



REPLY TO
ATTENTION OF

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

CESAM RD-I- N
PUBLIC NOTICE NO.
SAM-2010-00428-TMB

May 20, 2011

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

AFTER-THE-FACT PERMIT APPLICATION FOR ACTIVITIES ASSOCIATED WITH
THE LAKE KIRKLEY MINISTRIES COMPLEX

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: Kirkley Foundation of Fayette County, LLC
Attention: Ms. Lillian Kirkley
175 – 17th Street Northwest
Fayette, Alabama 35555

AGENT: Spectrum Environmental, Inc.
85 Spectrum Cove
Alabaster, Alabama 35007

LOCATION: In wetlands and streams adjacent to an existing impoundment of Gumbud Creek (Lake Kirkley) at Fayette, Fayette County, Alabama (33.6343728, -87.7952668).

WORK: The work described below was completed prior to obtaining a Department of the Army permit and is in violation of Section 301 of the Clean Water Act. The applicant enlarged an existing earthen dam that impounded Gumbud Creek, which resulted in an enlargement of the pool area of the impoundment, conducted mechanized land clearing / grading activities in wetlands adjacent to the impoundment to create an uplands shoreline area around the impoundment, and placed road crossings in three different tributaries to the impoundment. After receiving a notice of discovery from the U.S. Army Corps of Engineers (Corps), the applicant modified the earthen dam so that the impoundment would return to its original water level, and removed one of the three road crossings.

The applicant wishes to retain 3.46 acres of fill material that was discharged in wetlands adjacent to Lake Kirkley as a result of mechanized land clearing, and impacts to 155 linear feet of unnamed tributaries to Lake Kirkley (road crossings). Additionally, the applicant proposes to re-impact 75 linear feet of Gumbud Creek to construct a road crossing that was previously removed.

PROJECT PURPOSE: The applicant has stated “[t]he purpose of this project is to establish a Christian based camp and Foster home complex for under privileged children. The planned project will provide the community of Fayette with the ability to offer a respite to clergy and an important housing facility for children in need of foster care.” *The U.S. Army Corps of Engineers has not evaluated the adequacy of the project purpose statement at this time.*

AVOIDANCE AND MINIMIZATION: The agent has submitted the following statement: “Though impact has occurred at the subject site, the applicant has avoided certain jurisdictional areas with the subject site, these areas include: 1,750 linear feet of Gumbud Creek; 675 linear feet of the [unnamed tributary] to Gumbud Creek; all of an [unnamed tributary] to Lake Kirkley located on the southeastern corner of the property, approximately 630 linear feet; and approximately 7 acres of wetlands adjacent to Gumbud Creek on the western portion of the property.” *The U.S. Army Corps of Engineers has not evaluated the adequacy of the avoidance and minimization statement at this time.*

MITIGATION: The applicant has proposed to mitigate for the existing and proposed impacts via on-site, permittee responsible mitigation. *The U.S. Army Corps of Engineers has not evaluated the adequacy of the mitigation proposal at this time.*

WATER QUALITY: The applicant has applied for state certification in accordance with Section 401(a)(1) of the Clean Water Act, and has certified that the proposed activity complies with and will be conducted in a manner that is consistent with the State Coastal Zone Management Program. Upon completion of the required advertising and public comment review, a determination relative to consistency will be made by the Alabama Department of Environmental Management.

COMMENTS: 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 and no properties listed in or eligible for the National Register are known to exist 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 U.S. Department of the Interior, National Park Service, Division of Archeological Services. The Alabama Historical Commission has reviewed the project (**AHC 11-0347**).

A 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 will not affect listed endangered or threatened species, or their critical habitat. Additionally, the U.S. Fish and Wildlife Service has reviewed the proposed aspects of the project and determined that “No federally listed species/critical habitat are known to occur in the project area” (**USFWS # 2011-CPA-0248**). The National Marine Fisheries Service requires the evaluation of impacts to Essential Fish Habitat (EFH) of estuarine species. The proposed project will not impact EFH.

Correspondence concerning this Public Notice should refer to Public Notice Number listed at the beginning of this document and should be directed to:

District Engineer
ATTN: Casey Ehorn
U.S. Army Engineer District, Mobile

Birmingham Field Office
218 Summit Parkway, Suite 222
Homewood, Alabama 35209

with a copy to the:

Alabama Department of Environmental Management
Office of Field Services - Field Operations Division
Attention: Mr. Aaron Peters
Post Office Box 301463
Montgomery, Alabama 36130-1463

All comments must be sent in time to be received not later than 30 days from the date of this notice.

