



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

CESAM-RD-I
PUBLIC NOTICE NO. SAM-2007-1557-HWL

DATE: 15 September 2008

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

**AFTER-THE-FACT REQUEST FOR AUTHORIZATION TO RETAIN FILL DISCHARGED INTO
WETLANDS AND A PERENNIAL STREAM TO CONSTRUCT A 33 ACRE PRIVATE LAKE
IMPOUNDMENT SOUTHWEST OF ALTOONA IN BLOUNT COUNTY, ALABAMA**

TO WHOM IT MAY CONCERN: This District has received an after-the-fact 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: Mr. Otis R. Robison
2361 Cumberland Lake Drive
Attention: Mr. Ken Gilbert, P.E.
Pinson, Alabama 35126

AGENT: Mr. Arthur G. Hosey, Jr.
Hosey Environmental, L.L.C.
Post Office Box 464
Daphne, Alabama 36526

WATERWAY: Hales Creek and abutting wetlands located within Section 8 of Township 12 South, Range 3 East, east of Alabama Highway 132 at Maynors Gap, at Latitude 34° 00' 28.24" North and Longitude 86° 21' 20.91" West, 2 miles southwest of Altoona in Blount County, Alabama.

WORK: The applicant proposes to retain approximately 25,000 cubic yards of silt-loam and clay fill that was borrowed from on-site locations and placed in approximately 82,764 square feet (1.9 acres) of wetlands and perennial stream channel to construct the dam for a 32.96 acre impoundment on Hales Creek. The dam and impoundment have impacted approximately 21.62 acres of wetlands and 3,587 linear feet of first order perennial stream tributary to the Locust Fork of the Black Warrior River. Approximately 1.90 acres of wetland have been filled in association with construction of the dam and approximately 19.72 acres of wetland have been flooded within the pool of the impoundment.

The dam structure currently has a 4.4:1 slope on the outer face of the dam and a 3.6:1 slope on the inside face and 4.25 feet of freeboard. The top of the dam is proposed to be raised an additional 1.4 feet to increase the amount freeboard to 5.65 feet, as advised by the applicant's engineer. The dam also has a 24-inch diameter riser pipe and 188 linear feet of 18 inch diameter discharge pipe. There is also a concrete emergency spillway. Both discharge pipe and spillway discharge into a riprap line stilling basin at the base of the dam.

PURPOSE: The applicant has stated that the purpose of the project is to provide a recreational fishing lake and aesthetic amenity to be associated with a private single-family residence for the applicant's family.

AVOIDANCE AND MINIMIZATION: The applicant has not specifically addressed avoidance and minimization as the dam for the impoundment and its associated discharge and spillway structures have already been constructed. The applicant has indicated the wetlands that have been impacted by construction of the impoundment were of low quality and had been historically impacted. Prior to 1964 the area had been impacted by farm field cultivation, between 1964 and 1975 by silt deposition from upstream strip mining and underground coal mining activities when an upstream dam failed, then by re-location and channelization of the portion of Hale Creek within the impoundment impact area by a previous land owner following the upstream dam failure.

MITIGATION: As compensatory mitigation for the impacts to 3,587 linear feet of perennial stream and approximately 21.92 acres of low-quality wetlands, the applicant has provided a mitigation plan that includes both on-site and off-site in-kind mitigation. The on-site mitigation will include riparian buffer preservation, including less than 10% planting, along both sides of 10,715 linear feet of Hales Creek on property owned by the applicant. The 10,715 linear feet of buffer preservation consists of a 3,200 linear foot segment immediately upstream of the impoundment and a 7,515 linear foot segment located over 1 mile upstream of the impoundment. Also a recently identified infestation of the invasive aquatic plant “parrot –feather” (*Myriophyllum aquaticum* or *M. brasiliense*), located upstream of the applicant’s property within three beaver ponds and an existing impoundment owned by another party, will be controlled if not eliminated by through application of an approved herbicide on the applicant’s and the other land owner’s property. The off-site mitigation will be conducted on two other properties, one approximately 3 miles north of the applicant’s lake and the other near Corona in Walker County, Alabama. The proposed mitigation area 3 miles north of the lake is within the floodplain of Whippoorwill Creek, which is a tributary to the Locust Fork of the Black Warrior River, and will include re-establishment of 29.6 acres of forested wetland on two adjacent parcels of land that were mechanically land cleared and converted to improved pasture land 8 to 10 years ago. The proposed mitigation area in Walker County consists of restoring floodplain wetlands and intermittent stream channel impacted by a mud racing track along Wolf Creek, which is tributary to the Mulberry Branch of the Black Warrior River. Riparian buffer restoration will be conducted along 1,800 linear feet of Wolf Creek including re-establishment of 9.95 acres of forested wetlands and 2,030 linear feet of intermittent streams within the 9.95 acre area. The on-site buffer preservation areas and off-site restoration and preservation areas will be protected utilizing the Mobile District’s Model Restrictive Covenants.

The applicant has applied for Water Quality certification from the State of Alabama 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 Water Quality certification will be made by the Alabama Department of Environmental Management.

This public notice is being distributed to all known interested persons in order to assist in developing facts on which a decision by the U.S. Army Corps of Engineers 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 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.

The National Register of Historic Places has been consulted for properties listed in or eligible for the National Register that are known to exist which would be affected by the proposed work. The applicant indicates a Phase I Cultural Resource Assessment has been conducted within the project impact area. Further consultation between this office and the State Historic Preservation Officer will be conducted in association with the evaluation of this project. 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 State Historic Preservation Officer, and the U.S. Department of the Interior, National Park Service, Division of Archaeological Services.

Preliminary review of this application and the U.S. Department of the Interior list of Endangered and Threatened Wildlife and Plants indicates that the proposed activity will not affect listed endangered or threatened species or their critical habitat.

Correspondence concerning this Public Notice should refer to Public Notice Number SAM-2007-1557-HWL and should be directed to:

District Engineer
U.S. Army Engineer District, Mobile
218 Summit Parkway, Suite 222
Homewood, AL 35209

with a copy to the:

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

Comments should be received **no later than 30 days** from the date of this Public Notice.

