



Valley Creek Feasibility Study, Bessemer and Birmingham, Alabama

Final Integrated Feasibility Report and Environmental Assessment

Appendix E – Public and Agency Coordination

June 2021



**US Army Corps
of Engineers** ®



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, KANSAS CITY DISTRICT
635 FEDERAL BLDG
601 E. 12TH STREET
KANSAS CITY MO 64106-2824

CENWK-PMP

June 1, 2020

**JOINT PUBLIC NOTICE
U.S. ARMY CORPS OF ENGINEERS
AND
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
VALLEY CREEK FLOOD RISK MANAGEMENT FEASIBILITY STUDY
VALLEY CREEK
JEFFERSON COUNTY, ALABAMA
A FEDERALLY AUTHORIZED PROJECT**

Interested persons are hereby notified that the U.S. Army Corps of Engineers (USACE), Kansas City District proposes a plan for flood risk management at Valley Creek in Jefferson County, Alabama. This public notice is issued in accordance with rules and regulations published in the Federal Register on 26 April 1988. These regulations provide for the review of federally authorized projects under the Clean Water Act (33 U.S.C. 1344) whenever dredged or fill materials may enter waters of the United States.

The recipient of this notice is specifically requested to review the proposed action as it may impact water quality relative to the requirements of Section 404(b)(1) of the Clean Water Act. Comments on any other potential impacts also are requested.

WATERWAY AND LOCATION: Valley Creek in Jefferson County, Alabama from its origins in central Birmingham near 5th Avenue and 7th Streets to just downstream of the Jefferson County Wastewater Treatment facility. Within the study area, Valley Creek flows through the cities of Birmingham, Fairfield, Midfield, Lipscomb, Brighton, Hueytown, and Bessemer.

DESCRIPTION OF THE PROPOSED ACTION: The proposed action includes construction of three overbank detention basins each with an inlet weir, containment berm, and outlet structure. Recreation features are included in the conceptual plan. Detention basin 1 (VD1) comprises approximately 10.0 acres on the left overbank of Valley Creek downstream of Center Street. There is one home on the property and minor roadways. Figures 2 and 3 display a general grading plan and associated profile and section, respectively. Detention basin 2 (VD2) comprises 13.6 acres on left overbank downstream of Princeton Parkway. The area includes three homes and minor roadways. Figures 4 and 5 display a general grading plan and associated profile and section, respectively. Detention basin 4 (VD4) comprises 16.4 acres on left overbank at Lincoln Ave. Figures 6 and 7 display a general grading plan and associated profile and section, respectively.

Site preparation includes clearing, grubbing, and stripping at each area. Each site consists primarily of grasses, shrubs, and trees. Approximately 2.1 acres of clearing and grubbing and 7.1 acres of stripping would be required at VD1. Approximately 4.7 acres of clearing and

grubbing and 14.2 acres of stripping would be required at VD2. Approximately 4.0 acres of clearing and grubbing and 11.9 acres of stripping would be required at VD4. VD4 contains an area of NWI-mapped forested wetland. Demolition and removal of structures and pavement would be required as necessary.

Following site preparation, the basins would be excavated, and soil hauled to the containment berm locations for placement and compaction or hauled to a designated disposal location. Excavation will be to a desired elevation to maximize depth and storage volume as well as provide appropriate slope to allow the basin to naturally drain by gravity. It is anticipated all excavation can be achieved prior to encountering bedrock. It is assumed there is sufficient quantity of suitable material for building the containment berm on-site based on the volume of material excavated compared to the volume of material required for the containment berm. Containment berms would follow the perimeter of the basin and range in height from 2-feet to 6-feet depending on the existing ground elevation. Top width is currently 10-foot wide with aggregate surfacing.

The sites would need armoring for erosion protection on both channel and detention sides of the embankments. The armoring suggested is of the articulated concrete block (ACB) or articulated concrete mat (ACM) type. Though the berms will be armored, some grass will grow in the interstitial of the ACB/ACM. Additional armoring would be needed at the outlet toe of the spillway for each site. The stone applicable for these sites (based on overtopping velocities at the spillway) is Alabama Department of Transportation (ALDOT) Class V riprap (D50 = 1000 pounds). This stone will need to be choked with a smaller size, likely a Class II. Filter material required for appropriate grading is also included in the plan. This would be in the form of a poorly graded gravel layer, topped with an AASHTO #57 stone or similar. A filter fabric may also be required below the base (filter) layer.

Outlet structures are assumed to be 36-inch reinforced concrete pipe culverts. Other types of culverts could be employed if needed based on site constraints. Additional protection at the inlets and outlets of these features is required, approximately 100 cubic yards for each culvert (both upstream and downstream protection included). Alabama DOT Class II riprap will be suitable for this application based on culvert outflow expectations.

WATER QUALITY CERTIFICATION: Pursuant to Section 401 of the Clean Water Act, a state water quality certification is required for the proposed activities. Following this 30-day public notice, USACE, Kansas City District will request water quality certification from the Alabama Department of Environmental Management. A decision on state water quality certification will be made by the Alabama Department of Environmental Management.

USE BY OTHERS: The proposed project may have a temporary negative impact on recreational activities due to the presence of construction equipment; however, these impacts will be minor cumulatively and individually. Recreation features (i.e. trails) are incorporated into the proposed project; therefore, beneficial impacts to recreation are anticipated.

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) CONSIDERATIONS: In accordance with the requirements of the NEPA, potential impacts have been disclosed for the proposed action in the following Draft Integrated Feasibility Report and Environmental Assessment, Valley Creek Feasibility Study, Bessemer and Birmingham, Alabama. This documentation is available for

review at USACE, Mobile District's study website at <https://www.sam.usace.army.mil/Missions/Planning-Environmental/Environment-Resources/Inland-Environment/Valley-Creek-Flood-Risk-Management-Study/>. The Environmental Assessment will be updated based upon comments received.

SECTION 404(b)(1) EVALUATION REPORT: Water quality impacts associated with the proposed action have been addressed in the Section 404 (b)(1) Evaluation Report. This report was prepared in accordance with guidelines promulgated by the U.S. Environmental Protection Agency (EPA) under Section 404 (b)(1) of the Clean Water Act. The Section 404(b)(1) Evaluation Report is available for review at the Mobile District's website at <https://www.sam.usace.army.mil/Missions/Planning-Environmental/Environment-Resources/Inland-Environment/Valley-Creek-Flood-Risk-Management-Study/>, and will be finalized upon completion of the coordination of this notice.

CULTURAL/HISTORIC RESOURCES CONSIDERATIONS: USACE has prepared a Programmatic Agreement (PA) to fulfill its National Historic Preservation Act Section 106 compliance responsibilities at this stage of project planning. The PA identifies the procedures that will be followed in evaluation of historic properties that may be affected by the proposed action. Any identified historic properties within the project footprints would be evaluated in compliance with the PA. If it is determined that project activities will result in adverse effects, USACE, in consultation with SHPO, Concurring Parties, and Federally Recognized Indian Tribes, would develop a Historic Properties Treatment Plan (HPTP) to resolve all adverse effects resulting from the project, which would be appended to the PA. HPTP shall outline the minimization and mitigation measures necessary to resolve the adverse effects to Historic Properties. Proposed mitigation measures may include, but are not limited to, data recovery, oral history, historic markers, interpretive brochures, and publications, depending on their criterion for eligibility. Development of appropriate measures shall include consideration of historic property types and provisions for avoidance or protection of historic properties where possible. If it is determined that archaeological and/or tribal monitors are appropriate, HPTP shall include a Monitoring Plan. If adverse effects are identified, HPTP would be in effect before construction commences. USACE would submit HPTP for review to the SHPO, Concurring Parties, and Federally Recognized Indian Tribes.

Consultations regarding the PA are being conducted with the Alabama State Historic Preservation Officer (SHPO), Federally Recognized Tribes, National Park Service (NPS), and the Advisory Council on Historic Preservation (ACHP). Any comments received from the SHPO, Tribes, the NPS, and the ACHP will be addressed in this EA or as appropriate the National Park Service and the Advisory Council on Historic Preservation.

ENDANGERED/THREATENED SPECIES: In compliance with Section 7 of the Endangered Species Act of 1973 (ESA), the proposed action is being coordinated with the U.S. Fish and Wildlife Service (USFWS) through official correspondence. USACE, Kansas City District has determined that federally protected bat species may be affected but are not likely to be adversely affected by the proposed action. USFWS recommended that tree clearing occur from October 15 to March 31 to avoid impacts to spring/summer roosting and maternity colonies of the Indiana bat and northern long-eared bat. USFWS stated if all tree removal for the project is restricted to occur between those dates, no further consultation is necessary on the federally listed bat species. USACE intends to comply with the identified seasonal restrictions for tree

clearing and will incorporate those restrictions in all construction contracts. Should compliance with the seasonal restrictions not prove feasible, USACE would perform all required habitat surveys and additional consultation with USFWS prior to clearing trees.

CLEAN AIR ACT: Air quality in the vicinity of the proposed action would not be significantly affected. The equipment and machinery would generate some air pollution during construction activities, such as increased particulate levels from the burning of fossil fuels. However, these impacts would be negligible. The project area is in attainment with the National Ambient Air Quality Standards parameters. The proposed action would not affect the attainment status of the project area or the region. A State Implementation Plan conformity determination (42 United States Code 7506(c)) is not required since the project area is in attainment for all critical pollutants.

EVALUATION: The decision whether to proceed with the proposed action will be based on 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 benefits which may be reasonably 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, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

Inasmuch as the proposed work would involve the discharge of materials into waters of the U.S., designation of the proposed disposal site associated with this Federal project is being made through application of guidelines promulgated by the Administrator of the EPA in conjunction with the Secretary of the Army.

COORDINATION: USACE, Kansas City District is soliciting comments from the general public; Federal, State, and local agencies, and officials; American Indian Tribes, and other interested parties in order to consider and evaluate the impacts of the proposed activity. Any comments received will be used by USACE, Kansas City District to determine whether or not to proceed with the proposed action. 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 also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity and in preparing an EA and/or an EIS pursuant to the NEPA compliance.

Among the agencies receiving copies of the Public Notice are:

- Region 4, U.S. Environmental Protection Agency
- U.S. Department of the Interior, Fish and Wildlife Service, Daphne, Alabama
- Alabama Department of Conservation and Natural Resources
- Alabama Department of Environmental Management
- Alabama State Historic Preservation Officer

We request that you communicate the information contained in this notice to any other parties who may have an interest in the proposed action.

PUBLIC HEARING: Any person who may be affected by the discharge of this fill material may request a public hearing. The request must be submitted in writing to the District Engineer within the comment period of this public notice. The request must clearly set forth the interest which may be affected and the manner in which the interest may be affected by this activity.

CORRESPONDENCE: The study area is within South Atlantic Division, Mobile District's Area of Responsibility, but the study is being led by Kansas City District. Correspondence concerning this 30-day public notice should refer to Public Notice No. 2020-002-CW and should be directed to the U.S. Army Corps of Engineers, Kansas City District, Room 538, 601 E. 12th Street, Kansas City, MO 64106, Attention: CENWK-PMP-F, Mr. Cassidy Garden. Mr. Garden may be contacted via phone at (816) 389-3851 or via email at cassidy.c.garden@usace.army.mil for additional information.