If you have any questions concerning this publication, you may contact Mr. Casey Ehorn at telephone number (205) 290-9096. Please refer to Public Notice number listed at the beginning of this document.

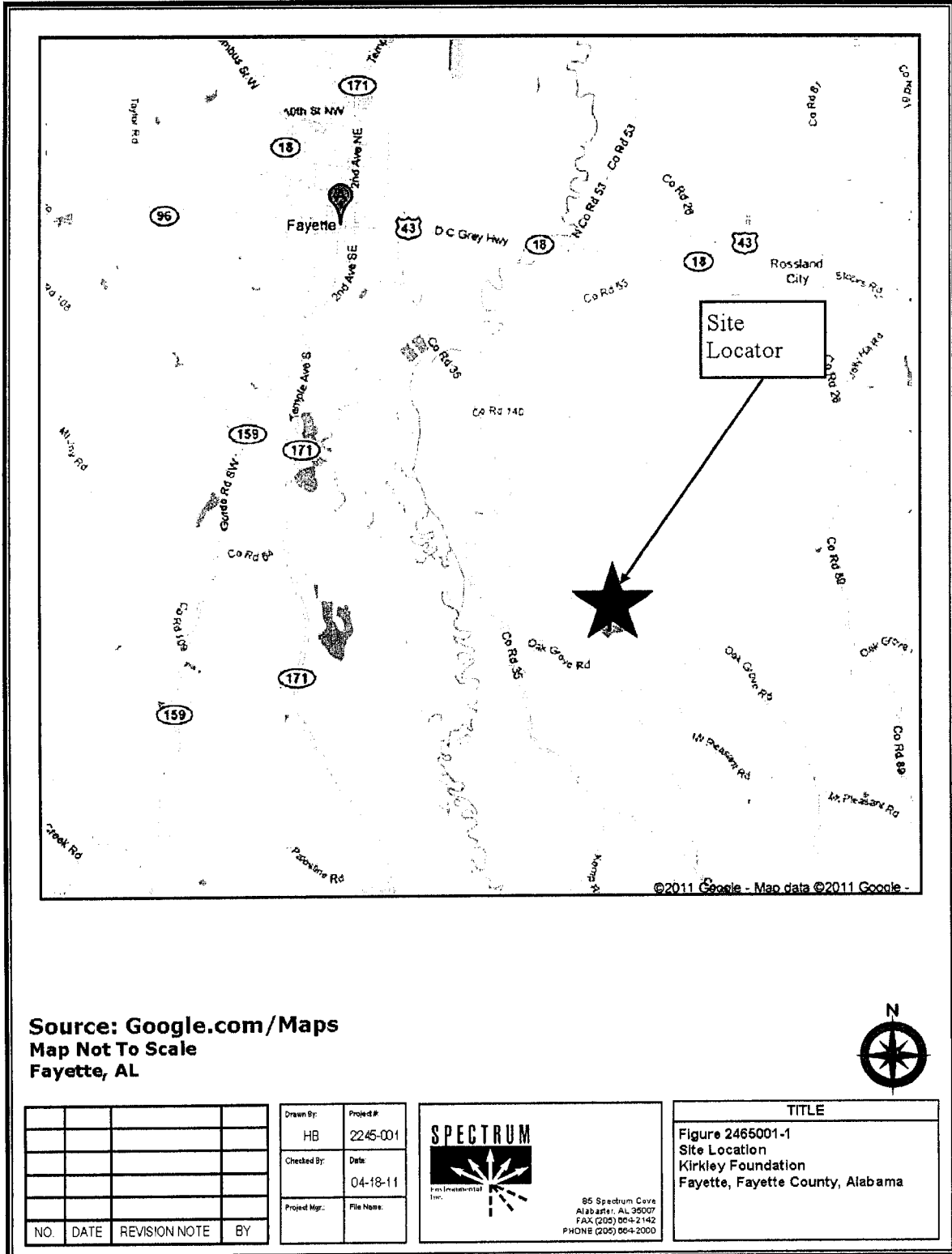
For additional information about our Regulatory Program, please visit our web site at www.sam.usace.army.mil/RD/reg, and please take a moment to complete our customer satisfaction survey while you are there. Your responses are appreciated and will allow us to improve our services.

