

Appendix A



**US Army Corps
of Engineers.**

Nashville District

Public Notice

Public Notice No. 07-13

Date: February 7, 2007

Application No. 200601425

Expires: March 9, 2007

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214
Attn: Floyd M. Carnes

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
AND
TENNESSEE VALLEY AUTHORITY

SUBJECT: Proposed Dredging for Boat Access at Big Spring Creek
Mile 5.3, Right Bank, Tennessee River Mile 358.4, Left Bank,
Guntersville Lake, Marshall County, Alabama

TO ALL CONCERNED: The application described below has been
submitted for a Department of the Army Permit pursuant to **Section
10 of the Rivers and Harbors Act of 1899.**

APPLICANT: Sachs Construction Co.
623 Gunter Avenue
Guntersville, Alabama 35976

LOCATION: Big Spring Creek Mile 5.3, Right Bank, Tennessee River
Mile 358.4, Left Bank, Guntersville Lake, Marshall County,
Alabama. USGS GUNTERSVILLE.ALA Quadrangle
Longitude: 86-19-58.0; Latitude: 34-18-25.1

DESCRIPTION: The proposed work consists of the dredging
approximately 12000 cubic yards of material from Guntersville
Lake for boat access. The length of the main channel would be
approximately 4180' long and would extend 40' wide with 27
lateral channels to individual lots. The lakeward extension of
the lateral channels would be 60' and extend 30' in width. A
100' buffer would be maintained between the main channel and
shoreline. A 30' buffer would be maintained between the lateral
channels and the shoreline. The toe of the dredging would be at
Elevation 587.4. Elevation 595.4 is the normal summer pool
elevation for Guntersville Lake. The material would be removed
by suction dredge and pumped to an upland containment area above
Elevation 360.0 on the applicant's property.

ist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

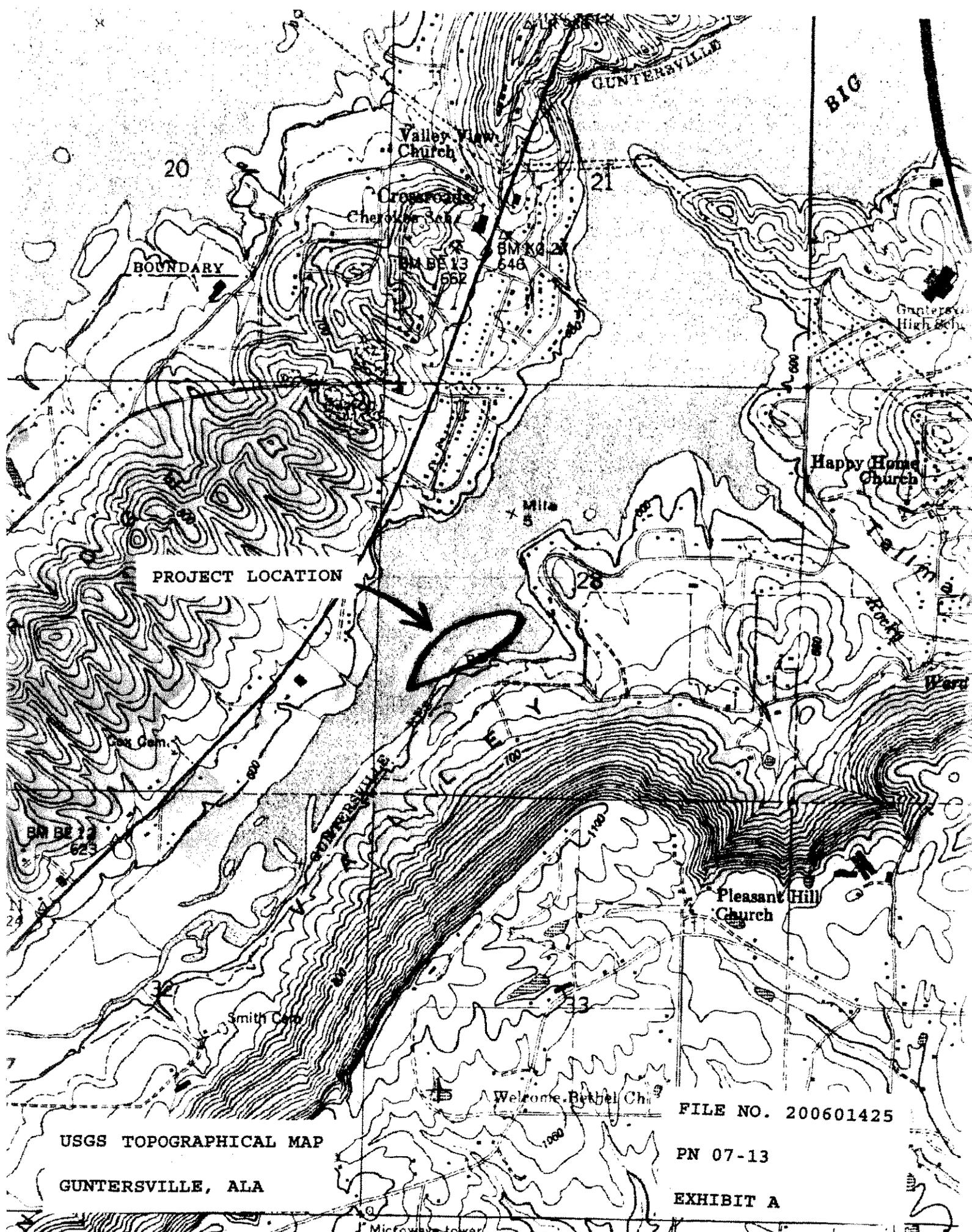
Based on available information, the proposed work will not destroy or endanger any federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Other federal, state, and/or local approvals may be required for the proposed work.