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JENNIFER SWITZER
U.S. Army Corps of Engineers
Kansas City District
Chief of Planning

Enclosures

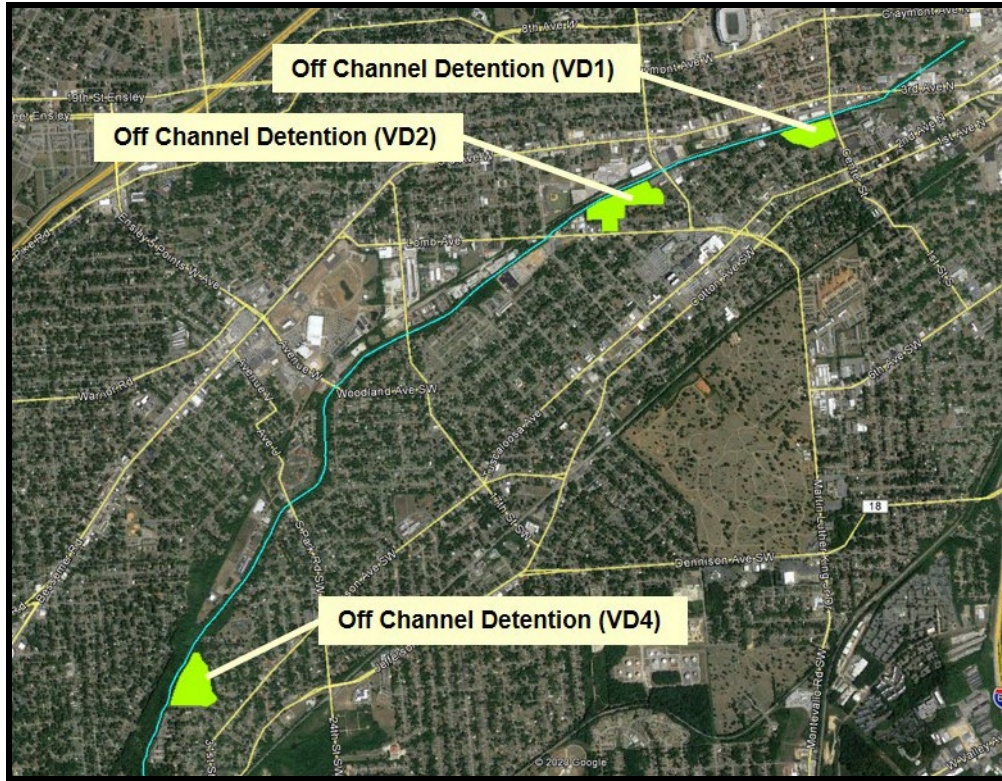


Figure 1. Location of Off Channel Detention Areas in Birmingham, AL.

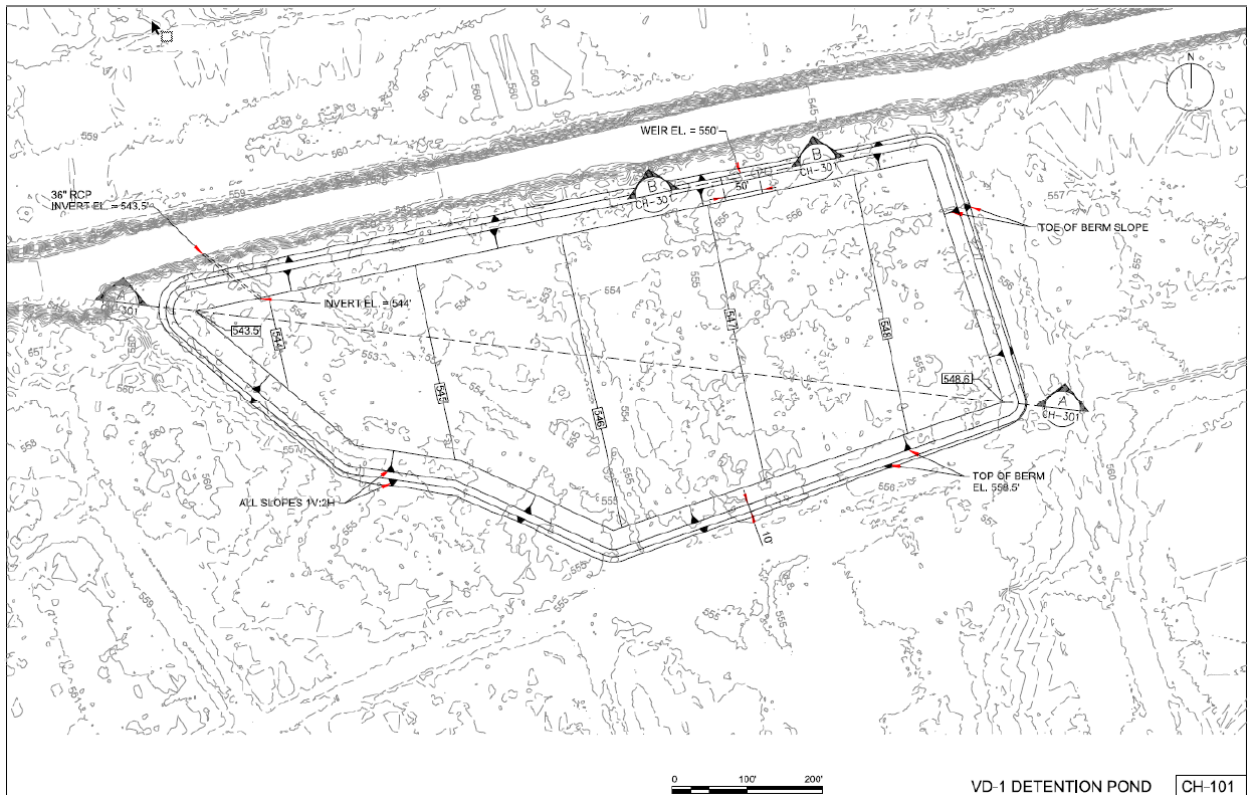


Figure 2. Conceptual plan of Overbank Detention Basin VD1

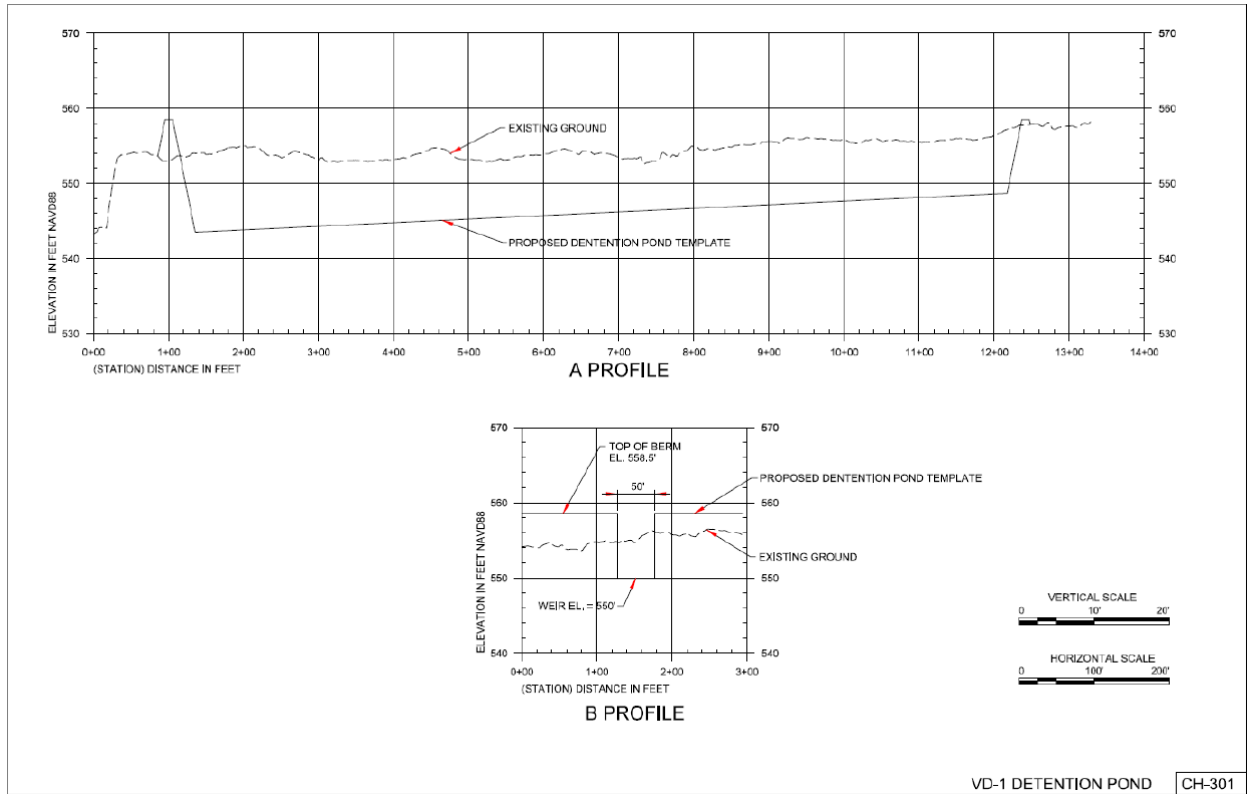


Figure 3. Conceptual Profile and Section Detail of Basin and Lateral Inflow Weir at VD1

