



US Army Corps
of Engineers
Memphis District

Public Notice

FILE NUMBER: MVM-2023-216 (JKB)

NOTICE DATE:
August 22, 2023

Attn: Postmaster,
Please Post Until

EXPIRATION DATE:
→ September 20, 2023

Public Notice

U.S. Army Corps of Engineers

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.

APPLICANT:

Michael Morgan
374 CR 536
Greenway, Arkansas 72430

PURPOSE: The purpose of the proposed project is to increase irrigation and farm efficiency at the project site.

LOCATION: The project site is located in Section 35, Township 21N, Range 8E, in Clay County, Arkansas, at approximate Latitude 36.4053° and Longitude -90.1769° on the Piggott 7.5-minute quadrangle map (Attachment 1).

DESCRIPTION OF WORK: The applicant proposes to fill and relocate approximately 1300 linear feet of an unnamed tributary. The existing tributary channel is approximately 8 feet wide at the ordinary high-water mark (OHWM) and has an upland forested buffer along each side that averages approximately 35-40 feet wide. A new channel that will total 1600 linear feet would be created on-site to replace the existing tributary (Attachment 2). Fill for the existing tributary will come from the excavation of the new channel and surrounding crop field.

AVOIDANCE/MINIMIZATION: According to the applicant, avoiding the existing tributary would not allow him to meet his purpose of improving irrigation and farm efficiency at the site.

MITIGATION: The applicant proposes to mitigate impacts to approximately 1300 linear feet of tributary by creating a new channel that will total approximately 1600 linear feet. The applicant has proposed a 15-foot herbaceous buffer along both sides of the new channel.

WATER QUALITY CERTIFICATION: The Clean Water Act (CWA) Section 401 Certification Rule (Certification Rule, 40 CFR 121), effective September 11, 2020, requires certification for any license or permit that authorizes an activity that may result in a discharge. The scope of a CWA Section 401 certification is limited to assuring that a discharge from a federally licensed or permitted activity will comply with water quality requirements. The applicant is responsible for requesting certification and providing required information to the certifying agency. As of the date of this public notice, the applicant has not submitted a certification request to the ADEQ (certifying authority). In accordance with Certification Rule part 121.6, once the applicant submits a certification request the Corps of Engineers will determine the reasonable period of time for the certifying agency to act upon the certification and provide written notification.

ENDANGERED SPECIES: Our preliminary determination is that the proposal would have no effect on the Eastern Black Rail, Red Knot, Piping Plover, Northern Long-eared Bat or Pondberry. Our preliminary determination is that the proposal may affect the Indiana Bat. This notice is being coordinated with the U.S. Fish and Wildlife Service (USFWS). Any comments USFWS may have regarding endangered or threatened wildlife or plants, or their critical habitat, will be considered in our evaluation of the described work.

CULTURAL RESOURCES: In compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended, the Memphis District will identify and evaluate potential effects of the proposed action on historic properties through consultation with federal, state, and local agencies, federally-recognized Indian Tribes, the public, and other interested parties.

FLOODPLAIN: In accordance with 44 CFR Part 60 (Floodplain Management and Use), participating communities are required to review all proposed development to determine if a floodplain development permit is required. Floodplain administrators should review the proposed public notice and notify this office of any floodplain 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 of Engineers project. We are not a proponent nor 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. Comments may be sent via mail or email to the following:

U.S. Army Corps of Engineers – Memphis District
ATTN: Josh Bright
167 North Main Street, Room B-202
Memphis, Tennessee 38103-1894
E-mail: joshua.k.bright@usace.army.mil
phone: (901) 544-0926