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.

Written statements received in this office on or before **March 9, 2007**, will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: Floyd M. Carnes, at the above address, telephone (615) 369-7503. It is not necessary to comment separately to TVA since copies of all comments will be sent to that agency and will become part of its record on the proposal. However, if comments are sent to TVA, they should be mailed to Mr. Donald W. Anderson, Project Leader, Guntersville Lake Reservation, 3696 Alabama 69, Guntersville, Alabama 35976

If you received this notice by mail and wish to view all of the diagrams, visit our web site at:
<http://www.lrn.usace.army.mil/cof/notices.htm>, or contact Mr. Carnes at the above address or phone number.



BOUNDARY

PROJECT LOCATION

GUNTERSVILLE

BIG

Valley View Church

Crossroads
Cherokee San

BM BE 13 682
BM KQ 2 646

Guntersville High Sch.

Happy Home Church

Mile 5

Car Cam.

BM BE 12 625

Pleasant Hill Church

Smith Camp

Welcome Bethel Church

FILE NO. 200601425

PN 07-13

EXHIBIT A

USGS TOPOGRAPHICAL MAP

GUNTERSVILLE, ALA

Microwave tower

NOTE: THE DISTANCES BETWEEN THE INDIVIDUAL BOAT HOUSES WILL VARY. THE APPLICANT WILL ATTEMPT TO MAXIMIZE THE DISTANCES BETWEEN THE BOAT HOUSES.

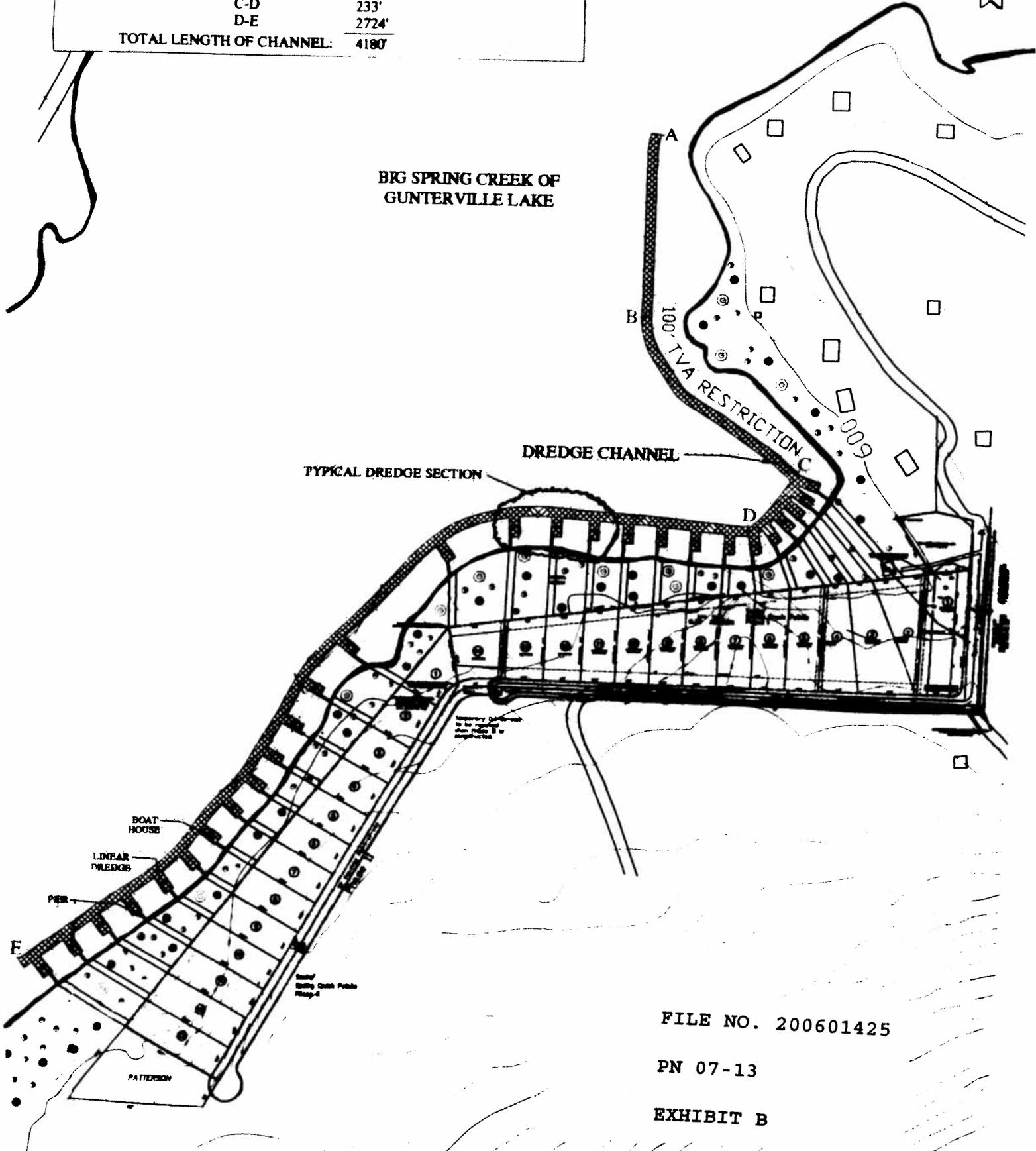
DREDGE CHANNEL

SECTION	LENGTH
A-B	548'
B-C	675'
C-D	233'
D-E	2724'

