



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, NASHVILLE DISTRICT
WESTERN REGULATORY FIELD OFFICE
2424 DANVILLE ROAD SW, SUITE N
DECATUR AL 35603

April 21, 2020

SUBJECT: File No. LRN-2019-00942; City of Huntsville, Proposed Discharge of Fill Material into Wetlands Adjacent Beaverdam Creek at Old Highway 20, Huntsville, Limestone County, Alabama

City of Huntsville
Attn: Ms. Kathy Martin
328 Fountain Circle
Huntsville, Alabama 35801

Dear Ms. Martin:

Enclosed is the Department of the Army (DA) permit authorizing the subject activity. If changes in the location or plans of the proposed work are necessary, revised plans should be submitted promptly to this office. No deviations should be made from the approved plans without first obtaining approval from this office.

If you have any questions or comments please contact Eric Sinclair at the above address, e-mail william.e.sinclair@usace.army.mil, or telephone (256) 350-5620.

Sincerely,

A handwritten signature in blue ink that reads "Timothy C. Wilder".

Timothy C. Wilder
Chief, West Branch
Regulatory Division
U.S. Army Corps of Engineers

Enclosures

cc:

Mr. Keith Mandel, OMI, Inc., kmandel@omi-eng.com

Mr. Max Mandel, OMI, Inc., mmandel@omi-eng.com

Ms. Savannah Daughtry, Alabama Department of Environmental Management,
savannah.daughtry@adem.alabama.gov

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: City of Huntsville

PERMIT NUMBER : LRN-2019-00942

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: The proposed work consists of the permanent discharge of fill material into 1.75 acres of two wetlands adjacent to Beaverdam Creek associated with the realignment of approximately 1 mile of Old Highway 20 as shown in Figures 1 and 2.

PROJECT LOCATION: The project is located east of Beaverdam Creek, south of the existing Old Highway 20 alignment in Huntsville, Limestone County, Alabama. Within the project are wetlands adjacent to Beaverdam Creek, a tributary to the Tennessee River Mile 310.7, Right Bank. Latitude 34.67012°N, Longitude 86.82226°W.

PERMIT CONDITIONS:

1. The time limit for completing the work authorized ends on April 21, 2025. 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 must 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 may 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 archaeological 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.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions: See Page 4 “**Special Permit Conditions (File No. LRN-2019-00942)**”.

Further Information:

Congressional Authorities. You have been authorized to undertake activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899

(X) Section 404 of the Clean Water Act

Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

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.

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. When 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 this specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

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.

Kathy Marti
(Permittee)

4-20-2020
(Date)

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

Sonny B. Avichal, LTC, Corps of Engineers
(District Commander)

By: Timothy C. Wilder
Timothy C. Wilder
Chief, West Branch
Regulatory Division
U.S. Army Corps of Engineers

April 21, 2020
(Date)

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.

(Transferee)

(Date)

Special Permit Conditions (File No. 2019-00942)