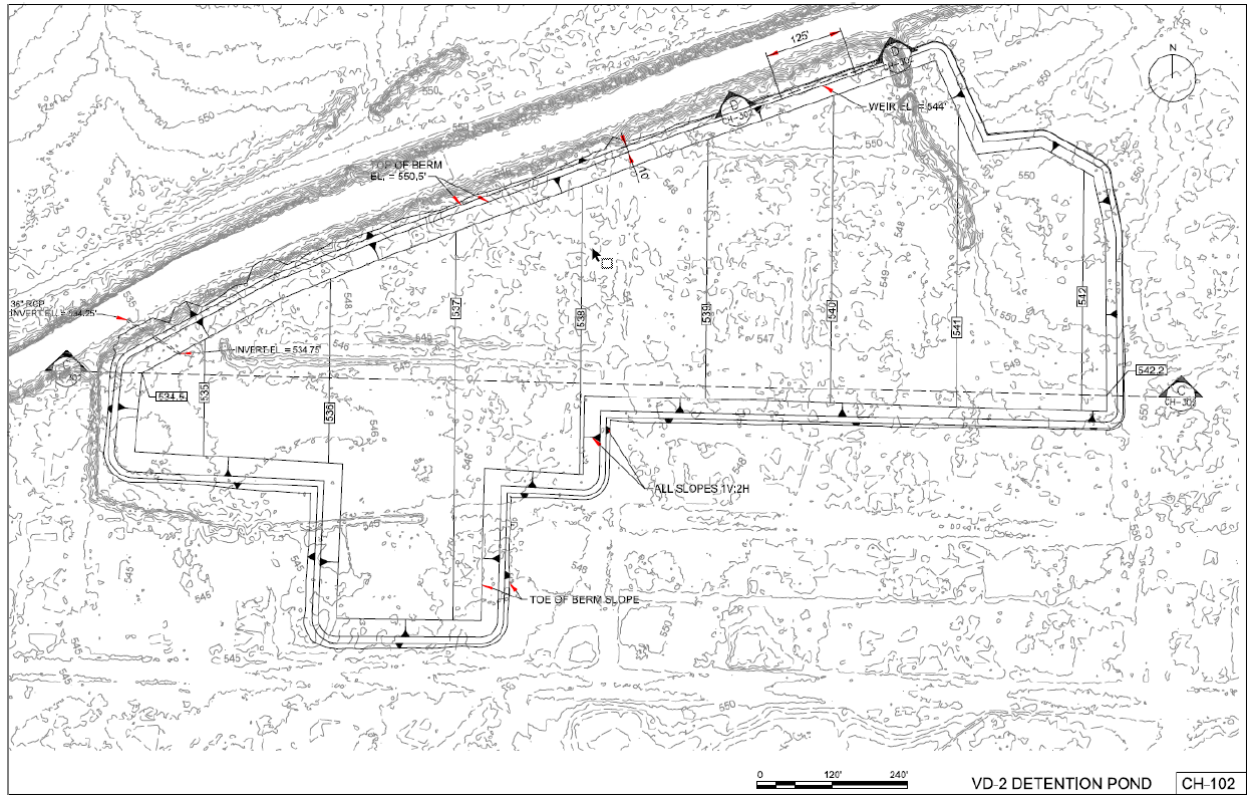


Figure 4. Conceptual plan of Overbank Detention Basin VD2

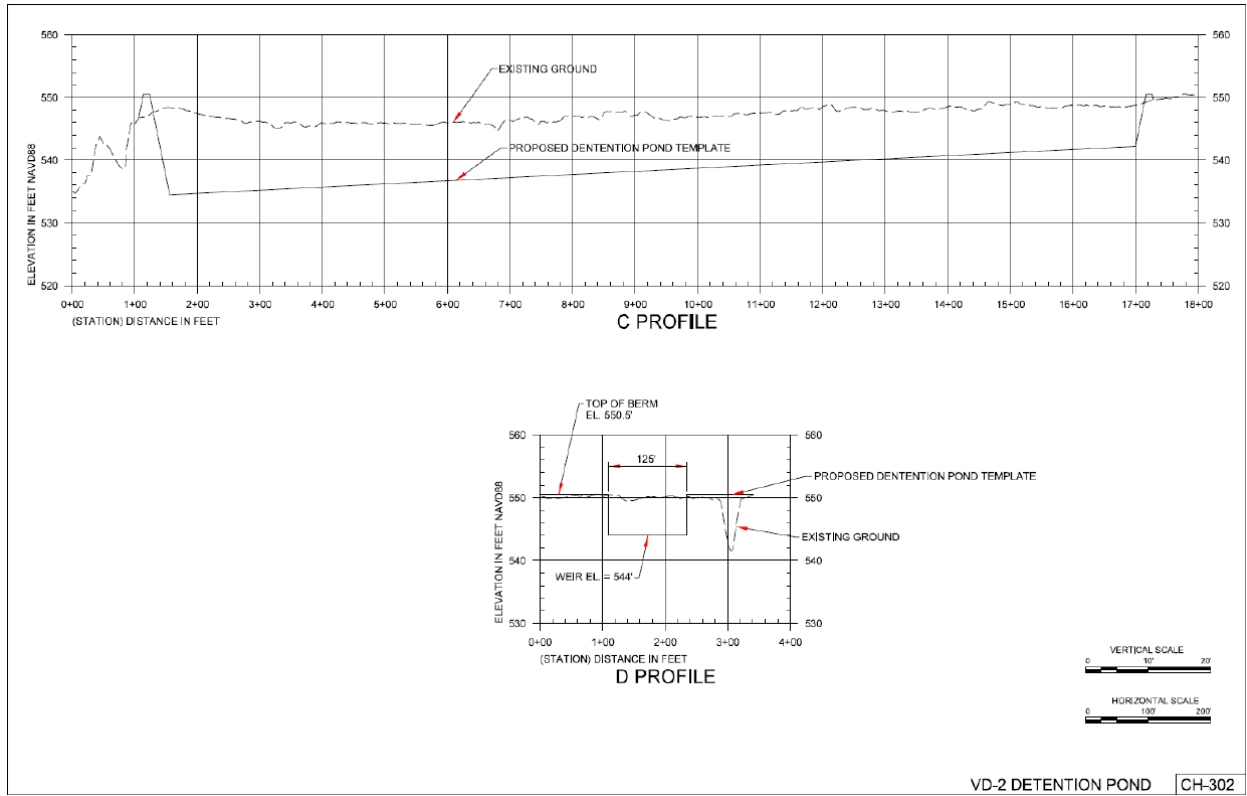


Figure 5. Conceptual Profile and Section Detail of Basin and Lateral Inflow Weir at VD1

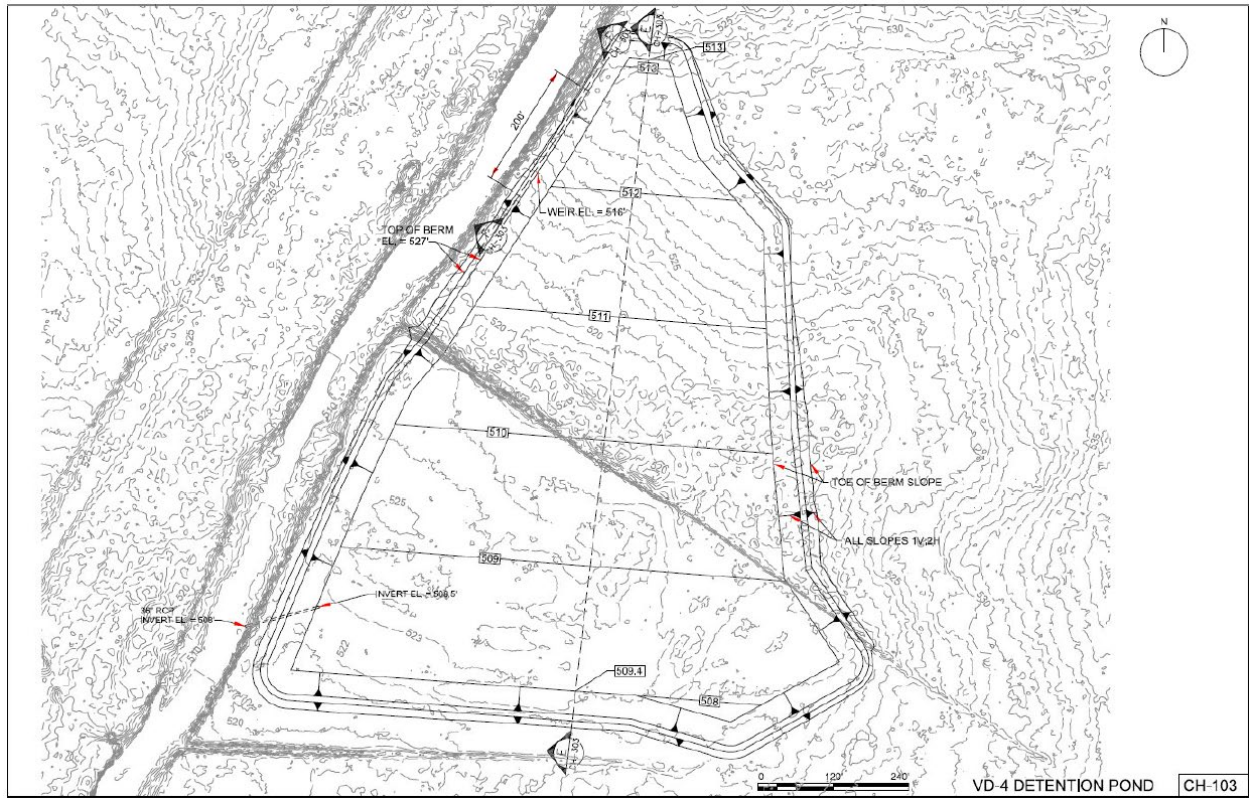


Figure 6. Conceptual plan of Overbank Detention Basin VD4

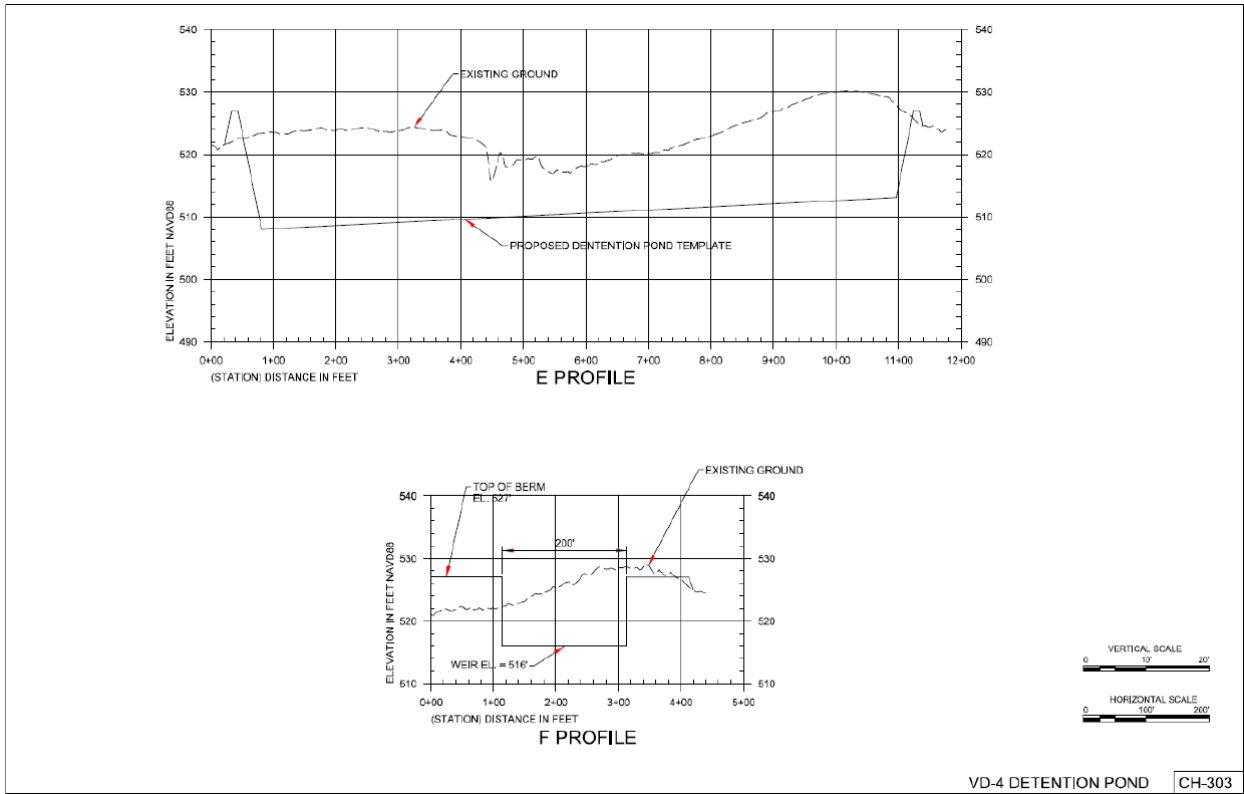


Figure 7. Conceptual Profile and Section Detail of Basin and Lateral Inflow Weir at VD4

