



**DEPARTMENT OF THE ARMY**  
U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT  
P.O. BOX 2288  
MOBILE, AL 36628-0001

**CESAM RD-A**  
**PUBLIC NOTICE NO. SAM-2022-00323-LML**

**May 27, 2022**

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

**REQUEST TO IMPACT 0.035 ACRE OF WATERBOTTOMS IN CONJUNCTION WITH**  
**LAND RECLAMATION AND THE CONSTRUCTION OF A LIVNG SHORELINE IN**  
**MOBILE BAY, FOLEY, BALDWIN COUNTY, ALABAMA**

**TO WHOM IT MAY CONCERN:** This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act (33 U.S.C. 1344). Please communicate this information to interested parties.

**AGENT:** APM Construction, LLC  
Attention: Tina Kleimisch  
Post Office Box 685  
Summerdale, Alabama 36580

**APPLICANT:** Scott and Sharon Patton  
1973 Patton Hill Road  
Townley, Alabama 35587

**LOCATION:** The proposed project is located within Mobile Bay, at 9307 Bay Road South; within Section 12, Township 8 South, Range 2 East; Latitude 30.360253 North, Longitude 87.833476 West; in Foley, Baldwin County, Alabama.

**PROJECT PURPOSE:** The purpose of this project is to reclaim eroded property and protect the shoreline from further erosion.

**PROPOSED WORK:** The applicant proposes to reclaim eroded property by placing 71 cubic yards of commercially obtained material within a 750-square-foot area of waterbottoms along the existing shoreline. Approximately 25 cubic yards of additional fill material will be placed immediately waterward of the reclamation area and planted with marsh wetland plants. Additionally, the applicant proposes to impact approximately 300 square feet of waterbottoms with construction of two rock offshore breakwater structures to placed up to 30 feet waterward of the planting area. The southern breakwater will be 5.5-foot-wide by 20 foot-long and the northern breakwater structure will be 5.5-foot-wide by 35 foot-long. A total of 25 cubic yards of rip rap material will be placed on

waterbottoms for the breakwater structures. The breakwater crest elevation will be 1.0 foot above the plane of mean high water. The project will result in impacts to 0.035 acre of waterbottoms.

**AVOIDANCE AND MINIMIZATION:** The applicant has indicated the proposed project has been designed minimally to meet the needs of the property owner and create new marsh habitat. Furthermore, Best Management Practices (BMPs) will be implemented to prevent water quality impacts within Mobile Bay during project implementation. The U.S. Army Corps of Engineers (USACE), Mobile District, has not verified the adequacy of the applicant's avoidance and minimization efforts at this time.

**MITIGATION:** Compensatory mitigation would not be required because the activity consists of construction of structures that would not adversely impact special aquatic sites.

**WATER QUALITY / COASTAL ZONE MANAGEMENT:** The applicant has applied for certification from the State of Alabama in accordance with Section 401(a)(1) of the Clean Water Act and for Coastal Zone Management (CZM) consistency concurrence in accordance with the Alabama Coastal Area Management Program. Upon completion of the required advertising and public comment review, a determination relative to Water Quality Certification and CZM consistency will be made by the Alabama Department of Environmental Management (ADEM).

**HISTORIC PROPERTIES:** In accordance with Section 106 of the National Historic Preservation Act and Appendix C of 33 CFR Part 325, the undertaking defined in this notice is being considered for the potential to affect cultural and historic properties within the permit area. In accordance with Appendix C of 33 CFR Part 325, the Mobile District has determined the permit area consists of the entire undertaking in waters of the United States as well as portions of the uplands used for staging and access. The National Register of Historic Places will be consulted for properties listed in or eligible for the National Register, which are known to exist and would be affected by the proposed work. The Mobile District is seeking comment from the State Historic Preservation Officer regarding the existence, or the potential for existence, of significant cultural and historic properties within the permit area. The permit area described above is currently under review by District Archaeologists to provide a determination on the potential for existence of significant cultural and historic properties.

**ESSENTIAL FISH HABITAT:** This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The proposed project would impact approximately 0.035 acre of unvegetated estuarine substrate utilized by various life stages of multiple marine species. This proposal is described above is currently under review by the U.S. Army Corps of Engineers (USACE), Mobile District. Our final determination is subject to review by and coordination with the National Marine Fisheries Service and/or the U.S. Department of Interior, and the U.S. Fish and Wildlife Service (USFWS).

**ENDANGERED SPECIES:** Preliminary review of this application and the U.S. Department of the Interior's List of Endangered and Threatened Wildlife and Plants

indicate the proposed activity will have no effect on the following listed endangered or threatened species with the potential to exist within the watershed of the permit area: West Indian manatee (T), wood stork (T), Alabama red-bellied turtle (E), Kemp's ridley sea turtle (E), loggerhead sea turtle (T), and Gulf sturgeon (T). There is no designated critical habitat within the project action area.