MOBILE DISTRICT
U.S. Army Corps of Engineers

Enclosure

USACE Section 404 After-the-Fact Permit Application – Applicant
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Range 12 West and is centered at Latitude 33.6368937 ° N and Longitude 87.7933724° W (Figure 2465001-2). The property is located in the Sipsey River basin, specifically the Gumbud Creek Watershed.



Source: Google.com/Maps
Map Not To Scale
Fayette, AL



NO.	DATE	REVISION NOTE	BY

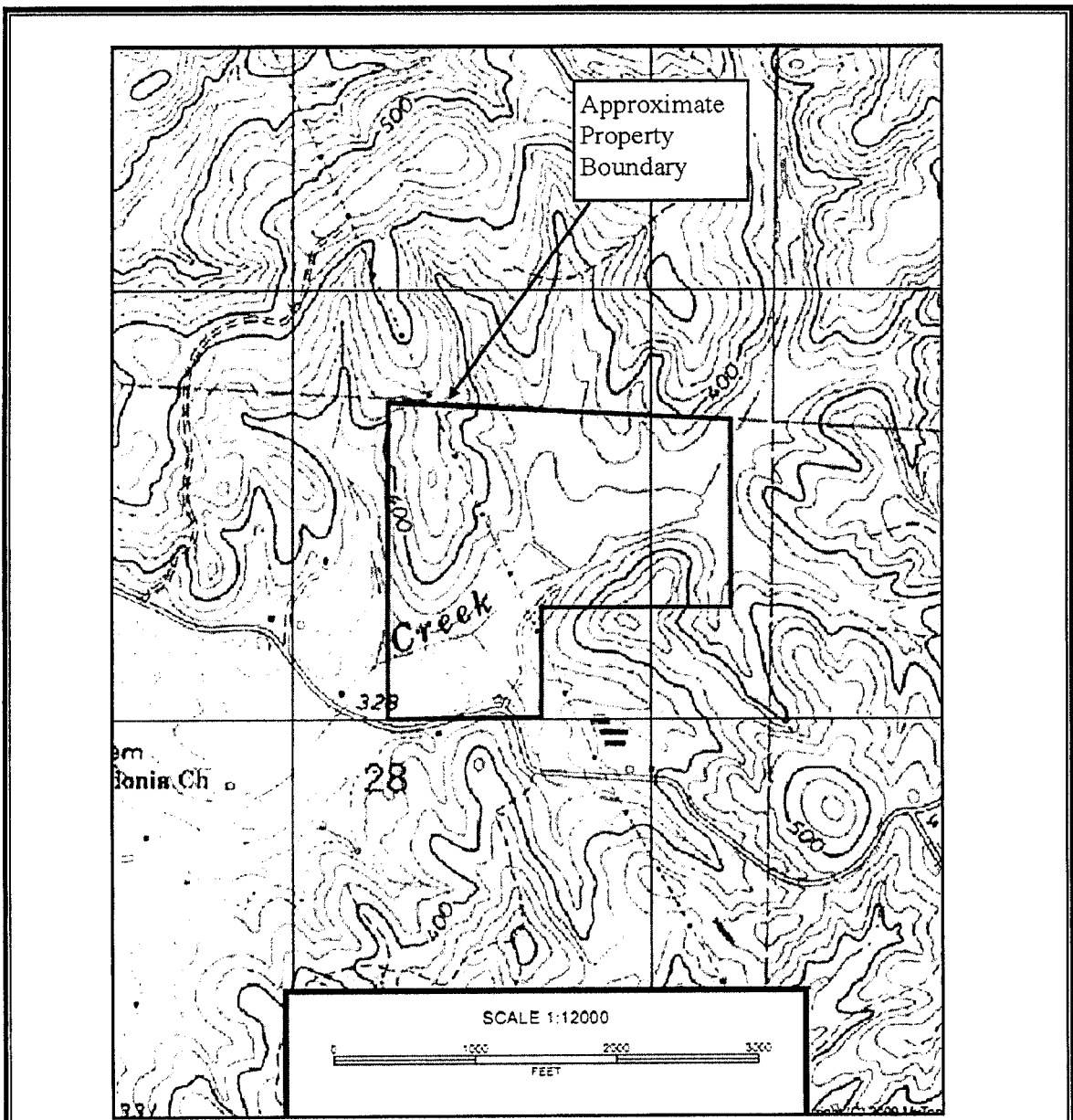
Drawn By:	Project#:
HB	2245-001
Checked By:	Date:
	04-18-11
Project Mgr.:	File Name:

SPECTRUM
Environmental Inc.

