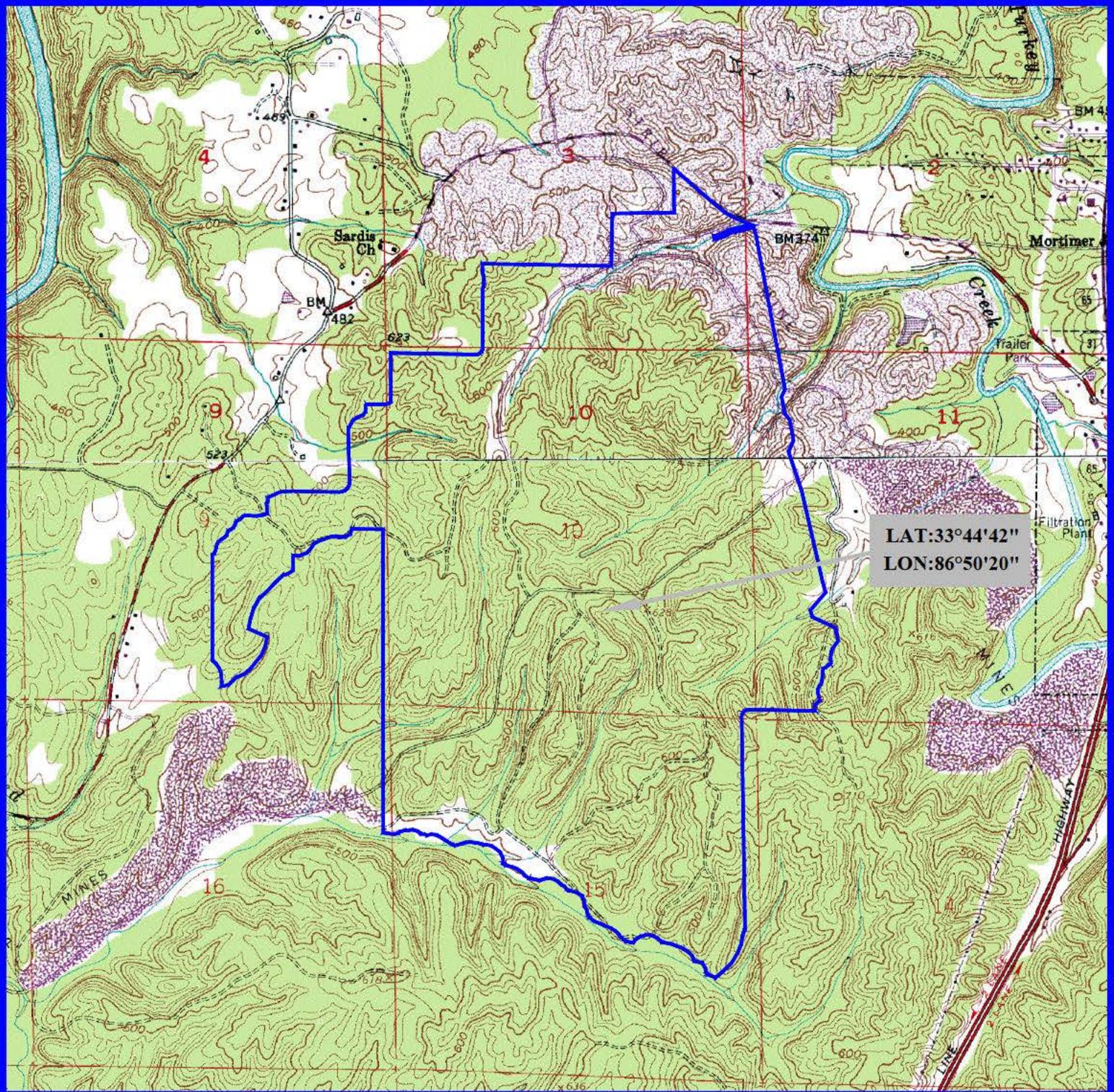
MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosures

33°44'48.7"N 86°50'19.4"W

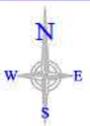
Google Google





SCALE: 1" = 2000'
 July 27th, 2015

BLACK WARRIOR MINERALS, INC.
MINE NO. 2
 (APPROXIMATELY 1,293 ACRES TOTAL)



