US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM-2013-017 (RCW)

NOTICE DATE:
April 10, 2013

Attn: Postmaster,
Please Post Until ⇨

EXPIRATION DATE:
May 10, 2013

Joint Public Notice

U.S. Army Corps of Engineers
and
State of Arkansas

AUTHORITY: Pursuant to 33 CFR 325, as published in the Federal Register dated November 13, 1986, this notice announces an application submitted for a Department of the Army permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act.

APPLICANT:
Mailing Address:
Nick Haynes
P.O. Box 13427
Memphis, Tennessee 38113

Physical Address:
Nick Haynes
1210 Harbor Ave.
Memphis, Tennessee 38113

Agent:
Margaret Johnson Lee
Brophy-Heineke & Associates Inc.
2978 Shelby Street
Bartlett, Tennessee 38134
(901) 373-3289

PURPOSE: The purpose of this project is to expand the capacities of existing APAC and Consolidated Grain and Barge (CGB) facilities.

LOCATION: The project site is located on the right descending bank of the Mississippi River at approximate River Mile 730 in Crittenden County, Arkansas, at latitude 35.136140° N and longitude -90.152040° W. (Attachment 1)

DESCRIPTION OF WORK: The applicant proposes to fill areas previously excavated for earthen fill (old borrow pit) in which 19.3 acres of wetlands have developed. This area will be filled with earthen material sufficient to allow construction of the proposed facilities.

AVOIDANCE/MINIMIZATION: According to the applicant, the project proposes to expand existing facilities. Therefore, the site must be continuous with the existing site. The proposed site is located between the existing APAC and CBG facilities and the mainline levee of the Mississippi River. The site is already owned by APAC Tennessee, Inc. Due to the extensiveness of the wetlands in this area and the specifications required to build this industrial development, it is not possible to avoid the subject wetlands.

MITIGATION: Proposed compensatory mitigation consists of wetland enhancement in the form of planting wetland trees within an agricultural field located along the Mississippi River approximately 1.5 miles southeast of the project site. (Attachment 1)

WATER QUALITY CERTIFICATION: By copy of this public notice, the applicant is requesting water quality certification from the Arkansas Department of Environmental Quality that the activity will comply with applicable requirements set forth in 33 U.S.C. and 1341 (a)(1) of the Clean Water Act and all State laws and regulations promulgated pursuant thereto. This certification or evidence of the water quality certification or waiver of the right to certify must be submitted prior to the issuance of a Corps of Engineers permit. The Corps of

Engineers' evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act.

ENDANGERED SPECIES: This notice is being coordinated with the USFWS. The interior least tern and pallid sturgeon are known to utilize the Mississippi River. Any comments USFWS may have regarding these or other endangered or threatened wildlife or plants or their critical habitat, will be considered in our evaluation of the described work.

CULTURAL RESOURCES: The Memphis District will evaluate information provided by the State Historic Preservation Officer and the public in response to this public notice and we may conduct or require a survey of the project area.

FLOOD PLAIN: In accordance with 44 CFR Part 60 (Flood Plain Management and Use), participating communities are required to review all proposed development to determine if a flood plain development permit is required. Flood plain administrators should review the proposed public notice and notify this office of any flood plain development permit requirements.

PUBLIC INTEREST REVIEW: The purpose of this public notice is to advise all interested parties of the activities for which a permit is sought and to solicit comments and information necessary to evaluate the probable impact on the public interest.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the project must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the project will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Federally recognized Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

PUBLIC HEARING: 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 a public hearing shall state, with particularity, the reason for holding a public hearing. The District Engineer will determine if the issues raised are substantial and whether a hearing is needed for making a decision. If a public hearing is held, it will be for the purpose of obtaining additional information that we could not otherwise obtain through a public notice process; not to inform the public about the specific details of the project in greater detail than what is found in this notice. This is not a Corps project. We are not a proponent or are we an opponent of the project. We are merely the permitting authority of Section 404 and Section 10 permits required by our office.

COMMENTS OR REQUEST FOR ADDITIONAL INFORMATION: Send comments to the Corps of Engineers, Memphis District and Arkansas Department of Environmental Quality. Comments may be sent via mail or E-mail to the following:

U.S. Army Corps of Engineers Memphis District
ATTN: Reginald Wuornos
167 North Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: reginald.c.wuornos@usace.army.mil
phone: (901) 544-0731
fax: (901) 544-0211

Mark Hathcote
State Permits Branch, Water Division
Arkansas Department of Environmental Quality
5301 North Shore Drive
Little Rock, Arkansas 72118-5317
E-mail: hathcote@adeq.state.ar.us