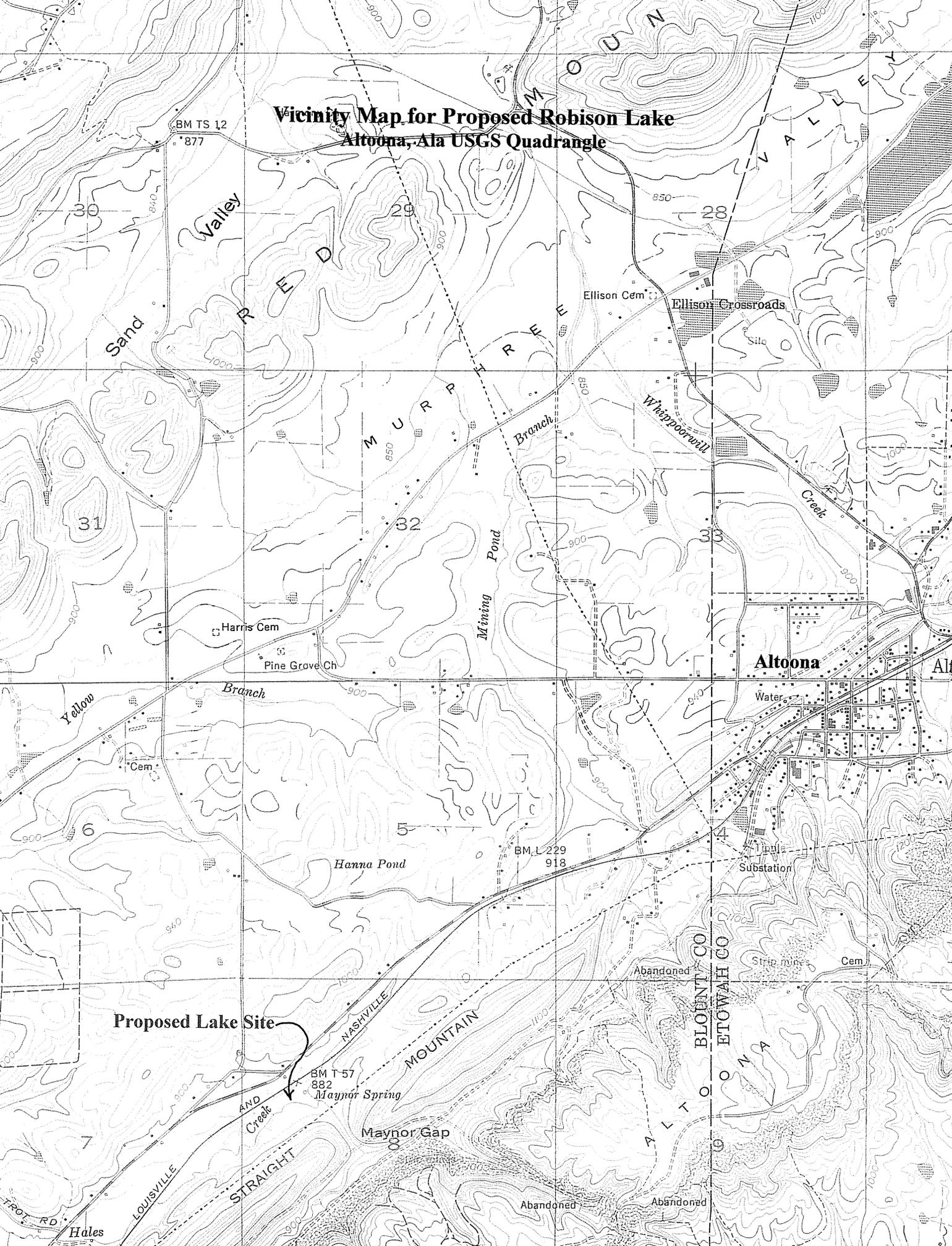
If you have any questions concerning this publication, you may contact the project manager via e-mail at leslie.e.turney@usace.army.mil or telephone number **(205) 290-9096**. Please refer to the above Public Notice number.

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

Enclosures

MOBILE DISTRICT
U.S. Army Corps of Engineer

Vicinity Map for Proposed Robison Lake Altoona, Ala USGS Quadrangle



Proposed Lake Site

Altoona

BLOUNT CO
ETOWAH CO

BM T 57
882
Maynor Spring

BM L 229
918

BM TS 12
877

Sand Valley

REED

MURRILL

Ellison Cem.

Ellison Crossroads

Harris Cem

Pine Grove Ch

Yellow Branch

Cem.

Hanna Pond

Water

Substation

Abandoned

Strip mines

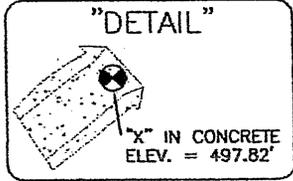
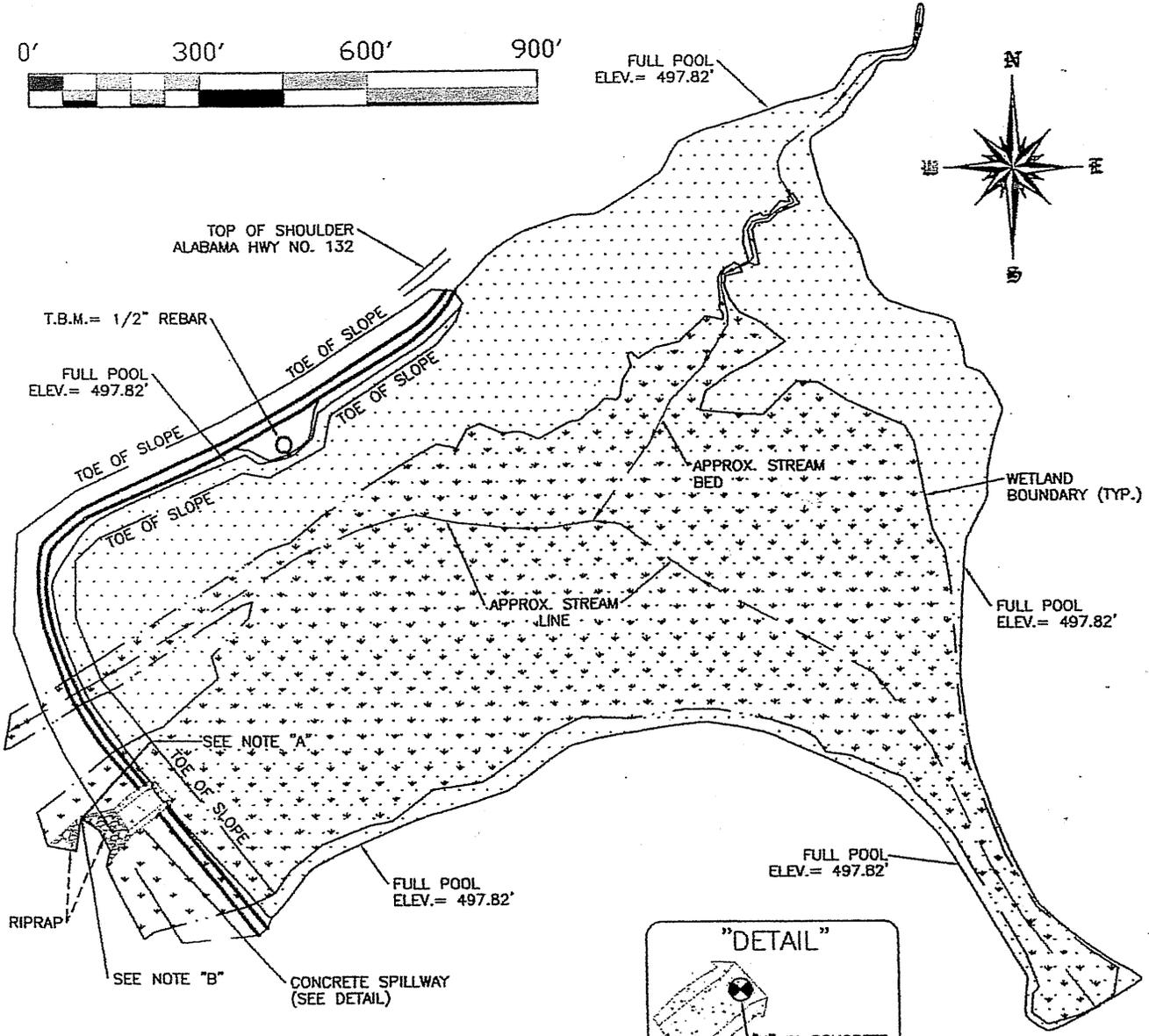
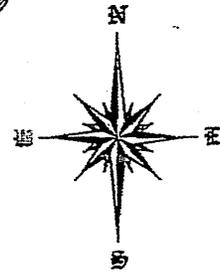
Cem