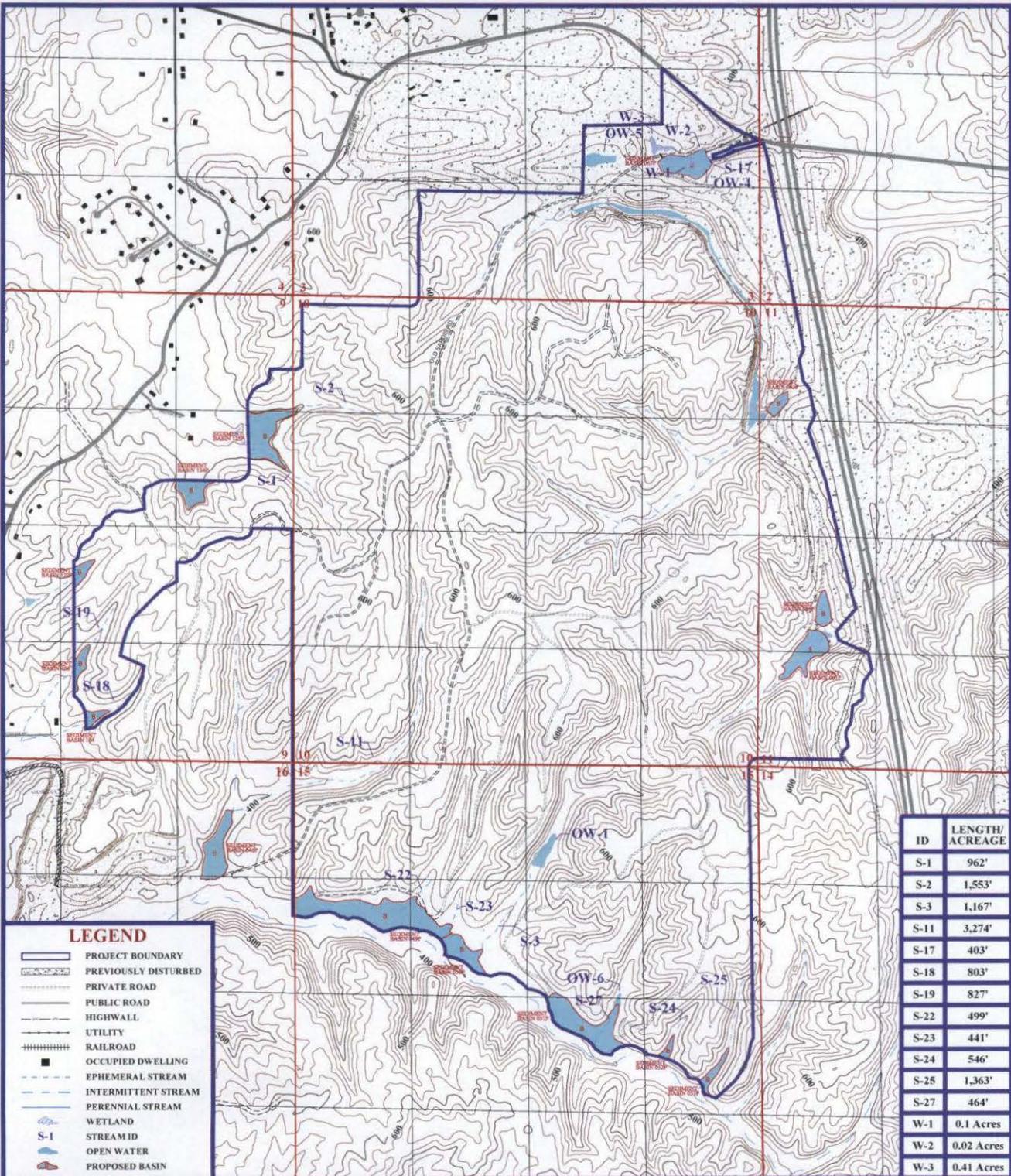
INDIVIDUAL PERMIT PROJECT AREA MAP

SECTIONS 2, 3, 9, 10, 11, 15 & 16 TOWNSHIP 15 SOUTH, RANGE 3 WEST,
 ALL IN JEFFERSON COUNTY, ALABAMA
 AS FOUND ON THE GARDENDALE & WARRIOR
 ALABAMA USGS QUAD.



PROJECT BOUNDARY

Latitude: 33°44'42" N
 Longitude: 86°50'20" W



LEGEND

- PROJECT BOUNDARY
- PREVIOUSLY DISTURBED
- PRIVATE ROAD
- PUBLIC ROAD
- HIGHWALL
- UTILITY
- RAILROAD
- OCCUPIED DWELLING
- EPHEMERAL STREAM
- INTERMITTENT STREAM
- PERENNIAL STREAM
- WETLAND
- STREAM ID
- OPEN WATER
- PROPOSED BASIN

SCALE: 1" = 500'
July 27th, 2015

BLACK WARRIOR MINERALS, INC.
MINE NO. 2
(APPROXIMATELY 1,293 ACRES TOTAL)