TOTAL LENGTH OF CHANNEL: 4180'



**BIG SPRING CREEK OF
GUNTERVILLE LAKE**

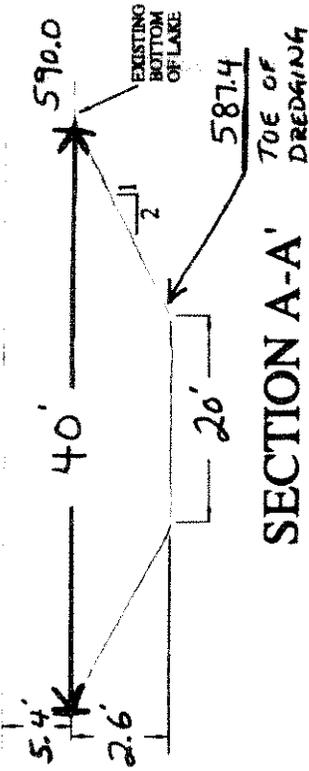


FILE NO. 200601425

PN 07-13

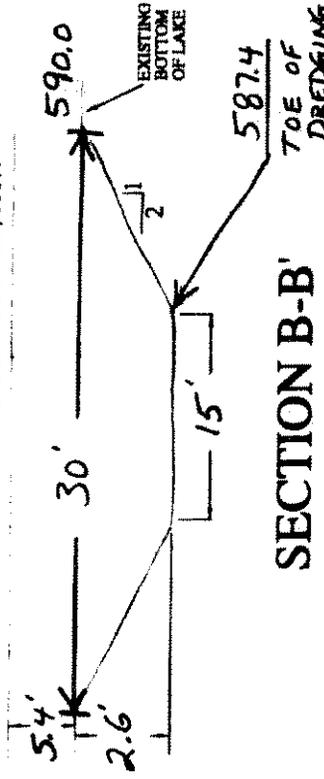
EXHIBIT B

WATER SURFACE NORMAL POOL EL. 595.4

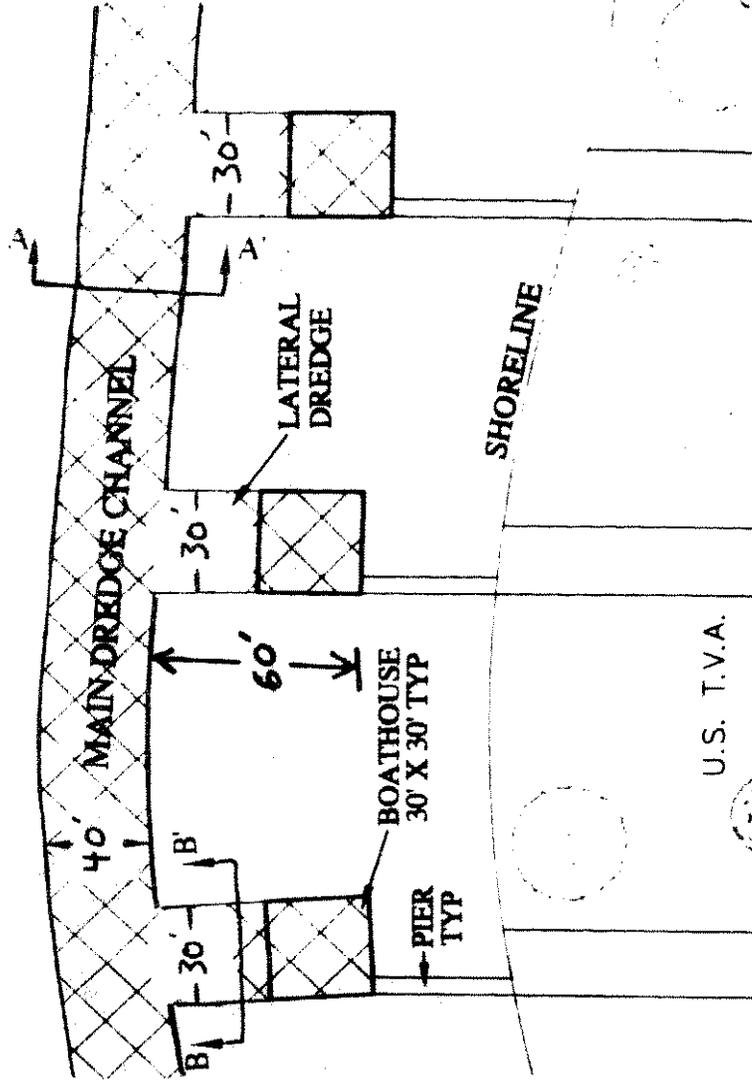


SECTION A-A'
TOE OF DREDGING
MAIN DREDGE CHANNEL

WATER SURFACE NORMAL POOL EL. 595.4



SECTION B-B'
TOE OF DREDGING
BOAT HOUSE LATERAL DREDGE



TYPICAL DREDGE SECTION
PLAN VIEW

FILE NO. 200601425

PN 07-13

EXHIBIT C

DREDGE SECTIONS

Appendix B

28 February 2007
Carnes\fmc\369-7503

MEMORANDUM For The Record

SUBJECT: File No. 200601425: Proposed Dredging for Boat Access at Big Spring Creek Mile 5.3, Right Bank, Tennessee River Mile 358.4, Left Bank, Guntersville Lake, Marshall County, Alabama

