

Attachment 1

**Finding of No Significant Impact Section 26a and Land Use
Approval for Nucor Steel Decatur, LLC Port Facility Expansion**

**FINDING OF NO SIGNIFICANT IMPACT
SECTION 26A AND LAND USE APPROVAL FOR NUCOR
STEEL DECATUR, LLC PORT FACILITY EXPANSION
AT TENNESSEE RIVER MILE 297.5, LEFT BANK, WHEELER RESERVOIR,
MORGAN COUNTY, ALABAMA**

Nucor Steel Decatur, LLC proposes to expand its existing port facility along the Finley Island back channel adjacent to the Mallard-Fox Creek Industrial Park. Nucor has requested TVA approval of the facility expansion under Section 26a of the TVA Act and that TVA grant it the rights to use 12.4 acres of submerged TVA-owned land for the facility expansion. The port expansion would allow Nucor to expand its business by delivering an increased volume of raw materials by barge.

The proposed port facility expansion also requires approval by the U.S. Army Corps of Engineers (Corps) under Section 10 of the Rivers and Harbor Act and under Section 404 of the Clean Water Act. TVA has cooperated with the Corps in the preparation of an environmental assessment (EA) of the proposed facility expansion. TVA is adopting this EA and it is incorporated by reference.

The EA evaluates three alternatives: 1) No Action, under which the permit requests and approvals would be denied; 2) Applicant's Proposed Action; and 3) Applicant's Proposed Action with Special Conditions. The applicant's proposed action consists of dredging and disposing of about 121,000 cubic yards of fill, installing a total of six mooring cells in two areas to allow the fleeting of 71 additional barges, extending the length of the existing dock from 350 to 890 feet, and constructing a new scrap barge unloading dock. The Corps proposes to approve Alternative 3.

The Nucor plant is in an existing industrial park which was the subject of an Environmental Impact Statement prepared by TVA in 1979. The existing Nucor plant and port facility were originally built by Tricor Steel Company, LLC, and were the subject of an EA prepared by TVA in 1995.

The subject EA concludes that impacts to air quality, water quality, aquatic life, wildlife, vegetation, recreation, aesthetics, land-based transportation, and navigation would be minor and insignificant. No endangered or threatened species would be affected and the U.S. Fish and Wildlife Service concurred with this determination on June 20, 2006. An existing wetland would be impacted by the disposal of dredge spoil. The disposal of spoil in this area was previously approved by TVA in 1997 and compensatory mitigation for this wetland impact has been completed. Overall wetland impacts would therefore be insignificant. The proposal would result in a small loss of flood storage capacity and the city of Decatur has determined that it meets local floodplain regulations. TVA has also determined that it meets its Flood Control Storage Loss Guideline. No cultural resources eligible for or listed on the National Register of Historic Places would be affected and the Alabama Historical Commission concurred with this determination on September 1, 2006.

The port facility expansion was the subject of Joint Public Notice 06-54 issued by TVA and the Corps on May 26, 2006. In response to the comments received on this notice, Nucor modified its proposal and submitted a revised permit application. None of the

commentors on the public notice responded to a request to comment on the revised permit application.

Mitigation

As part of its standard conditions for Section 26a approval, TVA would require use of Best Management Practices and other general and standard conditions. Nucor would also be required to implement the Corps special permit conditions listed in the EA and the conditions listed in the Alabama Department of Environmental Management conditional water quality certification. TVA has not identified the need for any additional non-routine conditions or mitigation measures.

Conclusion and Findings

Based on the EA, we conclude that the Section 26a and land use approvals for the Nucor's port facilities would not be a major federal action significantly affecting the environment. Accordingly, an environmental impact statement is not required. This Finding of No Significant Impact is contingent upon adherence to the permit conditions in the attached December 5, 2006 EA.

Charles P. Nicholson for

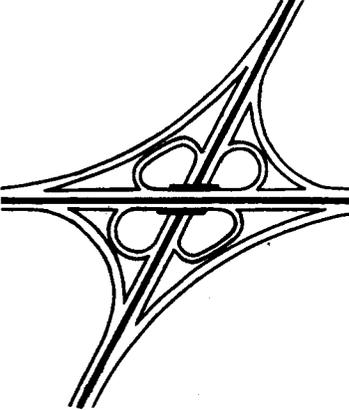
December 14, 2006

Jon M. Loney
Senior Manager, NEPA Policy
Environmental Stewardship and Policy
Tennessee Valley Authority

Date

Attachment 2

**Request for Modification of Port Expansion Facility Plans -
Proposed Secondary Containment Dike**



PUGH, WRIGHT AND ASSOCIATES, INC.
CIVIL ENGINEERS

PHONE (256) 353-3937 FAX (256) 350-2285

1740 FIFTH AVENUE, S. E. - DECATUR, ALABAMA 35601-5921
P.O. BOX 2419 - DECATUR, ALABAMA 35602-2419

12 April 2007

Ms. Lisa R. Morris, Project Manager
Operations Division
US Army Corps of Engineers, Nashville District
3701 Bell Road
Nashville, TN 37214

**RE: File No. 5393700; Port Facility Expansion at Tennessee River Mile 297.5, Left Bank,
Wheeler Lake, Morgan County, AL**

Dear Ms. Morris,

Nucor Steel Decatur, LLC is preparing to move forward with work on the Port Facility Expansion project referenced above. Elements involved in the design and construction of this project include the dredge disposal area and preparation of a secondary pond, which are inland to the project over one mile south of the dock. Nucor has secured NPDES permitting for these sites and have begun to prepare the inland grading work.