From: [Snyder, Michael V CIV USARMY CENWK \(USA\)](#)
To: ["bill_pearson@fws.gov"](#); ["Kajumba.ntale@Epa.gov"](#); ["PR1@adem.alabama.gov"](#); ["RFH@adem.alabama.gov"](#); ["Taconya.Goar@dcnr.alabama.gov"](#); ["lisa.jones@ahc.alabama.gov"](#); ["stacye.hathorn@ahc.alabama.gov"](#); [amanda.mcbride@ahc.alabama.gov](#); [106NAGPRA@astribe.com](#); [histpres@actribe.org](#); [Celestine.bryant@actribe.org](#); [aqhpo@mail.com](#); [Elizabeth-toombs@cherokee.org](#); [hpo@chickasaw.net](#); [Karen.brunso@chickasaw.net](#); [bbarnes@estoo.net](#); [David.cook@kialegetribe.net](#); [Section106@mcn-nsn.gov](#); [tonya@shawnee-tribe.com](#); [josh_rowell@fws.gov](#); [fielddmail@adem.alabama.gov](#); [brownng@dot.state.al.us](#); [cwolfe@ukb-nsn.gov](#); [United Keetoowah Band of Cherokee of Oklahoma](#); [Stuart McGregor](#); [THPO@pci-nsn.gov](#)
Cc: [Garden, Cassidy C CIV USARMY CENWK \(USA\)](#); [Farmer, Jason W CIV USARMY CENWK \(USA\)](#); [Grothaus, John J CIV USARMY CENWK \(USA\)](#)
Subject: Valley Creek Flood Risk Management Study - Public Notice and Draft Report Release
Date: Tuesday, June 2, 2020 10:24:00 AM
Attachments: [2020.06.01 Valley Creek Public Notice_508_signed.pdf](#)

The U.S. Army Corps of Engineers has published a joint public notice and draft integrated feasibility report and environmental assessment for the Valley Creek Flood Risk Management Study in Jefferson County, Alabama (see attached). Issuance of the public notice initiates a 30-day public and agency review period. The draft report documents USACE analysis of alternative plans for reducing flood risk along Valley Creek in the Birmingham metropolitan area, including the municipalities of Fairfield, Midfield, Lipscomb, Brighton, Hueytown, and Bessemer. The draft report identifies the USACE tentatively selected plan (TSP), which consists of three off-channel detention basins in the northern portion of the study area. The public notice and draft report along with appendices can be accessed at the following websites:

<https://www.sam.usace.army.mil/Missions/Planning-Environmental/Public-Notices/>

<https://www.sam.usace.army.mil/Missions/Planning-Environmental/Environment-Resources/Inland-Environment/Valley-Creek-Flood-Risk-Management-Study/>

The public notice contains information on how to submit comments; however, please feel free to contact me directly with questions. You may also contact the USACE Project Manager, Mr. Cassidy Garden, at (816) 389-3851 or via email at cassidy.c.garden@usace.army.mil.

Thank you,

Michael V. Snyder
Environmental Resource Specialist, PMP-R
U.S. Army Corps of Engineers - Kansas City District
601 E. 12th St.
Kansas City, MO 64106

(816) 389-3141

From: [Snyder, Michael V CIV USARMY CENWK \(USA\)](#)
To: gailpatricia1027@yahoo.com; nakcorey@hotmail.com; reginiadodson@yahoo.com; wychec97@gmail.com; jilincb78@gmail.com; louise2508@gmail.com; Van42101@aol.com
Subject: Valley Creek Flood Risk Study - Draft Report Released
Date: Tuesday, June 2, 2020 10:26:00 AM

Hello,

You are receiving this email because you signed up to stay informed regarding the Valley Creek Flood Risk Study being conducted by the U.S. Army Corps of Engineers in partnership with the City of Bessemer and Birmingham. The Corps has released the Draft Integrated Feasibility Report and Environmental Assessment, which documents the tentatively selected plan. The report is being made available for a 30-day public and agency comment period. Links to more information can be found in the press release.

The official news release can be read at: <https://www.sam.usace.army.mil/Media/News-Releases/Article/2204884/usace-releases-draft-report-on-valley-creek-study-with-30-day-comment-period/>

Thank you and please feel free to let me know if you have any questions,

Michael V. Snyder
Environmental Resource Specialist, PMP-R
U.S. Army Corps of Engineers - Kansas City District
601 E. 12th St.
Kansas City, MO 64106

(816) 389-3141



Alabama Department of Environmental Management
adem.alabama.gov

1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

August 31, 2021

Mr. Michael Snyder
Environmental Resources Specialist
U.S. Army Corps of Engineers
Kansas City District
601 E. 12th Street
Kansas City, MO 64106

Dear Mr. Snyder:

RE: Valley Creek Flood Risk Management Feasibility Study

This letter acknowledges that the Alabama Department of Environmental Management has been made aware of the recommended plan for the subject study and its need to obtain a 401 water quality certification prior to construction. We have reviewed the Valley Creek Flood Risk Management Feasibility Report Section 404(b)(1) evaluation and at this time do not have any significant concerns with the project.

In the event funding is obtained for the project we will work with the Corps of Engineers Mobile District to facilitate the submittal of a formal request for a 401 water quality certification. Upon receipt of that formal request we will conduct a thorough review of the application package and determine our ability to issue a 401 water quality certification.

In the event you have any questions please feel free to contact me at 334/394-4304.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony Scott Hughes", is written over a white background.

Anthony Scott Hughes, Chief
Field Operations Division

ASH





United States Department of the Interior

FISH AND WILDLIFE SERVICE
1208-B Main Street
Daphne, Alabama 36526

APR 08 2021

IN REPLY REFER TO:
2019-CPA-0161

Michael V. Snyder
Environmental Resource Specialist, PMP-R
U.S. Army Corps of Engineers - Kansas City District
601 E. 12th St.
Kansas City, MO 64106

Mr. Snyder:

We are in receipt of your email on April 2, 2021, regarding comments under the Fish and Wildlife Coordination Act (FWCA) on the Valley Creek Flood Risk Management Feasibility Study, located in Birmingham and Bessemer, Jefferson County, Alabama. We provided comments in response to your ESA determination on June 18, 2020. We have no FWCA comments on the project.

If you have any questions or need additional information, please contact Ms. Shannon Holbrook of my staff at (251) 441-5871. Please refer to the reference number located at the top of this letter in future phone calls or written correspondence.

Sincerely,

Jeffrey R. Powell
Deputy Field Supervisor
Alabama Ecological Services Field Office

From: [Snyder, Michael V CIV USARMY CENWK \(USA\)](#)
To: [Pearson, Bill](#)
Cc: josh_rowell@fws.gov; [Gemeinhardt, Todd R CIV USARMY CENWK \(US\)](#); [Jansen, Ronald G CIV USARMY CENWK \(USA\)](#)
Subject: USACE Valley Creek Flood Risk Management Feasibility Study - Project Update
Date: Friday, April 2, 2021 4:33:00 PM

Dear Mr. Pearson:

Beginning in December 2018, USACE coordinated with your office regarding the Valley Creek Flood Risk Management Feasibility Study, located in Birmingham and Bessemer, Jefferson County, Alabama. In June 2020, USACE released the draft integrated feasibility report and environmental assessment and made that report available to your office for review. At that time, we also requested concurrence on our ESA determination, which you provided in response signed June 18, 2020 (2019-CPA-0161). In that letter we requested USFWS comments relating to the Fish and Wildlife Coordination Act (FWCA). It had been previously indicated that field office staff were not available to support FWCA activities. Our understanding was that an agreement was reached between USACE Mobile District and your office that FWCA input would be provided as part of review of the draft report.

I am writing to inform you that since release of the draft report, USACE refined its plan formulation and mitigation evaluation. This resulted in a change in the recommended plan. The tentatively selected plan (TSP) identified in the draft report included construction of three off-channel stormwater detention basins (identified as VD1, VD2, and VD4 in the draft report). The recommended plan identified in the final report includes two detention basins (VD1 and VD2). The change in recommended plan results in a reduction in necessary tree clearing, which reduces potential impacts. USACE intends to comply with identified seasonal restrictions on tree clearing in constructing the project. Therefore, our previously communicated determination on federally listed bats remains unchanged.

Our completed mitigation evaluation determined that the recommended plan would adversely impact 5.6 acres of deciduous forest resulting in a loss of 4.3 average annual habitat units (AAHUs) based on evaluation with the barred owl habitat suitability index (HSI). Based on assumed tree species composition, the deciduous forest impacted is considered bottomland hardwood forest and is treated as such for purposes of mitigation planning. USACE Engineering Regulation (ER) 1105-2-100 requires that adverse impacts to bottomland hardwood forest be mitigated in-kind, to the extent practicable. In addition, implementation guidance for Section 1163 of the Water Resources Development Act of 2016 requires consideration of mitigation banks and in-lieu fee programs for mitigating impacts to wetlands and other habitats. An evaluation of mitigation options determined that purchasing 5.0 bottomland hardwood credits at the Big Sandy Mitigation Bank would be the most cost-effective means of achieving the mitigation.

USACE is in the process of completing its final report for submission up our vertical chain for approval. We would like to confirm with USFWS that it did not wish to offer any FWCA comments on the project. If USFWS has no FWCA comments, it would be helpful to have documentation of that in communicating internally with our vertical review teams. We appreciate your time relative to this matter and if you have any questions or require additional information on the project, please let me

know.

Regards,

Michael V. Snyder
Environmental Resource Specialist, PMP-R
U.S. Army Corps of Engineers - Kansas City District
601 E. 12th St.
Kansas City, MO 64106

Office: (816) 389-3141

Cell: (816) 868-1097



Event / SH

**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, KANSAS CITY DISTRICT
635 FEDERAL BLDG
601 E. 12TH STREET
KANSAS CITY MO 64106-2824**

RECEIVED
JUN 03 2020
BY: *CS*

2019-CPA-0161

CENWK-PMP-R

William J. Pearson
Field Supervisor
Alabama Ecological Services Field Office
U.S. Fish and Wildlife Service
1208-B Main Street
Daphne, Alabama 36526

Reference # 2019-CPA-0161



U.S. Fish and Wildlife Service
1208-B – Daphne, Alabama 36526
Phone: 251-441-5181 Fax: 251-441-6222

Your project site contains suitable spring/summer habitat for the endangered Indiana bat and/or threatened northern long-eared bat. However, you have stated that tree removal will occur between October 15 and March 31; therefore, we concur that your proposed project is not likely to adversely affect the Indiana bat and/or northern long-eared bat. No other federally listed species/critical habitat are known to occur in the project area. **IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT NEW PLANS FOR REVIEW.** We recommend the use of best management practices specific to your project (See <http://www.fws.gov/daphne/section7/bmp.html>).

