



REPLY TO
ATTENTION OF:

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

Regulatory Division
Public Notice Number: SAM-2008-1922-MBM

December 19, 2008

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

**ALABAMA POWER COMPANY PROPOSED THEODORE MITIGATION AREA,
MOBILE COUNTY, ALABAMA**

TO WHOM IT MAY CONCERN:

This District has received a draft mitigation area prospectus for the establishment of a mitigation area referred to as the **Alabama Power Theodore Mitigation Area**. Please communicate this information to interested parties.

**AREA SPONSOR: Theodore Mitigation Area
Alabama Power Company
Attention: Mr. Jack Fugua
600 North 18th Street
Post Office Box 2641
Birmingham, Alabama 35291**

Alabama Power Company is proposing to establish 260.8-acre private mitigation area to generate mitigation credits for Alabama Power projects requiring a Department of Army permits subject to U.S. Army Corps of Engineers (Corps) regulatory authority pursuant to Section 404 of the Clean Water Act. Mitigation areas are developed and operate similar to single-client mitigation banks where the site is managed at the landscape level; however wetlands within the mitigation area are allocated and tracked for individual Alabama Power projects. Approval for Alabama Power projects to use the mitigation area would be determined on a case-by-case basis at the time of permit evaluation. The mitigation area is sited adjacent to Delchamps Bayou and an unnamed tidal tributary to East Fowl River. The mitigation area will restore 228 acres of pine savannah wetlands and preserve 22.9 acres of bottomland hardwood drain wetlands. The amount of wetland mitigation required for projects utilizing the mitigation area will be determined using the ratios calculated for the entire mitigation area using the Ratio Method. The mitigation area site is located in Section 19, Township 7 South, Range 1 West, and Section 24, Township 7 South, Range 2 West, 30.41803 North, 88.11854 West, Theodore, Mobile County, Alabama.

December 19, 2008

On 10 April 2008 the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency issued new regulations, in the Federal Register, Vol. 73, No. 70, governing compensatory mitigation for losses of aquatic resources. The new regulation, 33 CFR 332 – Compensatory Mitigation for Losses of Aquatic Resources, establishes performance standards and criteria for mitigation projects including mitigation banks. Part 33 CFR 332.8 addresses requirements for establishing, operating, and maintaining mitigation banks that provide credits to satisfy mitigation requirements of the Clean Water Act, Section 404 permit program. Recognizing the potential benefits mitigation banking and development of private mitigation areas (which are developed and operate similar to single-client mitigation banks), offers for streamlining the permit evaluation process and providing more effective mitigation for authorized impacts to wetlands, the agencies encourage the establishment and appropriate use of these strategies in the Section 404 program. This guidance became effective 9 June 2008.

An interagency group of Federal and State regulatory and resource agency representatives, as appropriate given the projected use for the bank, referred to as the Interagency Review Team (IRT), is signatory to a banking instrument and oversees the establishment, use and operation of a mitigation bank. While similar to mitigation banks, only the Corps is responsible for the development and oversight of private mitigation areas, however in the Mobile District the IRT is provided opportunity to oversee mitigation areas as well. Information provided in the prospectus will serve as the basis for establishing a mitigation area management plan/instrument which will describe in detail the physical and legal characteristics of the mitigation area and how the area will be established and operated.

The Corps is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes; and other interested parties for consideration while evaluating this proposed activity. Copies of all comments received will be distributed to the appropriate agencies and mitigation area sponsor for full consideration in the development of the mitigation area. Copies of the Cultural Resource Survey have been provided to the appropriate agencies. The U.S. Army Corps of Engineers has provided concurrence on the survey findings.