The dredge disposal area lies within a mitigated wetland that was approved and permitted by USACE, Nashville District, Mr. J. Ruben Hernandez, Project Manager in November 1996. The permit was approved for, then Trico Steel Company, LLC, to fill portions of the subject wetland and prepare dikes to flood a 224 acre donation tract for the purpose of creating and enhancing wetlands adjacent to the Mallard-Fox Creek Wildlife Management Area. This work was completed several years ago. Wetlands mitigated included those shown on the U.S. Department of the Interior, National Wetland Inventory Map as T-12, T-13, T-14, and T-15. These wetlands are in the immediate area of the subject disposal area and east of the secondary pond. This mitigation effort extended to the west boundary of the Trico, now Nucor, property line.

Trico later acquired an additional 78 acre tract from Norfolk-Southern Railroad adjacent to and immediately west of mitigated wetlands T-12 and T-15. These wetlands were delineated and mapped by Trico Steel and Pugh, Wright and Associates in June of 1996. The west boundary of wetland T-15 was effectively the west boundary of the Trico Steel/Nucor Steel property and the east boundary of the Norfolk-Southern tract later purchased by Nucor. There were no wetlands delineated or mapped west of this line and no evidence of wetlands was noted. There was an effluent stream from T-15 that flowed during wet weather to the west and eventually to the embayment created by the 224 acre donation tract. This 78 acre tract is the location of the subject secondary pond that has been partially constructed and currently stopped.

This 78 acre tract has been used for several years as pasture land and appears on occasion to have had grass cut for hay. This land was a part of the old Murphy farm prior to Norfolk-Southern's ownership. Some of the key people for Trico involved in the original mitigation effort are no longer working at this site. It was believed by all involved that the mitigation was accomplished to the "west property line" of Nucor's current boundary and work for the secondary pond was begun along with the dredge disposal area. The question has now been raised by Nucor and Pugh, Wright whether or not this pond site was included in the mitigation or not. Significant work has been done upland of the effluent ditch and some work in and adjacent to the ditch. This secondary pond is not required for storage of the dredged materials, but is a planned secondary containment for any potential release of turbid water from the primary dredge disposal area. Current photographs of the site depicting the work already performed are included with this letter as attachments. These photos show the work completed up to the point of the question being raised in March of 2007.

On behalf of Nucor we, Pugh, Wright, are requesting a confirmation of this situation and a review of our proposed resolution. The proposed resolution is to construct a rerouting of the effluent around the pond in the form of a low impact ditch that will mimic the existing ditch. The grade is sufficient to allow water to flow during rain events from the mitigated wetland T-15 in to the relocated ditch and the pond. Nucor would also be willing to include construction of components that will promote riparian growth and wildlife, although that type of growth and wildlife was not apparent previous to construction beginning. The length of the ditch to be rerouted does exceed the typically allowed length of 300' with a Nationwide Permit, but we would request inclusion of this work into the existing permit or a new nationwide permit. The dredge work is preparing to begin; the disposal area is 95% complete and it is the desire of Nucor to complete the secondary pond to insure redundancy in protecting the downstream wetlands and the Tennessee River.

We have attached maps of the proposed pond construction, maps from the 1996 permit, maps of the National Wetland Inventory and the photo's referenced above. Please feel free to contact me to coordinate any site visits with Nucor or for additional information. We thank you in advance for your consideration of this request.

Respectfully,



H. Blake McAnally, President
Pugh, Wright and Associates, Inc.

Nucor North Boundary

Nucor West Boundary

NORTH



Plan of Proposed Secondary Pond west of T-15 (mitigated wetland).

Approx. Scale 1" = 120'

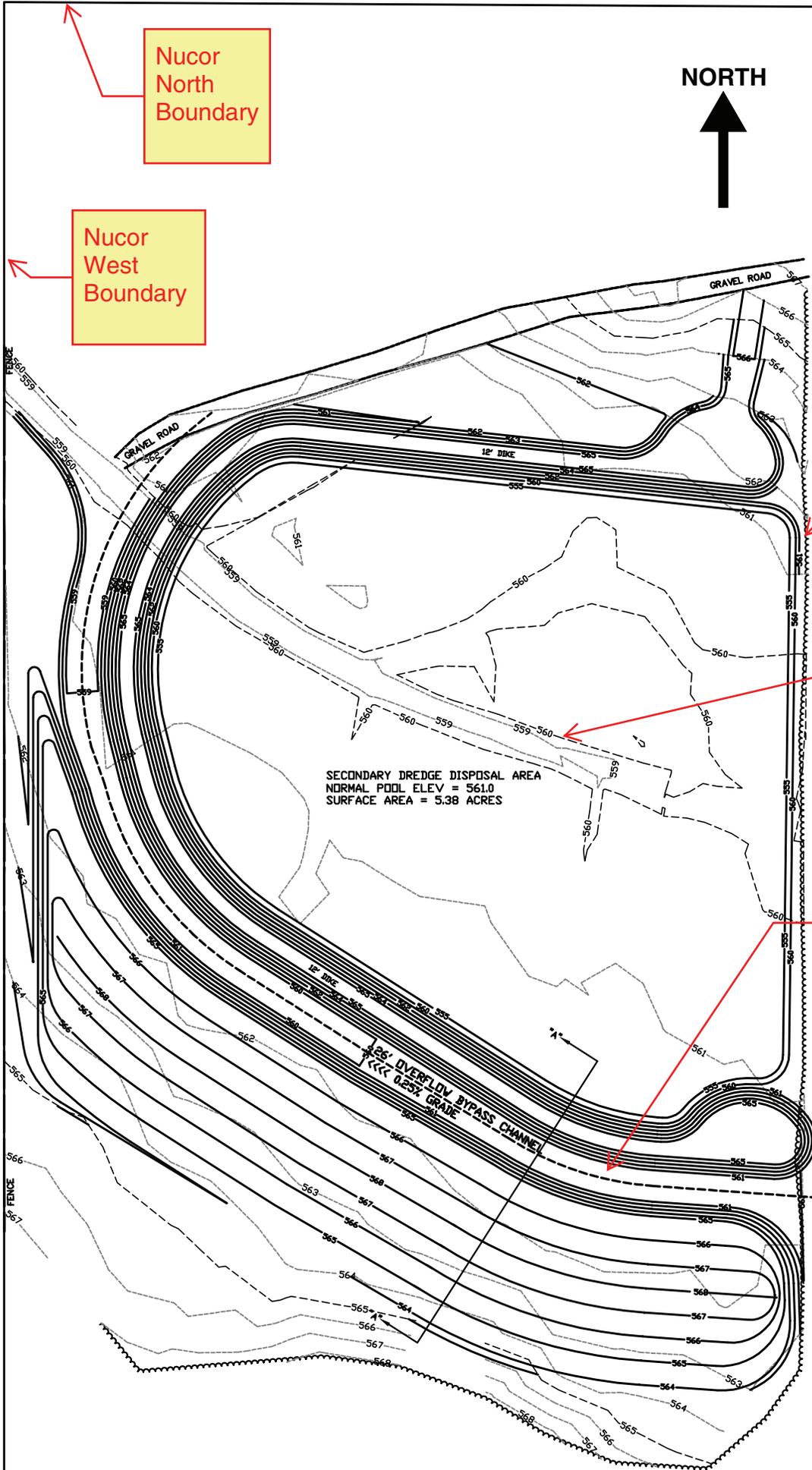
Treeline is approx. west boundary of T-15