William J. Pearson, Field Supervisor

Date

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Dear Mr. Pearson:

The U.S. Army Corps of Engineers (USACE), Kansas City District, and the City of Bessemer, Alabama are partnering on a feasibility study to evaluate flood risk management measures in the Valley Creek basin. The study area is within USACE Mobile District's Area of Responsibility, but the study is being led by the Kansas City District. On June 1, 2020, USACE released a draft integrated feasibility report and environmental assessment for a 30-day public and agency review. The draft report identifies the tentatively selected plan, which includes construction of three detention basins along Valley Creek within Birmingham, Alabama. The draft report can be accessed at the following web site: <https://www.sam.usace.army.mil/Missions/Planning-Environmental/Environment-Resources/Inland-Environment/Valley-Creek-Flood-Risk-Management-Study/>. The purpose of this letter is to communicate our conclusions regarding the proposed action's potential to affect federally listed species under the Endangered Species Act and to formally request USFWS input in accordance with the Fish and Wildlife Coordination Act on impacts to fish and wildlife resources.

Endangered Species Act

We previously communicated with your office regarding the potential for federally listed species to occur within the study area. In a letter dated May 2, 2019 (Reference # 2019-CPA-0161), USFWS concurred with our assessment that the list of potentially affected species include gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and watercress darter (*Etheostoma nuchale*). That letter also stated that to avoid impacts to spring/summer roosting and maternity colonies of the Indiana bat and northern long-eared bat, it is recommended that tree clearing occur from October 15 to March 31. USFWS stated if all tree removal for the project is restricted to occur between those dates, no further consultation is necessary on the federally listed bat species. USACE intends to comply with the identified seasonal restrictions for tree clearing and will incorporate those restrictions in all construction contracts. Should compliance with the seasonal restrictions not prove feasible, USACE would perform all required habitat surveys and additional consultation with USFWS prior to clearing trees. Therefore, the project is determined to "may affect, not likely to adversely affect" the Indiana bat, northern long-eared bat, or gray bat.

Watercress darter is known to occur within springs adjacent to Valley Creek, but not within Valley Creek itself. USFWS recommended that USACE consider avoiding construction near these adjacent streams and that if any measures were anticipated to directly or indirectly affect suitable habitat for the watercress darter, then surveys and/or additional consultation may be required. The proposed action (as represented by the tentatively selected plan in the draft report) does not include any measures to be implemented on tributaries to Valley Creek. All measures would occur on or in the immediate floodplain of Valley Creek. As a result, no impacts to watercress darter are anticipated.

USACE requests concurrence that this concludes necessary ESA consultation for the study.

Fish and Wildlife Coordination Act

During previous communications with your office, it was indicated that field office staff were not available to support FWCA activities. Our understanding is that an agreement was reached between USACE Mobile District and your office that Fish and Wildlife Coordination Act input would be provided as part of review of the draft report. The draft report includes a discussion of anticipated impacts of the proposed action to fish and wildlife resources and identifies proposed mitigation measures. We request that your office provide any FWCA input in response to this letter. Please differentiate your FWCA-related comments from ESA-related content in your reply.

If you have any questions regarding this request, please contact Mr. Michael Snyder, Environmental Resources Specialist, at (816) 389-3141, or michael.v.snyder@usace.army.mil.

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Date: 2020.06.03 10:08:46 -05'00'

Jason W. Farmer
Chief, Environmental Resources Section
U.S. Army Corps of Engineers
Kansas City District

Copy:

Josh Rowell, USFWS



United States Department of the Interior

FISH AND WILDLIFE SERVICE
1208-B Main Street
Daphne, Alabama 36526

IN REPLY REFER TO:
2019-CPA-0161

MAY 02 2019

Jason W. Farmer
Chief, Environmental Resources Section
Department of the Army
Kansas City District, Corps of Engineers
635 Federal Building
601 E. 12th Street
Kansas City, MO 64106-2824

Dear Mr. Farmer:

Thank you for your letter of December 4, 2018, which was received on March 26, 2019, requesting information on federally listed species associated with the U.S. Army Corps of Engineers (USACE) Valley Creek Feasibility Study Area. We understand that a variety of flood control measures within Valley Creek are being considered by USACE. These include channel modification, levees, bridge removal, and other measures where appropriate. Environmental enhancements for wetland/floodplain benches, and construction of riffle-pool complexes are also being considered where feasible. The project is located in the City of Bessemer, Jefferson County, Alabama. Our comments are provided in accordance with provisions of the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

After reviewing the information provided in your letter, and a review of our records, we agree with your assessment that the following species could be affected by this proposal:

Northern Long-Eared Bat (*Myotis septentrionalis*) – Threatened
Indiana bat (*Myotis sodalis*) – Endangered
Gray bat (*Myotis grisescens*) – Endangered
Watercress darter (*Etheostoma nuchale*) – Endangered, CH

Suitable summer habitat for the Indiana bat and northern long-eared bat consists of a wide variety of forested/wooded habitats where they roost, forage, and travel and may also include some adjacent and interspersed non-forested habitats such as emergent wetlands and adjacent edges of agricultural fields, old fields and pastures. This includes forests and woodlots containing potential roosts (i.e., live trees and/or snags ≥ 5 inches dbh for the Indiana bat and ≥ 3 inches dbh for the northern long-eared bat that have exfoliating bark, cracks, crevices, and/or hollows), as well as linear features such as fencerows, riparian forests, and other wooded corridors. These wooded areas may be dense or loose aggregates of trees with variable amounts of canopy closure.

Individual trees may be considered suitable habitat when they exhibit the characteristics of a potential roost tree and are located within 1,000 feet of other forested/wooded habitat.

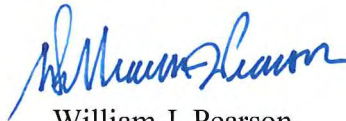
To avoid impacts to spring/summer roosting and maternity colonies of the Indiana bat and northern long-eared bat, we recommend that tree clearing occur from October 15 to March 31. If the all tree removal for this project occurs between October 15 and March 31, no further consultation will be necessary for the northern long-eared bat, Indiana bat, or gray bat. If this timing is not achievable and no other measures to avoid adverse effects are possible, then we recommend that the project proponent proceed to detailed habitat surveys or acoustic and/or mist-netting surveys to determine if potential habitat exists on site or to determine presence or probable absence of Indiana bats and northern long-eared bats in accordance with the 2018 Range-wide Indiana Bat Summer Survey Guidelines:

(<https://www.fws.gov/midwest/endangered/mammals/inba/inbasummersurveyguidance.html>).

As you state in your letter, the watercress darter is known to occur within the springs adjacent to Valley Creek, but not within Valley Creek itself. We recommend that USACE consider avoiding construction near these adjacent streams once site specific projects are finalized. If any project is anticipated to directly or indirectly affect suitable habitat for the watercress darter, then surveys and/or additional consultation may be required.

Thank you for the opportunity to comment on your project. For further discussion, please contact Mr. Josh Rowell of my staff at (251) 441-5836. Please refer to the reference number located at the top of this letter in future phone calls or written correspondence.

Sincerely,



William J. Pearson
Field Supervisor
Alabama Ecological Services Field Office



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, KANSAS CITY DISTRICT
635 FEDERAL BUILDING
601 E. 12TH STREET
KANSAS CITY, MISSOURI 64106-2824

Planning Branch

DEC - 4 2018

William J. Pearson
Field Supervisor
Alabama Ecological Services Field Office
U.S. Fish and Wildlife Service
1208-B Main Street
Daphne, Alabama 36526

Dear Mr. Pearson:

The U.S. Army Corps of Engineers (USACE), Kansas City District, and the City of Bessemer, Alabama are partnering on a feasibility study to evaluate flood risk management measures in the Valley Creek basin. The Valley Creek drainage area lies entirely within Jefferson County, which is located in north central Alabama. The creek is a major tributary to the Black Warrior River. Valley Creek emerges from headwater springs and then passes through an underground system of storm drains to enter an open channel from a double box culvert in central Birmingham near Fifth Avenue and Seventh Street. The study area includes what is typically referred to as "upper" Valley Creek (see attached study area map). The drainage area of upper Valley Creek is approximately 96 square miles. It is an urban watershed with land use ranging from 60 to 95 percent developed including residential, commercial, and industrial areas. Valley Creek has a history of producing damaging floods. The study area is within USACE Mobile District's Area of Responsibility, but the study is being led by the Kansas City District.

USACE and the City of Bessemer hosted a planning workshop on November 6-7, 2018. During that workshop, an initial list of measures was identified for consideration in development of plan alternatives. Non-structural measures that will be considered include flood-proofing (i.e. modifying structures), buy-outs/relocations, and a flood warning system. Structural measures that will be considered include channel modification, levees/floodwalls, bridge removal or modification, construction of diversion channels, off-channel detention basins, and in-stream storage reservoir(s). Channel modification may include channel widening, deepening, and/or vegetation removal. Environmental enhancements such as constructed riffle-pool complexes or wetland/floodplain benches are typically incorporated into channel modification projects where feasible. Off-channel detention measures within the study area would also offer an opportunity to incorporate wetland features. Plan alternatives will likely include a combination of measures.

USACE obtained an Information for Planning and Conservation (IPaC) report for the study area on October 11, 2018, (Consultation Code: 04EA1000-2019-SLI-0053). The IPaC species list included 21 threatened, endangered, or candidate species that should

be considered in an effects analysis for the project. No critical habitat was reported to be present. USACE has completed an initial review of the potential for flood risk management measures under consideration in upper Valley Creek to affect those species on the IPaC list. At this time, USACE is requesting concurrence from the USFWS on our determination of the list of species that should be evaluated for potential effects during development of the feasibility study. Information on the existing environmental condition of upper Valley Creek relevant to the determinations for each species follows. Table 1 summarizes the USACE conclusions.

Environmental Overview of the Study Area

Upper Valley Creek drains a major metropolitan area and has typical urban stream characteristics such as poor habitat, degraded water quality, and stressed biological communities (Alabama Department of Environmental Management [ADEM] 2001). A Use Attainability Analysis to support upgrading Valley Creek's use classification from "Agricultural and Industrial Water Supply" to "Limited Warmwater Fishery" (LWF) was completed in 2001. That analysis attributed the degraded condition of upper Valley Creek to the extensive industrial and commercial land use within its watershed. The urbanized landscape creates dynamic flow events, reduced riparian zones, increased siltation, and other conditions that destroy habitat and impair water quality, thus making it difficult to sustain a healthy aquatic community (ADEM 2001). Upper Valley Creek was characterized by poor dissolved oxygen levels, high pathogen levels, and elevated biochemical oxygen demand (BOD) and nutrient concentrations (ADEM 2001). A U.S. Geological Survey (USGS 2002) investigation of water quality and aquatic community structure in Valley Creek arrived at a similar conclusion stating:

The water quality and aquatic-community structure in Village and Valley Creeks are degraded in comparison to streams flowing through less-urbanized areas. Low community richness and increased density of certain species within the fish and benthic invertebrate communities indicate that degradation has occurred during an extended period of time. Decreased diversity in the aquatic communities and elevated concentrations of trace elements and organic contaminants in the water column, bed sediment, and fish tissues at Village and Valley Creeks are indicative of the effects of urbanization. The degree of degradation may be related to point and nonpoint sources of contamination originating within the basins. Industrial land use, in particular, was significantly correlated to elevated contaminant levels in the water column, in bed sediment, in fish tissue, and to the declining health of the benthic-invertebrate communities.