1. On 27 February 2007, an on-site inspection was conducted at the subject location concerning the proposed work.
2. The on-site inspection was conducted so that the project could be properly assessed for the environmental impacts.
3. The proposed work consists of the dredging approximately 12000 cubic yards of material from Guntersville Lake for boat access. The length of the main channel would be approximately 4180' long and would extend 40' wide with 27 lateral channels to individual lots. The lakeward extension of the lateral channels would be 60' and extend 30' in width. A 100' buffer would be maintained between the main channel and shoreline. A 30' buffer would be maintained between the lateral channels and the shoreline. The toe of the dredging would be at Elevation 587.4. Elevation 595.4 is the normal summer pool elevation for Guntersville Lake. The material would be removed by suction dredge and pumped to an upland containment area above Elevation 360.0 on the applicant's property.
4. The dredging would allow adequate water depth to access the proposed lakefront development.
5. The site along Big Spring Creek where the dredging is to occur varies in width from 0.18 miles wide to 0.4 mile wide.
6. The day of my on-site investigation, there were no watercraft along this portion of Big Spring Creek.
7. The roads in the area were observed to be two lane city roads.
8. There were wetland areas along the shoreline of this section of Big Spring Creek. However, a 100' buffer would be maintained between the main dredge channel and shoreline and a 30' buffer would be maintained between the lateral channels and the shoreline as not to impact the wetland areas.

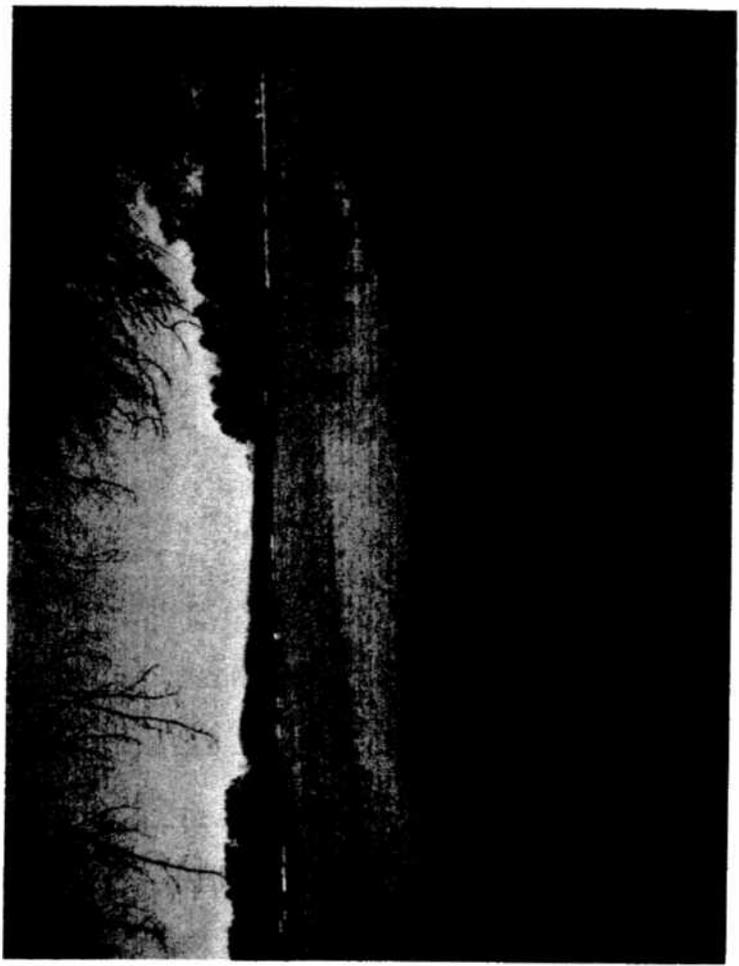
9. Photos of the site were taken.