Existing ditch across proposed secondary pond.

Proposed Location of re-routed ditch.

SECONDARY DREDGE DISPOSAL AREA
NORMAL POOL ELEV = 561.0
SURFACE AREA = 5.38 ACRES

12" DIKE
12% OVERFLOW BYPASS CHANNEL
0.25% GRADE





DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1070
NASHVILLE, TENNESSEE 37202-1070

November 18, 1996

IN REPLY REFER TO

Regulatory Branch

SUBJECT: File No. 5393700; Proposed Development Fills in Wetlands Adjacent to Unnamed Tributaries of Fox Creek (TRM 296.3L), Near Decatur, Morgan County, Alabama

Mr. R. Kim Pritchard
Manager - Energy and Environment
Trico Steel Company, L.L.C.
701 Bank Street, NW
Decatur, Alabama 35601

Dear Mr. Pritchard:

Enclosed is the signed Permit authorizing the subject work.

Also, enclosed are two postcards, one to let us know when you plan to start the work and one to let us know when the work is completed. We would appreciate your cooperation in returning these cards at the appropriate times.

If changes in the location or plans of the proposed work are necessary, revised plans should be submitted promptly to this office. No deviation should be made in the approved plans without first obtaining approval from this office.

Before you begin construction, you must also obtain approval from the Tennessee Valley Authority.

Sincerely,

J. Ruben Hernandez
Project Manager
Construction-Operations Division

Enclosures

Note: Corps decided apparently to issue this new wetland filling under the original permit with same File No. Original permit was issued on July 31, 1995

DEPARTMENT OF THE ARMY PERMIT

Permittee Trico Steel Company, L.L.C.

Permit No. 5393700

Issuing Office Nashville District, Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

SEE ENCLOSED DESCRIPTION OF WORK, EXHIBIT "A"

Project Location: In wetlands adjacent to unnamed tributaries of Fox Creek (TRM 296.3L), on Wheeler Lake, near Decatur, in Morgan County, Alabama (Jones Crossroads Quadrangle).

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on NOVEMBER 18, 1999. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

x W.G. Wiley x 11/11/96
 (PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

JOHN L. WHISLER, JR.
 LTC, Corps of Engineers

(DISTRICT ENGINEER) By: J. Ruben Hernandez 11/18/96
 J. Ruben Hernandez (DATE)
 Project Manager
 Construction-Operations Division

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

 (TRANSFEE) (DATE)

CONTINUATION SHEET 1
SPECIAL CONDITIONS
FILE NO. 5393700

1. The work must be in accordance with the attached plans.
2. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States.
3. You must have a copy of this permit available on the site and ensure contractors are aware of its conditions and abide by them.
4. You must comply with the terms and conditions of the **27 June 1996, Wetland Mitigation Plan - Trico Steel Company and Norfolk Southern Corporation Properties.**
5. The disturbance to riparian vegetation shall be kept to a minimum during construction.
6. The discharge shall consist of suitable material free from toxic pollutants in toxic amounts.
7. The proposed dike construction shall be performed during the periods of winter drawdown of Wheeler Lake to minimize adverse effects on aquatic life and water quality.
8. You must institute and maintain a strict erosion and sediment control program for the life of the project and ensure that all disturbed areas are properly seeded, riprapped, or otherwise stabilized as soon as practicable to prevent erosion. The slopes of the new dike shall be properly stabilized prior to inundation.
9. All temporary structures and excess fill material associated with the construction of the dike shall be removed upland above Elevation 558 and properly contained and stabilized to prevent re-entry into the waterway. As an option, the material may be disposed of in an approved landfill.
10. The existing channel bottom area immediately downstream of the face of the dike and principal spillway pipe shall be restored to preconstruction contours.
11. Riprap material shall be quarry-run stone or its equivalent, i.e., clean material free of waste metal products, organic materials, unsightly debris, etc. The selected material shall be of adequate size range and weight, but sufficient small sizes should be included to choke the larger stones.
12. The proposed dike and impoundment area shall be protected by either a permanent or long-term easement to guarantee the construction, operation, and maintenance of these facilities.