Maynor Gap

Abandoned

Abandoned

Hales



NOTE "A"
 FL 18" Ø PVC DRAIN PIPE, ELEV. = 484.37'
 TOP OF INTAKE PIPE ELEV. = 497.35'

NOTE "B"
 FL 18" Ø PVC DRAIN PIPE, ELEV. = 481.77'

WETLAND IMPACTS:
 WETLANDS UNDER EMBANKMENT = 1.90 AC±
 WETLANDS UNDER IMPOUNDED WATER = 19.72 AC±
 VOLUME OF FILL PLACED OVER WETLANDS = 25,000 CU. YD IN PLACE

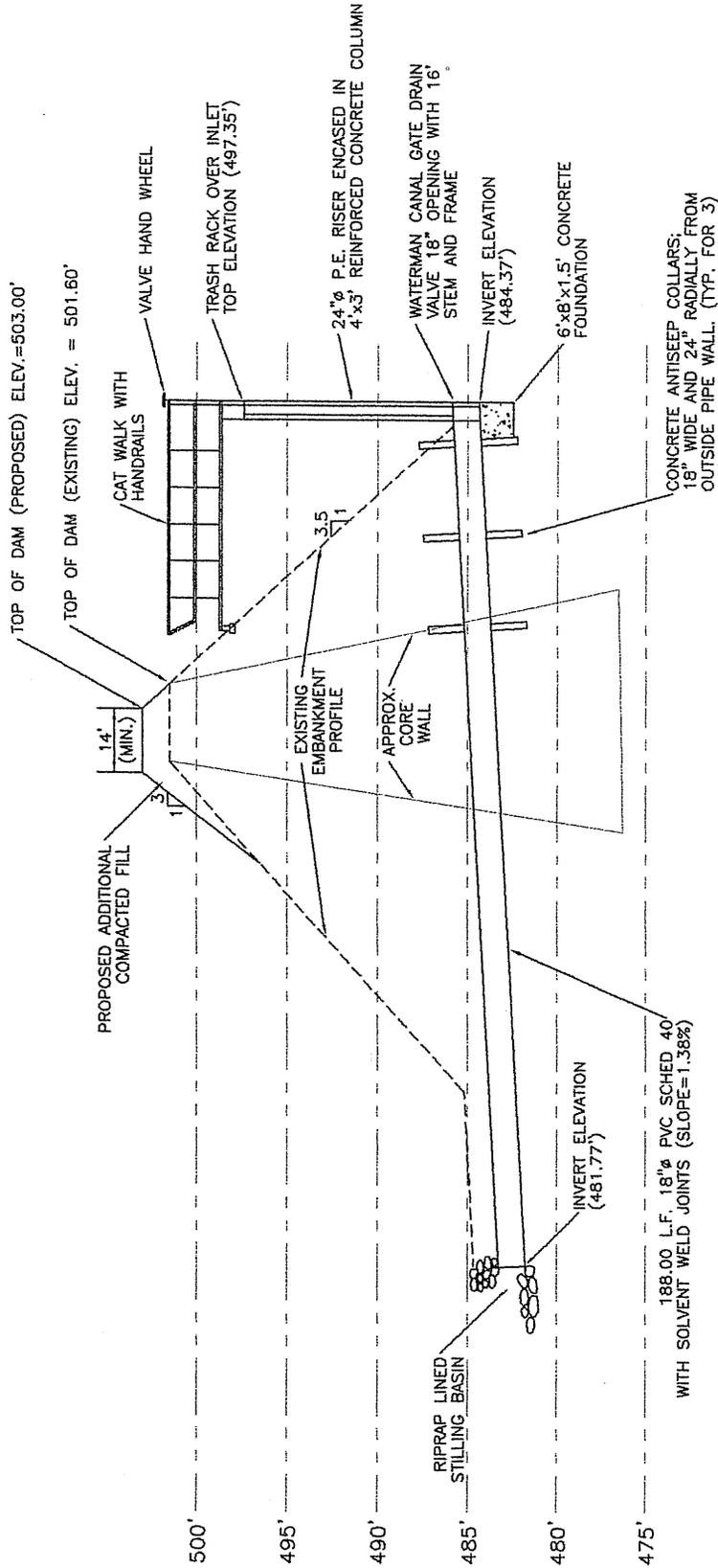
LEGEND

These standard symbols will be found in the drawing.