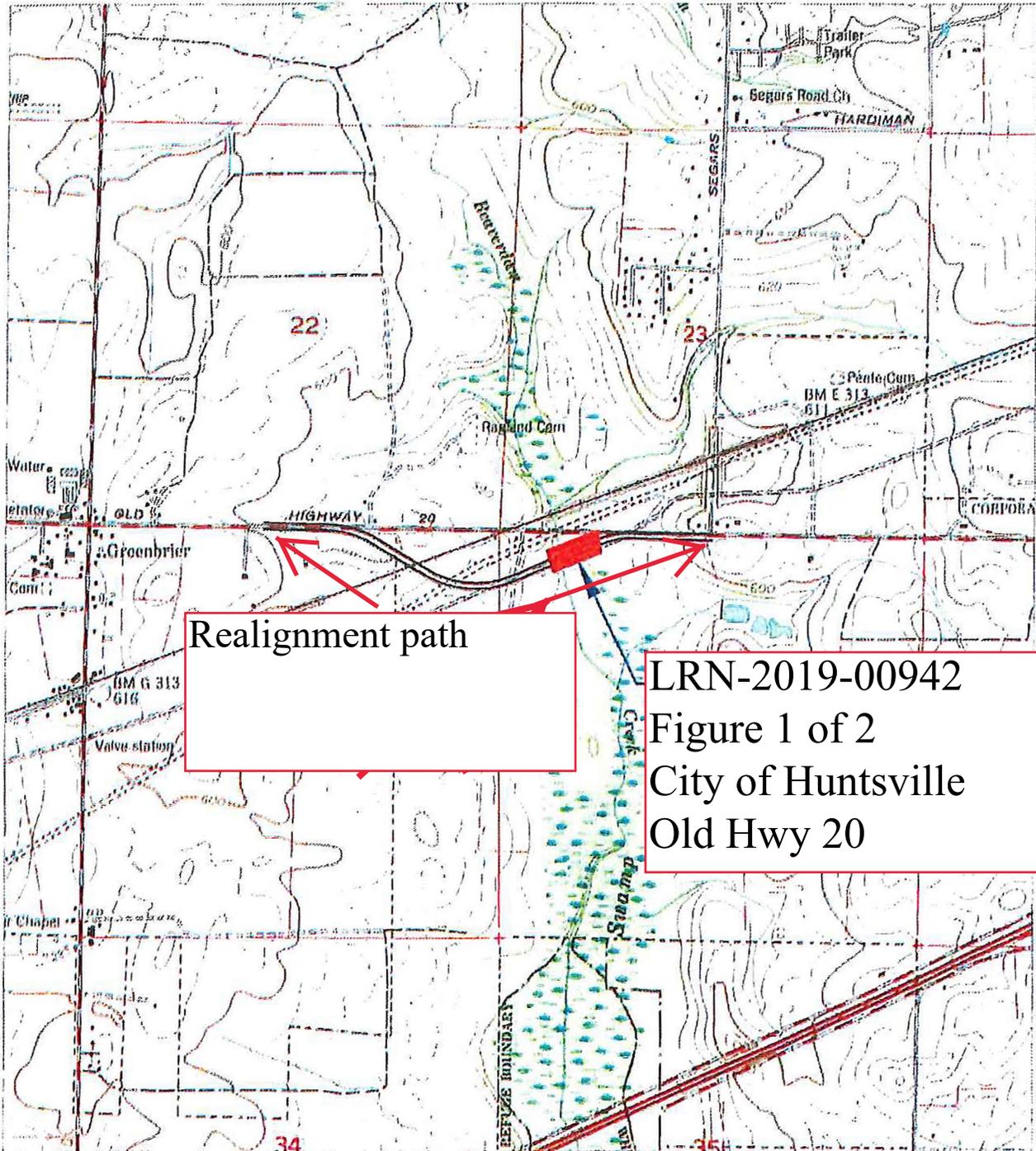
1. The work must be in accordance with the attached plans and specifications entitled “LRN-2019-00942 Figures 1 through 2”. Work in waters of the U.S. that deviates from the approved plans shall NOT occur without first obtaining approval from the U.S. Army Corps of Engineers, Nashville District Regulatory Division.
2. You must have a copy of this permit available on-site to ensure all contractors are aware of its conditions and abide by them.
3. **Fill Material:** The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, asphalt, construction materials, and concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.
4. Permittee shall comply with the enclosed Alabama Department of Environment Management (ADEM) 401 Water Quality Certification (attached), effective 23 March 2020.
5. **Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the work area. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas shall be stabilized using sod, degradable mats, barriers, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized. More specifically, the permittee shall implement the Best Management Practices (BMPs) described in the latest version of the Alabama Handbook for Erosion Control, Sediment Control, and Stormwater Management on Construction Sites and Urban Areas.
6. **Wetland Compensatory Mitigation:** Prior to initiating the authorized work in waters of the United States, the Permittee shall provide verification to the U.S. Army Corps of Engineers, Nashville District Regulatory Division that 3.5 wetland mitigation bank credits have been acquired from the Robinson Spring Mitigation Bank. The required verification shall reference this project's permit number (LRN-2019-00942).
7. **Project Modifications:** Should changes to the work authorized or obligated by this permit become necessary, the Permittee is advised that a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee’s responsibility to request a modification of this permit from the Nashville District Regulatory Office.