DESCRIPTION OF WORK
FILE NO. 5393700

Trico Steel Company, L.L.C. (Trico), proposes to fill 21.02 acres of headwater wetlands for anticipated industrial development near the steel mill. Mitigation will consist of the construction of a dike across a narrow point of an embayment located within the Mallard-Fox Creek Wildlife Management Area (MFWMA) just south of the 224-acre donation tract. The dike will be 830' long, 12' wide at the top, and have riprap-covered 3:1 side slopes. The top of the dike will be at Elevation 560. The dike will require approximately 15,600 cubic yards of earthen material. Clay and sand borrow are available on the agricultural field west of the dike. The dike will contain principal and emergency spillways to pass the 100-year flood. The embayment will be inundated to Elevation 558 to create a 213-acre lake. Levels will be manipulated seasonally. Upland areas along the embayment's fringe would be inundated during at least three weeks of the growing season to create wetlands. The impoundment will also enhance existing wetlands. Mitigation has the potential to result in 29 acres of wetland creation and 192 acres of enhancement. Isolated wetland pockets will be connected with the open water environment. The embayment, which typically exposes a mudflat at normal winter pool, will remain open water during the fall and winter months providing a waterfowl resting area. Construction is scheduled for October when Wheeler Lake has been lowered to winter pool. Proper erosion control and best management practices will be followed.

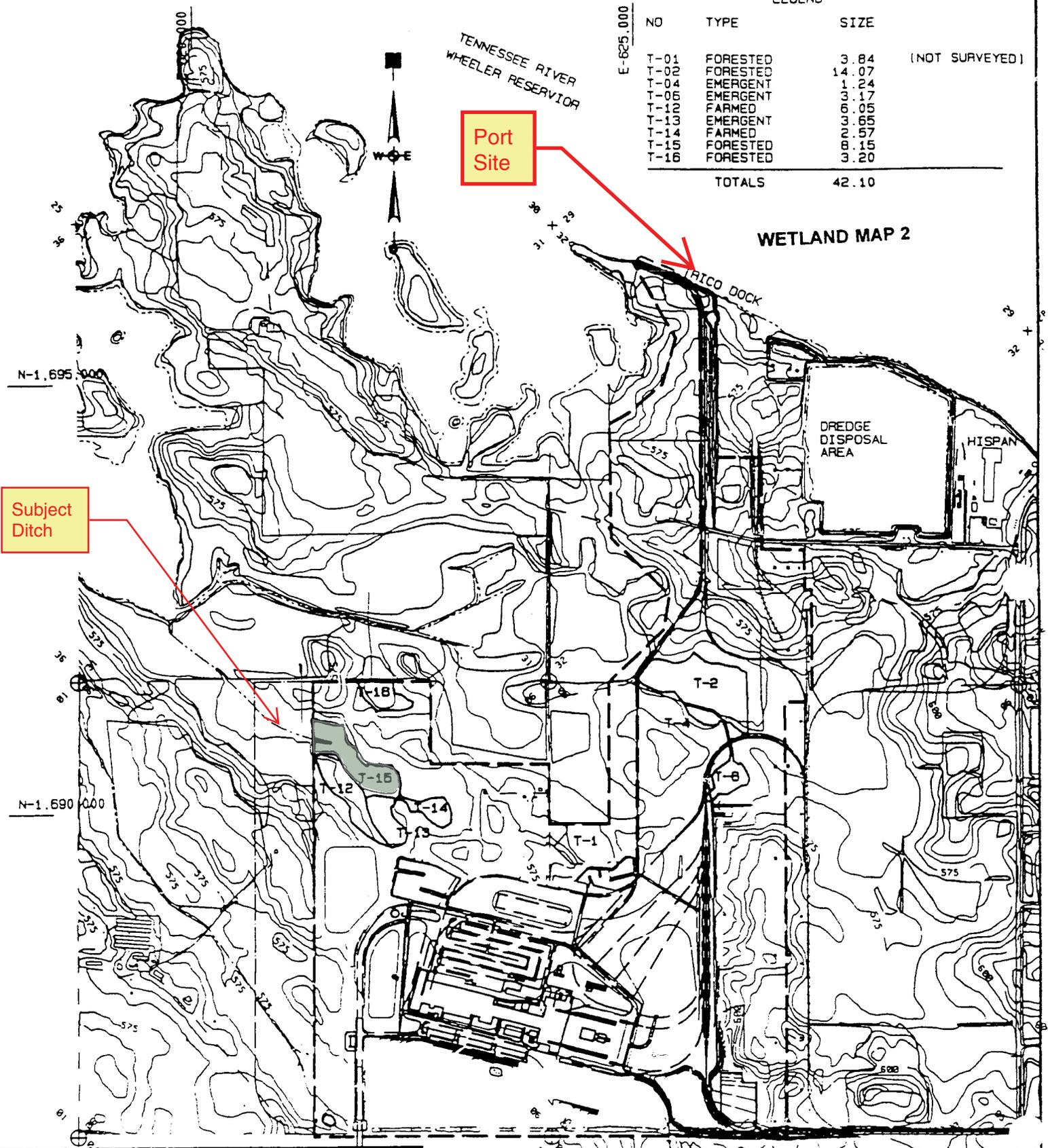
Exhibit "A"

P/N No. 96-82
 File No. 5393700

WETLAND MAP
 TRICO PROPERTY
 (FORMER SEWELL AND TVA PROPERTIES)

LEGEND

| NO | TYPE | SIZE | |
|--------|----------|-------|----------------|
| T-01 | FORESTED | 3.84 | (NOT SURVEYED) |
| T-02 | FORESTED | 14.07 | |
| T-04 | EMERGENT | 1.24 | |
| T-06 | EMERGENT | 3.17 | |
| T-12 | FARMED | 6.05 | |
| T-13 | EMERGENT | 3.65 | |
| T-14 | FARMED | 2.57 | |
| T-15 | FORESTED | 8.15 | |
| T-16 | FORESTED | 3.20 | |
| TOTALS | | 42.10 | |