A 0.9 mile segment of Valley Creek was placed on the Clean Water Act §303(d) list of impaired waters in 2004 for only partially meeting its LWF use classification due to mercury levels from atmospheric deposition (subsequently removed from the list in 2014). An ADEM habitat assessment for upper Valley Creek rated it as in sub-optimal

condition (ADEM 2007). Water quality results indicated elevated levels of arsenic, mercury, total dissolved solids, specific conductance, hardness, and alkalinity, which are potential causes of the very poor macroinvertebrate community condition (ADEM 2007). In-stream aquatic habitat consisted primarily of run habitat (58-85%) with pool habitat comprising less than 10 percent (USGS 2002, ADEM 2007). In 2018, remediation work removed 34,000 cubic yards of tar-like material from Valley Creek between Opossum Creek confluence and 13th Street as part of corrective implementation measures for past contamination. Tar-like substances were identified as a key factor limiting aquatic life in Valley Creek for decades (ADEM 2001).

Mammals

The IPaC list included three bat species: gray bat, Indiana bat, and northern long-eared bat. The upper Valley Creek study area is within the current range of all three bat species. The study area includes forested riparian areas, including forested wetland of both the oak/hickory and willow/sycamore types. Channel modification measures would potentially require tree removal, which may have potential to affect bat species. USACE will evaluate the potential effects to these species from plan alternatives. USACE requests that the U.S. Fish and Wildlife Service (USFWS) provide any relevant information regarding locations of known maternity roost trees or hibernacula that would have a bearing on the effects analysis for these bat species in the study area.

Reptiles

Flattened musk turtle was identified on the IPaC list for the study area. The USFWS sampling protocol states that optimal habitat is "permanent oligotrophic streams from one to five feet deep containing abundant rocky ledges, slabs, logs, debris, and pools". USFWS (2014) states that preferred habitat includes clear and shallow water, rocky bottom substrates with rock crevices, alternating shallows, deeper pools, pools with some current, low silt, minimal nutrients and pollution, and a moderate temperature. As stated previously, upper Valley Creek has been characterized by poor dissolved oxygen levels and minimal pool habitat (i.e. <10%) (ADEM 2001, 2007; USGS 2002). The macroinvertebrate community was scored as "very poor" due to low numbers of pollution intolerant organisms and high numbers of pollution tolerant organisms (ADEM 2007). In addition, the median temperature and median concentration of total dissolved solids, specific conductance, hardness, alkalinity, nitrate + nitrite nitrogen, dissolved reactive phosphorus, chlorides, and fecal coliform were higher than expected when compared to verified data of reference reaches in the same ecoregion (ADEM 2007). Based on the degraded condition of the aquatic habitat within upper Valley Creek, suitable habitat for the species is not present and the species would not be affected by measures under consideration for the study.

Amphibians

Black Warrior waterdog was identified on the IPaC list for the study area. USFWS (2018a) states that the species is very sensitive to declines in water quality due to their highly permeable skin and external gills. Although the species is only found in streams within the Black Warrior River Basin, no individual populations have been documented in Jefferson County (USFWS 2018a). USFWS (2018a) states that Black Warrior waterdogs are associated with stream depths of 1 to 4 meters (m) (3.3 to 13.1 feet [ft]), reduced sedimentation, and large leaf packs (leaves that fall into streams accumulate in packs usually behind branches, rocks, and other obstructions) supporting mayfly (Ephemeroptera spp.) and caddisfly (Trichoptera spp.) larvae. Stream depths in upper Valley Creek ranged from 0.8 feet in riffles to 2 feet in pools (ADEM 2007) and mean water depth was reported as less than 1 foot (USGS 2002). Valley Creek within the study area was rated as “marginal” for sediment deposition. Taxa richness for Ephemeroptera and Trichoptera genera were both rated “poor” (ADEM 2007). As described previously, water quality is degraded in upper Valley Creek. As a result, no effects to the species are anticipated because upper Valley Creek does not appear to contain suitable habitat for the Black Warrior waterdog.

Fishes

The IPaC list included four fish species: Cahaba shiner, goldline darter, rush darter, and watercress darter. Fish sampling by USFWS (1985) and USGS (2002) documented few fish species in Valley Creek: western mosquitofish, largescale stoneroller, longear sunfish, green sunfish, bluegill, blackbanded darter, blacktail shiner, and creek chub. Species were primarily pollution tolerant fishes. Mosquitofish and minnows had the highest relative abundance (USGS 2002). The Geological Survey of Alabama indicated the only sensitive fish species in proximity to the study area is the watercress darter (Stuart McGregor, personal communication).

The Cahaba River shiner is restricted to the upper mainstem of the Cahaba River and immediate lower reach with Shades Creek (USFWS 2016). As a result, measures under consideration for the study would have no effect on this species because it is not present in the study area.

The current range of the goldline darter in Alabama includes portions of the mid-Cahaba River and Shades Creek, along with most of the Little Cahaba River (USFWS 2015). As a result, measures under consideration for the study would have no effect on this species because it is not present in the study area.

The current range of the rush darter does not include the Valley Creek watershed (USFWS 2011, USFWS 2018b). As a result, measures under consideration for the study would have no effect on this species because it is not present in the study area.

The watercress darter is found within the study area. Available information states that naturally occurring populations of the species are known from four locations. Three of these locations (Glenn, Thomas, and Seven Springs) are located on tributaries to Valley Creek (USFWS 2018c). Watercress darter habitat includes deeper, slow-moving backwaters of springs that are choked with aquatic vegetation such as watercress (USFWS 1993). The mainstem of Valley Creek does not include such suitable habitat. Flood risk management measures discussed to date have not included actions in the vicinity of watercress darter sites. Watercress darters would not be anticipated to be affected by the project assuming measures are restricted to the mainstem of Valley Creek and its floodplain. However, USACE will evaluate the potential effects of plan alternatives on this species. To assist with this evaluation, USACE requests USFWS provide any relevant information that should be considered in the effects analysis in particular if USFWS believes there is any potential for it to occur in Valley Creek.

Clams

The IPaC list included seven clam species: Alabama moccasinshell, finelined pocketbook, orangenacre mucket, ovate clubshell, southern clubshell, triangular kidneyshell, and upland combshell. The Valley Creek basin is included in the current range maps for all except Alabama moccasinshell and orangenacre mucket based on ECOS species profiles. Habitat for all seven species includes sand/gravel/cobble substrates (USFWS 2000). Although appropriate substrate material is present, upper Valley Creek has been impacted by all of the primary causes of decline that USFWS (2000) identified for these species including habitat modification, sedimentation, eutrophication, and water quality degradation. Only one study has been found to date that included sampling for mussels within the study area. The results of that sampling only documented *Corbicula* sp. (USGS 2002). The previously described degradation of water quality and the aquatic community within upper Valley Creek would preclude suitable habitat for these species. As a result, flood risk management measures being considered in this study would have no impact to these species due to lack of suitable habitat.

Snails

Round rocksnail was identified on the IPaC list for the study area. Review of the ECOS species profile and USFWS (2006) indicates the species is currently known only from the Cahaba River basin. As a result, measures under consideration for the study would have no effect on this species because it is not present in the study area.

Flowering Plants

The IPaC list included four flowering plant species: Gentian pinkroot, Georgia rockcress, Mohr's Barbara's Buttons, Tennessee yellow-eyed grass. Based on ECOS

species profiles, upper Valley Creek does not fall within the current range for any of these species. As a result, measures under consideration for the study would have no effect on these species because they are not present in the study area.

Fish and Wildlife Coordination Act

Section 1 of the Fish and Wildlife Coordination Act, as amended, (FWCA), (16 U.S.C. §§ 661 et seq.), states the general policy that fish and wildlife conservation shall receive equal consideration with other project purposes and will be coordinated with other features of water resources development projects. To accomplish this, section 2(a) of the FWCA establishes that preconstruction planning on project development shall be coordinated with the USFWS. Section 2(b) of the FWCA authorizes the USFWS to conduct surveys and investigations to determine the possible damage of proposed developments on wildlife resources; to make recommendations for preventing their loss or damage; and to offer measures for developing and improving them. Section 2(e) of the FWCA authorizes construction agencies to transfer funds to the USFWS to conduct investigations and prepare the reports necessary to carry out the purposes of the Act.

USACE requests that the USFWS provide a point of contact (POC) for development of a statement of work (SOW) for completion of FWCA activities in support of the Valley Creek Feasibility Study. It is our understanding, that for similar studies initiated by the USACE Mobile District, your office has indicated that field office staff are not currently available to support FWCA activities. If that is also the case for this study, USACE Kansas City District would like to pursue an alternate contracting source as laid out in the 2003 *Agreement between the U.S. Fish and Wildlife Service and the U.S. Army Corps of Engineers for Conducting Fish and Wildlife Coordination Act Activities*.

To summarize, USACE is requesting USFWS assistance in finalizing a species list for analysis of effects associated with flood risk management measures under consideration for the Valley Creek basin. USACE also requests a POC to coordinate FWCA activities. If you have any questions regarding this request, please contact Mr. Michael Snyder, Environmental Resources Specialist, at (816) 389-3141, or michael.v.snyder@usace.army.mil.



Jason W. Farmer
Chief, Environmental Resources Section

Table 1. USACE conclusions on IPaC species list

Common Name	Scientific Name	USACE Determination
Gray bat	<i>Myotis grisescens</i>	Potential to affect – range includes study area.
Indiana bat	<i>Myotis sodalis</i>	Potential to affect – range includes study area.
Northern long-eared bat	<i>Myotis septentrionalis</i>	Potential to affect – range includes study area.
Flattened musk turtle	<i>Sternotherus depressus</i>	No effect – suitable habitat not present in study area.
Black Warrior waterdog	<i>Necturus alabamensis</i>	No effect – suitable habitat not present in study area.
Cahaba shiner	<i>Notropis cahabae</i>	No effect – does not occur in study area.
Goldline darter	<i>Percina aurolineata</i>	No effect – does not occur in study area.
Rush darter	<i>Etheostoma phytophilum</i>	No effect – does not occur in study area.
Watercress darter	<i>Etheostoma muchale</i>	Potential to affect due to proximity to study area
Alabama moccasinshell	<i>Medionidus acutissimus</i>	No effect – suitable habitat not present in study area.
Finelined pocketbook	<i>Lampsilis altilis</i>	No effect – suitable habitat not present in study area.
Orangenacre mucket	<i>Lampsilis perovalis</i>	No effect – suitable habitat not present in study area.
Ovate clubshell	<i>Pleurobema perovatum</i>	No effect – suitable habitat not present in study area.
Southern clubshell	<i>Pleurobema decisum</i>	No effect – suitable habitat not present in study area.
Triangular kidneyshell	<i>Ptychobranthus greenii</i>	No effect – suitable habitat not present in study area.
Upland combshell	<i>Epioblasma metastriata</i>	No effect – suitable habitat not present in study area.
Round rocksnail	<i>Leptoxis ampla</i>	No effect – does not occur in study area.
Gentian pinkroot	<i>Spigelia gentianoides</i>	No effect – does not occur in study area.
Georgia rockcress	<i>Arabis georgiana</i>	No effect – does not occur in study area.