Review of this proposed activity for potential effects on the above list of threatened or endangered species has been accomplished by use of species-specific Standard Local Operating Procedures for Endangered Species (SLOPES). The USACE, Mobile District's review has indicated the proposed activity will have no effect on the West Indian manatee, Kemp's ridley sea turtle, loggerhead sea turtle, and wood stork. The review also found the activity may affect, but is not likely to adversely affect the Alabama red-bellied turtle and Gulf sturgeon. Details of the proposed activity are being provided to federal and state agencies via this Public Notice for receipt of any relevant comments regarding potential effects of the proposed project on the listed species.

**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 USACE can be based. The Mobile District is soliciting comments from the public, federal, state and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed below. 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. 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.

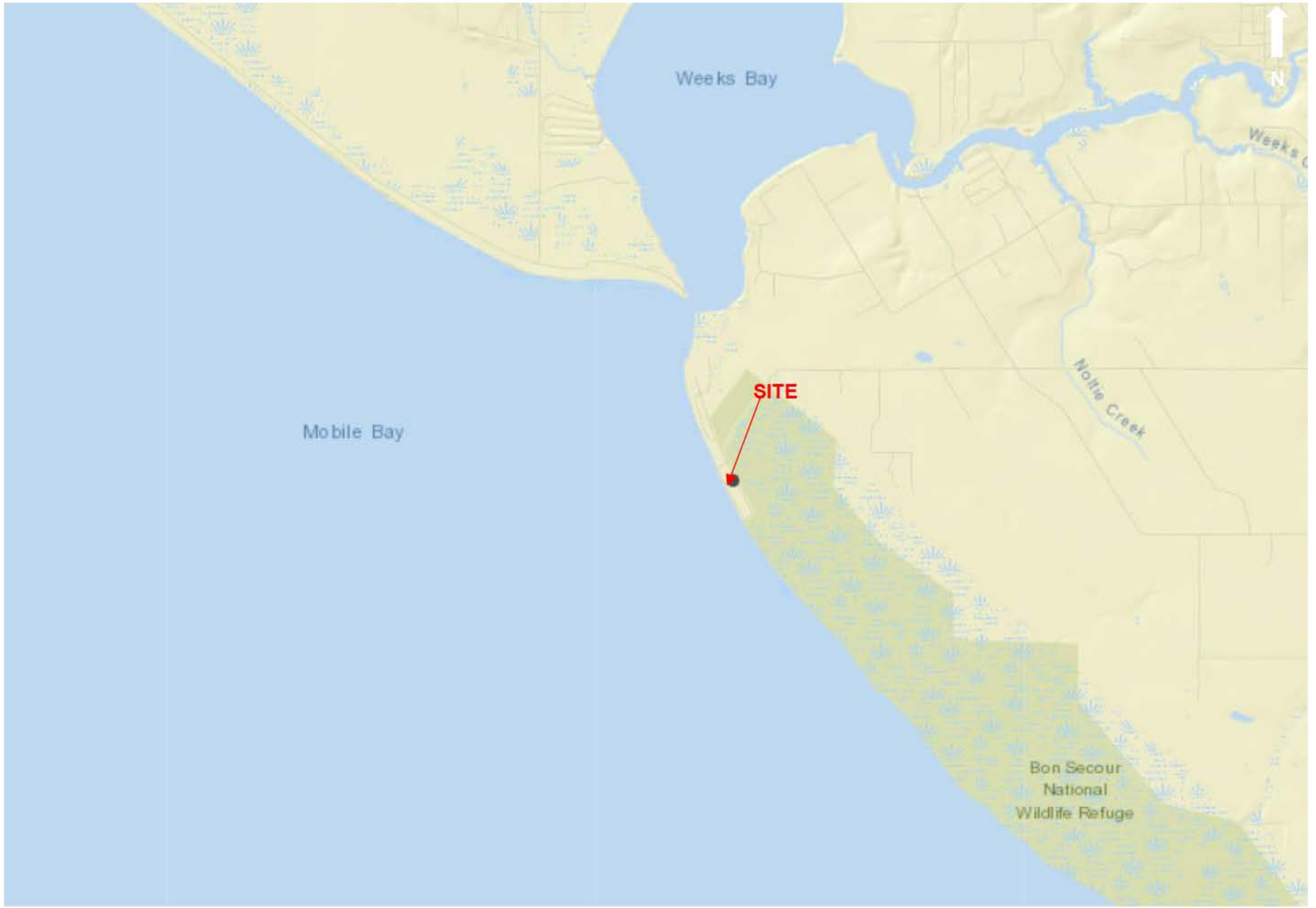
The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably 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, historic properties, 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 and fiber production, and in general, the needs and welfare of the people. Evaluation of the probable impacts involving deposits of dredged or fill material into waters of the United States will also include the application of guidelines established by the Administrator of the U.S. Environmental Protection Agency.