Floyd M. Carnes
Regulatory Specialist
Operations Division

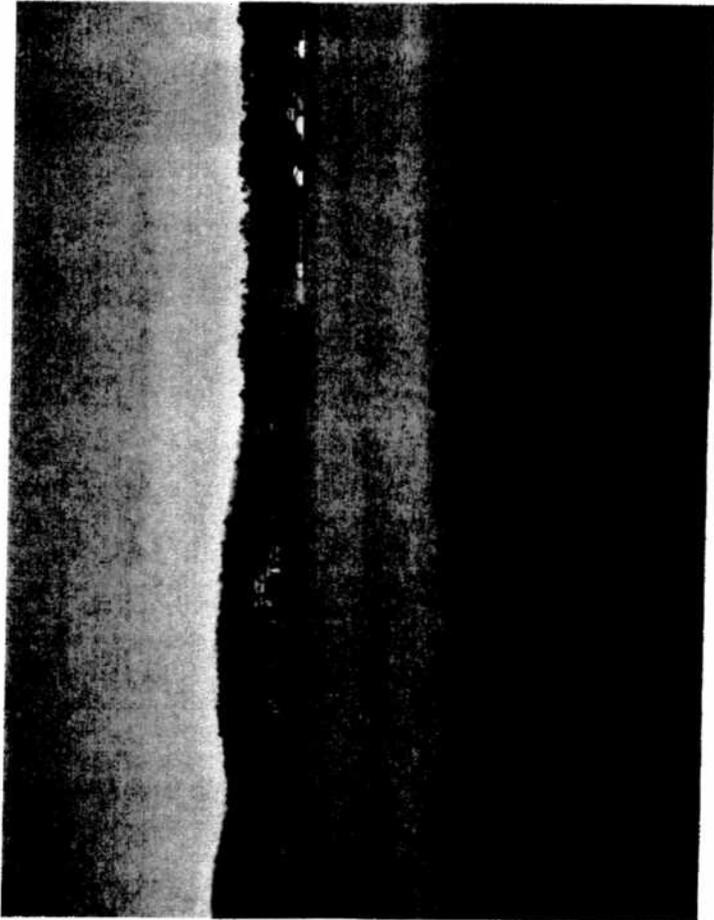
VIEW OF BIG SPRING CREEK
LOOKING SOUTH



VIEW OF BIG SPRING CREEK
LOOKING NORTHEAST



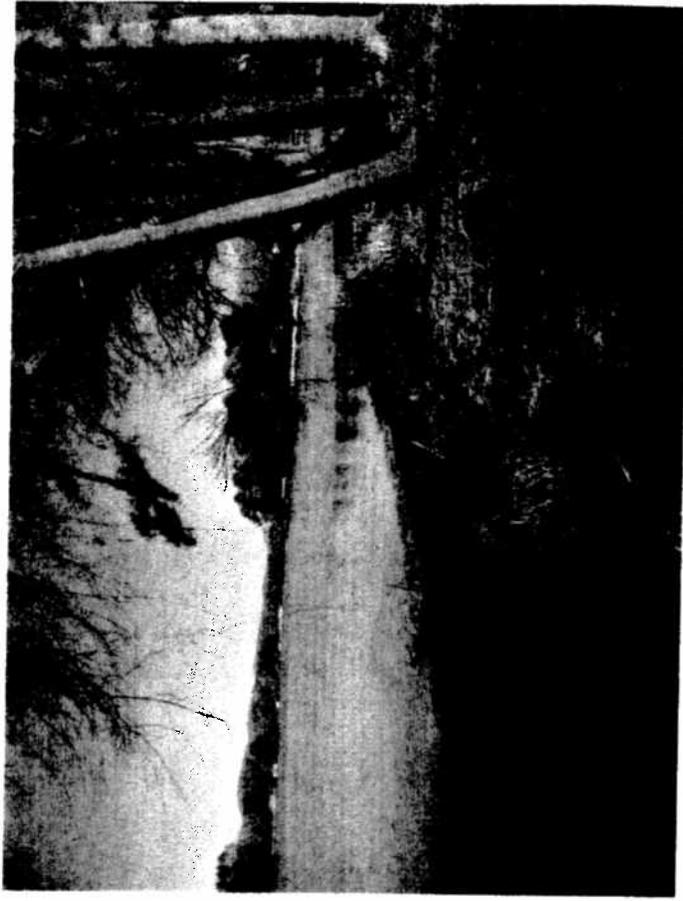
FILE NO. 200601425
BIG SPRING CREEK MILE 5.3, RIGHT BANK
TENNESSEE RIVER MILE 358.4, LEFT BANK
GUNTERSVILLE LAKE, MARSHALL COUNTY, AL
FEBRUARY 27, 2007
PHOTO BY CARNES
SACHS CONSTRUCTION CO.



VIEW OF BIG SPRING CREEK
LOOKING WEST ACROSS THE CREEK



VIEW OF BIG SPRING CREEK
LOOKING NORTH



FILE NO. 200601425
BIG SPRING CREEK MILE 5.3, RIGHT BANK
TENNESSEE RIVER MILE 358.4, LEFT BANK
GUNTERSVILLE LAKE, MARSHALL COUNTY, AL
FEBRUARY 27, 2007
PHOTO BY CARNES
SACHS CONSTRUCTION CO.

Appendix C

2-19-07
3rd CORNER:
COMMENT ON dredging Quaternary Lake
NO NO NO! The owner (Gibbs) votes for
at GVILLE & this votes to do the
work. The structure of home
has no plus
increases
to this place
The lake will
(over)

Fell back in in just a few years, and retired home owner
NOT BE FINANCIALLY Able to afford new dredge ops!
Also there is no back end out of the whole saving
you will eat you alive if you
get outside in E.S. of it!
Sincerely yours
Buddie
P.S. The local paper published your address as
3701 and has sent evidence to both places!