- TOE OF DAM
- TOE OF SLOPE
- WETLANDS AREA
- PROPOSED FULL POOL LEVEL

OTIS R. ROBINSON

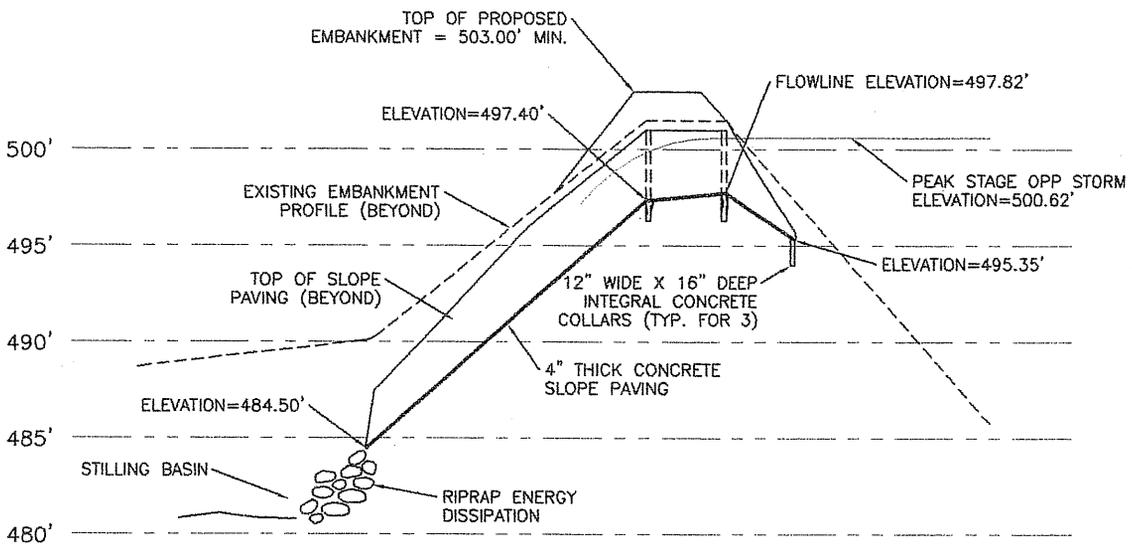
DRAWN BH	DATE 04/03/08	LAKE LOCATION SURVEY
APPROVED BH	DATE 04/03/08	
SCALE 1" = 300'	SHEET 1 OF 2	PROJECT NO. 07-232



PROFILE THROUGH SPILLPIPE

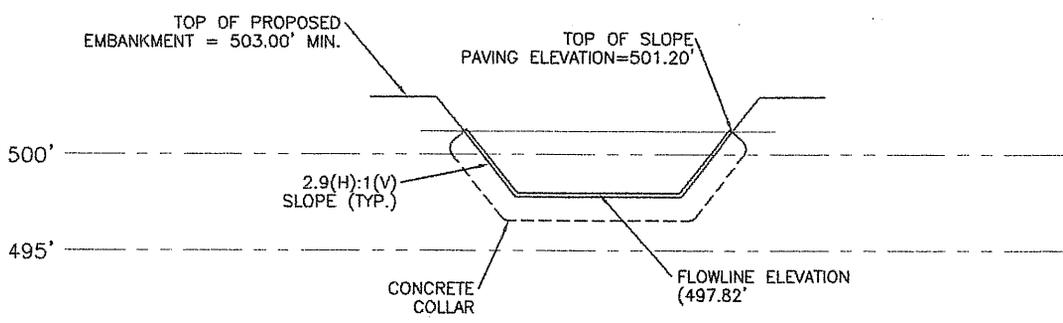
1" = 40' HORIZONTAL
1" = 10' VERTICAL

NOTE: RISER PIPE IS ENCASED IN 4'x3' RECTANGULAR
CAST IN PLACE CONCRETE COLUMN. COLUMN IS
REINFORCED WITH 16 VERTICAL #4 REINFORCING
STEEL RODS WHICH ARE TIED TO THE CONCRETE
FOUNDATION.



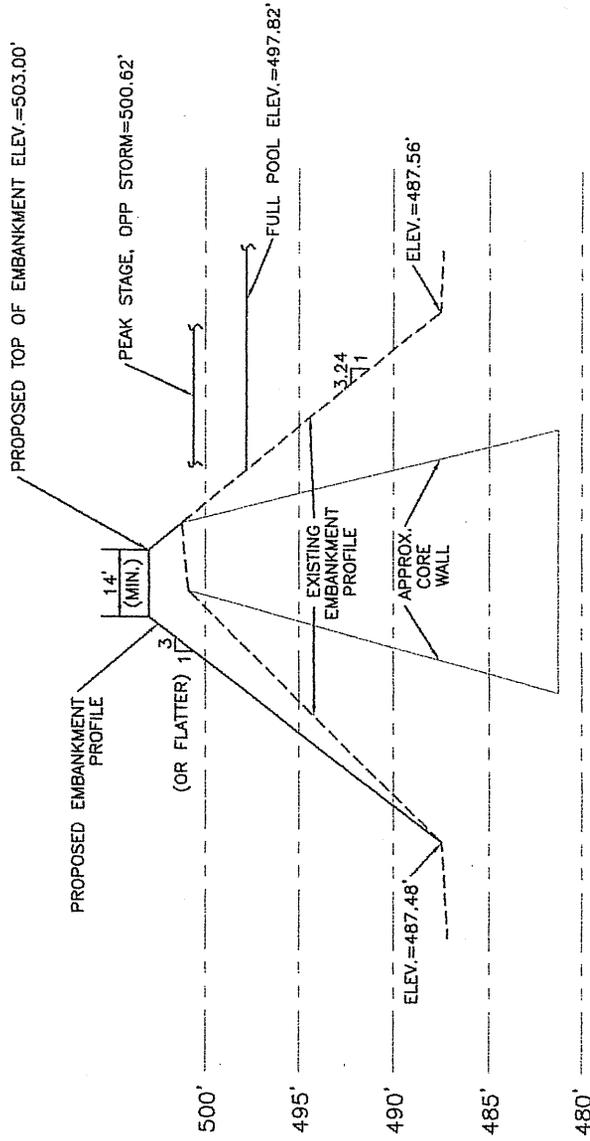
PROFILE THROUGH SPILLWAY

1" = 40' HORIZONTAL
1" = 10' VERTICAL



CROSS SECTION OF SPILLWAY AT CONTROL SECTION

1" = 40' HORIZONTAL
1" = 10' VERTICAL



DAM PROFILE
(350' FEET NORTH WEST OF SPILLWAY)

1" = 40' HORIZONTAL
1" = 10' VERTICAL

5. Project Description

The applicant is requesting an after-the-fact Department of the Army permit pursuant to Section 404 of the Clean Water Act for the recent construction of a dam on Hales Creek in Section 8, Township 12 South, Range 3 East, in Blount County, Alabama. The dam is located on the east side of State Highway 132, approximately two miles south of Altoona. As directed by the Corps of Engineers the lake site has not been filled with water. The project will create a 32.96 acre impoundment for use as a private lake for aesthetics and recreational fishing. The dam and impoundment will impact 21.62 acres of low quality wetlands and 3587 linear feet of first order perennial stream, a tributary of the Locust Fork of the Black Warrior River.

The lake site was previously a farm field that was cultivated until 1964. After 1964 and before 1975 the stream and fallow field were heavily silted with coal mine fines after a dam farther upstream failed. The majority of the watershed upstream is un-reclaimed strip mines and underground coal mines. After the upstream dam failure this portion of Hale Creek located within the wetland area to be impacted, was channelized and moved over to the base of the existing abandoned railroad embankment by a previous owner.