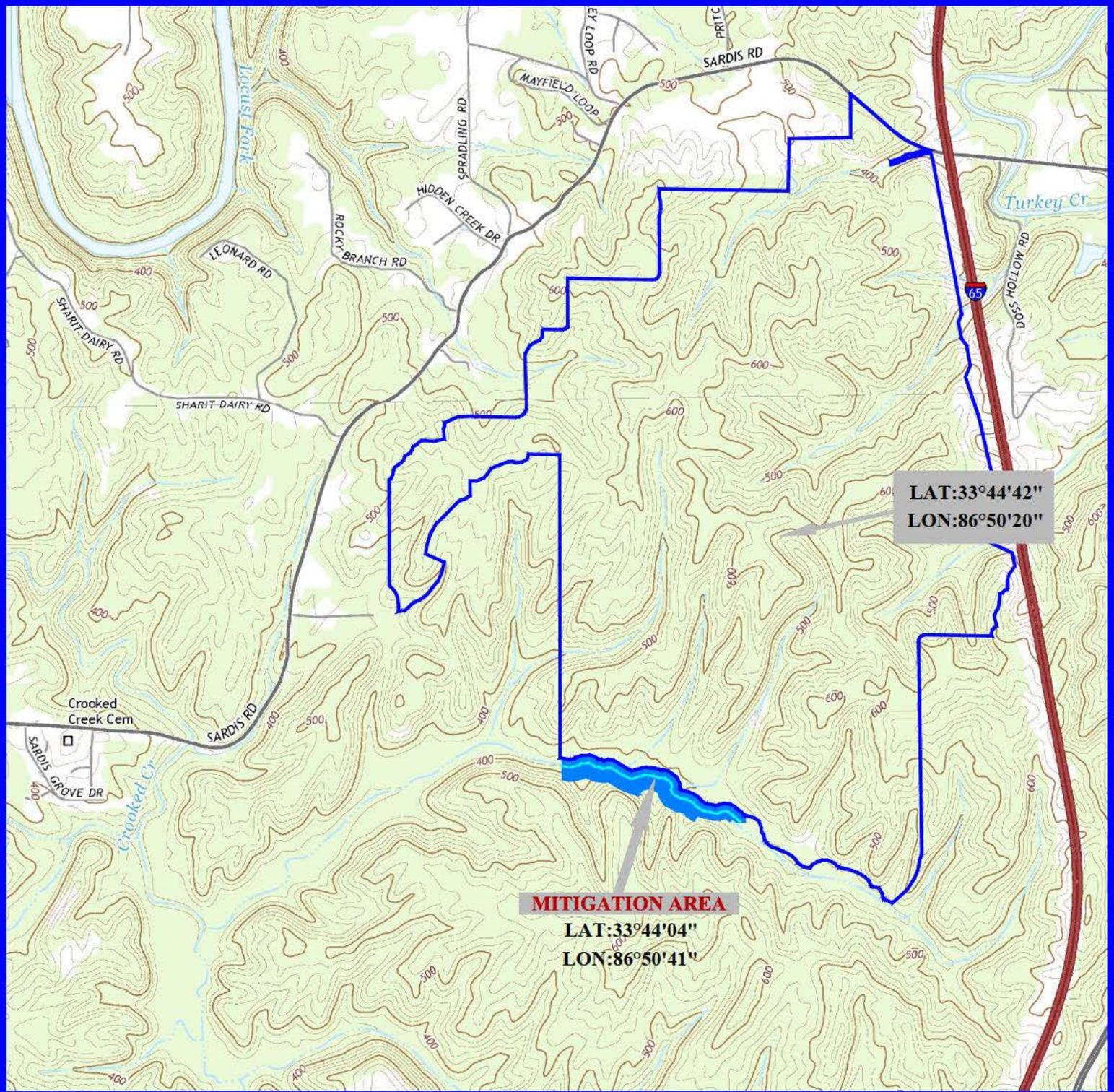
Jurisdictional Impact Map

SECTIONS 2, 3, 9, 10, 11, 15 & 16 TOWNSHIP 15 SOUTH, RANGE 3 WEST,
ALL IN JEFFERSON COUNTY, ALABAMA
AS FOUND ON THE GARDENDALE (1979) & WARRIOR (1986)
ALABAMA USGS QUAD.

PROJECT BOUNDARY



Latitude: 33°44'42" N
Longitude: 86°50'20" W



SCALE: 1" = 2000'
 July 27th, 2015

BLACK WARRIOR MINERALS, INC.
MINE NO. 2
 (APPROXIMATELY 1,293 ACRES TOTAL)



MITIGATION LOCATION MAP

SECTIONS 2, 3, 9, 10, 11, 15 & 16 TOWNSHIP 15 SOUTH, RANGE 3 WEST,
 ALL IN JEFFERSON COUNTY, ALABAMA
 AS FOUND ON THE GARDENDALE & WARRIOR
 ALABAMA USGS QUAD.



PROJECT BOUNDARY

Latitude: 33°44'42" N
 Longitude: 86°50'20" W