Comments concerning this Public Notice should be received within 15 days of the date of this public notice and should refer to number **SAM-2008-1922-MBM** and direct your correspondence to the District Commander, U.S. Army Engineer District, Mobile, Post Office Box 2288, Mobile, Alabama 36628-0001, Attention: Regulatory Division; and a copy to the Alabama Department of Environmental Management, Coastal Facility Section, 4171 Commanders Drive, Mobile, Alabama 36615. If you have any questions concerning this publication, please contact Mr. Michael Moxey, Project Manager, via e-mail at michael.b.moxey@usace.army.mil or telephone number (251) 690-2658.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosures

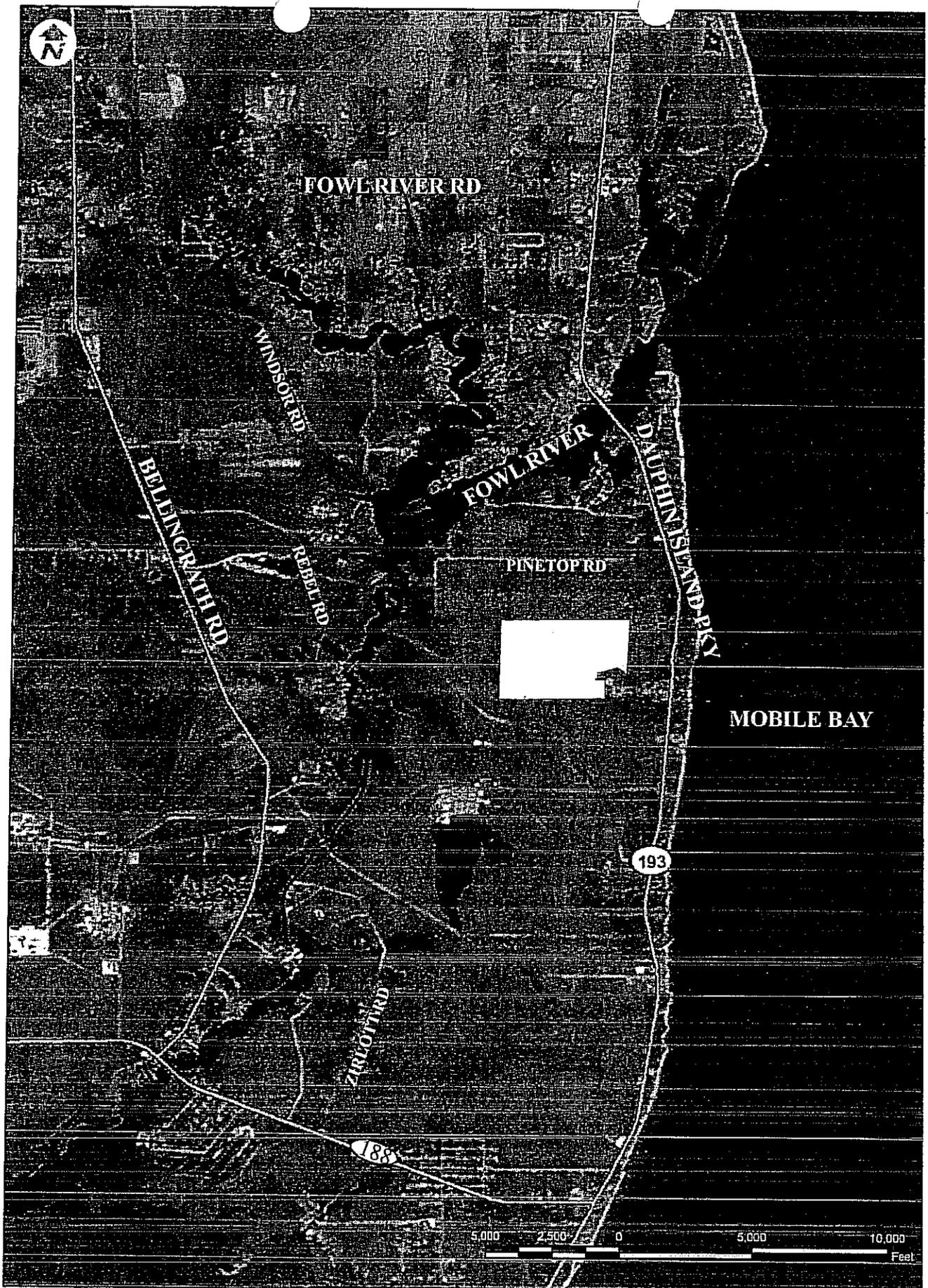


Figure 2. Theodore Mitigation Site and surrounding area.