OMI, Inc.

5151 Research Dr. NW
Huntsville, AL 35805

PH: (256) 837 - 7664

FAX: (256) 837 - 7677



Realignment path

LRN-2019-00942
Figure 1 of 2
City of Huntsville
Old Hwy 20

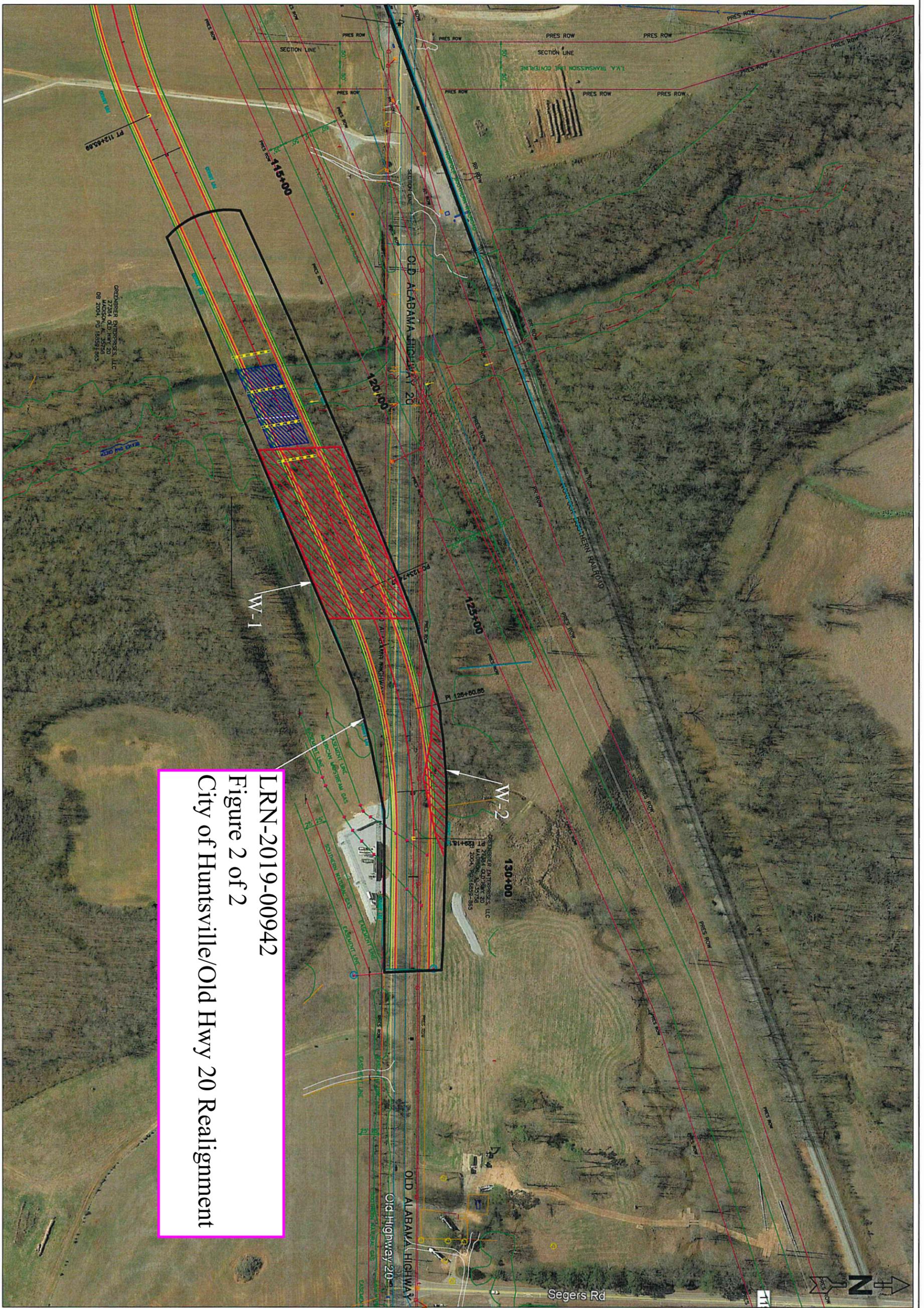
TANNER QUAD
7.5 MINUTE SERIES
TOPOGRAPHIC
1963 REVISED 1974