United States Department of the Interior

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

IN REPLY REFER TO:

2007-FA-0107

March 1, 2007

District Engineer
U.S. Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214

05 MAR 2007

Attention: Mr. Floyd M. Carnes

Dear Sir:

This is the report of the U.S. Fish and Wildlife Service (Service) concerning public notice 07-13, application No. 200601425, a joint public notice of the U.S. Army Corps of Engineers (Corps) and the Tennessee Valley Authority (TVA), in which the applicant, Sachs Construction Co., proposes to dredge approximately 12,000 cubic yards of material from Big Spring Creek for boat access. The dredge activities are proposed to occur adjacent to and for the benefit of the residents of the Spring Creek Point Subdivision, a proposed residential development at Mile 5.3, Right Bank, on Big Spring Creek, a large embayment on Guntersville Reservoir at Tennessee River Mile 358.4, Right Bank, Marshall County, Alabama.

The proposed dredge length of the main channel is approximately 4,180 feet by 40 feet wide. From the main channel, the applicant proposes to dredge 27 lateral channels to individual residential lots proposed for development on the applicant's property. The lateral channels are designed to be 30 feet in width and would extend lakeward approximately 60 feet. As proposed, a 100 foot wide buffer would be maintained between the main dredged channel and the shoreline. An approximate 30 foot buffer would be maintained between the lateral channels and the shoreline. Normal summer pool elevation for Guntersville Reservoir is Elevation 595.4. Dredging depth for these channels would be at Elevation 597.4. The proposed dredging activities would be accomplished through the use of suction dredge equipment. All dredged material would be pumped to an upland containment area on the applicant's property. The proposed dredging would allow for adequate water depth to access the proposed lakefront development and the proposed 27 individual docks.

This report is prepared in accordance with the requirements of the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) and Fish and Wildlife Coordination Act (16 U.S.C. 661-667e) and is to be used in your determination of 404 (b) (i)

www.fws.gov

PHONE: 251-441-5181



FAX: 251-441-6222

guidelines compliance (40 CFR 230) and in your public interest review (33 CFR 320.4) as they relate to protection of fish and wildlife resources.

The Service was initially contacted about this project on 28 June 2006, through a letter from OMI, Inc., environmental consultant for the applicant, where we were requested to comment on the proposed residential subdivision and dredging activities associated with the proposed action and its potential impacts on federally-listed threatened and endangered (T&E) species. The Service responded by letter on 28 July 2006 (Service Project/Ref # 2006-FA-0280), requesting a T&E species survey be conducted for the following species: Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), bald eagle (*Haliaeetus leucocephalus*), green pitcher-plant (*Sarracenia oreophila*), Price's potato-bean (*Apios priceana*), and Red-cockaded woodpecker (*Picoides borealis*). In January 2007, the Service received OMI, Inc.'s survey report which determined that there were no T&E species located on the subject property. Upon review of the information provided and based on OMI's discussion with various state and federal agency biologists and habitat specialists for these listed species, the Service concurred that the habitat required by these species does not occur on the subject property (Service Project/Ref # 2006-FA-0280b). The Service determined that the proposed action should have no adverse affects on these listed species. We also noted, should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered.

To ensure that we have met our obligations under the ESA, our evaluation of this project has again included a review for Threatened and Endangered (T&E) species and/or their designated critical habitat in the proposed project area. According to our collection records, there are no known sites of T&E species or critical habitat in the proposed project site or in the vicinity (within a mile radius) of the project footprint. Past land management practices and the construction of Guntersville Dam on the Tennessee River have likely limited the potential for federally listed aquatic species to occupy this site or re-establish populations in this area. We note, however, that collection records available to the Service may not be all-inclusive, as our database is a compilation of collection records made available by various individuals and resource agencies. This information is seldom based on comprehensive surveys of all potential habitats and thus does not necessarily provide conclusive evidence that protected species are present or absent at a specific locality.

Based on the best information available at this time and past surveys conducted in areas in close proximity to the proposed project, we believe that the requirements under Section 7 of the Endangered Species Act (ESA) of 1973, as amended, are fulfilled. Nevertheless, the Service strongly recommends that activities associated with this project be conducted in a manner as to reduce the potential for impacting fish and wildlife resources located in Big Spring Creek, Guntersville Reservoir, and the Tennessee River. Obligations under Section 7 of the ESA must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not considered, (2) the action is subsequently modified to include activities which were not considered in this consultation, or (3) new species are listed or critical habitat designated that might be affected by the proposed action.

Within the last 3 years, we have reviewed a number of proposed boat docking facilities (including individual landowner and community dock facilities), marinas, or marina expansion proposals being considered on the Tennessee River within Alabama. Remaining consistent with our comments on those other proposals, we recommend the Corps and TVA; through their permit review or National Environmental Policy Act (NEPA) process, consider the actual need for new boat dock facilities, marinas, or expansion of existing marinas. In cases of new and/or proposed residential developments with multiple waterfront lots/homes, such as is proposed with this project, we request the Corps and TVA encourage developers to consider the construction of community dock facilities rather than individual piers, docks, or boathouses. The community dock facilities would serve the needs of those residential owners interested in water-related recreational activities while also minimizing environmental impacts. We recommend these agencies base their permitting of such activities on the current public use of existing marina/dock facilities located in the vicinity of this and future, similar proposed actions.