The dam has a 3.6 to 1 slope on the inside face of the dam and a 4.4 to 1 slope on the outer face. The side slopes and the adjacent uplands have been stabilized with a good stand of rye grass and crimson clover and over-seeded with assorted permanent grass species.

The dam structure has a 24 inch diameter riser pipe and 188 linear feet of 18 inch diameter discharge pipe. A concrete emergency spillway with a 35 foot bottom width and a 55 foot top width has been constructed. Both the discharge pipe and the spillway will discharge water into a rip rap lined stilling basin at the base of the dam.

Presently the dam has 4.25 feet of freeboard. However as advised by the applicant's engineers, Frank Hollis and Associates, retained after the dam was constructed, the top elevation of the dam will be raised 1.4 feet to increase the freeboard to 5.65 feet. See attached as built plans.

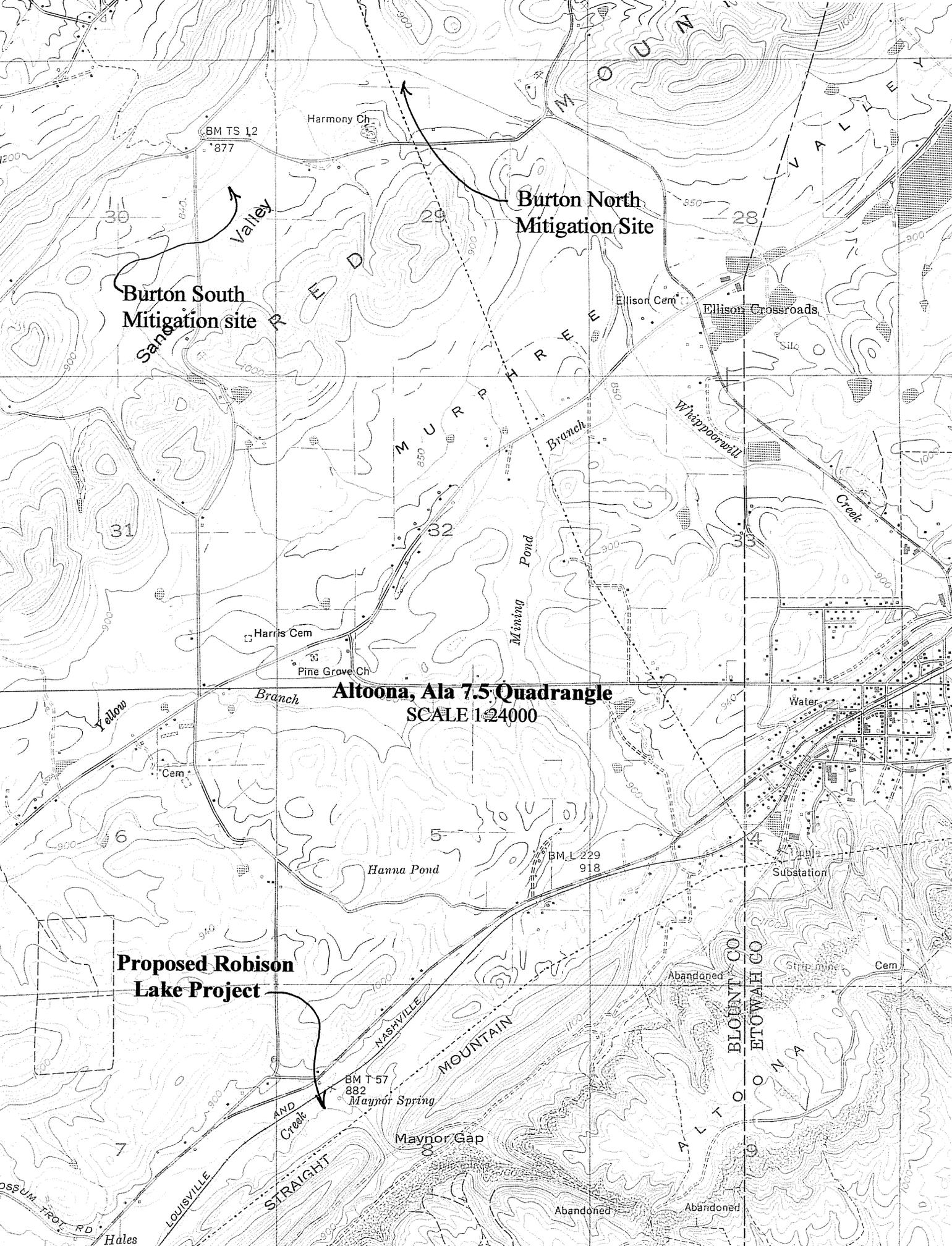
The applicant proposes in-kind mitigation to compensate for project's wetland and stream impacts. Both onsite and offsite mitigation will be utilized. Onsite mitigation will include preservation with less than 10 % planting of riparian buffer on both sides of Hales Creek for 10715 linear feet. Additionally, the invasive aquatic plant "Parrot Feather" recently found upstream of the dam in three beaver impoundments and an existing impoundment owned by another party. This infestation will be controlled, if not eliminated with an approved herbicide on both the applicants and the other land owner's property on Hale Creek.

Offsite mitigation will be conducted on two other properties. One will be located about 3 miles north of the proposed lake project. It will involve the re-establishment of 29.6 acres of wetland forest on two adjacent parcels, that were mechanically land cleared and

converted to improved pasture years ago. These two pastures are located within the floodplain of Whippoorwill Creek, a tributary of the Locust Fork of the Black Warrior River.

The other offsite mitigation area is near Corona in Walker County, Alabama. It is located in the adjacent watershed of the Mulberry Fork of the Black Warrior River. This mitigation site was recently a mud racing track on the banks of and in the floodplain of Wolf Creek. Riparian buffer restoration will be conducted on 1800 linear feet of Wolf Creek and 9.95 acres of forested wetlands will be re-established in the mud track area proper. In-stream work will be stream channel restoration to re-establish 2030 linear feet of intermittent stream in the 9.95 acre wetland restoration area. All of the mitigation areas will be protected by separate restrictive covenants.

See the attached compensatory mitigation plan. Also attached is a copy of "A Phase I Cultural Resources Survey of 68 Acres Surrounding Proposed Robison Lake, Blount County, Alabama", dated November 2007 by Mr. Steven M. Meredith with the University of Alabama, Office of Archaeological Research.