/users/mtp/stn1/desc-96 SK-42-96-8.5X11

SCALE: 1"=1,500'

DRAWN BY: D. PUCKETT

APPROVED BY: PUGH

PUGH, WRIGHT AND ASSOCIATES, INC.
 Decatur, Alabama

DATE: JUN., 1996

JOB NO: SK-42-96

PAGE 1 OF 1



DEPARTMENT OF THE ARMY
NASHVILLE DISTRICT, CORPS OF ENGINEERS
3701 Bell Road
NASHVILLE, TENNESSEE 37214

REPLY TO
ATTENTION OF:

April 17, 2007

Regulatory Branch

SUBJECT: File No. 5393700; Change in Scope of Work (Increase in Dredged Material Disposal Site) for a Port Facility Expansion at Tennessee River Mile 297.5, Left Bank, Wheeler Lake, Morgan County, AL (Nucor Steel Decatur, LLC)

Mr. Blake McAnally
Pugh, Wright, and Associates, Inc.
PO Box 2419
Decatur, AL 35602-2419

Dear Mr. McAnally:

In accordance with your April 12, 2007, request, on behalf of Nucor Steel Decatur, LLC, I have authorized a minor change in the scope of work of Nucor's existing Department of the Army (DA) for the subject action. In this respect, the existing permit has been expanded/modified to include the additional dredged material disposal site (78 acre tract) including the deposit of fill into one ephemeral stream channel that runs through the site (length less than 300 linear feet) provided the channel is relocated and stabilized on the property as described in your letter.

Our records and Nucor's permit have been changed to reflect this change. All other conditions of the original permit remains in full force and effect. If any other changes in the plans of the work are necessary for any reason, revised plans should be submitted promptly to this office.

It is Nucor's responsibility to obtain any other federal, state, and/or local approval necessary for the change in scope of work. Therefore, by copy of this letter, I am notifying the state of Alabama, Department of Environment and Conservation, and the Tennessee Valley Authority of my action. Since I have modified your existing valid DA permit, then the existing valid water quality certification that was issued by the state for the DA permit which I have modified remains in full force and effect and flows with this modification.

Attachment 3

Nucor Steel Decatur, LLC Section 26a Permit Application

JOINT APPLICATION FORM

Department of the Army/TVA

The Department of the Army (DA) permit program is authorized by **Section 10 of the Rivers and Harbors Act of 1899** and **Section 404 of the Clean Water Act (P.L. 95-217)**. These laws require permits authorizing structures and work in or affecting navigable waters of the United States and the discharge of dredged or fill material into waters of the United States. **Section 26a of the Tennessee Valley Authority Act**, as amended, prohibits the construction, operation, or maintenance of any structure affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries until plans for such construction, operation, and maintenance have been submitted to and approved by the Tennessee Valley Authority (TVA).

| | |
|--|---|
| Name and Address of Applicant: Nucor Steel Decatur, LLC Mr. Rex Query, Site Manager P.O. Box 2249 Decatur, AL 35609 Telephone Number: Home <u>N/A</u> Office <u>256-301-3508</u> | Name, Address, and Title of Authorized Agent: Pugh, Wright and Associates, Inc. Mr. H. Blake McAnally, President P.O. Box 2419 Decatur, AL 35602 Telephone Number: Home <u>N/A</u> Office <u>256-353-3937</u> |
|--|---|

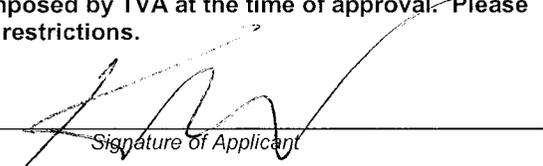
Location where activity exists or will occur (*include Stream Name and Mile, if known*):
Nucor Steel Decatur, LLC Private Property at Tennessee River Mile 297.5, Left bank

| | |
|--|---|
| Application submitted to <input type="checkbox"/> DA <input checked="" type="checkbox"/> TVA | |
| Date activity is proposed to commence: <u>June 2007</u> | Date activity is proposed to be completed: <u>August 2007</u> |

Describe in detail the proposed activity, its purpose and intended use (*private, public, commercial, or other*). Describe structures to be erected including those placed on fills, piles, or floating platforms. Also describe the type, composition, and quantity of materials to be discharged or placed in the water; the means of conveyance; and the source of discharge or fill material. Please attach additional sheets if needed.

Nucor Steel Decatur, LLC is beginning dredge work for a Port Facility Expansion project referenced herein by Department of the Army Permit No. 5393700. Elements involved in the design and construction of this project include the dredge disposal area and preparation of a secondary pond, which are inland to the project over one mile south of the dock.

This secondary pond is not required for storage of the dredged materials, but is a planned secondary containment for any potential release of turbid water from the primary dredge disposal area. Additional information including drawings, copies of permits and photo's are included with this application.

| | |
|---|--|
| Application is hereby made for approval of the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I agree that, if this application is approved by TVA, I will comply with the attached terms and conditions and any special conditions that may be imposed by TVA at the time of approval. Please note the U.S. Army Corps of Engineers may impose additional conditions or restrictions. | |
| <u>5/21/07</u> Date |  Signature of Applicant |
| 18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of The United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. The appropriate DA fee will be assessed when a permit is issued. | |

| |
|--|
| Names, addresses, and telephone numbers of adjoining property owners, lessees, etc., whose properties also join the waterway: Donald E. & Susan B. Glenn, 13868 Co. Road 400, Hillsboro, AL 35643 (256) 637-2069 Randell J. Muston, 635 Co. Road 579, Trinity, AL 35673 (256) 350-5283 Mary Stovall Green, 201 SE Common Street, Tuscumbia, AL 35674, Phone unknown |
|--|

List of previous DA/TVA permits/approvals DA 5393700 TVA _____
Permit Number Date

Is any portion of the activity for which authorization is sought now complete? Yes No (If "Yes" attach explanation)
 Month and year the activity was completed: March 2007 . Indicate the existing work on the drawings.