85 Spectrum Cove
Alabaster, AL 35007
FAX (205) 664-2142
PHONE (205) 664-2000

TITLE
Figure 2465001-1 Site Location Kirkley Foundation Fayette, Fayette County, Alabama

USACE Section 404 After-the-Fact Permit Application – Applicant
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Source: U.S.G.S. 7.5 Minute Fayette, ALA Quadrangle
 1967, Photorevised 1983



NO.	DATE	REVISION	NOTE	BY

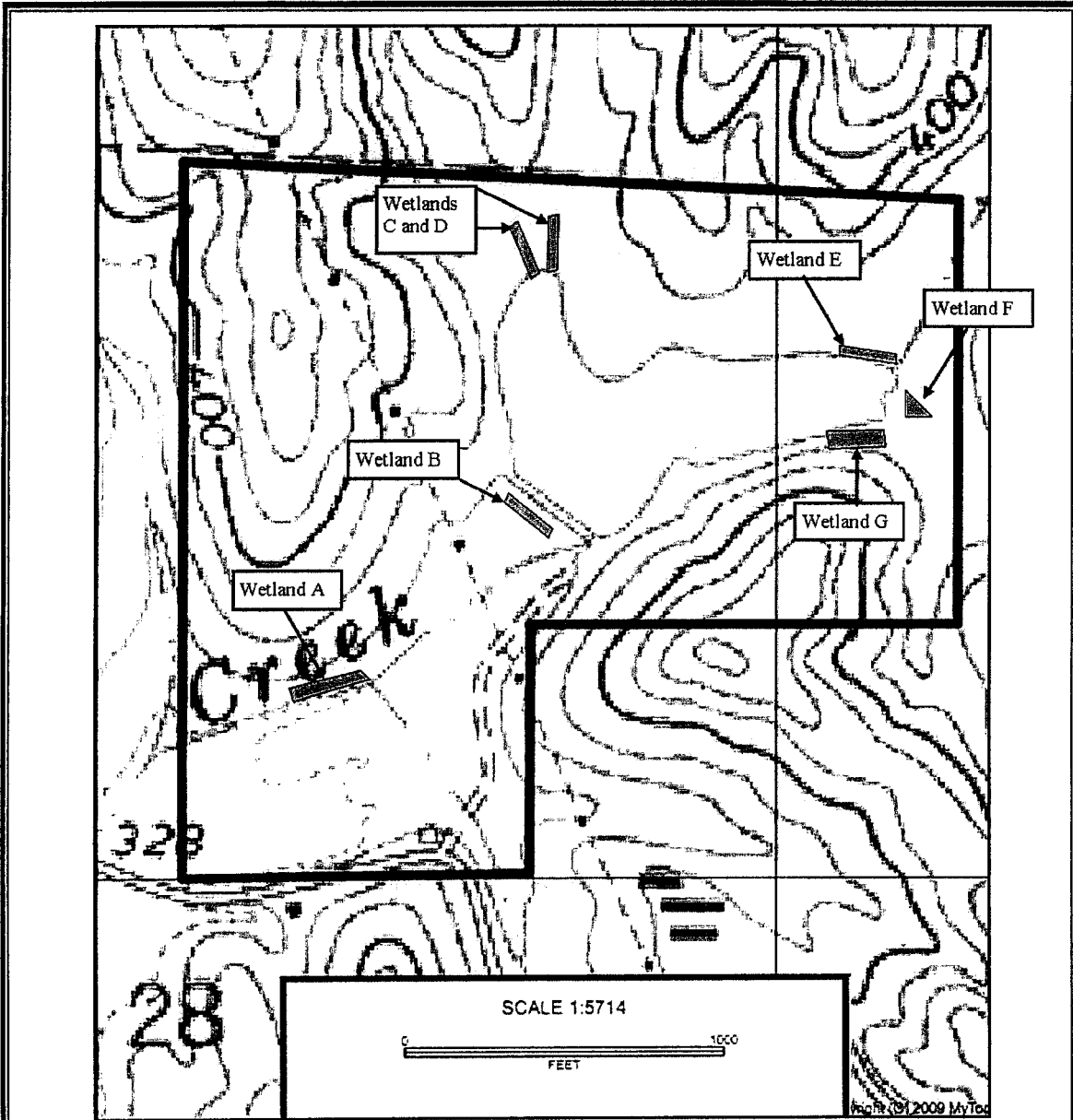
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TITLE
Figure 2465001-2 Topographic Map Kirkley Foundation Fayette, Fayette County, Alabama