Mohr's Barbara's Buttons	<i>Marshallia mohrii</i>	No effect – does not occur in study area.
Tennessee yellow-eyed grass	<i>Xyris tennesseensis</i>	No effect – does not occur in study area.

References Cited

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<https://www.fws.gov/daphne/es/Flattened%20musk%20turtle%20sample%20protocol.pdf>
- USFWS. 1985. Resource Inventory, Valley Creek, Birmingham, Alabama. Report submitted to U.S. Army Corps of Engineers Mobile District.
- USFWS. 1993. Recovery Plan: watercress darter (*Etheostoma nuchale*).
- USFWS. 2000. Recovery Plan for Mobile River Basin Aquatic Ecosystem.
- USFWS. 2006. Six Mobile River Basin Aquatic Snails 5-year reviews: summary and evaluation.
- USFWS. 2011. Final rule: Endangered and threatened wildlife and plants; endangered status for the Cumberland darter, rush darter, yellowcheek darter, chunky madtom, and laurel dace. Federal Register 76:48722-48741.
- USFWS. 2014. Flattened Musk Turtle (*Sternotherus depressus*) 5-year review: summary and evaluation.
- USFWS. 2015. Goldline darter (*Percina aurolineata*) 5-year review: summary and evaluation.
- USFWS. 2016. Cahaba Shiner (*Notropis cahabae*) 5-year review: summary and evaluation.

USFWS. 2018a. Final rule: endangered and threatened wildlife and plants; endangered species status for Black Warrior waterdog and designation of critical habitat. Federal Register 83:257-284.

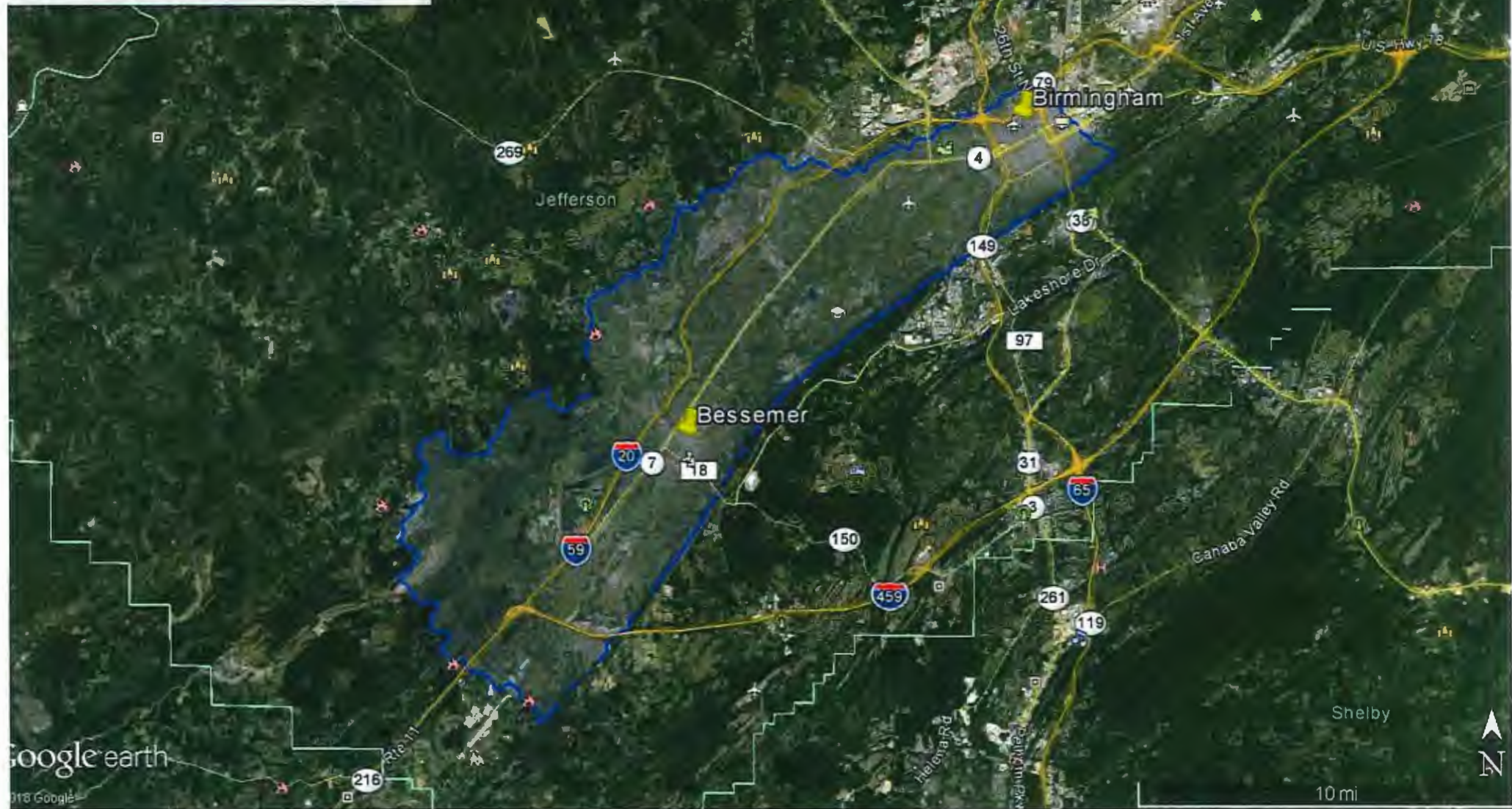
USFWS. 2018b. Environmental Conservation Online System: Species profile for Rush Darter (*Etheostoma phytophilum*). Accessed November 2018 at <https://ecos.fws.gov/ecp0/profile/speciesProfile?sId=2779>.

USFWS 2018c. Watercress darter (*Etheostoma nuchale*) 5-year review: summary and evaluation.

USGS. 2002. Investigation of water quality and aquatic-community structure in Village and Valley Creeks, City of Birmingham, Jefferson County, Alabama, 2000-01. U.S. Geological Survey Water Resources Investigations Report 02-4182.

Valley Creek Feasibility Study

Preliminary Study Area





United States Department of the Interior



FISH AND WILDLIFE SERVICE
Alabama Ecological Services Field Office
1208 B Main Street
Daphne, AL 36526-4419
Phone: (251) 441-5181 Fax: (251) 441-6222

In Reply Refer To:
Consultation Code: 04EA1000-2019-SLI-0053
Event Code: 04EA1000-2019-E-00105
Project Name: Valley Creek Feasibility Study

October 11, 2018

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. Please note that new information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

Note that due to the volume of emails received by our office, we cannot accept project consultation requests by email.

Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Also note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the process and consultation under the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs

for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at:

<http://www.fws.gov/migratorybirds/pdf/management/usfwscommunicationtowerguidance.pdf>

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

We can be reached at:

US Fish and Wildlife Service

1208 Main Street

Daphne, AL 36526

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Alabama Ecological Services Field Office

1208 B Main Street

Daphne, AL 36526-4419

(251) 441-5181

Project Summary

Consultation Code: 04EA1000-2019-SLI-0053

Event Code: 04EA1000-2019-E-00105

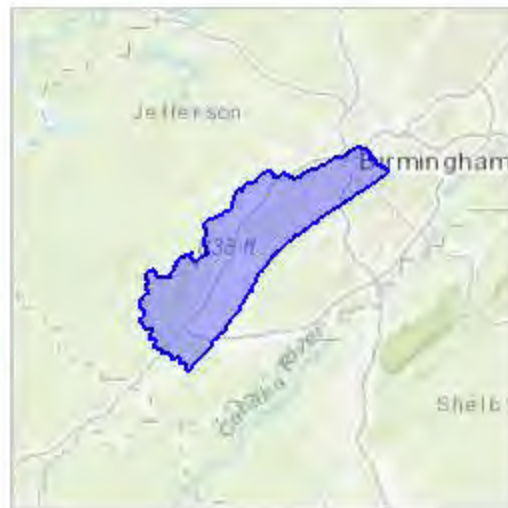
Project Name: Valley Creek Feasibility Study

Project Type: LAND - FLOODING

Project Description: General investigation study looking at potential measures for flood damage reduction along Valley Creek.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/33.41695594787598N86.96065182759972W>



Counties: Jefferson, AL

Endangered Species Act Species

There is a total of 21 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: http://www.fws.gov/endangered/species_profiles/species_profile.cfm?species=16300	Endangered
Indiana Bat <i>Myotis sodalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: http://www.fws.gov/endangered/species_profiles/species_profile.cfm?species=15040	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: http://www.fws.gov/endangered/species_profiles/species_profile.cfm?species=10045	Threatened

Reptiles

NAME	STATUS
Flattened Musk Turtle <i>Sternotherus depressus</i> Population: Black Warrior R. system upstream from Bankhead Dam No critical habitat has been designated for this species. Species profile: http://www.fws.gov/endangered/species_profiles/species_profile.cfm?species=10061	Threatened

Amphibians

NAME	STATUS
<p>Black Warrior (=sipsey Fork) Waterdog <i>Necturus alabamensis</i></p> <p>There is final critical habitat for this species. Your location is outside the critical habitat.</p> <p>Species profile: Alabama Fish and Wildlife Commission - 15436</p>	Endangered

Fishes

NAME	STATUS
<p>Cahaba Shiner <i>Notropis cahabae</i></p> <p>There is proposed critical habitat for this species. The location of the critical habitat is not available.</p> <p>Species profile: Alabama Fish and Wildlife Commission - 1650</p>	Endangered
<p>Goldline Darter <i>Percina aurolineata</i></p> <p>There is proposed critical habitat for this species. The location of the critical habitat is not available.</p> <p>Species profile: Alabama Fish and Wildlife Commission - 17005</p>	Threatened
<p>Rush Darter <i>Etheostoma phytophilum</i></p> <p>There is final critical habitat for this species. Your location is outside the critical habitat.</p> <p>Species profile: Alabama Fish and Wildlife Commission - 1770</p>	Endangered
<p>Watercress Darter <i>Etheostoma nuchale</i></p> <p>No critical habitat has been designated for this species.</p> <p>Species profile: Alabama Fish and Wildlife Commission - 1820</p>	Endangered

Clams

NAME	STATUS
Alabama Moccasinshell <i>Medionidus acutissimus</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: Alabama Moccasinshell (15387)	Threatened
Finelined Pocketbook <i>Lampsilis altilis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: Finelined Pocketbook (15393)	Threatened
Orangenacre Mucket <i>Lampsilis perovalis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: Orangenacre Mucket (15390)	Threatened
Ovate Clubshell <i>Pleurobema perovatum</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: Ovate Clubshell (15420)	Endangered
Southern Clubshell <i>Pleurobema decisum</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: Southern Clubshell (16112)	Endangered
Triangular Kidneyshell <i>Ptychobranhus greenii</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: Triangular Kidneyshell (1206)	Endangered
Upland Combshell <i>Epioblasma metastriata</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: Upland Combshell (1017)	Endangered

Snails

NAME	STATUS
Round Rocksnail <i>Leptoxis ampla</i> No critical habitat has been designated for this species. Species profile: Round Rocksnail (1470)	Threatened



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, KANSAS CITY DISTRICT
635 FEDERAL BUILDING
601 E. 12TH STREET
KANSAS CITY, MISSOURI 64106-2824

CENWK-PMP-R

JUN 11 2019

Taconya Goar
Environmental Affairs Supervisor
Alabama Department of Conservation and Natural Resources
64 N. Union Street, Suite 551
Montgomery, Alabama 36104

Dear Ms. Goar:

The U.S. Army Corps of Engineers (Corps) has partnered with the City of Bessemer to analyze alternatives for reducing flood risk within the upper Valley Creek watershed. The study will identify and evaluate reasonable alternatives including non-structural measures, channel and bridge modifications, levees and floodwalls, and in-stream and off-channel detention areas in Bessemer, Birmingham, and other communities in Jefferson County. The drainage area of upper Valley Creek is approximately 96 square miles. It is an urban watershed with land use ranging from 60 to 95 percent developed including residential, commercial, and industrial areas. Valley Creek has a history of producing damaging floods. The study area is within USACE Mobile District's Area of Responsibility, but the study is being led by the Kansas City District.