List all approvals or certifications required by other federal, interstate, state, or local agencies for any structures, construction, discharges, deposits, or other activities described in this application.

| Issuing Agency | Type Approval | Identification No. | Date of Application | Date of Approval |
|---|--|--------------------|---------------------|-------------------|
| Department of the Army | Port Fac. Expansion | 5393700 | May 2006 | December 26, 2006 |
| Department of the Army | Mod. to Port Fac. Expan. | 5393700 | April 12, 2007 | April 17, 2007 |
| Alabama Dept. of Environmental Management | CWA Sec. 401 Water Quality Certification | AL06-54 | May 2006 | October 31, 2006 |
| Alabama Dept. of Environmental Management | NPDES, Stormwater NOR | AL R16C763 | April 2, 2007 | April 2, 2007 |
| | | | | |
| | | | | |
| | | | | |

Has any agency denied approval for the activity described herein or for any activity directly related to the activity described herein?
 Yes No (If "Yes" attach explanation)

Project plans or drawings should accompany the application. These should be on paper suitable for reproduction no larger than 11 x 17 inches or contained on a 3-1/2 inch floppy computer disc in "dxf" format, and should be submitted to the appropriate TVA and U.S. Army Corps of Engineers offices. An application that is not complete will be returned for additional information.

| U.S.A.C.E. Offices | | TVA Office Location |
|--|--|----------------------------|
| U.S. Army Corps of Engineers Eastern Regulatory Field Office Spring Cress Business Park 501 Adessa Blvd., Suite 250 Lenoir City, Tennessee 37771 (865) 986-7296 | U.S. Army Corps of Engineers Savannah District The Plaza, Suite 130 1590 Adamson Parkway Morrow, Georgia 30260-1763 (678) 422-2729 | Tennessee Valley Authority |
| U.S. Army Corps of Engineers Regulatory Branch 3701 Bell Road Nashville, Tennessee 37214 (615) 369-7500 | U.S. Army Corps of Engineers Western Regulatory Field Office 2042 Beltline Road, SW, Bldg C, Suite 415 Decatur, Alabama 35602 (256) 350-5620 | |
| U.S. Army Corps of Engineers Norfolk District P.O. Box 338 Abingdon, Virginia 24212 (276) 623-5259 | U.S. Army Corps of Engineers Asheville Regulatory Field Office 151 Patton Avenue, Room 208 Asheville, North Carolina 28801-5006 (828) 271-4856 | |

Privacy Act Statement

This information is being requested in accordance with Section 26a of the TVA Act as cited on the front page of this form. Disclosure of the information requested is voluntary; however, failure to provide any required information or documents may result in a delay in processing your application or in your being denied a Section 26a permit. An application that is not complete will be returned for additional information. TVA uses this information to assess the impact of the proposed project on TVA programs and the environment and to determine if the project can be approved. Information in the application is made a matter of public record through issuance of a public notice if warranted. Routine uses of this information include providing to federal, state, or local agencies, and to consultants, contractors, etc., for use in program evaluations, studies, or other matters involving support services to the program; to respond to a congressional inquiry concerning the application or Section 26a program; and for oversight or similar purposes, corrective action, litigation or law enforcement.

Burden Estimate Statement

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Agency Clearance Officer, Tennessee Valley Authority, 1101 Market Street, Chattanooga, Tennessee 37402; and to the Office of Management and Budget, Paperwork Reduction Project (3316-0060), Washington, D.C. 20503.

Attachment 4

**Finding of No Significant Impact for Proposed Fox Creek Dike
Mitigation Project, Wheeler Reservoir, Morgan and Lawrence
Counties, Alabama**

HMD copy

February 25 1997

Ruben O. Hernandez, NRB 1A-N

PROPOSED FOX CREEK DIKE MITIGATION PROJECT, WHEELER RESERVOIR,
MORGAN AND LAWRENCE COUNTIES, ALABAMA - ADOPTION OF THE
ENVIRONMENTAL ASSESSMENT (EA) PREPARED BY THE U.S. ARMY CORPS
OF ENGINEERS (USACE), AND FINDING OF NO SIGNIFICANT IMPACT
(FONSI)

Trico Steel Company, L.L.C., is currently constructing a steel recycling mill along the south shore of Wheeler Reservoir in Morgan County, Alabama. The mill is adjacent to the Mallard-Fox Creek Industrial Park, which was previously evaluated for industrial suitability in a 1980 Environmental Impact Statement. On June 12, 1995, TVA completed an EA and FONSI on proposed actions which would allow Trico to construct and operate a steel recycling mill. The actions previously approved in the 1995 FONSI were a barge terminal and stream crossing by a railroad spur, a transfer of 188 acres of TVA property to provide access to the barge terminal, release of deed restrictions on private land that was previously owned by TVA, provision of direct electric service to the proposed mill, and provision of economic incentives to the proposed mill. In the previous review, it was found that the proposed mill would impact less than two acres of the 49 acres of wetlands on Trico property, and that this wetland impact was minor and insignificant.

Once construction of the mill began, it became evident that additional development of the area surrounding the Trico mill was likely, primarily by industries built to provide services to the steel recycling facility. Trico purchased 685 acres of private land and 188 acres of TVA land in 1995. During 1995 and 1996, Norfolk Southern Corporation has purchased much of the Mallard-Fox Creek Industrial Park and lands to the west of the Trico properties. Together, Trico and Norfolk Southern own approximately 1500 acres which they plan to make available to industries that wish to locate near Trico. These land needs, although not certain, may result in the fill of 21 of the 47 total acres of wetlands on the Trico tracts in the future. Because of this potential to impact wetlands, Trico submitted an application to fill six wetland areas to the U.S. Army Corps of Engineers on June 25, 1996. In the same application, it was noted that Norfolk Southern proposed to fill six wetlands totaling 5.2 acres under Nationwide Permit 26.