GREENBRIER QUAD
7.5 MINUTE SERIES
TOPOGRAPHIC
1975 REVISED 1992

JOB NAME:
BEAVER DAM CREEK
OLD HIGHWAY 20
HUNTSVILLE, ALABAMA

SITE LOCATION MAP
DRAWING NO: 8573 - 1

JOB NO: 8573
DATE: 09-13-2019
SCALE: 1" = 2000'
DRAWN BY: DAH



LRN-2019-00942
 Figure 2 of 2
 City of Huntsville/Old Hwy 20 Realignment

JOB NAME:
 BEAVER DAM CREEK CROSSING
 OLD HIGHWAY 20
 HUNTSVILLE, ALABAMA

OMI, Inc.
 5151 Research Dr. NW
 Huntsville, AL 35805
 Ph: (256) 837-7664
 Fax: (256) 837-7677

**WETLAND AND
 CONSTRUCTION
 LIMITS**

JOB NO.: 8573
 DATE: 11-12-2019
 SCALE: 1" = 200'
 DRAWN BY: DAH
 DWG NO: 8573-11



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

March 23, 2020

CITY OF HUNTSVILLE
ATTN KATHY MARTIN
PO BOX 308
HUNTSVILLE AL 35805

RE: Certification with Special Conditions
Beaver Dam Creek Crossing
Clean Water Act (CWA) Section 401 Water Quality Certification Issued March 23, 2020
Water Quality Certification Expires March 22, 2025
Corps of Engineers (COE) JPN# AL20-07 Issued February 19, 2020
Limestone County (083)
Proposed discharge of fill material for the purpose of constructing a new bridge

Dear Ms. Martin:

This office has completed a review of the attached above-referenced joint public notice and all associated materials submitted related to the proposed project. Any comments made during the public notice period have also been forwarded to us for review.

Because action pertinent to water quality certification (WQC) is required by Section 401(a)(1) of the Clean Water Act (CWA), 33 U.S.C. Section 1251, et seq., we hereby issue certification, for a period **not to exceed five (5) years** from the date of issuance, that there is reasonable assurance that the discharge resulting from the proposed activities as submitted will not violate applicable water quality standards established under Section 303 of the CWA and Title 22, Section 22-22-9(g), Code of Alabama, 1975, provided the applicant acts in accordance with the following conditions as specified. We further certify that there are no applicable effluent limitations under Sections 301 and 302 nor applicable standards under Sections 306 and 307 of the CWA in regard to the activities specified.

To minimize adverse impacts to State waters, by copy of this letter we are requesting the Nashville District Corps of Engineers to incorporate the following as special conditions of the Corps Permit:

1. During project implementation, the applicant shall ensure compliance with applicable requirements of ADEM. Admin. Code Chapter 335-6-10 (Water Quality Criteria), and Chapter 335-6-11 (Water Use Classifications for Interstate and Intrastate Waters).
2. Please be advised that ADEM permit coverage may be required prior to commencing and/or continuing certain activities/operations relating to or resulting from the project. If you have any questions regarding ADEM regulated activity or the need for NPDES permit coverage, please contact ADEM's Water Division at h2omail@adem.state.al.us or 334-271-7823. If you have any questions regarding ADEM regulated activity or the need for air permit coverage, please contact ADEM's Air Division at airmail@adem.state.al.us or 334-271-7861. If you have any questions regarding ADEM regulated activity or the need for hazardous, toxic, and/or solid waste permit coverage, please contact ADEM's Land Division at landmail@adem.state.al.us or 334-271-7730.