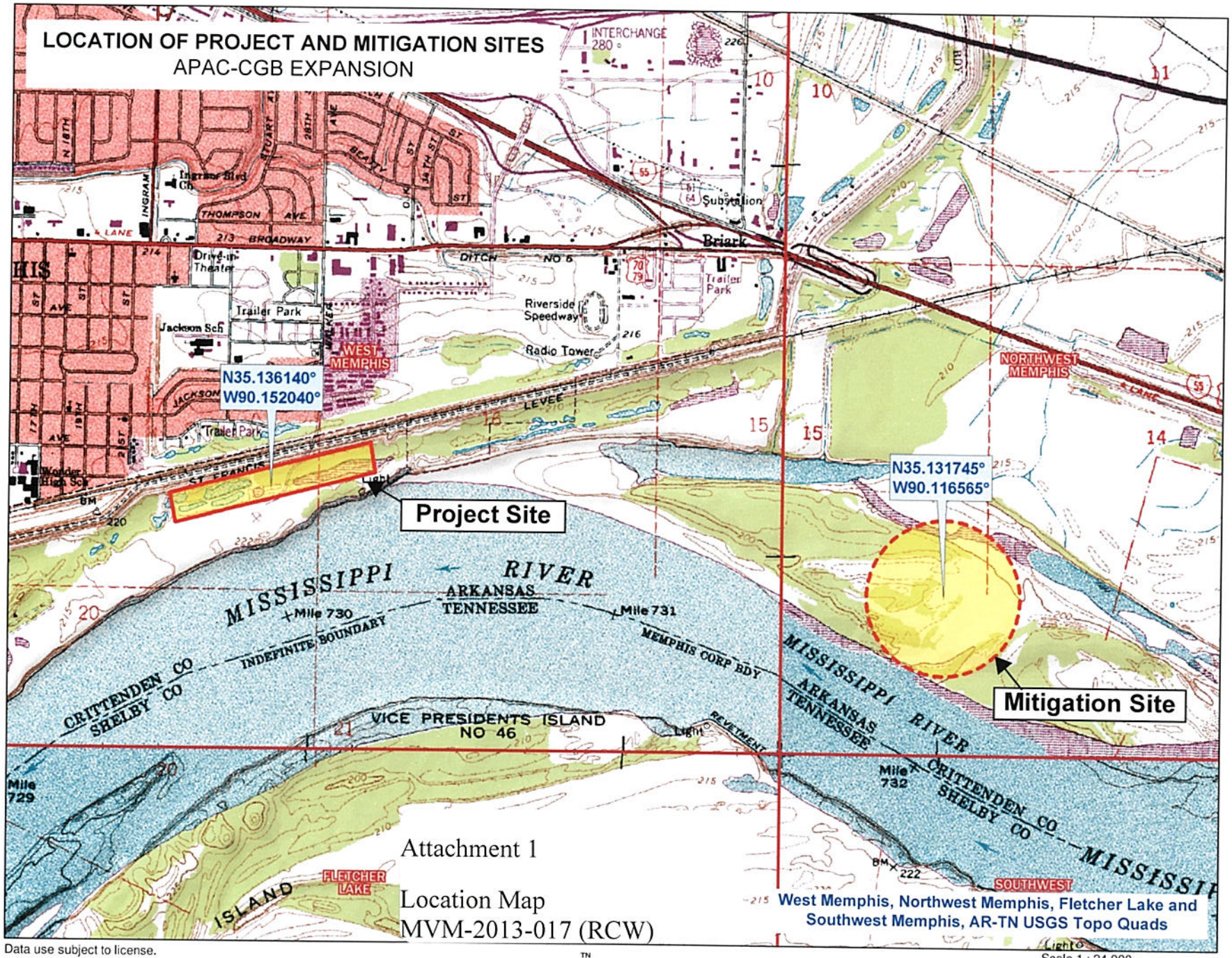
The Corps may provide copies of all comments, (including name & address of those providing comments) to the applicant for consideration and response prior to a decision. Comments should be received by the expiration date listed on page one of this notice.

For Final Individual Permits actions in the Memphis District, go to the following link:

http://geo.usace.army.mil/egis/f?p=340:2:0::NO:RP. Using the Filter by District drop down box, select MVM-Memphis District, then select the year and month (information will populate in the table below). All pending individual permits can be located by selecting the **"Pending IP"** tab above. All of the environmental documents and statements of findings supporting issuance or denial of the permit decisions are available upon written request and where applicable, upon the payment of administrative fees. They are also available at the Memphis District, Regulatory Branch office for examination.

Gregg Williams
Chief
Regulatory Branch

Attachments



Attachment 1

Location Map
MVM-2013-017 (RCW)

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TN
MN (0.8°W)

Scale 1 : 24,000
1" = 2,000.0 ft
Data Zoom 13-0