As compensation for the fill of up to 26 acres of wetlands, Trico and Norfolk Southern have worked with the Alabama Department of Conservation and Natural Resources, Division of Game & Fish (ALGF), and TVA to develop a comprehensive mitigation approach for the entire development. The cooperating parties agreed to evaluate the construction of a dike on TVA property across a portion of the Fox Creek embayment of

Wheeler Reservoir. This TVA property is now managed as Mallard/Fox Creek Wildlife Management Area under agreement with the state of Alabama. On September 19, 1996, the Alabama Division of Game & Fish submitted a Section 26a application providing detailed information on the proposed dike. The dike would raise water level in the embayment by two feet above normal summer pool and eight feet above normal winter pool. The resulting 213-acre impoundment would create 29 acres of new wetlands and enhance 192 acres of existing wetlands. Section 26a approval of this dike, Section 26a approval of wetland fills on tributaries to Wheeler Reservoir, and the grant of a long-term easement to ALGF constitute the proposed actions of TVA.

On July 30, 1996, the U. S. Army Corps of Engineers (USACE), TVA, and the State of Alabama issued Joint Public Notice 96-82 on the proposed wetland fills and mitigation dike. A number of comments were received on the notice and project. On November 4, 1996 the USACE issued its Environmental Assessment (EA) on the project, a Finding of No Significant Impact, and the compliance determination required under the section 404(b)(1) guidelines. In these documents the USACE responded to all comments received.

Under Section 401 of the Clean Water Act, the certification that the project would not violate applicable water quality standards is required from the State of Alabama. The state issued its certification on October 25, 1996.

The Environmental Assessment prepared by the USACE evaluated the environmental consequences of no action as well as the proposed filling of 21 acres of wetlands for industrial development and the proposed construction of a dike across an embayment of Wheeler Reservoir. The EA addressed impacts on wetlands, floodplains, cultural resources, recreation, water quality, fish and wildlife values, and endangered species. These impacts were found to be minor and insignificant.

The EA stated that TVA would ensure compliance with its No Net Loss Guideline. This guideline has now been replaced by a "Flood Storage Loss Guideline." TVA has evaluated the project under this guideline. In order to minimize adverse floodplain impacts, the dike would be constructed at a point where overall project costs would be reduced, project benefits would be maximized and the loss of flood control storage would be lessened. The applicant has shown that there are substantial economic, environmental and natural resource benefits associated with the project. Therefore, the construction of the Fox Creek Dike Mitigation Project would comply with TVA's Flood Storage Loss Guideline.

TVA has also reviewed the project for compliance with Floodplain Executive Order 11988. Trico evaluated several alternatives for the construction of wetland mitigation areas, in cooperation with TVA, USACE, and ALGF. The agencies determined that the construction of a dike along a narrow point of an embayment of Fox Creek would provide

the required wetland mitigation as well as providing substantial wildlife and recreational benefits. Therefore, there would be no practicable alternative to fulfill the project requirements.

TVA has reviewed the USACE EA and FONSI. With the additional discussion above, TVA has determined that the scope, alternatives considered, and content of the EA are adequate as an assessment of the environmental impacts of TVA's actions. The USACE EA is attached and incorporated by reference.

TVA concludes that implementation of the proposed action would not be a major federal action significantly affecting the environment. Accordingly, preparation of an environmental impact statement is not required. The Office of the General Counsel concurs in this determination.

Copies of this notice of adoption and FONSI will be provided to Alabama State agencies for their information, and will be retained in TVA's National Environmental Policy Act document room.

Original Signed By

Jon M. Loney, Manager
Environmental Management
WT 8C-K

HMD:BL

Attachment

cc: W. S. Ambrose, CEB -M
J. A. Carmichael, ET 12J-K
E. S. Christenbury, ET 10H-K
T. E. Howard, LM 1A-TCA
R. J. Williams, CTR 2C-M
Files, EM, WT 8C-K

Prepared by Harold M. Draper (EM); reviewed by W. F. Brines (LM) with concurrence of Khurshid K. Mehta (OGC)

trico steel mitigation dike fonsi.doc

Attachment 5

Areas Surveyed for Archaeological Resources

Phase I Surveys

Visible Active

- Phase I Surveys
- MultiSurveyShader
- imagecat
- County Lines
- Rivers-Lakes
- AL Counties

Refresh Map

Office of Archaeological Research, UA Museums. ArcIMS-Copyright (C) 1992-2002 ESRI Inc.

Areas surveyed for archaeological resources

Pan

Attachment 6

**August 2, 2007, TVA Consultation Letter to Alabama Historical
Commission, State Historic Preservation Officer (SHPO) and
October 5, 2007, SHPO Response**



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

August 2, 2007

Ms. Stacye Hathorn
Section 106 Coordinator
Alabama Historical Commission
468 South Perry Street
Montgomery, Alabama 36130-0900

Dear Ms. Hathorn:

The Tennessee Valley Authority (TVA) proposes to issue an after-the-fact 26a Permit to Nucor Steel Decatur, LLC (Nucor) for the construction of a 5.4-acre secondary water containment area and the relocation of approximately 300 feet of an ephemeral drainage. The action took place along an unnamed tributary of Fox Creek at Tennessee River mile 297.5L in Morgan County, Alabama (Figures 1 and 2).