3. Upon the loss or failure of any treatment facility, best management practice (BMP), or other control, the applicant shall, where necessary to maintain compliance with this certification, suspend, cease, reduce or otherwise control work/activity and all discharges until effective treatment is restored. It shall not be a defense for the applicant in a compliance action that it would have been necessary to halt or reduce work or other activities in order to maintain compliance with the conditions of this certification.
4. The applicant shall retain records adequate to document activities authorized by this certification including but not limited to, inspection reports, monitoring information, copies of any reports and all data used to complete the above reports or the application for this certification, for a period of at least three years after completion of work/activity authorized by the certification. Upon written request, the applicant shall provide ADEM with a copy of any record/information required to be retained by this paragraph. The applicant shall notify ADEM in writing upon completion of the proposed project that the pollution control measures specified in the Corps permit and any special conditions specified by ADEM have been properly implemented.
5. The applicant shall prepare a detailed Best Management Practices (BMP) Plan. Effective BMPs shall be implemented and continually maintained for the prevention and control of nonpoint and other sources of pollutants, including measures to ensure permanent revegetation or cover of all disturbed areas, during and after project implementation.
6. The applicant shall implement a Spill Prevention Control and Countermeasures (SPCC) Plan for all temporary and permanent onsite fuel or chemical storage tanks or facilities consistent with the requirements of ADEM Admin. Code R. 335-6-6-.12(r), Section 311 of the Federal Water Pollution Control Act, and 40 CFR Part 112. The applicant shall maintain onsite or have readily available sufficient oil & grease absorbing material and flotation booms to contain and clean-up fuel or chemical spills and leaks. The applicant shall immediately notify ADEM after becoming aware of a significant visible oil sheen in the vicinity of the proposed activity. In the event of a spill with the potential to impact groundwater or other waters of the State, the applicant should immediately call the National Response Center at 1-800-424-8802 and the Alabama Emergency Management Agency at 1-800-843-0699. The caller should be prepared to report the name, address and telephone number of person reporting spill, the exact location of the spill, the company name and location, the material spilled, the estimated quantity, the source of spill, the cause of the spill, the nearest downstream water with the potential to receive the spill, and the actions taken for containment and cleanup.
7. The applicant shall conduct, at a minimum, weekly comprehensive site inspections to ensure that effective Best Management Practices (BMPs) are properly designed, implemented, and regularly maintained (i.e. repair, replace, add to, improve, implement more effective practice, etc.) utilizing good engineering practices to prevent/minimize to the maximum extent practicable discharges of pollutants in order to provide for the protection of water quality. The inspections shall be conducted by a qualified credentialed professional (QCP), qualified personnel under the direct supervision of a QCP, or an ADEM recognized qualified credentialed inspector (QCI), until completion of the proposed activity.
8. Additional, effective BMPs shall be fully implemented and maintained on a daily basis as needed to prevent to the maximum extent possible potential discharges of pollutants from activities authorized by this certification, directly to or to a tributary or other stream segment, that have the potential to impact a State water currently considered impaired [waterbody is identified on the Alabama 303(d) list, a total maximum daily load (TMDL) has been finalized for the waterbody, and/or the waterbody is otherwise considered a Tier 1 water pursuant to ADEM Admin. Code Ch. 335-6-10]. The applicant shall inspect all BMPs as often as is necessary (daily if needed) for effectiveness, need for maintenance, and the need to implement additional, effective BMPs. Additional effective BMPs shall immediately be implemented as needed and may include but are not limited to sediment retention basins, greater capacity in sediment retention structures, hydroseeding with application of non-toxic tackifiers, grass sodding, non-toxic chemical treatment, erosion control blankets, other effective innovative/alternative technologies, etc. to ensure full compliance with ADEM requirements and the protection of water quality in the impaired waterbody.