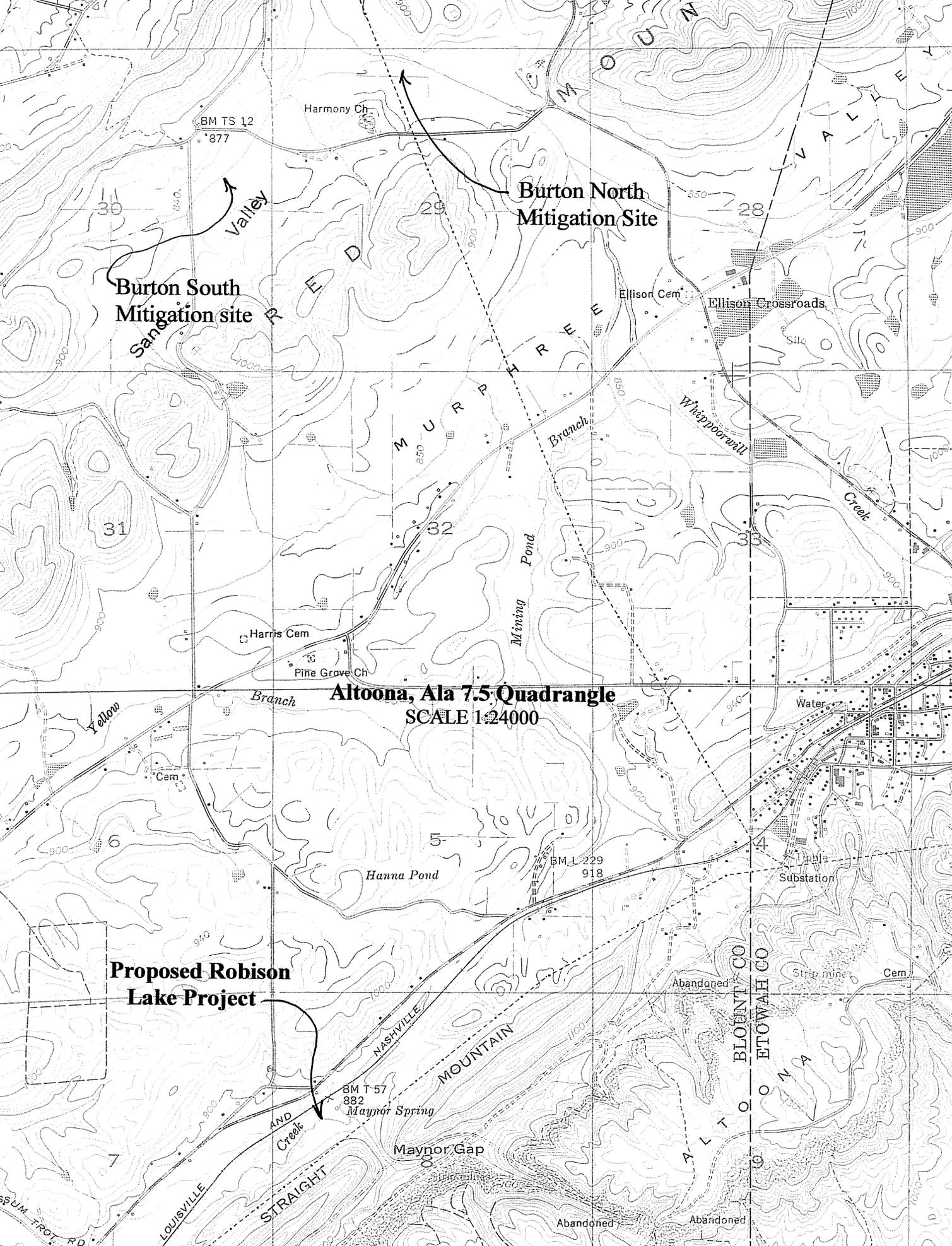


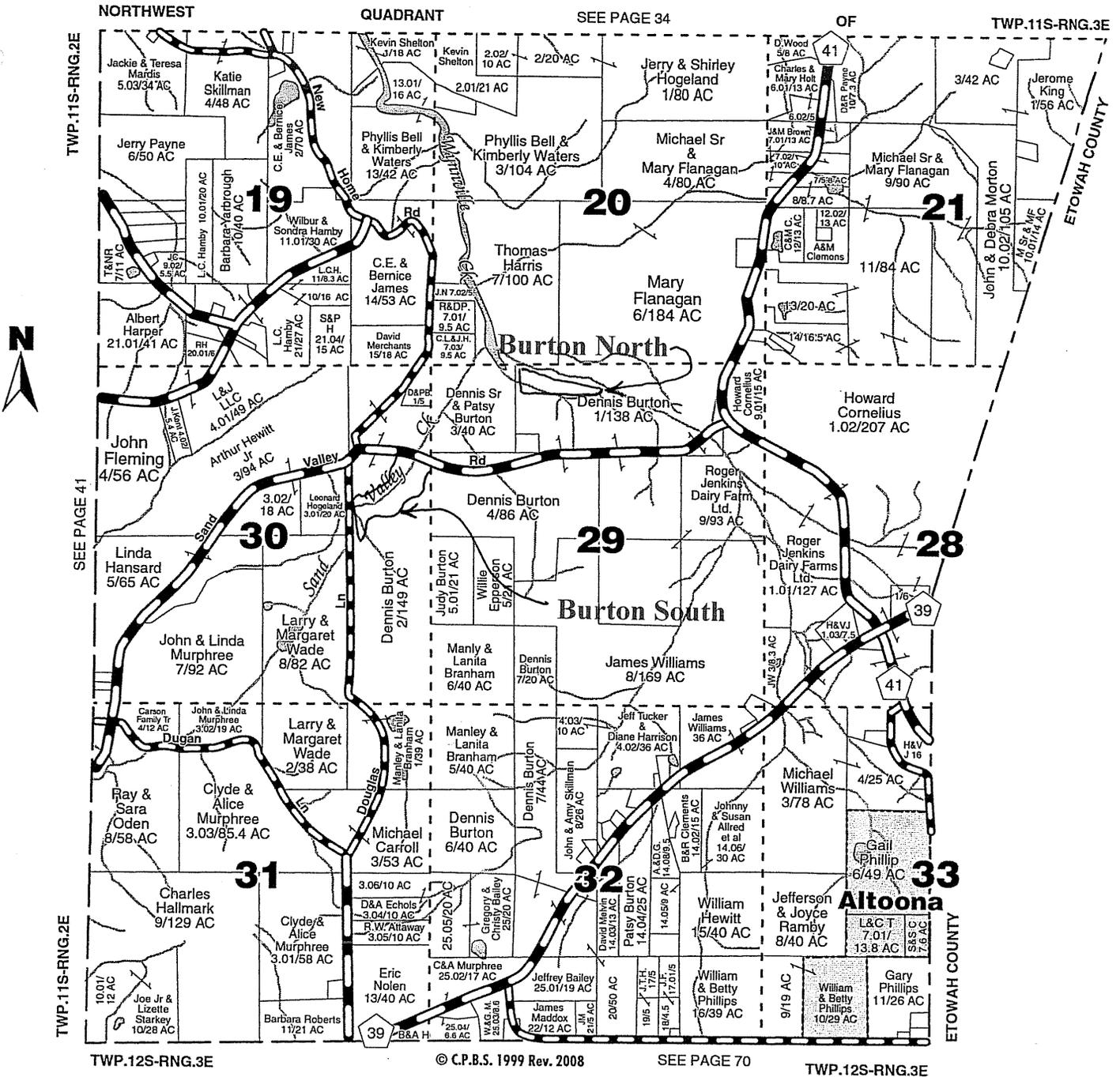
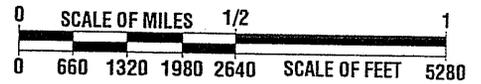
Altoona, Ala 7.5 Quadrangle
SCALE 1:24000