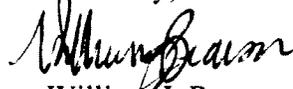
Construction materials utilized in building the docks should be Environmental Protection Agency (EPA)-approved materials to ensure no adverse environmental impacts occur to the aquatic biota or water quality conditions in the Big Spring Creek and Guntersville Reservoir. We recommend a sediment control plan be developed and erosion control measures (BMPs) be in place prior to dredging and/or construction activities to minimize the potential for erosion, sedimentation, and turbidity in Big Spring Creek and Guntersville Reservoir.

Best Management Practices (BMPs) are essential in minimizing adverse impacts to fish and wildlife resources. Therefore, BMPs should be employed prior to and maintained throughout the duration of the project to avoid or minimize sedimentation into and turbidity/siltation of the Tennessee River during all phases of construction for this project. To reduce turbidity impacts in the Tennessee River, the Service recommends that the proposed activities occur during summer pool conditions, preferably during dry weather conditions and/or periods when Guntersville Dam is not generating electricity. To further reduce effects of turbidity and extent of water quality impacts, we recommend the applicants reduce the width and length of the proposed dredging limits. The dredge spoils removed from Big Spring Creek should be placed in an upland area and stabilized immediately to reduce erosion and sedimentation. These spoils should not be placed into drainage ways, streams or wetlands.

If after considering all comments on this project the Corps and TVA decide to permit the proposed action, the Service recommends strict adherence and proper implementation of BMPs during and following construction activities and throughout the lifespan of the project. Provided none of the three above mentioned ESA conditions occur, BMPs are fully implemented and maintained, dredge spoil site(s) are in uplands and fully maintained through appropriate erosion control measures, and all appropriate permits are granted from the various state and federal agencies (e.g. NPDES permit, TVA 26A permit); the Service would have no objections to the proposed dredging for a boat access channel or for the construction, operation, and maintenance of the proposed individual dock facilities.

We appreciate the opportunity to comment on this project and request that we be kept informed of the progress of this project. For questions or concerns please call Mr. Rob Hurt of my staff at (256)353-7243, ext. 29. In correspondence, please refer to and use the number located at the top of this letter.

Sincerely,



William J. Pearson
Field Supervisor

cc: Mr. Donald W. Anderson, TVA, Guntersville, AL
Mr. James Cherry, Alabama Wildlife & Freshwater Fisheries Division, Montgomery, AL
Ms. Kyla Gatlin, ADEM, Montgomery, AL
Mr. Brian Topping, EPA, Atlanta, GA
Mr. Rob Hurt, USFWS, Decatur, AL

STATE OF ALABAMA
ALABAMA HISTORICAL COMMISSION
468 SOUTH PERRY STREET
MONTGOMERY, ALABAMA 36130-0900

COLONEL (RET.) JOHN A. NEUBAUER
EXECUTIVE DIRECTOR

November 16, 2007

TEL: 334-242-3184
FAX: 334-240-3477

Thomas O. Maher, Ph.D.
TVA
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Re: AHC 07-0177
Cultural Resource Assessment
Spring Creek Point Subdivision
Marshall County, Alabama

Dear ~~Dr. Maher~~ *TOM*:

Upon review of the cultural resource assessment conducted by Alexander Archaeological Consultants, we have determined that project activities will have no adverse effect on cultural resources eligible for or listed on the National Register of Historic Places. Therefore, we concur with the proposed project activities.

However, should artifacts or archaeological features be encountered during project activities, work shall cease and our office shall be consulted immediately. Artifacts are objects made, used or modified by humans. These include but are not limited to arrowheads, broken pieces of pottery or glass, stone implements, metal fasteners or tools, etc. Archaeological features are stains in the soil that indicate disturbance by human activity. Some examples are postholes, building foundations, trash pits and even human burials. This stipulation shall be placed on the construction plans to insure contractors are aware of it.

We appreciate your efforts on this project. Should you have any questions, the point of contact for this matter is Greg Rhinehart at (334) 230-2662. Please have the AHC tracking number referenced above available and include it with any correspondence.

Truly yours,



Elizabeth Ann Brown
Deputy State Historic Preservation Officer

EAB/GCR/gcr



the
Chickasaw
Nation HEADQUARTERS

Arlington at Mississippi / Box 1548 / Ada, OK 74821-1548 / (580) 436-2603

Bill Anoatubby
Governor

Jefferson Keel
Lieutenant
Governor

November 7, 2007

Ms. Pat Ezzell
Historian/Native American Liaison
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, TN 37902-1499

Dear Ms. Ezzell:

Thank you for your letter of notification regarding the proposed land use permit to Sachs construction Company for an access channel dredge in Marshall County, Alabama. We are interested in participating as a consulting party for this proposed project.

We are unaware of any specific historic properties or traditional cultural, religious and/or sacred sites at this time. However, in the event of inadvertent discoveries, we expect all construction activities to cease and we be notified according to all applicable state and federal laws.

If you have any questions, please contact Ms. Gingy Nail, historic preservation officer, at (580) 332-8685.

Sincerely,

A handwritten signature in black ink, appearing to read "Jefferson Keel".

Jefferson Keel, Lt. Governor
The Chickasaw Nation



God Bless America!