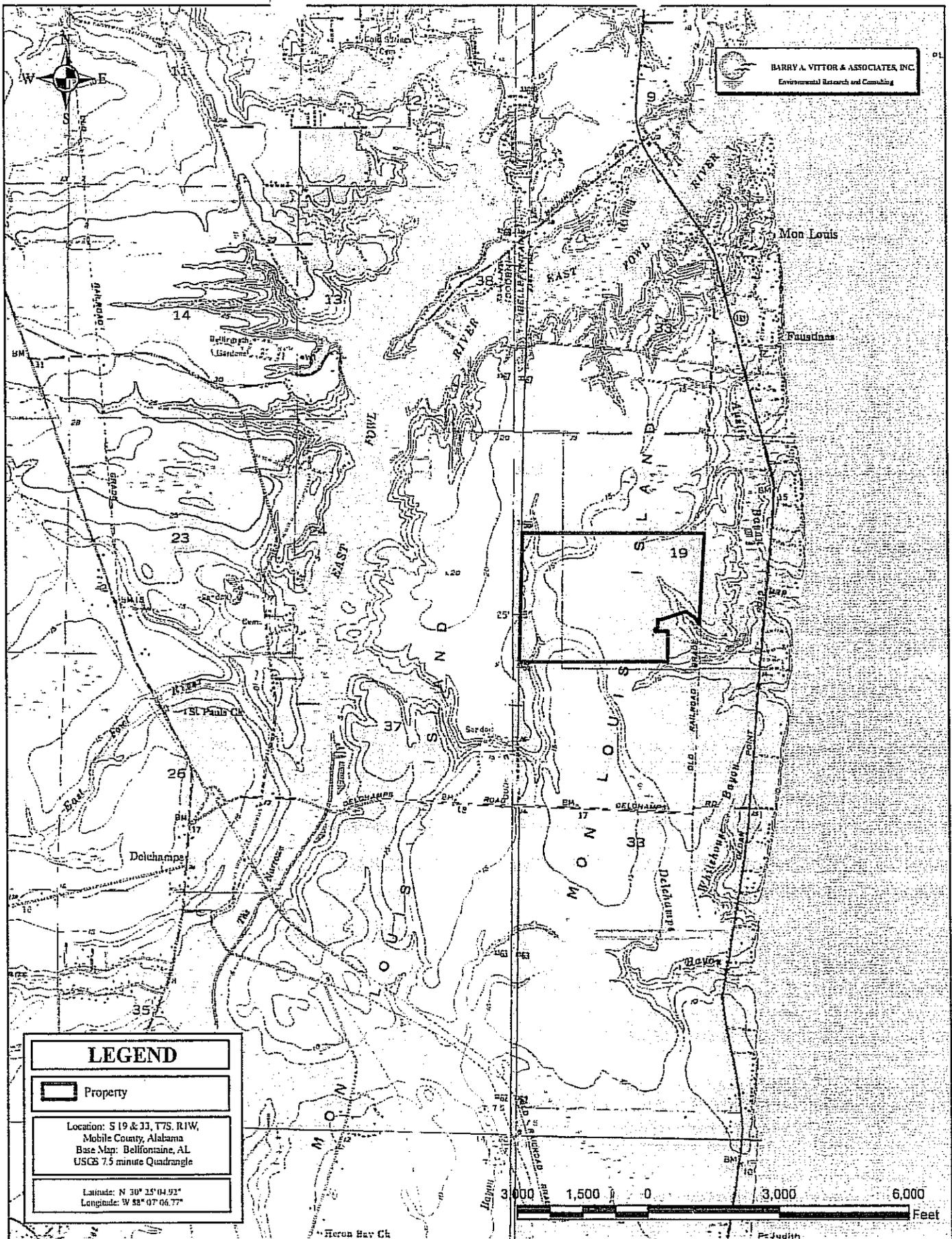


Figure 1. Location of Alabama Power Company's Theodore Mitigation Site in south Mobile Co.