The containment area consists of a 6-foot high, 12-foot wide dike across this drainageway near its confluence with Fox Creek. It serves to capture or reroute any overflow from dewatering dredge spoil approved to be placed in a mitigated wetland upgradient of the site. Pursuant to 18 C.F.R. § 800.4, TVA considers the area of potential effect (APE) to be the containment area and stream relocation area which equals approximately 5.4 acres.

Previous cultural resource surveys of the area (Gage 1996, Shaw 1995) resulted in the recordation of archaeological sites in close proximity to the project location as well as one listed historic property on the National Register, the Murphy House (Figure 3).

No archaeological or historic/architectural surveys were conducted before the construction of the secondary containment pond. An after-the-fact reconnaissance of the project area was conducted and no artifacts were identified within or near the disturbed soil of the containment area. The containment pond is visible from the National Register of Historic Places (NRHP) listed Murphy House, however, its historic setting has been compromised by previous surrounding development such as the Nucor plant. TVA recommends that this undertaking did not have any additional adverse effect on these properties.

It is TVA's opinion that no cultural resources potentially eligible for or listed in the NRHP were affected by this undertaking and no further investigations are recommended.

Pursuant to the requirements of Section 106 of the National Historic Preservation Act and its implementing regulations at 36 CFR Part 800, TVA is requesting your concurrence on these findings and recommendations.

Ms. Stacye Hathorn
Page 2
August 2, 2007

If you have any questions regarding this project, please contact Ted Wells at ewwells@tva.gov or 865-632-2259.

Sincerely,

A handwritten signature in black ink, reading "Thomas O. Maher". The signature is written in a cursive style with a long, sweeping tail.

Thomas O. Maher, Ph.D.
Manager
Cultural Resources

Enclosures

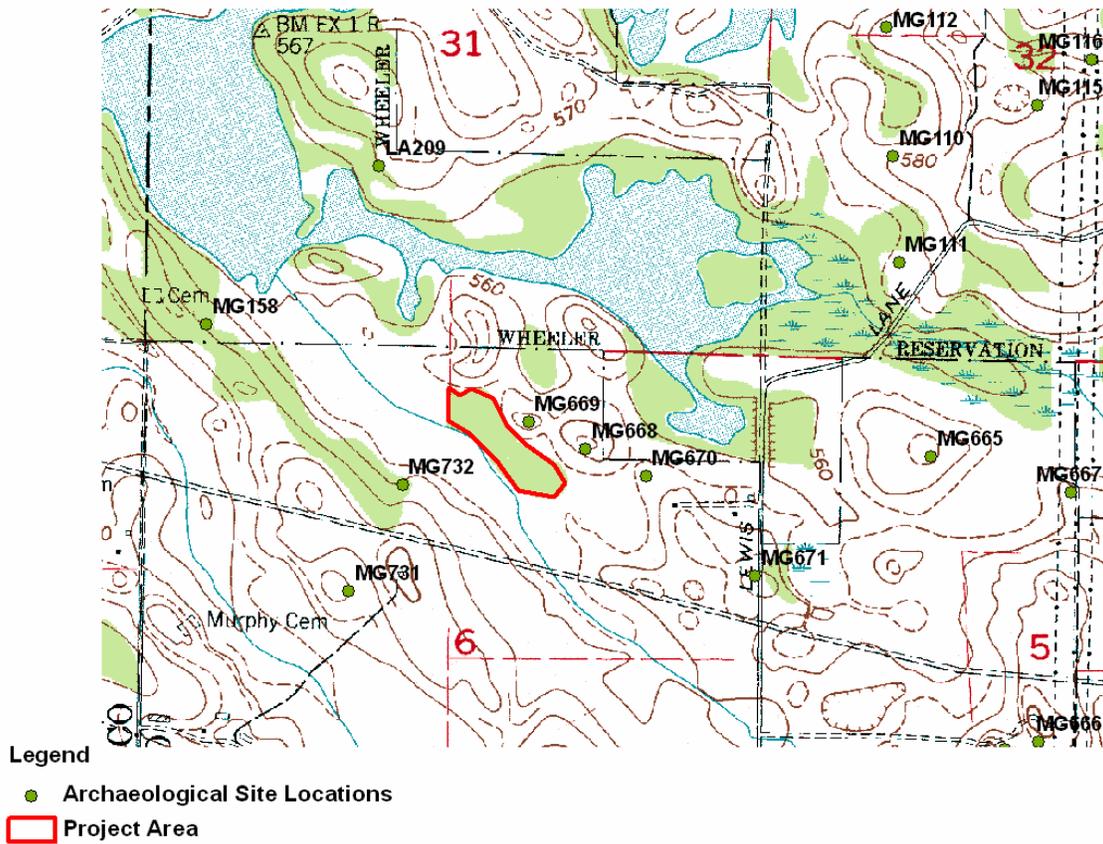


Figure 1: Excerpt of the Jones Crossroads, AL 7.5-minute USGS quadrangle, showing location of containment area and previously recorded archaeological sites



Figure 2: View of the Nucor Steel Decatur water containment area



Figure 3: NRHP Listed Murphy House



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

October 5, 2007

COLONEL (RET.) JOHN A. NEUBAUER
EXECUTIVE DIRECTOR

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

Dr. Thomas O. Maher
Tennessee Valley Authority
400 West Summit Hill Drive
Knoxville, Tennessee 37902-1499

Re: AHC 07-1171
After-the-fact Water Containment Areas
Nucor Steel
Morgan County, AL

Dear Dr. Maher:

After lengthy review of the information forwarded by your office on this project, our office has decided to concur with the activities. Although there was an area which was disturbed without examination by an archaeologist, we understand the owner believed that the activities were covered under a project with which we had concurred. In addition, the company's past record with cultural resources speaks in their favor.

Should you have questions, please do not hesitate to call. The number which rings at my desk is 334-230-2667.

Truly yours,

Elizabeth Ann Brown
Deputy State Historic Preservation Officer