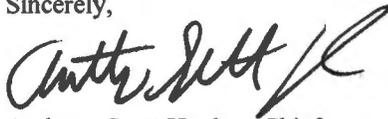
9. All construction and worker debris (e.g. trash, garbage, etc.) must be immediately removed and disposed in an approved manner. If acceptable offsite options are unavailable, effective onsite provisions for collection and control of onsite worker toilet wastes or gray waste waters (i.e. port-o-let, shower washdown, etc.) must be implemented and maintained. Soil contaminated by paint or chemical spills, oil spills, etc. must be immediately cleaned up or be removed and disposed in an approved manner. Also, the applicant shall manage and dispose of any trash, debris, and solid waste according to applicable state and federal requirements.
10. All materials used as fill, or materials used for construction of structures in a waterbody, must be non-toxic, non-leaching, non-acid forming, and free of solid waste or other debris. This requirement does not preclude the use of construction materials authorized by the COE that are typically utilized in marine or other aquatic applications.
11. The applicant shall implement appropriate measures to minimize the potential for a decrease of instream dissolved oxygen concentrations as a result of project implementation. In addition, the applicant shall ensure that the activities authorized by this certification do not significantly contribute to or cause a violation of applicable water quality standards for instream dissolved oxygen.
12. The applicant shall implement appropriate, effective BMPs, including installation of floating turbidity screens as necessary, to minimize downstream turbidity to the maximum extent practicable. The applicant shall visually monitor or measure background turbidity. The applicant must suspend operations should turbidity resulting from project implementation exceed background turbidity by more than 50 NTUs. Operations may resume when the turbidity decreases to within acceptable levels.
13. To ensure the protection of water quality, the applicant shall evaluate, characterize, and as necessary, conduct regular analysis of any material dredged/removed/disturbed in order to ensure that potential pollutants are not present in concentrations that could cause or contribute to a violation of applicable water quality standards. Information regarding the evaluation, characterization, or detailed results of any analyses shall be made available to ADEM upon request.
14. If upland disposal areas are utilized, the applicant shall be responsible for the condition of the spoil disposal area, including the structural integrity of any embankments, for the life of the dredging and disposal activity and until the disposal area is permanently reclaimed or adequately stabilized, and for pumping and discharge rates, to ensure effective settling of suspended solids within the confines of the spoil disposal area sufficient to ensure that sediment and/or turbidity in the return water and/or stormwater runoff will not cause substantial visible contrast with the receiving waters, or result in an increase of 50 NTUs above background turbidity levels in the receiving waters.
15. The applicant is encouraged to consider additional pollution prevention practices, low impact development (LID), and other alternatives to assist in complying with applicable regulatory requirements and possible reduction/elimination of pollutant discharges. LID is an approach to land development or re-development that works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features, minimizing effective imperviousness to create functional and appealing site drainage that treat stormwater as a resource rather than a waste product. There are many practices that have been used to implement these sustainable ideas such as bioretention facilities, rain gardens, vegetated rooftops, rain barrels, and permeable pavements. By implementing LID principles and practices, water can be managed in a way that reduces the impact of built areas and promotes the natural movement of water within an ecosystem or watershed.
16. The applicant is encouraged to consider and implement a site design plan/strategy for post-construction hydrology to mimic pre-construction hydrology to the extent feasible, and for post-construction stormwater runoff peak flows and total stormwater volume to minimize potential downstream channel and stream bank erosion.

17. In recognition that projects are site specific in nature and conditions can change during project implementation, ADEM reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case by case basis, in order to ensure the protection of water quality. Liability and responsibility for compliance with this certification are not delegable by contract or otherwise. The applicant shall ensure that any agent, contractor, subcontractor, or other person employed by, under contract, or paid a salary by the applicant complies with this certification. Any violations resulting from the actions of such person shall be considered violations of this certification.

18. Issuance of a certification by ADEM neither precludes nor negates an operator/owner's responsibility or liability to apply for, obtain, or comply with other ADEM, federal, state, or local government permits, certifications, licenses, or other approvals. This certification does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, and in no way purports to vest in the applicant title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State of Alabama that may be in the applicant's possession.

Should you have any questions on this or related matters, please do not hesitate to contact **Savannah Daughtry**, Office of Field Services, by email at savannah.daughtry@adem.alabama.gov or by phone at (334) 394-4301.

Sincerely,



Anthony Scott Hughes, Chief
Field Operations Division

File: WQ401/

c: Nashville COE