Since we first communicated with your agency regarding the planning charrette meeting in November 2018 and the inter-agency webinar held in January 2019, the Corps has been completing preliminary evaluation of the initial measures identified for consideration. The attached figures illustrate the location of potential channel modification, off-channel detention areas, and levees that are under consideration as structural measures to improve flood risk within the study area. Several bridge modifications are also being evaluated. Non-structural measures, such as buy-outs and relocations, are also under consideration. The Corps is hosting a public meeting to inform the public on the scope of the study and seek public, agency, and local input regarding the study. The public meeting will be held on Wednesday, June 19, 2019 at 5:00 PM at the Bessemer Civic Center, East Meeting Room, 1130 9th Ave SW, Bessemer, AL 35022.

The Corps would welcome any input at this time that your agency may have on resources within the study area or the scope of evaluation and measures under consideration. The Corps has been coordinating with the USFWS regarding any potential effects to Federally listed species that may occur in the study area. Any additional information your agency may have regarding important state resources in the study area would be appreciated. We look forward to working with you throughout the study process. We respectfully request your comments be submitted by July 19, 2019 in order to be given full consideration in the alternatives formulation and evaluation process.

If you have any questions regarding this request, please contact Mr. Michael Snyder, Environmental Resources Specialist, at (816) 389-3141, or michael.v.snyder@usace.army.mil.

A handwritten signature in blue ink, appearing to read 'J. Farmer', is positioned above the printed name.

Jason Farmer
Chief
Environmental Resources Section



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, KANSAS CITY DISTRICT
635 FEDERAL BUILDING
601 E. 12TH STREET
KANSAS CITY, MISSOURI 64106-2824

CENWK-PMP-R

JUN 11 2019

Paul Rogers
Chief, Birmingham Branch, Field Operations Division
Alabama Department of Environmental Management
110 Vulcan Road
Birmingham, Alabama 35209

Dear Mr. Rogers:

The U.S. Army Corps of Engineers (Corps) has partnered with the City of Bessemer to analyze alternatives for reducing flood risk within the upper Valley Creek watershed. The study will identify and evaluate reasonable alternatives including non-structural measures, channel and bridge modifications, levees and floodwalls, and in-stream and off-channel detention areas in Bessemer, Birmingham, and other communities in Jefferson County. The drainage area of upper Valley Creek is approximately 96 square miles. It is an urban watershed with land use ranging from 60 to 95 percent developed including residential, commercial, and industrial areas. Valley Creek has a history of producing damaging floods. The study area is within USACE Mobile District's Area of Responsibility, but the study is being led by the Kansas City District.

Since we first communicated with your agency regarding the planning charrette meeting in November 2018 and the inter-agency webinar held in January 2019, the Corps has been completing preliminary evaluation of the initial measures identified for consideration. The attached figures illustrate the location of potential channel modification, off-channel detention areas, and levees that are under consideration as structural measures to improve flood risk within the study area. Several bridge modifications are also being evaluated. Non-structural measures, such as buy-outs and relocations, are also under consideration. The Corps is hosting a public meeting to inform the public on the scope of the study and seek public, agency, and local input regarding the study. The public meeting will be held on Wednesday, June 19, 2019 at 5:00 PM at the Bessemer Civic Center, East Meeting Room, 1130 9th Ave SW, Bessemer, AL 35022.

The Corps would welcome any input at this time that your agency may have on resources within the study area or the scope of evaluation and measures under consideration. Any information your agency may have regarding important state resources in the study area would be appreciated. We look forward to working with you throughout the study process. We respectfully request your comments be submitted by July 19, 2019 in order to be given full consideration in the alternatives formulation and evaluation process.

If you have any questions regarding this request, please contact Mr. Michael Snyder, Environmental Resources Specialist, at (816) 389-3141, or michael.v.snyder@usace.army.mil.

A handwritten signature in blue ink, appearing to read "J. Farmer", is positioned above the printed name.

Jason Farmer
Chief
Environmental Resources Section



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, KANSAS CITY DISTRICT
635 FEDERAL BUILDING
601 E. 12TH STREET
KANSAS CITY, MISSOURI 64106-2824

CENWK-PMP-R

JUN 11 2019

Ntale Kajumba
U.S. Environmental Protection Agency – Region 4
61 Forsyth Street South West
Atlanta, GA 30303

Dear Ms. Kajumba:

The U.S. Army Corps of Engineers (Corps) has partnered with the City of Bessemer to analyze alternatives for reducing flood risk within the upper Valley Creek watershed. The study will identify and evaluate reasonable alternatives including non-structural measures, channel and bridge modifications, levees and floodwalls, and in-stream and off-channel detention areas in Bessemer, Birmingham, and other communities in Jefferson County. The drainage area of upper Valley Creek is approximately 96 square miles. It is an urban watershed with land use ranging from 60 to 95 percent developed including residential, commercial, and industrial areas. Valley Creek has a history of producing damaging floods. The study area is within USACE Mobile District's Area of Responsibility, but the study is being led by the Kansas City District.

Since we first communicated with your agency regarding the planning charrette meeting in November 2018 and the inter-agency webinar held in January 2019, the Corps has been completing preliminary evaluation of the initial measures identified for consideration. The attached figures illustrate the location of potential channel modification, off-channel detention areas, and levees that are under consideration as structural measures to improve flood risk within the study area. Several bridge modifications are also being evaluated. Non-structural measures, such as buy-outs and relocations, are also under consideration. The Corps is hosting a public meeting to inform the public on the scope of the study and seek public, agency, and local input regarding the study. The public meeting will be held on Wednesday, June 19, 2019 at 5:00 PM at the Bessemer Civic Center, East Meeting Room, 1130 9th Ave SW, Bessemer, AL 35022.

The Corps would welcome any input that the EPA may have at this time on resources within the study area or the scope of evaluation and measures under consideration. We look forward to working with you throughout the study process. We respectfully request your comments be submitted by July 19, 2019 in order to be given full consideration in the alternatives formulation and evaluation process.

If you have any questions regarding this request, please contact Mr. Michael Snyder, Environmental Resources Specialist, at (816) 389-3141, or michael.v.snyder@usace.army.mil.

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name Jason Farmer.

Jason Farmer
Chief
Environmental Resources Section



KAY IVEY
GOVERNOR

STATE OF ALABAMA
EMERGENCY MANAGEMENT AGENCY

5898 COUNTY ROAD 41 • P.O. DRAWER 2160 • CLANTON, ALABAMA 35046-2160
(205) 280-2200 FAX # (205) 280-2495



BRIAN E. HASTINGS
DIRECTOR

September 17, 2021

Tracey Hayes, Esq., CFM
Natural Hazards Administrator
Planning, Engineering and Permits
710 20th St N, Birmingham, AL 35203

Subject: City of Birmingham, Request to Install a Detention Pond at Valley Creek on FEMA
Deed Restricted Properties

Dear Ms. Hayes:

This letter is in response to the City of Birmingham's request for FEMA's concurrence as required by 44 C.F.R. § 80.19(a) for the installation of a detention pond to cover 67 properties at Valley Creek, Birmingham, Jefferson County, Alabama, 35218. The City of Birmingham acquired these properties under the Pre-Disaster Mitigation (PDMC) program in the FY2005 and FY2007 grant cycles. FEMA has determined the installation of a detention pond meets the requirements of 44 C.F.R. §80.19(a), and accordingly hereby approves the City of Birmingham's request.

The City of Birmingham's July 2, 2021, request letter also makes mention of "recreational features" in the City's conceptual plan for the parcels. Please note, from FEMA's attached letter that this approval only applies to the proposed detention pond. Any other contemplated use of the deed restricted parcels will need to meet the standards of 44 C.F.R. § 80.19 and may require prior written approval by FEMA.

I am attaching the FEMA approval letter with this correspondence. The City of Birmingham must adhere to any and all stipulations outlined in the FEMA approval letter.

If you need additional information regarding this request, please contact me at 205-541-3723 or michaelj@ema.alabama.gov.

Sincerely,

Michael Johnson
State Hazard Mitigation Officer
Alabama Emergency Management Agency



U. S. Department of Homeland Security
Region IV
3005 Chamblee Tucker Road
Atlanta, GA 30341
FEMA

September 13, 2021

Mr. Brian Hastings, Director
Alabama Emergency Management Agency
5898 County Road 41
P.O. Drawer 2160
Clanton, AL 35046-2160

Attention: Mr. Michael Johnson, State Hazard Mitigation Officer

Reference: City of Birmingham, Request to Install a Detention Pond at Valley Creek on a FEMA
Deed Restricted Properties

Dear Mr. Hastings:

This letter is in response to the Alabama Emergency Management Agency's letter dated July 2, 2021, requesting FEMA's concurrence as required by 44 C.F.R. § 80.19(a) for the installation of a detention pond to cover 67 properties at Valley Creek, Birmingham, Jefferson County, Alabama, 35218. The City of Birmingham acquired these properties under the Pre-Disaster Mitigation (PDMC) program in the FY2005 and FY2007 grant cycles.

FEMA has determined the installation of a detention pond meets the requirements of 44 C.F.R. § 80.19(a), and accordingly hereby approves the City of Birmingham's request.

In accordance with 44 CFR § 13.37(a)(2), the Grantee (AEMA) is responsible for ensuring that the subgrantee (City of Birmingham) is aware of requirements imposed upon it by Federal statute and regulation. In addition, the City of Birmingham is required by the terms of the deed to comply with the restrictive covenants therein, including but not limited to the incorporation by reference of the requirements set forth in 44 C.F.R. part 80. Among these is the requirement to obtain prior FEMA approval before building any new structures or improvements on the property that are not expressly allowed by 44 C.F.R. § 80.19(a).

The City of Birmingham's July 2, 2021 request letter also makes mention of "recreational features" in the City's conceptual plan for the parcels. Please note, this approval only applies to the proposed detention pond. Any other contemplated use of the deed restricted parcels will need to meet the standards of 44 C.F.R. § 80.19 and may require prior written approval by FEMA.

If you have any further questions regarding this action, please contact Mr. Ernest E. Hunter at (770) 220-5471.

Sincerely,

Jacky S. Bell
Director
Mitigation Division