Correspondence concerning this notice should refer to Public Notice Number **SAM-2022-00323-LML**, and should be directed to the project manager, Ms. Lacey M. Leaptrott by e-mail at [lacey.m.leaptrott@usace.army.mil](mailto:lacey.m.leaptrott@usace.army.mil), or to the USACE, Mobile District, Regulatory Division, Attention: Ms. Lacey M. Leaptrott, Post Office Box 2288, Mobile, Alabama 36628-0001. Copies of all comments should be furnished to the Alabama Department of Environmental Management at [coastal@adem.alabama.gov](mailto:coastal@adem.alabama.gov), or sent to: Alabama Department of Environmental Management, Mobile Branch / Coastal Section, 3664 Dauphin Street, Suite B, Mobile, Alabama 36608. **All comments should be received no later than 30 days from the date of this Public Notice.**

For additional information about our Regulatory Program, please visit our web site at [www.sam.usace.army.mil/Missions/Regulatory.aspx](http://www.sam.usace.army.mil/Missions/Regulatory.aspx).

MOBILE DISTRICT  
U.S. Army Corps of Engineers

Attachments



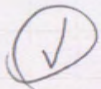
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SITE





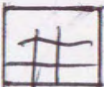


Scott Patton  
9307 Bay Rd S - Foley

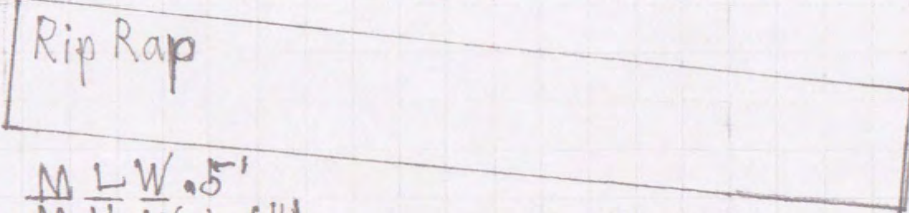
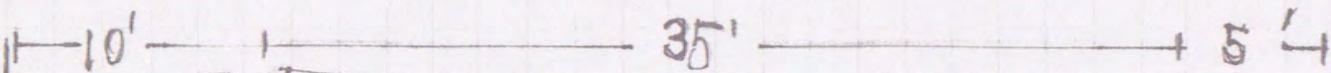
Mobile Bay



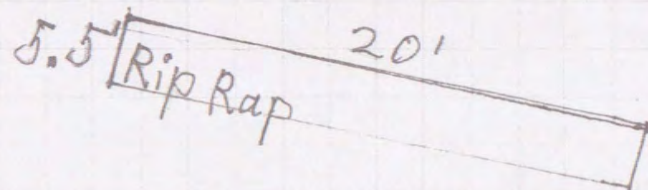
Plants



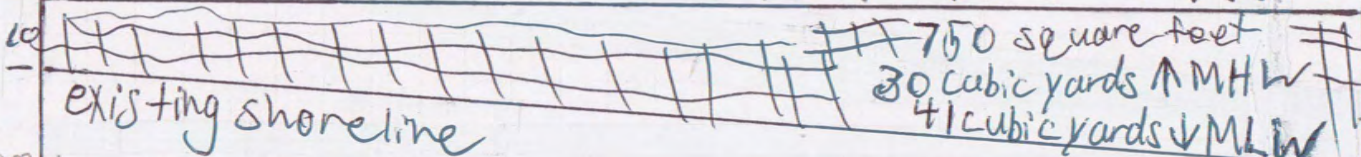
Proposed fill



M L W .5'  
M H W 1.64'



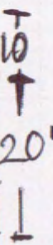
M L W .5  
M H W 1.64'



existing shoreline

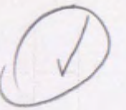
750 square feet  
30 cubic yards  $\uparrow$  MHLW  
41 cubic yards  $\downarrow$  MLW

Mike Swansberg  
PO Bx 711  
Foley, AL





Funk  
see attached






Scott Patton  
9307 Bay Rd S - Foley

 Plants

 Rip Rap

 Proposed fill

750 Square feet  
30 cubic yards  $\uparrow$  MHW  
41 cubic yards  $\downarrow$  MLW

Mobile Bay

$\frac{M}{M} \frac{H}{L} \frac{W}{W} 1.64$   
 $\frac{M}{M} \frac{L}{L} \frac{W}{W} .5$

existing shore line