Burton South Mitigation site

Burton North Mitigation Site

Proposed Robison Lake Project





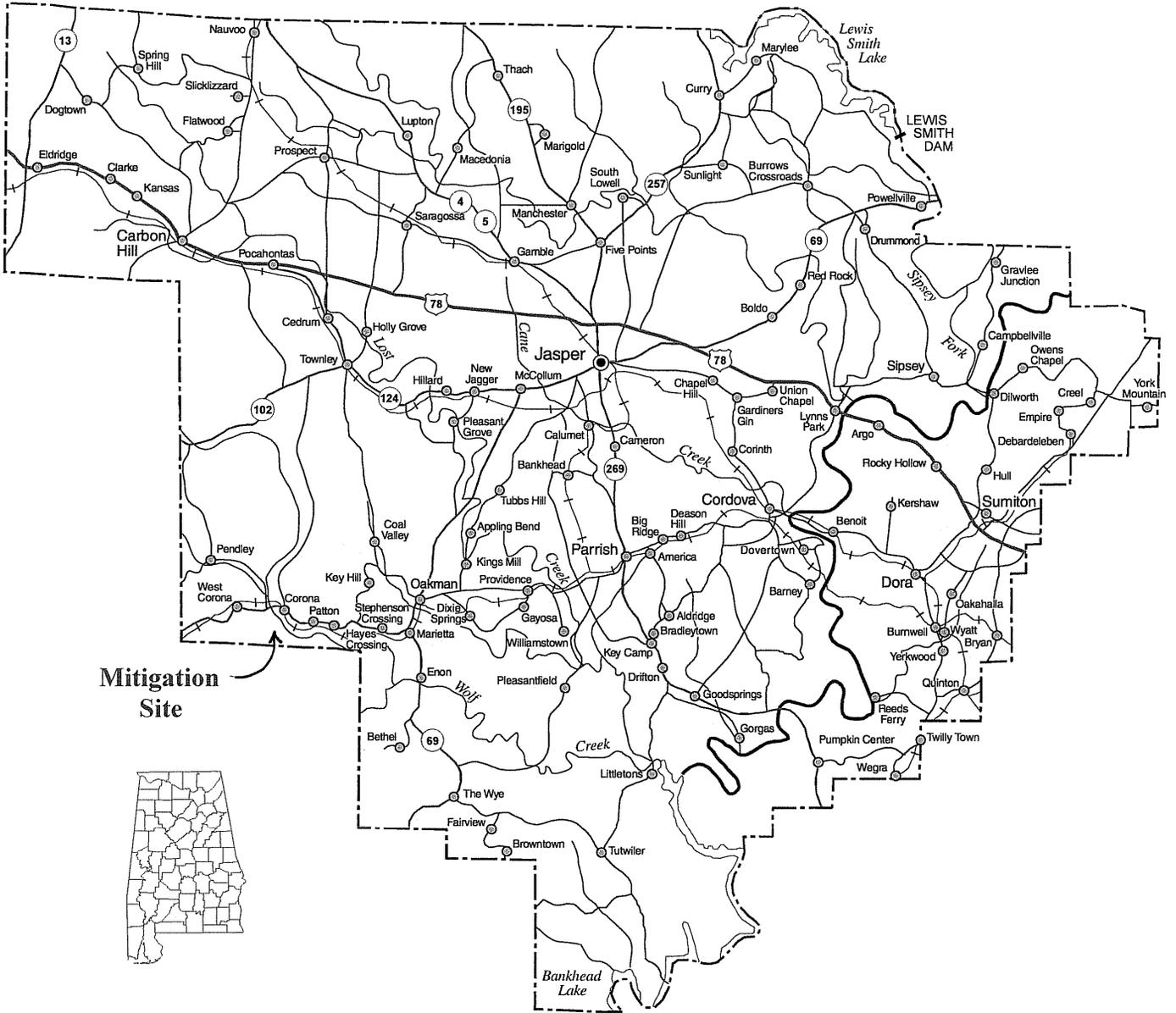
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SEE PAGE 70

Dennis Burton Properties

WALKER COUNTY

Location of Wolf Creek Mitigation Site



Mitigation Site

Population Key

BIRMINGHAM.....	100,000 to 500,000
Tuscaloosa.....	50,000 to 100,000
Gadsden.....	25,000 to 50,000
Albertville.....	5,000 to 25,000
Foley.....	1,000 to 5,000
Brilliant.....	500 to 1,000
Elkment.....	up to 500