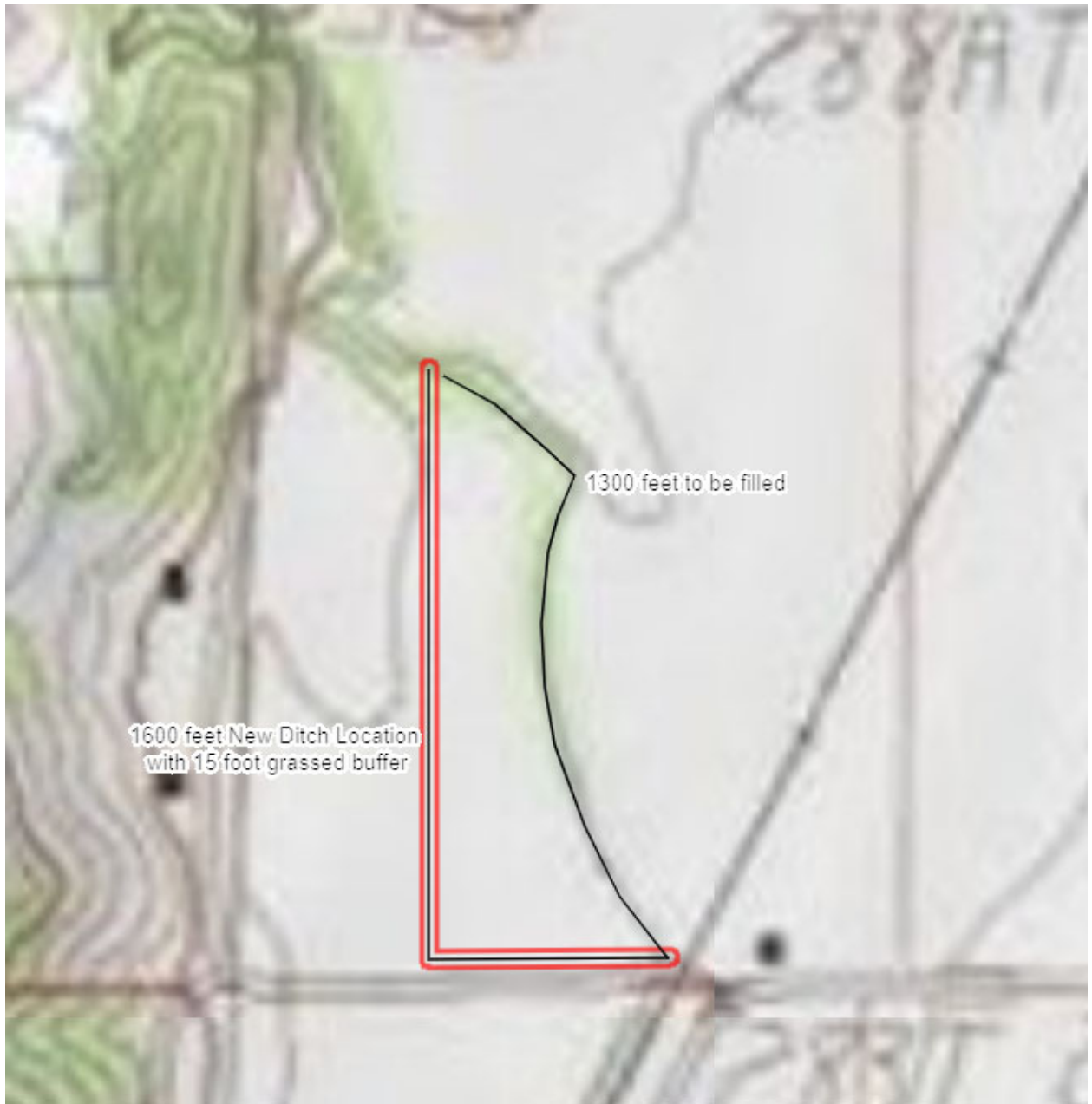
The Corps of Engineers may provide copies of all comments, (including name & address of those providing comments) to the applicant for consideration and response prior to a decision. Comments must be received by the expiration date listed on page one of this notice.

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

<http://permits.ops.usace.army.mil/orm-public>. 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 Division office for examination.