USACE Section 404 After-the-Fact Permit Application – Applicant
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Source: U.S.G.S. 7.5 Minute Fayette, ALA Quadrangle
 1967, Photorevised 1983



NO.	DATE	REVISION NOTE	BY

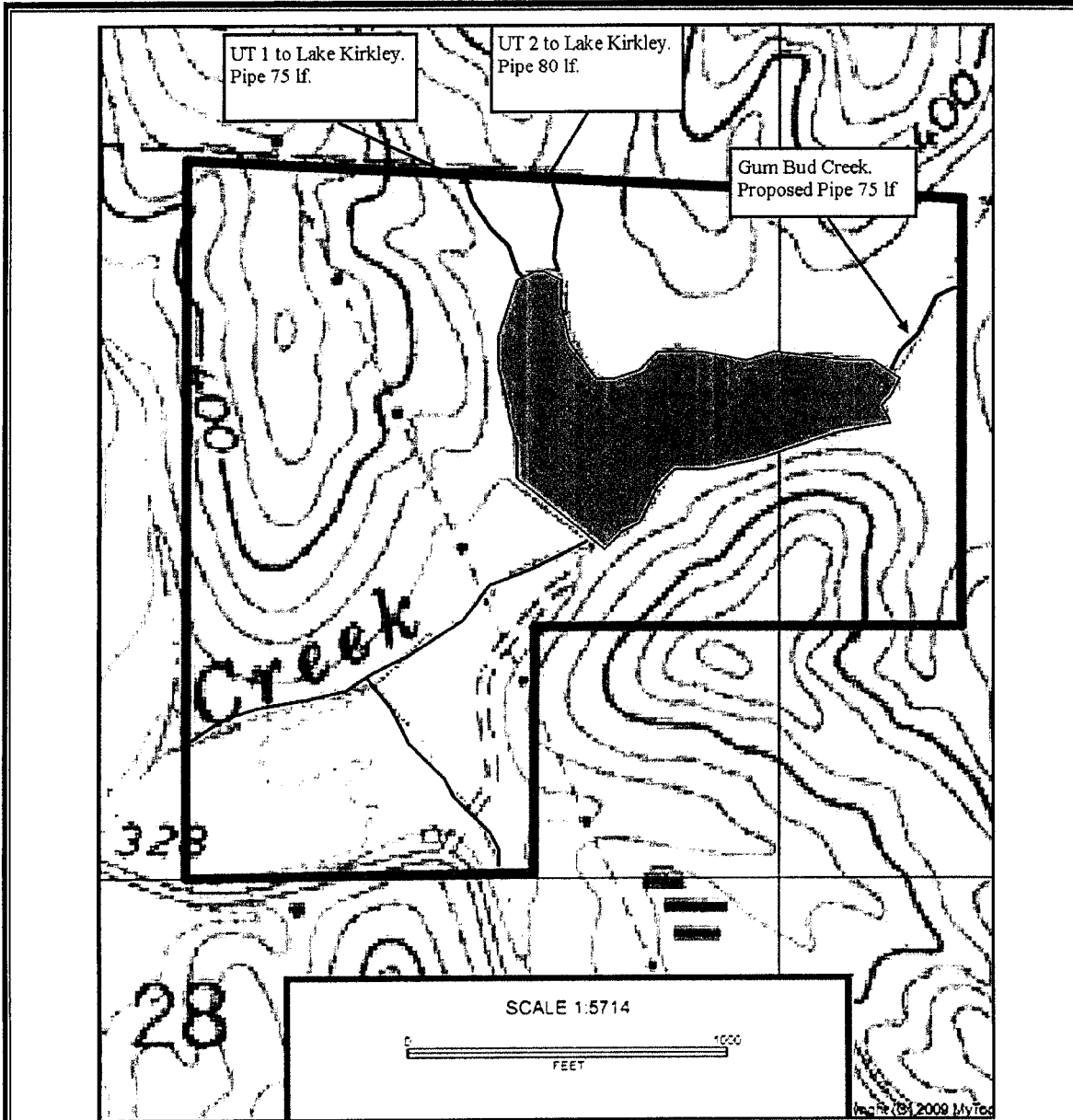
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80 Spectrum Cove
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TITLE
Figure 2465001-4 Wetland Impact Map Kirkley Foundation Fayette, Fayette County, Alabama