0 5 10 miles

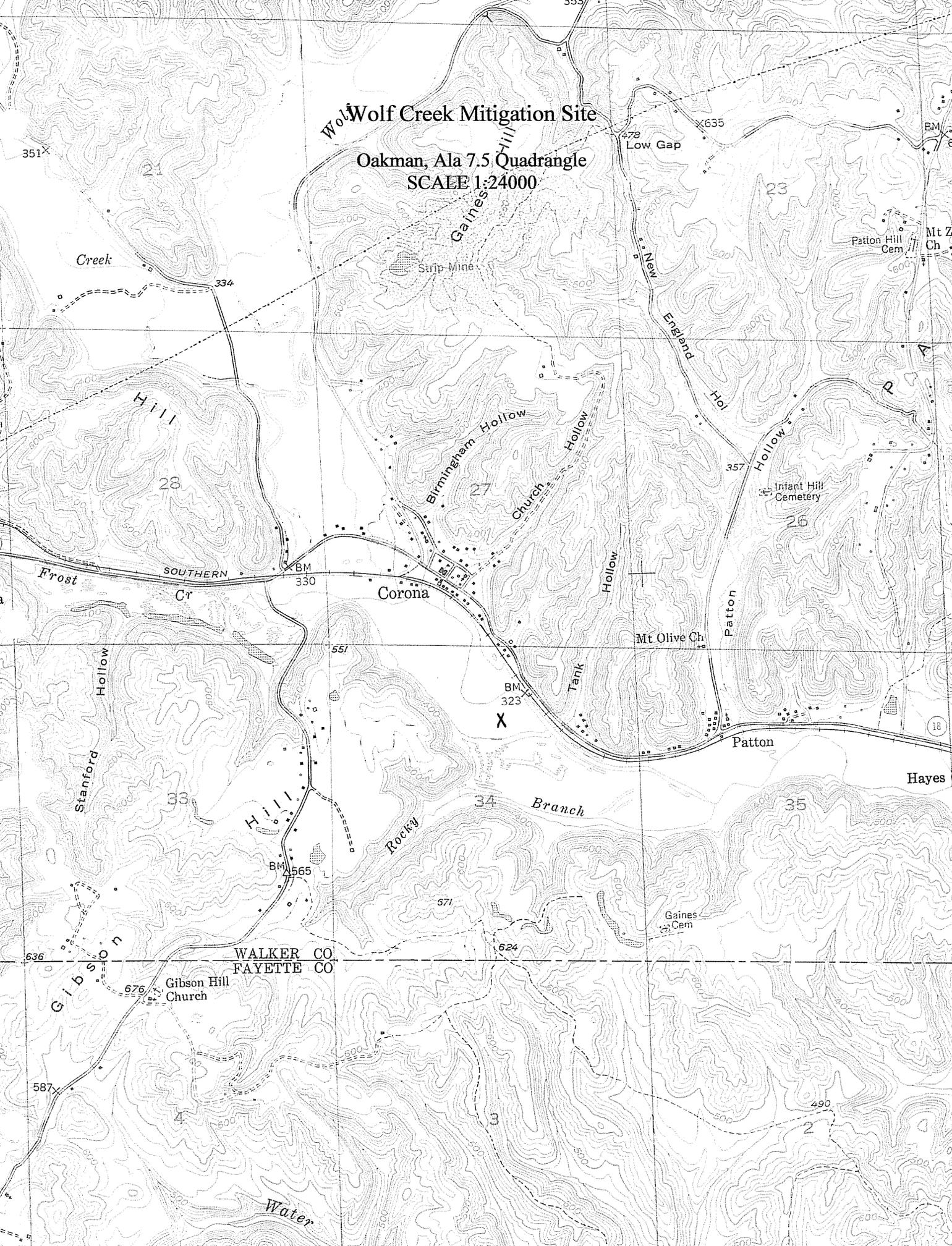
Produced by the Dept. of Geography
College of Arts and Sciences
The University of Alabama

Legend

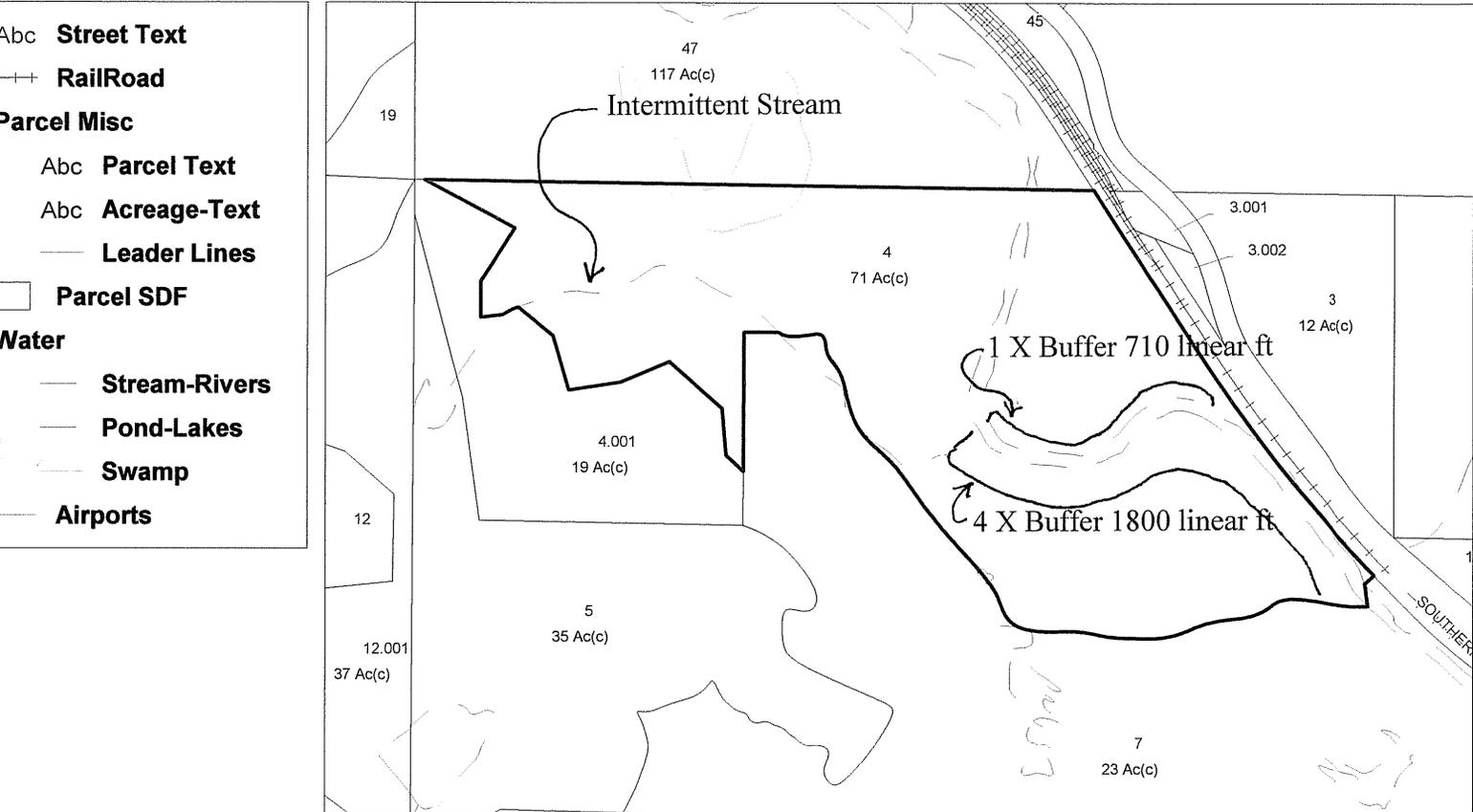
- County seat
- City, town or village
- Primary highway
- Secondary highway
- Other principal roads
- Route marker: Interstate; U.S.; State

Wolf Creek Mitigation Site

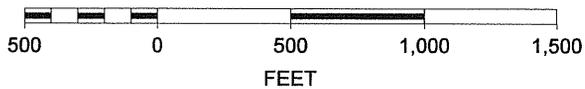
Oakman, Ala 7.5 Quadrangle
SCALE 1:24000



Wolf Creek Mitigation Site



SCALE 1 : 8,611



Proposed Stream Buffer Restoration
On Wolf Creek