Gregg W. Williams
Chief
Regulatory Division

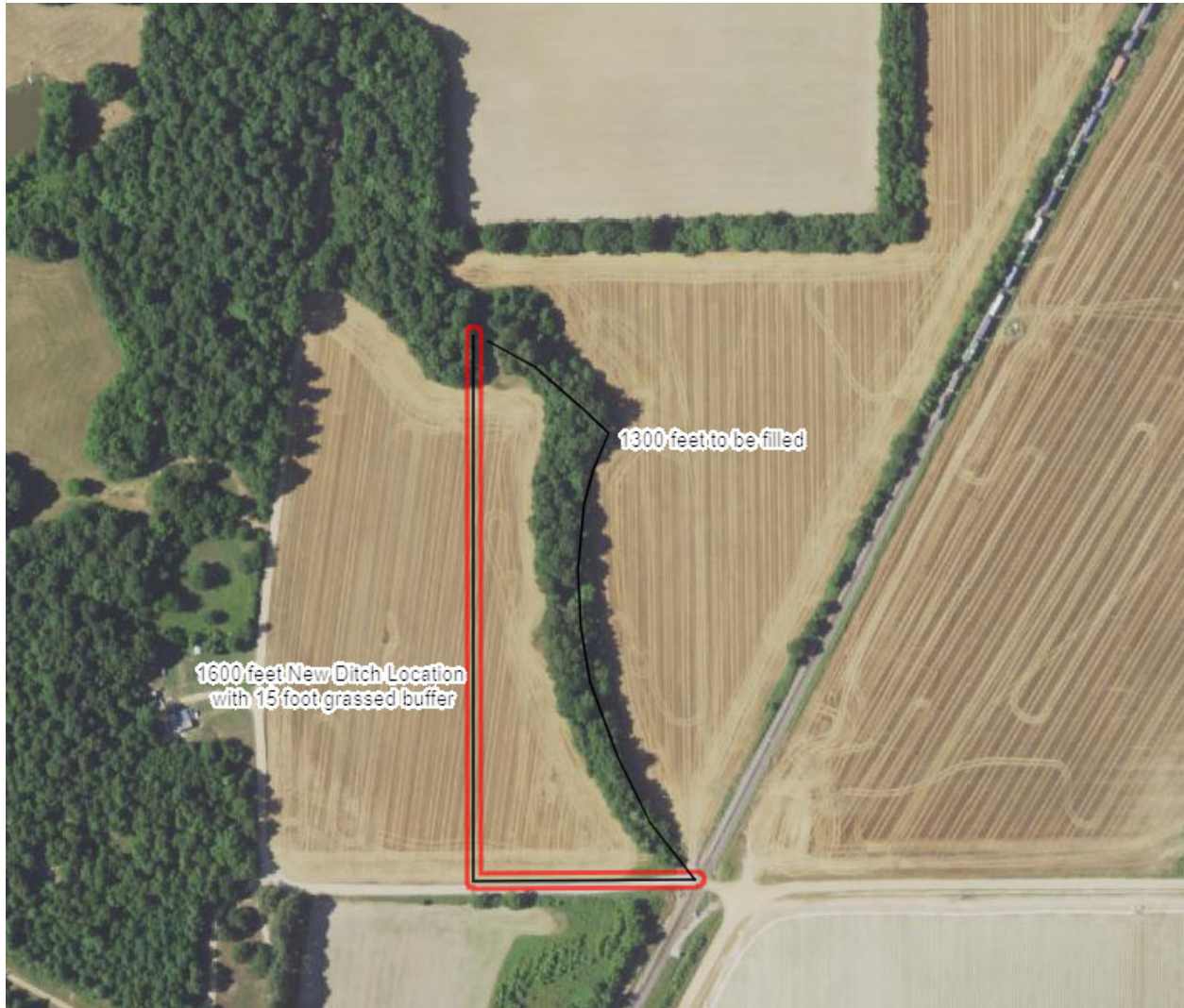
Attachments



ATTACHMENT 1

Michael Joseph Morgan

Water Course Relocation Project



ATTACHMENT 2