USACE Section 404 After-the-Fact Permit Application – Applicant
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Source: Maptech, Inc. 1999
 Fayette, AL



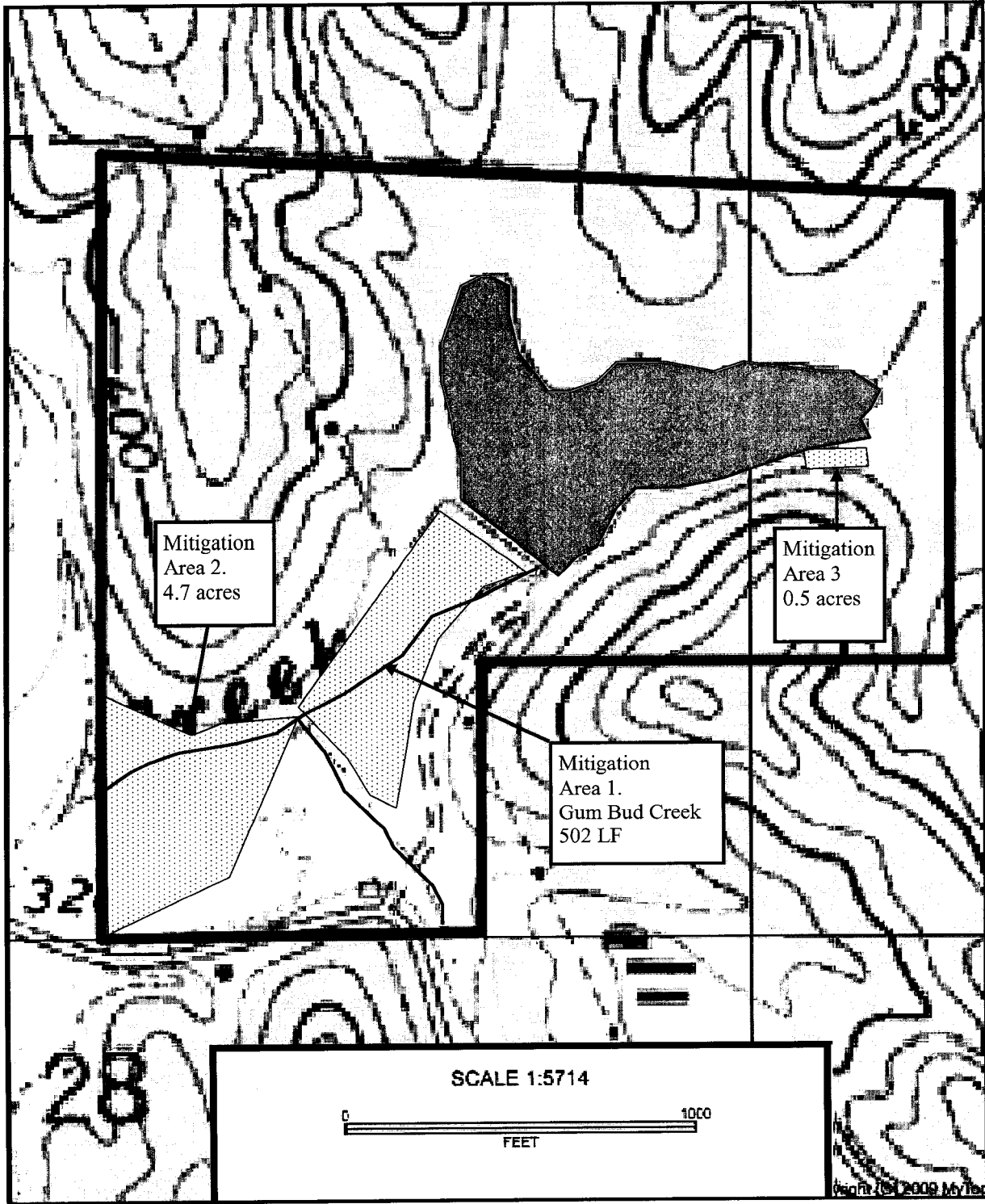
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TITLE
Figure 2465001-6 Stream Impact Map Kirkley Foundation Fayette, Fayette County, Alabama



Source: Maptech, Inc. 1999
Fayette, AL



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TITLE
Figure MP-1 Mitigation Map Kirkley Foundation Fayette, Fayette County, Alabama