**United Keetoowah Band
Of Cherokee Indians in Oklahoma**

P.O. Box 746 • Tahlequah, OK 74465
2450 S. Muskogee • Tahlequah, OK 74464
Phone: (918) 431-1818 • Fax: (918) 431-1873
www.ukb-nsn.gov

Historic Preservation Program

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Woodrow Proctor
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Joyce Fourkiller
Goingsnake District

Susan Adair
Illinois District

Adalene Smith
Saline District

Barry Dotson
Sequoyah District

Albert Shade
Tahlequah District

November 5, 2007

Ms. Pat Ezzell
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, TN 37902-1499

Dear Pat:

We are in receipt of your letter dated October 22, 2007, regarding a Cultural Resource Survey for Spring Creek Point Subdivision on Guntersville Reservoir, Marshall County, Alabama.

We have no comments regarding this project and concur with the recommendations of TVA.

Best Regards,

Lisa C. Stopp
Interim Director, Language, History and Culture
Acting Tribal Historic Preservation Officer



Choctaw Nation of Oklahoma

P.O. Box 1210 • Durant, OK 74702-1210 • (580) 924-8280

Gregory E. Pyle
Chief

Gary Batton
Assistant Chief

November 20, 2007

Pat Bernard-Ezzell
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Dear Pat Bernard-Ezzell:

We have reviewed the following proposed project (s) as to its effect regarding religious and/or cultural significance to historic properties that may be affected by an undertaking of the projects area of potential effect.

Project Description: Spring Creek Point Subdivision on Guntersville Reservoir

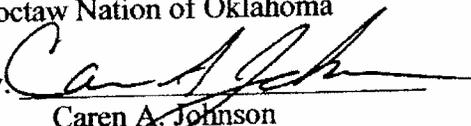
County-State: Marshall County, Alabama

Comments: After further review of the above-mentioned project (s), to the best of our knowledge, it will have no adverse effect on any historic properties in the project's area of potential effect. However, should construction expose buried archaeological or building materials such as chipped stone, tools, pottery, bone, historic crockery, glass or metal items, this office should be contacted immediately @ 1-800-522-6170 ext. 2137.

Sincerely,

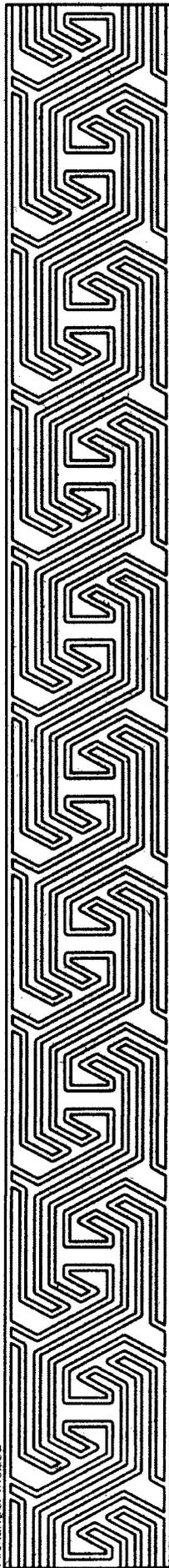
Terry D. Cole
Tribal Historic Preservation Officer
Choctaw Nation of Oklahoma

By:


Caren A. Johnson
Administrative Assistant

CAJ: vr

Appendix D



DRAFT

Combined Phase I Archaeological Survey of
Spring Creek Point Subdivision and
Shoreline, Marshal County, Alabama

September 2007

Alexander Archaeological Consultants, Inc.
P.O. Box 62
209 Walker Road
Wildwood, Georgia 30757
www.alexanderconsultants.net

15 NOV 2007

Appendix E

Carnes, Mark LRN

From: Amy Werkheiser [awerk@omi-eng.com]
Sent: Wednesday, March 28, 2007 12:32 PM
To: Carnes, Mark LRN
Cc: 'Kevin Hawk'
Subject: Response to Comments

Hello Mark,

On behalf of Ms. Millla Sachs, owner of the subject site OMI is responding to the one comment received during the Public Notice period regarding Spring Creek Pointe. OMI believe that the one comment received from an individual, the name was not decipherable, has no basis in fact and should not be considered as a serious comment regarding the development and dredge for Spring Creek Pointe.

Thank You

Amy Werkheiser

OMI, Inc.

5151 Research Drive

Huntsville, AL 35805

Appendix F

Special Conditions

1. A copy of this permit must be available at the site. All contractors must be aware of its conditions and abide by them.
2. The work must be in accordance with the plans attached to this permit.
3. The permittee shall maintain at least a 10' buffer between the area that is to be dredged and the existing shoreline.
4. The work must not interfere with the public's right to free navigation on navigable waters of the U.S.
5. All excavated material from the channels shall be pumped upland and placed above Elevation 660. The dredged material must be properly stabilized, which includes placing seed, mulch, and hay over the excavated material. In addition, staked hay bales and silt fence shall be used around the material to prevent re-entry into any waterway.
6. The floating plants used to dredge the boat access channel must display proper lights and signals as required by the current Inland Navigation Rules (INR). For INR information, please contact: Eighth Coast Guard District, Hale Boggs Federal Building, 500 Poydras Street, New Orleans, LA 70130. Telephone (504) 671-2328.
7. The permittee shall notify this office in writing two weeks before work commences on the dredging.